

Interlocutory Orders, Etc.

IT IS ORDERED THAT Respondent's Renewed Motion to Disqualify the Administrative Law Judge is **DENIED**.

By the Commission.

IN THE MATTER OF
**AXON ENTERPRISE, INC.,
AND
SAFARILAND, LLC**

Docket No. 9389. Order, October 8, 2020

Order staying the commencement of the evidentiary hearing.

ORDER STAYING COMMENCEMENT OF EVIDENTIARY HEARING

On January 3, 2020, Respondent Axon Enterprise, Inc. ("Axon") filed suit in the United States District Court for the District of Arizona seeking a declaration that Axon's acquisition of VieVu LLC was lawful and that the FTC's structure and administrative procedures are unconstitutional, and requesting injunctive relief against Commission adjudication of a challenge to the acquisition. On April 8, 2020, the district court dismissed Axon's complaint due to a lack of subject matter jurisdiction. Axon appealed to the United States Court of Appeals for the Ninth Circuit. That appeal has now been fully briefed and argued.

On September 29, 2020, Axon filed an "Emergency Motion to Stay Administrative Trial" with the Ninth Circuit, asking the court to temporarily stay the evidentiary hearing scheduled before this Commission pending consideration of Axon's appeal. On October 2, 2020, the Ninth Circuit granted Axon's motion. Accordingly,

IT IS HEREBY ORDERED that the evidentiary hearing in this proceeding, scheduled to commence on October 13, 2020, is stayed until further order of the U.S. Court of Appeals for the Ninth Circuit and the Commission.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**THOMAS JEFFERSON UNIVERSITY,
AND
ALBERT EINSTEIN HEALTHCARE NETWORK**

Docket No. 9392. Order, November 6, 2020

Order granting a continuance until March 8, 2021 and extension of prehearing deadlines.

ORDER GRANTING CONTINUANCE

On October 29, 2020, Complaint Counsel and Respondents Thomas Jefferson University (“Jefferson”) and Albert Einstein Healthcare Network (“Einstein”) moved to postpone by sixty days commencement of the administrative hearing in this proceeding, currently scheduled to begin on January 5, 2021, and to stay all pre-hearing deadlines by corresponding 60-day periods. Joint Expedited Motion for a Continuance of Administrative Proceedings (“Joint Motion”) at 1, 5.

This follows the Commission’s issuance on February 27, 2020, of an administrative complaint challenging a proposed transaction whereby Jefferson would become the sole member and ultimate parent entity of Einstein (“the Proposed Transaction”). The Commission at that time also filed a complaint in the U.S. District Court for the Eastern District of Pennsylvania seeking a preliminary injunction barring the Proposed Transaction until completion of the administrative proceeding. The preliminary injunction hearing and post-hearing filings have concluded in the federal district court action. The parties presented their closing arguments on October 26, 2020. The parties anticipate a decision in the federal district court action before the end of the year. *Id.* at 2.

Respondents affirm that “if they are enjoined from consummating the transaction after all appeals in the federal proceeding are exhausted, they will abandon the proposed transaction.” *id.*; *see also id.* At 5. Moreover, the parties state that “[i]f the motion for preliminary injunction is denied, Respondents will file a motion pursuant to Rule 3.26 to withdraw the case from adjudication or dismiss the Complaint,” resulting in an automatic withdrawal or stay. Joint Motion at 5.

The parties argue that granting the requested continuance and extending pre-hearing deadlines would protect the parties and third parties from unnecessary burdens and expense, without prejudicing the Commission. *Id.* at 3-5. They explain that third parties will soon have to review voluminous documents, submit line-by-line proposed redactions of confidential information, and prepare legal memoranda requesting *in camera* treatment of those materials. *Id.* at 3-4. Furthermore, all parties will have to bear the expense of preparing for a full trial, including document and data review, depositions and motion practice. *Id.* at 3. And party and third-party witnesses face the burden and disruption of preparing to testify and making travel arrangements. *Id.* at 4. According to the parties, these witnesses include operators of skilled