

Interlocutory Orders, Etc.

IN THE MATTER OF

FLEETCOR TECHNOLOGIES, INC.

AND

RONALD CLARKE

Docket No. 9403. Order, August 25, 2021

Order granting to stay the administrative proceeding.

ORDER STAYING ADMINISTRATIVE PROCEEDING

On August 13, 2021, Complaint Counsel moved to stay this administrative proceeding pending resolution of the Federal Trade Commission's motion to stay or dismiss without prejudice an action the Commission is litigating against FleetCor Technologies, Inc. and its CEO Ronald Clarke (collectively, "Respondents") in federal court, *FTC v. FleetCor Technologies, Inc.*, No. 1:19-cv-5727-AT (N.D. Ga.). Complaint Counsel's Unopposed Motion to Stay Administrative Proceedings ("Motion to Stay"). Complaint Counsel state that Respondents do not oppose the Motion to Stay. *Id.* at 1. On August 17, 2021, the Chief Administrative Law Judge certified the Motion to Stay for disposition by the Commission. We have determined to grant the requested stay.

Complaint Counsel explain that, seeking to avoid duplicative actions against Respondents in federal court and in the FTC's administrative adjudication, they have filed in the pending federal court action a motion to stay that proceeding or to dismiss it without prejudice. Motion to Stay at 2. The federal court motion will not be fully briefed until September. *Id.* Absent a stay of the administrative proceeding, the parties will have to spend resources litigating the same case in two forums. Complaint Counsel state that once the status of the federal court action has been resolved, there will be no need for duplicative litigation. *Id.* at 3.

Commission Rule 3.41(f) provides that a pending "collateral federal court action that relates to the administrative adjudication shall not stay the proceeding [u]nless a court of competent jurisdiction, or the Commission for good cause, so directs." 16 C.F.R. § 3.41(f). In this instance, where a stay at the start of the administrative proceeding will avoid unnecessary burden and expense while a pending motion to stay or dismiss without prejudice a duplicative action in federal court is resolved, we find that there is good cause to stay the Commission's administrative proceeding. Accordingly,

IT IS HEREBY ORDERED that Complaint Counsel's Unopposed Motion to Stay Administrative Proceedings is **GRANTED**;

IT IS FURTHER ORDERED that all proceedings before the Commission and the Chief Administrative Law Judge in this matter, including all filing deadlines and the evidentiary hearing currently scheduled to commence on January 25, 2022, are hereby stayed pending further order by the Commission; and

Interlocutory Orders, Etc.

IT IS FURTHER ORDERED that Complaint Counsel shall inform the Commission of the resolution of the motion to stay or dismiss without prejudice filed in the federal court action, FTC v. FleetCor Technologies. Inc., No. 1:19-cv-5727-AT (N.D. Ga.), promptly upon issuance.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**TRAFFIC JAM EVENTS, LLC.
AND
DAVID J. JEANSONNE II***Docket No. 9395. Order, August 26, 2021*

Order rescheduling evidentiary hearing and extending prehearing deadlines.

ORDER RESCHEDULING EVIDENTIARY HEARING AND CONTINUING PREHEARING DEADLINES

Complaint Counsel have moved to reschedule the date of commencement of the evidentiary hearing in this proceeding from September 14, 2021, to November 16, 2021, and to extend all existing prehearing deadlines by the same 63 days. Complaint Counsel's Expedited Motion to Continue Evidentiary Hearing and Prehearing Deadlines (Aug. 18, 2021) ("Motion to Continue"). Respondents oppose the motion but do not explain to the Commission why it should be denied. Email from counsel for Respondents to Mr. Pablo Zylberglait (Aug. 25, 2021).

Complaint Counsel maintain that the requested adjustments are desirable in light of a motion for summary decision dated August 14, 2021, filed by Complaint Counsel and pending before the Commission. Complaint Counsel's Motion for Summary Decision. Briefing on this motion will run into September, and there is insufficient time for the Commission to rule on it by September 14.

Complaint Counsel urge that the motion for summary decision could obviate the need for the evidentiary hearing or narrow the scope of that hearing and prehearing submissions Motion to Continue at 3. Indeed, conducting an evidentiary hearing in a context where all or some of the issues may be decided by summary decision could impose unnecessary burdens and expenses on the parties and nonparty witnesses. Commission rules authorize the Commission to defer the start of an evidentiary hearing upon a showing of good cause. 16 C.F.R. §§ 3.21(c)(1) & 3.41(b). In order to allow time for the Commission to address the summary decision motion, we find good cause to reschedule the evidentiary hearing to commence on November 16, 2021, and to extend all prehearing deadlines by a corresponding period. *Cf. In re Hackensack Meridian Health, Inc.*, 2021 WL 3109607 (F.T.C. July 1, 2021) (finding a continuance justified when additional time could obviate the need for an evidentiary hearing without unduly delaying the Commission proceeding); *In re Thomas Jefferson Univ.*, Docket No. 9392, 2020 WL 7237952, at *2 (F.T.C., Nov. 6, 2020) (same). Accordingly,

IT IS HEREBY ORDERED that Complaint Counsel's Expedited Motion to Continue Evidentiary Hearing and Prehearing Deadlines is **GRANTED**; and

IT IS FURTHER ORDERED that the evidentiary hearing in this proceeding shall commence at 10:00 a.m. on November 16, 2021, and, unless modified by the Chief Administrative Law Judge, all prehearing deadlines in this proceeding shall be extended by sixty-three (63) days.