

Interlocutory Orders, Etc.

IN THE MATTER OF

**ALTRIA GROUP, INC.,
AND
JUUL LABS, INC.***Docket No. 9393. Order, March 2, 2022*

Order granting the Joint Motion to Extend Deadlines for the Parties' Appeal Briefs.

ORDER EXTENDING BRIEFING SCHEDULE

On February 15, 2022, Chief Administrative Law Judge D. Michael Chappell ("ALJ") issued his Initial Decision in this matter. On February 16, 2022, Complaint Counsel filed a Notice of Appeal pursuant to Commission Rule 3.52(b), 16 C.F.R. § 3.52(b).

On February 18, 2022, the parties jointly moved to extend the briefing schedule for the appeal. Joint Mot. to Extend Deadlines for the Parties' Appeal Briefs ("Motion"). Under the parties' proposal, the due dates would shift as follows:

	Current deadline	Proposed deadline
Complaint Counsel's Opening Appeal Brief to the Commission	March 17, 2022	March 31, 2022
Respondent's Answering Brief	30 days after Appeal Brief served	7 days after Answering Brief served
Complaint Counsel's Reply Brief	45 days after Appeal Brief filed	14 days after Answering Brief filed

We have determined pursuant to Commission Rule 4.3(b), 16 C.F.R. § 4.3(b), to grant the Motion for good cause shown. We previously extended the ALJ's deadline to issue his Initial Decision due to the volume and complexity of the record in this matter. Order, Jan. 19, 2022. The ALJ's Initial Decision addresses two distinct theories of liability, each involving sub-theories and several lines of evidence. We find that a modest extension of the briefing schedule will enable the parties to address appropriately the complexity of the issues presented.

Accordingly,

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IT IS HEREBY ORDERED THAT the Joint Motion to Extend Time for the Parties' Appeal Briefs is **GRANTED**; the briefs in this proceeding shall be due as follows:

Due on:

Complaint Counsel's Opening Appeal Brief	March 31, 2022
Respondents' Answering Brief	May 16, 2022
Complaint Counsel's Reply Brief	May 31, 2022

IT IS FURTHER ORDERED THAT filing an opening appeal brief by March 31, 2022 will be treated as perfecting Complaint Counsel's appeal in accordance with Commission Rule 3.52(b)(2), 16 C.F.R. § 3.52(b)(2).

By the Commission.

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IN THE MATTER OF

**HACKENSACK MERIDIAN HEALTH, INC.,
AND
ENGLEWOOD HEALTHCARE FOUNDATION***Docket No. 9399. Order, April 7, 2022*

Order setting deadline for Respondents to file any answer(s) to the Motion for Continuance to enable the Commission to issue a timely ruling on the Motion.

ORDER SETTING EXPEDITED RESPONSE DEADLINE

On August 4, 2021, the United States District Court for the District of New Jersey granted Complaint Counsel's motion for a preliminary injunction to enjoin the proposed merger between Respondents Hackensack Meridian Health, Inc. and Englewood Healthcare Foundation until completion of this administrative proceeding. *FTC v. Hackensack Meridian Health, Inc.*, No. 20-18140, 2021 WL 4145062 (D.N.J. Aug. 4, 2021). The Third Circuit Court of Appeals affirmed the district court's injunction on March 22, 2022. *FTC v. Hackensack Meridian Health, Inc.*, No. 21-2603, 2022 WL 840463 (3d Cir. Mar. 22, 2022). On March 31, 2022, Respondents notified Complaint Counsel that they were abandoning their transaction. On April 5, 2022, Respondents mutually terminated their merger agreement and withdrew their Hart-Scott-Rodino Notification and Report Forms.

That same day, Complaint Counsel and Respondents filed competing motions regarding appropriate next steps in this proceeding. Complaint Counsel moved to withdraw the matter from adjudication so that the Commission could evaluate whether further relief is warranted. Respondents moved to dismiss the Complaint on the basis that the administrative action is now moot and no further adjudicative proceedings are necessary, appropriate, or in the public interest. Additionally, Complaint Counsel filed an expedited motion for a 60-day continuance of the administrative proceeding, in which the evidentiary hearing is scheduled to begin on April 22, 2022, to avoid the potentially unnecessary, significant expense to litigating and third parties of preparing for the hearing and complying with imminent prehearing deadlines while the Commission considers the other two motions ("Motion for Continuance"). According to Complaint Counsel, Respondents declined to join the motion for continuance because Respondents believe that this matter is moot and that dismissal is the only appropriate next step.

Under Commission Rules 3.22(d) and 4.4(c), 16 C.F.R. §§ 3.22(d) & 4.4(c), Respondents' answer to the Motion for Continuance is due on April 18, 2022, "or such longer or shorter time as may be designated by the ... Commission." Delaying Commission action until after April 18 would subject the parties and third parties to the burdens and expense of complying with prehearing deadlines in the interim, including the submission of motions for *in camera* treatment and pretrial briefs. *See Order Granting Joint Motion to Amend Scheduling Order* (Nov. 16, 2021). To enable the Commission to issue a timely ruling on the Motion for Continuance, we will order Respondents to file any answer(s) to the Motion for Continuance no later than 1:00 pm E.D.T. on April 8, 2022.