

Interlocutory Orders, Etc.

IN THE MATTER OF

**HACKENSACK MERIDIAN HEALTH, INC.,
AND
ENGLEWOOD HEALTHCARE FOUNDATION***Docket No. 9399. Order, April 8, 2022*

Order granting Complaint Counsel's Expedited Motion for a 60-Day Continuance of Administrative Proceedings.

ORDER GRANTING A 60-DAY CONTINUANCE

On August 4, 2021, the United States District Court for the District of New Jersey granted the Federal Trade Commission's motion for a preliminary injunction against the proposed merger between Respondents Hackensack Meridian Health, Inc. and Englewood Healthcare Foundation until completion of this administrative proceeding. *FTC v. HackensackMeridian 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. Complaint Counsel moved to withdraw the matter from adjudication so that the Commission could evaluate whether further relief is warranted ("Motion to Withdraw"). 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 ("Motion to Dismiss"). Additionally, Complaint Counsel filed an expedited motion for a 60-day continuance of the administrative proceeding, scheduled to begin on April 22, 2022, to avoid what Complaint Counsel describe as 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. Respondents oppose the continuance motion as well as the Motion to Withdraw because, in their view, with the merger now abandoned, the only appropriate course of action is dismissal of the administrative proceeding. See Respondents' Opposition to Complaint Counsel's Emergency Motion for a 60-Day Continuance of Administrative Proceedings & Its Motion to Withdraw the Matter from Adjudication (Apr. 8, 2022). Respondents do not object, however, to a limited continuance to give the Commission sufficient time to decide the Motion to Dismiss. *Id.* at 3.

Commission Rule 3.41(b) provides that "[t]he Commission, upon a showing of good cause, may order a later date for the evidentiary hearing to commence." 16 C.F.R. § 3.41(b). We find good cause to continue the hearing and prehearing deadlines for 60 days while the parties brief the Motion to Dismiss and the Commission considers the parties' competing motions.

Interlocutory Orders, Etc.

Complaint Counsel's response to the Motion to Dismiss is due on April 18, 2022.

Further, Respondents may file a reply in support of their Motion to Dismiss within 5 working days after service of Complaint Counsel's response. During this same period, there are a number of prehearing deadlines requiring parties, third parties, and the Chief Administrative Law Judge to expend significant time and resources. Among other things, by April 12, third parties and Respondents must file motions for *in camera* treatment of proposed trial exhibits, and Complaint Counsel must file their pretrial brief. Respondents must file their pretrial brief(s) by April 18. See Order Granting Joint Motion to Amend Scheduling Order (Nov. 16, 2021). The hearing itself is slated to begin on April 22. Depending on the resolution of the pending motions, these filings and the hearing may prove unnecessary. Therefore, we find good cause to continue for 60 days the hearing and prehearing deadlines.

Accordingly,

IT IS HEREBY ORDERED that Complaint Counsel's Expedited Motion for a 60-Day Continuance of Administrative Proceedings filed on April 5, 2022, is **GRANTED**;

IT IS FURTHER ORDERED that the evidentiary hearing in this proceeding shall commence at 10:00 a.m. on June 23, 2022; and

IT IS FURTHER ORDERED that unless modified by the Chief Administrative Law Judge, all related prehearing deadlines shall be extended by sixty (60) days.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**HOMEADVISOR, INC.,
D/B/A
ANGI LEADS AND HOMEADVISOR POWERED BY ANGI***Docket No. 9407. Order, April 20, 2022*

Order granting respondent's motion for an extension of time to oppose the motion for summary decision.

ORDER EXTENDING TIME TO OPPOSE MOTION FOR SUMMARY DECISION

On April 7, 2022, Complaint Counsel filed and served a motion seeking summary decision in this proceeding. The motion and accompanying exhibits totaled over 8000 pages and included 19 declarations of individuals, including third parties. Respondent's opposition is due on April 22, 2022. Respondent has moved for an extension of time until 5:00 pm on May 27, 2022, to oppose the motion for summary decision in order to allow it to serve subpoenas on and take depositions of the individuals who submitted declarations in support of Complaint Counsel's motion. Complaint Counsel do not oppose the proposed extension.

Commission Rule 3.24(a)(3) states that the Commission may permit affidavits submitted on a motion for summary decision "to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits." 16 C.F.R. §§ 3.24(a)(3). Under Commission Rule 4.3(b), the Commission may for good cause shown extend any time limit prescribed in the Rules. 16 C.F.R. § 4.3(b). Here, the Commission finds good cause to grant the extension to allow Respondent to take discovery of the declarants and prepare its opposition.

Accordingly,

IT IS HEREBY ORDERED that Respondent's Unopposed Motion for Extension of Time to Oppose Motion for Summary Decision is **GRANTED**. The deadline for submission of Respondent's opposition to Complaint Counsel's motion for summary decision shall be 5:00 pm EDT on May 27, 2022.

By the Commission.