



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)

LABORATORY CORPORATION)
OF AMERICA)

and)

LABORATORY CORPORATION)
OF AMERICA HOLDINGS,)
corporations.)

Docket No. 9345

PUBLIC

**JOINT MOTION TO EXTEND CERTAIN
SCHEDULING ORDER DEADLINES**

Complaint Counsel and Respondents Laboratory Corporation of America and Laboratory Corporation of America Holdings (collectively, "LabCorp") hereby respectfully request that the Court extend certain deadlines in this Court's Scheduling Order by five days for good cause pursuant to Rule 3.21(c)(2). Such extension will hopefully allow Complaint Counsel and Respondents to get a decision from the Commission on Respondents' Motion to Withdraw the Matter from Adjudication ("Motion to Withdraw"), which Respondents intend to file with the Commission today and which Complaint Counsel does not intend to oppose. Under the Scheduling Order, Complaint Counsel and Respondents must comply with several deadlines between March 22 and April 15, 2011 that pertain to witness lists, deposition designations and expert discovery. In order to save both parties significant resources that may be unnecessarily spent, Complaint Counsel and Respondents respectfully move for the Court to extend each deadline listed below by five calendar days.

BACKGROUND

Respondents will file today a Motion to Withdraw the Matter from Adjudication pursuant to Commission Rule 3.26(c); Complaint Counsel will not oppose that motion. While the Commission technically has thirty days in which to decide whether to withdraw the matter from adjudication, 16 C.F.R. § 3.26(g), Complaint Counsel and Respondents are jointly seeking an expedited ruling from the Commission. Meanwhile, the Scheduling Order in this case includes several impending deadlines. Even if the Commission expedites its ruling, a few of those deadlines could come due before the Commission rules.

ARGUMENT

The fundamental purposes of Rule 3.26 strongly favor extending certain Scheduling Order deadlines by several days. The Commission will weigh several factors when considering whether continuing the administrative litigation is in the public interest under Rule 3.26. *See* Policy Statement Regarding Administrative Merger Litigation Following the Denial of a Preliminary Injunction, 60 Fed. Reg. 39741 (Aug. 3, 1995). One of those factors is an overall assessment of the costs of proceeding with the administrative case (as compared to the potential benefits). *Id.* Those same considerations are relevant here – unless the Court extends the impending deadlines, the costs of the administrative litigation will continue to grow while the Commission decides how to ultimately proceed.

Most notably, the Scheduling Order requires that by March 22, 2011 – in just five days – Complaint Counsel must provide Respondents' counsel with its final proposed witness and exhibit lists, including designated testimony to be presented by deposition, copies of all exhibits, the basis of admissibility of each proposed exhibit, and a summary of each witness's testimony. Scheduling Order at 2. Moreover, Complaint Counsel and Respondents must meet related

deadlines on March 25, March 29, April 1, April 4, April 5, April 8 and April 15, 2011.¹ Both parties will have to expend significant resources to meet these obligations, which will prove unnecessary if the Commission agrees to grant Respondents' unopposed Motion to Withdraw. By extending the proposed deadlines by five days, this Court will be able to both maintain a schedule that allows trial to begin on May 2, 2011, as well as give the parties the opportunity to save significant costs should the Commission decide to grant the unopposed Motion to Withdraw. Courts have taken similar step before, and there is good reason to do so here. *See, e.g., In re Paul L. Foster, et al.*, No. 9323 (June 5, 2007) (granting joint motion to hold the initial scheduling conference in abeyance pending the filing of respondents' Rule 3.26(c) motion).

Extending these deadlines by just a few days will allow the Commission – and Respondents – to avoid potentially unnecessary expenses, which will only further the public interest goals that the Commission had in mind when it enacted Rule 3.26. There is thus good cause to grant this motion pursuant to Rule 3.21(c)(2).

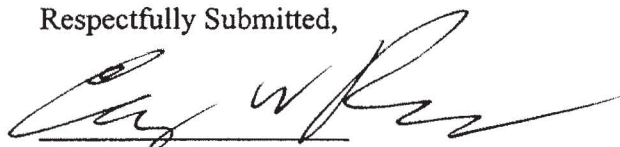
¹ There are two deadlines on April 15, 2011. One involves responses to motions for *in camera* treatment, and the other pertains to motions *in limine* treatment. We propose that the former, but not the latter, be extended by five days as it is impacted by the March 29 deadline regarding confidential materials and the April 8 deadline pertaining to motions for *in camera* treatment.

CONCLUSION

For the reasons set forth herein, Respondents respectfully request that the Court grant Respondents and Complaint Counsel's Joint Motion to Extend Certain Scheduling Order Deadlines for good cause pursuant to Rule 3.21(c)(2).

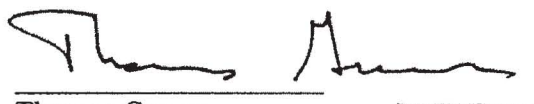
Dated: March 17, 2011

Respectfully Submitted,



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Complaint Counsel

CERTIFICATE OF SERVICE

I hereby certify that I caused to be filed via FTC e-file a .PDF copy that is a true and correct copy of the signed original of the foregoing Joint Motion to Extend Certain Scheduling Deadlines with:

Donald S. Clark
Secretary
Federal Trade Commission
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secretary@ftc.gov

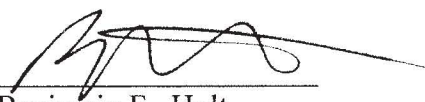
I also certify I delivered via electronic mail and hand delivery a copy of the foregoing Joint Motion to Extend Certain Scheduling Deadlines to:

D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
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oalj@ftc.gov

I also certify I delivered via electronic mail a copy of the foregoing Joint Motion to Extend Certain Scheduling Deadlines to:

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Date: March 17, 2011


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