

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**        **Rebecca Kelly Slaughter, Acting Chair**  
                                  **Noah Joshua Phillips**  
                                  **Rohit Chopra**  
                                  **Christine S. Wilson**

**In the Matter of**

**HEALTH RESEARCH LABORATORIES, LLC,  
a limited liability company,**

**WHOLE BODY SUPPLEMENTS, LLC,  
a limited liability company, and**

**KRAMER DUHON,  
individually and as an officer of  
HEALTH RESEARCH LABORATORIES, LLC  
and WHOLE BODY SUPPLEMENTS, LLC.**

**DOCKET NO. 9397**

**COMPLAINT COUNSEL’S RESPONSE  
TO RESPONDENTS’ MOTION FOR ADDITIONAL TIME**

Respondents have untimely moved for additional time to oppose Complaint Counsel’s motion for additional time. Although Complaint Counsel does not object to awarding Respondents additional time to oppose the pending motion to extend the trial date so that the Commission can resolve that motion on the merits, as discussed below, Respondents’ excuses that purportedly explain their tardiness are dubious at best.

First, Respondents assert that they “did not notice” that Complaint Counsel filed the motion with the Commission (as Rules 3.21(c)(1) and 3.41(b) require) rather than the Administrative Law Judge. Motion at 2. It seems unlikely that Respondents were ignorant of the Rules providing that only the Commission can extend a hearing date; they should have assumed that Complaint Counsel filed the motion consistent with the relevant Rules (which, in fact, Complaint Counsel cited in the motion’s first sentence, *see* Hearing Date Motion (Mar. 30, 2021) at 1). Likewise, it is difficult to accept that Respondents failed to notice the caption—

which reads “BEFORE THE FEDERAL TRADE COMMISSION”—across the top of the filing’s first page (and lists the Commissioners’ names). Additionally, even if Respondents did not open the document, the transmittal email serving the Respondents made clear that Complaint Counsel filed the materials “for submission to the Commission.” CCX-1 (emphasis added).

Notably, even assuming that Respondents were unfamiliar with the relevant rules and missed the filing’s multiple references to the Commission and Commissioners, Respondents claim that they failed to review the filing again for two weeks. *See* Motion at 2-3.

Second, the day following the filing of Complaint Counsel’s motion with the Commission, Respondents filed an affirmative motion with the Administrative Law Judge captioned: “Expedited Motion to Enter New Scheduling Order, or in the alternative, Transfer Case to the Commission.” *See* Respondents’ Mar. 31, 2021 Motion. Remarkably, Respondents now assert that they “believed they had responded to [Complaint Counsel’s] original Motion” through this new affirmative motion before the ALJ because it “clearly opposes the request to extend the hearing date.” Motion at 2. To accept this excuse requires the Commission to conclude that Respondents drafted and submitted their affirmative motion—not called an “opposition”—without having reviewed the motion Complaint Counsel filed only hours earlier on the same subject. In reality, Respondents new motion before the ALJ was not an opposition to what Complaint Counsel submitted to the Commission the day before, nor did Respondents intend it to be—despite what Respondents now misleadingly claim.

Again, Complaint Counsel does not oppose awarding Respondents additional time to submit their filing and welcomes a decision on the merits. However, the Commission should view Respondents’ representations concerning the course of proceedings below with caution.

Respectfully submitted,

s/ Jonathan Cohen

Elizabeth J. Averill

Jonathan Cohen

Federal Trade Commission

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*Complaint Counsel*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of Complaint Counsel's Response to Respondents' Motion for Additional Time as well as one attached exhibit to counsel for the Respondents on April 16, 2021 via electronic mail.

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I also served one electronic copy via the Administrative E-Filing System and one electronic courtesy copy to the **Office of the Secretary** via email to ElectronicFilings@ftc.gov.

I served one electronic courtesy copy via email to the **Office of the Administrative Law Judge**:

The Honorable D. Michael Chappell  
Administrative Law Judge  
600 Pennsylvania Ave, N.W., Room H-110  
Washington, DC 20580

s/ Jonathan Cohen  
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CCX-1

**From:** [Averill, Elizabeth](#)  
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**Subject:** Dkt. 9397: Health Research Laboratories - Complaint Counsel's Expedited Motion to Reschedule Evidentiary Hearing  
**Date:** Tuesday, March 30, 2021 9:47:00 PM  
**Attachments:** [CC Expedited Motion to Reschedule Hearing .pdf](#)  
[Averill Decl and Exs Final.pdf](#)  
[Proposed Order.pdf](#)

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Attached please find courtesy copies of Complaint Counsel's Expedited Motion to Reschedule Evidentiary Hearing for submission to the Commission along with a supporting Declaration, Exhibits, and a Proposed Order.

Thank you.

Elizabeth J. Averill  
Federal Trade Commission  
Bureau of Consumer Protection  
202-326-2993