

ORIGINAL
UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of)

POM WONDERFUL LLC and,)
ROLL GLOBAL LLC,)
as successor in interest to)
Roll International Corporation,)
companies, and)

STEWART A. RESNICK,)
LYNDA RAE RESNICK, and)
MATTHEW TUPPER, individually and)
as officers of the companies.)

Docket No. 9344

PUBLIC DOCUMENT

CONSENT MOTION TO AMEND
SCHEDULING ORDER AND MEMORANDUM IN SUPPORT THEREOF

Complaint Counsel respectfully moves the Court for an order amending the October 26, 2010 Scheduling Order to permit a limited extension of deadlines: 1) for the parties to exchange their final proposed witness and exhibit lists; and 2) for motions *in limine* and *in camera* treatment of proposed trial exhibits, and responses thereto. Respondents' Counsel consents to this motion.

The Scheduling Order requires Complaint Counsel to provide Respondents' Counsel with its final proposed witness and exhibit lists on March 24, 2011, and Respondents' Counsel to provide its proposed witness and exhibit lists to Complaint Counsel on April 5, 2011. Thereafter, the Scheduling Order sets the deadline for filing motions *in limine* and requests for *in camera* treatment of proposed trial exhibits on April 15, 2011, and the deadline for responses to motions *in limine* and requests for *in camera* treatment on April 26, 2011. Complaint Counsel seeks to amend the Scheduling Order to provide Respondents' Counsel its final proposed witness and

exhibit lists on March 29, 2011 and to allow Respondents' Counsel to provide its final proposed witness and exhibit lists on April 11, 2011. In turn, Complaint Counsel seeks to amend the Scheduling Order to allow the parties to file motions *in limine* and requests for *in camera* treatment of proposed trial exhibits on April 20, 2011, and to file responses to motions *in limine* and requests for *in camera* treatment of proposed trial exhibits on May 2, 2011.

Commission Rule of Practice 3.21(c)(2) provides that “[t]he Administrative Law Judge may, upon a showing of good cause, grant a motion to extend any deadline or time specified in this scheduling order other than the date of the evidentiary hearing.” The proposed amendment to the Scheduling Order would allow both sides limited extensions to designate their proposed witnesses, trial testimony, and exhibits. Accordingly, the amendment to the Scheduling Order would add a few more days to allow the parties to file, and to respond to, any motions *in limine* and requests for *in camera* treatment of trial exhibits. Each party believes it would not be prejudiced by these limited extensions. Moreover, the proposed change would not affect any other deadlines prescribed by the Scheduling Order, including the Commencement of Hearing on May 24, 2011.

The parties are prepared to discuss this consent motion with the Court at its request. A proposed order is attached.

Date: March 23, 2011

/s/ Mary L. Johnson
Mary L. Johnson (202) 326-3115
Federal Trade Commission
Bureau of Consumer Protection
601 New Jersey Avenue, NW
Washington, DC 20580

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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MATTHEW TUPPER, individually and)	
as officers of the companies.)	
)	

**[Proposed] ORDER GRANTING CONSENT MOTION
TO AMEND SCHEDULING ORDER**

On March 23, 2011, Complaint Counsel filed a consent motion to amend the Scheduling Order dated October 26, 2010. Complaint Counsel proposed moving the deadline for providing Respondents' Counsel its final proposed witness and exhibit lists, from March 24, 2011 to March 29, 2011, and the deadline for Respondents' Counsel to provide Complaint Counsel its final proposed witness and exhibit lists from April 5, 2011 to April 11, 2011. Given that motions *in limine* and requests for *in camera* treatment of proposed trial exhibits could be affected by the parties' designations, Complaint Counsel further proposed extending the deadlines regarding motions *in limine* and requests for *in camera* treatment by approximately five days. Respondents consent to the proposed amendments to the Scheduling Order.

Based upon the representations made by Complaint Counsel, the Consent Motion is GRANTED. It is hereby ORDERED that the Scheduling Order dated October 26, 2010 is amended such that Complaint Counsel will provide Respondents' Counsel its final proposed

witness and exhibit lists on March 29, 2011 and Respondents' Counsel will provide its final proposed witness and exhibit lists on April 11, 2011. The new deadlines to file motions *in limine* and requests for *in camera* treatment of proposed trial exhibits are April 20, 2011, and the deadlines to file responses to motions *in limine* and requests for *in camera* treatment of proposed trial exhibits are May 2, 2011. The other dates and provisions in the October 26, 2010 Scheduling Order remain in effect.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Dated:

STATEMENT OF PARTIES REGARDING MEET AND CONFER

On March 22, 2011, at approximately 2:00 p.m. (Eastern), Complaint Counsel Mary Johnson and Respondents' Counsel John Graubert discussed by conference call extending the deadline for Complaint Counsel to provide Respondents' Counsel with its final proposed witness and exhibit lists. The parties also exchanged emails later that day and, at approximately 6:20 p.m. (Eastern), agreed to seek leave of Court to permit Complaint Counsel to provide its final proposed witness and exhibit lists to Respondents' Counsel on March 29, 2011. In turn, Complaint Counsel agreed to seek the Court's permission to allow Respondents to provide their final proposed witness and exhibit lists to Complaint Counsel on April 11, 2011 and to extend the Scheduling Order deadlines for motions *in limine* and requests for *in camera* treatment of proposed trial exhibits by approximately five days.

Respectfully submitted,

Date: March 23, 2011

/s/ Mary L. Johnson
Mary L. Johnson
Complaint Counsel

CERTIFICATE OF SERVICE

I certify that on March 23, 2011, I caused to be filed and served *Consent Motion to Amend Scheduling Order and Memorandum in Support Thereof* upon the following as set forth below:

One electronic copy via the FTC E-Filing System to:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room H-159
Washington, DC 20580

One paper copy via hand delivery and one electronic copy via email to:

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., N.W., Room H-110
Washington, DC 20580
Email: oalj@ftc.gov

One electronic copy via email to:

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Attorneys for Respondents

Date: March 23, 2011

/s/ Mary L. Johnson
Mary L. Johnson
Complaint Counsel