

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

**TRAFFIC JAM EVENTS, LLC, a limited
liability company, and**

**DAVID J. JEANSONNE II,
individually and as an officer of
TRAFFIC JAM EVENTS, LLC.**

DOCKET NO. 9395

**COMPLAINT COUNSEL'S RESPONSE TO MOTION FOR LEAVE TO WITHDRAW
AS COUNSEL OF RECORD FOR RESPONDENTS, TRAFFIC JAM EVENTS, LLC
AND DAVID J. JEANSONNE, II**

Complaint Counsel does not oppose counsel's withdrawal for Respondents but requests that any order concerning Respondent's motion underscore that Respondents, and any designated officers of Traffic Jam Events, LLC, are obligated to comply with discovery and other obligations set forth in the Commission's rules.

The timing of the motion to withdraw is inauspicious because, to date, Respondents' conduct has been dilatory and has seriously hampered the progress of discovery and the proceedings generally. Respondents have made clear they do not intend to participate in discovery.¹ In addition to the outstanding responses to the requests for production and interrogatories that are the subject of Complaint Counsel's pending motion to compel,

¹ See Decl. of Sanya Shahrasbi, Ex. A, *attached* to Complaint Counsel's Motion to Compel Respondents to Comply with Complaint Counsel's Request for Production and Interrogatories (Dec. 7, 2020) (e-mail correspondence with Respondent Jeansonne instructing Complaint Counsel to "save it" if the plan is to seek more discovery as he "will not be doing anymore of that.").

Respondents have failed to comply with the Court's scheduling order requiring disclosure of an expert witness list by December 1 and have yet to commit concerning deposition scheduling.

While Commission Rules do not expressly address withdrawal of counsel, Rule 4.1(a)(2) permits Respondents to appear without counsel and Rule 3.42 empowers the Court "to take all necessary action to avoid delay in the disposition proceedings, and to maintain order." Those powers specifically include the ability "[t]o regulate the course of the hearings and the conduct of the parties and their counsel therein." 16 C.F.R. § 3.42(c). If the Court grants Respondents' motion to allow their counsel to withdrawal at this stage, Complaint Counsel requests that the Court also enter such orders or directions as the Court deems appropriate to prevent Respondents from using the withdrawal of counsel to further delay the progress of these proceedings or shield Respondents from contempt and sanctions. *In re Wayne Phillips*, 1996 FTC Lexis 330, *1 (Sept. 21, 1990) (imposing conditions as part of order allowing withdrawal of counsel, including compliance with Rule 4.1(a)(2)); *see also* Rule 3.42(h) ("Any party who refuses or fails to comply with a lawfully issued order or direction of an Administrative Law Judge may be considered to be in contempt of the Commission."); *cf. In re Automotive Breakthrough Sciences, Inc.*, 1996 FTC LEXIS 763, *11-*13 (Oct. 16, 1996) (discussing authority to enter discovery sanctions, including default, and citing cases describing contumacious or willful misconduct).

Respectfully submitted,

December 15, 2020

By: /s/ Thomas J. Widor
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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2020, I caused the foregoing document to be served via the FTC's E-filing system and electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
Federal Trade Commission
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December 15, 2020

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