

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

ORIGINAL



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,)
Respondents.)

DOCKET NO. 9344

**ORDER SETTING CLOSING ARGUMENTS AND
GRANTING RESPONDENTS' MOTION REGARDING SCHEDULING**

Pursuant to Commission Rule 3.41(b)(6): "Each side shall be permitted to make a closing argument no later than 5 days after the last filed proposed findings." 16 C.F.R. § 3.41(b)(6). The last filed proposed findings in this case are scheduled to be filed on February 7, 2012. Accordingly, the parties were informed that closing arguments would be scheduled for February 14, 2012, which is 5 business days after the expected last filings. Upon receiving notification of the intended date for holding closing arguments, Respondents, on January 25, 2012, filed a motion regarding scheduling of closing argument ("Motion"). Complaint Counsel filed an Opposition on January 26, 2012.

Respondents seek to move the closing arguments from February 14, 2012 to either March 5, 2012, or March 6, 2012. In support of the Motion, Respondents rely on Commission Rule 4.3(b), which allows the Administrative Law Judge, "for good cause shown," to "extend any time limit prescribed by the rules in this chapter, except those governing motions directed to the Commission, interlocutory appeals and initial decisions and deadlines that the rules expressly authorize only the Commission to extend." 16 C.F.R. § 4.31(b). Respondents assert that good cause exists to extend the deadline for closing arguments in this case because their lead counsel, Mr. Bertram Fields, is unavailable to prepare for or attend the closing argument if held on February 14, 2012. Respondents assert that Mr. Fields is currently counsel for a defendant in a jury trial before Judge Hoeveler of the U.S. District Court for the Southern District of Florida, which will likely last until after February 14, 2012. The details in support of this assertion are set forth with specificity in the Declaration of Bertram Fields, submitted in support of the Motion. Respondents further state that granting their Motion will not affect the deadline for the

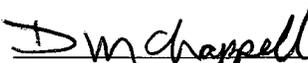
issuance of the Initial Decision in this matter and therefore will not unnecessarily delay the progression of this matter. Respondents further state that they conferred with Complaint Counsel; that Complaint Counsel declined to consent; and that Complaint Counsel indicated that, should the Motion be granted, Complaint Counsel is available on March 5, 2012, or March 6, 2012.

Complaint Counsel asserts that Respondents have not demonstrated good cause for moving the date of closing arguments until March. Complaint Counsel states that it does not appear that Mr. Fields attempted to notify Judge Hoeveler of a potential scheduling conflict or seek leave from Judge Hoeveler for a one-day recess to conduct closing argument in this matter. Complaint Counsel further states that, if the date for closing arguments is changed, Complaint Counsel would prefer that closing arguments be heard early in the week of February 27, 2012.

Upon consideration of the foregoing, Respondents have demonstrated good cause to extend the date for closing arguments beyond the 5 day window provided in the Rule. Complaint Counsel has not shown that it would suffer any undue prejudice by scheduling closing arguments for March 5, 2012 or March 6, 2012, and, as represented by Respondents, Complaint Counsel is available on March 5, 2012, or March 6, 2012. Moreover, granting Respondents' motion does not alter the deadline for issuing the Initial Decision.

Accordingly, Respondents' Motion is GRANTED. Closing arguments are hereby scheduled to commence at 1:00 p.m. on March 6, 2012. Counsel are instructed that they shall not present any confidential or *in camera* information in closing arguments.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: January 26, 2012