

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Joseph J. Simons, Chairman  
Maureen K. Ohlhausen  
Noah Joshua Phillips  
Rohit Chopra  
Rebecca Kelly Slaughter

\_\_\_\_\_  
)  
In the Matter of )  
)  
) PUBLIC  
Impax Laboratories, Inc., )  
a corporation, ) DOCKET NO. 9373  
)  
)  
Respondent )  
\_\_\_\_\_ )

**JOINT MOTION TO REVISE BRIEFING SCHEDULE FOR APPEAL**

Pursuant to Rules 3.22 and 3.52 of the Commission’s Rules of Practice, 16 C.F.R. §§ 3.22 and 3.52, Complaint Counsel and Respondent Impax Laboratories, Inc. hereby jointly move the Commission for an Order revising the deadlines by which the parties’ respective appeal briefs are due.

On Friday, May 11, 2018, the Honorable D. Michael Chappell issued an Initial Decision and Order in the above-captioned action. Complaint Counsel filed its Notice of Appeal on May 17, 2018. Absent an Order of the Commission revising the deadlines for appellate briefing, Complaint Counsel’s opening brief would be due on Tuesday, June 12, 2018; Respondent’s answering brief would be due on Thursday, July 12, 2018; and Complaint Counsel’s reply brief would be due on Monday, July 23, 2018.

The parties jointly request that the Commission order the parties to adhere to the following revised schedule:

- Opening briefs to be filed on Monday, July 2, 2018;

- Opposition briefs to be filed on Friday, August 10, 2018;
- Reply brief to be filed on Friday, August 24, 2018.

The appeal in the above-captioned matter is the first reverse-payment case to be heard by the Commission since the Supreme Court's landmark decision in *FTC v. Actavis, Inc.*. It has a voluminous record with thousands of pages of trial transcripts, findings of fact, conclusions of law, post-trial briefing, and now a 162-page Initial Decision by the Administrative Law Judge. Moreover, the attorneys for both parties have long-standing holiday and travel commitments throughout the summer months during which the briefing deadlines fall. Therefore, the parties agree that a modest extension to the briefing schedule is warranted.

The Commission has granted similar adjustments to the briefing schedule in other cases. *See, e.g.*, Order Granting Joint Motion to Extend Deadlines for Filing Appeal, Answering, and Reply Briefs, *In the Matter of 1-800 Contacts, Inc.*, Docket No. 9372 (Nov. 16, 2017); Order Granting Joint Motion to Extend Deadlines for Filing Appeal and Answering Briefs, *In the Matter of LabMD, Inc.*, Docket No. 9357 (Dec. 3, 2015). The relief requested herein is for good cause and will not result in undue delay in the adjudication of the case. No other extensions related to the appeal have been requested.

Accordingly, Complaint Counsel and Respondent respectfully request that the Commission grant their Joint Motion and issue an Order setting the deadlines for Complaint Counsel's opening brief as Monday, July 2, 2018; Respondent's answering brief as Friday, August 10, 2018; and Complaint Counsel's reply brief as Friday, August 24, 2018.

Dated: May 23, 2018

/s/ Bradley S. Albert

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*Counsel Supporting the Complaint*

Respectfully submitted,

/s/ Edward D. Hassi

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*Counsel for Impax Laboratories, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 23, 2018, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark  
Secretary  
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600 Pennsylvania Ave., NW, Rm. H-113  
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ElectronicFilings@ftc.gov  
The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

I also certify that I delivered via electronic mail a copy of the foregoing document to:

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*Counsel for Respondent Impax Laboratories, Inc.*

May 23, 2018

By: s/ Rebecca E. Weinstein

**CERTIFICATE FOR ELECTRONIC FILING**

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

May 23, 2018

By: s/ Rebecca E. Weinstein

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BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**       **Joseph J. Simons, Chairman**  
                                  **Maureen K. Ohlhausen**  
                                  **Noah Joshua Phillips**  
                                  **Rohit Chopra**  
                                  **Rebecca Kelly Slaughter**

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<b>Impax Laboratories, Inc.,</b>	)	
<b>a corporation,</b>	)	<b>DOCKET NO. 9373</b>
	)	
<b>Respondent</b>	)	
	)	

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**[PROPOSED] ORDER GRANTING JOINT MOTION TO REVISE BRIEFING  
SCHEDULE FOR APPEAL**

Complaint Counsel and Respondent have filed a Joint Motion to extend the deadlines to file appeal briefs in this matter. The parties request these extensions due to the voluminous record, longstanding holiday, and travel commitments that would be impacted in the absence of an extension. Pursuant to Commission Rule 4.30(b), 16 C.F.R. § 4.3(b), the Commission has determined, for good cause shown, to grant the Joint Motion. Accordingly,

**IT IS ORDERED THAT** Complaint Counsel’s opening appeal brief must be filed on or before July 2, 2018 and, if Complaint Counsel files an appeal brief by that date, its appeal from the Initial Decision will be treated as having been perfected in accordance with Commission Rule 3.52(b);

**IT IS FURTHER ORDERED THAT** any answering brief must be filed on or before August 10, 2018; and

**IT IS FURTHER ORDERED THAT** any reply brief must be filed on or before August 24, 2018.

By the Commission

Donald S. Clark  
Secretary

SEAL:

Issued: \_\_\_\_\_

Notice of Electronic Service

**I hereby certify that on May 23, 2018, I filed an electronic copy of the foregoing Joint Motion to Revise Briefing Schedule for Appeal, with:**

D. Michael Chappell  
Chief Administrative Law Judge  
600 Pennsylvania Ave., NW  
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Washington, DC, 20580

Donald Clark  
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Washington, DC, 20580

**I hereby certify that on May 23, 2018, I served via E-Service an electronic copy of the foregoing Joint Motion to Revise Briefing Schedule for Appeal, upon:**

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