

ORIGINAL

PUBLIC

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



In the Matter of)
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ECM BioFilms, Inc.,)
a corporation, also d/b/a)
Enviroplastics International,)
Respondent.)
_____)

DOCKET NO. 9358

REVISED SCHEDULING ORDER

Pursuant to the Order On Complaint Counsel's Motion to Certify Scheduling Issues to the Commission and Request for Interim Relief, April 1, 2014, the Scheduling Order is revised as follows:

- April 7, 2014 - Deadline for issuing document requests, interrogatories and subpoenas *duces tecum*, except for discovery for purposes of authenticity and admissibility of exhibits.
- April 14, 2014 - Complaint Counsel provides expert witness list.
- April 21, 2014 - Respondent's Counsel provides expert witness list.
- April 25, 2014 - Deadline for Complaint Counsel to provide expert witness reports.
- April 28, 2014 - Deadline for issuing requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of exhibits.
- May 8, 2014 - Close of discovery, other than discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
- May 9, 2014 - Deadline for Respondent's Counsel to provide expert witness reports. Respondent's expert report shall include (without

limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).

- May 19, 2014 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondent's expert reports. If material outside the scope of fair rebuttal is presented, Respondent will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert reports or seeking leave to submit surrebuttal expert reports on behalf of Respondent).
- May 22, 2014 - Complaint Counsel provides to Respondent's Counsel its final proposed witness and exhibit lists, including depositions or designated portions thereof, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Complaint Counsel's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.
- Complaint Counsel serves courtesy copies on ALJ of its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.
- May 23, 2014 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- May 27, 2014 - Respondent's Counsel provides to Complaint Counsel its final proposed witness and exhibit lists, including depositions or designated portions thereof, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Respondent's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.
- Respondent's Counsel serves courtesy copies on ALJ its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.
- May 27, 2014 - Parties that intend to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b). *See* Additional Provision 7.
- May 30, 2014 - Exchange deposition transcript counter-designations.

- June 2, 2014 - Deadline for filing motions *in limine* to preclude admission of evidence. See Additional Provision 9.
- June 6, 2014 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- June 9, 2014 - Deadline for filing responses to motions *in limine* to preclude admissions of evidence.
- June 9, 2014 - Complaint Counsel files pretrial brief supported by legal authority.
- June 11, 2014 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- June 11, 2014 - Exchange proposed stipulations of law, facts, and authenticity.
- June 12, 2014 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists.
- June 12, 2014 - Exchange objections to the designated testimony to be presented by deposition and counter-designations.
- June 13, 2014 - Respondent's Counsel files pretrial brief supported by legal authority.
- June 16, 2014 - File final stipulations of law, facts, and authenticity. Any subsequent stipulations may be offered as agreed by the parties.
- June 17, 2014 - Final prehearing conference to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

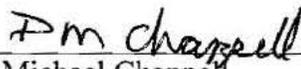
The parties are to meet and confer prior to the conference regarding trial logistics and proposed stipulations of law, facts, and authenticity of exhibits and any designated deposition testimony. To the extent the parties stipulate to certain issues, the parties shall prepare a Joint Exhibit which lists the agreed stipulations.

Counsel may present any objections to the final proposed witness lists and exhibits, including to any designated deposition testimony. Trial exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admission of each other's exhibits, the parties shall prepare a Joint Exhibit which lists the exhibits to which neither side objects. Any Joint Exhibit will be signed by each party. (Do not include a signature line for the ALJ.)

June 18, 2014 - Commencement of Hearing, to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

All Additional Provisions to the November 21, 2013 Scheduling Order remain in effect.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: April 1, 2014