

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



In the Matter of)
)
Tronox Limited,)
a corporation,)
)
National Industrialization Company)
(TASNEE))
a corporation,)
)
National Titanium Dioxide Company)
Limited (Cristal))
a corporation, and)
)
Cristal USA Inc.)
a corporation,)
)
Respondents.)

DOCKET NO. 9377

**ORDER GRANTING JOINT MOTION TO REVISE THE SCHEDULING
ORDER AND ISSUING SECOND REVISED SCHEDULING ORDER**

On February 22, 2018, Federal Trade Commission (“FTC”) Complaint Counsel and Respondents filed a Joint Motion to Amend the Scheduling Order. The parties state that they seek a brief extension of the discovery schedule, in order to permit an orderly and efficient completion of fact discovery that will minimize potential burden on witnesses and third parties.

This is the first motion either party has filed for an amendment to the Scheduling Order issued on December 20, 2018 and revised on January 24, 2018 in accordance with the Commission Order due to the partial shutdown of the federal government. The parties’ requested revisions will not affect the trial date. The parties have demonstrated good cause to revise many of the remaining dates in the Scheduling Order. However, so that there is adequate time to rule on any pretrial motions, not all of the parties’ requested dates are approved. The Joint Motion is GRANTED IN PART and the remaining dates

in the Scheduling Order are revised as follows:

- March 8, 2018 - Deadline for issuing requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of exhibits.
- March 27, 2018 - 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.
- April 6, 2018 - Deadline for Complaint Counsel to provide expert witness reports.
- April 9, 2018 - Complaint Counsel provides to Respondents' Counsel its final proposed witness and exhibit lists, including depositions, 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.
- April 19, 2018 - Respondents' Counsel provides to Complaint Counsel its final proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Respondents' basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondents' 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.
- April 19, 2018 - 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).¹ See Additional Provision 7.

- April 20, 2018 - Deadline for Respondents' Counsel to provide expert witness reports (to be provided by 4 p.m. ET). Respondents' expert report shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).
- April 30, 2018 - 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 Respondents' expert reports. If material outside the scope of fair rebuttal is presented, Respondents 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 Respondents).
- May 1, 2018 - Deadline for filing motions *in limine* to preclude admission of evidence. See Additional Provision 9.
- May 1, 2018 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- May 4, 2018 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- May 7, 2018 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists. The Parties are directed to review the Commission's Rules on admissibility of evidence before filing objections to exhibits.
- May 8, 2018 - Complaint Counsel files pretrial brief supported by legal authority.

¹ Appendix A to Commission Rule 3.31, the Standard Protective Order, states that if a party or third party wishes *in camera* treatment for a document or transcript that a party intends to introduce into evidence, that party or third party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives notice of a party's intent to introduce such material. Commission Rule 3.45(b) states that parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least 10 days' notice of the proposed use of such material. To resolve this apparent conflict, the Scheduling Order requires that the parties provide 10 days' notice to the opposing party or third parties to allow for the filing of motions for *in camera* treatment.

- May 9, 2018 - Deadline for filing responses to motions *in limine* to preclude admission of evidence.
- May 9, 2018 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- May 10, 2018 - Exchange proposed stipulations of law, facts, and authenticity.
- May 11, 2018 - Respondents' Counsel files pretrial brief supported by legal authority.
- May 16, 2018 - Final prehearing conference to begin at 1:00 p.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The parties shall meet and confer prior to the prehearing conference regarding trial logistics and proposed stipulations of law, facts, and authenticity of exhibits. To the extent the parties have agreed to stipulate to any issues of law, facts, and/or authenticity of exhibits, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the conference. At the conference, the parties' list of stipulations shall be marked as "JX1" and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required. Any subsequent stipulations may be offered as agreed by the parties.

Counsel may present any objections to the final proposed witness lists and exhibits. 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 list identifying each exhibit to which admissibility is agreed, marked as "JX2" and signed by each party, which list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required.

- May 18, 2018 - 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 December 20, 2017 Scheduling Order remain in effect.

ORDERED:

Dm Chappell
D. Michael Chappell
Chief Administrative Law Judge

Date: February 23, 2018

Notice of Electronic Service

I hereby certify that on February 23, 2018, I filed an electronic copy of the foregoing Order Granting Joint Motion to Revise the Scheduling Order and Issuing Second Revised Scheduling Order, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on February 23, 2018, I served via E-Service an electronic copy of the foregoing Order Granting Joint Motion to Revise the Scheduling Order and Issuing Second Revised Scheduling Order, upon:

Seth Wiener
Arnold & Porter Kaye Scholer LLP
seth.wiener@apks.com
Respondent

Matthew Shultz
Arnold & Porter Kaye Scholer LLP
matthew.shultz@apks.com
Respondent

Albert Teng
Arnold & Porter Kaye Scholer LLP
albert.teng@apks.com
Respondent

Michael Williams
Kirkland & Ellis LLP
michael.williams@kirkland.com
Respondent

David Zott
Kirkland & Ellis LLP
dzott@kirkland.com
Respondent

Matt Reilly
Kirkland & Ellis LLP
matt.reilly@kirkland.com
Respondent

Andrew Pruitt
Kirkland & Ellis LLP
andrew.pruitt@kirkland.com
Respondent

Susan Davies
Kirkland & Ellis LLP
susan.davies@kirkland.com
Respondent

Michael Becker
Kirkland & Ellis LLP
mbecker@kirkland.com
Respondent

Karen McCartan DeSantis
Kirkland & Ellis LLP
kdesantis@kirkland.com
Respondent

Megan Wold
Kirkland & Ellis LLP
megan.wold@kirkland.com
Respondent

Michael DeRita
Kirkland & Ellis LLP
michael.derita@kirkland.com
Respondent

Emily Merki
Kirkland & Ellis LLP
emily.merki@kirkland.com
Respondent

Charles Loughlin
Attorney
Federal Trade Commission
cloughlin@ftc.gov
Complaint

Cem Akleman
Attorney
Federal Trade Commission
cakleman@ftc.gov
Complaint

Thomas Brock
Attorney
Federal Trade Commission
TBrock@ftc.gov
Complaint

Krishna Cerilli
Attorney
Federal Trade Commission
kcerilli@ftc.gov
Complaint

Steven Dahm
Attorney
Federal Trade Commission
sdahm@ftc.gov
Complaint

E. Eric Elmore
Attorney
Federal Trade Commission
eelmore@ftc.gov

Complaint

Sean Hughto
Attorney
Federal Trade Commission
shughto@ftc.gov
Complaint

Joonsuk Lee
Attorney
Federal Trade Commission
jlee4@ftc.gov
Complaint

Meredith Levert
Attorney
Federal Trade Commission
mlevert@ftc.gov
Complaint

Jon Nathan
Attorney
Federal Trade Commission
jnathan@ftc.gov
Complaint

James Rhilinger
Attorney
Federal Trade Commission
jrhilinger@ftc.gov
Complaint

Blake Risenmay
Attorney
Federal Trade Commission
brisenmay@ftc.gov
Complaint

Kristian Rogers
Attorney
Federal Trade Commission
krogers@ftc.gov
Complaint

Z. Lily Rudy
Attorney
Federal Trade Commission
zrudy@ftc.gov
Complaint

Robert Tovsky
Attorney
Federal Trade Commission
rtovsky@ftc.gov
Complaint

Dominic Vote
Attorney
Federal Trade Commission

dvote@ftc.gov
Complaint

Cecelia Waldeck
Attorney
Federal Trade Commission
cwaldeck@ftc.gov
Complaint

Katherine Clemons
Associate
Arnold & Porter Kaye Scholer LLP
katherine.clemons@arnoldporter.com
Respondent

Eric D. Edmondson
Attorney
Federal Trade Commission
eedmondson@ftc.gov
Complaint

David Morris
Attorney
Federal Trade Commission
DMORRIS1@ftc.gov
Complaint

Lynnette Pelzer
Attorney