

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



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

DOCKET NO. 9358

THIRD REVISED SCHEDULING ORDER

The parties are advised that the Second Revised Scheduling Order, issued on April 10, 2014, and modified by the Order Granting Joint Motion to Reschedule Pretrial Conference and Adjust Scheduling Dates, issued April 17, 2014, is hereby modified to delete the requirements relating to designations and counter designations of deposition testimony. In addition, the deadlines for filing motions *in limine* and responses thereto are hereby modified by this Order.

This Third Revised Scheduling Order does not revise any other deadlines listed in the Second Revised Scheduling Order or the April 17, 2014 Order, or any of the Additional Provisions set forth in the Scheduling Order issued November 21, 2013.

- May 21, 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.
- June 4, 2014 - Deadline for Complaint Counsel to provide expert witness reports.
- June 11, 2014 - Complaint Counsel provides to Respondent's 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.

June 18, 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).

June 25, 2014 - Respondent's 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), 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.

June 26, 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.

June 30, 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).

July 2, 2014 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.

July 8, 2014 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.

- July 11, 2014 - Deadline for filing motions for *in camera* treatment of proposed expert related exhibits.
- July 14, 2014 - Deadline for filing motions *in limine* to preclude admission of evidence. *See* Additional Provision 9.
- July 15, 2014 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- July 18, 2014 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists.
- July 18, 2014 - Deadline for filing responses to motions for *in camera* treatment of proposed expert related exhibits.
- July 21, 2014 - Deadline for filing responses to motions *in limine* to preclude admissions of evidence.
- July 23, 2014 - Complaint Counsel files pretrial brief supported by legal authority.
- July 25, 2014 - Exchange proposed stipulations of law, facts, and authenticity.
- July 28, 2014 - File final stipulations of law, facts, and authenticity. Any subsequent stipulations may be offered as agreed by the parties.
- July 29, 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. 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. 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.)

- July 30, 2014 - Respondent's Counsel files pretrial brief supported by legal authority.
- August 5, 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.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: May 22, 2014