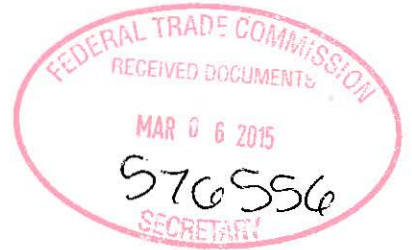


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

_____)
In the Matter of)
)
Jerk, LLC, a limited liability company,)
also d/b/a JERK.COM, and) DOCKET NO. 9361
)
John Fanning,) PUBLIC DOCUMENT
individually and as a member of)
Jerk, LLC.)
)
_____)

**COMPLAINT COUNSEL’S OPPOSITION TO EMERGENCY MOTION OF
RESPONDENT JOHN FANNING TO CONTINUE ADJUDICATORY HEARING OR, IN
THE ALTERNATIVE, TO STAY FURTHER PREHEARING PROCEEDINGS
PENDING SUMMARY DECISION RULING**

Complaint Counsel respectfully oppose Respondent John Fanning’s request to continue the evidentiary hearing in this matter to April 6, 2015 (“Motion”).¹ The Commission has already postponed the hearing date once to accommodate Respondent Jerk, LLC’s untimely opposition to Complaint Counsel’s Motion for Summary Decision. To move the hearing again would cause hardship to the third party witnesses who have agreed to testify. These witnesses arranged their schedules to testify at the original January 27, 2015 hearing, and then re-arranged their schedules

¹ In the event the Commission grants Fanning’s request to extend the trial schedule, Complaint Counsel respectfully request that the evidentiary hearing begin on April 7, 2015. April 5 is the Easter holiday and an April 6 start date would preclude travel for some staff and witnesses.

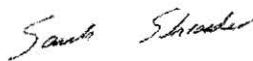
to accommodate the rescheduled March 23, 2015 start date. To reschedule the hearing again—so close to its start— would risk disrupting these witnesses' lives and travel arrangements, and would prejudice Complaint Counsel if some of the witnesses who have committed to testifying at trial in late March will not be able to testify in April.

Regardless of whether the Commission postpones the trial, it should not extend any pretrial deadlines. Fanning presents no good cause for doing so. The pretrial deadlines have been set on calendar for months, and Complaint Counsel have conducted their pretrial preparation in reliance on them. The only event that may reasonably be postponed if trial is rescheduled is the pretrial conference, which is currently scheduled for March 17. If the Commission postpones the trial, Complaint Counsel would assent to a request to postpone that hearing to the week prior to opening statements. All other pretrial deadlines should remain unaltered.

For the foregoing reasons, the Commission should deny Fanning's Motion.

Dated: March 6, 2015

Respectfully submitted,



Sarah Schroeder
Yan Fang
Boris Yankilovich
Kenneth H. Abbe
Federal Trade Commission
Western Region – San Francisco
901 Market Street, Suite 570
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COMPLAINT COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2015, I served a true and correct copy of COMPLAINT COUNSEL'S OPPOSITION TO EMERGENCY MOTION OF RESPONDENT JOHN FANNING TO CONTINUE ADJUDICATORY HEARING OR, IN THE ALTERNATIVE, TO STAY FURTHER PREHEARING PROCEEDINGS PENDING SUMMARY DECISION RULING on:

The Office of the Secretary:

Donald S. Clark
Office of the Secretary
600 Pennsylvania Avenue, N.W.
Room H-172
Washington, D.C. 20580

The Office of the Administrative Law Judge

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Avenue, N.W.
Room H-106
Washington, D.C. 20580

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Dated: March 6, 2015

A handwritten signature in black ink, appearing to read 'Kelly Ortiz', written over a horizontal line.

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