
ASSIGNMENT

The attached document is assigned to
Commissioner
Slaughter
for review and presentation to the Commission.

Assignment Date: 08/25/2021

Document Number: 602580

Matter Name: HEALTH RESEARCH LABORATORIES LLC ET AL

Matter Number: D09397 Issue Number: 4

Staff Contact: AVERILL, ELIZABETH

Document Title: ASSIGNMENT OF EXPEDITED MOTION TO EXTEND
COMPLAINT COUNSEL'S REPLY DATE

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"Motion to"

"For Information Circulation of" OR

April J. Tabor

Target Motion Date: 10/12/2021

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

HEALTH RESEARCH LABORATORIES, LLC,
 a limited liability company,

WHOLE BODY SUPPLEMENTS, LLC,
 a limited liability company, and

KRAMER DUHON,
 individually and as an officer of
 HEALTH RESEARCH LABORATORIES, LLC
 and WHOLE BODY SUPPLEMENTS, LLC.

DOCKET NO. 9397

EXPEDITED MOTION TO EXTEND COMPLAINT COUNSEL'S REPLY DATE

Respondents' latest submission demonstrates they are engaged in gamesmanship and shows a complete disregard for the process established in the Commission's recent Orders. The Commission previously gave Respondents the opportunity to assert additional facts, dispute facts asserted by Complaint Counsel, and clarify what facts they admitted. *Order for Further Proceedings Before the Commission* (May 14, 2021); *Order Directing Parties to Submit Proposed Findings of Fact and Conclusions of Law and Providing for Summary Decision* (July 30, 2021). However, Respondents strategically held off on either articulating their radically narrow interpretation of their Rule 3.12(b)(2) admissions that purportedly excludes admissions related to claim interpretation, materiality, and substantiation, or asserting a host of additional facts they now rely on, until their final submission when Complaint Counsel only had a five-day

period to reply. *See Respondents' Opposition to Summary Disposition and Reply Findings of Fact, Conclusions of Law, and Brief* (Sept. 10, 2021) ("Respondents' Opposition").

It is not possible for Complaint Counsel to prepare a thorough response to all of the new legal arguments and factual claims advanced in Respondents' Opposition by the original reply date, and Complaint Counsel therefore requests an extension to October 8, 2021 pursuant to 16 C.F.R. § 4.3(b).

Respectfully submitted,

s/ Elizabeth J. Averill
Elizabeth J. Averill
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Complaint Counsel

CERTIFICATE OF SERVICE

I certify that I served a copy of the Expedited Motion to Extend Complaint Counsel's Reply Date and proposed Order to counsel for the Respondents on September 13, 2021 via electronic mail.

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I also served one electronic copy via the Administrative E-Filing System and one electronic courtesy copy to the **Office of the Secretary** via email to ElectronicFilings@ftc.gov.

I served one electronic courtesy copy via email to the **Office of the Administrative Law Judge**:

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave, N.W., Room H-110
Washington, DC 20580

s/ Elizabeth J. Averill
Elizabeth J. Averill
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**[PROPOSED] ORDER GRANTING
EXPEDITED MOTION TO EXTEND COMPLAINT COUNSEL’S REPLY DATE**

Complaint Counsel have requested an extension of time to file their reply to Respondents’ Opposition to Summary Disposition and Reply Findings of Fact, Conclusions of Law, and Brief (Sept. 10, 2021). *See* Expedited Motion to Extend Complaint Counsel’s Reply Date (Sept. 13, 2021). Rule of Practice 4.3(b) provides the Commission may extend time limits prescribed in Commission rules or an order “for good cause shown.” 16 C.F.R. § 4.3(b). We find Complaint Counsel have demonstrated good cause for extending the date for filing their reply to October 8, 2021 because the original briefing schedule did not anticipate that

Respondents' Opposition would include numerous new legal arguments and factual claims requiring a more thorough submission than a brief reply. Accordingly,

IT IS HEREBY ORDERED that the Expedited Motion to Extend Complaint Counsel's Reply Date to October 8, 2021 is **GRANTED**.

By the Commission.

April J. Tabor
Secretary

SEAL:

ISSUED: