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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Rebecca Kelly Slaughter, Acting Chair
Noah Joshua Phillips
Rohit Chopra
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

RESPONSE TO MOTION TO WITHDRAW EXPEDITED MOTION TO
RESCHEDULE EVIDENTIARY HEARING DATE AND REQUEST FOR SCHEDULE

Respondents do not oppose Complaint Counsel's withdrawal of the motion to reschedule the evidentiary hearing, but, for the reasons set forth below, Respondents seek an alternative briefing schedule that clearly defines what can be filed and proposes a slightly more expedited schedule than the one proposed by Complaint Counsel.

Brief Response

Complaint Counsel's current briefing schedule proposes that Complaint Counsel files a brief and proposed order, Respondents file a response brief and proposed order, and then Complaint Counsel files a reply. It is unclear whether a reply would be

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permitted under these circumstances,¹ but Respondents have no objection to Complaint Counsel filing a reply as long as Respondents have the opportunity to file a short sur-reply. In addition, because the Commission is required to issue its final decision based solely on the facts alleged in the complaint,² the submissions should be limited to proposed findings of fact based on the allegations in the Complaint and legal briefing.

Respondents propose the following schedule:

May 28, 2021	Deadline for Complaint Counsel to file legal briefing and proposed Order with the Commission. Submission is limited to proposed findings of fact based on allegations in the Complaint, and legal briefing and arguments.
June 21, 2021	Deadline for Respondents to file legal briefing and proposed Order with the Commission. Submission is limited to proposed findings of fact based on allegations in the Complaint, and legal briefing and arguments.
July 16, 2021	Deadline for Complaint Counsel to file a reply. Reply shall be limited to 2,500 words and limited to responding to Respondents' Response.
July 30, 2021	Deadline for Respondents to file a sur-reply. Sur-Reply shall be limited to 2,500 words and limited to responding to Complaint Counsel's Reply.

¹ FTC Rule 3.22(d) states in pertinent part: "Reply and surreply briefs to motions other than dispositive motions shall be permitted only in circumstances where the parties wish to draw the Administrative Law Judge's or the Commission's attention to recent important developments or controlling authority that could not have been raised earlier in the party's principal brief." 16 C.F.R. § 3.22(d).

² See ALJ Chappell's April 20, 2021 Order Granting in Part and Denying in part Respondents' Motion to Enter New Scheduling Order or, in the alternative, to Transfer Case to Commission, pg. 4; *see also* 74 Fed. Reg. 1804, 1808 (Jan. 13, 2009) ("Commission would issue a final decision on the basis of the facts alleged in the complaint.")

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Complaint counsel opposes this schedule. However, considering that the original schedule called for the hearing to occur on July 13, 2021, this schedule is fairly close to the original hearing schedule.

Dated: April 26, 2021

Respectfully submitted,

REESE MARKETOS LLP

By: */s/ Joel W. Reese* _____

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ATTORNEYS FOR RESPONDENTS

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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2021, I filed the foregoing document electronically using the FTC's E-Filing system, which will send notification to:

April J. Tabor
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The Honorable D. Michael Chappell
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