

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

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Maureen K. Ohlhausen
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter

In the Matter of

Wilh. Wilhelmsen Holding ASA,
 a public company,

Wilhelmsen Maritime Services AS
 a private company,

Resolute Fund II, L.P.
 a private company,

Drew Marine Intermediate II B.V.
 a private company,

and

Drew Marine Group, Inc.,
 a corporation

Docket No. 9380

**ORDER GRANTING 30-DAY CONTINUANCE
OF THE ADMINISTRATIVE HEARING**

Respondents Wilhelm Wilhelmsen and Wilhelmsen Maritime Services AS (together, “Wilhelmsen”) and Resolute Fund II, L.P., Drew Marine Intermediate II B.V., and Drew Marine Group, Inc. have moved to postpone the administrative hearing, which is scheduled to begin on July 24, 2018, until October 22, 2018. Complaint Counsel respond that Respondents have not shown good cause for the requested continuance and consequently oppose the motion.¹

¹ On May 30, 2018, Respondents moved for leave to file a reply to Complaint Counsel’s opposition filing. That motion is granted. In opposing Respondent’s Motion for Leave to File a Reply, Complaint Counsel request leave to file a surreply at some future date. In view of our disposition of the underlying Motion for Continuance, we do not find that a surreply from Complaint Counsel is warranted.

Respondents argue that a parallel action brought by the Federal Trade Commission in federal district court, seeking a preliminary injunction barring Respondents from consummating the proposed transaction pending disposition of this administrative proceeding, will likely obviate the need for an administrative hearing. Wilhelmsen represents that “if the District Court enters a preliminary injunction . . . then Wilhelmsen Maritime Services AS will abandon the transaction without further litigating the administrative hearing.” Motion, Exhibit A. Respondents further point out that if the district court denies an injunction, under Commission Rule 3.26, the matter may be stayed or withdrawn from adjudication while the Commission determines whether it wishes to continue with the administrative proceeding. The hearing in district court began on May 29, 2018 and is scheduled to be completed by June 14. Complaint Counsel’s Opposition to Respondent’s Motion to Stay at 4. Respondents claim that a decision is expected in June or July 2018. Motion for Continuance at 1.

Commission Rule 3.41(f) provides, in relevant part, that a pending “collateral federal court action that relates to the administrative adjudication shall not stay the proceeding . . . [u]nless a court of competent jurisdiction, or the Commission . . . so directs.” 16 C.F.R. §3.41(f). This rule reflects the Commission’s commitment to move forward as expeditiously as possible with administrative hearings on the merits. *See, e.g.*, 16 C.F.R. §§ 3.1, 3.11(b)(4), 3.41, 3.46, 3.51-52. The three-month delay of the long-scheduled administrative hearing requested by Respondents would interfere with the Commission’s commitment expeditiously to resolve contested matters, which interference the present circumstances do not warrant.

That is, however, not the only issue presented by the current schedule for this matter. The administrative hearing here is currently scheduled to begin on July 24, 2018, which is two weeks after the start of the evidentiary hearing in *In the Matter of Otto Bock HealthCare North America, Inc.*, Docket No. 9378. Both hearings are assigned to Chief Administrative Law Judge D. Michael Chappell. Under current schedules, the hearings in *Otto Bock* and in this matter are likely to clash. In these circumstances, it would be difficult to provide adequate notice to witnesses of the dates when they would be expected to testify and for counsel for each side to allocate their time and resources efficiently.

Consequently, we find that there is good cause to reschedule the hearing date. Deferring the start of the hearing by thirty days will avoid conflict with the *Otto Bock* hearing and provide additional time for resolution of the district court action collateral to this proceeding. Respondents and/or Complaint Counsel may seek a further extension of this continuance based on future circumstances. Accordingly,

IT IS HEREBY ORDERED that Respondent's Expedited Motion for Continuance of Administrative Hearing is **GRANTED IN PART**; and

IT IS FURTHER ORDERED that the evidentiary hearing in this proceeding shall commence on August 23, 2018, and that, unless modified by the Chief Administrative Law Judge, all related pre-hearing deadlines shall be extended by 30 days.

By the Commission.

Donald S. Clark
Secretary

SEAL:

ISSUED: June 13, 2018