

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

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In the Matter of: )  
 )  
 ) Docket No. 9428  
 The Kroger Company and )  
 Albertsons Companies, Inc. )  
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 )  
 )

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UNOPPOSED MOTION FOR EXTENSION OF TIME FOR VITAMIN COTTAGE  
NATURAL FOOD MARKETS, INC. TO MOVE TO QUASH OR TO LIMIT  
SUBPOENA

Non-Party Vitamin Cottage Natural Food Markets, Inc. (“Natural Grocers”) moves to further extend the time for Natural Grocers to file a motion to quash or to limit a subpoena served on it by Complaint Counsel for the Federal Trade Commission (“Complaint Counsel”). In support thereof, Natural Grocers states as follows:

1. On April 2, 2024, Complaint Counsel sent Natural Grocers, via email, a Subpoena *Duces Tecum* (the “Subpoena”) containing requests for documents, with a response date of April 25, 2024.
2. By order dated April 17, 2024, the time for Natural Grocers to file a motion to quash or to limit the subpoena was extended to April 22, 2024
3. By order dated April 23, 2024, the time for Natural Grocers to file a motion to quash or to limit the subpoena was further extended to May 3, 2024.
4. By order dated May 2, 2024, the time for Natural Grocers to file a motion to quash or to limit the subpoena was further extended to May 14, 2024.
5. By order dated May 14, 2024, the time for Natural Grocers to file a motion to quash or to limit the subpoena was further extended to May 28, 2024.

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6. Counsel for Natural Grocers and Complaint Counsel continue to be engaged in negotiations regarding the scope of the Subpoena and the time required for Natural Grocers to produce responsive documents. The parties' counsel first spoke on April 12, 2024, which was the earliest available time to discuss the Subpoena. On April 15, 2024, Natural Grocers made an initial production to Complaint Counsel. The parties' counsel met again on April 18, 2024, April 24, 2024, May 3, 2024, May 9, 2024, May 17, 2024, and May 22, 2024. The parties' counsel have agreed to continue their discussions.

7. To facilitate further negotiations, Natural Grocers requests that this Court grant Natural Grocers until June 11, 2024, to file a motion to quash or to limit the Subpoena. Complaint Counsel has extended the return date of the subpoena to June 4, 2024, and does not oppose this request.

8. This extension has been agreed upon to afford Natural Grocers' counsel sufficient time to negotiate with Complaint Counsel regarding reasonable limitations and modifications of the Subpoena to reduce the burden on Natural Grocers of responding and thereby to potentially avoid the necessity of filing a motion to quash or to limit the Subpoena.

Dated: May 28, 2024

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 28, 2024, pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), I filed the foregoing document electronically using the FTC's E-Filing system, which will send notification of such filing to:

The Honorable D. Michael Chappell  
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Office of Administrative Law Judges  
Federal Trade Commission  
600 Pennsylvania Ave. NW  
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OALJ@ftc.gov and electronicfilings@ftc.gov

James H. Weingarten or designee  
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I further certify that on May 28, 2024, I caused the foregoing document to be served via email to:

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Dated: May 28, 2024

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<b>In the Matter of:</b>	)	
	)	Docket No. 9428
<b>The Kroger Company and</b>	)	
<b>Albertsons Companies, Inc.</b>	)	
	)	
_____	)	

**[PROPOSED] ORDER GRANTING UNOPPOSED MOTION FOR EXTENSION OF TIME TO MOVE TO QUASH OR TO LIMIT SUBPOENA *DUCES TECUM***

On May 28, 2024, non-party Vitamin Cottage Natural Food Markets, Inc. (“Natural Grocers”) filed a motion to further extend its time to move to quash or limit the subpoena *duces tecum* (“Subpoena”) issued by Complaint Counsel on April 2, 2024 (“Motion”). Complaint Counsel does not oppose the relief requested in the Motion.

Under FTC Rule of Practice 3.34(c), any motion to limit or quash a subpoena must be filed within 10 days of receipt of the subpoena. 16 C.F.R. § 3.34(c). Pursuant to FTC Rule 4.3(b), the Administrative Law Judge, except in circumstances not here presented, may extend any time limit prescribed by the rules “[f]or good cause shown.” 16 C.F.R. § 4.3(b).

Based on the representations in the Motion, Natural Grocers has demonstrated good cause for the requested extension. Accordingly, the Motion is GRANTED and it is hereby ORDERED that Natural Grocers’ deadline for filing any motion to quash or limit the Subpoena is extended to June 11, 2024.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

Date: