



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)
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)
POM WONDERFUL LLC and,)
ROLL INTERNATIONAL CORP.,)
companies, and)
)
STEWART A. RESNICK,)
LYNDA RAE RESNICK, and)
MATTHEW TUPPER, individually and)
as officers of the companies.)
_____)

Docket No. 9344
PUBLIC DOCUMENT

**JOINT MOTION TO AMEND SCHEDULING ORDER
AND MEMORANDUM IN SUPPORT THEREOF**

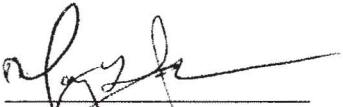
By this motion, Complaint Counsel and Respondents jointly move the Court for an order amending the October 26, 2010 Scheduling Order to permit Complaint Counsel to depose Respondents Stewart and Lynda Resnick after discovery closes on February 18, 2011.

The Scheduling Order requires the parties to conduct discovery on or before February 18, 2011, other than discovery permitted by Rule 3.24(a)(4), expert depositions, and discovery for authenticity and admissibility of exhibits. Commission Rule of Practice 3.21(c)(2) provides that “[t]he Administrative Law Judge may, upon a showing of good cause, grant a motion to extend any deadline or time specified in this scheduling order other than the date of the evidentiary hearing.” The proposed amendment to the Scheduling Order would allow Complaint Counsel to depose Lynda Rae Resnick on March 14, 2011 and Stewart A. Resnick on March 16, 2011. Given the number of fact depositions scheduled prior to February 18, 2011 and the Resnicks’ schedules, the dates of March 14 and 16 are the earliest possible dates available for these depositions. Each party believes it would not be prejudiced by conducting the fact depositions on

the proposed dates after the close of discovery. The proposed change would not affect any other deadlines prescribed by the Scheduling Order, including the deadline for issuing requests for admission on February 25, 2011, the deadlines for expert witness reports on March 4, 2011 (Complaint Counsel) and March 18, 2011 (Respondents), and the Commencement of Hearing on May 24, 2011.

The parties are prepared to discuss this joint motion with the Court at its request. A proposed order is attached.

Respectfully submitted,

By: 
Mary L. Johnson
Federal Trade Commission
Bureau of Consumer Protection
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By: 
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Date: February 4, 2011

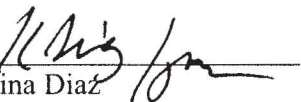
STATEMENT OF THE PARTIES REGARDING MEET AND CONFER

In accordance with Paragraph 4 of the Court's Scheduling Order, the undersigned counsel certify that Complaint Counsel and Respondents conferred in good faith and are in agreement regarding the issue raised by the *Joint Motion to Amend Scheduling Order*.

On January 14, 2011, at 1:00 p.m. (Eastern), Complaint Counsel Heather Hipsley emailed John Graubert, counsel for Respondents, to discuss a joint motion or stipulation to allow Complaint Counsel to depose the Resnicks after the close of discovery. In subsequent communications that day between 1:09 p.m. and 2:44 p.m. (Eastern), Mr. Graubert and Ms. Hipsley agreed to prepare a joint motion or stipulation to conduct the Resnicks' depositions after the close of discovery. Copied on the subsequent emails were Respondents' counsel Kristina Diaz and Skye Perryman and Complaint Counsel Mary Johnson.

Respectfully submitted,

By: 
Mary L. Johnson
Federal Trade Commission
Bureau of Consumer Protection
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By: 
Kristina Diaz
Counsel for Respondents
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11444 W. Olympic Blvd.
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310-966-8775; kdiaz@roll.com

Date: February 4, 2011

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of)	
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POM WONDERFUL LLC and)	
ROLL INTERNATIONAL CORP.,)	
companies, and)	DOCKET NO. 9344
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STEWART A. RESNICK,)	
LYNDA RAE RESNICK, and)	
MATTHEW TUPPER, individually and)	
as officers of the companies.)	
)	

**[Proposed] ORDER GRANTING JOINT MOTION
TO AMEND SCHEDULING ORDER**

On February 4, 2011, the parties filed a joint motion to amend the Scheduling Order dated October 26, 2010. The parties proposed that Complaint Counsel depose Individual Respondents Lynda and Stewart Resnick on March 14 and March 16, 2011, respectively.

Based upon the representations made by the parties, the Joint Motion is GRANTED. It is hereby ORDERED that the Scheduling Order dated October 26, 2010 is amended to allow for the deposition of Lynda Rae Resnick and Stewart A. Resnick after the close of fact discovery on the dates mutually agreed to by the parties. The remaining dates and all additional provisions in the October 26, 2010 Scheduling Order remain in effect.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Dated:

CERTIFICATE OF SERVICE

I certify that on February 4, 2011, I filed and served *Joint Motion to Amend Scheduling Order and Memorandum in Support Thereof* upon the following as set forth below:

One electronic copy via the FTC E-Filing System to:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room H-159
Washington, DC 20580

One paper copy via hand delivery and one electronic copy via email to:

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., N.W., Room H-110
Washington, DC 20580
Email: oalj@ftc.gov

One electronic copy via email to:

John D. Graubert, Esq.
Covington & Burling LLP
1201 Pennsylvania Ave., NW
Washington DC 20004-2401
Email: Jgraubert@cov.com

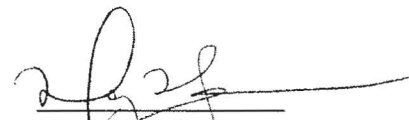
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Attorneys for Respondents

Date: February 4, 2011

By:



Mary L. Johnson
Complaint Counsel