UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
                         Julie Brill
                         Maureen K. Ohlhausen
                         Joshua D. Wright

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)
In the Matter of   )   PUBLIC
)
ECM BioFilms, Inc.,   )   Docket No. 9358
a corporation, also d/b/a   )
Enviroplastics International   )
_____   )

ORDER RESCHEDULING HEARING DATE

On October 18, 2013, the Federal Trade Commission issued the Administrative
Complaint in this adjudicative proceeding and scheduled the evidentiary hearing for
June 18, 2014. On March 18, 2014, Complaint Counsel filed a Motion which, among
other things, requests that the Commission continue the evidentiary hearing for three
months, arguing that such additional time is "the time minimally necessary to complete
discovery."[1] Respondent opposes any such delay, arguing that a three-month delay "will
substantially increase costs but will not yield any more substantive information than
Complaint Counsel now possesses."[2]

On April 1, 2014, Chief Administrative Law Judge Chappell issued an Order ruling
on Complaint Counsel's Motion.[3] As Judge Chappell points out, the only issue raised by
the Motion that is certifiable to the Commission is Complaint Counsel's request for a
continuance of the evidentiary hearing.[4] As authorized by the Commission Rules, Judge
Chappell has addressed and resolved all of the other issues raised by Complaint
Counsel's Motion, and we need not address them here.

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[1] Complaint Counsel's Motion To Certify Scheduling Issues to the Commission and Request for Interim
Relief at 12, In the Matter of ECM Biofilms, Inc. et al, F.T.C. Docket No. 9358 (Mar. 18, 2014)
[hereinafter Motion], *available at*
http://www.ftc.gov/system/files/documents/cases/140318ccmtntocertify.pdf.

[2] ECM BioFilm's Opposition To Complaint Counsel's Motion To Certify Scheduling Issues and For
Interim Relief, *in camera*, at 2, In the Matter of ECM Biofilms, Inc. et al, F.T.C. Docket No. 9358 (Mar.
28, 2014) (quoted language public, but redacted public version of Opposition not yet filed).

[3] Order On Complaint Counsel's Motion To Certify Scheduling Issues To the Commission and Request
For Interim Relief, In the Matter of Biofilms, Inc. et al, F.T.C. Docket No. 9358 (Apr. 1, 2014) [hereinafter
ALJ Order], *available at* http://www ftc.gov/system/files/documents/cases/140401ordercertifycommn.pdf.

[4] Commission Rule 3.22(a), 16 C.F.R. § 3.22(a), provides that during the time an adjudicative proceeding
is before an Administrative Law Judge, all motions on which the ALJ has the authority to rule "shall be
addressed to and decided by the Administrative Law Judge." Only the Commission has the authority to
change the date of the hearing. *See* Commission Rule 3.21(c), 16 C.F.R. § 3.21(c).

On the issue before us – Complaint Counsel's request for a 90-day continuance of the evidentiary hearing – Judge Chappell recommends that the hearing be continued for 45 days. He concludes that, while the parties "are entitled to full and fair discovery," Complaint Counsel's request for a 90-day continuance "is not sufficiently justified."[5] Specifically, Judge Chappell notes that Complaint Counsel asked that the discovery deadlines in the case be extended by 45 days but at the same time requested a 90-day continuance. As Judge Chappell also observes, Respondent opposes the request for continuance, but, in its own motion to compel and for sanctions, also seeks to extend the fact discovery deadline. Judge Chappell therefore recommends that the Commission continue the evidentiary hearing for 45 days, to August 5, 2014.[6] We agree with the recommendation of Judge Chappell.

Based on the foregoing, we find there is good cause to continue the evidentiary hearing to August 5, 2014. Accordingly,

IT IS ORDERED that the evidentiary hearing in this proceeding be, and it hereby is, rescheduled to begin at 10:00 a.m. on August 5, 2014, at the Federal Trade Commission offices at 600 Pennsylvania Avenue, N.W., Room 532, Washington, D.C. 20580.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: April 8, 2014

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[5] ALJ Order, *supra* note 3, at 3.
[6] *Id.* at 1.