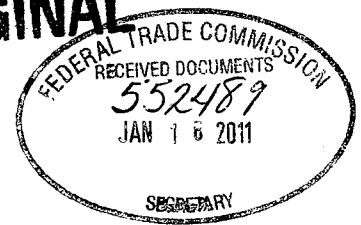


**ORIGINAL**



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

**In the Matter of** )  
 )  
**LABORATORY CORPORATION OF** )  
**AMERICA, et al.,** )  
 )  
**Respondents.** )  
\_\_\_\_\_ )

**Docket No. 9345**

**PUBLIC**

**COMPLAINT COUNSEL'S CORRECTED OPPOSITION TO  
RESPONDENTS' MOTION TO SET HEARING LOCATION**

Pursuant to the Commission's Rules of Practice, 16 C.F.R. Part 3 *et seq.*, Complaint Counsel hereby submits its opposition to Respondents' motion, pursuant to Rule 3.41, 16 C.F.R. § 3.41, to set the hearing in the above-captioned matter, in part, in California. Respondents' motion is fundamentally premature, as it comes during the early stages of discovery, before the parties have fully developed the record or determined their witness lists. In addition, it appears that holding numerous hearing days in California would likely be substantially more expensive for the Commission than holding the hearing exclusively, or primarily, at the Commission in Washington, D.C.

As an initial matter, it is simply too early to evaluate whether holding significant parts of the hearing in California is appropriate. The Court's Scheduling Order provides for the close of discovery on March 4, 2011, and sets the exchanges of the parties' final proposed witness and exhibit lists on March 22, 2011, March 29, 2011, and April 4, 2011, and the exchange of deposition transcript counter-designations on April 5, 2011. Until those deadlines have passed, it is difficult for Complaint Counsel, or, we would submit, the Court, to know whether holding hearing days in California is appropriate at all, and if deemed appropriate, how many hearing days should be held there.

In the absence of better information on the sources and nature of trial testimony, which will be preliminarily revealed after the deadlines described above, Complaint Counsel must oppose Respondents' motion. An initial rough estimate by the Commission suggests that, contrary to Respondents' statement in their Motion to Set Hearing Location at 6 n.1, any significant amount of time holding hearing days in California will add substantially to the cost of the trial of this matter. The cost of witness travel and lodging likely pales with the cost of finding a convenient office location to situate Commission trial staff, related equipment, lodging, per diem and travel for the trial team, including trips back and forth from Washington, D.C., if California hearing dates are held over multiple weeks. The Commission would also have to pay similar costs for the Court and its staff's travel and lodging, as well as the cost of setting up any equipment, and the travel for any technicians needed to equip an appropriate hearing room.<sup>1</sup> Given that the Commission's funding levels are likely to be frozen at 2010 levels this coming fiscal year, any additional cost from holding hearing days in California could unnecessarily burden the Commission's mission.

### CONCLUSION

The Commission, of course, recognizes that it may be more convenient for some California-based witnesses to give their testimony in California. At an appropriate time, the Court, counsel for Respondents and counsel for the Commission can discuss the viability of holding some hearing days in California, but it is premature to do so right now, and thus, the

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<sup>1</sup>We understand Respondents have committed to "secur[ing] courtroom space in Santa Ana, California, or another reasonably convenient location in Southern California, for the relevant timeframe," but the specifics of any such arrangement, and what, if any, additional expenses might be incurred by the Commission if the Court holds hearing days in that location, are unquantifiable at this stage. Respondents' Motion to Set Hearing Location at 7.

Commission opposes Respondents' motion at this time.

Dated: January 18, 2011

Respectfully submitted,



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J. Thomas Greene, Esq.  
Michael R. Moiseyev, Esq.  
Jonathan S. Klarfeld, Esq.  
Stephanie A. Wilkinson, Esq.

Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580  
Tel. (202) 326-2531  
Fax. (202) 326-2655  
tgreene2@ftc.gov  
mmoiseyev@ftc.gov  
jklarfeld@ftc.gov  
swilkinson@ftc.gov

Complaint Counsel

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

**In the Matter of**

**LABORATORY CORPORATION OF  
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**Respondents.**

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**Docket No. 9345**

**PUBLIC**

**[PROPOSED] ORDER**

Upon consideration of Respondents' Motion to Set Hearing Location, Complaint Counsel's opposition thereto, and the Court being fully informed,

IT IS HEREBY ORDERED, that Respondents' Motion is DENIED without prejudice.

Date: January \_\_\_\_\_, 2011

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

**CERTIFICATE OF SERVICE**

I certify that I filed via hand delivery an original with signature and one paper copy and a .pdf copy via electronic mail delivery that is a true and correct copy of the paper original of the foregoing **Corrected Opposition to Respondents' Motion to Set Hearing Location** with:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Rm. H-159  
Washington, DC 20580  
secretary@ftc.gov

I also certify that I delivered via hand delivery one paper copy and one .pdf copy that is a true and correct copy of the paper original via electronic mail of the foregoing **Corrected Opposition to Respondents' Motion to Set Hearing Location** to:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Rm. H-113  
Washington, DC 20580  
oalj@ftc.gov

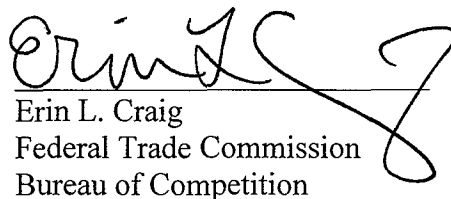
I also certify that I delivered via electronic mail one .pdf copy that is a true and correct copy of the paper original of the foregoing **Corrected Opposition to Respondents' Motion to Set Hearing Location** to:

J. Robert Robertson  
Corey W. Roush  
Benjamin F. Holt  
Hogan Lovells US LLP  
Columbia Square  
555 Thirteenth Street, N.W.  
Washington, DC 20004

*Counsel for Defendants  
Laboratory Corporation of America and  
Laboratory Corporation of America Holdings*

January 18, 2011

By:

  
Erin L. Craig  
Federal Trade Commission  
Bureau of Competition