

X200041

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

In the Matter of

**TRAFFIC JAM EVENTS, LLC, a limited
liability company, and**

**DAVID J. JEANSONNE II,
individually and as an officer of
TRAFFIC JAM EVENTS, LLC.**

DOCKET NO. 9395

**COMPLAINT COUNSEL’S MOTION TO EXTEND THE DISCOVERY DEADLINES IN
THE SCHEDULING ORDER**

Complaint Counsel moves the Court conditionally to (1) extend the June 11, 2021 discovery deadline for issuing document requests, interrogatories, and subpoena *duces tecum*; and correspondingly, (2) the June 25 deadline for issuing requests for admissions; and (3) the close of discovery on July 16.

On June 8, Complaint Counsel filed a Motion for Sanctions Against Respondents for Violating the Court’s Discovery Orders (“Sanctions Motion”), that describes Respondents’ failure to comply with orders to produce documents, respond to interrogatories and amend or supplement initial disclosures. If Respondents belatedly produce material addressed by these outstanding orders, Complaint Counsel requests that the Court extend deadlines that would otherwise preclude Complaint Counsel from pursuing discovery related to the overdue responses. This motion is conditional because the need for this relief arises only if the Court declines to

enter default as a sanction for Respondents' discovery abuse and Respondents produce delinquent responses.¹ Respondents do not oppose Complaint Counsel's motion.

LEGAL STANDARD

Under Rule 3.21(c)(2), the Court may grant a motion to extend any deadline or time specified in the scheduling order other than the date of the evidentiary hearing upon a showing of good cause. In determining whether to grant the motion, the Administrative Law Judge shall consider any extensions already granted the length of the proceedings to date, the complexity of the issues, and the need to conclude the evidentiary hearing and render an initial decision in a timely manner. 16 C.F.R. §3.21(c)(2). "Good cause exists when a deadline in a scheduling order 'cannot be met despite the diligence of the party seeking the extension.'" *In the Matter of Gemtronics, Inc.*, No. 9330, 2009 FTC LEXIS 193, *1 (Feb. 17, 2009) (quoting *In re Chi. Bridge & Iron Co.*, 2002 FTC LEXIS 69, *2 (2002)).

ARGUMENT

There is good cause to extend the deadlines for Complaint Counsel. First, this is the first request for an extension in this case. Second, despite diligently proceeding with discovery, Complaint Counsel has been unable to obtain discovery from Respondents or, in some instances, third-party sources. As the Court and the Commission have acknowledged, "there have been substantial difficulties in procuring documents from Respondents." Order Directing General Counsel to Enforce Nonparty Subpoena, at 3 (June 9, 2021); Order Granting Motion for Certification, at 6 (May 13, 2021). Third, without the limited extension Complaint Counsel requests, Complaint Counsel may be unable to develop a full and complete record to allow the

¹ Complaint Counsel is filing this motion out of an abundance of caution because the deadline for issuing document requests, interrogatories, and subpoena *duces tecum* is today, June 11. Under Rule 4.3(b), a motion to extend made after the expiration of the specified period requires showing that the "filing was the result of excusable neglect."

Court to reach a final, correct result. Finally, extending the discovery deadlines will not delay the hearing date.

For all these reasons, good cause warrants extending the discovery deadlines in the scheduling order, if warranted, based on the Court's order on the sanctions motion.

Respectfully submitted,

June 11, 2021

By: /s/ Sanya Shahrabi
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Mailstop CC-10232
Washington, DC 20506

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2021, I caused the foregoing document to be served via the FTC's E-filing system and electronic mail to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I further certify that on June 11, 2021, I caused the foregoing document to be served via electronic mail to:

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Counsel for Respondents

June 11, 2021

By: /s/ Sanya Shahrabi
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection

PUBLIC

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SEPARATE MEET AND CONFER STATEMENT

Pursuant to this Court's Scheduling Order, Complaint Counsel, Thomas Widor and Sanya Shahrabi, conferred telephonically with Respondents' Counsel, Etienne Balart, on June 11. Respondents' Counsel indicated that Respondents do not oppose this motion.

Respectfully submitted,

June 11, 2021

By: /s/ Sanya Shahrabi
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
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**[PROPOSED] ORDER GRANTING COMPLAINT COUNSEL'S MOTION TO EXTEND
THE DISCOVERY DEADLINES IN THE SCHEDULING ORDER**

Upon consideration of Complaint Counsel's Motion:

IT IS HEREBY ORDERED that Complaint Counsel's Motion is GRANTED.

IT IS FURTHER ORDERED that Complaint Counsel shall have ten (10) days to examine any discovery information or materials Respondents provide after June 11, 2021 and to issue any additional discovery based on such information or materials.

IT IS FURTHER ORDERED that Complaint Counsel is permitted to seek such discovery, and Respondents and third parties are obligated to respond, even if the discovery conflicts with the following dates in the scheduling order:

1. The June 11, 2021 deadline for issuing document requests, interrogatories, and subpoena duces tecum.
2. The June 25, 2021 deadline for issuing requests for admission.
3. The July 16, 2021 close of discovery deadline.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: