

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)

BABY MATTERS, LLC)

Respondent.)

CPSC DOCKET NO. 13-1

HON. WALTER J. BRUDZINSKI
Administrative Law Judge

JOINT MOTION TO AMEND SCHEDULING ORDER

Complaint Counsel for the U.S. Consumer Product Safety Commission (“Complaint Counsel”) and Respondent jointly move the Court for an order amending the Final Pre-Hearing Order dated January 31, 2013 (the “Scheduling Order”) to extend the deadline to depose witnesses until April 22, 2013, and extend the corresponding deadline for all opposition to notices of deposition until April 12, 2013.

The Scheduling Order requires the parties to conduct discovery and file any opposition to notices of deposition on or before March 21, 2013, other than discovery related to the submission of expert testimony. Complaint Counsel’s response to Baby Matters’ Second Set of Interrogatories and Requests for Production of Documents and Things is not due until March 25, 2013. This schedule would not afford Respondent the opportunity to review Complaint Counsel’s responses to its discovery requests before determining whether any opposition to a notice of deposition should be filed or before taking any depositions. Similarly, Baby Matters’ response to Complaint Counsel’s First Set of Interrogatories and Requests for Production is due on March 12, 2013, a deadline which would allow Complaint Counsel only seven business days

to review the entirety of Respondent's discovery responses, determine whether any opposition to a notice of deposition should be filed, and conduct depositions of relevant witnesses.

Under the Rules of Practice for Adjudicative Proceedings, "[f]or good cause shown, the Presiding Officer may extend any time limit prescribed or allowed by these rules or by an order of the Commission or Presiding Officer, except for those sections governing the filing of interlocutory appeals and appeals from Initial Decisions and those sections expressly requiring Commission action." 16 C.F.R. § 1025.15(c).

Pursuant to 16 C.F.R. § 1025.1, "broad discretion has been vested in the Presiding Officer who will hear a matter being adjudicated to allow him/her to alter time limitations and other procedural aspects of a case, as required by the complexity of the particular matter involved." The proposed amendment to the Scheduling Order would allow time for the parties to undertake a complete review of all discovery responses prior to conducting depositions. Neither party would be prejudiced by this schedule, nor would the proposed change affect any other deadlines prescribed by the Scheduling Order, including the commencement of the Hearing on May 20, 2013.

If the Presiding Officer grants this motion, Complaint Counsel and Respondent will serve written notice of the depositions on all parties and the Presiding Officer at least ten days before the date noticed for the deposition as required by 16 C.F.R. § 1025.35(b).

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Respectfully submitted,

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