

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

BF LABS, INC., *et al.*

Defendants.

CASE NO. 4:14-cv-00815-BCW

PLAINTIFF'S MOTION TO AMEND SCHEDULING ORDER

Plaintiff Federal Trade Commission ("FTC") hereby respectfully requests that the Court amend the Scheduling Order (Dkt. No. 234) so that the deadline to amend all pleadings or add parties is March 13, 2015. In support of its motion, the FTC states as follows:

1. On December 18, 2014, the parties filed their Joint Proposed Discovery Plan and Scheduling Order (Dkt. No. 209). The FTC recommended a deadline of March 13, 2015 to amend the pleadings or add parties.¹ (*Id.* at 5.) On January 13, 2015, the Court entered a scheduling order that, among other things, set February 9, 2015 as the deadline to amend the pleadings or add parties.

2. Although FTC counsel has authority to conduct all aspects of the litigation of this matter, under Section 4.14 of the FTC's Rules of Practice, 16 C.F.R. § 4.14(c), FTC counsel cannot seek to amend the complaint unless and until a majority vote by the several FTC

¹ Defendants stated that they "believe there is no need based on the procedural posture for such a deadline." (*Id.* at 5.)

Commissioners authorizes such action.² Because the review and approval process can take several weeks, the FTC requests that the deadline be extended from February 9 to March 13.

3. Further, discovery in this case has just begun. The FTC began serving document requests on Defendants on December 31, 2014. (See Dkt. No. 224.) Defendants' responses to that first request are not due until February 2, 2015.³ Extending the deadline, would allow the FTC to consider Defendants' responses as it evaluates whether amending the complaint is warranted. Meanwhile, as of the date hereof, Defendants have not yet served discovery requests on the FTC. Thus, the requested extension to the deadline should not prejudice either party.

4. Moreover, the FTC is not seeking an extension to the July 6 Closure Date of discovery. Thus, granting the requested extension would not impact any other deadlines in the Scheduling Order.

WHEREFORE, the FTC respectfully requests this Court amend the Scheduling Order so that the deadline to amend all pleadings or add parties is March 13, 2015.

Respectfully submitted,

JONATHAN E. NUECHTERLEIN
General Counsel

Dated: January 15, 2015

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² There are 5 FTC Commissioners, appointed by the President and confirmed by the Senate. 16 C.F.R. §0.1.

³ The FTC served a second request for documents on January 7, 2015 (Dkt. No. 228), the responses for which are not due until February 9, 2015.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 15, 2015, a true and correct copy of the foregoing was filed electronically with the United States District Court for the Western District of Missouri using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Gregory A. Ashe
Attorney for Plaintiff Federal Trade Commission