

NOS. 15-1184, 15-1185, 15-1186, 15-1187, 15-1274, 15-1323, 15-1342

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

IN RE EFFEXOR XR ANTITRUST LITIGATION

On Appeal from the United States District Court
for the District of New Jersey
Lead Case No. 3:11-cv-05479-PGS-LHG

**MOTION OF FEDERAL TRADE COMMISSION TO FILE
SUPPLEMENTAL BRIEF OF AMICUS CURIAE
SUPPORTING PLAINTIFFS-APPELLANTS**

Pursuant to Federal Rule of Appellate Procedure 29(f), the Federal Trade Commission (FTC) respectfully submits this motion to file a supplemental amicus curiae brief. The proposed brief addresses an issue that was not raised in the opinion below but is presented in defendants-appellees' briefs as an alternative ground for affirmance. The FTC's proposed amicus brief is being submitted simultaneously with this motion and timely filed within the schedule for plaintiffs-appellants' reply briefs.¹

On November 17, 2015, the FTC filed an amicus curiae brief supporting plaintiffs-appellants. That brief was limited to the question whether the district

¹ Plaintiffs do not oppose the FTC's submission of a supplemental amicus brief, but defendants have indicated that they intend to oppose it.

important that the Court have the view not only of the parties, whose interests may be confined to the specific controversy at hand, but also of the federal antitrust enforcer, with an economy-wide perspective and a significant stake in the proper application of Noerr.³

For the foregoing reasons, the FTC respectfully seeks leave to file a short supplemental brief to address defendant's Noerr argument.

Respectfully submitted,

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FEDERAL TRADE COMMISSION

March 17, 2016

³ The combined word count of the FTC's initial amicus brief and the proffered supplemental brief is under the 7,000 words permitted for amicus briefs.

CERTIFICATE OF SERVICE

I filed the electronic PDF version of this motion with the Court via the CM/ECF system. The docket for this proceeding indicates that all participants in the case are registered CM/ECF users, and service will be accomplished by the CM/ECF system.

March 17, 2016

s/ Michele Arington
Michele Arington