

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

COMMISSIONERS: Edith Ramirez, Chairwoman

Complaint Counsel opposes Jerk's motion, contending that Jerk offers no valid reason for its delay. Opp. at 3-5. Complaint Counsel observes that Jerk "effectively disappeared from the case for the majority of the discovery period, ignoring multiple deadlines, motions, and orders, including Chief Judge Chappell's express warning that 'Jerk remains a party in this case and is not entitled to ignore a discovery motion.'" *Id.* at 4. In addition, Complaint Counsel argues that it will be prejudiced because it will be forced to respond to Jerk's opposition without the benefit of discovery. *Id.* at 5-6. Complaint Counsel also asserts that permitting delay would thwart the Commission's preference for expeditious administrative litigation. *Id.* at 6-7.

Jerk's failure to respond to discovery requests and other obligations cannot be excused simply because it had a difficult time finding legal representation. However, the consequences of denying leave to file an opposition to the Motion for Summary Decision in this matter would be extraordinarily severe. In addition, we are cognizant of the preference for having disputes resolved on their merits, and believe the circumstances here justify granting a limited time for Jerk to file a response. Accordingly, to ensure that the Commission may fully consider the merits of this matter, we grant Jerk, LLC until January 5, 2015 to respond to Complaint Counsel's Motion for Summary Decision.¹ Because this will necessarily delay a decision on the motion, the hearing before the Administrative Law Judge is rescheduled to begin on March 23, 2015.

As Complaint Counsel observes, no party has sought to reopen discovery in this case. Opp. at 6. Nonetheless, Complaint Counsel has rightly questioned the fairness of having to address Jerk's opposition after Jerk was entirely unresponsive during the discovery period. *Id.* We agree that Jerk should not be permitted ri(J)-11(ud)4(i Tc 0.004 (eron1t0 Tw 15.2-3(ouns)-11(a)4(r)3h