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

In the Matter of

The Kroger Company,

and

Albertson Companies Inc.,

Respondents.

DOCKET NO. 9428

**NON-PARTY VALLARTA FOOD ENTERPRISES, INC.'S UNOPPOSED MOTION
TO EXTEND THE TIME TO MOVE TO QUASH OR LIMIT SUBPOENA**

Non-party Vallarta Food Enterprises, Inc. (“Vallarta”), by and through its undersigned counsel, hereby moves, pursuant to Rules 3.22, 3.34, and 4.3 of the Federal Trade Commission’s (“FTC”) Rules of Practice for Adjudicative Proceedings, to extend its time to move to quash or limit the Subpoena for Production of Documentary Material (“Subpoena”) issued by the FTC in the above-captioned proceeding on April 15, 2024. Specifically, Vallarta respectfully requests that the deadline to file a motion to quash or limit the Subpoena under Rule 3.34(c), and to submit written objections to the subpoena under Subpoena instruction numbers 13 and 14, be extended by fourteen (14) days from April 25, 2024, to May 9, 2024. Subpoena instruction number 13 requires Vallarta to “set forth the basis for [Vallarta’s] objection and respond to all parts of the request to which [Vallarta] do[es] not object. Any ground not stated in an objection within the time provided by 16 C.F.R. § 3.34, or any extension thereof, shall be waived.” Section 3.34(c) provides that any motion “to limit or quash the subpoena shall be filed within the

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earlier of 10 days after service thereof or the time for compliance therewith.” 16 C.F.R. § 3.34(c). Accordingly, Vallarta’s current deadline to object and/or move to limit or quash the subpoena is April 25, 2024. Counsel for Vallarta and the FTC met and conferred by video conference on April 24, 2024. During the conference, Counsel for Vallarta and the FTC agreed that an extension of the deadline to seek relief from the Subpoena would allow the meet and confer process to continue and afford Vallarta additional time necessary to continue investigating the Subpoena and preparing its initial responses. Vallarta indicated a willingness to produce responsive documents on a rolling basis, subject to and without waiving its objections. Subsequently, on April 26, 2024, counsel for the FTC informed Vallarta’s counsel that the FTC will not oppose this motion for a fourteen (14) day extension of Vallarta’s deadline to object or otherwise move to limit or quash the subpoena. Granting this extension will allow Vallarta to preserve its rights to object and/or seek adjudicative relief while Vallarta evaluates the Subpoena and investigates sources of potentially responsive documents. Without an extension, Vallarta will need to file an immediate motion to quash or limit the Subpoena to preserve its rights to assert any objections it may have. Conversely, an extension will also allow counsel for Vallarta and the FTC to further meet and confer regarding the scope of the Subpoena and negotiate the content of Vallarta’s response, potentially obviating the need for any such motion practice in the future. FTC Counsel has indicated that it does not oppose this motion. Accordingly, Vallarta respectfully requests that this unopposed motion to extend the time to file a motion to quash or limit the Subpoena be granted and that Vallarta be given until May 9, 2024, to file any such motion. A proposed order granting the requested relief is attached hereto as Exhibit A.

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DATED this 29th day of April, 2024.

Respectfully submitted,

/s/ Chris Wilson

Chris Wilson

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PUBLIC**CERTIFICATE OF SERVICE AND ELECTRONIC FILING**

I hereby certify that on April 29, 2024, a true and correct copy of the foregoing document and the accompanying proposed order were filed electronically with the Federal Trade Commission using the Commission's E-Filing System, and a notification of such filing with a courtesy copy of the forgoing document was sent by email to:

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The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N. W., Rm. H-110
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oalj@ftc.gov

I also hereby certify that on April 29, 2024, I caused a true and correct PDF copy of the foregoing document to be served by email to:

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DATED this 29th day of April, 2024.

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

In the Matter of

The Kroger Company,

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Respondents.

DOCKET NO. 9428

**[PROPOSED] ORDER GRANTING VALLARTA FOOD ENTERPRISES, INC.'S
UNOPPOSED MOTION TO EXTEND THE TIME TO MOVE TO QUASH OR LIMIT
SUBPOENA**

Before the Administrative Law Judge is the Unopposed Motion to Extend the Time to File a Motion to Quash, or in the alternative to Limit the Subpoena for Production of Documents (“Subpoena”) that the Federal Trade Commission (“FTC”) Complaint Counsel served on nonparty Vallarta Food Enterprises, Inc. (“Vallarta”) on or about April 15, 2024. Vallarta requests an extension to through and including May 9, 2024, to file any such motion to quash and/or limit, or to otherwise serve objections to the Subpoena. Having considered the motion, and the fact that it is unopposed by FTC Complaint Counsel, this Court finds that the motion should be, and hereby is, GRANTED.

IT IS THEREFORE ORDERED that the deadline for Vallarta to file any Motion to Quash and/or Limit the Subpoenas is extended to through and including May 9, 2024.

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Signed this [] day of April, 2024.

D. Michael Chappell
Chief Administrative Law Judge