

PUBLIC

**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 further 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.

In support thereof, Vallarta states as follows:

The Subpoena was served on Vallarta on April 15, 2024.

By order dated April 30, 2024, the time for Vallarta to file a motion to quash or to limit subpoena was extended to May 9, 2024.

Counsel for Vallarta and counsel for the FTC continued to engage in negotiations regarding the scope of the Subpoena and the time required for Vallarta to produce responsive documents. Following the meet and confer on April 24, 2024, the parties’ counsel met again on April 30, 2024 and have agreed to continue their discussions with another meeting on May 10, 2024. On May 6, counsel for the FTC informed Vallarta’s

PUBLIC

counsel that the FTC will not oppose this motion for a further fourteen (14) days extension of Vallarta's deadline to object or otherwise move to limit or quash the subpoena.

This further extension that has been agreed upon to afford Vallarta sufficient time to negotiate with counsel for the FTC regarding reasonable limitations and modifications of the Subpoena to reduce the burden on Vallarta of responding as a third party and thereby potentially avoid the necessity of filing a motion to quash or to limit the Subpoena.

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 23, 2024, to file any such motion. A proposed order granting the requested relief is attached hereto as Exhibit A.

DATED this 7th day of May, 2024.

Respectfully submitted,

/s/ Chris Wilson

Chris Wilson

GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W., Washington, D.C. 20036-
5306
Telephone: (202) 955-8520

CERTIFICATE OF SERVICE AND ELECTRONIC FILING

I hereby certify that on May 7, 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:

April Tabor
Office of the Secretary Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N. W., Rm. H-110
Washington, D.C. 20580
oalj@ftc.gov

I also hereby certify that on May 7, 2024, I caused a true and correct PDF copy of the foregoing document to be served by email to:

Charles Dickinson
James H. Weingarten
Emily Blackburn
Paul Frangie
Laura Hall
Janet Kim
Kenneth A. Libby
Eric Olson
Rohan Pai
Harris Rothman
Albert Teng
Elizabeth Arens
Jacob Hamburger
Joshua Smith
Katherine Bies
Lily E. Hough

PUBLIC

Katharine Drummonds
Federal Trade Commission Bureau of Competition
600 Pennsylvania Avenue, NW Washington, DC 20580
cdickinson@ftc.gov
jweingarten@ftc.gov
eblackburn@ftc.gov
pfrangie@ftc.gov
lhall1@ftc.gov
jkim3@ftc.gov
klibby@ftc.gov
eolson@ftc.gov
rpai@ftc.gov
hrothman@ftc.gov
ateng@ftc.gov
earens@ftc.gov
jhamburger1@ftc.gov
jsmith3@ftc.gov
kbies@ftc.gov
lthough@ftc.gov
kdrummonds@ftc.gov

Complaint Counsel

Michael B. Bernstein
Matthew Wolf
Sonia Pfaffenroth
Joshua Davis
Michael Kientzle
Jason Ewart
Yasmine Harik
Christina Cleveland
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave, NW
Washington, DC 20001
Telephone: (202) 942-5227
michael.b.bernstein@arnoldporter.com
matthew.wolf@arnoldporter.com
sonia.pfaffenroth@arnoldporter.com
joshua.davis@arnoldporter.com
michael.kientzle@arnoldporter.com
jason.ewart@arnoldporter.com
yasmine.harik@arnoldporter.com

John Holler
Arnold & Porter Kaye Scholer LLP
250 West 55th Street
New York, NY 10019
Telephone: (212) 836-7739
john.holler@arnoldporter.com

PUBLIC

Mark Perry
Luke Sullivan
Weil, Gotshal & Manges LLP
2001 M Street, NW, Suite 600
Washington, DC 20036
Telephone: (202) 682-7511
mark.perry@weil.com
luke.sullivan@weil.com

Luna Barrington
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Telephone: (212) 310-8421
luna.barrington@weil.com

Bambo Obaro
Weil, Gotshal & Manges LLP
200 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802-3083
bambo.obaro@weil.com

Counsel for The Kroger Company

Edward Hassi
Debevoise & Plimpton LLP
801 Pennsylvania Avenue, NW
Washington, DC 20004
Telephone: (202) 383-8135
thassi@debevoise.com

Michael Schaper
Shannon R. Selden
J. Robert Abraham
Natascha Born
Jaime Freilich-Fried
Marieugenia Cardenas
Tom E. Buckley
Heather T. Mehler
Marie Ventimiglia
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6737
mschaper@debevoise.com
srselden@debevoise.com
jrabraham@debevoise.com
nborn@debevoise.com
jmfried@debevoise.com

PUBLIC

mcarden@debevoise.com
tebuckley@debevoise.com
htmehler@debevoise.com
msventim@debevoise.com

Mike Cowie
James Fishkin
Dechert LLP 1900 K Street, NW
Washington, DC 20006
Telephone: (202) 261-3339
mike.cowie@dechert.com
james.fishkin@dechert.com

Thomas Miller
Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
Telephone: (215) 994-2906
thomas.miller@dechert.com

George L. Paul
White & Case LLP
701 13th Street, NW
Washington, DC 20005
Telephone: (202) 626-3656
gpaul@whitecase.com

Counsel for Albertsons Companies, Inc.

DATED this 7th day of May, 2024.

/s/ Chris Wilson

Chris Wilson, DCB #1630872
E-Mail: CWilson@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W., Washington, D.C. 20036-
5306
Telephone: (202) 955-8520

PUBLIC

EXHIBIT A
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

**[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 a further extension to through and including May 23, 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 23, 2024.

Signed this [] day of May, 2024.

D. Michael Chappell
Chief Administrative Law Judge