

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

PROPERTIES OF THE VILLAGES, INC.,

Plaintiff,

v.

Case No.: 5:24-cv-00316-TJC-PRL

FEDERAL TRADE COMMISSION,

Defendant.

**DEFENDANT’S TIME-SENSITIVE UNOPPOSED MOTION FOR EXTENSION OF
TIME TO RESPOND TO PLAINTIFF’S MOTION FOR STAY OF EFFECTIVE DATE
AND PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 6(b), Defendant Federal Trade Commission (“the Commission”) respectfully requests a nine-day extension of time to file a brief in response to Plaintiff’s motion for stay of effective date and preliminary injunction, from July 16, 2024, to July 25, 2024. Given the July 16, 2024 deadline for the Commission’s response, this motion for extension is time-sensitive. *See* Local Rule 3.01(e). The Commission requests a ruling as soon as practicable, and ideally by July 10, 2024 to provide the Commission adequate time to prepare. Good cause supports this motion as explained herein:

1. On May 7, 2024, the Commission’s Non-Compete Clause Rule (“the Rule”) was published in the Federal Register, following a vote in favor of the Rule on April 23, 2024. Non-Compete Clause Rule, 89 Fed. Reg. 38,342 (May 7, 2024). The Rule generally limits the ability of employers to enter into non-compete agreements with workers and limits the ability of some employers to enforce existing non-compete agreements. It goes into effect on September 4, 2024.

2. On June 21, 2024, Plaintiff filed a complaint in this action. ECF No. 1. On July 2, 2024, Plaintiff filed its motion for stay of effective date and preliminary injunction. ECF No. 25. The

default timeline per Local Rule 3.01(c) provides the Commission with fourteen days to respond to the motion. Accordingly, the Commission's brief in response is currently due on July 16, 2024.

3. The Commission seeks an extension of nine days, which would make its response due on July 25, 2024. Good cause supports this extension. Plaintiff challenges a significant rule, and its motion, which raises several claims for relief, presents complex issues that would benefit from thorough attention and briefing, regardless of whether Plaintiff makes overlapping doctrinal arguments with those raised in other cases challenging the Rule. *Cf. Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (a district court possesses inherent authority to “control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants”). Further, because the Rule does not become effective until September 4, 2024, Plaintiff will not be meaningfully prejudiced by a nine-day extension.

4. The default fourteen-day response period provided by the local rules included the July 4th holiday, as well as multiple other significant obligations for undersigned counsel. Counsel's obligations include oral argument requiring travel on a motion for preliminary injunction in a related case challenging the Rule in the Eastern District of Pennsylvania, ongoing proceedings in a related case challenging the Rule in the Northern District of Texas, briefing deadlines in unrelated litigation, and previously scheduled personal leave.

5. This is the first extension sought by the Commission and granting this extension would not unduly delay this action or impact any other pending deadlines in the case.

6. Counsel for Defendant has conferred with counsel for Plaintiff and is authorized to represent Plaintiff's position as follows:

“In the spirit of cooperation, Plaintiff Properties of the Villages does not oppose the FTC's request for a 9-day extension for its response brief to July 25, 2024. Plaintiff, however, would like to emphasize the urgency of the preliminary injunction motion. Plaintiff respectfully requests that the Court issue a decision in advance of the September 4 effective date so that Plaintiff can avoid incurring unrecoverable costs to prepare for and effectuate compliance with the unlawful Rule as well as avoid

substantial and irreparable harm to its business. If the Court believes that it needs more time, it can consider denying or shortening the FTC's extension request. The FTC has already briefed its response to these legal challenges in two related litigations and should have plenty of time to respond within the 14 days required under the rules.”

Dated: July 8, 2024

Respectfully submitted,

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Principal Deputy Assistant Attorney General

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Assistant Branch Director

/s/ Rachael L. Westmoreland
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LOCAL RULE 3.01(g) CERTIFICATION

I, Rachael Westmoreland, hereby certify that I conferred with counsel for Plaintiff regarding the relief sought in this motion via e-mail exchange between July 3, 2024 and July 8, 2024, as well as by phone on July 5, 2024. Plaintiff’s counsel represented that Plaintiff would not oppose Defendant’s motion provided we included the language in ¶ 6 of the motion.

Dated: July 8, 2024

/s/ Rachael L. Westmoreland