

**RECEIVED**  
**BEFORE THE UNITED STATES**  
**ENVIRONMENTAL PROTECTION AGENCY**  
**REGION III**

2012 JUN -4 PM 4: 49

In the Matter of:	:	REGIONAL HEARING CLERK EPA REGION III, PHILA. PA
	:	
Chem-Solv, Inc.	:	EPA Docket No. RCRA-03-2011-0068
formerly trading as	:	
Chemical and Solvents, Inc.	:	Proceeding under Section 3008(a)
1111 Industrial Avenue, S.E	:	of the Resource Conservation and
1140 Industrial Avenue, S.E	:	Recovery Act, as amended, 42 U.S.C.
Roanoke, Virginia 24013	:	Section 6928(a)
	:	
and	:	
	:	
AUSTIN HOLDINGS-VA, L.L.C,	:	
	:	
Respondents.	:	
	:	
Chem-Solv, Inc.	:	
1111 Industrial Avenue, S.E	:	
1140 Industrial Avenue, S.E	:	
Roanoke, Virginia 24013	:	
	:	
Facility	:	

**MOTION TO MODIFY BRIEFING SCHEDULE**

Complainant respectfully moves for a modification of the schedule for Respondents' brief and Complainant's reply brief to conform to the dates discussed at the conclusion of the hearing in this matter on March 24, 2012. At the conclusion of the hearing Judge Biro, the Presiding Officer, initiated a discussion of the briefing schedule. Initially it was suggested that Respondent would be allotted 45 days after Complainant's initial brief, which would mean that Respondent's initial brief would be due in mid-August. However, one of Complainant's counsels, Mr. Fields, noted on the record that he had a prescheduled vacation in August which would interfere with Complainant's ability to reply to Respondent's brief within 30 days under the initially-proposed schedule. Transcript, March 24, p. 83. Mr. Sexton, one of Respondents'

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counsels, suggested that the due date for Respondent's brief be extended to the end of August, so that Complainant's 30 days to reply would not begin until the beginning of September. Transcript, March 24, pp. 83-84. The Presiding Officer appeared to have agreed to this suggestion. Transcript, March 24, p. 84.

However, the scheduling Order issued by Presiding Officer did not follow Mr. Sexton's suggestion, and instead requires the filing of Respondents' brief by August 17, and Complainant's reply by September 14. This schedule will present a hardship for Complainant. As the Presiding Officer is aware, both of Complainant's counsels were brought into this matter very late in these proceedings to replace an attorney dealing with a family medical emergency. Long before his assignment to this matter as a last-minute replacement, Mr. Fields had already scheduled and made paid reservations for a vacation during the last three weeks of August, 2012. Under the current briefing schedule, Mr. Fields would only have ten days to reply to Respondents' initial brief upon his return to the office on September 4, 2012 (the day after Labor Day). Complainant's two lawyers have had to work closely as a team to make up for their last-minute assignment to the matter, and thus Complainant will be at a significant disadvantage if Mr. Fields is out of the country during two-thirds of the time allotted for Complainant's reply brief.


Moreover, this disadvantage can be avoided without extending the 30 days allotted for Complainant's reply, by extending the due date for Respondents' brief until the end of August -- as was discussed at the hearing, as noted above.

Complainant thus respectfully requests that the briefing schedule be modified so that Respondents' initial brief is due on August 31, 2012, with Complainant's reply due on October 1, 2012, and Respondents' reply brief due on November 1, 2012.

Counsel for Respondents has informed Complainant that Respondents do not object to these proposed extensions.

Respectfully submitted,

6/4/12  
Date

  
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Benjamin D. Fields, Esq.  
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U.S. EPA, Region III  
1650 Arch Street  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below, I caused to be hand-delivered to Ms. Lydia Guy, Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, 5<sup>th</sup> Floor, Philadelphia, PA 19103-2029, the original and one copy of the foregoing Motion to Modify Schedule. I further certify that on the date set forth below, I caused true and correct copies of the same to be mailed via UPS, next day delivery, to the following persons at the following addresses:

Hon. Susan Biro  
U.S. Environmental Protection Agency  
EPA Office of Administrative Law Judges  
1099 14<sup>th</sup> Street, N.W.  
Suite 350 Franklin Court  
Washington, D.C. 20005

Charles L. Williams, Esq.  
Maxwell H. Wiegard, Esq.  
Gentry, Locke, Rakes & Moore  
800 Sun Trust Plaza  
10 Franklin Road  
Roanoke, VA 24011

Date: 6/7/12

  
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Benjamin D. Fields  
Senior Assistant Regional Counsel