UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION OFFICE OF ADMIMSTRATIVE LAW JUDGES

In the Matter of

BASIC RESEARCH, L.L.C,

A.G. WATERHOUSE, L.L.C.,

KLEIN-BECIGR USA, L.L.C.,

NUTRASPORT, L.L.C.,

SOVAGE DERMALOGIC LABORATORIES, L.L.C., d/b/a BASIC RESEARCH, L.L.C.,
OLD BASIC RESEARCH, L.L.C.,
BASIC RESEARCH, A.G. WATERHOUSE,

BAN, L.L.C.,
d/b/a KLEIN-BECKER USA, NUTRA SPORT, and SOVAGE DERMALOGIC LABORATORIES,

DENNIS GAY,

DANIEL B. MOWREY,
d/b/a AMERICAN PHYTOTHERAPY RESEARCH
LABORATORY, and

MITCHELL K. FRIEDLANDER

DOCKET NO. 9318

PUBLIC DOCUMENT

REOUEST FOR ORAL ARGUMENT OR, IN THE ALTERNATIVE,
FOR PERMISSION TO FILE

DOCKET NO. 9318

Complaint Counsel's Motion and raises new issues, including (a) whether the FTC's Complaint truly alleges a falsity theory of liability-r whether the FTC is simply restating its position that Respondents allegedly do not have "competent and reliable scientific evidence" in support of their alleged claims (see Reply at 13), and (b) whether the Commission's Policy Statement on Advertising

DOCKET NO. 9318

the FTC's delegated authority under Sections 5 and 12 of the Federal Trade Commission Act constitute "fiilal agency action" ripe

DOCKET NO. 9318

thus having the same infirmity as the pre-approval scheme held unconstitutional in Pearson,

DOCKET NO. 9318

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was provided to the following parties this &th day of September, 2004 as follows:

(1) One (1) original and one (I) copy by Federal Express to Donald S. Clark,
Secretary, Federal Trade Commission, Room H-159,600 Pennsylvania Avenue, N.W., Washington, D.C., 20580;

(2) One (1) electronic copy via e-mail attachment in dob be' ".pdf' format to the
Secretary of the FTC at Secretary@ftc.gov;

(3) Two (2) copies by Federal Express to Administrative Law Judge Stephen J. McGuire, Federal Trade Commission, Room 13-104, 600 Pennsylvania Avenue N.W., Washington, D.C. 20580;

(4) One (1) copy via e-mail attachment in dob be@ ".pdfl format to Commission Complaint Counsel, Laureen Kapin, Joshua S. Millard, and Laura Sclmeider, all care of lkapin@ftc.gov, imillard@ftc.gov; rrichardson@ftc.gov;