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

_____	)	
In the Matter of	)	<b>PUBLIC</b>
	)	
THE NORTH CAROLINA [STATE] BOARD	)	DOCKET NO. 9343
OF DENTAL EXAMINERS,	)	
	)	
Respondent.	)	
_____	)	

**RESPONDENT’S MOTION FOR LEAVE TO SUBMIT SURREBUTTAL  
EXPERT WITNESS REPORT AND TO STRIKE (IN PART) EXPERT  
WITNESS REBUTTAL REPORT OF MARTIN GINGER, D.M.D.**

NOW COMES Respondent, by and through the undersigned attorneys, pursuant to Rule 3.31A(a) of the FTC Rules of Practice for Adjudicative Proceedings, and respectfully moves the Administrative Law Judge for an Order granting leave to submit a surrebuttal expert witness report and to strike (in part) the Expert Witness Rebuttal Report of Martin Giniger, D.M.D., in the above-captioned matter. In support of this motion, Respondent shows the following:

1. The Expert Witness Report of Dr. Martin Giniger was provided to



7. Counsel for Respondent has conferred with Complaint Counsel about this Motion for Leave and to Strike (in part), and Complaint Counsel have indicated that they will oppose this motion.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge:

1. Grant leave to file a surrebuttal expert witness report by Dr. Van Haywood; and
2. Strike (in part) the expert witness rebuttal report of Dr. Martin Giniger as requested above; and
3. For such other and further relief as deemed just and proper.

This the 13th day of January, 2011.

ALLEN AND PINNIX, P.A.

/s/ Alfred P. Carlton, Jr.

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## CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2011, I electronically filed the foregoing with the Federal Trade Commission using the FTC E-file system, which will send notification of such filing to the following:

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Room H-159  
Washington, D.C. 20580

I hereby certify that the undersigned has this date served copies of the foregoing upon all parties to this cause by electronic mail as follows:

William L. Lanning  
Bureau of Competition  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
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I also certify that I have sent courtesy copies of the document via Federal Express and electronic mail to:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Room H-113  
Washington, D.C. 20580  
[oyalj@ftc.gov](mailto:oyalj@ftc.gov)

This the 13th day of January, 2011.

/s/ Alfred P. Carlton, Jr.  
Alfred P. Carlton, Jr.

#### **CERTIFICATION FOR ELECTRONIC FILING**

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and by the adjudicator.

/s/ Alfred P. Carlton, Jr.  
Alfred P. Carlton, Jr.

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BEFORE THE FEDERAL TRADE COMMISSION  
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**[PROPOSED] ORDER ON RESPONDENT’S MOTION FOR LEAVE TO  
SUBMIT SURREBUTTAL EXPERT WITNESS REPORT AND TO STRIKE  
(IN PART) EXPERT WITNESS REBUTTAL REPORT OF  
MARTIN GINIGER, D.M.D.**

This matter comes before the undersigned on Respondent’s Motion for Leave to Submit Surrebuttal Expert Witness Report and to Strike (in Part) Expert Witness Rebuttal Report of Martin Giniger, D.M.D. Having considered the motion, it is hereby

ORDERED, that the Motion for Leave to Submit Surrebuttal Expert Witness Report is Granted, and Respondent has a deadline of January 21, 2011 to provide the Surrebuttal Expert Witness Report of Van B. Haywood, D.M.D. to Complaint Counsel.

IT IS FURTHER ORDERED, that Respondent’s Motion to Strike (in Part) the Expert Witness Rebuttal Report of Martin Giniger, D.M.D. is Granted. The matters in Dr. Giniger’s Rebuttal Report that shall be struck are as follows:

\_\_\_\_\_.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

Date: January \_\_\_\_, 2011