



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

|                                |   |                     |
|--------------------------------|---|---------------------|
| In the Matter of               | ) | EXPEDITED TREATMENT |
|                                | ) | REQUESTED           |
|                                | ) |                     |
| THE NORTH CAROLINA STATE BOARD | ) | PUBLIC              |
| OF DENTAL EXAMINERS,           | ) |                     |
|                                | ) | DOCKET NO. 9343     |
| Respondent.                    | ) |                     |
|                                | ) |                     |

JOINT MOTION FOR EXTENSION OF TIME AND [PROPOSED] ORDER

Pursuant to Commission Rules of Practice 3.31A and 4.3, Complaint Counsel and Respondent respectfully submit this joint motion requesting an extension of time for Complaint Counsel to conduct the deposition of Respondent’s expert witness, Dr. Haywood.

1. Complaint Counsel was scheduled to depose Dr. Haywood in Augusta, Georgia on January 14, 2011.
2. On January 12, counsel for Respondent provided Complaint Counsel by email with a draft motion for leave to submit a surrebuttal expert witness report by Dr. Haywood, which Respondent planned to file the following day.
3. On January 12, Complaint Counsel informed counsel for Respondent by email that in light of section 16(d) of the Scheduling Order, which permits only one deposition of the expert witness, Complaint Counsel was postponing the scheduled deposition of Dr. Haywood pending resolution of Respondent’s motion.

4. On January 13, Respondent filed its Motion for Leave to Submit Surrebuttal Expert Witness Report and to Strike (In Part) Expert Witness Rebuttal Report of Martin Giniger, D.M.D. Such motion was filed timely.
5. The current deadline for completion of depositions of experts is January 21, 2011.
6. The parties respectfully submit that an extension of time to depose Dr. Haywood is warranted to facilitate an orderly resolution of Respondent's motion to submit a surrebuttal report and to ensure that Complaint Counsel may depose Dr. Haywood based on the entirety of his Report or Reports, as Your Honor permits.
7. Therefore, the parties respectfully request an order that Dr. Haywood's deposition be taken in Augusta, Georgia on the fifth business day following the later of (a) the issuance of the court's Order with respect to 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. (not counting the day of issuance of such order) or (b) the filing by Respondent of any Surrebuttal Report by Dr. Haywood pursuant to that Order, if permitted; provided that if Dr. Haywood is unavailable to be deposed on that day, Complaint Counsel and counsel for Respondent shall agree to a subsequent alternative day for deposition that shall be no later than ten business days following issuance of the later of such order or filing of any such Surrebuttal Report (again not counting the day of issuance of the order); and provided further that if Dr. Haywood is unavailable to be deposed during that period, Respondent may petition this Court for an extension of the deadline for deposing Dr. Haywood beyond the ten business day period.

8. Due to the upcoming January 21 deadline for completion of depositions of experts, the parties respectfully request expedited consideration of this motion.

Respectfully submitted,

s/ Noel L. Allen

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Complaint Counsel

UNITED STATES OF AMERICA

deadline for deposing Dr. Haywood beyond the ten business day period if Dr. Haywood is unavailable to be deposed during that period.

ORDERED

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D. Michael Chappell  
Chief Administrative Law Judge

Date: January \_\_, 2011

## CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2011, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580

I also certify that I delivered via electronic mail and hand delivery a copy of the foregoing document to:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

I further certify that I delivered via electronic mail a copy of the foregoing document to:

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North Carolina State Board of Dental Examiners

## CERTIFICATE FOR ELECTRONIC FILING

I 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 the adjudicator.

January 14, 2011

By: s/ Richard B. Dagen  
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