

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

BASIC RESEARCH, L.L.C., et al.,

Respondents.

Docket No. 9318

Public Document

**RESPONDENTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO
PROVIDE EXPERT REPORT OF DANIEL B. MOWREY, Ph.D., AND FOR
COMPLAINT COUNSEL TO IDENTIFY REBUTTAL EXPERT AND PROVIDE
REBUTTAL EXPERT REPORT REBUTTING MATTERS SET FORTH IN THE
EXPERT REPORT OF DANIEL B. MOWREY, Ph.D.**

Respondents move the Court to extend the time for Respondents to provide the expert report of Daniel B. Mowrey, Ph.D., and for Complaint Counsel to identify their rebuttal expert, if any, with respect to rebutting Dr. Mowrey's expert report, and to provide their rebuttal expert report rebutting matters set forth in Dr. Mowrey's expert report, and in support thereof state:

1. Pursuant to Rule of Practice 4.3, the Administrative Law Judge may extend any time limit prescribed by the Rules, and pursuant to Rule 3.21(c)(2) the Administrative Law Judge may extend or modify any deadline in the scheduling order upon a showing of good cause.

2. Respondents' expert witness reports are due on Monday, 29 November 2004.

3. Although Respondents have identified three potential expert witnesses, Respondents seek an extension of time only with respect to the expert witness report of Dr. Mowrey. Furthermore, Respondents seek an extension of only four (4) days, such that Dr. Mowrey's expert report would be due on Friday, 3 December 2004.

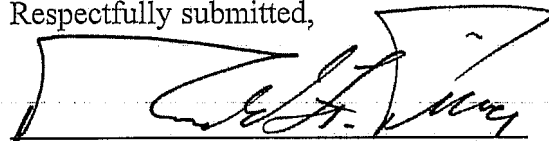
4. On Wednesday, 24 November 2004, counsel for Dr. Mowrey, Ronald F. Price, discussed the relief sought in this request with Complaint Counsel Laureen Kapin. Ms. Kapin

represented that Complaint Counsel did not oppose the requested extension, and requested that Complaint Counsel be granted a similar extension with respect to their rebuttal report rebutting Dr. Mowrey's expert report, such that Complaint Counsel's rebuttal expert report would be due on Friday, 17 December 2004.

5. Good cause exists to justify the requested brief extension. The Thanksgiving holiday was on Thursday, 25 November 2004, the week immediately preceding the 29 November 2004 deadline. Additionally, and more importantly, Dr. Mowrey's wife has serious health problems, which health problems require that Dr. Mowrey dedicate many hours tending to the health needs of his wife. (For privacy reasons Respondents do not discuss in detail the nature of those health problems, but represent that those problems are very serious and that Mrs. Mowrey is very ill). Accordingly, Dr. Mowrey has not yet been able to complete his expert report, but anticipates having it completed so that it can be submitted no later than Friday, 3 December 2004.

6. A proposed order is attached for the Court's convenience.

Respectfully submitted,



Dated 28 November 2004.

Ronald F. Price
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Counsel for Respondent Daniel B. Mowrey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **RESPONDENTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO PROVIDE EXPERT REPORT OF DANIEL B. MOWREY, PH.D., AND FOR COMPLAINT COUNSEL TO IDENTIFY REBUTTAL EXPERT AND PROVIDE REBUTTAL EXPERT REPORT REBUTTING MATTERS SET FORTH IN THE EXPERT REPORT OF DANIEL B. MOWREY, PH.D.** was provided to the following this 28 November 2004, as follows:

(1) the original and two (2) paper copies were sent via United States Mail, overnight courier delivery, and on 29 November 2004 one (1) electronic copy via email attachment in Adobe® “.pdf” format on 29 November, to: Donald S. Clark, Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room H-159, Washington, D.C. 20580.

(2) on 28 November 2004, two (2) paper copies sent via overnight courier delivery, to: The Honorable Stephen J. McGuire, Chief Administrative Law Judge, 600 Pennsylvania Avenue, N.W., Room H-104, Washington, D.C. 20580.

(3) One (1) copy via e-mail attachment in Adobe® “.pdf” format to Commission Complaint Counsel, Laureen Kapin, Joshua S. Millard, and Laura Schneider, all care of lkapin@ftc.gov, jmillard@ftc.gov; r-richardson@ftc.gov; lschneider@ftc.gov with one (1) paper copy via U. S. Postal Service to Laureen Kapin, Bureau of Consumer Protection, Federal Trade Commission, Suite NJ-2122, 600 Pennsylvania Avenue, N.W., Washington, D.C., 20580.

(4) One (1) copy via United States Postal Service to Stephen Nagin, Esq., Nagin Gallop & Figueredo, 3225 Aviation Avenue, Suite 301, Miami, Florida 33131.

(5) One (1) copy via United States Postal Service to Richard Burbidge, Esq., Jefferson W. Gross, Esq. and Andrew J. Dymek, Esq., Burbidge & Mitchell, 215 South State Street, Suite 920, Salt Lake City, Utah 84111, Counsel for Dennis Gay.

(6) One (1) copy via United States Postal Service to Jeffrey D. Feldman FELDMANGALE, P.A. Miami Center - 19th Floor 201 S. Biscayne Boulevard, Miami, FL 33131, Counsel for Respondents A. G. Waterhouse, L.L. C., Klein-Becker, L.L. C., Nutrasport, L.L. C., Sovage, Dermalogic Laboratories, L.L. C., and BAN, L.L. C.

(7) One (1) copy via United States Postal Service to Mitchell K. Friedlander, 5742 West Harold Gatty Drive, Salt Lake City, Utah 84111, *pro se*.



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TO: The Honorable Stephen J. McGuire
Chief Administrative Law Judge

ORDER ON UNOPPOSED MOTION FOR EXTENSION OF TIME

THIS CAUSE came before the Administrative Law Judge on *Respondents' Unopposed Motion For Extension Of Time To Provide Expert Report Of Daniel B. Mowrey, Ph.D., And For Complaint Counsel To Identify Rebuttal Expert And Provide Rebuttal Expert Report Rebutting Matters Set Forth In The Expert Report Of Daniel B. Mowrey, Ph.D.* Having reviewed the Motion, and having determined that good cause has been show, it is ORDERED that Respondents' Unopposed Motion for Extension of Time is GRANTED. Respondents shall have up to and including Friday, 3 December 2004, to provide the expert report of Daniel B. Mowrey, Ph.D., and Complaint Counsel shall have up to and including Friday, 17 December 2004, to identify their rebuttal expert, if any, with respect to rebutting Dr. Mowrey's expert report, and to provide their rebuttal expert report rebutting matters set forth in Dr. Mowrey's expert report.

DONE AND ORDERED this _____ day of _____, 2004.

Stephen J. McGuire
Administrative Law Judge

Copies furnished to:
All counsel of record