

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



In the Matter of)

BASIC RESEARCH, LLC)

A.G. WATERHOUSE, LLC)

KLEIN-BECKER USA, LLC)

NUTRASPORT, LLC)

SOVAGE DERMALOGIC LABORATORIES, LLC)

BAN, LLC d/b/a BASIC RESEARCH, LLC)

OLD BASIC RESEARCH, LLC,)

BASIC RESEARCH, A.G. WATERHOUSE,)

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,)

Respondents.)

Docket No. 9318

SECOND REVISED SCHEDULING ORDER

Trial in this matter was previously set for July 26, 2005. By Order dated April 6, 2005, three motions filed by Respondents were certified to the Commission and the proceedings in this matter were stayed. The Commission addressed the issues certified to it and lifted the stay in the proceedings by Order issued June 17, 2005. On June 28, 2005, the parties were instructed to file a joint motion for a proposed scheduling order.

On August 3, 2005, the parties filed their Joint Motion for Proposed Scheduling Order. In their motion, the parties detail scheduling conflicts that have arisen during the stay of the proceedings. Respondents' counsel asserts that they, who have twice before been prepared for earlier trial dates, have demonstrated a genuine unavailability to prepare and present this matter at a trial scheduled prior to the end of February due to immovable conflicts. Complaint Counsel consents to the new schedule. The Court recognizes that under the unique facts of this case, the parties' joint request is not unreasonable.

Accordingly, the Joint Motion is **GRANTED**. It is hereby **ORDERED** that the schedule is revised as follows:

- August 26, 2005 - Exchange hard copies of all exhibits (except for demonstrative, illustrative, or summary exhibits).
- September 16, 2005 - Exchange proposed stipulations of fact, law and authenticity. Exchange deposition designations.
- September 30, 2005 - Exchange objections to deposition designations and counter designations to deposition testimony.
- October 28, 2005 - File final stipulations of fact, law and authenticity. Any subsequent stipulations may be filed as agreed by the parties.
- November 8, 2005 - Exchange and serve courtesy copies on ALJ of final proposed witness and exhibit lists, including a brief summary of the testimony of each witness.
- November 8, 2005 - Parties that intend to offer into evidence at the hearing confidential materials of an opposing party or non-party must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).
- November 15, 2005 - Exchange and serve courtesy copies on ALJ of objections to final proposed witness and exhibit lists.
- November 23, 2005 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- December 21, 2005 - Deadline for filing oppositions to motions for *in camera* treatment of proposed trial exhibits.
- February 3, 2006 - Parties file pretrial briefs, to include proposed findings of fact and conclusions of law. To the extent possible, findings of fact shall be supported by document citations and/or deposition citations. Conclusions of law shall be supported by legal authority.
- March 2, 2006 - Final prehearing conference to be held at 9:30 a.m. in room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, N.W., Washington, D.C.

The parties are to meet and confer prior to the conference regarding trial logistics and proposed stipulations of law, facts, and

authenticity and any designated deposition testimony. Counsel may present any objections to the final proposed witness lists and exhibits, including the designated testimony to be presented by deposition. Trial exhibits will be admitted or excluded to the extent practicable.


March 7, 2006

- Commencement of Hearing, to begin at 9:30 a.m. in room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, N.W., Washington, D.C.

ADDITIONAL PROVISIONS

The "Additional Provisions" set forth in the Scheduling Order entered on August 11, 2004 remain unchanged.

ORDERED:


Stephen J. McGuire
Chief Administrative Law Judge

August 4, 2005