

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
BASIC RESEARCH, L.L.C.,)	
A.G. WATERHOUSE, L.L.C.,)	
KLEIN-BECKER USA, L.L.C.,)	
NUTRASPORT, L.L.C.,)	
SOVAGE DERMALOGIC)	Docket No. 9318
LABORATORIES, L.L.C.,)	
BAN, L.L.C.,)	PUBLIC DOCUMENT
DENNIS GAY,)	
DANIEL B. MOWREY, and)	
MITCHELL K. FRIEDLANDER,)	
)	
Respondents.)	
)	

**COMPLAINT COUNSEL’S MOTION FOR EXTENSION OF TIME
TO FILE RESPONSES TO RESPONDENT DENNIS GAY’S DISCOVERY AND
TO RESPONDENT BASIC RESEARCH’S MOTION TO COMPEL**

Complaint Counsel move to extend the time to respond to Respondent Dennis Gay’s *First Set of Interrogatories* and *First Request for Admissions* from November 16, 2004, to December 1, 2004, and to respond to Basic Research’s *Motion to Compel* from November 22, 2004, to December 1, 2004, and in support thereof state as follows:

1. On October 29, 2004, Respondent Dennis Gay attempted to serve his *First Set of Interrogatories, First Set of Document Requests, and First Request for Admissions*. Because these discovery requests were sent after the allowable time for filing, these requests are treated as being served on November 1st. Complaint Counsel’s responses are otherwise due on November 16, 2004.

2. On November 9, 2004, Respondent Basic Research attempted to serve a *Motion to*

Compel. Because the *Motion* was sent after the allowable time for filing, this Motion is treated as being served on November 10. Our response is otherwise due on November 22, 2004.

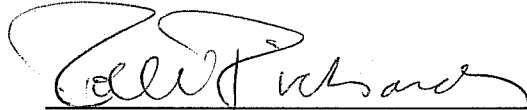
3. Pursuant to Rule of Practice 4.3, the Administrative Law Judge may extend any time limit prescribed or allowed by the Rules.
4. On November 9, 2004, Complaint Counsel, Robin M. Richardson, left messages for counsel for Respondents, Richard Burbidge and Jeffrey D. Feldman regarding this motion. Counsel for Respondent Gay, Robert Shelby, stated that Respondents were unable to respond to our request for extensions before Complaint Counsel files with the Court.
5. Good cause exists to justify these brief extensions because Complaint Counsel, Laureen Kapin, is primarily responsible for responding to the *Motion to Compel*, and Ms. Kapin is presently preparing our experts for upcoming depositions on November 17th and 19th. Ms. Kapin is also preparing for upcoming depositions of witnesses that are planned for November 22nd and 23rd. Unfortunately, Ms. Kapin has been out of the office for the last two days, caring for a sick family member. With respect to responding to Respondent Gay's requests, Complaint Counsel is also in the process of preparing its motions regarding discovery issues, as well as attempting to work with Respondents to resolve outstanding discovery issues. During this time period, Complaint Counsel has also received Respondent Friedlander's *First Request for Admissions*, *First Set of Interrogatories*, and *First Request for Production of Documents*, which were all treated as being served on November 8, 2004. In addition, on November 9, 2004, Complaint Counsel received service of 23 subpoenas duces tecum that were served on third-parties.

Complaint Counsel is presently assessing its response to these subpoenas. Finally, the discovery requests for which we are requesting extensions are all implicated by our motion for a protective order, which is pending before the Court.

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

Date: November 10, 2004

Respectfully submitted by:



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Robin M. Richardson (202) 326-2798

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Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

COUNSEL SUPPORTING THE COMPLAINT

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of November, 2004, I caused *Complaint Counsel's Motion for Extension of Time to File Responses to Respondent Gay's Discovery and to Respondent Basic Research's Motion to Compel and Proposed Order* to be served and filed as follows:

- (1) the original, two (2) paper copies filed by hand delivery and one (1) electronic copy via email to:

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

- (2) two (2) paper copies served by hand delivery to:

The Honorable Stephen J. McGuire
Administrative Law Judge
600 Penn. Ave., N.W., Room H-113
Washington, D.C. 20580

- (3) one (1) electronic copy via email and one (1) paper copy by first class mail to the following persons:

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Docket No. 9318

PUBLIC DOCUMENT

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

ORDER ON MOTION FOR EXTENSION OF TIME

THIS CAUSE came before the Administrative Law Judge on Complaint Counsel's Motion for Extension of Time to File Responses to Respondent Gay's Discovery and to Respondent Basic Research's Motion to Compel. Having reviewed the Motion, it is ORDERED that Complaint Counsel's Motion for Extension of Time is GRANTED. Complaint Counsel shall have up to and including December 1, 2004, to respond to Respondent Dennis Gay's First Set of Interrogatories and First Request for Admissions, and to respond to Respond Basic Research's Motion to Compel.

DONE AND ORDERED this _____ day of November, 2004.

Stephen J. McGuire
Administrative Law Judge

Copies furnished to:
All counsel of record