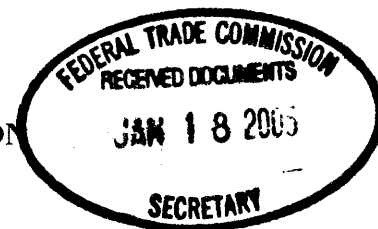


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



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)
LABORATORIES, L.L.C.,)
BAN, L.L.C.,)
DENNIS GAY,)
DANIEL B. MOWREY, and)
MITCHELL K. FRIEDLANDER,)
)
Respondents.)
_____)

Docket No. 9318

PUBLIC DOCUMENT

**COMPLAINT COUNSEL AND RESPONDENTS' JOINT MOTION FOR EXTENSION
OF TIME TO FILE MOTIONS FOR SUMMARY DECISION AND RESPONSES TO
MOTIONS FOR SUMMARY DECISION**

Complaint Counsel and Respondents jointly move to extend the time to file Motions for Summary Decision from January 21, 2005, to January 31, 2005 and the time to file responses to Motions for Summary Decision from February 4, 2005 to February 11, 2005. A variety of exigent circumstances exists to support this extension, including the recent conclusion of most depositions and reopening of settlement discussions, both on January 14th. In support of this motion, Complaint Counsel states the following:

1. The Scheduling Order in this case allows for 11 days between the end of depositions and the filing of motions for summary decision.
2. Although the date set by the Administrative Law Judge for the end of depositions in this matter was January 10, 2005, the parties agreed to take depositions through January 14,

2005. Indeed, as of December 27th, 2004, the counsel for the parties have engaged in a grueling travel schedule in an effort to complete depositions. During the past three weeks, Counsel for the parties have been away from their offices and traveling to Salt Lake City, Utah; Denver, Colorado; New York City and Washington D.C. As of January 14th, 2005, the parties were still engaged in depositions of key witnesses that lasted into the evening hours. During this same time period, the parties have also worked together to resolve several remaining discovery disputes.

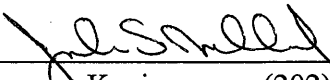
3. Because of the press of depositions and recent resolution of certain discovery disputes, the parties are still engaged in assessing and reviewing the evidence necessary to include in the upcoming motions for summary decision. Indeed, as of today, the parties have not yet received final transcripts for these depositions.
4. Moreover, the parties are still attempting to resolve certain discovery disputes stemming from the parties' subsequent discovery requests. In addition, Complaint Counsel's motion to compel production of a document turned over to Respondents' testifying expert remains outstanding and the deposition of Complaint Counsel's clinical expert, Dr. Heymsfield could not be concluded.
5. The parties have also reopened settlement negotiations and have set aside the current two-week period through January 31st, for the parties to engage in good-faith efforts to resolve this dispute.
6. Finally, this week contains two federal holidays during which the FTC will be closed. Monday, January 17, 2005, is a holiday in honor of Martin Luther King, and Thursday, January 20, 2005 is Inauguration Day. Further, Complaint Counsel has been informed

that on Wednesday, January 19th, the FTC may be required to close early due to security reasons related to the Inauguration Day festivities.

7. Pursuant to Rule of Practice 4.3, the Administrative Law Judge may extend any time limit prescribed or allowed by the Rules.
8. Complaint Counsel has discussed the relief sought in this Request with Respondents who join in the motion to extend the time period for the filing of motions for summary decision and responses to motions for summary decision.
9. Good cause exists to justify this brief extension as described above. In addition, as the Administrative Law Judge had originally intended, the motions for summary decision would then be filed within a reasonable time period after the close of depositions. A proposed order is attached hereto for the Court's convenience.

Date: January 18, 2005

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 18th day of January 2005, I caused *Complaint Counsel and Respondents' Joint Motion for Extension of Time To File Motions for Summary Decision and Responses to Motions for Summary Decision* 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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COMPLAINT COUNSEL

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

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

ORDER ON JOINT MOTION FOR EXTENSION OF TIME

THIS CAUSE came before the Administrative Law Judge on Complaint Counsel and Respondents' Joint Motion for Extension of Time To File Motions for Summary Decision and Responses to Motions for Summary Decision. Having reviewed the Motion, it is ORDERED that Complaint Counsel's Unopposed Motion for Extension of Time is GRANTED. All parties shall have up to and including January 31, 2005, to file motions for summary decision and up to and including February 11, 2005 to file responses to motions for summary decisions.

DONE AND ORDERED this _____ day of January, 2005.

Stephen J. McGuire
Administrative Law Judge

Copies furnished to:
All counsel of record