

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

In the Matter of )  
 )  
LABORATORY CORPORATION )  
OF AMERICA )  
 )  
and )  
 )  
LABORATORY CORPORATION )  
OF AMERICA HOLDINGS, )  
Respondents. )

DOCKET NO. 9345

**ORDER GRANTING RESPONDENTS' UNOPPOSED MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF MOTION TO SET HEARING LOCATION**


On January 5, 2011, Respondents submitted an Unopposed Motion for Leave to File a Reply in Support of their December 16, 2010 Motion to Set Hearing Location.

Respondents state that Complaint Counsel failed to respond to Respondents' Motion to Set Hearing Location until January 4, 2011, which date exceeds the 10-day deadline provided for responding to motions under Commission Rule of Practice 3.22(d). 16 C.F.R. § 3.22(d). Moreover, Respondents assert, Complaint Counsel did not seek an order extending the time to submit its response. Rule 3.22(d) provides in part: "Within 10 days after service of any written motion, or within such longer or shorter time as may be designated by the Administrative Law Judge or the Commission, the opposing party shall answer or shall be deemed to have consented to the granting of the relief asked for in the motion." 16 C.F.R. § 3.22(d). Respondents contend they should be permitted to bring the matter of Complaint Counsel's untimely opposition to the attention of the Administrative Law Judge by submitting a reply. Respondents attached their proposed reply as Exhibit B to the motion for leave. Respondents state that Complaint Counsel does not object to the filing of Respondents' proposed reply.

Rule 3.22(d) states that the Administrative Law Judge shall permit a moving party to reply "only in circumstances where the parties wish to draw the Administrative Law Judge's . . . attention to recent important developments or controlling authority that could not have been raised earlier in the party's principal brief." 16 C.F.R. § 3.22(d). Complaint Counsel's filing of an untimely opposition is a development that could not have been raised in Respondents' initial brief, and therefore, is appropriate to raise by

way of reply. 16 C.F.R. § 3.22(d). Moreover, Complaint Counsel does not oppose Respondents' motion for leave to file a reply. Accordingly, Respondents' Unopposed Motion for Leave to File a Reply in Support of Motion to Set Hearing Location is hereby GRANTED, and it is hereby ORDERED that Respondents shall file the reply, presently attached as Exhibit B to Respondents' Motion for Leave, with the Office of the Secretary within 3 business days of the date of this Order.

ORDERED:

  
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D. Michael Chappell  
Chief Administrative Law Judge

Date: January 7, 2011