

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



In the Matter of)
)

Louisiana Real Estate Appraisers Board,)

Respondent.)
_____)

DOCKET NO. 9374

**ORDER GRANTING JOINT MOTION
FOR REVISED SCHEDULING ORDER**

On November 9, 2017, the Parties filed a Joint Motion for Revised Scheduling Order. The Parties recite that the Commission's Order stayed these proceedings until November 26, 2017, and rescheduled the hearing to commence on May 30, 2018. The Parties request a modification to the remaining dates in the Scheduling Order to reflect the original sequence of dates set forth in the July 6, 2017 Scheduling Order, but adjusted toward the new May 30, 2018 trial date.

The Parties' Joint Motion is GRANTED. The deadlines set forth in the Scheduling Order issued in this case on July 6, 2017 are hereby extended as set forth below. All other provisions of the Scheduling Order remain in effect.

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|-------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| December 1, 2017 | - | Respondent's Counsel provides preliminary witness list (not including experts) with a brief summary of the proposed testimony. |
| January 19, 2018 | - | Deadline for issuing document requests, interrogatories and subpoenas <i>duces tecum</i> , except for discovery for purposes of authenticity and admissibility of exhibits. |
| February 9, 2018 | - | Complaint Counsel provides expert witness list. |
| February 23, 2018 | - | Deadline for issuing requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of exhibits. |

- February 26, 2018 - Respondent's Counsel provides expert witness list.
- March 9, 2018 - Close of discovery, other than discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
- March 26, 2018 - Deadline for Complaint Counsel to provide expert witness reports (to be provided by 4 p.m EDT).
- April 9, 2018 - Deadline for Respondent's Counsel to provide expert witness reports (to be provided by 4 p.m. ET). Respondent's expert report shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).
- April 13, 2018 - Complaint Counsel provides to Respondent's Counsel its final proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Complaint Counsel's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Complaint Counsel serves courtesy copies on ALJ of its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.
- April 23, 2018 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondent's expert reports. If material outside the scope of fair rebuttal is presented, Respondent will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert reports or seeking leave to submit surrebuttal expert reports on behalf of Respondent).
- April 27, 2018 - Respondent's Counsel provides to Complaint Counsel its final proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Respondent's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondent's Counsel serves courtesy copies on ALJ its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.

- April 27, 2018 - Parties that intend to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).¹ See Additional Provision 7.
- May 10, 2018 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- May 10, 2018 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists. The Parties are directed to review the Commission's Rules on admissibility of evidence before filing objections to exhibits.
- May 11, 2018 - Deadline for filing motions *in limine* to preclude admission of evidence. See Additional Provision 9.
- May 16, 2018 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- May 16, 2018 - Complaint Counsel files pretrial brief supported by legal authority.
- May 16, 2018 - Deadline for filing responses to motions *in limine* to preclude admission of evidence.
- May 17, 2018 - Exchange proposed stipulations of law, facts, and authenticity.
- May 18, 2018 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.

¹ Appendix A to Commission Rule 3.31, the Standard Protective Order, states that if a party or third party wishes *in camera* treatment for a document or transcript that a party intends to introduce into evidence, that party or third party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives notice of a party's intent to introduce such material. Commission Rule 3.45(b) states that parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least 10 days' notice of the proposed use of such material. To resolve this apparent conflict, the Scheduling Order requires that the parties provide 10 days' notice to the opposing party or third parties to allow for the filing of motions for *in camera* treatment.

May 23, 2018 - Respondent's Counsel files pretrial brief supported by legal authority.

May 24, 2018 - Final prehearing conference to begin at 12:00 p.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The parties shall meet and confer prior to the prehearing conference regarding trial logistics and proposed stipulations of law, facts, and authenticity of exhibits. To the extent the parties have agreed to stipulate to any issues of law, facts, and/or authenticity of exhibits, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the conference. At the conference, the parties' list of stipulations shall be marked as "JX1" and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required. Any subsequent stipulations may be offered as agreed by the parties.

Counsel may present any objections to the final proposed witness lists and exhibits. Trial exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admission of each other's exhibits, the parties shall prepare a list identifying each exhibit to which admissibility is agreed, marked as "JX2" and signed by each party, which list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required.

May 30, 2018 - Commencement of Hearing to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: November 14, 2017

Notice of Electronic Service

I hereby certify that on November 14, 2017, I filed an electronic copy of the foregoing Order Granting Joint Motion for Revised Scheduling Order, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
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Donald Clark
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I hereby certify that on November 14, 2017, I served via E-Service an electronic copy of the foregoing Order Granting Joint Motion for Revised Scheduling Order, upon:

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