

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

ORIGINAL



In the Matter of)
)
)

The North Carolina Board of)
Dental Examiners,)
Respondent.)

DOCKET NO. 9343

**ORDER GRANTING RESPONDENT'S MOTION
FOR EXTENSION OF TIME**

On April 18, 2011, Respondent's filed an expedited Motion for Extension of Time for the parties to file post-trial briefs, proposed findings of fact and conclusions of law, and proposed orders ("Motion"). Pursuant to Commission Rule of Practice 3.46(a) and the March 30, 2011 Order on Post-Trial Briefs issued in this case, a deadline of April 20, 2011 was set for the parties to file concurrent post-trial briefs, proposed findings of fact, and proposed conclusions of law. 16 C.F.R. § 3.46(a).¹ Respondent seeks an order extending the April 20th deadline, for both parties, to 5:30 p.m. on April 22, 2011. Respondent does not request any extension of the deadline for the filing of concurrent reply briefs and replies to proposed findings of fact which, pursuant to the Order on Post-Trial Briefs, is set for May 2, 2011. Respondent represents that Complaint Counsel does not oppose the Motion.

In support of the Motion, Respondent states that on April 16, 2011, a tornado passed through downtown Raleigh very close to the offices of Respondent's counsel and, as a result, the offices and the residences of some of Respondent's attorneys and their staff lost electrical power until early Sunday morning, April 18, 2011. Respondent further states that counsel had been working diligently to complete briefing in accordance with the April 20th deadline, but that it was not possible to work during the period of the power outage. Accordingly, Respondent requests an order allowing two additional days for the parties to file concurrent post-trial briefs, proposed findings of fact, proposed conclusions of law, and proposed orders.

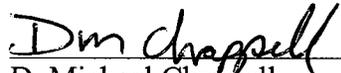
Rule 4.3(b) authorizes the Administrative Law Judge, for good cause shown, to extend (1) any time limit prescribed or allowed by order of the Administrative Law Judge, or (2) any time limit prescribed by the Rules of Practice, except those governing

¹ Rule 3.46(a) states in pertinent part: "Within 21 days of the closing of the hearing record, each party may file with the Secretary for consideration of the Administrative Law Judge proposed findings of fact, conclusions of law, and rule or order, together with reasons therefor and briefs in support thereof." The hearing record in this matter was closed on March 30, 2011. See Order Closing Hearing Record and Setting Closing Arguments, March 30, 2011.

motions directed to the Commission, interlocutory appeals and initial decisions and deadlines that the rules expressly authorize only the Commission to extend. 16 C.F.R. § 4.3(b). As set forth above, conditions beyond Respondent's control impacted counsel's ability to meet the April 20, 2011 deadline. Moreover, Complaint Counsel does not oppose the requested extension of time. In addition, the requested extension does not affect the deadline for filing replies and, therefore, does not affect the deadline for issuing an initial decision in this case. *See* 16 C.F.R. § 3.51(a) ("The Administrative Law Judge shall file an initial decision within 70 days after the filing of . . . reply proposed findings of fact, conclusions of law and order pursuant to § 3.46."). Based on the foregoing, good cause exists for the requested extension.

Accordingly, for the foregoing reasons, Respondent's Motion for Extension of Time is hereby GRANTED, and it is further ORDERED, that the parties shall have until 5:00 p.m. (EDT) on April 22, 2011 to file concurrent post-trial briefs, proposed findings of fact and conclusions of law, and proposed orders.² Except as set forth herein, all deadlines and other provisions set forth in the Order on Post-Trial Briefs issued March 30, 2011 are unchanged.

ORDERED:


D. Michael Chappell
Chief Administrative Law Judge

Date: April 19, 2011

² Although Respondent's requested a deadline of 5:30 p.m. on April 22, 2011, pursuant to Rule 4.3(d), "[d]ocuments must be received in the office of the Secretary of the Commission by 5:00 p.m. Eastern time to be deemed filed that day. Any documents received by the agency after 5:00 p.m. will be deemed filed the following business day." 16 C.F.R. § 4.3(d). Consistent with Rule 4.3(d), this Order requires the parties to file by 5:00 p.m. on April 22, 2011.