

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



In the Matter of)	PUBLIC
)	
THE NORTH CAROLINA [STATE] BOARD)	DOCKET NO. 9343
OF DENTAL EXAMINERS,)	
)	EXPEDITED
Respondent)	TREATMENT
)	REQUESTED

**RESPONDENT'S UNOPPOSED MOTION FOR EXPEDITED
EXTENSIONS OF TIME**

Pursuant to Rules 3.21(c)(2) and 4.3(b) of the Rules of Adjudicative Practice of the Federal Trade Commission, Respondent North Carolina State Board of Dental Examiners ("Respondent" or the "State Board") respectfully requests that the Administrative Judge grant Respondent an extension of time until 5:00 p.m. on April 25, 2011, to file and serve its Post-Trial Brief and Proposed Findings of Fact, Conclusions of Law, and Proposed Order. In the event such extension is granted, Respondent respectfully requests that the Administrative Law Judge grant Complaint Counsel the same extension of time to file and serve its Post-Trial Brief and Proposed Findings of Fact, Conclusions of Law, and Proposed Order. Respondent also requests that the related deadline for both Respondent and Complaint Counsel to file and serve their Reply Briefs and Responses to Proposed Findings of Fact be extended as well until 5:00 p.m. on May 5, 2011.

In support hereof, Respondent shows unto the Administrative Law Judge that:

1. Currently, Respondent's and Complaint Counsel's Post-Trial Brief and Proposed Findings of Fact, Conclusions of Law, and Proposed Order must be filed and

served by 5:00 p.m. on April 22, 2011, pursuant to the Order Granting Respondent's Motion for Extension of Time entered on April 19, 2011.

2. Pursuant to the Order on Post Trial Briefs entered March 30, 2011, Respondent and Complaint Counsel have a deadline of May 2, 2011 to file and serve their Reply Briefs and Responses to Proposed Findings of Fact.

3. Respondent's counsel has been diligently working towards the current April 22th deadline.

4. Unbeknownst to Respondent's Counsel, the computer server for the firm network was undergoing maintenance and service on April 22, 2010 (Good Friday), which is normally a firm holiday. As a result of that service and maintenance and an upgrade of software programs, employees of the firm and other contractors remotely working with the firm were unable to access the server, and its documents, drafts, and research. None of the employees or contractors was able to receive or send email or drafts of documents.

5. During that time period, it was not possible to work on the preparation of the Post-Trial Brief and Proposed Findings of Fact, Conclusions of Law, and Proposed Order.

6. Respondent's Counsel has consulted with Complaint Counsel in a good faith effort to resolve the issues raised by this Motion and can represent that, in the event Respondent's Motion for Extensions of Time to extend until April 25, 2011 the deadline for both Respondent's counsel and Complaint Counsel to file and serve their Post-Trial Brief and Proposed Findings of Fact, Conclusions of Law, and Proposed Order is granted, Complaint Counsel will not oppose this Motion.

8. Respondent's Counsel and Complaint Counsel also consulted with Victoria Arthaud by telephone conference on April 22, 2011. Ms. Arthaud expressed the concern that the requested extension, if granted, would impact the deadline for filing and serving the respective parties' Reply Briefs and Responses to Proposed Findings of Fact. Any extension would also necessarily affect the currently-scheduled date for closing oral arguments.

9. In the event that Complaint Counsel elects to file its Post-Trial Brief and Proposed Findings of Fact, Conclusions of Law, and Proposed Order on April 22, 2011, Respondent waives its right to contemporaneous service as provided under the current Order.

10. Further, Complaint Counsel may serve Respondent with its Proposed Findings of Fact, Conclusions of Law, and Proposed Order after having received and opened Respondent's service and making a determination that service is complete and readable in its entirety.

11. Respondent shall not seek any extensions of any other deadlines in this matter unless such request is necessitated by an Act of God, and Respondent agrees that the court will not entertain any later filing.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge:

1. Grant an extension of time until 5:00 p.m. on April 25, 2011 for Respondent and Complaint Counsel to file and serve their respective Post-Trial Brief and Proposed Findings of Fact, Conclusions of Law, and Proposed Order.

2. Grant an extension of time until May 5, 2011 for Respondent and Complaint Counsel to file and serve their respective Reply Briefs and Responses to Proposed Findings of Fact.

3. Re-schedule closing oral argument for a date to be determined during the May 9 -12, 2011 time frame.

This the 22nd day of April, 2011.

ALLEN AND PINNIX, P.A.

/s/ M. Jackson Nichols

By: _____
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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of April, 2011, I electronically filed the foregoing with the Federal Trade Commission using the Federal Trade Commission E-file system, which will send notification of such filing to the following:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room H-113
Washington, D.C. 20580
dclark@ftc.gov

I hereby certify that the undersigned has this date served a copy of the foregoing upon all parties to this cause by electronic mail as follows:

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I also certify that I have sent courtesy copies of the document via Federal Express and electronic mail to:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue N.W.
Room H-110
Washington, D.C. 20580
oalj@ftc.gov

This the 22nd day of April, 2011.

/s/ M. Jackson Nichols

M. Jackson Nichols

CERTIFICATION FOR ELECTRONIC FILING

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and by the adjudicator.

/s/_M. Jackson Nichols

M. Jackson Nichols

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)	
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[PROPOSED] ORDER FOR EXTENSIONS OF TIME

Upon consideration of Respondent North Carolina State Board of Dental Examiner's Unopposed Motion, an extension of time for Respondent and Complaint Counsel to file and serve Post-Trial Briefs and Proposed Findings of Fact, Conclusions of Law, and Proposed Order; and an extension of time for Respondent and Complaint Counsel to file and serve their Reply Brief; and Responses to Proposed Findings of Fact is GRANTED.

Respondent and Complaint Counsel are hereby granted until 5:00 p.m. on April 25, 2011 to file their respective Post-Trial Briefs and Proposed Findings of Fact, Conclusions of Law, and Proposed Order. Respondent and Complaint Counsel are hereby granted until May 5, 2011 to file their respective Reply Briefs and Responses to Proposed Findings of Fact. Closing oral arguments are hereby re-scheduled for May ____, 2011.

It is further ordered that Respondent shall waive its right to contemporaneous service of Complaint Counsel's Post-Trial Briefs and Proposed Findings of Fact, Conclusions of Law, and Proposed Order in the event that Complaint Counsel elected to file said pleadings on April 22, 2011.

Complaint Counsel may serve Respondent with its Proposed Findings of Fact, Conclusions of Law, and Proposed Order after having received and opened Respondent's service and making a determination that service is complete and readable in its entirety.

Respondent shall not seek any extensions of any other deadlines in this matter unless such request is necessitated entirely by an Act of God, and the court will not entertain any later filing.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: