

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



**In the Matter of**

Louisiana Real Estate Appraisers Board,  
Respondent

Docket No. 9374

**JOINT MOTION FOR  
THIRD REVISED SCHEDULING ORDER**

Pursuant to Commission Rules of Practice 3.21(c) and the Commission’s order dated April 24, 2018,<sup>1</sup> Complaint Counsel and Respondent Louisiana Real Estate Appraisers Board (“LREAB”)<sup>2</sup> jointly respectfully move the Court to enter the attached proposed third revised scheduling order.

The Commission issued the Complaint in this action on May 30, 2017, with a notice that the hearing would begin on January 30, 2018.<sup>3</sup> This Court issued a Revised Scheduling Order on November 14, 2017,<sup>4</sup> and a Second Revised Scheduling Order on January 24, 2018,<sup>5</sup> based on hearing dates of May 30, 2018, and June 11, 2018, respectively.

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<sup>1</sup> Commission Order Seeking Supplemental Briefing, Scheduling Oral Argument, Extending Deadline for Commission Ruling, and Rescheduling Commencement of Evidentiary Hearing, *In re La. Real Estate Appraisers Bd.*, Docket No. 9374 (April 24, 2018).

<sup>2</sup> LREAB jointly submits this motion without prejudice to its position that this proceeding should be stayed by the Commission or by the U.S. Court of Appeals for the Fifth Circuit pending a decision on its Petition for Review of the Opinion and Order of the Commission issued April 10, 2018.

<sup>3</sup> Notice, Complaint, *In re La. Real Estate Appraisers Bd.*, Docket No. 9374 (May 30, 2017).

<sup>4</sup> Order Granting Joint Motion For Revised Scheduling Order, *In re La. Real Estate Appraisers Bd.*, Docket No. 9374 (November 14, 2017).

<sup>5</sup> Second Revised Scheduling Order, *In re La. Real Estate Appraisers Bd.*, Docket No. 9374 (January 24, 2018).

By Order dated April 24, 2018, the Commission ordered, *inter alia*, that the hearing in this case would begin on October 15, 2018.

This proposed third revised scheduling order reflects the sequence of deadlines set by the Court in its original July 6, 2017, Scheduling Order, adjusted when necessary for weekends and federal holidays, and leading to a hearing beginning on October 15, 2018. Therefore, Complaint Counsel and LREAB jointly move this Court to enter the attached proposed revised scheduling order.

The proposed Third Revised Scheduling Order is attached.

Date: April 30, 2018

Respectfully submitted,

/s/ Daniel Matheson

Daniel Matheson

Lisa B. Kopchik

Michael Turner

Christine Kennedy

Geoffrey Green

Thomas Brock

/s/ W. Stephen Cannon

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*Counsel for Respondent, Louisiana Real  
Estate Appraisers Board*

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
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	)	
Louisiana Real Estate Appraisers Board,	)	DOCKET NO. 9374
	)	
Respondent	)	
_____	)	

**[PROPOSED]**  
**ORDER GRANTING JOINT MOTION FOR**  
**THIRD REVISED SCHEDULING ORDER**

On April 30, 2018, the parties filed a Joint Motion for Third Revised Scheduling Order. The parties state that the Commission’s Order dated April 24, 2018 rescheduled the hearing to commence on October 15, 2018. The parties request modification of the remaining dates in the Second Revised Scheduling Order to reflect the original sequence of dates set forth in the July 6, 2017 Scheduling Order, but adjusted for the new October 15, 2018 trial date.

The parties’ Joint Motion is GRANTED. The deadlines set forth in the Second Revised Scheduling Order are hereby extended as set forth below. All other provisions of the Scheduling Order dated July 6, 2017 remain in effect.

April 30, 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).

May 4, 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.

- August 24, 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).<sup>6</sup> See Additional Provision 7.
- September 13, 2018 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- September 13, 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.
- September 14, 2018 - Deadline for filing motions *in limine* to preclude admission of evidence. See Additional Provision 9.
- September 18, 2018 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- September 19, 2018 - Complaint Counsel files pretrial brief supported by legal authority.
- September 20, 2018 - Deadline for filing responses to motions *in limine* to preclude admissions of evidence.
- September 21, 2018 - Exchange proposed stipulations of law, facts, and authenticity.
- September 27, 2018 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- October 3, 2018 - Respondent's Counsel files pretrial brief supported by legal authority.
- October 11, 2018 - Final prehearing conference to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

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<sup>6</sup> 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.

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.

October 15, 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:

**CERTIFICATE OF SERVICE**

I hereby certify that on April 30, 2018, I filed the foregoing document electronically using the FTC's E-Filing System and served the following via email:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580  
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The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

I also certify that I delivered via electronic mail a copy of the foregoing document to:

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*Counsel for Respondent Louisiana Real Estate Appraisers Board*

Dated: April 30, 2018

By: /s/ Lisa B. Kopchik  
Lisa B. Kopchik, Attorney

**CERTIFICATE FOR ELECTRONIC FILING**

I 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 the adjudicator.

Dated: April 30, 2018

By: /s/ Lisa B. Kopchik  
Lisa B. Kopchik, Attorney