

ORIGINAL



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

In the Matter of)

LabMD, Inc.,)
a corporation,)
Respondent.)

DOCKET NO. 9357

**ORDER GRANTING JOINT MOTION
TO EXTEND DEADLINE FOR EXPERT DEPOSITIONS**

On April 10, 2014, the parties filed a Joint Motion to Extend the Deadline for Expert Depositions ("Joint Motion"). Specifically, Federal Trade Commission ("FTC") Complaint Counsel and Respondent jointly request an order extending the deadline for depositions of experts, provided under the Revised Scheduling Order issued in this case on October 22, 2013, from the current date of April 18, 2014, to April 23, 2014, for the purpose of taking the depositions of Respondent's proposed expert, Adam Fisk, and Complaint Counsel's proposed rebuttal expert, Clay Shields.

The Joint Motion states that neither expert is available for deposition prior to April 18, 2014, and that each expert can be deposed on a date subsequent to April 18, 2014. The parties state that Mr. Fisk can be made available for deposition on April 22, 2014, and Mr. Shields can be made available for deposition on April 23, 2014.

FTC Rule 3.21(c)(2) states, in pertinent part:

The Administrative Law Judge may, upon a showing of good cause, grant a motion to extend any deadline or time specified in this scheduling order other than the date of the evidentiary hearing. . . . In determining whether to grant the motion, the Administrative Law Judge shall consider any extensions already granted, the length of the proceedings to date, the complexity of the issues, and the need to conclude the evidentiary hearing and render an initial decision in a timely manner.

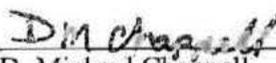
16 C.F.R. § 3.21(c)(2).

Good cause exists for the requested extension. The parties state that personal and professional commitments prevent both Mr. Fisk and Mr. Shields from being deposed before the

April 18, 2014 deadline. Furthermore, this extension, to which both parties agree, will not impact the hearing date in this matter, or any other deadlines established by the Revised Scheduling Order. The factual issues in this case are technical and complex, and the fact-finding process in this matter will be better served by enabling the parties to develop a complete record. Moreover, extending the expert discovery deadline will not affect the ability to conclude the hearing, or render an initial decision, in a timely manner.

Accordingly, the Joint Motion is GRANTED and it is hereby ORDERED that the April 18, 2014 deadline for depositions of experts is extended to April 23, 2014 for the depositions of Clay Shields and Adam Fisk. Except as modified by any prior Order issued in this matter,¹ all other pending deadlines in the Revised Scheduling Order are unchanged.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: April 11, 2014

¹ Prior Orders, dated March 26, 2014, and March 28, 2014, extended the fact discovery deadline for, respectively, the Rule 3.33 deposition of the Bureau of Consumer Protection and completion of the deposition of Detective Karina Jestes.