

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: EDITH RAMIREZ, CHAIRWOMAN
MAUREEN K. OHLHAUSEN
TERRELL MCSWEENY

In the Matter of)

PUBLIC

LabMD, Inc.)

Docket No. 9357

a corporation,)

Respondent.)

ORIGINAL

**RESPONDENT LABMD, INC.'S UNOPPOSED MOTION TO EXTEND
TIME TO FILE PETITION FOR RECONSIDERATION**

Respondent LabMD, Inc. ("LabMD") hereby respectfully requests an extension of fifteen (15) days to the deadline to file a petition for reconsideration ("petition") pursuant to 16 C.F.R. § 3.55 regarding the Federal Trade Commission ("FTC" or "Commission") Opinion and Final Order dated July 28, 2016 and served upon LabMD on August 1, 2016 pursuant to 16 C.F.R. § 4.4(a)(1)(ii). The deadline for filing a petition for reconsideration is August 15, 2016. If the Commission grants Respondent's requested relief, Respondent further requests to extend the deadline for Complaint Counsel's answer to any petition for reconsideration to September 13, 2016.

I. ARGUMENT

A. Legal Standard.

Commission Rules provide that "the Commission, for good cause shown, may extend any time limit prescribed by the rules in this chapter or by order of the Commission or an Administrative Law Judge" 16 C.F.R. § 4.3(b). The Federal Rules of Civil Procedure ("Fed. R. Civ. P.") similarly prescribe the "good cause" standard. Fed. R. Civ. P. 6(b). An extension of

time under Fed. R. Civ. P. 6(b) is appropriate when there is no showing of bad faith or that an extension would prejudice the opposing party. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260 (9th Cir. 2010); see 4B CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1165 (3d ed. 2004).

B. A Fifteen-Day Extension Is Appropriate.

Good cause exists for granting LabMD's request for a fifteen-day extension of the deadline to file any petition for reconsideration. Due to the length and complexity of the Record in this matter and the important issues it presents, Respondent requests a reasonable extension of time in which to file a proper motion for reconsideration.

An extension of fifteen (15) days will not prejudice Complaint Counsel since this request is unopposed. Moreover, Counsel for LabMD has agreed to an extension up to and including September 13, 2016, during which Complaint Counsel may file an answer to any LabMD petition for reconsideration.

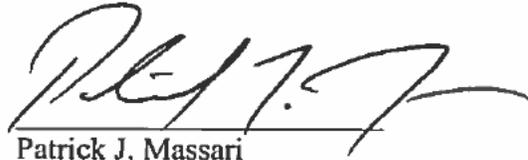
Additionally, these proceedings will not be negatively affected by these extensions because all other time limits are being followed in the filing of an application for stay pursuant to 16 C.F.R. § 3.56.

II. CONCLUSION

For the foregoing reasons, Counsel for Respondent LabMD, Inc. respectfully requests that the Commission grant this unopposed motion to extend the deadline to file a petition for reconsideration pursuant to 16 C.F.R. § 3.55 to August 30, 2016, and to extend the deadline for Complaint Counsel's answer to any petition for reconsideration to September 13, 2016.

Dated: August 10, 2016

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. J. Massari', written over a horizontal line.

Patrick J. Massari
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Cause of Action Institute
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Phone: (202) 499-4232
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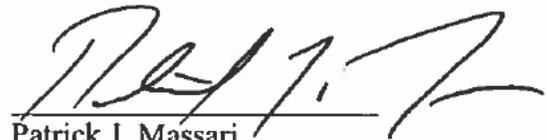
Counsel for Respondent, LabMD, Inc.

STATEMENT CONCERNING MEET AND CONFER

In accordance with 16 C.F.R. § 3.22(f) and pattern and practice regarding cooperation amongst Counsel in this proceeding, Respondent's Counsel communicated with Complaint Counsel Laura Van Druff by phone on August 10, 2016, in a good faith effort to resolve by agreement the issues raised by this motion. Ms. Van Druff indicated that Complaint Counsel does not oppose the relief sought by this motion.

Dated: August 10, 2016

Respectfully submitted,



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Counsel for Respondent, LabMD, Inc.

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|------------------|---|-----------------|
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| LabMD, Inc. |) | Docket No. 9357 |
| a corporation, |) | |
| Respondent. |) | |
| |) | |
| |) | |

[PROPOSED] ORDER

It is hereby ORDERED that:

Respondent LabMD, Inc.'s Unopposed Motion to Extend Time to File A Petition For Reconsideration is GRANTED.

Any petition for reconsideration shall be due on August 30, 2016.

Complaint Counsel's answer to any petition for reconsideration shall be due on September 13, 2016.

ORDERED:

By the Commission.

Donald S. Clark
Secretary

SEAL ISSUED:

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2016, I caused to be filed the foregoing document electronically through the Office of the Secretary's FTC E-filing system, which will send an electronic notification of such filing to the Office of the Secretary:

Donald S. Clark, Esq.
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-113
Washington, DC 20580

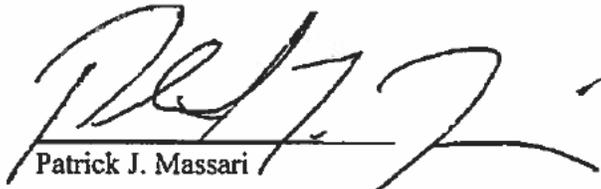
I also certify that I delivered via hand delivery and electronic mail copies of the foregoing document to:

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

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

Alain Sheer, Esq.
Laura Riposo Van Druff, Esq.
Megan Cox, Esq.
Ryan Mehm, Esq.
John Krebs, Esq.
Jarad Brown, Esq.
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Room CC-8232
Washington, DC 20580

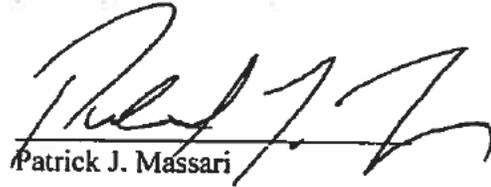
Dated: August 10, 2016


Patrick J. Massari

CERTIFICATE OF 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: August 10, 2016


Patrick J. Massari

Notice of Electronic Service

I hereby certify that on August 10, 2016, I filed an electronic copy of the foregoing Motion For Extension Of Time To File Petition For Reconsideration, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on August 10, 2016, I served via E-Service an electronic copy of the foregoing Motion For Extension Of Time To File Petition For Reconsideration, upon:

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