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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                        |  |
|------------------------|--|
| Proceeding             | 91191371   |
| Party                  | Plaintiff<br>ClearChoice Holdings, LLC   |
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| Submission             | Other Motions/Papers   |
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| Date                   | 11/11/2011   |
| Attachments            | DALLAS-#2451.pdf ( 4 pages )(15219 bytes )   |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CLEAR CHOICE HOLDINGS, LLC,

Opposer,

v.

DALE D. GOLDSCHLAG, DDS

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Opposition No. 91191371

**OPPOSER'S CONSENT MOTION  
TO EXTEND DEADLINES AND TO REOPEN**

Opposer, Clear Choice Holdings, LLC, files this Consent Motion to Extend Deadlines and to Reopen and, in support thereof, respectfully shows as follows:

**I. INTRODUCTION**

On August 5, 2011, the following deadlines were set:

| <b>Date</b>       | <b>Deadline</b>                         |
|-------------------|---|
| September 9, 2011 | Discovery Closes                        |
| October 24, 2011  | Plaintiff's Pretrial Disclosures        |
| December 8, 2011  | Plaintiff's 30-day Trial Period Ends    |
| December 23, 2011 | Defendant's Pretrial Disclosures        |
| February 6, 2012  | Defendant's 30-Day Trial Period Ends    |
| February 21, 2012 | Plaintiff's Rebuttal Disclosures        |
| March 22, 2012    | Plaintiff's 15-Day Rebuttal Period Ends |

After these deadlines were set and as the parties were discussing potential settlement and attempting to set the deposition of Applicant. The parties are continuing to negotiate settlement and to attempt to schedule the deposition of Applicant.

## II. ARGUMENT AND AUTHORITIES

“Rule 16(b) provides that once a scheduling order has been entered, it ‘may be modified only for good cause and with the judge’s consent.’ *Marathon Financial Ins., Inc. v. Ford Motor Co.*, 591 F. 3d 458, 470 (5th Cir. 2009) (quoting Fed. R. Civ. P. 16(b)). In the present case, there is good cause to amend the scheduling order.

In the present case, there is good cause to amend the schedule to allow time for the deposition of Applicant and to permit time for settlement negotiations. Clear Choice is continuing its attempts to secure the deposition of Applicant. This deposition is essential to Clear Choice’s preparation of its case, and Clear Choice will be severely prejudiced if it is not permitted to take the deposition. Therefore, reopening discovery solely for the purpose of the deposition of Applicant is appropriate. Also, a thirty day extension is appropriate to allow time for settlement negotiations to continue.

## III. CONCLUSION

As stated above, there is good cause to amend the schedule in this matter according to allow for the deposition of Applicant and for settlement negotiations to continue. Therefore, Clear Choice requests that the deadlines be extended for thirty days to permit time for the deposition and negotiations as follows:

| <b>Date</b>      | <b>Deadline</b>                      |
|------------------|--------------------------------------|
| December 9, 2011 | Discovery Closes                     |
| January 24, 2012 | Plaintiff’s Pretrial Disclosures     |
| March 8, 2012    | Plaintiff’s 30-day Trial Period Ends |
| March 23, 2012   | Defendant’s Pretrial Disclosures     |
| May 6, 2012      | Defendant’s 30-Day Trial Period Ends |

|               |   |
|---------------|---|
| May 21, 2012  | Plaintiff's Rebuttal Disclosures        |
| June 22, 2012 | Plaintiff's 15-Day Rebuttal Period Ends |

Respectfully submitted,

/s/ Brian A. Colao

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of Clear Choice Holdings, LLC's Opposer's Emergency Motion To Amend Schedule was served via email and Certified Mail, Return Receipt Requested to the party listed below at the address indicated on this the 11<sup>th</sup> day of November, 2011.

Adam B. Kaufman  
Adam B. Kaufman & Associates, PLLC  
585 Stewart Ave., Suite 302  
Garden City, NY 11530

/s/ Brian A. Colao

Brian A. Colao

**CERTIFICATE OF CONFERENCE**

Counsel for Plaintiff has conferred with counsel for Defendants, on November 9, 2011 and Defendants agree to the relief requested.

/s/ Brian A. Colao  
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Brian A. Colao