

UNITED STATES OF AMERICA  
BEFORE THE FOOD AND DRUG ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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In the Matter of		)	
		)	
ECUMED HEALTH GROUP		)	ADMINISTRATIVE COMPLAINT
a corporation,		)	<u>FOR CIVIL MONEY PENALTY</u>
		)	
and		)	
		)	
AMADOR REYES,		)	FDA Docket: 2004H-0322
JUAN C. CARRAI,		)	
RICHARD W. STONE, M.D., and		)	
ERLINDA E. ENRIQUEZ, M.D.,		)	
individuals.		)	
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MOTION FOR AN EXTENSION OF TIME TO  
FILE A DISPOSITIVE MOTION

Pursuant to 21 C.F.R. § 17.32, Complainant Center for Devices and Radiological Health respectfully moves to extend the time within which it may file a dispositive motion. Pursuant to the Amended Scheduling Order of February 22, 2005 (hereafter, "the Amended Schedule"), dispositive motions are due April 22, 2005. The grounds for this Motion for an Extension of Time are as follows:

Ecumed Health Group, Amador Reyes, Juan C. Carrai, Richard W. Stone, and Erlinda E. Enriquez (hereafter, "Respondents") have not fully responded to Complainant's discovery requests within the time allotted under FDA regulations or within the discovery deadline as set forth in the Amended Schedule.

According to 21 C.F.R. § 17.23(a), a party responding to a request for production of documents during discovery must provide the responsive documents no later than 30 days after the request has been made. Complainant served its request for discovery on all Respondents on February 18, 2005. Therefore, Respondents were required to produce all relevant documents by March 21, 2005. In addition to this requirement, by agreement of the parties and by Order of the Presiding Officer, the Amended Schedule set forth that discovery was to be completed by March 25, 2005.<sup>1</sup>

The Respondents have not fully responded to Complainant's discovery request by either deadline. As of April 14, 2005, Complainant has not received any documents from four of the Respondents and has received a partial production of documents from one Respondent. Complainant and Respondents have entered into good faith discussions to resolve these production issues. Each Respondent has assured Complainant that he, she, or it is gathering documents and will soon produce all documents that respond to Complainant's relevant requests.

Because discovery has not been completed, and dispositive motions are due April 22, 2005, Complainant requires additional time to receive each Respondent's document production and

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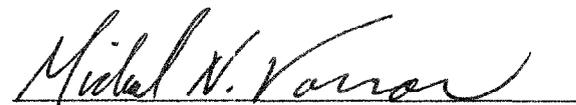
<sup>1</sup>Complainant produced documents on or before March 25, 2005, to each Respondent that served it with a request for production

analyze any and all documents that it receives. Complainant anticipates that it will need until and including June 10, 2005, to file its dispositive motion.

Accordingly, Complainant respectfully moves for an extension of time to file its dispositive motion, until and including June 10, 2005.

DATED: April 14, 2005

Respectfully submitted,



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of documents.

CERTIFICATE OF SERVICE

I certify under the penalty of perjury that on this 14th day of April, 2005, I served a copy of this Motion for an Extension of Time to File a Dispositive Motion via facsimile and first class mail on the following:

Mario R. Delgado  
Attorney for Ecumed Health  
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_____	)	

ORDER

UPON CONSIDERATION of Complainant's Motion for an Extension of Time to File a Dispositive Motion, and for good cause shown, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

ORDERED, that Complainant's Motion should be, and hereby is, granted, and that Complainant shall have until and including June 10, 2005, in which file a dispositive motion.

\_\_\_\_\_  
Daniel J. Davidson  
Administrative Law Judge  
U.S. Food and Drug Administration  
Room 9-57, HF-3  
5600 Fishers Lane  
Rockville, MD 20857