

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of  
NORTH TEXAS SPECIALTY PHYSICIANS,  
a corporation.

**DOCKET NO. 9312**

**COMPLAINT COUNSEL'S OBJECTIONS TO RESPONDENT  
NORTH TEXAS SPECIALTY PHYSICIANS' SECOND REQUEST TO  
COMPLAINANT FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to § 3.37 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings ("Rules of Practice"), 16 C.F.R. § 3.37, Complaint Counsel hereby submits objections to Respondent North Texas Specialty Physicians' Second Request to Complainant For Production of Documents and Things ("Request") issued on November 20, 2003.

Notwithstanding these objections, Complaint Counsel will respond subject to the objections made. Such responses shall not constitute a waiver of any applicable objection or privilege, including a right to assert additional objections at a later date.

Response and Objections

- 1. Produce all documents that you have received from third parties that relate to NTSP or that you have obtained in connection with this adjudicative proceeding.*

Complaint Counsel objects to this Request in that it trespasses on a variety of privileges

of the Federal Trade Commission including, but not limited to, the work product doctrine, the government informant privilege, and the deliberative process privilege, and on the confidentiality rights of third parties that are uninvolved in this action.

Complaint Counsel further objects to this Request for Production insofar as the phrase “that relate to NTSP” is vague and ambiguous. Insofar as respondent may intend that phrase to embrace, for example, documents gathered in other Federal Trade Commission investigations of price-fixing by or through other physician organizations, those documents are not relevant, or their marginal relevance is plainly outstripped by the burden of examining numerous and extensive other Commission investigative files and the deleterious impact that the disclosure of materials from those files might have on the Commission’s ability to conduct investigations in the future. If Respondent (or Complaint Counsel, for that matter) wishes to obtain information or adduce evidence relating to the behavior of other Texas physician organizations, they can do so directly by conducting discovery of those organizations, without implicating the privileges of the Commission or the confidentiality interests of third parties.

Complaint Counsel also objects to this Request for Production in that Complaint Counsel’s production would be duplicative of productions already made or to be made under Judge Chappell’s Scheduling Order. Complaint Counsel has several times informed counsel for Respondent that Complaint Counsel promptly will produce all documents obtained from third parties in connection with this adjudicative proceeding. We have done so, and will continue to do so as provided in Judge Chappell’s Scheduling Order. Finally, Complaint Counsel has informed Respondent’s counsel that, except where it already is in the process of producing those documents to respondent, complaint counsel has not used, nor will it use, documents, or

information obtained from documents, produced in investigations of other physician organizations.

Dated: \_\_\_\_\_, 2003

Respectfully submitted,

---

Michael Bloom  
Attorney for Complaint Counsel  
Federal Trade Commission  
Northeast Region  
One Bowling Green, Suite 318  
New York, NY 10004  
(212) 607-2801  
(212) 607-2822 (facsimile)

## CERTIFICATE OF SERVICE

I, Christine Rose, hereby certify that on December 1, 2003, I caused a copy of Complaint Counsel's Objections to Respondent North Texas Specialty Physicians' Second Request to Complainant for Production of Documents and Things to be served upon the following persons:

Gregory Huffman, Esq.  
Thompson & Knight, LLP  
1700 Pacific Avenue, Suite 3300  
Dallas, TX 75201-4693  
Gregory.Huffman@tklaw.com

Hon. D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
Room H-104  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580

Office of the Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580

---

Christine Rose  
Honors Paralegal