

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



In the Matter of)
OSF Healthcare System,) DOCKET NO. 9349
a corporation, and)
Rockford Health System,)
a corporation,)
Respondents.)

**ORDER GRANTING COMPLAINT COUNSEL'S
MOTION FOR *IN CAMERA* TREATMENT**

I.

Pursuant to Rule 3.45(b) of the Commission's Rules of Practice and the Scheduling Order entered in this matter, on March 20, 2012, Complaint Counsel filed a motion seeking *in camera* treatment of seven proposed exhibits ("Motion"). Respondents do not oppose the Motion. As set forth below, the Motion is GRANTED.

II.

The standards by which Complaint Counsel's Motion is evaluated are set forth in the Order on Respondents' Motion for *In Camera* Treatment, issued herewith, on March 29, 2012.

Complaint Counsel seeks *in camera* treatment for seven proposed exhibits which it states relate to Complaint Counsel's experts: (1) five exhibits encompassing Dr. Cory Capps' expert reports, deposition testimony, and supporting materials from the related federal district court proceeding and this proceeding; and (2) two exhibits containing excerpts from Nancy McAnallen's deposition testimony from the district court proceeding. Complaint Counsel asserts that Dr. Capps' materials rely on, discuss, and integrate confidential business information, documents, and testimony provided to Complaint Counsel by Respondents, third-party hospitals and commercial health plans, and other sources. Complaint Counsel further asserts that because Dr. Capps consolidated and synthesized that confidential information in his analysis, it would be extremely difficult, if not impossible, for third parties to review his reports or testimony for their own confidential information without simultaneously learning others' confidential information as well. Similarly, Complaint Counsel asserts, the excerpts from

Ms. McAnallen's deposition testimony contain competitively sensitive and confidential business information belonging to third parties. Complaint Counsel further asserts that that information, which is subject to contractual non-disclosure agreements, is readily identifiable and cannot be redacted without materially altering the content of her testimony.

Complaint Counsel supports its request with the Declaration of Kenneth Field, Attorney in the Bureau of Competition. Complaint Counsel asserts that its request is narrowly tailored to protect Respondents and third parties from competitive injury. Consistent with prior orders concerning healthcare-related information, Complaint Counsel requests that these materials be accorded *in camera* treatment for a period of five years.

III.

Complaint Counsel has narrowly tailored its request to only those documents and excerpts of testimony that meet the Commission's strict standards for *in camera* treatment. Accordingly, Complaint Counsel's Motion is GRANTED.

The request for *in camera* treatment, for a period of five years, to expire April 17, 2017, is granted for the following exhibits: PX2501, PX2506, PX2515, PX2520, and PX4044; and to the following excerpts of PX4047 (38:13-41:17, 44:8-46:1, 53:8-19, 59:1-7, 63:2-66:3, 68:3-11, 71:5-15, 75:23-76:5) and PX4048 (164:23-165:4, 190:5-191:16, 202:8-9, 208:13-23, 257:8, 261:10-262:16, 266:3-21).

ORDERED:

D M Chappell
D. Michael Chappell
Chief Administrative Law Judge

Date: March 29, 2012