

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
Office of Administrative Law Judges**

In the Matter of)	
)	
Evanston Northwestern Healthcare Corporation,)	Docket No. 9315
a corporation, and)	
)	
ENH Medical Group, Inc.,)	
a corporation.)	
)	

**COMPLAINT COUNSEL’S RESPONSE TO RESPONDENTS’
MOTION TO COMPEL THIRD PARTY DISCOVERY**

On August 27, 2004, Respondents filed several motions to compel discovery from various third parties, including Advocate Health Care and First Health Care Corporation. The subpoenas which Respondents seek to enforce had return dates of four months ago.

With this backdrop, Complaint Counsel must note Respondents’ strenuous objection to Complaint Counsel’s motion, filed more than one week earlier, to compel Respondents to produce responsive electronic documents.¹ Respondents insisted that:

“Complaint Counsel’s motion should be denied because it was filed without any valid excuse on the eve of the September 13, 2004, close of discovery.”²

With the competing demands of the discovery schedule by which all parties have had to abide, the timing of Respondents’ discovery motion is easy to understand. In this light, however, Complaint Counsel respectfully suggest that the Court – and Respondents – should anticipate

¹ Complaint Counsel’s Motion to Compel Respondents’ Production of Documents from Electronic Files, dated August 19, 2004.

² Respondents’ Opposition to Complaint Counsel’s Motion to Compel, dated September 2, 2004, at 2.

that both parties may have to bring discovery disputes to the Court's attention "on the eve of the September 13, 2004, close of discovery."

Complaint Counsel express no position regarding Respondents' motion to compel.

Respectfully Submitted,

Dated: _____

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing documents were served on counsel for the respondents by electronic mail and first class mail delivery:

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