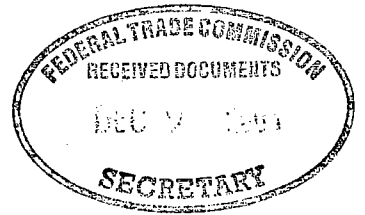


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of )  
)  
)

North Texas Specialty Physicians, )  
Respondent. )  
)  
)

Docket No. 9312

**ORDER ON NON PARTY TEXAS ONCOLOGY P.A.'S  
MOTION FOR PROTECTIVE ORDER MODIFYING  
OR LIMITING COMPLAINT COUNSEL'S SUBPOENA**

On November 20, 2003, non party Texas Oncology, P.A. ("TOPA") filed a motion for a protective order modifying or limiting the subpoena *duces tecum* served on TOPA by Complaint Counsel. TOPA asserts that the subpoena does not provide adequate time to produce documents, is overly broad, imposes an undue burden on it, and seeks privileged and confidential information. TOPA further asserts that it made good faith efforts to resolve its disputes with Complaint Counsel prior to filing its motion.

TOPA seeks an order: (1) directing that TOPA need not produce individual physicians' documents; (2) limiting the scope of the subpoena to two years; (3) providing more protection than is provided under the current Protective Order Governing Discovery Material, dated October 16, 2003; and (4) requiring Complaint Counsel to reimburse TOPA for all expenses incurred in complying with and contesting the subpoena.

Under the Commission's Rules of Practice, within ten days after service of any written motion, "the opposing party shall answer or shall be deemed to have consented to the granting of relief asked for in the motion." 16 C.F.R. § 3.22(c). The certificate of service indicates that Complaint Counsel was served on November 19, 2003, but does not indicate the method of service. If TOPA's motion was served upon Complaint Counsel by first-class mail, 3 days shall be added to the prescribed period. 16 C.F.R. § 4.3(c). Complaint Counsel's opposition was due, at the latest, by December 3, 2003.

Complaint Counsel has not filed an opposition to TOPA's motion. Accordingly, TOPA's motion is GRANTED IN PART AND DENIED IN PART.

IT IS HEREBY ORDERED THAT:

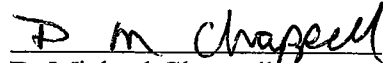
TOPA need not produce individual physician's documents;

The scope of the subpoena is limited to two years;

The Protective Order Governing Discovery Material will not be amended; and

Complaint Counsel is not required to reimburse TOPA for expenses incurred in complying with and contesting the subpoena.

ORDERED:

  
D. Michael Chappell  
Administrative Law Judge

December 9, 2003