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	Neither TOPA nor its physicians are parties to this adjudicative proceeding. TOPA has never
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:	NTSP's business practi	ices only as to the non-risk co	ntracts. See, Complaint ¶1	4. Neither TOPA
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	approximately 200 physicians – a total of over a thousand categories of documents) Subpoena at
	p. 10; Request No. 14 (requesting documents sufficient to show physician's annual revenues
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	derived from treatment of natients that reside in (a) Tarrant County: (b) Johnson County: (c)
	
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the time to respond to the FTC subpoena so as to permit TOPA adequate time to investigate the impact on TOPA's business operations of attempting to respond to the FTC subpoena, and to permit the parties time needed to meet and confer in a good faith effort to resolve issues raised by the subpoena without prejudice to TOPA. The FTC would not agree to extend the deadline

willing to limit the scope of the subpoena on some matters "for now", most requests were refused. Adams Decl., ¶5. Having attempted in good faith to resolve these issues informally,

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	(authorizing Administrative Law Judge to "deny discovery or make any order which justice
	requires to protect a party or other person from annoyance, embarrassment, oppression, or undue
	burden or expense"); see also Fed. R. Civ. P. 26(c) (court may grant a protective order to protect
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	associations. For exam	aple, the FTC has requested v	arious categories of docum	ents related to the
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that the FTC subpoena be expressly limited to the last 2 years.

C. Subpoena's Burdens Dwarf Benefits.

The burden of complying with this overbroad subpoena dwarfs the likely benefit. For

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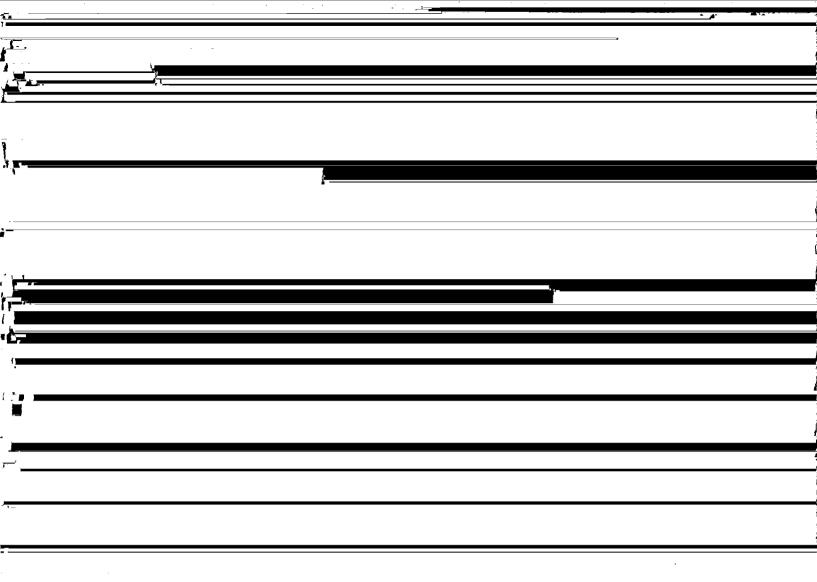
Hundreds of thousands of pages of information would have to be reviewed and many amployees ۲ divartad for

should not be required to produce any documents unless and until the FTC limits its requests in a manner sufficient to reasonably alter that balance.

D. Existing Protective Order Does Not Adequately Protect TOPA.

المتاكرين ورايتكم مساهدا

Many of the documents requested by the FTC subpoena contain competitively sensitive information, such as pricing, revenues, contract terms, utilization, and practice analysis data. All



attorneys in the case from discussing the data in the documents with their respective clients. TOPA respectfully submits that it should not be required to produce any documents unless and until the entry of a more restrictive protective order that adequately protects TOPA and its patients while reducing the administrative cost and burden on TOPA to comply with the order.

E. FTC Should Reimburse Non-Party TOPA For Its Expenses.

F

The cost of complying with the FTC subpoena in its present form will be substantial requiring the work of dozens of employees reviewing, organizing, and copying thousands of decuments. Sime Durit 18. TOPA will also income local and constantiants.

Respectfully submitted,

PASSMAN & JONES, A Professional Corporation

By: James F. Adams

State Bar No. 008363450

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1201 Eim Street Dallas, Texas 75270 (214) 742-2121 (214) 748-7949 – FAX

ATTORNEYS FOR NON-PARTY MOVANT TEXAS ONCOLOGY, P.A.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the foregoing instrument was served on the

following on November 19, 2003:

Michael J. Bloom Federal Trade Commission

New York, NY 10004

Barbara Anthony, Director

Danala di Aunala

Office of the Secretary Federal Trade Commission Room H-159 600 Pennsylvania Avenue, NW The state of the s

Gregory S.C. Huffman Thompson & Knight, L.L.P. 1700 Pacific Ave. #3300 Dallas, TX 75201-4693

James F. Adams

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	The term "year" means either the calendar year or, for financial records, the fiscal year.
16.	The term "surrent" means and an a bit
	The term "agreement" means any oral or written contract, arrangement or understanding,
	whether formal or informal, between two or more persons, together with all modifications or amendments.
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17.	The term "plan" means a proposal mean with the
	The term 'plan' means a proposal, recommendation or consideration, whether or not precisely formulated, finalized, authorized, or adopted.
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Subpoena Duces Tecum in Texas Oncology In 70 North Texas Specialty Physicians Docket Number 9312

INSTRUCTIONS

1. Unless otherwise indicated, each specification covers documents dated, generated, received, or in effect from January 1, 1998 to the September 30, 2003.

Compliance with this request requires a search of all documents, wherever located, within the possession, custody, or control of practice group.

Production of documents "separately for each physician in the practice group" requires the production of documents applicable to each physician individually and to physicians within the practice group more generally (e.g., a payor-practice group contract for the provision of medical services by the practice group generally). Where documents applicable to individual physicians are upavailable generally responsive documents

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Subpoona Duces Tecum to Texas Oncology In re North Texas Specialty Physicians Docket Number 9312

employees of practice group or who do not work on practice group's premises.

6. The response to this Request shall be submitted in the following manner:

Documents provided shall be complete and, unless privileged, unredacted, submitted as found in the company's files (e.g., documents that in their original condition were stapled, clipped or otherwise fastened together or maintained in separate file folders shall be produced in such form).

practice group may submit legible photocopies (with color photocopies where necessary to interpret the document), in lieu of original documents, provided that such copies are recommended in

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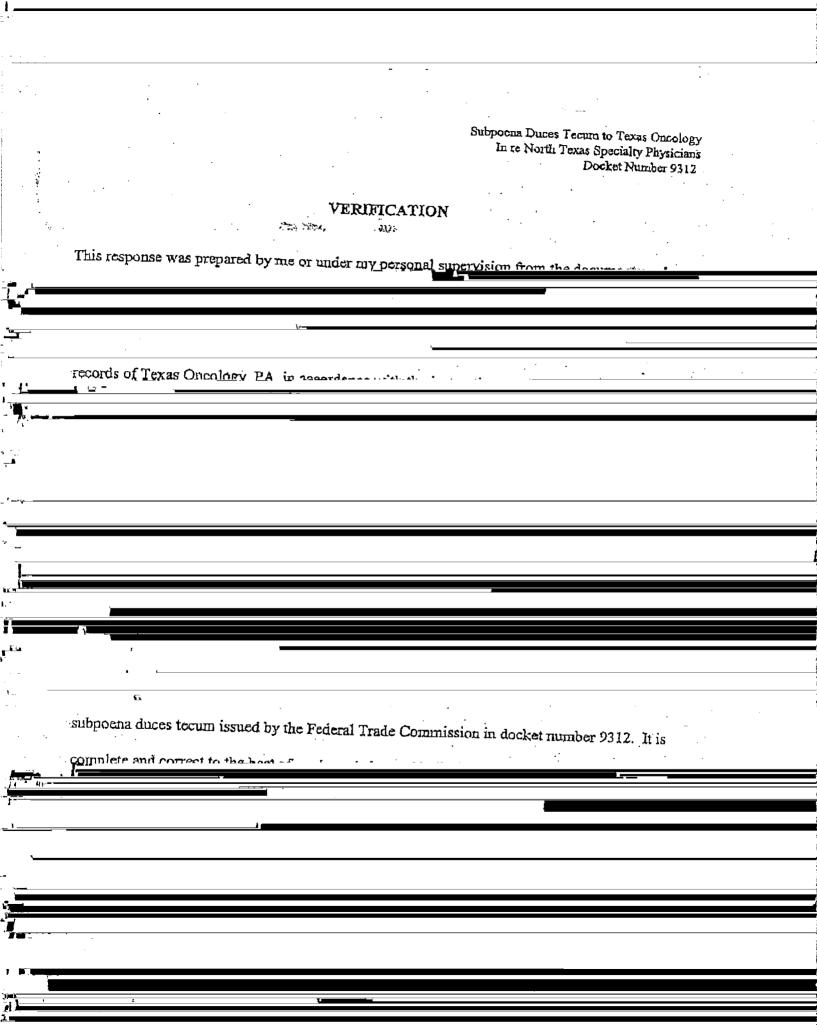
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		by certify that on November 6, 200 i to be served upon the following j	03, I caused a copy of the persons by certified mail:
-	Texas Oncology, PA		
	1001 12th Avenue, Suite 200 Fort Worth. Texas 76104		
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UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

In the Matter of

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NORTH TEXAS SPECIALTY PHYSICIANS

Docket No. 9312

DECLARATION OF JAMES F. ADAMS

l, James F. Adams, declare as follows:

1. My name is James F. Adams. I am over the age of 21 years old, and I am competent and

qualified to make this declaration. I have nover been convicted - C - C.1.

turpitude. I have personal knowledge of the facts set forth herein, all of which are true and correct.

2. I am an employee of the law firm of Passman & Jones, which has been retained by Texas Oncology, P.A. ("TOPA") to represent it in connection with a subpoena duces tecum issued to

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	subpoena with FTC attorney John Platt. Later the same day, Mr. Platt and I discussed at length	
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	subpoond with FTC automey John Plat. Later the same day, Mr. Platt and I discussed at length
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was full. I was told by the FTC staff that Mr. Platt would not be back in the office until November 21, 2003, the compliance deadline. On that same day, I left a message for Ms. Coppola requesting to discuss the scope of the FTC subpoena, an extension of time in which to respond, and confer regarding TOPA's motion for a protective order. I did not receive a reply as of the execution of this declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 19, 2003.

James F. Adams

Declaration of James F, Adams - Page 3 222461v1

UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

In the Matter of

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NORTH TEXAS SPECIALTY PHYSICIANS

Docket No. 9312

DECLARATION OF J. E. SIMS

I, J. E. Sims, declare as follows:

1. My name is J. E. Sims. I am over the age of 21 years old and I am competent on

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4. North Texas Specialty Physicians ("NTSP") is an independent physician association operating in Fort Worth, Texas. TOPA has never been a member of NTSP. Neither TOPA nor its physicians currently have any "non-risk" payor contracts through NTSP.

5. The FIC subpoena appears to seek documents related to and controlled by the individual physician members of TOPA. For avanuate the trace

personal practice data that TOPA, as a group practice, does not have a need to routinely report broken down by the individual physicians.

6. The FTC subpoena seeks documents generated or received over almost a 6-year period.

The amount of effort time and avan-

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9. Many of the documents requested by the FTC subpoena contain competitively sensitive information, such as pricing, revenues, contract terms, utilization, and practice analysis data. All such information is confidential and treated by TOPA as trade secrets. In my opinion, TOPA would be competitively disadvantaged if such information were disclosed to TOPA's competitors or its payors. Some of the requested information, in its current form, also necessarily contains patient identification and other patient data.

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