

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

IN THE MATTER OF

NORTH TEXAS SPECIALTY PHYSICIANS,  
A CORPORATION.

Docket No. 9312

**NORTH TEXAS SPECIALTY PHYSICIANS' MOTION TO COMPEL SUBSTITUTION OF CORPORATE  
REPRESENTATIVE FOR DEPOSITION FROM NON-PARTY AETNA HEALTH INC**

Pursuant to 16 C.F.R. § 3.38, Respondent North Texas Specialty Physicians ("NTSP")

had no knowledge of any information (other than what was in the produced documents) before 2001, even though the subpoena noticed information beginning in 1998.<sup>3</sup> Aetna has a current employee, Chris Jagmin, who was involved with NTSP and is quite knowledgeable on these topics and dates. Dave Roberts repeatedly identified Chris Jagmin as the person who would have

“complete, knowledgeable, and binding answers.”<sup>5</sup> This affirmative duty includes a

“diligent good faith endeavor” to designate knowledgeable persons and prepare them

properly.<sup>6</sup> If the designated persons do not meet these requirements during the deposition, the organization is required to provide a substitute that does.<sup>7</sup>

Here, Astra presented Dave Roberts as the representative knowledgeable about all

Jagmin and Celina Burns.<sup>9</sup> For this reason, NTSP requested that Aetna designate both Roberts

and Jagmin as representative deponents. Aetna responded that it would designate Roberts only

but that it would educate Roberts on all information known to Jagmin. It is clear from the deposition that Roberts was not so educated or otherwise properly prepared for the deposition on

all pertinent examination topics and dates.<sup>10</sup> The Fifth Circuit found that a corporation violated

III.

Conclusion

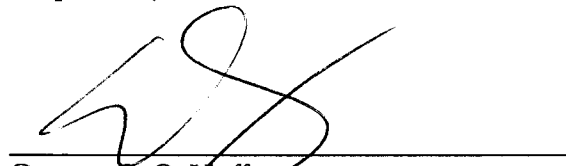
For all of these reasons, NTSP requests that the Administrative Law Judge (a) grant its

motion to compel (b) order Astra Health Inc. to substitute and make available for deposition

within ten days from the date of the order, Chris Jagmin or another corporate representative fully knowledgeable of information noticed in NTSP's Subpoena *Ad Testificandum* examination topics:

and (c) grant such other and further relief to which NTSP may be justly entitled.

Respectfully submitted,



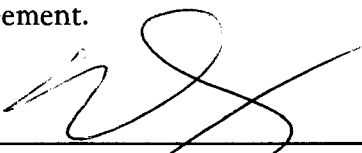
A handwritten signature in black ink, appearing to be 'C. Jagmin', is written over a horizontal line.

CERTIFICATE OF CONFERENCE

CONFERENCE BETWEEN [REDACTED] AND [REDACTED]

Aetna Health Inc. in an effort in good faith to resolve by agreement the issues raised by this

motion and has been unable to reach such an agreement.

  
\_\_\_\_\_  
William M. Katz, Jr.

CERTIFICATE OF SERVICE

I, William M. Katz, Jr. hereby certify that on January 30, 2004, I caused a copy of the foregoing

Michael Bloom (via e-mail and Federal Express)  
Senior Counsel  
Federal Trade Commission  
Northeast Region  
One Bowling Green, Suite 318  
New York, NY 10004

D E L A W A R E     A     S     S     O     C     I     E     T     Y



# Exhibit A

---



THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

1700 PACIFIC AVENUE • SUITE 3300  
DALLAS, TEXAS 75201-4893  
(214) 969-1700  
FAX (214) 969-1751  
www.tklaw.com

AUSTIN  
DALLAS  
FORT WORTH  
HOUSTON

ALGIERS  
MONTERREY  
PARIS  
RIO DE JANEIRO

DIRECT DIAL: 214.969.1372  
DIRECT FAX: 214.999.1662  
E-MAIL: Gregory.Binns@tklaw.com

January 12, 2004

VIA HAND DELIVERY

Aetna Health Inc.

350 N. St. Paul Street  
Dallas, TX 75201

Re: North Texas Specialty Physicians, Docket No. 9312

To Whom it May Concern:

Enclosed please find a subpoena *ad testificandum* for the above captioned case.

JANUARY 12, 2004  
PAGE 2

---

---

bcc: Karen Van Wagner (w/enclosure)

---

---

---

---

---

Gregory Huffman (w/enclosure)  
William Katz (w/enclosure)



# SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO

Aetna Health Inc.  
c/o C T Corporation System, Registered Agent  
350 N. St. Paul Street  
Dallas, Texas 75201

~~is attached for terms of examination~~

2. FROM

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING

4. YOUR APPEARANCE WILL BE BEFORE...

**RETURN OF SERVICE**

*I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)*

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

*on the person named herein on:*

(Month, day, and year)

(Name of person making service)

Pursuant to 16 C.F.R. § 3.33(c), Aetna Health Inc. shall designate one or more officers.

directors, or managing agents, or other persons who consent to testify on its behalf, to testify on the topics of examination listed below. The persons so designated shall testify as to matters know or reasonably available to the organization.

**Topics for Examination**

Texas Inc., Aetna U.S. Healthcare, or any of its parents, subsidiaries, affiliates, predecessors,

I, Greg D. Binns, hereby certify that on January 12, 2004, I caused a copy of the foregoing to  
be mailed upon the following by a mail and Federal Express:

Michael Bloom  
Senior Counsel  
Federal Trade Commission  
Northeast Region  
One Bowling Green, Suite 318  
New York, NY 10004

and upon the following via hand delivery

Aetna Health Inc.

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

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

Docket No. 9312

COMPLAINT COUNSEL'S PRELIMINARY WITNESS LIST

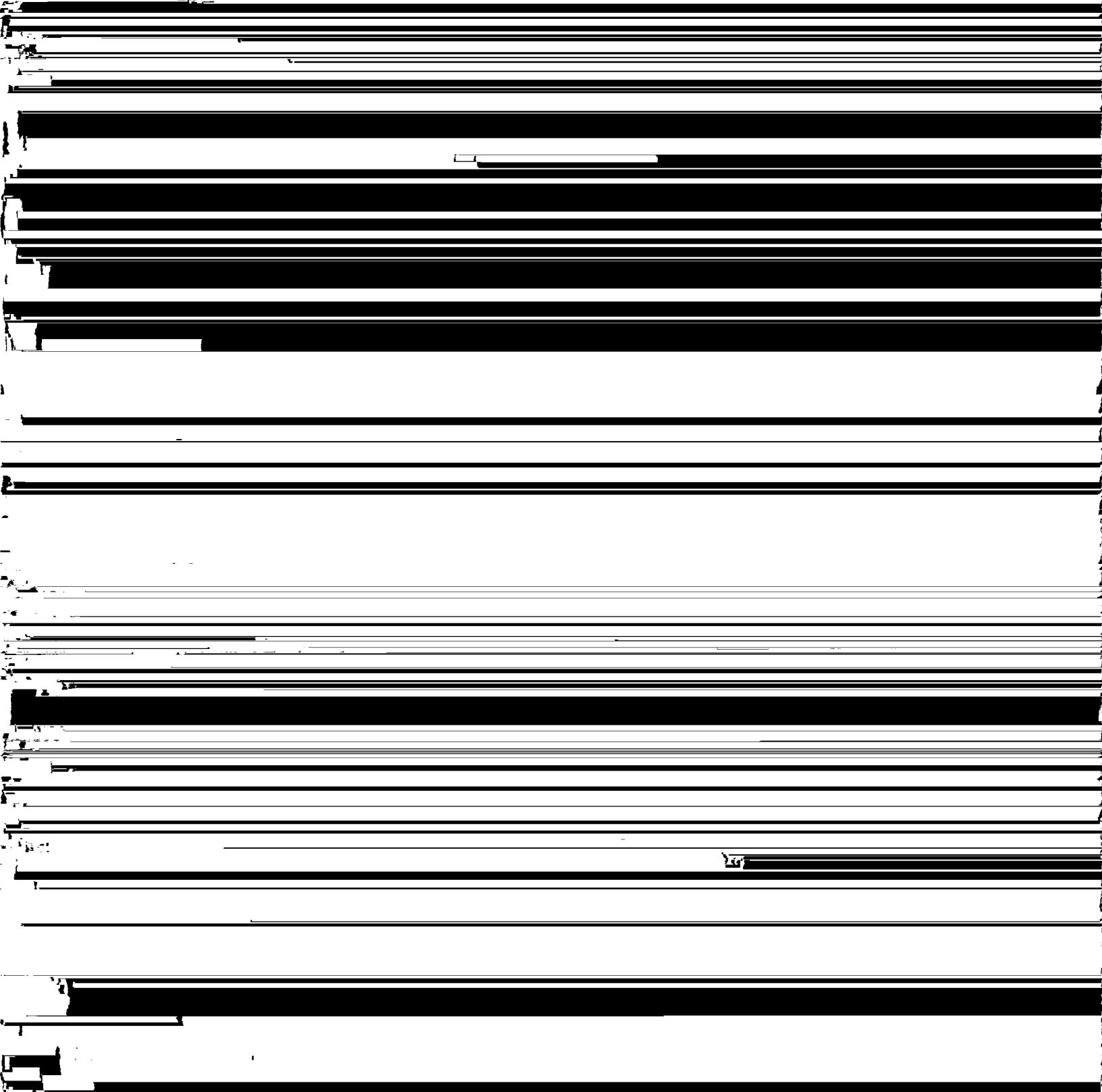
Pursuant to the scheduling order in this matter, Complaint Counsel submits our

preliminary witness list. We reserve the right to

**THIRD PARTY WITNESSES**

1. **Rick Haddock, Blue Cross Blue Shield of Dallas, Texas**

**MAY 11 1995 10 00 AM**





- NTSP's explicit or implicit refusals to deal or collective de participations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.

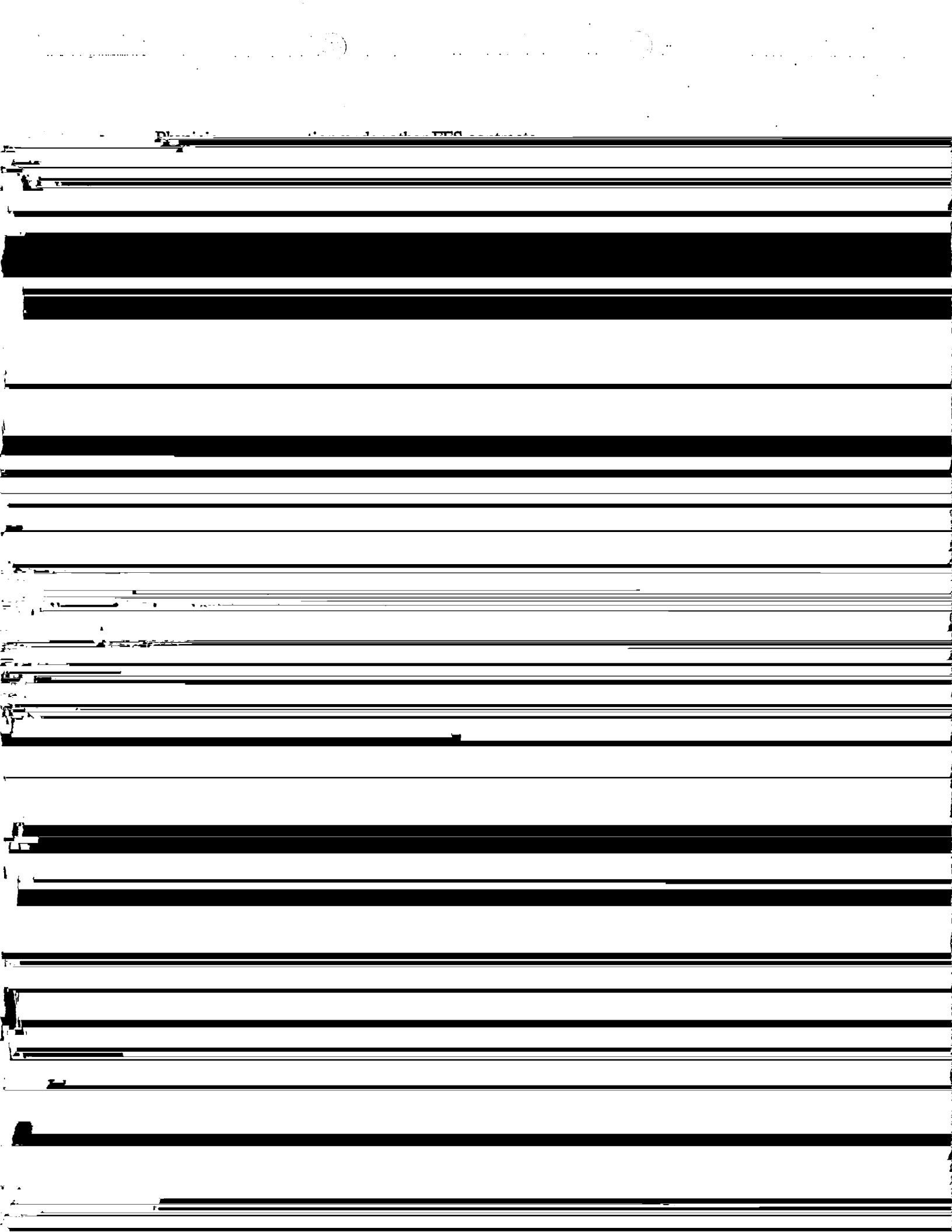
**3. Thomas Quirk and Dr. David Ellis, United Healthcare of Texas**

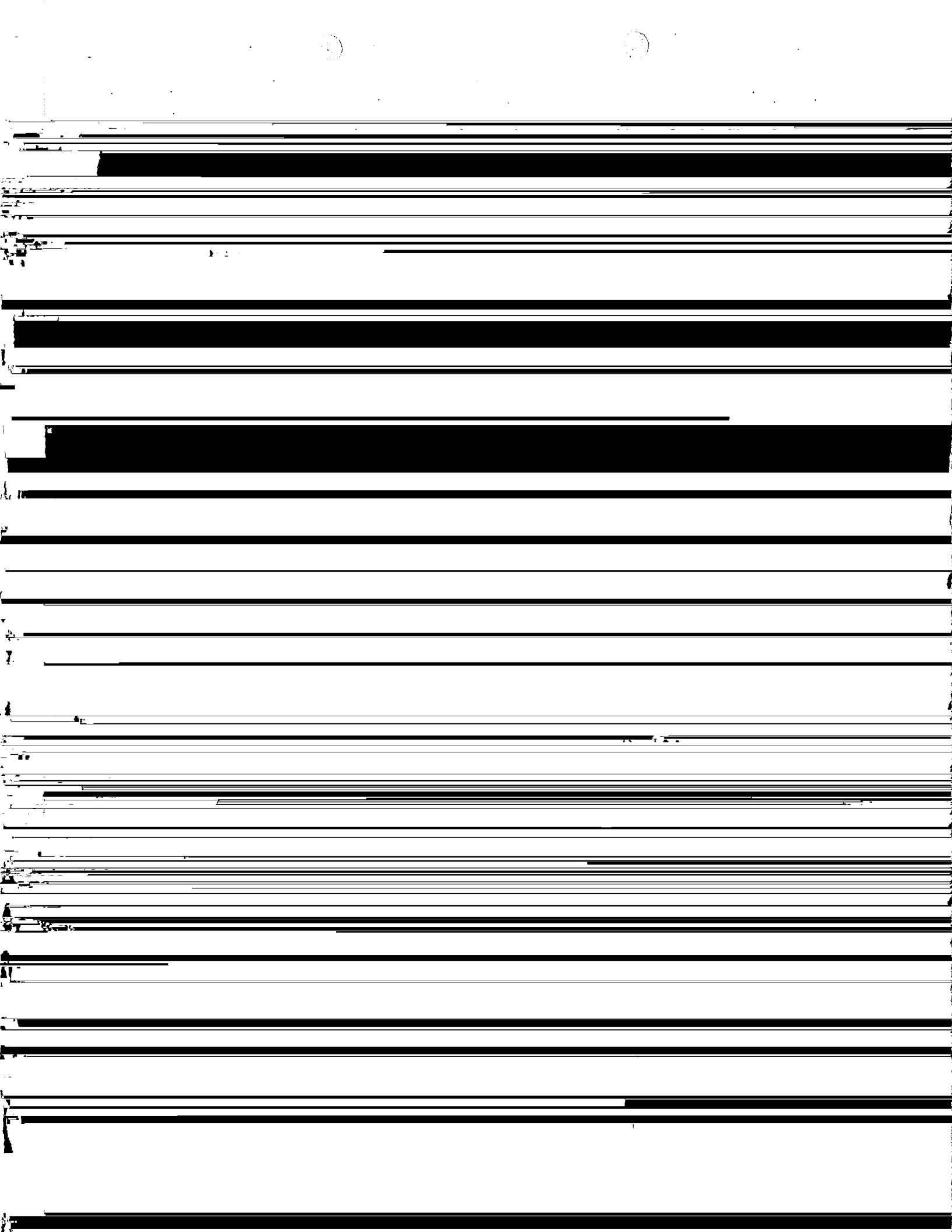
Thomas Quirk is CEO and President and Dr. Ellis is Medical Director for United

Healthcare of Texas ("UHC"). We expect them and/or another representative of UHC to testify about:

- The nature of UHC.

- NTSP and its participating physicians.
- Physician, hospital, and health plan competition in Tarrant County and adjacent Counties in Texas, as well as other areas.
- Communications and negotiations with NTSP or its participating physicians.





- The formation and purpose of NTSP.

negotiate.

- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.

NTSP's explicit or implicit refusal to deal or collecting denials.

Respectfully Submitted,

*S. P. Ritt / [Signature]*

Federal Trade Commission  
Northeast Regional Office  
One Bowling Green, Suite 318  
New York, NY 10004

Dated: December 9, 2003

**CERTIFICATE OF SERVICE**

I, Christina Rose, hereby certify that on December 9, 2003, I caused a copy of the foregoing

document to be served on the following persons:

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

# Exhibit B



EXCERPTS FROM DEPOSITION OF DAVE ROBERTS  
TAKEN JANUARY 29, 2004

14

14:03:50.7 Q of mg enter my questions for the train app

14:02:56 R through R would Dr. Iomin be the Astro person with

14:04:00 Q personal knowledge of those?

14:04:04 10 A. Yes.

14:04:08 11 Q. And was there a period prior to 98 where

14:43:20 1 Q. What is your knowledge of this contract?

14:43:26 2 A. I don't have any knowledge of this contract.

14:43:33 3 Q. Are you familiar with the contract?

14:43:42 5 contract activated in order to provide services to

14:44:52 6 Aetna?

14:44:58 7 A. Yes, I am familiar with the contract.



14:49:50 22 Q. Would of this been something that Dr. Jagmin

14:49:52 23 would have dealt with?

14:50:02 24 A. Yes.

14:50:04 25 Q. And you're aware, are you not, that this

33

14:50:08 1 [REDACTED]

14:50:12 2 litigation between NTSP and select?

14:50:14 3 A. Yes.

14:50:14 4 Q. And Dr. Jagmin would have handled these

14:50:16 5 conversations?

14:52:16 21 Q. Do you know whether or not Dr. Jagmin had

14:52:20 22 conversations with NTSP on this topic?

14:52:22 23 A. I do not.

14:52:32 25 A. Appears to be a risk arrangement, yes.

14:54:18 16 A. Concerning the perform PO.

14:54:22 17 Q. Do you know what conversations Aetna had with

14:54:24 18 NTSP about this contract?

14:54:26 19 A. No.

14:54:26 20 MS. BRUMBAUGH: Object to the form of the

14:54:30 22 A. No.

14:54:32 23 Q. Is Dr. Jagmin a person that would know?

14:54:36 24 MS. BRUMBAUGH: Objecting the form of the

14:54:38 25 question.

35

14:54:38 1 A. I don't have any idea.

14:54:40 2 Q. MS. BRUMBAUGH: Objecting the form of the

14:56:44 13 A. There are risk components and fee for service

14:56:50 14 components

14:56:50 15 Q And does the proposed risk arrangement or

14:56:54 16 developed the risk to AstraZeneca?

14:57:00 17 MR. BLOOM: Objection vague term download

14:57:34 19 context

14:58:36 10 individuals, I can't speak to that.

14:58:42 11 Q. Is this something Dr. Jaqmin would have to

14:58:44 13 A. Sure.

39

15:04:32 24 Q. Okay. Does that lead tout conclusion that



15:14:04 9 Did any changes in the risk reimbursement structure

15:14:08 9 would that be something Dr. Jagmin would know?

15:14:10 10 MS. DRUMBAUGH: Object to the form of the

15:14:12 11 question.

15:14:14 12 A. If there is knowledge, Dr. Jagmin would know.

15:18:54 4 [REDACTED]

15:18:58 6 MS. BRUMBAUGH: Object to the form of the

15:19:02 7 question.

15:19:04 8 [REDACTED] I can't answer regarding any of the