

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

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

Docket No. 9312

**NON-PARTY ALCON LABORATORIES, INC.'S MOTION FOR LEAVE
TO FILE ITS MOTION FOR *IN CAMERA* TREATMENT OF
PROPOSED EVIDENCE**

Non-party Alcon Laboratories, Inc. ("Alcon") respectfully moves for leave to file its Motion for *In Camera* Treatment of Proposed Evidence, a copy of which is attached as Exhibit A. In support, Alcon shows the following:

I.

On March 16, 2004, Alcon received North Texas Specialty Physicians ("NTSP") notice of intent to use Restricted Confidential-Attorney's Eyes Only designated documents produced by Alcon in response to a subpoena issued by NTSP and requests from the FTC in this matter. On March 22, 2004, Alcon provided NTSP written notice of its objection to the use of this information pursuant to paragraph 6(c) of the Protective Order Governing Discovery Material entered in this matter on October 16, 2003. From paragraph 6(c) of the Protective Order, the parties were to meet in good faith in an attempt to resolve their differences. Such negotiation did not occur until April 20, 2004, nine days after the deadline for filing motions for *in camera* treatment. Alcon and NTSP have agreed to the use of the Restricted Confidential-Attorney's Eyes Only designated documents produced by Alcon, if *in camera* treatment of the Restricted Confidential-Attorney's Eyes Only

designated documents is afforded by the Court. Alcon seeks leave in order to avoid the unnecessary expense and waste of judicial resources in addressing future anticipated motions concerning NTSP's use of such documents without the afforded protection sought by Alcon through its motion for *in camera* treatment. Alcon does not seek leave for delay but so that judicial economy and justice may be done.

II.

For these reasons, Alcon respectfully requests that the Administrative Law Judge grant it leave to file its motion for *in camera* treatment of Restricted Confidential-Attorney's Eyes Only designated documents produced by Alcon

CERTIFICATE OF SERVICE

I, Steven B. Midgley, hereby certify that on April 23, 2004, I caused a copy of the foregoing document to be served upon the following persons:

Office of the Secretary (original and 2 copies via Federal Express and e-mail)
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Hon. D. Michael Chappell (2 copies via Federal Express)
Administrative Law Judge
Federal Trade Commission
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and by e-mail upon the following: Theodore Zang (tzang@ftc.gov)