

**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

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)
Donald S. Clark
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue NW
Washington, D.C. 20580
(secretary@ftc.gov)

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

Barbara Anthony (via certified mail)
Director
Federal Trade Commission
Northeast Region
One Bowling Green, Suite 318
New York, NY 10004

Hon. D. Michael Chappell (2 copies via Federal Express)
Administrative Law Judge
Federal Trade Commission
Room H-104
600 Pennsylvania Avenue NW
Washington, D.C. 20580

Gregory D. Binns (via Federal Express)
Thompson & Knight LLP
1700 Pacific Avenue, Suite 3300
Dallas, TX 75201-4693

and by e-mail upon the following: Theodore Zang (tzang@ftc.gov) and Jonathan Platt (jplatt@ftc.gov).

_[Original Signed /s]_____
Steven B. Midgley