



# North Texas Specialty Physicians v. FTC, 528 F.3d 346 (5th Cir. 2008)

Topics Covered: Antitrust

**Outcome: Very Unfavorable**

## **Issue**

The issue in this case was whether an independent practice association's (IPA) business should be reviewed by the Federal Trade Commission (FTC) under a full market "rule of reason" antitrust law analysis rather than a more limited, "quick look" or "inherently suspect" analysis.

## **AMA Interest**

The AMA supports a level playing field in negotiations between physicians and insurers.

## **Case Summary**

The FTC challenged the refusal of North Texas Specialty Physicians (NTSP), an IPA of approximately 600 physicians, to participate in contracting activities with several health insurance companies. The members of NTSP, however, retained the right to decide for themselves whether they would contract independently with the insurance companies. The FTC ruled, without a complete market analysis, that NTSP's joint contracting activities with payors would have an anticompetitive effect on the market and amounted to unlawful horizontal price fixing, in violation of Section 5 of the FTC Act. NTSP appealed to the United States Court of Appeals for the Fifth Circuit, which affirmed, finding there was substantial evidence to support the FTC.

## **Litigation Center Involvement**

The Litigation Center, together with the Texas Medical Association, filed an amicus curiae brief, arguing that NTSP had not engaged in a price-fixing scheme and that the FTC had used the wrong evidentiary standard (a "quick look" or "inherently suspect" approach, rather than a full market "rule of reason" analysis) to measure the legality of NTSP's business activities.

United States Court of Appeals for the Fifth Circuit brief