IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 98-475-JJF
	:	
FEDERATION OF PHYSICIANS AND DENTISTS,	:	
	:	
	:	
Defendant.	:	

ORDER

WHEREAS, on May 19, 1999, the Defendant made a request for the production of all documents and materials the Plaintiff obtained in response to Civil Investigative Demands (CIDs) made in connection with United States v. Federation of Certified Surgeons & Specialists, Inc., No. 99-167-CIV-T-17F (M.D. Fla.) (D.I. 95);

WHEREAS, on June 15, 1999, the Plaintiff served its objections to producing these documents and materials to the Defendant (D.I. 114);

WHEREAS, a Letter Motion to Compel Discovery of all such documents and materials, filed by the Defendant on August 25, 1999, is currently before the Court (D.I. 124);

WHEREAS, the Defendant in this motion argues that they intend to use these CIDs for the sole purpose of comparing the facts of the instant case with that of United States v. Federation of Certified Surgeons & Specialists, Inc., in order to

shape the scope of injunctive relief should the Court find liability against them;

WHEREAS, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action. Fed. R. Civ. P. 26(b)(1);

WHEREAS, the information a party seeks to discover need not be admissible at trial if the information appears reasonably calculated to lead to the discovery of admissible evidence. Id.;

WHEREAS, the settlement terms that a plaintiff may agree to in another case, in its exercise of prosecutorial discretion, has no bearing whatsoever on the nature or scope of relief that may be appropriate after a liability finding against a defendant in a different case. See United States v. Microsoft Corp., 56 F.3d 1448, 1459-61 (D.C. Cir. 1995);

WHEREAS, while recognizing the broad scope of the discovery rules and the right of a party to inquire into any relevant non-privileged matter, the information sought by the Defendant has no bearing whatsoever on the scope of injunctive relief in this case, and thus, cannot be said to be reasonably calculated to lead to the discovery of admissible evidence;

NOW THEREFORE, IT IS HEREBY ORDERED this 29th day of February, 2000, that the Defendant's Letter Motion to Compel

Discovery (D.I. 124) of all documents and materials the Plaintiff obtained in response to CIDs made in connection with the case United States v. Federation of Certified Surgeons & Specialists, Inc. is DENIED.

UNITED STATES DISTRICT JUDGE