

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

1-800 Contacts, Inc.

Docket No. D09372



**NON-PARTY MOTION TO WITHDRAW PREVIOUS MOTION TO QUASH AND/OR  
LIMIT SUBPOENAS DUCES TECUM**

Pursuant to 16 C.F.R. § 3.34 and Rule 3.34(c) of the Rules of Practice for Adjudicative Proceedings before the United States Federal Trade Commission, WebEyeCare, Inc. ("WEC"), a non-party to this proceeding, files the following Motion to Withdraw WEC's previously filed motion to quash and/or limit subpoena issued by the Federal Trade Commission. In support thereof, WEC states as follows:

1. On October 4, 2016, WEC was served with a Subpoena Duces Tecum issued on October 4, 2016 at the behest of Complainant Federal Trade Commission ("FTC" or "Complainant"). On October 14, 2016, in accordance with 16 C.F.R. § 3.34 and Rule 3.34(c), WEC filed a similar Motion to Quash and/or Limit Subpoena against the FTC (the "FTC Motion to Quash").

2. On October 18, October 19, and October 20, 2016, Chad Nold and Daliah Saper, counsel for WEC, and Gus Chiarello, counsel for the FTC, conferred via telephone specifically regarding the FTC Motion to Quash. After extensive discussion regarding the FTC requests and WEC's concerns – as set forth in detail in the FTC Motion to Quash – the respective parties reached agreement with respect to certain requests set forth in the FTC subpoena.

3. Specifically, WEC agreed to produce, to the extent possible, documents in response to Specifications 1-5 of the FTC Subpoena.

4. Therefore, WEC agreed to withdraw the specific objections WEC raised in the FTC Motion to Quash solely with respect to Specifications 1-5 of the FTC Subpoena Duces Tecum on October 24, 2016.

5. Also on October 24, 2016, Complaint Counsel for FTC filed an unopposed Motion for Extension of Time to file an opposition to WEC's outstanding objections.

6. On October 28, 2016, Mr. Nold, counsel for WEC, and Mr. Chiarello, counsel for the FTC, conferred by phone regarding the remaining portions of the FTC Subpoena in dispute. After further discussion regarding the FTC requests and WEC's concerns – as set forth in detail in the FTC Motion to Quash – the respective parties reached agreement with respect to the remaining requests set forth in the FTC subpoena, in particular the remaining specific objections WEC raised in the FTC Motion to Quash solely with respect to Specifications 6-10 of the FTC Subpoena Duces Tecum.

7. Therefore, WEC files this motion to withdraw its October 14, 2016 Motion to Quash the FTC Subpoena Duces Tecum. **This motion to withdraw is made *without prejudice* as to any remaining general or specific objections WEC previously raised in its Motion to Quash and/or Limit Respondent 1-800 Contacts' Subpoena Duces Tecum, filed on October 13, 2016 and limited on October 24, 2016.**

WHEREFORE, WEC respectfully requests to withdraw WEC's remaining objections to Specifications 6-10 of the FTC Subpoena Duces Tecum, and that WEC's Motion to Quash the FTC Subpoena therefore be withdrawn *without prejudice* to WEC's remaining objections to the 1-800 Contacts Subpoena Duces Tecum.

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PUBLIC

Dated: October 31, 2016

Respectfully Submitted,

SAPER LAW OFFICES, LLC

/s/Daliah Saper \_\_\_\_\_

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*Attorneys for Non-Party,  
WebEyeCare, Inc.*

**CERTIFICATE OF SERVICE**

I certify that on October 31, 2016, I electronically filed a document entitled "Motion to Withdraw Previous Motion to Quash and/or Limit Subpoena Duces Tecum" with the Federal Trade Commission using the FTC E-Filing System, which will send notification of such filing to all counsel of record as well as the following:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

Dated: October 31, 2016

By: /s/ Daliah Saper  
Daliah Saper

**CERTIFICATE FOR ELECTRONIC FILING**

I hereby certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

Dated: October 31, 2016

By: /s/ Daliah Saper  
Daliah Saper

Notice of Electronic Service

**I hereby certify that on October 31, 2016, I filed an electronic copy of the foregoing Non-Party Motion to Withdraw Previous Motion to Quash and/or Limit FTC Subpoena, with:**

D. Michael Chappell  
Chief Administrative Law Judge  
600 Pennsylvania Ave., NW  
Suite 110  
Washington, DC, 20580

Donald Clark  
600 Pennsylvania Ave., NW  
Suite 172  
Washington, DC, 20580

**I hereby certify that on October 31, 2016, I served via E-Service an electronic copy of the foregoing Non-Party Motion to Withdraw Previous Motion to Quash and/or Limit FTC Subpoena, upon:**

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