

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES



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In the Matter of )  
)  
Advocate Health Care Network, )  
a corporation, )  
)  
Advocate Health and Hospitals Corporation, )  
a corporation, and )  
)  
Northshore University HealthSystem, )  
a corporation, )  
)  
Respondents. )  
\_\_\_\_\_)

DOCKET NO. 9369

**ORDER GRANTING JOINT MOTION TO AMEND THE  
SCHEDULING ORDER AND REVISED SCHEDULING ORDER**

On April 26, 2016, Federal Trade Commission (“Commission”) Complaint Counsel and Respondents Advocate Health Care Network, Advocate Health and Hospitals Corporation, and NorthShore University HealthSystem (collectively, “the Parties”) filed a Joint Motion to Amend the Scheduling Order (“Joint Motion”). Trial in this matter is scheduled to begin on May 24, 2016.

In their Joint Motion, the Parties state as follows:

On December 21, 2015, the Commission filed a complaint in the United States District Court for the Northern District of Illinois Eastern Division seeking a temporary restraining order and a preliminary injunction to prevent Respondents from consummating the transaction that is the subject of this case. *FTC et al. v. Advocate Health Care Network et al.*, No. 1:15-cv-11473 (N.D. Ill.) (Dec. 21, 2015). The preliminary injunction hearing commenced on April 11, 2016 before Judge Jorge L. Alonso. The preliminary injunction hearing will be completed on May 6, 2016. Although the District Court has not yet set a date for closing arguments nor has it

determined when it will issue its ruling, it is expected that this ruling will issue within a short time of the beginning of the administrative trial.

The Parties also state that they are filing a motion with the Commission to delay the start of the administrative hearing until June 15, 2016. In light of the forthcoming ruling in the preliminary injunction proceeding, the Parties request that the Scheduling Order be amended to move certain deadlines.

The Parties state that revising the Scheduling Order will avoid significant burdens and expenses on third parties, who would need to file motions for *in camera* treatment of proposed trial exhibits, particularly where the Commission may delay the start of the adjudicative hearing. The Parties further state that if the Commission does not move the trial date, these amended pre-trial deadlines will still enable the Parties to commence the trial as scheduled, on May 24, 2016, and that, in the event that the Commission grants the requested motion to delay the start of the hearing until June 15, 2016, the parties intend to request further modification of the Scheduling Order.

The Parties have not previously sought any extensions to other deadlines in the Scheduling Order, issued on January 20, 2016. Revising the remaining deadlines in the Scheduling Order will avoid costly and resource-intensive work that may ultimately be unnecessary.<sup>1</sup> Based on the foregoing, there is good cause for the requested extensions. 16 C.F.R. § 3.21(c)(2).

Accordingly, the Joint Motion is GRANTED. The Scheduling Order is hereby revised and the remaining deadlines are as follows:

- May 16, 2016 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s).
- May 16, 2016 - Deadline for filing motions *in limine* to preclude admission of evidence.
- May 16, 2016 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- May 16, 2016 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.

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<sup>1</sup> In a motion to stay the proceedings, filed with the Commission on February 5, 2016, Respondents stated: “[i]rrespective of what the District Court decides, the court’s ruling is likely to have a significant impact on the proceedings in this matter. Should the federal court deny the preliminary injunction, not only does Federal Trade Commission (“FTC” or “Commission”) policy require it to consider whether to withdraw the complaint, but the FTC nearly always chooses to do so. Moreover, Respondents would have multiple avenues by which to obtain an immediate stay of this proceeding while informally or formally petitioning the Commission for dismissal. On the other hand, should the federal court grant the preliminary injunction, it is unlikely that the Respondents will continue to litigate the FTC’s claims in this proceeding.”

- May 18, 2016 - Deadline for filing responses to motions *in limine* to preclude admissions of evidence.
- May 18, 2016 - Complaint Counsel files pretrial brief supported by legal authority.
- May 19, 2016 - Exchange proposed stipulations of law, facts, and authenticity.
- May 20, 2016 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists.
- May 20, 2016 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- May 20, 2016 - Respondents' Counsel file pretrial brief supported by legal authority.
- May 20, 2016 - By 1:00 p.m., file final stipulations of law, facts, and authenticity. Any subsequent stipulations may be offered as agreed by the parties.
- May 23, 2016 - Final prehearing conference to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.
- May 24, 2016 - Commencement of Hearing, to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

All of the Additional Provisions in the January 20, 2016 Scheduling Order shall remain in effect.

ORDERED:

  
 D. Michael Chappell  
 Chief Administrative Law Judge

Date: April 27, 2016

Notice of Electronic Service

**I hereby certify that on April 27, 2016, I filed an electronic copy of the foregoing Order Granting Joint Motion to Amend and Revised Scheduling Order, 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 April 27, 2016, I served via E-Service an electronic copy of the foregoing Order Granting Joint Motion to Amend and Revised Scheduling Order, upon:**

Robert McCann  
Esq.  
Drinker Biddle & Reath LLP  
robert.mccann@dbr.com  
Respondent

Kenneth Vorrasi  
Esq.  
Drinker Biddle & Reath LLP  
kenneth.vorrasi@dbr.com  
Respondent

John Roach IV  
Esq.  
Drinker Biddle & Reath LLP  
lee.roach@dbr.com  
Respondent

Jonathan Todt  
Esq.  
Drinker Biddle & Reath LLP  
jonathan.todt@dbr.com  
Respondent

David E. Dahlquist  
Esq.  
Winston & Strawn LLP  
DDahlquist@winston.com  
Respondent

Michael S. Pullos  
Esq.  
Winston & Strawn LLP  
MPullos@winston.com  
Respondent

Conor A. Reidy  
Esq.  
Winston & Strawn LLP  
creidy@winston.com

Respondent

Laura B. Greenspan  
Esq.  
Winston & Strawn LLP  
lgreenspan@winston.com  
Respondent

Mark W. Lenihan  
Esq.  
Winston & Strawn LLP  
MLenihan@winston.com  
Respondent

Laurie T. Curnes  
Esq.  
Winston & Strawn LLP  
lcurnes@winston.com  
Respondent

John R. Robertson  
Attorney  
Hogan Lovells LLP  
robby.robertson@hoganlovells.com  
Respondent

Leigh L. Oliver  
Esq.  
Hogan Lovells LLP  
leigh.oliver@hoganlovells.com  
Respondent

Emily Bowne  
Attorney  
Federal Trade Commission  
ebowne@ftc.gov  
Complaint

Christopher J. Caputo  
Attorney  
Federal Trade Commission  
ccaputo@ftc.gov  
Complaint

Timothy C. Carson  
Attorney  
Federal Trade Commission  
tcarson@ftc.gov  
Complaint

Charles Dickinson  
Attorney  
Federal Trade Commission  
cdickinson@ftc.gov  
Complaint

Kevin Hahm  
Attorney  
Federal Trade Commission

khahm@ftc.gov  
Complaint

Sean P. Pugh  
Attorney  
Federal Trade Commission  
spugh@ftc.gov  
Complaint

J. Thomas Greene  
Attorney  
Federal Trade Commission  
tgreene2@ftc.gov  
Complaint

Sophia A. Vandergrift  
Attorney  
Federal Trade Commission  
svandergrift@ftc.gov  
Complaint

Jamie France  
Attorney  
Federal Trade Commission  
jfrance@ftc.gov  
Complaint

Alexander J. Bryson  
Attorney  
Federal Trade Commission  
abryson@ftc.gov  
Complaint

Anthony R. Saunders  
Attorney  
Federal Trade Commission  
asaunders@ftc.gov  
Complaint

Robert Leibenluft  
Attorney  
Hogan Lovells US LLP  
robert.leibenluft@hoganlovells.com  
Respondent

Lynnette Pelzer  
Attorney