

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, WESTERN DIVISION**

FEDERAL TRADE COMMISSION)	
)	
Plaintiff,)	
)	No. 11-cv-50344
v.)	
)	Hon. Frederick J. Kapala,
OSF HEALTHCARE SYSTEM, and)	District Judge
ROCKFORD HEALTH SYSTEM)	
)	Hon. P. Michael Mahoney,
Defendants.)	Magistrate Judge
)	

**PLAINTIFF’S EXPERT AFFIDAVITS IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff, the Federal Trade Commission (the “Commission”), respectfully submits the attached expert witness affidavits in support of Plaintiff’s Motion for Preliminary Injunction under Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b). Plaintiff understands that Defendants intend to file with the Court copies of expert witness affidavits prepared by their outside consultants.

The attached affidavit of Cory S. Capps, PhD, addresses the claims of Defendants’ experts and other declarants, provides expert economic and econometric analyses of Defendants’ proposed acquisition, and concludes that *the transaction is likely to substantially lessen competition and result in increased prices and reduced quality of care* for employers and patients in greater Rockford, Illinois.¹

The attached affidavit of Gabriel H. Dagen, M.B.A., Assistant Director of Accounting and Financial Analysis at the Federal Trade Commission, addresses the claims of Defendants’ experts and supplements Mr. Dagen’s analysis of the proposed acquisition’s purported

¹ See Appendix A (PX2506) – Affidavit of Cory S. Capps, PhD.

efficiencies and other claimed benefits, and the financial condition of Defendants' hospitals. In his affidavit, Mr. Dagen concludes that ***the alleged cost savings and other benefits of the proposed transaction are not merger specific, are speculative and unverifiable, are made for litigation, and cannot be credited*** under prevailing law and the federal antitrust enforcement agencies' Horizontal Merger Guidelines, and that ***Defendants are both financially viable***.²

The attached affidavit of Dr. Patrick Romano, M.D., M.P.H., Professor of Medicine and Pediatrics at the University of California Davis School of Medicine, addresses the claims of Defendants' and their experts and supplements Dr. Romano's analysis of the quality of patient care provided by Defendants, as well as how and whether the quality of care will be impacted by the proposed acquisition. In his affidavit, Dr. Romano concludes that ***Defendants' claims that the acquisition will improve quality are not valid or supported, and that any alleged benefits could be achieved without the transaction***.³

Finally, the attached affidavit of Nancy McAnallen, RN, summarizes Ms. McAnallen's analysis of portions of both Jeff Brown's and Dr. Susan Manning's reports relating to purported efficiencies that may derive from the proposed transaction. In her affidavit, Ms. McAnallen concludes that ***Defendants' alleged cost savings are not merger specific, are overstated, and are lacking the required analysis for verification***.⁴ Ms. McAnallen also concludes that Gabriel Dagen's findings in his November 2011 Affidavit are supported from a clinical perspective.

Plaintiff produces these expert affidavits to the Court today without attaching the thousands of pages of academic articles, textbooks, ordinary course documents, previously cited

² See Appendix B (PX2507) – Affidavit of Gabriel H. Dagen, M.B.A.

³ See Appendix C (PX2508) – Affidavit of Dr. Patrick Romano, M.D., M.P.H.

⁴ See Appendix D (PX2505) – Affidavit of Nancy McAnallen, RN.

materials, data, and other voluminous materials cited within the reports. Plaintiff will produce all of these materials to Defendants immediately following this filing, and will make all such materials available to the Court as requested.

Dated: January 11, 2012

Respectfully submitted,

s/ Matthew J. Reilly

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of January, 2012, I served the foregoing on the following counsel via electronic mail:

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s/ Stephanie L. Reynolds

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