

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FEDERAL TRADE COMMISSION

and

COMMONWEALTH OF
PENNSYLVANIA,

Plaintiffs,

vs.

PENN STATE HERSHEY
MEDICAL CENTER

and

PINNACLEHEALTH SYSTEM,

Defendants.

Civil Action No.: 1:15-cv-02362

Hon. John E. Jones III

ORDER

May 12, 2016

On May 10, 2016 Plaintiffs filed a Motion for Injunction Pending Appeal with brief in support. (Docs. 133, 135). Within the Motion, Plaintiffs seek an injunction pursuant to Fed. R. Civ. P. 62(c) enjoining the proposed merger between Defendants Penn State Hershey Medical Center and PinnacleHealth System pending appellate review of this Court's Memorandum and Opinion denying

Plaintiff's Motion for Preliminary Injunction, filed on May 9, 2016. (Doc. 131). The Plaintiffs note that, pursuant to the December 9, 2015 Stipulated Temporary Restraining Order ("TRO") (Doc. 14), the Defendants may consummate their proposed merger three business days following the Court's ruling on Plaintiffs' Motion for Preliminary Injunction, or at 12:01 a.m. on Friday, May 13, 2016. (Doc. 14, ¶1).

On today's date, Defendants filed an Opposition to Plaintiffs' Motion for an Injunction Pending Appeal. (Doc. 137). Within the brief, the Defendants outline the possibility of a nascent agreement with the Plaintiffs whereby the Defendants would not oppose a two-week extension of the TRO (Doc. 14) if the Plaintiffs would file for an injunction with the Court of Appeals for the Third Circuit today and the parties would complete briefing on the same by Thursday, May 19, 2016. At the conclusion of the brief, the Defendants note that, in any event, they do not oppose a two-week extension of the TRO. (Doc. 137, p. 10).

Given the aforesaid, we find that the most prudent course is to grant a two-week extension of the TRO, and direct the parties to alert the Court as to whether

the Plaintiffs have indeed filed an application for an injunction with the Third Circuit, via letter on the docket.¹

IT IS HEREBY ORDERED THAT:

1. Paragraph 1 of the Stipulated Temporary Restraining Order entered on December 9, 2015 (Doc. 14) is **EXTENDED** until May 27, 2016.
2. The parties shall alert the Court, via letter filed on the docket, in the event the Plaintiffs file an application for an injunction with the Third Circuit.

s/ John E. Jones III
John E. Jones III
United States District Judge

¹ It is the Court's view that if the Plaintiffs file an application for an injunction with the Third Circuit we would be fully divested of jurisdiction in this matter, and thus without authority to adjudicate the instant Motion.