

Original

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: **Edith Ramirez, Chairman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright

In the Matter of)
Phoebe Putney Health System, Inc.)
a corporation, and)
)
Phoebe Putney Memorial Hospital, Inc.)
a corporation, and)
)
Phoebe North, Inc.)
a corporation, and)
)
HCA Inc.)
a corporation, and)
)
Palmyra Park Hospital, Inc.)
a corporation, and)
)
Hospital Authority of Albany-Dougherty County.)
)
)

Docket No. 9348

PUBLIC VERSION

RESPONDENTS' RESPONSE TO COMPLAINT COUNSEL'S MOTION TO LIFT
STAY

Respondents respectfully submit that the motion to lift the stay is premature. The Supreme Court's opinion in *Federal Trade Commission v. Phoebe Putney* is currently a non-final slip opinion.¹ This opinion will become final only when the Supreme Court issues its mandate to the Eleventh Circuit.² The Supreme Court will not generally issue a mandate until 25 days have

¹ *Phoebe Putney*, No. 11–1160, slip op. (U.S. Feb. 19, 2013).
² Sup. Ct. R. 45.

elapsed from the entry of judgment.³ It would be premature to lift the stay while the Supreme Court retains jurisdiction in this matter.

In addition, Respondents join Complaint Counsel in requesting that a new schedule be put in place to govern these proceedings.⁴ Respondents propose that the stay remain in place to allow the parties to consult on a new schedule and that the matter should proceed only upon entry of a new scheduling order.

³ *Id.*

⁴ See *In the Matter of Phoebe Putney Health System, Inc.* Docket no. 9348, Complaint Counsel's Motion to Lift Stay, (Feb. 22, 2013) ("Complaint Counsel further moves that a scheduling conference in this matter be held as soon as possible to discuss and receive a schedule to govern these proceedings").

Dated: March 6, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this 6th day of March, 2013 a true and correct copy of the foregoing Response to Complaint Counsel's Motion to Lift Stay was filed via FTC e-file, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
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I also certify that I delivered via electronic mail and U.S. First Class Mail a copy of the foregoing document to:

The Honorable D. Michael Chappell
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This 6th day of March, 2013.

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CERTIFICATE FOR ELECTRONIC FILING

I 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.

March 6, 2013

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