

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION**

|                                 |   |                      |
|---------------------------------|---|----------------------|
| FEDERAL TRADE COMMISSION        | ) |                      |
| and THE STATE OF GEORGIA,       | ) |                      |
|                                 | ) |                      |
| Plaintiffs,                     | ) |                      |
| v.                              | ) | No. 1:11-cv-58 (WLS) |
|                                 | ) |                      |
| PHOEBE PUTNEY                   | ) |                      |
| HEALTH SYSTEM, INC.,            | ) |                      |
| PHOEBE PUTNEY MEMORIAL          | ) |                      |
| HOSPITAL, INC.,                 | ) |                      |
| PHOEBE NORTH, INC.,             | ) |                      |
| HCA INC.,                       | ) |                      |
| PALMYRA PARK HOSPITAL INC., and | ) |                      |
| HOSPITAL AUTHORITY OF ALBANY-   | ) |                      |
| DOUGHERTY COUNTY,               | ) |                      |
|                                 | ) |                      |
| Defendants.                     | ) |                      |

**PLAINTIFF FEDERAL TRADE COMMISSION'S  
MOTION FOR A TEMPORARY RESTRAINING ORDER**

Plaintiff, the Federal Trade Commission (the “FTC” or “Commission”), by its designated attorneys, respectfully moves the Court pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b), and Section 16 of the Clayton Act, 15 U.S.C. § 26, for a temporary restraining order enjoining Defendants Phoebe Putney Health System, Inc. (“PPHS”), Phoebe Putney Memorial Hospital, Inc. (“PPMH”), Phoebe North, Inc. (“Phoebe North”), (collectively, “Phoebe Putney”); Defendants HCA Inc. (“HCA”) and Palmyra Park Hospital, Inc. (“Palmyra”); and Defendant Hospital Authority of Albany-Dougherty County (the “Authority”), including their domestic and foreign agents, divisions, parents, subsidiaries, affiliates, partnerships, or joint ventures, from any further integration of the assets and operations of

Phoebe North (formerly Palmyra) with those of Phoebe Putney, and requiring them to preserve the *status quo* at Phoebe North.

Plaintiff has filed in this Court an Amended Complaint seeking a temporary restraining order and a preliminary injunction pending the outcome of the Commission's ongoing expedited administrative proceeding, and any appeals, regarding whether the Transaction<sup>1</sup> violates Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45. Discovery in the administrative proceeding is ongoing, and the merits trial to determine the legality of the Transaction is set to begin on August 5, 2013. Temporary injunctive relief is necessary to prevent further competitive harm during the pendency of the preliminary injunction proceedings.

This motion is supported by a memorandum of points and authorities and attached exhibits, not previously moved into evidence, which are being filed separately under seal.

Plaintiff respectfully requests the opportunity to present oral argument in support of this motion.

The undersigned attorneys notified the Defendants' attorneys prior to the filing of the present motion. Defendants have indicated that they will oppose this motion.

A proposed temporary restraining order is attached.

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<sup>1</sup> The term "Transaction" refers to the three-step transaction that transferred control of Palmyra to Phoebe Putney, consisting of the following steps: (1) the Authority purchased Palmyra's assets from HCA using PPHS's money; (2) the Authority immediately gave control of Palmyra to Phoebe Putney under a management agreement; and (3) Phoebe Putney entered into a lease giving it control of the Palmyra assets for 40 years.

Respectfully submitted this 9th day of April, 2013.

s/Jeffrey H. Perry  
JEFFREY H. PERRY  
Assistant Director  
SARA Y. RAZI  
Deputy Assistant Director  
MARIA M. DIMOSCATO  
JENNIFER K. SCHWAB (630660)  
AMANDA G. LEWIS  
CHRISTOPHER J. ABBOTT  
LUCAS A. BALLETT  
DOUGLAS E. LITVACK  
JOSHUA B. SMITH  
STEPHEN W. SOCKWELL, JR.  
STELIOS S. XENAKIS  
Attorneys  
Federal Trade Commission  
Bureau of Competition  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Telephone: (202) 326-2331  
Facsimile: (202) 326-2286  
Email: jperry@ftc.gov

RICHARD A. FEINSTEIN  
Director  
NORMAN A. ARMSTRONG, JR.  
Deputy Director  
Federal Trade Commission  
Bureau of Competition

DAVID C. SHONKA  
Acting General Counsel  
Federal Trade Commission

*Counsel for Plaintiff Federal Trade  
Commission*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 9, 2013, I filed the foregoing with the Clerk of Court via the CM/ECF system, which will automatically send electronic mail notification of such filing to the CM/ECF registered participants as identified on the Notice of Electronic Filing.

s/ Maria M. DiMoscato  
MARIA M. DIMOSCATO  
Attorney  
Federal Trade Commission  
Bureau of Competition  
600 Pennsylvania Ave., N.W.  
Washington, DC 20580  
Telephone: (202) 326-2315  
Email: mdimoscato@ftc.gov

*Attorney for Plaintiff Federal Trade  
Commission*