

No. 20-3499

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

---

FEDERAL TRADE COMMISSION,  
*Plaintiff-Appellant*, and  
COMMONWEALTH OF PENNSYLVANIA,  
*Plaintiff*,

v.

THOMAS JEFFERSON UNIVERSITY and  
ALBERT EINSTEIN HEALTHCARE NETWORK,  
*Defendants-Appellees*.

---

On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
2:20-cv-01113-GJP (Hon. Gerald J. Pappert)

---

**PLAINTIFF-APPELLANT FEDERAL TRADE COMMISSION'S  
MOTION FOR VOLUNTARY DISMISSAL OF APPEAL**

---

JAMES REILLY DOLAN  
*Acting General Counsel*

JOEL MARCUS  
*Deputy General Counsel*

BRADLEY DAX GROSSMAN  
*Attorney*

FEDERAL TRADE COMMISSION  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
bgrossman@ftc.gov  
(202) 326-2994

---

Plaintiff-Appellant, the Federal Trade Commission, hereby moves for voluntary dismissal of this appeal pursuant to Fed. R. App. P. 42(b). In support of this motion, the Commission states:

1. On February 27, 2020, the Commission filed a complaint and motion for preliminary injunction, pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b), seeking to block a proposed merger between defendants-appellees Thomas Jefferson University (Jefferson) and Albert Einstein Healthcare Network (Einstein). The Commission requested that the preliminary injunction be maintained until the completion of administrative adjudicatory proceedings to determine whether the merger would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45.

2. On December 8, 2020, the U.S. District Court for the Eastern District of Pennsylvania denied the Commission's motion for preliminary injunction. The Commission filed a notice of appeal on December 10, 2020.

3. On December 11, 2020, the Commission filed in this Court an Emergency Motion for an Injunction Pending Appeal pursuant to Fed. R. App. P. 8(a)(2) and LAR 8.1 and 27.7. The Court denied the motion on December 21, 2020.

4. The December 21, 2020 order leaves Jefferson and Einstein free to proceed with their merger during the pendency of this appeal.

5. No appeal briefs have been filed by either side.

6. In light of the December 21, 2020 order, the Commission seeks to voluntarily dismiss this appeal. Jefferson and Einstein consent to dismissal and have executed an agreement specifying that each party shall bear its own costs and fees. A copy of the parties' agreement is attached.

Accordingly, the Commission moves to dismiss its appeal from the district court's denial of a preliminary injunction, with each side to bear its own costs and fees.

March 4, 2021

Respectfully submitted,

JAMES REILLY DOLAN  
*Acting General Counsel*

JOEL MARCUS  
*Deputy General Counsel*

/s/ Bradley Grossman  
BRADLEY DAX GROSSMAN  
*Attorney*

FEDERAL TRADE COMMISSION  
Office of the General Counsel  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
(202) 326-2994  
bgrossman@ftc.gov

## CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I certify that the foregoing motion complies with the volume limitations of Fed. R. App. P. 27(d)(2)(A) because it contains 298 words, as created by Microsoft Word, excluding the items that may be excluded under Fed. R. App. P. 32(f).

March 4, 2021

/s/ Bradley Grossman  
Bradley Dax Grossman  
Attorney  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

## CERTIFICATE OF SERVICE

I certify that on March 4, 2021, I filed the foregoing with the Court's appellate CM/ECF system. Counsel for defendants-appellees will be served by the CM/ECF system.

Dated: March 4, 2021

/s/ Bradley Grossman  
Bradley Dax Grossman  
Attorney  
Office of the General Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
(202) 326-2994  
bgrossman@ftc.gov