

SECRETARY

#### UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of	ORIGI
Cabell Huntington Hospital, Inc. a corporation;	) Docket No. 9366
Pallottine Health Services, Inc. a corporation;	) ) )
and	)
St. Mary's Medical Center, Inc. a corporation.	) ) )

## JOINT MOTION FOR LEAVE TO ISSUE SUBPOENAS TO THIRD PARTY AND TO TAKE DISCOVERY AFTER DEADLINES IN THE SCHEDULING ORDER

Complaint Counsel and Respondents move the Court for an order, pursuant to Federal Trade Commission Rules of Practice 3.21(c)(2) and 3.31(f), granting the parties leave to serve subpoenas *duces tecum* on a third-party witness after the January 6, 2016 deadline in the Court's Scheduling Order, and, if necessary, to depose this third party after the February 10, 2016, close of fact discovery. The parties have agreed that Complaint Counsel may substitute Thomas Health System, Inc., which operates hospitals located in Charleston and South Charleston, West Virginia, for another third party currently on Complaint Counsel's preliminary witness list, Blue Cross Blue Shield of Michigan ("BCBS"), and that the discovery requests to Thomas

Health, then Complaint Counsel will remove Thomas Health from its witness list.

<sup>&</sup>lt;sup>1</sup> The parties further agreed that if the Court denies this Motion; if Thomas Health successfully challenges the discovery served on it or otherwise prevents Respondents from securing timely discovery; or, if after a good-faith effort, Respondents are unable to take discovery from Thomas

Health may be served at this time. Thomas Health does not object to being served with these subpoenas or to appearing for a deposition after the close of discovery, but it reserves the right to object to specific discovery requests.

Pursuant to Rule 3.21(c)(2), the parties advise the Court that they have not previously sought any extensions of time for discovery directed to this third party. The Court granted an order, entered on January 5, 2016, approving the parties' joint request to defer discovery on two government officials on Respondents' witness list. The parties have filed no other motions with the Court to modify the discovery schedule set forth in the Scheduling Order.

Pursuant to Paragraph 4 of the Additional Provisions of the Scheduling Order, Complaint Counsel advises the Court that Respondents join in this motion.

A proposed order is attached.

# Respectfully submitted,

Dated: January 25, 2016

# /s/ Alexis J. Gilman

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St. Mary's Medical Center, Inc. a corporation.	) ) )

# IPROPOSEDI ORDER GRANTING THE PARTIES LEAVE TO ISSUE SUBPOENAS DUCES TECUM TO A THIRD PARTY

In consideration of the parties' agreement and joint motion, it is hereby,

ORDERED, that the parties may issue subpoenas *duces tecum* to third party Thomas Health System, Inc., after the date for issuance of subpoenas *duces tecum* stated in the Scheduling Order entered in this matter.

Dated:	January	, 2016	
			D. Michael Chappell
			Chief Administrative Law Judge

#### **CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2016, I caused to be filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark Secretary Federal Trade Commission 600 Pennsylvania Ave., NW Washington, DC 20580

I also certify that I caused to be delivered via electronic mail a copy of the foregoing document to:

The Honorable D. Michael Chappell Chief Administrative Law Judge Federal Trade Commission 600 Pennsylvania Ave., NW, Rm. H-110 Washington, DC 20580

I further certify that I served via electronic mail a copy of the foregoing document to:

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Dated: January 25, 2016

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On behalf of Complaint Counsel