

Interlocutory Orders, Etc.

IN THE MATTER OF

**HACKENSACK MERIDIAN HEALTH, INC.,
AND
ENGLEWOOD HEALTHCARE FOUNDATION***Docket No. 9399. Order, April 7, 2022*

Order setting deadline for Respondents to file any answer(s) to the Motion for Continuance to enable the Commission to issue a timely ruling on the Motion.

ORDER SETTING EXPEDITED RESPONSE DEADLINE

On August 4, 2021, the United States District Court for the District of New Jersey granted Complaint Counsel's motion for a preliminary injunction to enjoin the proposed merger between Respondents Hackensack Meridian Health, Inc. and Englewood Healthcare Foundation until completion of this administrative proceeding. *FTC v. Hackensack Meridian Health, Inc.*, No. 20-18140, 2021 WL 4145062 (D.N.J. Aug. 4, 2021). The Third Circuit Court of Appeals affirmed the district court's injunction on March 22, 2022. *FTC v. Hackensack Meridian Health, Inc.*, No. 21-2603, 2022 WL 840463 (3d Cir. Mar. 22, 2022). On March 31, 2022, Respondents notified Complaint Counsel that they were abandoning their transaction. On April 5, 2022, Respondents mutually terminated their merger agreement and withdrew their Hart-Scott-Rodino Notification and Report Forms.

That same day, Complaint Counsel and Respondents filed competing motions regarding appropriate next steps in this proceeding. Complaint Counsel moved to withdraw the matter from adjudication so that the Commission could evaluate whether further relief is warranted. Respondents moved to dismiss the Complaint on the basis that the administrative action is now moot and no further adjudicative proceedings are necessary, appropriate, or in the public interest. Additionally, Complaint Counsel filed an expedited motion for a 60-day continuance of the administrative proceeding, in which the evidentiary hearing is scheduled to begin on April 22, 2022, to avoid the potentially unnecessary, significant expense to litigating and third parties of preparing for the hearing and complying with imminent prehearing deadlines while the Commission considers the other two motions ("Motion for Continuance"). According to Complaint Counsel, Respondents declined to join the motion for continuance because Respondents believe that this matter is moot and that dismissal is the only appropriate next step.

Under Commission Rules 3.22(d) and 4.4(c), 16 C.F.R. §§ 3.22(d) & 4.4(c), Respondents' answer to the Motion for Continuance is due on April 18, 2022, "or such longer or shorter time as may be designated by the ... Commission." Delaying Commission action until after April 18 would subject the parties and third parties to the burdens and expense of complying with prehearing deadlines in the interim, including the submission of motions for *in camera* treatment and pretrial briefs. *See* Order Granting Joint Motion to Amend Scheduling Order (Nov. 16, 2021). To enable the Commission to issue a timely ruling on the Motion for Continuance, we will order Respondents to file any answer(s) to the Motion for Continuance no later than 1:00 pm E.D.T. on April 8, 2022.

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Accordingly,

IT IS HEREBY ORDERED that Respondents must file any answer(s) to Complaint Counsel's Expedited Motion for a 60-Day Continuance of Administrative Proceedings, filed on April 5, 2022, no later than 1:00 pm E.D.T. on April 8, 2022.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**HACKENSACK MERIDIAN HEALTH, INC.,
AND
ENGLEWOOD HEALTHCARE FOUNDATION***Docket No. 9399. Order, April 8, 2022*

Order granting Complaint Counsel's Expedited Motion for a 60-Day Continuance of Administrative Proceedings.

ORDER GRANTING A 60-DAY CONTINUANCE

On August 4, 2021, the United States District Court for the District of New Jersey granted the Federal Trade Commission's motion for a preliminary injunction against the proposed merger between Respondents Hackensack Meridian Health, Inc. and Englewood Healthcare Foundation until completion of this administrative proceeding. *FTC v. HackensackMeridian Health, Inc.*, No. 20-18140, 2021 WL 4145062 (D.N.J. Aug. 4, 2021). The Third Circuit Court of Appeals affirmed the district court's injunction on March 22, 2022. *FTC v. Hackensack Meridian Health, Inc.*, No. 21-2603, 2022 WL 840463 (3d Cir. Mar. 22, 2022). On March 31, 2022, Respondents notified Complaint Counsel that they were abandoning their transaction. On April 5, 2022, Respondents mutually terminated their merger agreement and withdrew their Hart-Scott-Rodino Notification and Report Forms.

That same day, Complaint Counsel and Respondents filed competing motions regarding appropriate next steps. Complaint Counsel moved to withdraw the matter from adjudication so that the Commission could evaluate whether further relief is warranted ("Motion to Withdraw"). Respondents moved to dismiss the Complaint on the basis that the administrative action is now moot and no further adjudicative proceedings are necessary, appropriate, or in the public interest ("Motion to Dismiss"). Additionally, Complaint Counsel filed an expedited motion for a 60-day continuance of the administrative proceeding, scheduled to begin on April 22, 2022, to avoid what Complaint Counsel describe as the potentially unnecessary, significant expense to litigating and third parties of preparing for the hearing and complying with imminent prehearing deadlines while the Commission considers the other two motions. Respondents oppose the continuance motion as well as the Motion to Withdraw because, in their view, with the merger now abandoned, the only appropriate course of action is dismissal of the administrative proceeding. See Respondents' Opposition to Complaint Counsel's Emergency Motion for a 60-Day Continuance of Administrative Proceedings & Its Motion to Withdraw the Matter from Adjudication (Apr. 8, 2022). Respondents do not object, however, to a limited continuance to give the Commission sufficient time to decide the Motion to Dismiss. *Id.* at 3.

Commission Rule 3.41(b) provides that "[t]he Commission, upon a showing of good cause, may order a later date for the evidentiary hearing to commence." 16 C.F.R. § 3.41(b). We find good cause to continue the hearing and prehearing deadlines for 60 days while the parties brief the Motion to Dismiss and the Commission considers the parties' competing motions.