

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

ORIGINAL



In the Matter of )  
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PHOEBE PUTNEY HEALTH )  
SYSTEM, INC., and )  
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PHOEBE PUTNEY MEMORIAL )  
HOSPITAL, INC., and )  
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PHOEBE NORTH, INC., and )  
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HCA INC., and )  
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PALMYRA PARK HOSPITAL, INC., and )  
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)  
HOSPITAL AUTHORITY OF )  
ALBANY-DOUGHERTY COUNTY, )  
Respondents. )  
)

DOCKET NO. 9348

**REVISED SCHEDULING ORDER**

The Scheduling Order in this case was originally issued on May 31, 2011 and revised on July 5, 2011. By Order dated July 15, 2011, the Commission stayed these proceedings. By Order dated March 14, 2013, the Commission lifted the Stay and directed the issuance of revised scheduling deadlines, including a new hearing to begin no later than July 15, 2013.

On March 19, 2013, Respondents filed with the Commission a Motion to Reschedule Hearing Date, which Complaint Counsel opposed on March 21, 2013. By Order dated April 3, 2013, the Commission denied Respondents' Motion but, as a matter of discretion, granted a three-week extension of the hearing date and directed that the hearing be set no later than August 5, 2013.

Accordingly, the dates in the May 31, 2011 Scheduling Order, as revised by the July 5, 2011 Revised Scheduling Order, are revised as set forth below. All additional provisions in the May 31, 2011 Scheduling Order are unchanged.

April 8, 2013 - Complaint Counsel provides revised preliminary witness list

(not including experts) with a brief summary of the proposed testimony.

- April 12, 2013 - Respondents provide preliminary witness list (not including experts) with a brief summary of the proposed testimony.
- April 17, 2013 - Complaint Counsel provides expert witness list.
- April 26, 2013 - Deadline for issuing document requests, requests for admission, interrogatories and subpoenas *duces tecum*, except for discovery for purposes of authenticity and admissibility of exhibits.
- May 7, 2013 - Respondents' Counsel provides expert witness list.
- May 29, 2013 - Close of discovery, other than discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
- May 29, 2013 - Deadline for filing "[m]otions to dismiss filed before the evidentiary hearing, motions to strike, and motions for summary decision" pursuant to Rule 3.22(a).
- June 7, 2013 - Deadline for Complaint Counsel to provide expert witness reports.
- June 11, 2013 - Complaint Counsel provides to Respondents' Counsel its final proposed witness and exhibit lists, including designated testimony to be presented by deposition, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Complaint Counsel's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.  
  
Complaint Counsel serves courtesy copies on ALJ of its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witness(es).
- June 25, 2013 - Respondents' Counsel provides to Complaint Counsel its final proposed witness and exhibit lists, including designated testimony to be presented by deposition and copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Respondents' basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondents' Counsel serves courtesy copies on ALJ its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness including its expert witness(es).

- June 25, 2013 - Parties that intend to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).
- June 28, 2013 - Deadline for Respondents' Counsel to provide expert(s) witness reports. Respondents' expert report shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).
- July 2, 2013 - Deadline for filing motions *in limine* to preclude admission of non-expert evidence.
- July 2, 2013 - Deadline for filing motions for *in camera* treatment of proposed non-expert trial exhibits.
- July 11, 2013 - Deadline for filing responses to motions *in limine* to preclude admission of evidence.
- July 11, 2013 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- July 11, 2013 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondents' expert reports. If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert reports or seeking leave to submit sur-rebuttal expert reports on behalf of Respondents).
- July 15, 2013 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- July 17, 2013 - Exchange deposition transcript counter-designations.
- July 17, 2013 - Complaint Counsel files pretrial brief supported by legal authority.

- July 18, 2013 - Deadline for filing motions *in limine* to preclude admission of expert evidence.
- July 19, 2013 - Deadline for filing motions for *in camera* treatment of proposed expert trial exhibits.
- July 24, 2013 - Deadline for filing responses to motions *in limine* to preclude admission of expert evidence.
- July 26, 2013 - Deadline for filing responses to motions for *in camera* treatment of proposed expert trial exhibits.
- July 30, 2013 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists.
- July 30, 2013 - Exchange objections to the designated testimony to be presented by deposition and counter-designations.
- July 30, 2013 - Exchange proposed stipulations of law, facts, and authenticity.
- July 31, 2013 - Respondents' Counsel files pretrial brief supported by legal authority.
- July 31, 2013 - File final stipulations of law, facts, and authenticity. Any subsequent stipulations may be offered as agreed by the parties.
- August 1, 2013 - Final prehearing conference to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue NW, Washington, DC 20580.

The parties are to meet and confer prior to the conference regarding trial logistics and proposed stipulations of law, facts, and authenticity of exhibits and any designated deposition testimony. To the extent the parties stipulate to certain issues, the parties shall prepare a Joint Exhibit which lists the agreed stipulations.

Counsel may present any objections to the final proposed witness lists and exhibits. Trial exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admission of each other's exhibits, the parties shall prepare a Joint Exhibit which lists the exhibits to which neither side objects. Any Joint Exhibit will be signed by each party with no signature for the judge required.

August 5, 2013

- Commencement of Hearing, to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue NW, Washington, DC 20580.

ORDERED:

*D. Michael Chappell*  
D. Michael Chappell  
Chief Administrative Law Judge

Date: April 4, 2013