

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



**ORIGINAL**

Docket No. 9366

\_\_\_\_\_  
In the Matter of )

Cabell Huntington Hospital, Inc. )  
a corporation; )

Pallottine Health Services, Inc. )  
a corporation; )

and )

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

**JOINT MOTION FOR LEAVE TO SEEK THIRD PARTY DISCOVERY AFTER THE  
CLOSE OF FACT DISCOVERY**

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 seek discovery directed to two third party witnesses after the close of fact discovery on February 10, 2016. These two third parties, Senator Joseph Manchin III and Congressman Evan H. Jenkins, have been named by Respondents in their Preliminary Witness List. However, the parties want to avoid burdening either Senator Manchin or Congressman Jenkins with any discovery until after the parties have completed all other fact discovery and Respondents have determined whether these two individuals will be included on their Final Proposed Witness List.

For the Court's information, Respondents' Proposed Final Witness List is due on March 6, 2016, and the hearing is scheduled to begin on April 5, 2016. If this motion is granted, the parties will have approximately one month to take discovery from these witnesses, if the

discovery is necessary. Before the parties serve subpoenas on either individual, they will file an application under Rule 3.36 for the Court's approval, so that the Court can then determine whether discovery should proceed.

Pursuant to Rule 3.21(c)(2), the parties advise the Court that they have not previously sought any extensions of time either for discovery directed to these third parties or to take any other fact discovery after February 10, 2016.

Pursuant to Paragraph 4 of the Scheduling Order, Complaint Counsel advises the Court that Counsel for Respondents has authorized Complaint Counsel to advise the Court that they join in this motion.

A proposed order is attached.<sup>1</sup>

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<sup>1</sup> The due date for service of subpoenas duces tecum is Wednesday, January 6, 2016. Therefore, if the Court concludes that there is reason not to approve the parties' stipulation, Complaint Counsel respectfully requests that the Court extend the time for Complaint Counsel to seek the Court's approval, under Rule 3.36, of subpoenas duces tecum to be served on Senator Manchin and Congressman Jenkins until seven days after the Court's order.

Respectfully submitted,

Dated: January 5, 2016

/s/ Alexis J. Gilman

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

**[PROPOSED] ORDER GRANTING THE PARTIES LEAVE TO SEEK DISCOVERY  
AFTER THE CLOSE OF FACT DISCOVERY**

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

ORDERED, that the parties may seek to take discovery, pursuant to Rules 3.34 and 3.36, from third parties Senator Joseph Manchin III and Congressman Evan H. Jenkins after the close of fact discovery on February 10, 2016, and it is further

ORDERED, that the parties may seek leave to serve subpoenas on Senator Joseph Manchin III and Congressman Evan H. Jenkins no later than seven (7) days after service of Respondents' Final Proposed Witness List on March 6, 2016.

Dated: January \_\_, 2016

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D. Michael Chappell  
Chief Administrative Law Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on January 5, 2016, I 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 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 5, 2016

/s/ Tara Reinhart  
Tara Reinhart, Esq.  
*On behalf of Complaint Counsel*