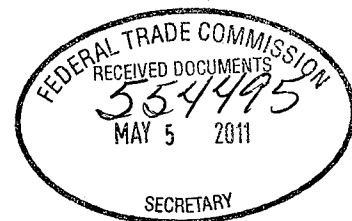


UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

ORIGINAL



In the Matter of \_\_\_\_\_ )  
 )  
PROMEDICA HEALTH SYSTEM, INC. )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9346  
**PUBLIC**

**RESPONDENT PROMEDICA HEALTH SYSTEM, INC.'S MOTION  
FOR *IN CAMERA* TREATMENT OF TRIAL EXHIBITS**

Respondent, ProMedica Health System, Inc., hereby moves for *in camera* treatment of certain proposed trial exhibits, pursuant to 16 C.F.R. §3.45 and Paragraph 7 of the Scheduling Order.

In support of this motion, Respondent provides its accompanying memorandum, and Declarations of Kathleen Hanley and Lori Johnston.

On May 4, 2011, Respondent's Counsel conferred with Complaint Counsel regarding the proposed exhibits for which Respondent is seeking *in camera* treatment. Complaint Counsel opposes this motion.

WHEREFORE, Respondent ProMedica Health System, Inc. respectfully requests that this Court grant *in camera* treatment to the documents designated in the attached memorandum.

Respectfully submitted,

Dated: May 5, 2011

Christine Devlin  
By: CHRISTINE G. DEVLIN  
David Marx, Jr.  
Stephen Y. Wu  
Amy J. Carletti  
Erin C. Arnold  
MCDERMOTT WILL & EMERY LLP

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*Attorneys for Respondent ProMedica  
Health System, Inc.*

I, Christine Devlin, hereby certify that I served a true and correct copy of the foregoing Respondent's Motion for *In Camera* Treatment, Public Version, upon the following individuals by hand on May 5, 2011.

Hon. D. Michael Chappell  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Room H110  
Washington, DC 20580

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Room 172  
Washington, DC 20580

I, Christine Devlin, hereby certify that I served a true and correct copy of the foregoing Respondent's Motion for *In Camera* Treatment, Public Version, upon the following individuals by electronic mail on May 5, 2011.

Matthew J. Reilly  
Jeffrey H. Perry  
Sara Y. Razi  
Jeanne H. Liu  
Alexis J. Gilman  
Stephanie L. Reynolds  
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\_\_\_\_\_  
Christine Devlin

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of )  
 )  
PROMEDICA HEALTH SYSTEM, INC. )  
 a corporation. )  
 )

Docket No. 9346  
**PUBLIC**

**[PROPOSED] ORDER GRANTING RESPONDENT'S MOTION  
FOR IN CAMERA TREATMENT OF TRIAL EXHIBITS**

Upon consideration of Respondent, ProMedica Health System, Inc.'s Motion for *In Camera* Treatment of Trial Exhibits, it is hereby ordered that the Motion is **GRANTED** and *in camera* treatment will be given to the categories of documents below for the period of time indicated. This order applies only to those documents listed in Table I and found in Appendix A of Respondent's Motion for *In Camera* Treatment of Trial Exhibits.

Business Records	Three years
Commercial Health Plan Contracts	Three years
Commercial Health Plan Negotiations	Three years
Patient Data	Indefinite
Defensive Strategy Documents	Indefinite
Financial Documents	Three years
Deposition Testimony	Five years

Dated: May \_\_\_, 2011.

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The Honorable D. Michael Chappell  
Chief Administrative Law Judge

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of )  
 )  
PROMEDICA HEALTH SYSTEM, INC. )  
 a corporation. )  
 )

Docket No. 9346  
**PUBLIC**

**RESPONDENT PROMEDICA HEALTH SYSTEM, INC.'S MEMORANDUM IN  
SUPPORT OF ITS MOTION FOR *IN CAMERA* TREATMENT OF TRIAL EXHIBITS**

Pursuant to Rule 3.45 of the Federal Trade Commission's Rules of Adjudicative Practice, Respondent ProMedica Health System, Inc. ("ProMedica") submits this Memorandum in Support of its Motion for *In Camera* Treatment of Certain Proposed Trial Exhibits.

**I. Introduction**

ProMedica and St. Luke's Hospital ("St. Luke's"), collectively, have produced over two million documents in response to Complaint Counsel's requests for documents during its investigation and during the discovery process for this administrative proceeding. Complaint Counsel requested a substantial range of documents, including competitively sensitive presentations and reports, financial documents, negotiation documents, contracts, patient data, and internal correspondence.

Accordingly, and pursuant to 16 C.F.R. §3.45 and Paragraph 7 of the Scheduling Order, ProMedica moves for an order granting *in camera* treatment of certain trial exhibits designated by ProMedica and Complaint Counsel. These exhibits are listed in Table I and electronic copies are provided in Appendix A. The confidential information contained in these exhibits, if disclosed, would result in a clearly defined, serious injury to ProMedica and St. Luke's. These exhibits fall into seven general categories: (1) business records reflecting competitively-sensitive

information and high-level decision-making; (2) contracts with commercial health plans; (3) negotiations with commercial health plans; (4) patient data; (5) defensive strategy documents including internal communications regarding the FTC investigation and this proceeding; (6) financial documents; and (7) excerpts from depositions and investigational hearings containing confidential information regarding the previously mentioned six categories.

ProMedica seeks *in camera* treatment of these exhibits because they are confidential, competitively sensitive and relate to ProMedica's and St. Luke's business decision-making. Therefore, public disclosure would result in a serious competitive injury to ProMedica and St. Luke's. Counsel for ProMedica has carefully reviewed each and every exhibit in Appendix A and have determined that they qualify under the standards as set forth in Paragraph 7 of the scheduling order for *in camera* treatment.

## II. **The Clearly Defined, Serious Injury Standard**

An applicant seeking *in camera* protection for material offered into evidence may receive *in camera* treatment when "its public disclosure will likely result in a clearly defined, serious injury." 16 C.F.R. § 3.45(b). An applicant can meet that standard by establishing that the evidence is "sufficiently secret and sufficiently material to the applicant's business that disclosure would result in serious competitive injury." *See In the Matter of Evanston Northwestern Healthcare Corp.*, 2005 F.T.C. LEXIS 27, at \*1 (Feb. 9, 2005) (internal citations omitted). In making this determination, administrative courts review six factors to determine secrecy and materiality: (1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in

developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. See *In the Matter of Bristol-Myers Co.*, 90 FTC LEXIS 455, at \*5-6 (Nov. 11, 1997).

### III. ProMedica's and St. Luke's Documents Meet The Clearly Defined, Serious Injury Standard

#### A. Reasons for In Camera Treatment for All Identified Documents

All six factors weigh in favor of granting Respondent's motion for *in camera* treatment. The information in these materials are not known to the public or generally outside ProMedica or St. Luke's (or the party with whom the entities were negotiating or contracting). ProMedica treats as confidential every document for which it seeks *in camera* treatment. (See Hanley Decl. ¶ 3; Johnston Decl. ¶ 3.) These documents are not a matter of public record and have not been disclosed in any public context. *Id.* Second, the materials reflect the decision-making of senior executives from ProMedica and St. Luke's. The confidential information in the trial exhibits for which Respondent seeks *in camera* protection is not generally known to all employees within those organizations. Third, ProMedica and St. Luke's have carefully guarded the secrecy of these materials. The entities were compelled to produce the materials pursuant to the discovery process, but otherwise they do not share or disclose the information found within the confidential documents and disclosed during the depositions. Fourth, competitor hospitals, such as Mercy Health Partners or the University of Toledo Medical Center would significantly benefit from gaining access to these materials. The materials reflect ProMedica and St. Luke's business strategy, future plans, goals, and initiatives, all of which are competitively sensitive. Additionally, the materials include negotiations and contracts with commercial health plans. These materials are competitively sensitive to St. Luke's and ProMedica, as well as the non-parties with which they contract. Hospital competitors and other commercial health plans could



benefit significantly from gaining access to these materials. Fifth, ProMedica and St. Luke's have spent significant money in developing some of the materials, particularly reports and presentations created by consultants. Finally, it would be difficult for another party to replicate the information found in these materials because they reflect the work product of senior executives with years of experience in these organizations. The materials are unique and tailored to the respective entities and not known to the general public.

Furthermore, ProMedica and St. Luke's would suffer irreparable injury if the information contained in these documents and testimony were disclosed to the public. Disclosure would give ProMedica's and St. Luke's competitors an improper advantage. (*See* Hanley Decl. ¶¶ 3-10; Johnston Decl. ¶¶ 3-10.) Disclosure would also damage commercial health plans as their competitors could access this competitively sensitive information. The tribunal may infer, "without a specific showing of how a competitor would use it, that disclosure of allegedly sensitive information would seriously affect the firm's commercial position. Underlying this analysis is a general concern for the seriousness of injury to a firm's commercial or competitive position." *In the Matter of E.I. Dupont de Nemours & Co.*, 97 F.T.C. LEXIS 116, at \*3 (Jan. 21, 1981). The materials at issue here pose a strong likelihood of harming the competitive position of ProMedica, St. Luke's, and certain non-party commercial health plans if disclosed to the public.

Finally, the information at issue remains relevant and significant today. ProMedica and St. Luke's seek *in camera* treatment for information not older than five years and, in most instances, within three years. Nevertheless, even aged data is sensitive and remains worthy of protection because they reflect ProMedica's and St. Luke's business strategies and can impact future negotiations between the Respondent and commercial health plans. Disclosure of these

materials would cause competitive harm to ProMedica, St. Luke's, and non-party commercial health plans in future contract negotiations. *See in re Kaiser Aluminum & Chemical Corp.*, 103 F.T.C. LEXIS 500, at \*2 (May 25, 1984) (holding that material that was over five years old was still sensitive and deserving of in camera treatment where "a serious injury would be done by release of this information, which they have never made available to the public").

B. Specific Categories of Exhibits For Which Respondent Seeks In Camera Treatment

Respondent identifies below seven categories of documents for which it seeks *in camera* treatment. The specific exhibits are identified in Table I and affixed in the appendix to this motion. This categorical treatment is common in cases such as these. *See In the Matter of Polypore Int'l, Inc.*, 2009 F.T.C. LEXIS 219 (Nov. 19, 2009).

1. Business Records

The proposed exhibits in this category include internal communications, initiatives, presentations, and reports regarding clinical quality; internal communications, presentations, and reports regarding strategic plans; internal communications, presentations, and reports regarding efficiencies; internal communications regarding financing and budgeting; and internal communications regarding rates and contracting with commercial health plans. These documents reflect strategic and competitive decision-making by ProMedica's and St. Luke's senior executives. The public disclosure of these documents would competitively disadvantage ProMedica and St. Luke's in the future when they renegotiate contracts with commercial health plans. It would also cause injury to Respondent *and* commercial health plans if competitor hospitals gained access to the strategic plans, goals, and initiatives. Because these documents contain competitively sensitive information, ProMedica and St. Luke's treat them as confidential and they do not disclose them publicly.

2. Commercial Health Plan Contracts

The proposed exhibits in this category include contracts between ProMedica or St. Luke's and commercial health plans. Disclosure of these documents would result in competitive injury to both entities, as well as the commercial health plans with which they contract. The contracts and rates to which parties agree are confidential and reflect complex negotiations. Both parties treat this information as confidential and disclosure of these materials would cause them significant competitive harm in the future.

3. Commercial Health Plan Negotiations

The proposed exhibits in this category reflect negotiations and negotiation strategy between ProMedica or St. Luke's and commercial health plans. Disclosure of these materials would result in competitive injury not only to ProMedica and St. Luke's, but also to the commercial health plans with which they negotiate. For that reason, ProMedica and St. Luke's treat these documents as confidential and they do not disclose them publicly.

4. Patient Data

The proposed exhibits in this category include documents containing patient data. These materials are sensitive and they contain details on inpatient and outpatient admissions. ProMedica and St. Luke's treat these documents as confidential and they do not disclose them publicly.

5. Internal Communications regarding the FTC Investigation, this Proceeding, and Defensive Strategy

The proposed exhibits in this category include documents that discuss or reflect ProMedica's strategy regarding the defense of this transaction. They reflect ProMedica's and St.

Luke's competitive decision-making, high-level strategies, and future plans. They also reflect the work product of consultants that ProMedica and St. Luke's have retained to aid in their defense. ProMedica and St. Luke's treat these documents as confidential and they do not disclose them publicly. ProMedica and St. Luke's would suffer a competitive disadvantage should these documents become public and commercial health plans or hospital competitors gained access to them.

#### 6. Financial Documents

The proposed exhibits in this category contain private, financial information and their disclosure would injure ProMedica and St. Luke's. The documents in this category include internal spreadsheets and communications regarding budgets, revenues, expenses, proposals, and forecasts. Moreover, the documents in this category are recent financial documents that are not in the public sector. ProMedica and St. Luke's treat these documents as confidential and they do not disclose them publicly. ProMedica and St. Luke's would suffer a competitive disadvantage if these documents become public and commercial health plans or competitor hospitals gained access to them. The Court has recognized that the public disclosure of financial information may harm a party. *See In the Matter of SKF Indus., Inc.*, 1977 FTC LEXIS 86, at \*3 (Oct. 4, 1977).

#### 7. Deposition Testimony

The proposed exhibits in this category contain excerpts from the depositions and investigational hearings of certain ProMedica and St. Luke's executives. These deposition excerpts contain information regarding the categories above, including financial information, strategic planning and forecasting information, and negotiating and contracting with commercial health plans. ProMedica and St. Luke's would suffer a competitive disadvantage should this testimony become public and commercial health plans or hospital competitors gained access to them. This Court has granted *in camera* treatment for portions of deposition testimony and

ProMedica requests the same treatment here. *See In re Polypore Int'l, Inc.*, 2009 F.T.C. LEXIS 258, at \*1 (July 9, 2009).

#### IV. **Expiration Date**

ProMedica seeks indefinite and temporary *in camera* treatment of these highly confidential exhibits. Specifically, ProMedica seeks indefinite treatment for patient data, and internal communications regarding the defensive strategy of this matter (subtopics 4 and 5). The sensitivity of the information in this category of documents will not lessen over time. *Evanston Northwestern Healthcare Corp.*, 2005 U.S. F.T.C. LEXIS 27, at \*2 (Feb. 9, 2005). ProMedica seeks temporary treatment for deposition and investigational hearing testimony for a period of five years. *See In re Polypore Int'l, Inc.*, 2009 F.T.C. LEXIS 258, at \*1 (July 9, 2009).

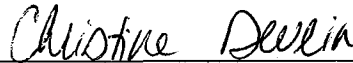
ProMedica seeks temporary treatment for the remaining categories of documents for a period of three years. Administrative courts grant *in camera* treatment for business records for a period of two to five years. *See Evanston Northwestern Healthcare Corp.*, 2005 F.T.C. LEXIS 27, at \*2 (Feb. 9, 2005); *In the Matter of E.I. Dupont de Nemours & Co.*, 97 F.T.C. LEXIS 116, 118 (Jan. 21, 1981) (granting financial data *in camera* treatment for three years); *In re Int'l Ass. Of Conf. Interpreters*, 1996 F.T.C. LEXIS 298 (June 26, 1996) (granting contracts *in camera* treatment for three years). Three years is necessary to protect documents related to ProMedica and St. Luke's agreements with commercial health plans because those contracts may last several years. Three years is also necessary to protect business records with competitively sensitive information that contain projections or forecasts impacting future plans and initiatives. Therefore, documents that are three to five years old remain relevant, material, and confidential, and warrant *in camera* treatment.

V. **Conclusion**

Pursuant to 16 C.F.R. §3.45 and Paragraph 7 of the Scheduling Order, ProMedica respectfully moves for *in camera* treatment of the proposed exhibits identified in Table I and attached in Appendix A.

Dated: May 5, 2011

Respectfully submitted,



By: CHRISTINE G. DEVLIN

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Stephen Y. Wu  
Amy J. Carletti  
Erin C. Arnold  
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cdevlin@mwe.com  
dgpowers@mwe.com  
jcamden@mwe.com

*Attorneys for Respondent ProMedica  
Health System, Inc.*

I, Christine Devlin, hereby certify that I served a true and correct copy of the foregoing Respondent's Memorandum in Support of its Motion for *In Camera* Treatment, Public Version, upon the following individuals by hand on May 5, 2011.

Hon. D. Michael Chappell  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Room H110  
Washington, DC 20580

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Room 172  
Washington, DC 20580

I, Christine Devlin, hereby certify that I served a true and correct copy of the foregoing Respondent's Memorandum in Support of its Motion for *In Camera* Treatment, Public Version, upon the following individuals by electronic mail on May 5, 2011.

Matthew J. Reilly  
Jeffrey H. Perry  
Sara Y. Razi  
Jeanne H. Liu  
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mhoward@ftc.gov

  
\_\_\_\_\_  
Christine Devlin



**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of )  
 )  
PROMEDICA HEALTH SYSTEM, INC. )  
 )  
a corporation. )  
 )

Docket No. 9346  
**PUBLIC**

**DECLARATIONS IN SUPPORT OF RESPONDENT PROMEDICA HEALTH SYSTEM,  
INC.'S MOTION FOR *IN CAMERA* TREATMENT OF TRIAL EXHIBITS**

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of )  
 )  
PROMEDICA HEALTH SYSTEM, INC. )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9346  
**PUBLIC**

**DECLARATION OF KATHLEEN HANLEY IN SUPPORT OF RESPONDENT  
PROMEDICA HEALTH SYSTEM, INC.'S MOTION FOR *IN CAMERA* TREATMENT**

I, Kathleen Hanley, declare as follows:

1) I provide this declaration, pursuant to Federal Trade Commission Rules of Practice for Adjudicative Proceedings §3.45 and Scheduling Order ¶ 7, in support of Respondent's Motion for *In Camera* Treatment of Trial Exhibits.

2) I am employed as the Chief Financial Officer and Strategic Planning and Business Development Officer for ProMedica Health System, Inc. ("ProMedica"). I have been Chief Financial Officer since 1996, and Strategic Planning and Business Development Officer since July of 2010. In my role, I have personal knowledge regarding the matters set forth in this declaration. Specifically, I am familiar with ProMedica's documents and the level of confidentiality associated with the subject matter(s) contained therein.

3) I have reviewed the documents for which ProMedica seeks *in camera* treatment and have determined that public disclosure of these materials would cause a clearly defined, serious injury to ProMedica and St. Luke's.

4) Appendix A-1 contains business records including internal communications, initiatives and reports regarding clinical quality; strategic plans; internal communications regarding financing and budgeting; and internal communications regarding rates and contracting with

commercial health plans. These documents reflect strategic and competitive decision-making by ProMedica's senior executives. The public disclosure of these documents would competitively disadvantage ProMedica in the future as it renegotiates contracts with commercial health plans. It would also cause injury to ProMedica if its competitors learned of its strategic plans, goals, and initiatives. Because these documents contain competitively sensitive information, ProMedica treats them as confidential and does not disclose them publicly.

5) Appendix A-2 contains contracts with commercial health plans. Disclosure of these documents would result in competitive injury to both ProMedica and the commercial health plans with whom it contracts. The contracts and rates to which parties agree are confidential and reflect complex negotiations. Both parties treat this information as confidential and disclosure of these materials would cause them significant competitive harm in the future.

6) Appendix A-3 contains documents reflecting negotiations and negotiation strategy with commercial health plans. Disclosure of these materials would result in competitive injury not only to ProMedica, but also to the commercial health plans with which ProMedica negotiates. For that reason, ProMedica treats these documents as confidential and does not disclose them publicly.

7) Appendix A-4 contains documents with patient data. This information is sensitive and contains details on inpatient and outpatient admissions. ProMedica treats these documents as confidential and does not disclose them publicly.

8) Appendix A-5 contains documents regarding this investigation and ProMedica's defensive strategy. These documents are confidential because they reflect strategy, future plans and proposals. They also represent the competitive decision-making of ProMedica senior executives. ProMedica treats these documents as confidential and does not disclose them

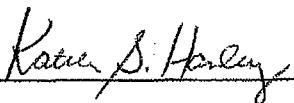
publicly. ProMedica would suffer a competitive disadvantage should these documents become public and commercial health plans or hospital competitors gained access to them.

9) Appendix A-6 contains financial documents. This includes internal spreadsheets and communications regarding budgets, revenues, proposals, and forecasts that have not been made public. Moreover, the documents in this category are recent financial documents that are not in the public sector. ProMedica treats these documents as confidential and does not disclose them publicly. ProMedica would suffer a competitive disadvantage should these documents become public and commercial health plans or hospital competitors gained access to them.

10) Appendix A-7 contains deposition transcripts from certain of ProMedica's executives. The deposition transcript excerpts contain information regarding the categories above, including financial information, strategic planning and forecasting information, and negotiating and contracting with commercial health plans. ProMedica would suffer a competitive disadvantage should this testimony become public and commercial health plans or hospital competitors gained access to them.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 5, 2011



A handwritten signature in cursive script, reading "Kathleen S. Hanley", is written over a horizontal line.

Kathleen S. Hanley

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of )  
 )  
PROMEDICA HEALTH SYSTEM, INC. )  
a corporation. )

Docket No. 9346  
**PUBLIC**

**DECLARATION OF LORI A. JOHNSTON IN SUPPORT OF RESPONDENT  
PROMEDICA HEALTH SYSTEM, INC.'S MOTION FOR *IN CAMERA* TREATMENT**

I, Lori Johnston, declare as follows:

- 1) I provide this declaration, pursuant to Federal Trade Commission Rules of Practice for Adjudicative Proceedings §3.45 and Scheduling Order ¶ 7, in support of Respondent's Motion for *In Camera* Treatment of Trial Exhibits.
- 2) I am employed as the Chief Financial Officer and Chief Operating Officer for St. Luke's Hospital ("St. Luke's"). I have held this position since September 1, 2010. In this position, I am responsible for the overall financial and operational performance of St. Luke's. I am oversee the finance, information technology, purchasing, nursing and all professional services departments of the hospital. In my role as Chief Financial Officer and Chief Operating Officer, I have personal knowledge regarding the matters set forth in this declaration. Specifically, I am familiar with St. Luke's documents and the level of confidentiality associated with the subject matter(s) contained therein.
- 3) I have reviewed the St. Luke's documents for which Respondent seeks *in camera* treatment and have determined that public disclosure of these materials would cause a clearly defined, serious injury to Respondent and St. Luke's.

4) Appendix A-1 contains business records including strategic plans, internal communications regarding financing and budgeting; and internal communications regarding rates and contracting with commercial health plans. These documents reflect strategic and competitive decision-making by St. Luke's senior executives. The public disclosure of these documents would cause irreparable harm to St. Luke's in the event that the Court prohibits the transaction and ProMedica divests St. Luke's. In that situation, St. Luke's would suffer a competitive disadvantage should the information in these documents become public and commercial health plans or hospital competitors gained access to them.

5) Appendix A-2 contains contracts with commercial health plans. Disclosure of these documents would result in competitive injury to both St. Luke's and the commercial health plans with whom it contracts. The contracts and rates to which parties agree are confidential and reflect complex negotiations. Both parties treat this information as confidential and disclosure would cause them significant competitive harm in the future.

6) Appendix A-3 contains documents reflecting negotiations and negotiation strategy with commercial health plans. Disclosure of these materials would result in competitive injury not only to St. Luke's, but also to the commercial health plans with which St. Luke's negotiates. For that reason, St. Luke's treats these documents as confidential and does not disclose them publicly.

7) Appendix A-4 contains documents with patient data. This information is sensitive and contains details on inpatient and outpatient admissions. St. Luke's treats these documents as confidential and does not disclose them publicly.

8) Appendix A-5 contains documents regarding this investigation and Respondent's defensive strategy. These documents are confidential because they reflect strategy, future plans,

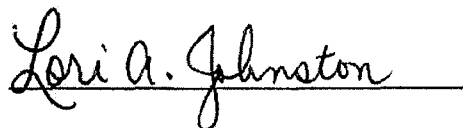
and proposals regarding Respondent and St. Luke's. They also represent the competitive decision-making of Respondent and St. Luke's executives. Respondent and St. Luke's treat these documents as confidential and they do not disclose them publicly. Respondent and St. Luke's would suffer a competitive disadvantage should these documents become public and commercial health plans or hospital competitors gained access to them.

9) Appendix A-6 contains financial documents. This includes internal spreadsheets and communications regarding budgets, revenues, proposals, and forecasts that have not been made public. Moreover, the documents in this category are recent financial documents that are not in the public sector. St. Luke's treats these documents as confidential and does not disclose them publicly. St. Luke's would suffer a competitive disadvantage should these documents become public and commercial health plans or hospital competitors gained access to them.

10) Appendix A-7 contains deposition transcripts from certain of St. Luke's executives. The deposition transcript excerpts contain information regarding the categories above, including financial information, strategic planning and forecasting information, and negotiating and contracting with commercial health plans. St. Luke's would suffer a competitive disadvantage should these documents become public and commercial health plans or hospital competitors gained access to them.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 5, 2011

A handwritten signature in cursive script that reads "Lori A. Johnston". The signature is written in black ink and is positioned above a horizontal line.

Lori A. Johnston

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

In the Matter of )  
 )  
PROMEDICA HEALTH SYSTEM, INC. )  
 a corporation. )  
 )

Docket No. 9346

**STATEMENT REGARDING MEET AND CONFER**

On May 4, 2011, Respondent's Counsel, Christine Devlin, conferred with Complaint Counsel, Jeanne Liu, regarding the proposed exhibits for which Respondent is seeking *in camera* treatment. Complaint Counsel indicated that they intend to oppose Respondent's motion.

Dated: May 5, 2011

Respectfully submitted,

  
By: CHRISTINE G. DEVLIN

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