

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: **Jon Leibowitz, Chairman**
 J. Thomas Rosch
 Edith Ramirez
 Julie Brill

In the Matter of
ProMedica Health System, Inc.
a corporation

PUBLIC
Docket No. 9346

JOINT MOTION FOR SCHEDULING OF ORAL ARGUMENT

Pursuant to § 4.3(b) of the Federal Trade Commission’s Rules of Practice (“Rules”), 16 C.F.R. § 4.3(b), Complaint Counsel and Respondent ProMedica Health System, Inc. (“ProMedica”) jointly move that oral argument before the Commission in the above-captioned matter not be scheduled on specific dates due to conflicts with an ongoing federal district court proceeding in Rockford, Illinois. Based on the current briefing schedule under § 3.52(a)(1) of the Rules, Complaint Counsel and Respondent expect that oral argument in this matter would be held on or before February 2, 2012. Movants respectfully request that oral argument be held on Monday, February 6 or, alternatively, the end of the week of January 23, preferably Friday, January 27, 2012.

On December 5, 2011, Chief Administrative Law Judge D. Michael Chappell issued an Initial Decision in this matter. Pursuant to § 3.52(a)(1) of the Rules, Complaint Counsel and Respondent each submitted appeal briefs to the Commission on December 27, 2011. Under § 3.52(a)(1) of the Rules, answering briefs are due within 20 days, meaning by January 17, 2012; reply briefs are due within five days of the answering briefs, meaning by January 23; and, thus,

oral argument would be held within 10 days of the reply briefs, meaning on or before February 2.

Complaint Counsel and Respondent jointly move the Commission to schedule oral argument as requested to avoid scheduling conflicts. Specifically, both Respondent's counsel and Complaint Counsel are scheduled to appear in the Northern District of Illinois from February 1 through February 3 for a preliminary injunction hearing in *FTC v. OSF Healthcare Sys.*, No. 3:11-cv-50344 (N.D. Ill. complaint filed Nov. 18, 2011) ("*Rockford*"). As such, Respondent's counsel and Complaint Counsel must be in Rockford, Illinois from January 30 through February 3 – i.e., the same time when oral argument before the Commission ordinarily would be expected – to prepare and appear for argument in that matter. Additionally, starting February 7, Respondent's counsel will be out of the country for an extended period.

Section 4.3(b) of the Rules allows the Commission to “extend any time limit prescribed by the rules in this chapter” for “good cause shown.” 16 C.F.R. § 4.3(b). Chapter I, Subchapter A, Part III, § 3.52(a)(1) of the Rules prescribes the time period for appellate briefing and oral argument before the Commission. Complaint Counsel and Respondent submit that their contemporaneous obligations in the *Rockford* case constitute good cause shown for adjusting the oral argument schedule in this matter by only a few days. Therefore, Complaint Counsel and Respondent request that oral argument be held on Monday, February 6 or, alternatively, the end of the week of January 23, preferably Friday, January 27, which would allow the Commission more time to review the parties' reply briefs, expected to be submitted by January 23.

Respectfully submitted this 9th day of January, 2012 by,

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CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2012, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

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I also certify that on January 9, 2012, I delivered via electronic mail and hand delivery a copy of the foregoing document to:

The Honorable D. Michael Chappell
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I further certify that on January 9, 2012, I delivered via electronic mail a copy of the foregoing to:

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CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties or the adjudicator.

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