

Palmyra, owned and operated Palmyra Medical Center, a 248-bed acute care hospital located in Albany, Georgia. On December 21, 2010, Palmyra entered into an agreement with the Hospital Authority of Albany-Dougherty County (the "Authority") to sell Palmyra's assets to the Authority, which the Authority intended to lease to Phoebe Putney Memorial Hospital, Inc. ("PPMH") (together with Phoebe Putney Health System, Inc. ("PPHS") and Phoebe North, Inc., the "Phoebe Putney Respondents").

The Federal Trade Commission (the "FTC" or "Commission") issued an administrative complaint on April 20, 2011, alleging that the proposed acquisition and subsequent lease of Palmyra by the Authority would reduce competition in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and Section 7 of the Clayton Act, 15 U.S.C. § 18. On the same day, the Commission also filed a complaint for preliminary injunction in the U.S. District Court for the Middle of District of Georgia against the same parties. The defendants moved to dismiss the complaint, alleging the transaction was immune from the federal antitrust laws under the state-action doctrine. The District Court heard the motions on June 13, 2011 and, finding state-action immunity applied, dismissed the complaint on June 27, 2011. The FTC appealed the decision to the Eleventh Circuit which granted an injunction pending appeal. On July 1, 2011, while the federal action was pending, the respondents moved for a stay of this administrative proceeding, which the Commission granted on July 15, 2011. On December 9, 2011, the Eleventh Circuit affirmed the District Court's order dismissing the complaint. On December 15, 2011, the Eleventh Circuit dissolved the preliminary injunction and HCA consummated the transaction by selling Palmyra's assets to the Authority.

Thereafter, on March 23, 2012, the FTC petitioned the United States Supreme Court for certiorari, which was granted on June 25, 2012. After the appeal was fully briefed, the Supreme Court heard oral arguments on November 26, 2012. On February 19, 2013, the

Supreme Court issued its order overturning the Eleventh Circuit's decision, finding that state action immunity did not apply to the acquisition and lease of Palmyra's assets by the Authority. Following this decision, the FTC Complaint Counsel moved to lift the stay on this administrative proceeding on February 22, 2013. The Commission granted the motion, and lifted the stay on the administrative proceeding on March 14, 2013.

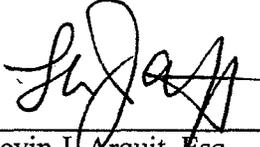
The Palmyra assets at issue in this matter have been held by the Hospital Authority since December 15, 2011, the date on which the parties consummated the transaction. The Authority did not acquire the Palmyra entity – just the assets. On August 1, 2012, the Authority incorporated Palmyra's assets, now known as Phoebe North, into its existing lease with PPMH.

The HCA Respondents no longer own or operate any of the assets at issue in this action or any other assets in the Albany, Georgia area. The HCA Respondents did not participate in the briefing or argument in the Supreme Court, and have not been active participants in the continuing litigation in federal court. Therefore, the HCA Respondents have no “legally cognizable interest in the outcome” of this action and should be dismissed as parties to the administrative action. *Munsell v. Dep't of Agriculture*, 509 F.3d 572, 581-82 (D.C. Cir. 2007) (citing *Cnty. of Los Angeles v. Davis*, 440 U.S. 625, 631(1979)).

For these reasons, the HCA Respondents respectfully request that they be dismissed from this action.

Dated: April 5, 2013

Respectfully submitted,

By 

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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2013, a true and correct copy of the foregoing **MOTION TO DISMISS HCA INC. AND PALMYRA PARK HOSPITAL, INC.** was filed via FTC E-File, with the original and twelve (12) true and correct copies of the paper original via hand delivery to:

Donald S. Clark
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Federal Trade Commission
Room H113
600 Pennsylvania Avenue, N.W.
Washing, D.C. 20580
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I hereby certify that on April 5, 2013, I caused to be delivered via electronic mail and hand delivery a copy of the foregoing **MOTION TO DISMISS HCA INC. AND PALMYRA PARK HOSPITAL, INC.** to:

The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
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oalj@ftc.gov

I hereby certify that on April 5, 2013, I caused to be delivered via electronic mail a .pdf copy that is a true and correct copy of the original of the foregoing **MOTION TO DISMISS HCA INC. AND PALMYRA PARK HOSPITAL, INC.** to:

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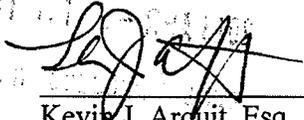
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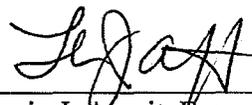
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CERTIFICATE FOR ELECTRONIC FILING

I hereby certify that the electronic copy filed through FTC E-File is a true and correct copy of the paper original of the foregoing **MOTION TO DISMISS HCA INC. AND PALMYRA PARK HOSPITAL, INC.**

April 5, 2013

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