

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

ALBANY DIVISION

FEDERAL TRADE COMMISSION and)	
THE STATE OF GEORGIA,)	
)	
Plaintiffs,)	
v.)	No. 1:11-cv-58 (WLS)
)	
PHOEBE PUTNEY)	
HEALTH SYSTEM, INC.,)	
PHOEBE PUTNEY MEMORIAL)	
HOSPITAL, INC.,)	
PHOEBE NORTH, INC.,)	
HCA INC.,)	
PALMYRA PARK HOSPITAL INC., and)	
HOSPITAL AUTHORITY OF ALBANY-)	
DOUGHERTY COUNTY,)	
)	
Defendants.)	

**MEMORANDUM IN SUPPORT OF PLAINTIFF FEDERAL TRADE COMMISSION’S
MOTION TO FILE CERTAIN DOCUMENTS UNDER SEAL**

Plaintiff Federal Trade Commission (the “FTC” or “Commission”) respectfully moves the Court for an order, pursuant to Rules 5 and 7(b) of the Federal Rules of Civil Procedure and Local Civil Rule 5.2, directing the Clerk of the Court to file under seal, until further order, the following two documents:

- (1) Memorandum in Support of Plaintiff Federal Trade Commission’s Motions for Temporary Restraining Order and for Preliminary Injunction; and
- (2) All exhibits accompanying the Memorandum in Support of Plaintiff Federal Trade Commission’s Motions for Temporary Restraining Order and for Preliminary Injunction.

The Commission has filed motions for a temporary restraining order and a preliminary injunction pending the outcome of the Commission's ongoing expedited administrative proceeding and any appeals. Attached to Plaintiff's moving papers are documents that contain potentially sensitive business information provided to the Commission by Defendants and third parties during the investigation of the Transaction. This information was provided in confidence and has thus far been protected from public disclosure during the investigation by virtue of statutory provisions governing materials produced pursuant to compulsory process or in lieu thereof. *See* 15 U.S.C. §§ 46(f), 57b-2(b),(c); 16 C.F.R. § 4.10(d).

Consistent with these statutory provisions, the appropriate course in any ensuing Court proceeding is to: (1) file such documents under seal; and (2) notify the producing parties that the documents containing this information have been filed under seal. To facilitate transparency of the FTC's case in this action, Plaintiff is filing herewith a redacted public version of the memorandum, obscuring only the potentially confidential information. After the filing of initial moving papers, the Commission may move the Court to unseal some portions of the two documents specified herein.

A proposed order is attached.

Respectfully submitted this 9th day of April, 2013.

s/Jeffrey H. Perry
JEFFREY H. PERRY
Assistant Director
SARA Y. RAZI
Deputy Assistant Director
MARIA M. DIMOSCATO
JENNIFER K. SCHWAB (630660)
AMANDA G. LEWIS
LUCAS A. BALLETT
CHRISTOPHER J. ABBOTT
DOUGLAS E. LITVACK
JOSHUA B. SMITH
STEPHEN W. SOCKWELL, JR.
STELIOS S. XENAKIS
Attorneys
Federal Trade Commission
Bureau of Competition
600 Pennsylvania Avenue, NW
Washington, DC 20580
Telephone: (202) 326-2331
Facsimile: (202) 326-2286
Email: jperry@ftc.gov

RICHARD A. FEINSTEIN
Director
NORMAN A. ARMSTRONG, JR.
Deputy Director
Federal Trade Commission
Bureau of Competition

DAVID C. SHONKA
Acting General Counsel
Federal Trade Commission

*Counsel for Plaintiff Federal Trade
Commission*

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2013, I filed the foregoing with the Clerk of Court via the CM/ECF system, which will automatically send electronic mail notification of such filing to the CM/ECF registered participants as identified on the Notice of Electronic Filing.

s/ Maria M. DiMoscato
MARIA M. DIMOSCATO
Attorney
Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Telephone: (202) 326-2315
Email: mdimoscato@ftc.gov

*Attorney for Plaintiff Federal Trade
Commission*