

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



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,)
)
Respondents.)

DOCKET NO. 9366

**ORDER GRANTING UNOPPOSED MOTIONS OF
COMPLAINT COUNSEL FOR ISSUANCE OF SUBPOENAS**

I.

On January 13, 2016, Federal Trade Commission ("FTC") Complaint Counsel filed two motions for the issuance of subpoenas pursuant to FTC Rule 3.36, 16 C.F.R. § 3.36. Through one motion, Complaint Counsel requests the issuance of a subpoena for subpoenas *ad testificandum* to officials of and personnel associated with Marshall University, a public university in West Virginia (the "Marshall University Personnel"). In its second motion, Complaint Counsel requests the issuance of a subpoena *ad testificandum* to Mr. James Pitrolo, Chairman of the West Virginia Health Care Authority ("WVHCA"), an agency of the State of West Virginia (collectively, "Motions").

Rule 3.36(b) requires the party seeking issuance of a subpoena requiring the appearance of an official or employee of another governmental agency to make a showing that: the material sought is reasonable in scope; the material is within the limits of discovery under Rule 3.31(c)(1); the information or material sought cannot reasonably be obtained by other means; and the subpoena meets the requirements of Rule 3.37. Complaint Counsel recites that Respondents do not oppose the Motions.

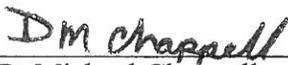
II.

On January 6, 2016, an order was issued granting Respondent Cabell Huntington Hospital's ("Cabell") unopposed motion for a deposition subpoena directed to Mr. Pitrolo, pursuant to Rule 3.36. Pursuant to Additional Provision 13 of the Scheduling Order issued in this case: the parties are required to consult with each other prior to confirming any deposition to coordinate the time and place of the deposition; third-party depositions are limited to a maximum of seven hours; and, for any third-party deposition noticed by both Complaint Counsel and Respondents, the maximum time for the deposition shall be allocated under the terms of Additional Provision 13. Thus, although Cabell has been authorized to serve a deposition subpoena directed to Mr. Pitrolo, it is not duplicative for Complaint Counsel to seek to cross-notice Mr. Pitrolo. The parties shall comply with the requirements of Additional Provision 13.

Complaint Counsel's motions meet the requirements of Rule 3.36 and are therefore GRANTED.

Pursuant to Rule 3.34, in the event that the Marshall University Personnel or Mr. Pitrolo seek to limit or quash the subpoenas, they shall have the earlier of ten days after service of the subpoena or the time for compliance therewith to file any such motion. 16 C.F.R. § 3.34(c). In addition, pursuant to Rule 3.36(c), Complaint Counsel may forward to the Secretary a request for the authorized subpoenas, with a copy of this authorizing order attached. Complaint Counsel shall serve a copy of this order on the Marshall University Personnel and Mr. Pitrolo at the time it serves the subpoenas. 16 C.F.R. § 3.36(c).

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: January 13, 2016

Notice of Electronic Service

I hereby certify that on January 13, 2016, I filed an electronic copy of the foregoing Order Granting Unopposed Motions of Complaint Counsel for Issuance of Subpoenas, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
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Donald Clark
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I hereby certify that on January 13, 2016, I served via E-Service an electronic copy of the foregoing Order Granting Unopposed Motions of Complaint Counsel for Issuance of Subpoenas, upon:

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