



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of

Thomas Jefferson University
a corporation,

and

Albert Einstein Healthcare Network
a corporation.

Docket No. 9392

**JOINT MOTION TO STAY THE ADMINISTRATIVE PROCEEDING FOR AN
ADDITIONAL FORTY-FIVE DAYS**

Pursuant to Rule 3.41(b) of the Federal Trade Commission’s Rule of Practice, 16 C.F.R. § 3.41(b), Complaint Counsel and Respondents Thomas Jefferson University and Albert Einstein Healthcare Network respectfully submit this joint motion requesting that the Commission stay this proceeding for an additional 45 days. The evidentiary hearing is currently scheduled to begin on October 1, 2020. This would be the second stay in this matter.

When it issued the Complaint on February 27, 2020, the Commission originally scheduled the evidentiary hearing in this matter to begin on September 1, 2020. By Order dated March 19, 2020, the Commission fully stayed these proceedings for 30 calendar days due to the public health emergency. *See* Order Regarding Scheduling in Light of Public Health Emergency. The Order also extended the hearing date and all pre-hearing dates in this matter for 30 calendar days. *Id.* When the Commission entered this Order, the Administrative Law Judge

had not issued a scheduling order in this matter and, consistent with Rule 3.31(a), 16 C.F.R. § 3.31(a), the parties had not begun discovery.

Since then, the Commonwealth of Pennsylvania has taken actions responding to the ongoing public health situation that bear on this matter. On March 23, 2020, Governor Thomas Wolf issued an order directing “Individuals to Stay at Home” in seven counties in Pennsylvania. *See* Order of the Gov. of the Commonwealth of Penn. for Individuals to Stay at Home (Mar. 23, 2020), *available at* <https://www.governor.pa.gov/wp-content/uploads/2020/03/03.23.20-TWW-COVID-19-Stay-at-Home-Order.pdf>. The March 23 order included Philadelphia and Montgomery Counties, *see id.* § 1, in which Respondents operate and have their headquarters and in which relevant third parties are located. On April 1, 2020, Governor Wolf issued an “Order for Individuals to Stay at Home” that applied to all of Pennsylvania. *See* Order of the Gov. of the Commonwealth of Penn. for Individuals to Stay at Home (Apr. 1, 2020), *available at* <https://www.governor.pa.gov/wp-content/uploads/2020/04/20200401-GOV-Statewide-Stay-at-Home-Order.pdf>. The April 1 order is effective until April 30, 2020. *See id.* § 2.

Good cause exists to stay this proceeding for an additional 45 days. The ongoing public health emergency has rendered timely discovery and preparation for an October hearing untenable. The Respondents and other third-party healthcare providers in the Philadelphia region are engaged in responding to the public health emergency. Various third-party healthcare providers have indicated to the Parties that responding to discovery requests during the pendency and immediate aftermath of this public health crisis will be challenging.

The Parties request this stay knowing that the Commission is committed to proceed expeditiously with evidentiary hearings. *See, e.g.*, 16 C.F.R. §§ 3.1, 3.11(b)(4), 3.41, 3.46, 3.51-3.52. However, the public interest is better served by a short delay in these proceedings when,

due to circumstances beyond the Parties' control, litigants are unable to conduct adequate discovery and preparation in advance of the evidentiary hearing.

CONCLUSION

Complaint Counsel and Respondents jointly respectfully request that the Commission stay this matter for an additional 45 days. A proposed order is attached.

Dated: April 7, 2020

Respectfully Submitted,

/s/ Mark Seidman

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[PROPOSED] ORDER TO STAY THE ADMINISTRATIVE PROCEEDING FOR
FORTY-FIVE DAYS

On April 7, 2020, the Parties in this matter filed a Joint Motion to Stay the Administrative Proceeding for Forty-Five Days. Upon consideration of this motion, the Commission hereby finds that good cause exists to stay the administrative proceeding for forty-five days, and the Motion is **GRANTED**.

IT IS HEREBY ORDERED that this proceeding be fully stayed for 45 calendar days in addition to the stay of 30 calendar days ordered by the Commission on March 19, 2020; and

IT IS FURTHER ORDERED that the evidentiary hearing date and all pre-hearing deadlines in this proceeding be extended by the number of calendar days of this stay, in addition to the stay ordered by the Commission on March 19, 2020. The Administrative Law Judge retains discretion to adjust any such pre-hearing deadlines to the extent compatible with the hearing date as extended by this Order or to make a recommendation to the Commission regarding an alternative hearing date.

By the Commission.

April Tabor
Acting Secretary

SEAL:
ISSUED:

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2020, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
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I further certify that I delivered via electronic mail a copy of the foregoing document to:

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Dated: April 7, 2020

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By: /s/ Mark Seidman

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 and the adjudicator.

Dated: April 7, 2020

By: /s/ Mark Seidman