

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**Hackensack Meridian Health, Inc.,
a corporation,**

and

**Englewood Healthcare Foundation,
a corporation.**

Docket No. 9399

JOINT MOTION TO AMEND SCHEDULING ORDER

Complaint Counsel and Respondents, Hackensack Meridian Health, Inc. (“HMH”), and Englewood Healthcare Foundation (“Englewood”), jointly move to amend the Scheduling Order entered by this Court on December 28, 2020 and modified by Orders dated May 21, 2021, May 26, 2021, July 1, 2021, July 28, 2021, and September 24, 2021. The Parties make this motion in response to the following developments:

- On August 4, 2021, the United States District Court for the District of New Jersey granted a preliminary injunction requested by Complaint Counsel (the “PI Order”).
- On August 25, 2021, Respondents filed a Notice of Appeal of the PI Order (the “PI Appeal”).
- On September 14, 2021, all parties filed a Joint Expedited Motion for Further Continuance of Administrative Proceedings Pending Federal Court Appeal of Order Granting Motion for Preliminary Injunction.
- On September 24, 2021, the Commission entered an order Granting Fourth Continuance (the “September 24 Order”). That Order continued the evidentiary hearing in this

proceeding until “the first working day that is at least thirty days after the United States Court of Appeals for the Third Circuit renders its judgment on Respondents’ appeal of the August 4, 2021, order by the United States District Court for the District of New Jersey granting a preliminary injunction requested by Complaint Counsel.” The September 24 Order also further ordered that “unless modified by the Chief Administrative Law Judge, all related prehearing deadlines shall be extended by sixty (60) days.”

- On November 12, 2021, all parties completed briefing in the PI Appeal. Oral argument for the PI Appeal is tentatively set for December 9, 2021.

The Parties respectfully request that the Chief Administrative Law Judge amend the Scheduling Order and move all remaining deadlines to align with the present start date of the evidentiary hearing as reflected in the September 24 Order. Doing so will, among other things, save approximately two dozen nonparties meaningful expense and burden by avoiding the filing of motions for *in camera* treatment and trial preparation while the evidentiary hearing is stayed. These extensions will likewise also save this Court from potentially unnecessary expenditures of time and resources.

The Scheduling Order was previously amended by Order of the Chief Administrative Law Judge on May 20, 2021, and by orders of the Commission on May 26, 2021, July 1, 2021, July 28, 2021, and September 24, 2021.

The parties hereby request the following amendments detailed below:

| Action | Current Deadline | Proposed Deadline |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|------------------------------------------------------------------------------------------------------|
| Deadline for filing motions <i>in limine</i> to preclude admission of evidence. <i>See</i> Additional Provision 13 | December 3, 2021 | 10 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |
| Deadline for filing motions for <i>in camera</i> treatment of proposed trial exhibits. <i>See</i> Additional Provision 12. | December 3, 2021 | 10 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |
| Complaint Counsel files pretrial brief supported by legal authority | December 3, 2021 | 10 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |
| Deadline for filing responses to motions <i>in limine</i> to preclude admission of evidence | December 6, 2021 | 7 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |
| Deadline for filing responses to motions for <i>in camera</i> treatment of proposed trial exhibits | December 6, 2021 | 7 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |
| Exchange and provide a courtesy copy to ALJ of objections to final proposed witness lists and exhibit lists. The parties are directed to review the Commission’s Rules on admissibility of evidence before filing objections to exhibits | December 6, 2021 | 7 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |
| Exchange proposed stipulations of law, facts, and authenticity | December 6, 2021 | 7 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |

| Action | Current Deadline | Proposed Deadline |
|------------------------------------------------------------------------|-------------------------|-----------------------------------------------------------------------------------------------------|
| Respondents' Counsel files pretrial brief supported by legal authority | December 7, 2021 | 6 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |
| Final prehearing conference to begin at 1:00 p.m. Eastern Time | December 10, 2021 | 3 days prior to the start date of the evidentiary hearing as contemplated by the September 24 Order |

A Proposed Order is attached.

Dated: November 15, 2021

/s/ Kenneth M. Vorrasi

Kenneth M. Vorrasi
 John L. Roach, IV
 Jonathan H. Todt
 Alison M. Agnew
 FAEGRE DRINKER BIDDLE & REATH LLP
 1500 K Street, NW, Suite 1100
 Washington, DC 20005
 Telephone: 202-842-8800
 kenneth.vorrasi@faegredrinker.com
 lee.roach@faegredrinker.com
 jonathan.todt@faegredrinker.com
 alison.agnew@faegredrinker.com

Paul H. Saint-Antoine
 John S. Yi
 FAEGRE DRINKER BIDDLE & REATH LLP
 One Logan Square, Suite 2000
 Philadelphia, PA 19103
 Telephone: 215-988-2700
 paul.saint-antoine@faegredrinker.com
 john.yi@faegredrinker.com

Daniel J. Delaney
 FAEGRE DRINKER BIDDLE & REATH LLP
 191 N. Wacker Drive, Suite 3700
 Chicago, IL 60606

Respectfully submitted,

/s/ Jonathan Lasken

Jonathan Lasken
 Lindsey Bohl
 Nathan Brenner
 Christopher Caputo
 Nandu Machiraju
 Harris Rothman
 Anthony Saunders
 Cathleen Williams
 FEDERAL TRADE COMMISSION
 Bureau of Competition
 600 Pennsylvania Avenue, NW
 Washington, DC 20580
 Telephone: (202) 326-3296
 jlasken@ftc.gov
 ebowne@ftc.gov
 lbohl@ftc.gov
 nbrenner@ftc.gov
 ccaputo@ftc.gov
 sgordon@ftc.gov
 nmachiraju@ftc.gov
 asaunders@ftc.gov
 cwilliams@ftc.gov

Counsel Supporting the Complaint

Telephone: 312-569-1000
daniel.delaney@faegredrinker.com

*Counsel for Respondent Hackensack Meridian
Health, Inc.*

/s/ Jeffery L. Kessler
Jeffrey L. Kessler
Jeffrey J. Amato
WINSTON & STRAWN LLP
200 Park Avenue
New York, NY 10163
Telephone: 212-294-4698
Facsimile: 212-294-4700
jkessler@winston.com
jamato@winston.com

Heather P. Lamberg
WINSTON & STRAWN LLP
1901 L Street, NW
Washington DC 20036
Telephone: 202-282-5274
Facsimile: 202-282-5100
hlamberg@winston.com

David E. Dahlquist
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, Illinois 60601
Telephone: 312-558-5660
Facsimile: 312-558-5700
ddahlquist@winston.com

*Counsel for Respondent Englewood Healthcare
Foundation*

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**Hackensack Meridian Health, Inc.,
a corporation,**

and

**Englewood Healthcare Foundation,
a corporation.**

Docket No. 9399

[PROPOSED] ORDER AMENDING SCHEDULING ORDER

This matter having come before the Court upon the Joint Motion to Amend the Scheduling Order, and having considered the position of the Parties, it is hereby ORDERED that the Scheduling Order in the above-captioned matter is amended to reflect the agreed-upon dates provided in the Joint Motion.

All other provisions of the Scheduling Order shall remain in effect.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date:

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2021, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I also certify that I caused the foregoing document to be served via email to:

Paul Saint-Antoine
Kenneth Vorrasi
FAEGRE DRINKER BIDDLE & REATH LLP
1500 K Street, NW
Washington, D.C. 20005
Paul.saint-antoine@faegredrinker.com
kenneth.vorrasi@faegredrinker.com

Counsel for Respondent Hackensack Meridian Health, Inc.

Jeffrey L. Kessler
Jeffrey J. Amato
WINSTON & STRAWN LLP
200 Park Avenue
New York, NY 10163
jkessler@winston.com
jamato@winston.com

Counsel for Respondent Englewood Healthcare Foundation

By: /s/ Jonathan Lasken
Jonathan Lasken

Counsel Supporting the Complaint