

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Rebecca Kelly Slaughter
 Alvaro M. Bedoya
 Melissa Holyoak
 Andrew Ferguson

In the Matter of

Novant Health, Inc.,
 a corporation,

and

Community Health Systems, Inc.,
 a corporation.

Docket No. 9425

**JOINT EXPEDITED MOTION FOR A 30-DAY CONTINUANCE
OF ADMINISTRATIVE PROCEEDINGS**

Pursuant to Rule 3.41 of the Federal Trade Commission’s (“FTC” or “Commission”) Rules of Practice, Complaint Counsel and Respondents Novant Health, Inc. (“Novant”) and Community Health Systems, Inc. (“CHS”), jointly move for a 30-day postponement of the commencement of the administrative hearing currently scheduled to begin on June 26, 2024 and related pre-hearing deadlines (“Motion”). This brief postponement may facilitate significant streamlining of the parties’ hearing presentation, will allow more orderly preparation for the administrative proceeding on the heels of a preliminary injunction hearing in the District Court, and in doing so will minimize the expense and burden on both the parties and non-parties.

The requested relief will not prejudice the Commission’s ability to discharge its duties. The parallel proceedings in United States District Court on the Commission’s motion for a preliminary injunction in *FTC v. Novant Health, Inc., et al.*, No. 5:24-cv-00028 (W.D.N.C.) are

ongoing, with proposed findings of fact and conclusions of law submitted on May 22, 2024, following an evidentiary hearing. Although we do not know precisely when the District Court will issue its ruling, it appears likely that it will rule after much of the preparation for the administrative trial will have already been completed under current deadlines. A brief 30-day stay will not degrade the Commission's ultimate ability to obtain relief relative to the present timing.

ARGUMENT

The Parties request expedited consideration of this Motion because although federal proceedings are still ongoing, expert discovery in this administrative proceeding has already begun, major non-party deadlines are in the next few weeks, Complaint Counsel's prehearing brief is due in under four weeks, and the administrative hearing itself is just over one month away. A short continuance will allow both parties and non-parties, who have been diligently preparing for and presenting evidence at the preliminary injunction hearing in the District Court, to now prepare for the administrative hearing in a more orderly fashion, as well as to react as appropriate to any implications of the District Court's ruling that may be relevant to these administrative proceedings.

Good cause exists for a continuance and a brief postponement of the administrative proceedings will not prejudice the Commission. A planned, brief stay avoids any inefficiencies that may arise from preparing for the administrative trial under tight deadlines while awaiting the District Court's ruling. This is consistent with the Commission's past approach to close-in-time federal and administrative proceedings. *See, e.g., In re Thomas Jefferson Univ.*, Docket No. 9392, 2020 WL 7237952 (F.T.C. Nov. 6, 2020); *In re RAG-Stiftung*, Docket No. 9384, 2020 WL 91294 (F.T.C. Jan. 2, 2020); *In re Sanford Health*, Docket No. 9376, 2017 WL 6604532 (F.T.C. Dec. 21, 2017); *In re The Penn State Hershey Med. Ctr.*, Docket No. 9368, 2016 WL 3345405 (F.T.C. June 10, 2016); *In re Advocate Health Care Network*, Docket No. 9369, 2016 WL 3182774 (F.T.C.

June 2, 2016). As it has done in the past under similar circumstances, the Commission can grant this joint Motion for a continuance of the administrative hearing and pre-hearing deadlines without prejudicing itself.

RELIEF REQUESTED

For the foregoing reasons, Complaint Counsel and Respondents jointly and respectfully request that the Commission exercise its discretion under Rules 3.41(b), (f) to postpone the administrative hearing and all related pre-hearing deadlines by 30 days.

Dated: May 29, 2024

Respectfully submitted,

/s/ Nathan Brenner

Nathan Brenner
Federal Trade Commission
600 Pennsylvania Avenue
Washington, DC 20580
Tel.: (202) 326-2314
Email: nbrenner@ftc.gov

Counsel Supporting the Complaint

/s/ Heidi K. Hubbard

Heidi K. Hubbard
F. Lane Heard III
Jonathan B. Pitt
Beth A. Stewart
Carol J. Pruski
J. Liat Rome
Altumash Mufti
WILLIAMS & CONNOLLY LLP
680 Maine Avenue SW
Washington, DC 20024
Tel: (202) 434-5000
hhubbard@wc.com
lheard@wc.com
jpitt@wc.com
bstewart@wc.com
cpruski@wc.com
lrome@wc.com
amufti@wc.com

Alexis J. Gilman
CROWELL & MORING LLP
1001 Pennsylvania Avenue NW
Washington, DC 20004
Tel: (202) 624-2500
Fax: (202) 628-5116
agilman@crowell.com

Counsel for Respondent Novant Health, Inc.

/s/ Michael J. Perry

Michael J. Perry
Jamie E. France
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, NW
Washington, DC 20036
(202) 887-3558
mjerry@gibsondunn.com
jfrance@gibsondunn.com

Counsel for Community Health Systems, Inc.

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**[PROPOSED] ORDER GRANTING JOINT EXPEDITED MOTION FOR A 30-DAY
CONTINUANCE OF ADMINISTRATIVE PROCEEDINGS**

Good cause having been shown,

IT IS HEREBY ORDERED THAT Complaint Counsel’s and Respondents’ Joint Expedited Motion for a 30-Day Continuance of Administrative Proceedings is **GRANTED**; and

- (1) Commencement of the evidentiary hearing in this matter is moved from June 26, 2024 to July 26, 2024;
- (2) All other proceedings in this matter are stayed for 30 days from the date of this order; and
- (3) The Administrative Law Judge shall issue a revised Scheduling Order consistent with the terms of this order.

By the Commission.

April J. Tabor
Secretary

ISSUED:

CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2024, 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 Jay L. Himes
Administrative Law Judge
Federal Trade Commission
Northeast Regional Office
1 Bowling Green
New York, NY 10004

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

Heidi K. Hubbard
Carol J. Pruski
Williams & Connolly LLP
680 Maine Avenue, SW
Washington, DC 20024
(202) 434-5451
hhubbard@wc.com
cpruski@wc.com

Alexis J. Gillman
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 624-2570
agilman@crowell.com

Counsel for Novant Health, Inc.

Michael J. Perry
Jamie E. France
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, NW
Washington, DC 20036
(202) 887-3558
mjperry@gibsondunn.com
jfrance@gibsondunn.com

Counsel for Community Health Systems, Inc.

s/ Nathan Brenner
NATHAN BRENNER
Federal Trade Commission
Bureau of Competition
600 Pennsylvania Avenue, NW
Washington, DC 20580
Telephone: (202) 326-2314
Email: nbrenner@ftc.gov
Counsel Supporting the Complaint