

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

**FEDERAL TRADE COMMISSION,
Petitioner,**

v.

**LOUISIANA CHILDREN’S MEDICAL
CENTER; and HCA HEALTHCARE, INC.,
Respondents.**

Case No. 23-cv-1890

Judge Lance M. Africk
Section 1

Magistrate Judge Michael B. North
Division 5

**ANSWER AND AFFIRMATIVE DEFENSES OF
LOUISIANA CHILDREN’S MEDICAL CENTER**

Respondent Louisiana Children’s Medical Center (“LCMC”), by and through its undersigned attorneys, hereby answers Petitioner Federal Trade Commission’s (“FTC”) Complaint, styled as a Petition for Injunctive Relief Pursuant to Section 7A(g)(2) of the Clayton Act and Section 13(b) of the Federal Trade Commission Act.

Each paragraph below corresponds to the same-numbered paragraph in the Complaint. All allegations not expressly admitted are denied. LCMC does not interpret the headings or non-numbered preambulatory paragraphs in the Complaint as well-pleaded allegations to which any response is required. To the extent a response is required to the headings or preamble, LCMC denies all allegations therein—excepting the assertion of jurisdiction and venue in the Eastern District of Louisiana, to which LCMC does not object—and states that the FTC is not entitled to any relief. Use herein of any terms defined in the Complaint is not an acknowledgment or admission of any definition or characterization the FTC may ascribe to the terms.

Answer

1. LCMC admits the allegations in Paragraph 1. For avoidance of doubt, LCMC denies that the Acquisition is subject to the premerger notification and waiting period requirements of Section 7A of the Clayton Act.

2. LCMC admits the allegations in the first two sentences of Paragraph 2. LCMC respectfully refers to the cited website for an accurate and complete recitation of its contents.

3. LCMC lacks knowledge and information sufficient to admit or deny the allegations in Paragraph 3.

4. LCMC admits the allegations in Paragraph 4.

5. LCMC admits that it acquired the referenced hospitals on January 1, 2023. LCMC denies that the hospitals were purchased from HCA. LCMC admits that it purchased the acquired hospitals for a valuation of approximately \$150 million.

6. The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, LCMC denies the allegations in Paragraph 6.

7. The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, LCMC denies the allegations in Paragraph 7.

8. The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, LCMC denies the allegations in Paragraph 8.

9. LCMC admits that neither it nor HCA have claimed that the parties or the Acquisition fell below the referenced thresholds. The allegations in this paragraph otherwise state legal conclusions to which no response is required. To the extent a response is required, LCMC denies the remaining allegations in Paragraph 9. LCMC further states that it has consistently informed the FTC that the Acquisition is not subject to the HSR Act pursuant to the state action

immunity doctrine. LCMC respectfully refers to the cited website for an accurate and complete recitation of its contents.

10. The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, LCMC denies the allegations in Paragraph 10.

11. LCMC admits that neither it nor HCA has submitted the referenced premerger notification filing. LCMC denies that any such filing is required. LCMC further denies that it or HCA have failed to comply with the law.

12. LCMC denies the allegations in Paragraph 12.

13. LCMC lacks knowledge and information sufficient to admit or deny the first, second, and third sentences of Paragraph 13. LCMC denies the remainder of allegations in Paragraph 13 and states that the FTC is not entitled to any relief.

14. LCMC denies that any corrective steps are required. To the extent the allegations in Paragraph 14 are directed at HCA, LCMC lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 14, and on that basis denies the allegations. LCMC denies the remaining allegations in Paragraph 14.

15. LCMC admits the first sentence of Paragraph 15. The second sentence of Paragraph 15 states legal conclusions as to which no response is required. To the extent a response to the second sentence of Paragraph 15 is required, LCMC states that the granting of the COPA triggered the state action immunity doctrine, which is applicable to the Acquisition. LCMC lacks knowledge and information sufficient to admit or deny the third and fourth sentences of Paragraph 15.

16. LCMC admits that it has begun integrating the hospital assets. LCMC further states that the FTC's threats and this litigation have hindered that process, to the detriment of the people

of Louisiana and in violation of Louisiana's sovereignty. LCMC refers to the cited documents for an accurate and complete recitation of their contents.

17. LCMC admits that it plans to continue integrating the hospital assets, in order to deliver the promised benefits of improved access to quality healthcare to the people of Louisiana. LCMC denies that any relief is necessary and further states that the FTC is not entitled to any relief.

Affirmative and Other Defenses

LCMC asserts the following defenses, without assuming the burden of proof on such defenses that would otherwise rest with the FTC. LCMC has not knowingly or intentionally waived any applicable defenses, and it reserves the right to assert and rely upon other applicable defenses that may become available or apparent throughout the course of the action. LCMC reserves the right to amend, or seek to amend, its answer and affirmative defenses.

1. The FTC is not entitled to relief as a matter of law.
2. Granting the relief sought is inequitable and contrary to the public interest.
3. The FTC's claims are barred, in whole or in part, pursuant to the state action immunity doctrine.
4. The FTC's claims are barred, in whole or in part, pursuant to La. R.S. § 40:2254.1 *et seq.*, the statute pursuant to which Respondents were issued a COPA.
5. The FTC is equitably estopped from asserting its claims.
6. LCMC incorporates by reference the affirmative defenses asserted by HCA in its Answer to the FTC's Complaint, as well as any affirmative defenses that the Attorney General of Louisiana may assert.

Prayer for Relief

WHEREFORE, LCMC respectfully requests that this Court enter judgment:

1. Denying the FTC's requested relief;
2. Dismissing the Complaint in its entirety, with prejudice;
3. Ordering that the Acquisition is exempt from the HSR Act under the state action immunity doctrine and because of the duly-awarded COPA for the Acquisition;
4. Ordering that the Acquisition is exempt from challenge under Section 7 of the Clayton Act under the state action immunity doctrine and because of the duly-awarded COPA for the Acquisition;
5. Awarding costs of this action, including attorney's fees as may be allowed by law, to Defendants; and
6. Awarding Defendants such other and further relief as the Court may deem just and proper.

Dated: June 20, 2023

Respectfully submitted,

/s/ Diana Cole Surprenant

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