

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

**LOUISIANA CHILDREN’S MEDICAL  
CENTER, d/b/a LCMC HEALTH,**

Plaintiff

v.

**MERRICK GARLAND, in his official capacity  
as ATTORNEY GENERAL OF THE  
UNITED STATES,**

**UNITED STATES DEPARTMENT OF  
JUSTICE,**

**FEDERAL TRADE COMMISSION,**

and

**UNITED STATES OF AMERICA,**

Defendants

**CIVIL ACTION NO. 23-1305**

**JUDGE AFRICK**

**MAGISTRATE JUDGE NORTH**

**PLAINTIFFS’ MOTION FOR STATUS CONFERENCE**

Plaintiffs, Louisiana Children’s Medical Center (LCMC) and HCA Healthcare, Inc. (HCA),<sup>1</sup> respectfully move for a prompt status conference, at which they intend to request permission to set an expedited briefing schedule for its anticipated motion for summary judgment on the dispositive legal question presented by these actions: Whether Louisiana’s grant of state action antitrust immunity pursuant to its Certificate of Public Advantage (“COPA”) statute, La. Stat. 40:2254.1, exempts the Plaintiffs’ Acquisition from Section 7A of the Clayton Antitrust Act.

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<sup>1</sup> HCA is the plaintiff in related Case No. 23-cv-1311, and filed an unopposed motion to consolidate the LCMC and HCA cases on May 5, 2023.

15 U.S.C. § 18a (known as the Hart-Scott-Rodino Antitrust Improvements Act).<sup>2</sup> This question can and should be resolved on an expedited basis, potentially concurrently with Defendants’ anticipated motions to dismiss.

Expedited resolution of this case is essential because of the ongoing daily penalties at stake under Section 7A. 15 U.S.C. § 18a(g)(1). In light of the potential for ongoing penalties of more than \$46,000 per day, it is crucial that LCMC and HCA obtain a declaratory judgment establishing their rights and obligations under the state action immunity doctrine.

Expedited resolution is also essential to (1) provide LCMC certainty regarding its integration plan for its newly acquired facilities, (2) avoid wasted resources in redundant litigation and (3) provide other stakeholders, such as patients and Tulane University students and employees, certainty regarding the provision of medical care at the acquired facilities. In a related case filing in the United States District Court for the District of Columbia, filed after LCMC filed its complaint in this Court, the Federal Trade Commission (FTC) seeks a preliminary injunction to prevent LCMC from further integrating the hospitals. *See* Stipulation, Dkt. 3, *FTC v. LCMC et al.*, No. 23-cv-1103 (D.D.C.). That separate litigation would become unnecessary if the dispositive legal question at its heart were resolved by this Court.

For the foregoing reasons, Plaintiffs respectfully request that this Court promptly schedule a status conference so that LCMC and HCA may request permission to file an immediate motion for summary judgment that will resolve this case.

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<sup>2</sup> As described in LCMC’s Complaint, the “Acquisition” involved multiple transactions that ultimately transferred three hospitals—Tulane University Medical Center, Lakeview Regional Medical Center, and Tulane Lakeside Hospital—from HCA to LCMC. Compl. ¶¶ 49-51.

Dated: May 9, 2023

Respectfully submitted,

/s/ Diana Cole Surprenant

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on May 9, 2023, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Additionally, I also sent the forgoing pleading by First Class Mail and/or email to all Defendants.

s/ Diana Cole Surprenant

Diana Cole Surprenant