

**CONCURRING STATEMENT OF COMMISSIONER JULIE BRILL
ON DISMISSAL OF ADMINISTRATIVE PROCEEDINGS IN *IN RE LABCORP* (DOCKET NO. 9345)
APRIL 21, 2011**

I concur in the Commission's decision to dismiss administrative proceedings against LabCorp. In my view, the Commission should have continued with its appeal of the district court's decision denying a preliminary injunction in related federal court litigation.¹ With the appeal now withdrawn, however, I reluctantly agree that given the particular facts and circumstances of this matter, the costs of continuing with administrative litigation outweigh the potential benefits of doing so. As my fellow Commissioners correctly point out, it could be challenging to fashion effective relief given the integration of the Westcliff assets into LabCorp. This is even more so after the Commission's decision not to pursue its case in the Ninth Circuit beyond an emergency motion for an injunction pending appeal.

¹ See Dissenting Statement of Comm'r Brill on the Commission's Decision to Withdraw its Appeal in *FTC v. LabCorp*, March 23, 2011, available at <<http://www.ftc.gov/os/caselist/1010152/110324lapcorpstatement.pdf>>. As I said last month, one of the several reasons for appealing the district court's decision was its failure to explain how applicable legal principles apply to the acquisition in question. I therefore agree with my fellow Commissioners that the nature of the district court opinion weighs in favor of continuing the case.