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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the matter of)	
)	
Inova Health System Foundation,)	PUBLIC
a corporation, and)	
)	Docket No. 9326
Prince William Health System,)	
a corporation.)	
)	

JOINT CASE MANAGEMENT STATEMENT

Pursuant to the Order Setting Scheduling Conference dated May 14, 2008, Complaint Counsel and Respondents Inova Health System Foundation (“Inova”) and Prince William Health System (“PWHS”) (together, the “Hospitals”) file the following Joint Case Management Statement.

1. Initial Disclosures. [**Complaint Counsel’s Proposal**] On or before May 16, 2008, Complaint Counsel and Respondents voluntarily exchanged third party declarations, letters, witness statements, investigational hearing transcripts, and documents obtained via compulsory process or voluntarily in lieu of compulsory process. Complaint Counsel and Respondents shall fully comply with 16 C.F.R. § 3.31(b). Complaint Counsel need not produce to Respondents under 16 C.F.R. § 3.31(b) documents, investigational hearing transcripts and other materials or data that Respondents produced to Complaint Counsel during the investigation leading to this proceeding.

[**Respondents’ Proposal**] On May 23, 2008, Respondents filed a Motion To Stay Discovery And All Other Aspects Of This Proceeding Pending Resolution Of Preliminary Injunction Action

("Motion to Stay"), setting forth Respondents' position that there should be no discovery or other proceedings in this case until resolution of the preliminary injunction action filed by the Commission in the U.S. District Court for the Eastern District of Virginia (*Federal Trade Commission v. Inova Health System Foundation, et al.*, Civ. Action No. 1:08-cv-460-CMH/JFA (E.D.Va.)). As discussed in detail in Respondents' Motion to Stay, the FTC's Policy Statement, Rules of Practice, and regular course of conduct in numerous similar cases over many years direct that this administrative proceeding should be stayed pending resolution of the federal court action. Accordingly, Respondents contend that the parties should not be required to submit initial disclosures in this action until the federal action has been resolved.

Moreover, requiring the parties to submit initial disclosures or engage in other discovery in this case at this time makes little sense given the volume of discovery that will be generated in the preliminary injunction action, which the parties have agreed should be usable in this proceeding. That discovery will include, among other things, initial disclosures, exchange of witness statements and expert reports, production of documents from various non-parties, including third-party payors and hospitals, depositions of fact and expert witnesses, and a hearing. Discovery in the preliminary injunction action of necessity must move at a faster pace than discovery in this proceeding. It makes a great deal of sense, therefore, for the parties to devote their energies and resources to developing the record in the preliminary injunction proceeding. After that proceeding has concluded, then, as the FTC Policy Statement and Rules of Practice contemplate, the parties and this tribunal can review the record to determine whether this action should proceed and, if so, the nature and scope of any further proceedings.

By contrast, Complaint Counsel's proposal to expedite this proceeding during the

pendency of the preliminary injunction proceeding, as evidenced by the numerous deposition notices (one for nearly every business day in the first three weeks of June), requests for production, and requests for inspection served on Respondents over the last several days, is wasteful and counter-productive. It denies the parties the opportunity to make use of the record in the preliminary injunction proceeding to frame additional discovery and proceedings in this case, the process wisely envisioned by the FTC's Rules of Practice. It also burdens two non-profit hospitals, one of which is operating at a loss, and non-parties, including the very insurance companies and employers that Complaint Counsel says it seeks to protect, with potentially unnecessary discovery, and threatens to interfere with the focus of the preliminary injunction proceeding, which by necessity is on a faster track. Finally, although Complaint Counsel seeks unilaterally to impose an expedited administrative procedure here, it is only Respondents, not Complaint Counsel, that have the right to elect expedited, "fast-track" treatment, and that "fast-track" election is effective only *after* the preliminary injunction action has concluded.

Respondents further note that Complaint Counsel incorrectly claims that the parties have already engaged in discovery in this action. To the contrary, the parties' exchange of certain third-party witness statements and documents in connection with the preliminary injunction complaint the FTC and the Commonwealth of Virginia filed in federal court does *not* establish that the discovery process has already started in this matter or that the Hospitals have somehow consented to same. Indeed, counsel for the Hospitals have made clear in correspondence regarding this third-party discovery that such discovery is being provided in the federal court action, not this action.

2. Statement of Facts. On August 1, 2006, Inova executed a Purchase Agreement by which

Inova will acquire PWHs. The Commission issued an administrative complaint on May 7, 2008 alleging that Inova's acquisition of PWHs violates the antitrust laws. The complaint alleges that a relevant product market is general, acute care inpatient hospital services sold to managed care organizations (MCOs) and that the relevant geographic market is no larger than Northern Virginia, defined as Fairfax, Arlington, Loudoun, Prince William and Fauquier counties, and including the independent cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park.

Respondents have not yet answered the Complaint but dispute the Commission's contention that the merger of the Hospitals would violate federal antitrust laws. Respondents further dispute the product market and geographic market alleged by the Commission.

3. Legal Issues. The principal legal issues in this case are as follows:

- a. Complaint Counsel alleges that the acquisition of PWHs by Inova may substantially lessen competition or tend to create a monopoly, in violation of section 7 of the Clayton Act, 15 U.S.C. § 18.
- b. Respondents have not yet filed their answers in this case, which are not due until June 2, 2008. However, without waiving their right to further respond to Complaint Counsel's allegations and assert any and all applicable defenses thereto at the appropriate time, Respondents dispute the allegations contained in the Complaint and contend that the planned merger *will not* violate Section 7 of the Clayton Act in any respect.

4. Motions. [**Respondents' Proposal**] On May 23, 2008, Respondents filed their Motion to Stay. That same day, Respondents also filed a Motion To Recuse Commissioner J. Thomas

Rosch As Administrative Law Judge (“Motion to Recuse”).

Respondents contend that, in light of these pending motions, there should be no further proceedings in this case, much less entry of a comprehensive scheduling order or related rulings, at least until these motions are resolved.

5. Amendment of the Pleadings. Complaint Counsel and Respondents do not currently contemplate an amendment to either the complaint or the answers; indeed, Respondents have not yet filed their answers, which are not due until June 2, 2008. However, the parties reserve the right to seek leave to amend the pleadings pursuant to 16 C.F.R. § 3.15.

6. Evidence Preservation. Complaint Counsel and Respondents represent to the Commission that they have taken steps necessary to preserve evidence relevant to the issues reasonably evident in this action, including the interdiction of any document-destruction program or ongoing erasures of emails, voice mails, and other electronically-recorded materials.

7. Discovery. **[Complaint Counsel’s Proposal]**

a. Interrogatories and Requests for Admissions. There is no limit to the number of sets of interrogatories the parties may issue, as long as the total number of interrogatories, including all discrete sub-parts, does not exceed twenty-five (25) to Complaint Counsel from all Respondents and does not exceed twenty-five (25) to all Respondents from Complaint Counsel. The interrogatories in separate sets shall be numbered sequentially. The number of requests for admissions, including all discrete sub-parts, shall not exceed forty (40) to Complaint Counsel from all Respondents and shall not exceed forty (40) to all Respondents from Complaint Counsel, except that the limit on requests for admissions shall not apply to requests relating to the authenticity or admissibility of exhibits. Additional interrogatories and requests for

admissions will be permitted only for good cause.

- b. Document Requests. There shall be no limit on the number of document requests.
- c. Timing of Requests. Document requests, requests for admission, interrogatories, and subpoenas, except for discovery for purposes of authenticity and admissibility of exhibits, shall be served so that the time for a response to the discovery request shall be on or before the discovery cut-off date.
- d. Timing of Responses.
 - (i) For all interrogatories and requests for production served prior to this Order's issuance, objections to the interrogatories and requests for production shall be due within ten (10) days of the date of this Order, and responses, documents and materials shall be produced within fifteen (15) days of the date of this Order.
 - (ii) For interrogatories, requests for production and requests for admissions served after the issuance of this Order, objections shall be due within ten (10) days of service of the discovery request, and responses, documents and materials shall be produced within fifteen (15) days of service of the discovery request.
- e. Electronically-Stored Information. Except as otherwise provided herein, disclosure and discovery of electronically-stored information shall be governed by the Federal Rules of Civil Procedure, as amended on December 1, 2006.
- f. Deposition Notices. Service of a notice of deposition five business days in advance of the date set for the taking of the deposition shall constitute reasonable

notice.

[Respondents' Proposal] Respondents have moved to stay discovery and all other proceedings in this case pending resolution of the preliminary injunction action that the Commission and the Commonwealth of Virginia filed in federal court. As discussed in Respondents' Motion to Stay, proceeding with discovery in this action at this time would be prejudicial and unfair to Respondents and is contrary to the FTC Policy Statement, the FTC Rules of Practice, and past practices of the Commission in other similar situations, where the Commission has typically delayed even filing the administrative complaint until the preliminary injunction motion has been decided (and in some cases has never even filed an administrative complaint) or, in the few cases where it did file an administrative complaint, has either failed to oppose or affirmatively sought an administrative stay. Therefore, Respondents object to proceeding with any discovery in this case, including the discovery recently propounded by Complaint Counsel, or to the entry of any discovery plan, schedule or related requirements in this action until the federal preliminary injunction action has been resolved.

Moreover, requiring the parties to commence and engage in significant discovery in this case at this time makes little sense given the volume of discovery that will be generated in the preliminary injunction action, which the parties have agreed should be usable in this proceeding. That discovery will include, among other things, initial disclosures, exchange of witness statements and expert reports, production of documents from various non-parties, including third-party payors and hospitals, depositions of fact and expert witnesses, and a hearing. Discovery in the preliminary injunction action of necessity must move at a faster pace than discovery in this proceeding. It makes a great deal of sense, therefore, for the parties to devote

their energies and resources to developing the record in the preliminary injunction proceeding. After that proceeding has concluded, then, as the FTC Policy Statement and Rules of Practice contemplate, the parties and this tribunal can review the record to determine whether this action should proceed and, if so, the nature and scope of any further proceedings.

By contrast, Complaint Counsel's proposal to expedite discovery in this proceeding during the pendency of the preliminary injunction proceeding, as evidenced by the numerous deposition notices (one for nearly every business day in the first three weeks of June), requests for production, and requests for inspection served on Respondents over the last several days, is wasteful and counter-productive. It denies the parties the opportunity to make use of the record in the preliminary injunction proceeding to frame additional discovery and proceedings in this case, the process wisely envisioned by the FTC's rules. It also burdens two non profit hospitals, one of which is operating at a loss, and non-parties, including the very insurance companies and employers that Complaint Counsel says it seeks to protect, with potentially unnecessary discovery, and threatens to interfere with the focus of the preliminary injunction proceeding, which by necessity is on a faster track. Finally, although Complaint Counsel seeks unilaterally to impose an expedited administrative procedure here, it is only Respondents, not Complaint Counsel, that have the right to elect expedited, "fast-track" treatment, and that "fast-track" election is effective only *after* the preliminary injunction action has concluded.

8. Related Cases. On May 12, 2008, the Commission and the Attorney General of the Commonwealth of Virginia filed a Complaint for Preliminary Injunction in the United States District Court for the Eastern District of Virginia, *Federal Trade Commission et al. v. Inova Health System Foundation, et al.*, Case No. 1:08CV460-CMH/JFA, in which the Commission

and the Attorney General of the Commonwealth of Virginia seek a preliminary injunction enjoining Inova's acquisition of PWSH pending a final decision in this administrative litigation. A hearing on Defendants' Motion for a Scheduling Order and an Expedited Status Conference is set for May 30, 2008 at 10:00 a.m. in front of the Honorable Claude Hilton.

[Complaint Counsel's Proposal] Because the discovery schedules in this proceeding and the preliminary injunction proceeding before Judge Hilton are likely to overlap, the proposals for scheduling of discovery in the preliminary injunction proceeding at the May 30, 2008 hearing before Judge Hilton would benefit from knowledge of the schedule in this case. Therefore, Complaint Counsel respectfully request that the Administrative Law Judge issue a Scheduling Order in this proceeding within one (1) day (by 9 a.m. on May 30, 2008) rather than no later than two (2) days, as provided in 16 C.F.R. § 3.21(c).

[Respondents' Proposal] Respondents object to the entry of a Scheduling Order in this action until the federal preliminary injunction action has been resolved. Respondents do not believe discovery in this proceeding and the federal preliminary injunction proceeding should "overlap" as contemplated by Complaint Counsel. Rather, Respondents contend that the proper course, as contemplated by the FTC Policy Statement, FTC Rules of Practice, and decades of precedent in similar cases, is for all proceedings in this case to be stayed pending resolution of the preliminary injunction proceeding. Respondents further contend that it would be inappropriate for the ALJ to address scheduling issues or enter a Scheduling Order until Respondents' Motion to Recuse has been resolved.

9. Scheduling. **[Complaint Counsel's Proposal]** The following is the pre-hearing schedule:

June 2, 2008	Respondents file their answers to the Complaint.
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June 2, 2008	Exchange preliminary witness list (not including experts) with description of proposed testimony.
June 2, 2008	Non-expert depositions can begin.
June 16, 2008	Exchange revised witness lists (not including experts), including preliminary rebuttal fact witnesses, with description of proposed testimony.
	Deadline for serving document requests, requests for admission, interrogatories, and subpoenas, except for discovery for purposes of authenticity and admissibility of exhibits.
June 30, 2008	Close of discovery, other than discovery permitted under FTC Rules of Practice § 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
July 16, 2008	Complaint Counsel serves expert witness list and expert witness reports other than rebuttal expert reports (if any).
July 17, 2008	Status report due and, if requested by either party, conference with the ALJ.
July 25, 2008	Respondents serve expert witness list and expert witness reports.
July 31, 2008	Complaint Counsel serves rebuttal expert witness list and rebuttal expert reports. Any such report is to be limited to rebuttal of matters set forth in the Respondents' expert reports. If material outside the scope of fair rebuttal is presented, the Respondents will have the right to seek appropriate relief (such as striking part or all of Complaint Counsel's rebuttal expert report(s) or seeking leave to submit sur-rebuttal expert reports).
August 11, 2008	Deadline for completion of depositions of all experts.
August 15, 2008	Exchange final proposed witness and exhibit lists, including designated testimony to be presented by deposition, copies of all exhibits (except for demonstrative, illustrative, or summary exhibits), and a brief summary of the expected testimony of each witness. No witness not previously disclosed on a witness list may be added except for good cause shown. If a new witness is allowed an opportunity for deposition must be afforded.

File final proposed witness and exhibit lists, including designated testimony to be presented by deposition, and a brief summary of the testimony of each witness.

For parties that intend to offer into evidence at the hearing confidential materials of an opposing party or non-party, provide notice to the opposing party or non-party, pursuant to FTC Rules of Practice § 3.45(b).

- August 20, 2008 Deadline for filing motions for summary disposition, motions *in limine*, motions to strike, and motions for in camera treatment of proposed trial exhibits.
- August 21, 2008 Exchange and file with the Commission objections to final proposed witness lists and exhibits lists. Exchange objections to the designated testimony to be presented by deposition and counter designations.
- August 22, 2008 Exchange proposed stipulations of law, facts, and authenticity. Parties file pretrial briefs, not to exceed fifty (50) pages.
- August 29, 2008 Deadline for filing responses to motions for summary disposition, motions *in limine*, motions to strike, and motions for in camera treatment of proposed trial exhibits.
- September 2, 2008 Deadline for filing reply to response to motions for summary disposition, motions *in limine*, motions to strike, and motions for in camera treatment of proposed trial exhibits.
- Date to be determined by trier of fact Final prehearing conference to be held at 10:00 a.m. in Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, N.W., Washington, DC. Parties are to meet and confer prior to the conference regarding trial logistics, any designated deposition testimony, and proposed stipulations of law, facts, and authenticity. Stipulations of law, facts, and authenticity shall be prepared as a Joint Exhibit and offered at the final prehearing conference. Counsel may present any objections to the final proposed witness lists and exhibits, including the designated testimony to be presented by deposition. All trial exhibits must be offered at the final prehearing conference. The offered exhibits will be admitted or excluded at this conference to the extent practicable.
- September 4, 2008 Commencement of Hearing, to begin at 10:00 a.m. in Room 532,

Federal Trade Commission Building, 600 Pennsylvania Avenue,
NW, Washington, DC.

[Respondents' Proposal] Respondents object to the entry of a Scheduling Order in this action until the federal preliminary injunction action has been resolved, and therefore contend that any discussion or resolution of specific scheduling issues is premature and unwarranted at this time. Respondents further contend that it would be inappropriate for the ALJ to address scheduling issues or enter a Scheduling Order until Respondents' Motion to Recuse has been resolved.

Respondents further contend that entry of a Scheduling Order which requires the parties to engage in significant discovery and related efforts in this case at this time makes little sense given the volume of discovery that will be generated in the preliminary injunction action, which the parties have agreed should be usable in this proceeding. That discovery will include, among other things, initial disclosures, exchange of witness statements and expert reports, production of documents from various non-parties, including third-party payors and hospitals, depositions of fact and expert witnesses, and a hearing. Discovery in the preliminary injunction action of necessity must move at a faster pace than discovery in this proceeding. It makes a great deal of sense, therefore, for the parties to devote their energies and resources to developing the record in the preliminary injunction proceeding. After that proceeding has concluded, then, as the FTC Policy Statement and Rules of Practice contemplate, the parties and this tribunal can review the record to determine whether this action should proceed and, if so, the nature and scope of any further proceedings.

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notices (one for nearly every business day in the first three weeks of June), requests for production, and requests for inspection served on Respondents over the last several days, is wasteful and counter-productive. It denies the parties the opportunity to make use of the record in the preliminary injunction proceeding to frame additional discovery and proceedings in this case, the process wisely envisioned by the FTC's rules. It also burdens two non profit hospitals, one of which is operating at a loss, and non-parties, including the very insurance companies and employers that Complaint Counsel says it seeks to protect, with potentially unnecessary discovery, and threatens to interfere with the focus of the preliminary injunction proceeding, which by necessity is on a faster track. Finally, although Complaint Counsel seeks unilaterally to impose an expedited administrative procedure here, it is only Respondents, not Complaint Counsel, that have the right to elect expedited, "fast-track" treatment, and that "fast-track" election is effective only *after* the preliminary injunction action has concluded.

10. Hearing. [**Complaint Counsel's Proposal**] The hearing is estimated to take approximately three weeks.

[**Respondents' Proposal**] As discussed in Respondents' Motion to Stay, where, as here, the Commission has elected to seek a preliminary injunction in federal court, FTC policies and rules expressly require the Commission to use the results of the judicial preliminary injunction action to inform the nature, scope, and advisability of the administrative proceeding. Thus, any consideration of the length of the hearing or other issues related to the scope or nature of the proceedings is premature and entirely inappropriate at this time.

11. Other Matters. [**Complaint Counsel's Proposal**]

- a. Service on the parties shall be deemed effective on the date of delivery by

electronic mail (formatted in Adobe Acrobat) except in those instances where service by electronic mail is not technically possible, and three days shall be added to the time for any responsive action, consistent with the provisions of Fed. R. Civ. P. 6(e) regarding service by electronic mail. Absent leave of the Commission or presiding official, this provision does not modify any of the dates set forth in Paragraph 9.

- b. Memoranda in support of, or in opposition to, any non-dispositive motion shall not exceed ten (10) pages, exclusive of attachments.
- c. If papers filed with the Office of the Secretary contain *in camera* or confidential material, the filing party shall mark any such material in the complete version of their submission with **{bold font and brackets}**. 16 C.F.R. § 3.45. Parties shall act in accordance with the rules for filings containing such information, including FTC Rules of Practice, 16 C.F.R. § 4.2. Public versions of the papers with the *in camera* or confidential material omitted shall be filed pursuant to 16 C.F.R. § 3.45(e).
- d. The parties shall serve upon one another, at the time of service, copies of all subpoenas *duces tecum* and subpoenas *ad testificandum*. For subpoenas *duces tecum*, the party issuing the non-party subpoena shall provide copies of the subpoenaed documents and materials to the opposing party within five (5) business days of service. For subpoenas *ad testificandum*, the party seeking the non-party deposition shall consult with the other parties before the deposition date is scheduled. Additionally, the deposition of any person may be recorded by any

means permitted by Fed. R. Civ. P. 30. Depositions shall be taken by stenographic means unless the party seeking the deposition notifies the deponent and the other party of its intention to record the deposition by other than stenographic means at least two (2) days in advance of the deposition.

- e. No deposition of a non-party shall be scheduled between the time of production in response to a subpoena *duces tecum* and three (3) days after copies of the production are provided to the non-issuing party, unless a shorter time is required by unforeseen logistical issues in scheduling the deposition, the documents are not produced until the time of the deposition, or as agreed to by all parties involved.
- f. Any declaration obtained by a party that the party intends to use affirmatively in the proceeding (e.g. for purposes other than strictly rebuttal, authenticity or evidentiary foundation) must be produced to the opposing party sufficiently before the close of fact discovery such that opposing counsel shall have a reasonable amount of time to subpoena documents for and to take the deposition of any such declarant.
- g. The parties shall provide for each testifying expert witness a written report containing the information required by the FTC Rules of Practice 16 C.F.R. § 3.31(b)(3). Drafts of expert reports and notes taken by expert witnesses need not be produced and are not discoverable unless relied upon. Communications (oral, written and by e-mail) between expert witnesses and counsel, other expert witnesses, or consultants need not be produced and are not discoverable unless relied upon.

- h. The preliminary and revised witness lists shall represent the parties' good faith designation of all potential witnesses the parties reasonably expect may be called at the hearing. A party shall notify the other parties promptly of changes in preliminary and revised witness lists to facilitate completion of discovery within the dates specified by the scheduling order. After the submission of the final witness lists, additional witnesses may be added only: (a) by order of the Commission or the presiding official, upon a showing for good cause; (b) by agreement of the parties, with notice to the Commission or the presiding official; (c) for rebuttal purposes; or (d) if needed to authenticate, or provide the evidentiary foundation for, documents in dispute, with notice to the other parties and the Commission or the presiding official. Opposing counsel shall have a reasonable amount of time to subpoena documents for and to take the deposition of any witness added to the witness list pursuant to this paragraph, even if the discovery takes place during the course of the hearing.
- i. The final exhibit lists shall represent the parties' good faith designations of all exhibits the parties reasonably expect may be used in the hearing, other than demonstrative, illustrative, or summary exhibits. Additional exhibits other than demonstrative, illustrative, or summary exhibits may be added after the submission of the final lists only: (a) by order of the Commission or the presiding official, upon a showing of good cause; (b) by agreement of the parties, with notice to the Commission or the presiding official; or (c) where necessary for purposes of rebuttal or impeachment.

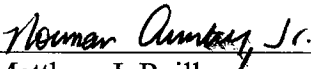
- j. Applications for the issuance of subpoenas commanding a person to attend and give testimony at the hearing must comply with FTC Rules of Practice § 3.34, must demonstrate that the subject is located in the United States, and must be served on opposing counsel. Oppositions to applications for issuance of subpoenas shall be due within three (3) business days after the service of the application.
- k. Complaint Counsel shall serve, with a courtesy copy to the Commission, no later than 48-hours in advance of the start of the case-in chief, a schedule by day showing the best estimate of the expected witnesses to be called. Respondents shall serve, no later than 48 hours in advance of the start of the defense case, a schedule by day showing the best estimate of the expected witnesses to be called. At least 48 hours prior to Complaint Counsel's rebuttal case, Complaint Counsel shall provide Respondents with a schedule of witnesses expected to be called each day during the rebuttal case. The parties further shall provide one another with copies of any demonstrative exhibits seventy-two (72) hours before they are used with a witness.
- l. The procedure for marking of exhibits used in the adjudicative proceedings shall be as follows: (a) Complaint Counsel's exhibits shall bear the designation "CX" and Respondents' exhibits shall bear the designation "RX"; and (b) the parties shall number the first page of each exhibit with a single series of consecutive numbers. For example, Complaint Counsel's first exhibit shall be marked "CX-1." When an exhibit consists of more than one page, each page of the exhibit must

bear a consecutive control number. Additionally, all exhibit numbers must be accounted for, even if a particular number is not actually used at the hearing.

- m. At the final pre-hearing conference, the parties shall introduce all exhibits they intend to introduce at the hearing. The parties further shall give the originals of exhibits to the court reporter, which the court reporter will maintain as part of the record.
- n. The parties shall endeavor to resolve any discovery disputes quickly and efficiently. If the parties are unable to reach an agreement resolving the disputes they should bring them promptly to the Commission's attention by calling the offices of Commissioner Thomas Rosch and arranging for a telephonic hearing on the dispute.

[Respondents' Proposal] In light of their pending Motion to Stay and Motion to Recuse, and the related issues discussed above, Respondents contend that it is neither appropriate nor necessary to address the specific matters outlined in Complaint Counsel's proposals at this time, many of which simply restate applicable provisions of the FTC Rules of Practice as applied to case-related events that Respondents contend should not take place until the federal preliminary injunction proceedings are resolved. At the very least, these issues should not be addressed until Respondents' pending motions have been resolved. Without waiving these objections, Respondents anticipate that, at the appropriate time, they will be able to work with Complaint Counsel to reach agreement on procedures covering many, if not all, of the issues described above.

Respectfully submitted,



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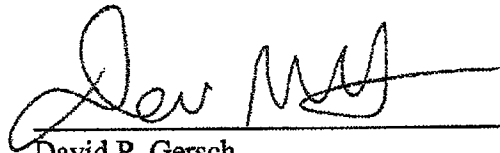
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Dated: May 28, 2008

Respectfully submitted,

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*Counsel for Respondents Inova Health System
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Dated: May 28, 2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 28, 2008, I served the attached Joint Case Management Statement upon the following:

Office of the Secretary
Federal Trade Commission
H-159
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Hon. Commissioner J. Thomas Rosch
Administrative Law Judge
H-528
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