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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
Office of Administrative Law Judges

In the Matter of:)
THOMAS JEFFERSON UNIVERSITY,)
a corporation,)
and) Docket No. 9392
ALBERT EINSTEIN HEALTHCARE)
NETWORK,)
a corporation,)
Respondents.)

REMOTE TELEPHONIC PREHEARING CONFERENCE
JULY 13, 2020, 3:00 P.M.
PUBLIC SESSION

BEFORE THE HONORABLE D. MICHAEL CHAPPELL
Chief Administrative Law Judge

Reported by: Susanne Bergling, RMR-CRR-CLR

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1 P R O C E E D I N G S

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3 JUDGE CHAPPELL: Okay, let's go on the record.

4 THE REPORTER: We are on the record.

5 JUDGE CHAPPELL: This is the initial prehearing
6 conference in Docket Number 9392, in the matter of
7 Thomas Jefferson University and Albert Einstein
8 Healthcare Network.

9 I'm Judge Chappell. Can everyone hear me okay?

10 MR. SEIDMAN: Yes, Your Honor.

11 MR. DICKINSON: Yes, Your Honor.

12 JUDGE CHAPPELL: This prehearing conference is
13 being conducted telephonically and is being transcribed
14 by a court reporter who is on the line with us. Will
15 the court reporter please state your name for the
16 record?

17 THE REPORTER: Susanne Bergling with For The
18 Record, Inc.

19 JUDGE CHAPPELL: I will need everyone to mute
20 their phones when they're not speaking.

21 I will now take appearances of the individuals
22 designated to speak for the parties, and I need you to
23 identify who is on the call. We will start with
24 Complaint Counsel.

25 MR. SEIDMAN: Good afternoon, Your Honor. This

1 is Mark Seidman on behalf of Complaint Counsel, and I'm
2 joined by my colleague Charles Dickinson.

3 JUDGE CHAPPELL: For Respondents?

4 MR. SAINT-ANTOINE: For Respondent Thomas
5 Jefferson University, Your Honor, you have Paul
6 Saint-Antoine from the Faegre Drinker Biddle & Reath
7 firm, and my colleague Alison Agnew.

8 JUDGE CHAPPELL: All right.

9 MS. OLIVER: Good afternoon, Your Honor. For
10 Albert Einstein Healthcare Network, you have Leigh
11 Oliver from Hogan Lovells, and I am joined by my
12 partner Virginia Gibson.

13 JUDGE CHAPPELL: All right, thank you.

14 Also on the line with me are my
15 attorney-advisors, and since we're doing this
16 telephonically, I'm asking everyone who makes a
17 statement, before you speak, you need to identify
18 yourself for the court reporter. I don't do that
19 because, Susanne, you can recognize my voice. Am I
20 correct?

21 THE REPORTER: Yes, Your Honor.

22 JUDGE CHAPPELL: There is currently pending a
23 preliminary injunction proceeding in the Federal
24 District Court in the Eastern District of Pennsylvania.
25 According to our information, the court docket has a

1 final pretrial conference scheduled for September 10,
2 2020. I need the parties to keep us informed of any
3 substantive decisions in that case.

4 Who wants to give me an update on that case?

5 MR. SEIDMAN: Your Honor, Mark Seidman on
6 behalf of Complaint Counsel. You're right, the final
7 prehearing conference is set for September 10th, and
8 the preliminary injunction hearing is set to begin on
9 September 14th. We are currently in the midst of
10 discovery in that case, and fact discovery closes on
11 July 20th.

12 JUDGE CHAPPELL: Okay. Is the judge in that
13 case aware that the way things work here, it's best if
14 you can get a ruling on that issue before our trial
15 date?

16 MR. SEIDMAN: Yes, Your Honor. We have
17 discussed with Judge Pappert in the Eastern District of
18 Pennsylvania the timing of the administrative trial.
19 He's aware of it.

20 JUDGE CHAPPELL: All right, thank you.

21 The parties were provided a draft scheduling
22 order and no changes were requested, so that order will
23 be issued shortly.

24 I trust the parties have attempted to settle
25 this matter. Who wants to provide a status of

1 settlement discussions?

2 MR. SEIDMAN: Your Honor, Mark Seidman again
3 for Complaint Counsel. The parties had several
4 discussions regarding settlement towards the end of the
5 investigation period. Those discussions were not
6 successful.

7 We briefly revisited that discussion last week,
8 and I don't believe there's been any movement on --
9 from either side, but I will let Respondents speak from
10 their perspectives.

11 JUDGE CHAPPELL: All right, go ahead.

12 MR. SAINT-ANTOINE: Your Honor, this is Paul
13 Saint-Antoine for Respondent Thomas Jefferson
14 University.

15 Mr. Seidman's description is accurate from our
16 perspective, both the timing and the status of any
17 settlement discussions.

18 JUDGE CHAPPELL: All right.

19 Anything from Einstein?

20 MS. OLIVER: And this is Leigh Oliver from
21 Einstein, and that's correct; that is, Mr. Seidman's
22 description is accurate.

23 JUDGE CHAPPELL: Okay, and we're not hearing
24 case summaries today. We have now completed the main
25 purpose of this hearing, which is the scheduling order,

1 which will be issued shortly.

2 Is there anything further?

3 MR. SEIDMAN: Not from Complaint Counsel, Your
4 Honor.

5 MR. SAINT-ANTOINE: Not from Thomas Jefferson
6 University either, Your Honor. We appreciate you
7 adjusting the agenda in light of the deposition
8 schedule.

9 MS. OLIVER: And Leigh Oliver for Einstein,
10 nothing further from us either. Thank you.

11 JUDGE CHAPPELL: All right, and you're welcome.
12 Hearing nothing further, we are adjourned.

13 MR. SEIDMAN: Thank you, Your Honor.

14 MR. SAINT-ANTOINE: Thank you, Your Honor.

15 MS. OLIVER: Thank you.

16 (Whereupon, at 3:07 p.m., the remote hearing
17 was adjourned.)

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CERTIFICATE OF REPORTER

I, Susanne Bergling, do hereby certify that the foregoing proceedings were recorded by me via stenotype and reduced to typewriting under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were transcribed; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.



SUSANNE BERGLING, RMR-CRR-CLR