



makes numerous factual representations now insulated from rebuttal.² The Joint Commission submits out-of-court statements now immune to cross-examination.³ And, the AHA presents a thirty-four page brief rife with unsubstantiated assertions it hopes will counterbalance sworn testimony that weathered the tests of discovery and trial.⁴

Notably, Respondent itself has always enjoyed ready access to the resources of these three “friends-of-the-court.” One executive of Respondent is a director of the Advisory Board and another is a director of the Joint Commission; both of these gentlemen testified at trial.⁵ And, Respondent itself is a dues-paying member of the AHA.⁶ Thus, Respondent easily could have developed this evidence for trial – through either informal business contacts or formal discovery

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing papers was served to:

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