

Statement of the Federal Trade Commission  
In The Matter of Phoebe Putney Health Services, Inc et al.  
Docket No. 9348  
September 4, 2014

We have decided to withdraw our acceptance of the proposed consent agreement Respondents Phoebe Putney Health System, Inc. ("PPHS"), Phoebe Putney Memorial Hospital, Inc. ("PPMH"), Phoebe North, Inc. ("Phoebe North") (collectively "Phoebe Putney"), HCA Inc. ("HCA"), Palmyra Park Hospital, Inc. ("Palmyra"), and the Hospital Authority of Albany Dougherty County ("Hospital Authority") and return this matter to administrative litigation

The Commission first challenged the Hospital Authority's acquisition of Palmyra Park Hospital from HCA and subsequent transfer of all management control of Palmyra to Phoebe Putney under a long-term lease arrangement (the "transaction") in April 2011. The Commission alleged that Phoebe Putney's acquisition of Palmyra, its only rival in Albany, Georgia would create a monopoly in the provision of inpatient general acute hospital services sold to commercial health plans in Albany and surrounding six county area in violation of the Sherman Act. Judge W. Louis S. action doctrine immunized the transaction

3

On appeal by the Commission, the U.S. Court of Appeals for the Eleventh Circuit affirmed the district court's dismissal on state action grounds, although it agreed that, "on the facts alleged, the joint operation of [PPMH] and Palmyra would substantially lessen competition or tend to create, if not create, a monopoly." The transaction was consummated on December 15, 2011, following the Eleventh Circuit's ruling. The Commission filed a petition for certiorari, which the U.S. Supreme Court granted on June 25, 2012. February 2013, a unanimous Supreme Court

Georgia's certificate of need ("CON") laws and regulations ~~will~~ likely prevent a