PUBLIC

UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION

COMMISSIONERS:

Lina M. Khan, Chair Rebecca Kelly Slaughter Alvaro M. Bedoya Melissa Holyoak Andrew Ferguson

IN THE MATTER OF INSULIN: CAREMARK RX, ET AL.

Docket No. 9437

RESPONDENTS EXPRESS SCRIPTS, INC., EVERNORTH HEALTH, INC., MEDCO HEALTH SERVICES, INC., AND ASCENT HEALTH SERVICES LLC'S SUPPLEMENTAL NOTICE

On October 8, 2024, Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC ("ESI Respondents")¹ moved to disqualify Chair Lina M. Khan, Commissioner Alvaro M. Bedoya, and Commissioner Rebecca Kelly Slaughter from participating in the above-captioned matter. As of October 25, 2024, Complaint Counsel has not filed any opposition to these motions to disqualify, and any opposition Complaint Counsel files would now be untimely. The FTC's rules of practice state that if a party fails to oppose another party's motion, it "shall be deemed to have consented to the granting of the relief asked for in the motion." 16 C.F.R. § 3.22(d). Accordingly, and pursuant to the FTC's rules of practice, Complaint Counsel has consented to the disqualification of Chair Khan, Commissioner Bedoya, and Commissioner Slaughter in this matter.

¹ As explained in the motions, "ESI Respondents" is used for ease of reference and is not an admission or reflection of the corporate realities, functions, or forms of these separate entities.

PUBLIC

Dated: October 25, 2024

Respectfully submitted,

/s/ Charles F. Rule

Charles F. Rule Daniel J. Howley Margot Campbell Derek W. Moore Justin T. Heipp RULE GARZA HOWLEY LLP 901 7th Street NW Washington, D.C. 20001 (202) 843-9280 rule@rulegarza.com howley@rulegarza.com campbell@rulegarza.com moore@rulegarza.com

Jennifer Milici Perry A. Lange John W. O'Toole WILMER CUTLER PICKERING HALE AND DORR LLP 2100 Pennsylvania Ave. NW Washington, D.C. 20037 Telephone: (202) 663-6000 Facsimile: (202) 663-6000 Facsimile: (202) 663-6363 jennifer.milici@wilmerhale.com perry.lange@wilmerhale.com john.o'toole@wilmerhale.com

Counsel for Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC FEDERAL TRADE COMMISSION | OFFICE OF THE SECRETARY | FILED 10/25/2024 OSCAR NO 612042 | PAGE Page 3 of 3 * -PUBLIC

PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2024, I filed the foregoing document electronically using the FTC's E-Filing system, which will send notification of filing to:

April Tabor Secretary Federal Trade Commission 600 Pennsylvania Ave., NW, Rm H-113 Washington, DC 20580 ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell Office of Administrative Law Judges Federal Trade Commission 600 Pennsylvania Ave. NW, Rm. H-110 Washington, DC 20580 oalj@ftc.gov

I further certify that on October 25, 2024, I caused the foregoing document to be served via email to:

Rebecca L. Egeland Bradley S. Albert Federal Trade Commission 600 Pennsylvania Ave. NW Washington, DC 20580 regeland@ftc.gov balbert@ftc.gov 1035-Insulin-DL@ftc.gov

Counsel Supporting the Complaint

Mike Cowie Rani A. Habash Dechert LLP 1900 K Street NW Washington, DC 20006 <u>mike.cowie@dechert.com</u> <u>rani.habash@dechert.com</u>

Counsel for Respondents Caremark Rx LLC; Zinc Health Services, LLC Sophia A. Hansell Matthew C. Parrott Gibson, Dunn & Crutcher LLP 1700 M Street NW Washington, DC 20006 <u>SHansell@gibsondunn.com</u> <u>MParrott@gibsondunn.com</u>

Counsel for Respondents OptumRx, Inc.; OptumRx Holdings, LLC; and Emisar Pharma Services LLC

Respectfully submitted,

/s/ Justin T. Heipp

Counsel for Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC