

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

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

**In the Matter of**

**Caremark Rx, LLC,**  
**Zinc Health Services, LLC,**  
**Express Scripts, Inc.,**  
**Evernorth Health, Inc.,**  
**Medco Health Services, Inc.,**  
**Ascent Health Services LLC,**  
**OptumRx, Inc.,**  
**OptumRx Holdings, LLC, and**  
**Emisar Pharma Services LLC,**  
**Respondents.**

**Docket No. 9437**

**COMPLAINT COUNSEL’S RESPONSE TO ESI RESPONDENTS’  
SUPPLEMENTAL NOTICE**

On October 25, 2024, Express Scripts, Inc., Evernorth Health, Inc, Medco Health Services, Inc., and Ascent Health Services LLC (“ESI Respondents”) filed a Supplemental Notice in the above-captioned matter. This Notice wrongly asserts that because Complaint Counsel did not file an opposition to ESI Respondents’ Motions to Disqualify Chair Khan, Commissioner Bedoya, and Commissioner Slaughter, Complaint Counsel has consented to the

**PUBLIC**

disqualification. While 16 C.F.R. § 3.22(d) permits Complaint Counsel to file a response to any motion, nothing in the rules requires a non-moving party to respond to a motion to disqualify under 16 C.F.R. § 4.17. “Motions filed under § 4.17 of this chapter shall be directly referred to and ruled on by the Commission.” 16 C.F.R. § 3.22(a). Complaint Counsel is not involved in the determination of motions to disqualify Commissioners under 16 C.F.R. § 4.17 and thus takes no position on ESI’s Motions to Disqualify in this matter.

Dated: October 30, 2024

Respectfully submitted,

/s/ Rebecca L. Egeland

Rebecca L. Egeland

Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Tel: (202) 326-2990  
Fax: (202) 326-3384  
Email: [regeland@ftc.gov](mailto:regeland@ftc.gov)

*Counsel Supporting the Complaint*

**PUBLIC****CERTIFICATE OF SERVICE**

I hereby certify that on October 30, 2024, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such 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  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580  
oalj@ftc.gov

I also certify that I caused the foregoing document to be served via email to:

Enu Mainigi  
WILLIAMS &  
CONNOLLY LLP  
680 Maine Avenue SW  
Washington, DC 20024  
Email: emainigi@wc.com

Mike Cowie  
DECHERT LLP  
1900 K Street NW  
Washington, D.C. 20006  
mike.cowie@dechert.com

Rani A. Habash  
DECHERT LLP  
1900 K Street NW  
Washington, D.C. 20006  
rani.habash@dechert.com

*Counsel for Respondents  
Caremark Rx LLC; Zinc  
Health Services, LLC*

Daniel J. Howley  
RULE GARZA HOWLEY  
901 7th Street NW, Suite 600  
Washington, D.C. 20006  
howley@rulegarza.com

Charles F. (Rick) Rule  
RULE GARZA HOWLEY  
901 7th Street NW, Suite 600  
Washington, D.C. 20006  
rule@rulegarza.com

Jennifer Milici  
WILMERHALE  
2100 Penn. Ave. NW  
Washington, D.C. 20037  
jennifer.milici@wilmerhale.com

*Counsel for Respondents  
Express Scripts, Inc.; Evernorth  
Health, Inc.; Medco Health  
Services, Inc.; Ascent Health  
Services LLC*

Samuel Liversidge  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
SLiversidge@gibsodunn.com

Sophia A. Hansell  
GIBSON, DUNN & CRUTCHER LLP  
1700 M Street NW  
Washington, D.C. 20036  
shansell@gibsondunn.com

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

**PUBLIC**

/s/ Rebecca L. Egeland

Rebecca L. Egeland  
Federal Trade Commission  
Bureau of Competition  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
(202) 326-2290  
regeland@ftc.gov

*Counsel Supporting the Complaint*