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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Caremark Rx, LLC;

Zinc Health Services, LLC;

Express Scripts, Inc.;

Evernorth Health, Inc.;

Medco Health Services, Inc.;

Docket No. 9437

Ascent Health Services LLC;

OptumRx, Inc.;

OptumRx Holdings, LLC;

and

Emisar Pharma Services LLC.

JOINT STATUS REPORT #1

The Court's September 29, 2025 Amended Scheduling Order #2 directed the parties to file a report (1) providing an overview of outstanding party and non-party discovery requests, (2) identifying any issues that may require the ALJ or Commission's intervention, (3) identifying any other presently foreseeable matters that may need to be presented to the ALJ or the Commission, and (4) providing the status of related federal proceedings. Complaint Counsel and Respondents hereby submit this Joint Status Report.

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I. An Overview Summary of Party and Non-Party Discovery Requests Outstanding and Dates for Recipient Responses, and Status

Party Discovery Requests Outstanding				
Proponent	Recipient	Discovery Sought	Response Date	Status
Complaint Counsel	Optum	Requests for Production	Served October 23, 2024; Responses & Objections served November 6, 2024	Optum substantially completed productions as of December 12, 2025. Discussions ongoing between CC and Optum as to issues related to the production addressed in Part II below.
Complaint Counsel	Express Scripts (“ESI”)	Requests for Production	Served October 23, 2024; Responses & Objections served November 6, 2024	ESI substantially completed productions as of December 13, 2025. Discussions ongoing between CC and ESI as to issues related to the productions addressed in Part II below.
Complaint Counsel	Caremark	Requests for Production	Served October 23, 2024; Responses & Objections served November 6, 2024	Caremark substantially completed productions as of December 23, 2025. Discussions ongoing between CC and Caremark as to issues related to the productions addressed in Part II below.
Complaint Counsel	Optum	Depositions	NA	CC has noticed depositions for 9 OptumRx individual witnesses, and 1 Rule 3.33(c) notice, with additional financial topics forthcoming. Two depositions have occurred, one has been cancelled, 5 depositions have been scheduled and one deposition is in the process of being scheduled.
Complaint Counsel	ESI	Depositions	NA	CC has noticed depositions for 10 ESI individual witnesses, and 1 Rule 3.33(c) notice, with additional financial topics forthcoming. Two depositions have occurred, one has been cancelled, and 7 depositions have been scheduled.
Complaint Counsel	Caremark	Depositions	NA	CC has noticed depositions for 7 individual witnesses. Two depositions have occurred, and

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				5 depositions have been scheduled. CC has notified Caremark of its intent to notice the deposition of 1 individual witness and to notice Rule 3.33(c) depositions on formulary and financial topics, and is in the process of scheduling those depositions.
Complaint Counsel	Optum	Requests for Admissions	Responses will be due within 10 days after the date of service.	To be served by February 2, 2026.
Complaint Counsel	ESI	Requests for Admissions	Responses will be due within 10 days after the date of service.	To be served by February 2, 2026.
Complaint Counsel	Caremark	Requests for Admissions	Responses will be due within 10 days after the date of service.	To be served by February 2, 2026.
OptumRx	Complaint Counsel	Requests for Admissions	Responses will be due within 10 days after the date of service.	To be served by February 2, 2026.
ESI	Complaint Counsel	Requests for Admissions	Responses will be due within 10 days after the date of service.	To be served by February 2, 2026.
Caremark	Complaint Counsel	Requests for Admissions	Responses will be due within 10 days after the date of service.	To be served by February 2, 2026.
OptumRx	Complaint Counsel	Interrogatories	2/20/2025	CC served amended Responses & Objections on December 12, 2025. The parties are likely at an impasse with respect to certain issues.

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ESI	Complaint Counsel	Interrogatories	1/7/2026	CC served their Responses & Objections on January 7, 2026. ESI intends to schedule a meet and confer with CC imminently.
Caremark	Complaint Counsel	Interrogatories	12/29/2025	CC served their initial Responses & Objections on December 29, 2025. Caremark intends to schedule a meet and confer with CC imminently.

Non-Party Discovery Requests Outstanding

Proponent	Recipient	Discovery Sought	Response Date	Status
Complaint Counsel	Eli Lilly	Documents	SDT issued on October 25, 2024	Lilly has made multiple productions. Conversations are ongoing between CC and Lilly with respect to some final items in the production.
Complaint Counsel	Eli Lilly	Depositions	NA	CC served 4 SATs on March 28 and 31, 2025; CC subsequently withdrew one. Two depositions have been scheduled, and one deposition remains to be scheduled.
Complaint Counsel	Novo Nordisk	Documents	SDT issued on October 25, 2024	Novo has made multiple productions. Conversations are ongoing between CC and Novo with respect to some final items in the production.
Complaint Counsel	Novo Nordisk	Depositions	NA	CC served 3 SATs on March 3, 2025. All three depositions have been scheduled.
Complaint Counsel	Sanofi	Documents	SDT issued on October 25, 2024	Sanofi has made multiple productions. Conversations are ongoing between CC and Sanofi with respect to issues addressed in Part II below.
Complaint Counsel	Sanofi	Depositions	NA	CC served 2 SATs on November 20, 2025. Both depositions have been scheduled.
Complaint Counsel	Viatris	Documents	SDT issued on October 25, 2024	Viatris has made multiple productions. Conversations are ongoing between CC and

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				Viatris with respect to some final items in the production.
Complaint Counsel	Viatris	Depositions	NA	CC served 2 SATs on March 4, 2025. Both depositions have been scheduled.
Complaint Counsel	Biocon	Documents	SDT issued on October 25, 2024	Biocon has made multiple productions. Conversations are ongoing between CC and Biocon with respect to some final items in the production.
Complaint Counsel	Employers (American Express, Best Buy, Capital One, FedEx, Gannett, McDonald's)	Documents	SDTs issued on October 24 and 25, 2024	All employers have made multiple productions. Conversations are ongoing between CC and the employers with respect to some final items in the production.
Complaint Counsel	Employers (American Express, Best Buy, Capital One, FedEx, Gannett, McDonald's)	Depositions	NA	CC served 6 employer SATs on March 25, 2025 and November 20-25, 2025. Five of the depositions have been scheduled, and one deposition remains to be scheduled.
Complaint Counsel	Consultants (Aon, Mercer, RxBenefits, and Willis Towers Watson)	Documents	SDT issued on October 24, 2024	All consultants have made multiple productions. Conversations are ongoing with Aon with respect to confirming all parties have received the complete production.
Complaint Counsel	Consultants (Aon, Mercer, RxBenefits, and Willis Towers Watson)	Depositions	NA	CC served 6 consultant SATs on March 25, 2025 and November 20-25, 2025. Four of the depositions have been scheduled, and one deposition remains to be scheduled.
Respondents	American Express	Deposition	NA	Scheduled*
Respondents	RxBenefits	Deposition	NA	Scheduled
Respondents	Fedex	Deposition	NA	Scheduled
Respondents	Willis Towers Watson	Deposition	NA	Scheduled
Respondents	Capital One	Deposition	NA	Scheduled
Respondents	McDonald's	Deposition	NA	Scheduled

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Respondents	Mercer	Deposition	NA	Scheduled
Respondents	Aon	Deposition	NA	Scheduled
Respondents	Gannett	Deposition	NA	Scheduled
Respondents	Novo Nordisk	Deposition	NA	Scheduled
Respondents	Viatris/Biocon	Deposition	NA	Respondents and Biocon are meeting and conferring about whether a Rule 3.33 deposition is necessary.
Respondents	Eli Lilly	Deposition	NA	<p>Eli Lilly moved to quash 2 depositions and 1 Rule 3.33(c) topic on 12/29; briefing was complete on 1/8.</p> <p>Eli Lilly has asked to schedule one deposition for March 6, after the close of fact discovery; the parties will meet and confer regarding scheduling that deposition.</p>
Respondents	Sanofi	Deposition	NA	Scheduled
Respondents	Sanofi	Documents	NA	Sanofi has completed its document production and is in the process of producing data.
Respondents	Best Buy	Documents	NA	Best Buy is producing documents on a rolling basis, with last production on December 11, 2025.
Respondents	Fedex	Documents	NA	Fedex is producing documents on a rolling basis, with last production on January 9, 2026.
Respondents	Elevance	Documents	NA	Elevance is producing documents on a rolling basis, with last production on January 2, 2026.
Respondents	Kaiser	Documents	NA	Kaiser is producing documents on a rolling basis with last production on December 5, 2025. Caremark Respondents and Kaiser have engaged in meet and confers on a regular basis and only a few outstanding issues remain.
Respondents	Capital One	Documents	NA	Capital One is producing documents on a rolling basis, with last production on February 21, 2025.

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Respondents	Office of Personnel Management (OPM)	Documents	NA	Meeting and conferring with OPM on document productions.
Respondents	Aon	Documents	NA	Aon is producing documents on a rolling basis with the last production on January 9, 2026.
Respondents	Willis Towers Watson	Documents	NA	Willis Towers Watson is producing documents on a rolling basis with the last production on December 23, 2025.
Respondents	Deloitte	Documents	NA	Deloitte has represented that there are no documents responsive to Respondents' requests in their files. Respondents have requested written confirmation from that, after a diligent search, Deloitte could not identify any documents responsive to our requests.
Respondents	Department of Defense	Documents	NA	DOD is continuing to make rolling productions. Respondents are assessing provided files and privilege claims. Meet and confer conferences on the remaining production files continue.
Respondents	HHS	Documents	NA	HHS plans to make a production of documents and Respondents and HHS are continuing to discuss timing.
Respondents	Eli Lilly	Documents	NA	Eli Lilly has represented that it will complete document productions on January 14, 2026. Respondents are also awaiting a response from Lilly regarding certain questions about prior data productions.
Respondents	Viatris/Biocon	Documents	NA	Viatris made custodial productions, and we are assessing the sufficiency. Respondents and Biocon are meeting and conferring regarding additional productions from Biocon.

*Includes where parties may be aligning on specific dates.

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II. Then-Existing Issues that May Require the ALJ or Commission's Intervention

1. Matter 1: Caremark's production of financial documents.

- a. **Complaint Counsel Position:** Caremark's productions do not include several categories of financial documents requested in Complaint Counsel's RFPs.

Caremark Respondents Position: Caremark and Zinc's position is that their productions are sufficient to respond to CC's RFPs subject to Caremark's and Zinc's objections. For context, they have produced claims data and thousands of financial documents in response to Complaint Counsel's RFPs, including via productions on December 20, 2024, March 10, 2025; September 19, 2025; December 9, 2025; December 12, 2025, and December 23, 2025. Since Caremark and Zinc substantially completed their productions, Complaint Counsel has not raised any issues about the financial documents therein. If Complaint Counsel has any such concerns, it should raise them with Caremark and Zinc.

- b. The parties have met and conferred on this issue on several occasions, including by videoconference on the following dates: 12/3/24, 1/2/25, 1/10/25, 1/22/25, 2/10/25, 9/11/25, and 11/21/25.
- c. Complaint Counsel is working to resolve this issue with Caremark's counsel. To the extent the parties are unable to reach an acceptable resolution, Complaint Counsel may seek the Court's intervention by the end of the month.

2. Matter 2: Caremark's withholding documents for relevance.

- a. **Complaint Counsel Position:** Caremark made a production on 12/9/25, in which 43,675 documents (most of which appear to be attachments) were withheld. Many of these documents appear to have been withheld for relevance. Per the Court's instruction not to include merits briefing, Complaint Counsel will not address Caremark's arguments in this Status Report.

Caremark Respondents Position: Caremark's position is that these documents were properly withheld as non-responsive in an effort to ensure confidentiality of materials related to clients that are not included on the agreed-upon sample client list. For context, Caremark's client contracts contain confidentiality provisions that require prior notice to the client before materials related to the client are produced. On this basis, among others, Caremark has objected to Complaint Counsel's various requests for materials related to its clients, and Complaint

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Counsel and Caremark ultimately agreed that Caremark would produce materials related to a list of thirty-seven sample clients. Consistent with its contractual obligations, Caremark notified these sample clients that their materials may be produced, and then produced documents related to these clients as agreed. Also consistent with the parties' agreement and Caremark's contractual obligations, Caremark endeavored to withhold as non-responsive from its custodial production set materials related to clients not on the agreed-upon sample list. To produce these withheld documents, Caremark would need to identify the potentially hundreds of clients at issue in those documents and then undertake notice to those clients – a process that could take months.

- b. The parties have exchanged letters: 1/2/26 (Complaint Counsel letter); 1/13/26 (Caremark letter).
- c. Complaint Counsel is working to resolve this issue with Caremark's counsel. To the extent the parties are unable to reach an acceptable resolution, Complaint Counsel may seek the Court's intervention by 2 to 3 weeks before the end of fact discovery.

3. Matter 3: ESI's clawback of certain financial documents.

- a. **Complaint Counsel Position:** On January 9, 2026, ESI sent a letter clawing back several documents. Complaint Counsel responded with a letter requesting an updated privilege log so Complaint Counsel could assess ESI's claim of privilege.

ESI Respondents Position: The ESI Respondents inadvertently produced a small number of documents containing privileged material and/or material protected by the work product doctrine. The ESI Respondents are preparing replacement files for these documents and an updated privilege log, both of which are expected to be complete by January 16, 2026.

- b. Complaint Counsel sent a letter stating their position to ESI on 1/12/26.
- c. Complaint Counsel is working to resolve this issue with ESI's counsel. To the extent the parties are unable to reach an acceptable resolution Complaint Counsel may seek the Court's intervention by the end of the month.

4. Matter 4: Optum's production of financial documents.

- a. **Complaint Counsel Position:** Optum's productions do not include several categories of financial documents requested in Complaint Counsel's RFPs. Per the

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Court's instruction not to include merits briefing, Complaint Counsel will not address Optum's arguments in this Report.

Optum Respondents Position: Despite Complaint Counsel's position statement above, Complaint Counsel has not raised the matter with Optum Rx. For context, the Optum Rx Respondents have made numerous productions of financial documents and data, including via productions on September 26, 2025; November 26, 2025; December 9, 2025; December 12, 2025; and December 19, 2025. Complaint counsel has not raised any issues with the inclusiveness of these productions. If Complaint Counsel has any such concerns, it should raise them with the Optum Rx Respondents.

- b. The parties have had multiple meet and confers prior to Optum Rx's production, including videoconferences on 11/8/24, 2/5/25, 3/6/25, 3/7/25, 3/11/25, 3/13/25, 3/19/25, and 9/11/25.
- c. Complaint Counsel is working to resolve this issue with Optum's counsel with the goal of resolving this no later than two weeks before the 3.33(c) deposition on financial topics, which is yet to be scheduled. To the extent the parties are unable to reach an acceptable resolution Complaint Counsel may seek the Court's intervention.

5. Matter 5: Complaint Counsel's 3.33(c) deposition time for Optum witness(es).

- a. **Complaint Counsel Position:** Under Amended Scheduling Order No. 2, Complaint Counsel may notice and take up to 8 hours of 3.33(c) deposition time. The 3.33(c) deposition time may be broken out into more than one set of topics and Optum may designate more than one witness, as long the total number of hours does not exceed 8 hours on the record. Per the Court's instruction not to include merits briefing, Complaint Counsel will not address Optum's arguments in this Report.
- b. **Optum Respondents Position:** Complaint Counsel served one 3.33(c) deposition notice on the Optum Rx Respondents on December 16, 2025, and that deposition occurred on January 15, 2026 for approximately 3 hours. Complaint Counsel has informed the Optum Rx Respondents that Complaint Counsel plans to serve another 3.33(c) deposition notice with additional topics at some later date, reserving additional time to take another 3.33(c) deposition. The Optum Rx Respondents have informed Complaint Counsel that noticing a 3.33(c) deposition in piecemeal fashion is inefficient and unfair. And while it is difficult to discuss scheduling another portion of a 3.33(c) deposition without knowing the topics, the

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Optum Rx Respondents do not agree Complaint Counsel is entitled to 8 hours of 3.33(c) deposition time under the Scheduling Order. But the Optum Rx Respondents will continue to meet and confer with Complaint Counsel about this issue.

- c. The parties met and conferred in a videoconference on 9/23/25. The parties exchanged letters and emails on 9/19/25, 9/26/25, 12/19/25, and 1/13/26. Complaint Counsel also sent letters describing our intent to notice these two depositions on: 9/12/25 and 12/4/25.
- d. Complaint Counsel is working to resolve this issue with Optum's counsel. To the extent the parties are unable to reach an acceptable resolution Complaint Counsel may seek the Court's intervention in advance of the 3.33(c) on financial topics, which is not currently scheduled.

6. Matter 6: Complaint Counsel's Responses to Respondents' Interrogatories.

- a. **Respondents' Position:** Respondents have each served Complaint Counsel with interrogatories seeking the identification of specific Payers and PBM-specific evidence that support certain allegations in the Complaint. To date Complaint has refused to identify a single Plan or Payer and their responses have otherwise lacked specificity. The parties are continuing to meet and confer on this issue, but it may soon be ripe for ALJ intervention.

Complaint Counsel's Position: Complaint Counsel has served responses to Respondents' interrogatories and agreed to supplement its responses to Optum's contention interrogatories at a later date, pursuant to FTC Rule 3.35(b)(2). Caremark and ESI Respondents have not met and conferred with Complaint Counsel or contacted Complaint Counsel regarding Complaint Counsel's responses and objections to their respective interrogatories.

- b. Optum Respondents and Complaint Counsel met and conferred via zoom regarding Complaint Counsel's interrogatory responses on March 11, 2025, November 25, 2025, and January 6, 2026. Optum Respondents and Complaint Counsel also exchanged written correspondence on these issues on September 8, 2025, September 23, 2025, December 2, 2025, January 9, 2026, and January 13, 2026.
- c. The Caremark and ESI Respondents are continuing to negotiate in good faith. Optum Rx Respondents and Complaint Counsel are likely at impasse on the issue.

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7. Matter 7: Complaint Counsel’s Response to Interrogatory 11 of OptumRx’s Second Set of Interrogatories.

- a. **OptumRx’s Position:** OptumRx issued an interrogatory seeking information supporting Complaint Counsel’s statements that insulin manufacturers “violated Section 5 of the Federal Trade Commission Act.” This information is relevant to the allegations in the Complaint and OptumRx’s defense that manufacturers caused the alleged harm related to high insulin list prices that Complaint Counsel seeks to attribute to OptumRx. After the Parties met and conferred by letter and on Zoom, on January 6, 2026, Complaint Counsel agreed to amend its interrogatory response to provide additional information in its possession.

Complaint Counsel’s Position: Complaint Counsel has agreed to supplement its interrogatory response regarding additional conversations that took place with manufacturers, consistent with the Court’s Order Denying the ESI’s Respondents’ Motion to Compel and Motion for Leave to File Reply (Jan. 12, 2026).

- b. The parties met and conferred via zoom on December 12, 2025, December 19, 2025 and January 6, 2026. The parties also exchanged written correspondence on these issues on December 31, 2025 and January 6, 2026. Complaint Counsel confirmed in writing after the meet and confer that it would amend its interrogatory by January 16, 2026.
- c. Complaint Counsel agreed to amend its interrogatory response by January 16, 2026. To the extent issues remain, Optum Respondents believe that the parties will likely to either come to a resolution or impasse on those issues within the next week.

8. Matter 8: Sanofi’s response to certain requests in Complaint Counsel’s SDT.

- a. **Complaint Counsel Position:** Sanofi has not adequately responded to CC’s requests concerning financial information, accounting practices, patient affordability programs, and patient out-of-pocket costs.
- b. Complaint Counsel and counsel for Sanofi met and conferred on 11/26/24, 2/6/25, 2/19/25, 9/30/25, 11/18/25, and 1/14/16.
- c. Complaint Counsel is working to resolve this issue with Sanofi’s counsel. To the extent we are unable to reach an acceptable resolution Complaint Counsel may

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seek the Court's intervention prior to the first Sanofi deposition, currently scheduled for February 5, 2026.

9. Matter 9: Eli Lilly Motion to Quash Respondents' SATs.

- a. **Respondent's Position:** Eli Lilly moved to quash two depositions and one Rule 3.33(c) topic. Respondent ESI filed an opposition to the motion to quash on January 8, 2026.
- b. Respondents and Eli Lilly have fully briefed the issue, and it is awaiting adjudication.

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1. Complaint Counsel's number of trial fact witnesses.

Complaint Counsel position: In the Commission's January 28, 2025 Order Denying Application for Review of Witness Caps in the Scheduling Order, the Commission declined interlocutory review of the witness caps in the Scheduling Order, it recognized that "Complaint Counsel should have a full opportunity to seek an increase in their witness allotment based on a specific showing of need by motion filed with the ALJ prior to trial." At this time, Complaint Counsel has not identified a need for extra witnesses. Should Complaint Counsel identify such a need, we intend to file a motion seeking an increase in the number of fact witnesses we are permitted at the hearing.

Respondents position: Respondents request that Complaint Counsel state whether they anticipate calling respondent witnesses in their affirmative case and, if so, identify those witnesses. Because the hearing will be over the summer, we want to give the witnesses as much notice as possible to avoid conflicts.

2. Respondents' number of expert witnesses.

Complaint Counsel position: Respondents collectively have disclosed 12 expert witnesses. At the September 5, 2025 status conference, Respondents represented they would seek to streamline their expert testimony and avoid providing duplicative expert testimony. There are no issues to present to the ALJ at this time, but depending on how and when Respondents plan to streamline their expert testimony, Complaint Counsel may seek the ALJ's intervention to require Respondents to narrow their expert witness list earlier.

Respondents position: The number of experts disclosed by Respondents is under the limit affirmed by the Commission. See Order dated Nov. 11, 2024, at 6 ("[T]he Scheduling Order issued in this case, allows each Respondent group to call five expert witnesses at the evidentiary hearing."). Even so, Respondents are committed to streamlining their expert testimony and avoiding duplicative expert testimony to the extent possible. Respondents believe this determination can best be made after Complaint Counsel serves its expert reports on March 18, 2026.

3. Evidentiary Hearing Location.

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Parties' joint position: The parties have started to meet and confer about certain hearing logistics issues. One issue the parties wish to bring to the Court's attention is their mutual preference to have the evidentiary hearing in person in Washington, D.C.

4. Eli Lilly Deposition – Michael Mason

Parties' joint position: Due to a medical procedure, Mr. Mason is not available to sit for a deposition until March 6, 2026. The parties agree that Mr. Mason's examination should take place at that time, outside the discovery period.

IV. Status of the Related Federal Proceeding, including pending motions and scheduled court appearance dates and the reasons for them.

Respondents in this case filed suit on November 19, 2024, arguing that the administrative proceeding against Respondents violates their constitutional rights. *Express Scripts, Inc., et al. v. FTC*, No. 24-cv-1549 (E.D. Mo. Nov. 19, 2024). After the district court denied Respondents' motion for a preliminary injunction, Respondents appealed from that order. The parties completed merits briefing in the Eighth Circuit on June 9, 2025. The Eighth Circuit held oral argument on November 19, 2025, and the parties await a decision. There are no other pending motions or scheduled court appearance dates in the Eighth Circuit or the district court.

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Dated: January 15, 2026

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PUBLIC**CERTIFICATE OF SERVICE**

I hereby certify that on January 15, 2026, I caused the foregoing document to be filed electronically using the FTC's E-Filing System, which will send notification of such filing to:

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*Secretary of the Commission
 Clerk of the Court*

Administrative Law Judge

I certify that no portion of the filing was drafted by generative artificial intelligence ("AI") (such as ChatGPT, Microsoft Copilot, Harvey.AI, or Google Gemini). I also certify that I caused the foregoing document to be served via email to:

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