

SUMMONS - CIVIL

JD-CV-1 Rev. 2-22

C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a, 52-48, 52-259;
P.B. §§ 3-1 through 3-21, 8-1, 10-13For information on
ADA accommodations,
contact a court clerk or
go to: www.jud.ct.gov/ADA.STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.ct.gov**Instructions are on page 2.**

- Select if amount, legal interest, or property in demand, not including interest and costs, is LESS than \$2,500.
- Select if amount, legal interest, or property in demand, not including interest and costs, is \$2,500 or MORE.
- Select if claiming other relief in addition to, or in place of, money or damages.

TO: Any proper officer

By authority of the State of Connecticut, you are hereby commanded to make due and legal service of this summons and attached complaint.

Address of court clerk (Number, street, town and zip code) 95 Washington Street, Hartford, CT 06106		Telephone number of clerk (860) 548 - 2700	Return Date (Must be a Tuesday)
<input checked="" type="checkbox"/> Judicial District	G.A. Number: _____	At (City/Town) Hartford	Case type code (See list on page 2) Major: M Minor: 90
<input type="checkbox"/> Housing Session			

For the plaintiff(s) enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code) Bershtein, Volpe & McKeon P.C., 900 Chapel Street, 11th Floor, New Haven, CT 06510	Juris number (if attorney or law firm) 412124
Telephone number (203) - 777-5800	Signature of plaintiff (if self-represented)

The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book. Yes No

E-mail address for delivery of papers under Section 10-13 of the Connecticut Practice Book (if agreed)
apb@bvmlaw.com

Parties	Name (Last, First, Middle Initial) and address of each party (Number; street; P.O. Box; town; state; zip; country, if not USA)	
First plaintiff	Name: Prospect Medical Holdings, Inc. Address: 3415 South Sepulveda Blvd 9th Floor, Los Angeles, CA 90034	P-01
Additional plaintiff	Name: Prospect CT, Inc. Address: 1209 Orange Street, Wilmington, DE 19801	P-02
First defendant	Name: Yale New Haven Health Services Corporation, 789 Howard Avenue, New Haven, CT 06519 C/o Agent for Service Corporation Service Company, Goodwin Square, 225 Asylum St, 20th Fl, Hartford, CT 06103	D-01
Additional defendant	Name: Address:	D-02
Additional defendant	Name: Address:	D-03
Additional defendant	Name: Address:	D-04
Total number of plaintiffs: 13		Total number of defendants: 1
		<input checked="" type="checkbox"/> Form JD-CV-2 attached for additional parties

Notice to each defendant

- You are being sued.** This is a summons in a lawsuit. The complaint attached states the claims the plaintiff is making against you.
 - To receive further notices, you or your attorney must file an *Appearance* (form JD-CL-12) with the clerk at the address above. Generally, it must be filed on or before the second day after the Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to appear.
 - If you or your attorney do not file an *Appearance* on time, a default judgment may be entered against you. You can get an *Appearance* form at the court address above, or on-line at <https://jud.ct.gov/webforms/>.
 - If you believe that you have insurance that may cover the claim being made against you in this lawsuit, you should immediately contact your insurance representative. Other actions you may take are described in the Connecticut Practice Book, which may be found in a superior court law library or on-line at <https://www.jud.ct.gov/pb.htm>.
 - If you have questions about the summons and complaint, you should talk to an attorney.
- The court staff is not allowed to give advice on legal matters.**

Date	Signed (Sign and select proper box) <input checked="" type="checkbox"/> Commissioner of Superior Court <input type="checkbox"/> _____ Clerk	Name of person signing Amy P. Blume
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If this summons is signed by a Clerk:

- The signing has been done so that the plaintiff(s) will not be denied access to the courts.
- It is the responsibility of the plaintiff(s) to ensure that service is made in the manner provided by law.
- The court staff is not permitted to give any legal advice in connection with any lawsuit.
- The Clerk signing this summons at the request of the plaintiff(s) is not responsible in any way for any errors or omissions in the summons, any allegations contained in the complaint, or the service of the summons or complaint.

File Date	FILED JUN 06 2024 HARTFORD J.D.
Docket Number	CV24-5083574

I certify I have read and understand the above:	Signed (Self-represented plaintiff)	Date
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**CIVIL SUMMONS
CONTINUATION OF PARTIES**

JD-CV-2 Rev. 9-12

STATE OF CONNECTICUT
SUPERIOR COURT

First named Plaintiff (Last, First, Middle Initial)

Prospect Medical Holdings, Inc.

First named Defendant (Last, First, Middle Initial)

Yale New Haven Health Services Corporation

Additional Plaintiffs

Name (Last, First, Middle Initial, if individual)	Address (Number, Street, Town and Zip Code)	CODE
Prospect ECHN, Inc. d/b/a Eastern Connecticut Health Network,	3824 Hughes Avenue, Culver City, CA 90232	03
Prospect Rockville Hospital, Inc. d/b/a The Rockville General Hospital,	3824 Hughes Avenue, Culver City, CA 90232	04
Prospect Manchester Hospital, Inc. d/b/a The Manchester Memorial Hospital,	3824 Hughes Ave, Culver City, CA 90232	05
Prospect Waterbury, Inc. d/b/a The Waterbury Hospital,	3824 Hughes Ave, Culver City, CA 90232	06
Prospect Waterbury Ambulatory Surgery, LLC,	3824 Hughes Ave, Culver City, CA 90232	07
Cardiology Associates of Greater Waterbury, LLC,	455 Chase Pkwy, Waterbury, CT 06708	08
Prospect CT Management Services, Inc. d/b/a Medical Practice Partners,	3824 Hughes Ave, Culver City, CA 90232	09
Healthcare Staffing on Demand, LLC,	3824 Hughes Ave, Culver City, CA 90232	10
Prospect Waterbury Home Health, Inc. d/b/a VNA Health at Home,	3824 Hughes Ave, Culver City, CA 90232	11
Prospect CT Medical Foundation, Inc. d/b/a Eastern CT Medical Professionals and Alliance Medical Group,	3824 Hughes Av	12
Prospect ECHN Home Health, Inc. d/b/a Visiting Nurse and Health Services of Connecticut,	3824 Hughes Ave, Culver City, C	13

Additional Defendants

Name (Last, First, Middle Initial, if individual)	Address (Number, Street, Town and Zip Code)	CODE
		05
		06
		07
		08
		09
		10
		11

	12	FOR COURT USE ONLY - File Date
	13	
	14	
		Docket number

RETURN DATE:

SUPERIOR COURT

PROSPECT MEDICAL HOLDINGS, INC.,
PROSPECT CT, INC., PROSPECT ECHN,
INC. D/B/A EASTERN CONNECTICUT
HEALTH NETWORK, PROSPECT
ROCKVILLE HOSPITAL, D/B/A THE
ROCKVILLE GENERAL HOSPITAL,
PROSPECT MANCHESTER HOSPITAL, INC.
D/B/A THE MANCHESTER MEMORIAL
HOSPITAL, PROSPECT WATERBURY, INC.
D/B/A THE WATERBURY HOSPITAL,
PROSPECT CT MEDICAL FOUNDATION,
INC. D/B/A EASTERN CT MEDICAL
PROFESSIONALS AND ALLIANCE
MEDICAL GROUP, PROSPECT ECHN
HOME HEALTH, INC. D/B/A VISITING
NURSE AND HEALTH SERVICES OF
CONNECTICUT, CARDIOLOGY
ASSOCIATES OF GREATER WATERBURY
LLC, PROSPECT CT MANAGEMENT
SERVICES, INC. D/B/A MEDICAL
PRACTICE PARTNERS, HEALTHCARE
STAFFING ON DEMAND LLC, PROSPECT
WATERBURY AMBULATORY SURGERY,
LLC AND PROSPECT WATERBURY HOME
HEALTH, INC. D/B/A VNA HEALTH AT
HOME,

JUDICIAL DISTRICT
OF HARTFORD

AT HARTFORD

Plaintiffs,

JUNE 5, 2024

v.

YALE NEW HAVEN HEALTH SERVICES
CORPORATION,

Defendant.

COMPLAINT

INTRODUCTION

1. Plaintiff Prospect Medical Holdings, Inc. (“PMH”) owns, manages, and/or operates hospitals, affiliated medical groups, and a network of outpatient facilities and clinics across several states, including Connecticut.

2. PMH’s hospitals operate as “safety net” hospitals, which provide a significant level of care to Medicaid, low-income, uninsured, and chronically ill patients.

3. Among the “safety net” hospital systems owned, managed, and/or operated by PMH are Waterbury Hospital and ECHN, which comprises Manchester Memorial Hospital and Rockville General Hospital. These hospitals are located in Connecticut.

4. These three hospitals had suffered financial and operational struggles for years (even pre-dating PMH’s ownership) as the hospitals worked to provide healthcare to patients in need without regard for their financial status or ability to pay.

5. In 2021, PMH decided to sell most of its Connecticut assets and, in connection with that sale, began speaking with Yale New Haven Health Services Corporation (“Yale New Haven Health”) about the possibility of a deal between them.

6. On February 4, 2022, the parties signed a Letter of Intent, which was followed by months of continued and productive negotiations and due diligence by Yale New Haven Health and its advisors.

7. Those efforts culminated in the execution of a binding Asset Purchase Agreement (“APA” or “Agreement”) on October 5, 2022.

8. Per the APA, Yale New Haven Health agreed to acquire PMH’s three-hospital Connecticut network for \$435 million.

9. Yale New Haven Health stated its goal with this transaction was to “revitalize[e] these hospitals and serv[e] the surrounding communities.” State of Connecticut, Department of Public Health, Office of Health Strategy, Public Hearing (April 26, 2023), <https://www.business.ct.gov/-/media/ohs/ohca/public-hearings/4-26-23/hearing-transcript.pdf>.

10. On January 31, 2024, Yale New Haven Health transmitted a proposal to PMH seeking to reduce the purchase price from \$435 million to [REDACTED].

11. On February 15, 2024, PMH declined to reduce the purchase price, which was already agreed to in the binding APA and requested that Yale New Haven Health comply with its obligations under the APA.

12. On May 2, 2024, Yale New Haven Health shared with PMH an unfiled summons and complaint against PMH. The following day, May 3, 2024, Yale New Haven Health filed a lawsuit in this Court, asserting that it should be discharged from its obligation to acquire PMH’s Connecticut hospitals.

13. Yale New Haven Health has failed to close the contemplated transaction in accordance with its binding commitment in the APA.

14. Plaintiffs therefore bring this action because: (1) Plaintiffs have met and will continue to meet all of its required closing conditions as of the closing date; (2) Yale New Haven Health breached its obligations under the APA; (3) Yale New Haven Health violated the terms of its confidentiality agreements; (4) Yale New Haven Health breached the implied covenant of good faith and fair dealing; and (5) Yale New Haven Health violated the Connecticut Unfair Trade Practices Act.

THE PARTIES

15. Plaintiff PMH is a private health care system organized under the laws of Delaware with its principal place of business in Culver City, California.

16. Plaintiff Prospect CT, Inc. is a Delaware business corporation with its principal place of business in Culver City, California.

17. Plaintiff Prospect ECHN, Inc. d/b/a Eastern Connecticut Health Network (“ECHN”) is a Connecticut corporation with its principal place of business in Culver City, California.

18. Plaintiff Prospect Rockville Hospital, Inc. d/b/a The Rockville General Hospital (“Rockville General Hospital”) is a Connecticut corporation with its principal place of business in Vernon, Connecticut.

19. Plaintiff Prospect Manchester Hospital, Inc. d/b/a The Manchester Memorial Hospital (“Manchester Memorial Hospital”) is a Connecticut corporation with its principal place of business in Manchester, Connecticut.

20. Plaintiff Prospect Waterbury, Inc. d/b/a The Waterbury Hospital (“Waterbury Hospital”) is a Connecticut corporation with its principal place of business in Waterbury, Connecticut.

21. Plaintiff Prospect CT Medical Foundation, Inc. d/b/a Eastern CT Medical Professionals and Alliance Medical Group is a Connecticut corporation with its principal place of business in Culver City, California.

22. Plaintiff Prospect ECHN Home Health, Inc. d/b/a Visiting Nurse and Health Services of Connecticut is a Connecticut corporation with its principal place of business in Culver City, California.

23. Plaintiff Cardiology Associates of Greater Waterbury, LLC is a Connecticut limited liability company with its principal place of business in Waterbury, Connecticut.

24. Plaintiff Prospect CT Management Services, Inc. d/b/a Medical Practice Partners is a Connecticut corporation with its principal place of business in Culver City, California.

25. Plaintiff Healthcare Staffing On Demand, LLC is a Connecticut limited liability company with its principal place of business in Culver City, California.

26. Plaintiff Prospect Waterbury Ambulatory Surgery, LLC is a Connecticut limited liability company with its principal place of business in Culver City, California.

27. Plaintiff Prospect Waterbury Home Health, Inc. d/b/a VNA Health at Home is a Connecticut corporation with its principal place of business in Watertown, Connecticut.

28. On information and belief, Defendant Yale New Haven Health is a health care organization organized under the laws of the State of Connecticut, with its principal place of business in New Haven, Connecticut.

JURISDICTION AND VENUE

29. This Court has jurisdiction over this action and the parties pursuant to Conn. Gen. Stat. § 52-1 and Conn. Gen Stat. § 52-29. This venue is appropriate pursuant to Conn. Gen. Stat. § 51-345(a)(3)(A). The APA provides: “the venue of all disputes, claims, and lawsuits arising hereunder shall lie in the state and federal courts located in the State of Connecticut.” (*See* APA § 10.3.) The APA further provides that “[a]ll Actions (in contract or tort) arising out of or relating to this Agreement . . . shall be governed by and construed in accordance with the laws of the State of Connecticut,” and that the parties waive any objections to personal jurisdiction in this Court. (*Id.*)

FACTUAL BACKGROUND

I. Overview of PMH and its Connecticut Health Systems

30. PMH owns, manages, and operates 16 hospitals, affiliated medical groups, and a network of more than 165 outpatient facilities and clinics in Connecticut, Pennsylvania, Rhode Island, and Southern California.

31. PMH's network of quality healthcare services is designed to offers its patients and members highly coordinated, personalized primary, specialty, and follow-up care, both inside and outside the hospital, tailored to the needs of each community it services. Many of the patients that access PMH's healthcare services are amongst the most vulnerable, with little to no access to regular healthcare, and many have chronic conditions.

32. In supporting these patients, PMH's hospitals operate as "safety net" hospitals, which provide a significant level of care to low-income, uninsured, chronically ill, and vulnerable populations. Hospitals like those that PMH operates play a vital role in providing care to medically underserved populations, and PMH prides itself on improving the health and wellbeing of these communities. PMH does not turn away *any* patients based on their ability (or inability) to pay. In fact, PMH continued to serve the community during the COVID-19 pandemic, even in the face of financial losses and rising staffing costs.

33. Among the "safety net" hospital systems owned, managed, and operated by PMH are Waterbury Hospital and ECHN, which comprises Manchester Memorial Hospital and Rockville General Hospital (collectively, the "PMH Connecticut Hospital Systems"). The PMH Connecticut Hospital Systems are located in Connecticut.

34. Waterbury Hospital is a 347-bed "safety net" hospital that provides, among other things, emergency services and crisis behavioral services in its area, and is home to four major

centers of excellence: Cardiology, Orthopedic Surgery, Surgical Innovation Center, and Family Birthing Center.

35. ECHN—which collectively has 351-beds—serves eastern Connecticut residents and, across dozens of locations, provides outpatient healthcare service centers, specialists, and hundreds of medical providers.

II. The Parties Negotiate and Execute the APA

36. In 2021, Yale New Haven Health pursued an acquisition of the PMH Connecticut Hospital Systems and their related assets (the “Purchased Assets”).

37. In connection with Yale New Haven Health’s pursuit of the Purchased Assets, Yale New Haven Health and PMH entered into a Confidentiality Agreement on October 26, 2021.

38. In connection with the contemplated transaction, PMH and Yale New Haven Health also signed a series of additional confidentiality agreements, dated January 10, 2022, in furtherance of their negotiations.

39. On February 4, 2022, the parties signed a non-binding letter of intent memorializing Yale New Haven Health’s plan to acquire the Purchased Assets.

40. For approximately eight months, Yale New Haven Health—itsself a sophisticated entity and along with its sophisticated financial advisors, its national law firm leading the transaction, its specialty law firms as to state law and ERISA/pension matters, and its “Big 4” accounting firm—conducted extensive due diligence on the Purchased Assets. At the end of this process, Yale New Haven Health agreed to purchase the Purchased Assets.

41. On October 5, 2022, the parties entered into the APA, pursuant to which Yale New Haven Health would acquire the Purchased Assets, for \$435 million. (*See* APA § 2.)

III. Yale New Haven Health Is Obligated to Complete the Acquisition of the Purchased Assets Under the APA But Has Not Done So

42. In addition to Yale New Haven Health's commitment to acquire the Purchased Assets for \$435 million, Yale New Haven Health also agreed to complete the acquisition of the Purchased Assets in accordance with all of the other terms and conditions in the APA, which were heavily negotiated by the parties.

43. Under Section 3.27 of the APA, Yale New Haven Health acknowledged that it will be purchasing the Purchased Assets on an "as-is," "where is," and "with all faults" basis, and that Yale New Haven Health has examined, reviewed, and inspected all matters which bear on the Purchased Assets, including their value and suitability for Yale New Haven Health's purposes.

Section 3.27 of the APA states:

All of the real and personal property included in the Purchased Assets shall be further subject to normal wear and tear and normal and customary use in the Ordinary Course up to the Effective Time. Buyer acknowledges that Buyer is purchasing the Purchased Assets on an "as-is," "where is," and "with all faults" basis, that Buyer has examined, reviewed and inspected all matters which in Buyer's judgment bear upon the Purchased Assets or the Businesses and its value and suitability for Buyer's purposes and, except as affirmatively represented and warranted by Seller, is relying solely on its own examination, review and inspection of the Purchased Assets or the Businesses . . . Buyer releases Seller and the Selling Entities, and their Affiliates and Representatives from all responsibility and liability regarding the condition, valuation, fitness, salability or utility of the Purchased Assets, or their suitability for any purpose whatsoever. Except to the extent of any representation made by Seller herein . . . Seller and its Affiliates and Representatives shall not have any liability to Buyer relating to or arising from any errors therein or omissions therefrom or any other fact or condition which may affect the Purchased Assets or the Businesses, including without limitation, the physical condition, value, fitness, use, economics of operation, income or expense potential, or zoning of the Purchased Assets or the Businesses.

44. Despite Yale New Haven Health's acknowledgment it was purchasing the Purchased Assets "as is", Yale New Haven Health has taken the position that various changes to Plaintiffs' business amount to a Material Adverse Change ("MAC"). Yale New Haven Health now refuses to close the transaction.

45. The heavily negotiated APA defines a MAC as "any fact, circumstance, condition, change, event or occurrence occurring after the Balance Sheet Date, regardless of whether such change, event or occurrence actually occurred before, on or after the Balance Sheet Date, that, individually or in the aggregate, has resulted in, or would reasonably be expected to result in, a material adverse effect on the financial condition, business, or results of operations of the Businesses (including the Facilities) taken as a whole, or the ability of Seller or any Selling Entity to consummate the transactions contemplated by the Transaction Documents." (APA at 13.) Critically, the MAC must also be "continuing." (APA § 6.4.)

46. Yale New Haven Health has pointed to the following as its basis for claiming that a MAC has occurred: (1) Plaintiffs' purported decline in financial performance, in part caused by an August 2023 cyberattack; (2) alleged mismanagement and compromised relationships; and (3) certain purported regulatory violations. *See* Case No. HHD-CV24-6184328-S, Dkt. No. 100.31, Compl. ¶¶ 57-162. None of these, however, either individually or collectively, amount to a MAC under the APA.

47. In August 2023, the Purchased Assets experienced a cyberattack that disrupted their business, which is not uncommon for health systems of this size and type.

48. Hospitals that are in the midst of a transaction like the one here are particularly targeted. A recent University of Texas at Dallas study found that "merging hospitals are particularly vulnerable to cyberattacks in the two-year window when the transaction is taking

place.” *Becker’s Health IT*, “After Prospect Medical cyberattack, ransomware remains a big problem for big health systems,” Aug. 7, 2023, at “After Prospect Medical cyberattack, ransomware remains a big problem for big health systems” (beckershospitalreview.com).

49. In the last decade, hospitals across the country, including Chicago-based CommonSpirit Health, Tennessee-based HCA Healthcare, and Southern California-based Regal Medical Group, among many others, all had similar attacks. *See Arctic Wolf*, “The Top 18 Healthcare Industry Cyber Attacks of the Past Decade,” April 10, 2024, at <https://arcticwolf.com/resources/blog/top-healthcare-industry-cyberattacks/>.

50. The Purchased Assets, however, have now long been back online following the cyberattack.

51. Indeed, patient volume at the Purchased Assets has returned to normal volumes comparable to the patient volume in the months and years prior to the cyberattack.

52. Monthly EBITDAR (earnings before interest, taxes, depreciation, amortization, and restructuring or rent costs) has returned to levels comparable to those reported in the months leading up to February 2022—the period Yale New Haven Health analyzed before agreeing to terms in the APA—and the subsequent periods through October 5, 2022, the day the APA was executed.

53. PMH conveyed this information to Yale New Haven Health on multiple occasions, including through financial updates from PMH’s investment banker advisor in November 2023 and January 2024.

54. According to a May 13, 2024 report on the Purchased Assets’ financial performance, the combined reported EBITDAR for the Purchased Assets in April 2024 was

[REDACTED], representing one of the strongest combined performances in the past 2.5-plus years.

55. Yale New Haven Health was aware of the Purchased Assets' financial performance prior to agreeing to the purchase price and signing the APA.

56. At the earliest, Yale New Haven Health raised concerns with the Purchased Assets' financial performance in 2024, almost two years after the transaction structure and price was formulated and agreed to.

57. In addition, the purchase price was stated in two filings with the U.S. Federal Trade Commission on May 12, 2022 and July 21, 2023, two filings with the Connecticut Attorney General on May 13, 2023 and July 24, 2023, and the Certificate of Need filing with the Connecticut Office of Health Strategy on November 22, 2022.

58. At no time in any of those five filings over the course of almost two years did Yale New Haven Health signal concern or the need to adjust the purchase price. So, either Yale New Haven Health's filings with the government were misleading or its concerns have been manufactured on a post-hoc basis.

59. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

60. The APA defines a Material Adverse Change (“MAC”) as “any fact, circumstance, condition, change, event or occurrence occurring after the Balance Sheet Date, regardless of whether such change, event or occurrence actually occurred before, on or after the Balance Sheet Date, that, individually or in the aggregate, has resulted in, or would reasonably be expected to result in, a material adverse effect on the financial condition, business, or results of operations of the Businesses (including the Facilities) taken as a whole, or the ability of Seller or any Selling Entity to consummate the transactions contemplated by the Transaction Documents.” (APA at 13.) Critically, the MAC must also be “continuing.” (APA § 6.4.)

61. There has been no “material adverse effect on the financial condition” of PMH so as to prevent closing. (APA at 13.)

62. The cyberattack was a one-time, unexpected event, and the financial decline—related or unrelated to the cyberattack—is no longer continuing. (APA § 6.4.)

63. Yale New Haven Health knew it was purchasing struggling hospitals.

64. Yale New Haven Health also points to a variety of alleged mismanagement and compromised relationships—including among the Purchased Assets and their employees, vendors, and landlord—as a basis for finding that a MAC has occurred. *See* Case No. HHD-CV24-6184328-S, Dkt. No. 100.31, Compl. ¶¶ 91-136. But establishing a MAC requires showing long-term, continuous deterioration. Yale New Haven Health’s allegations concern recent events and one-time incidents involving select employees and vendors.

65. Yale New Haven Health also alleges regulatory violations demonstrate a MAC has occurred. *See id.* Compl. ¶¶ 58-78. These represent past or isolated incidents, such as a

[REDACTED]

[REDACTED]. These regulatory violations, which have been remedied or are in the process of being remedied, do not rise to the kind of ongoing, continuous harm that should prevent the consummation of the acquisition. Moreover, these are the types of regulatory violations hospitals of this size and type receive and remedy regularly. Yale New Haven Health has been unable to identify any fact or circumstance that is currently causing a MAC, much less one that could reasonably be expected to continue as of the closing date of the transaction.

66. Moreover, as of May 6, 2024, PMH has satisfied, or by the closing date will satisfy, all obligations required by the APA as a prerequisite to closing the transaction. Only Yale New Haven Health's desire for a lower purchase price is preventing that from happening.

67. Under Section 10.15 of the APA, Yale New Haven Health agreed that irreparable damage would occur in the event any provision of the APA was not performed and/or breached.

Section 10.15 of the APA states:

The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each Party shall be entitled to seek specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, without proof of actual damages (and each Party waives any requirement for the securing or posting of any bond in connection with such remedy) in any court of the state of Connecticut or federal district court of Connecticut, this being in addition to any other remedy to which such Party is entitled at law or in equity. Each Party hereby further waives (a) any defense in any Action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security or bond as a prerequisite to obtaining equitable relief.

68. PMH is suffering irreparable damage because Yale New Haven Health has failed to complete the acquisition of the Purchased Assets and, ultimately, deliver the agreed to purchase price. PMH is entitled to specific performance under the terms of the APA and pursuant to this Court's power to grant specific performance.

69. Under Section 5.23 of the APA, Yale New Haven Health agreed to use reasonable best efforts to close the transaction following the execution of the APA. Section 5.23 provides:

During the Interim Period, except as otherwise set forth herein, Buyer, Seller and each Selling Entity shall use their reasonable best efforts to take, or cause to be taken, all actions, and do, or cause to be done, and assist and cooperate with Buyer in doing, all things necessary, proper, or advisable to consummate, in a timely manner, the transactions contemplated by the Transaction Documents, including, without limitation, the satisfaction of the conditions to Closing set forth in ARTICLE VI or ARTICLE VII.

70. Yale New Haven Health has violated this provision because it has not used reasonable best efforts to close the transaction.

71. Yale New Haven Health has actively worked to prevent the closing of the transaction in hopes of renegotiating the purchase price.

72. Under Section 7.7 of the APA, the parties agreed to negotiate a Transition Services Agreement as a closing condition.

73. Yale New Haven Health has failed to negotiate this agreement in a timely manner.

74. Yale New Haven Health has also held back approving PMH's form of consent and notices to be sent to third parties, which is another condition of closing.

75. Yale New Haven Health has further frustrated closing by cancelling numerous meetings with PMH and instructing its counsel to decline and not appear for regularly scheduled closing calls, including in the period immediately prior to Yale New Haven Health's filing its action against PMH.

76. Yale New Haven Health failed to use commercially reasonable efforts to cooperate with PMH with respect to the claims. Instead of continuing to negotiate, with one day's notice to PMH, Yale New Haven Health filed its Complaint after it circulated the Complaint to the media.

77. Yale New Haven Health's numerous violations of the APA are part and parcel of an affirmative campaign to intimidate PMH and drive down the purchase price of the transaction.

78. PMH has repeatedly told Yale New Haven Health that it is ready to close.

IV. Yale New Haven Health's Breaches of Its Confidentiality Obligations

79. In connection with Yale New Haven Health's pursuit of an acquisition of the Purchased Assets, Yale New Haven Health and PMH entered into additional agreements in order to protect certain confidential information to which the parties would be privy by virtue of the transaction.

80. On October 26, 2021, PMH and Yale New Haven Health entered into a Confidentiality Agreement (the "Confidentiality Agreement"), which provides that Yale New Haven Health "and [their] Representatives [] will keep the Information confidential and will not . . . without [PMH's] prior written consent, disclose any Information in any manner whatsoever. . ." (Confidentiality Agreement ¶ 1.)

81. The Confidentiality Agreement defines "Information" broadly to include:

All such information (whether oral or contained on written or other tangible medium) furnished (whether before or after the date hereof) by us or our directors, officers, employees, affiliates, representatives (including, without limitation, financial advisors, attorneys and accountants) or agents (collectively, "our Representatives") to you or your directors, officers, employees, affiliates, representatives (including, without Limitation, financial advisors, attorneys and accountants) or agents (collectively, "our Representatives") to you or your directors, officers, employees, affiliates, including but not limited to your academic affiliate, Yale New Haven Health University, representatives (including, without limitation, financial advisors, attorneys and accountants) or agents or your potential

sources of financing for the Transaction (collectively, "your Representatives") and all analyses, compilations, forecasts, studies or other documents prepared by you or your Representatives in connection with your or their review of, or your interest in, the Transaction which contain or reflect any such information is hereinafter referred to as the "Information".

Confidentiality Agreement at 1.

82. Under Section 10.7 of the APA, Yale New Haven Health agreed the Confidentiality Agreement remains in full force and effect and it is "understood and acknowledged . . . that the information, documents and instruments delivered to each Party by the other Parties or agents thereof in connection with the negotiation of [the APA] or in compliance with the terms, conditions and covenants hereof are of a confidential and proprietary nature."

83. The Confidentiality Agreement also provides that Yale New Haven Health "will not . . . without our prior written consent, disclose to any person the fact that the Information exists or has been made available . . . or any term, condition or other fact relating to the Transaction or such discussions or negotiations, including, without limitation, the status thereof." (Confidentiality Agreement ¶ 2.)

84. The parties further defined their confidentiality obligations to one another on February 16, 2022, when they executed the Clean Team Confidentiality Agreement (the "Clean Team Agreement").

85. Upon information and belief, Yale New Haven Health leaked its unfiled Complaint against PMH to the media.¹

¹ An undated, unfiled version of the redacted Complaint was available in various online publications *before Yale New Haven Health actually filed its lawsuit in this Court*. See, e.g., "[Yale New Haven Health New Haven Health seeks withdrawal from Prospect hospital purchase](#)," at [beckershospitalreview.com](#)); "[Yale New Haven Health New Haven Health wants out of deal to buy hospitals. Here's why it won't be easy](#)," at [courant.com](#).

86. Yale New Haven Health did not provide notice or seek written consent from PMH for the release of the confidential information in the Complaint prior to providing its unfiled Complaint to the press.

87. Yale New Haven Health's Complaint details sensitive information PMH provided to Yale New Haven Health in the context of the contemplated transaction, including (unredacted) descriptions of governmental investigations into the Purchased Assets' laboratories and hospitals. *See* Case No. HHD-CV24-6184328-S, Dkt. No. 100.31, Compl. ¶¶ 50, 59, 61, 63, 66, 69 (disclosing Centers for Medicare & Medicaid Services and Connecticut Department of Public Health investigations).

88. Yale New Haven Health leaking its unfiled Complaint to the press without notice to or written consent from PMH violated the clear terms of the Confidentiality Agreement. It is also further evidence of Yale New Haven Health's brazen effort to curry public favor in an attempt to obtain leverage for its scheme.

89. The Clean Team Agreement "supplements the terms of the Confidentiality Agreement to provide enhanced protection of the Company's Competitively Sensitive Information by providing the procedures specified herein with respect to the treatment of Information that constitutes Highly Confidential Information." (Clean Team Agreement ¶ 1.)

90. On multiple occasions the parties coordinated with each other as to the disclosure of information to third parties, which included PMH and Yale New Haven Health coordinating on the information to be disclosed to the State of Connecticut in connection with obtaining a Certificate of Need, as well as during submissions to the U.S. Federal Trade Commission and to the Connecticut Attorney General's Office.

91. On March 6, 2023, Yale New Haven Health requested PMH allow the law firm Cravath, Swaine & Moore LLP (“Cravath”) access to information that is restricted under the Clean Team Agreement, without specifying any business reason for such access to be granted.

92. PMH denied this request because Yale New Haven Health did not provide any basis for Cravath’s need for access.

93. Under the terms of the Clean Team Agreement, only “Permitted Representatives,” who are enumerated in Exhibit A to the Clean Team Agreement, are allowed to access documents, data, and oral information placed in a “clean room” that contains PMH’s Highly Confidential Information.

94. The “clean room” described in the Clean Team Agreement is a subdivision of the data room used in connection with the diligence process that contains PMH’s “Highly Confidential Information”, or most confidential documents. These documents reflect PMH’s competitively sensitive information. Given the highly sensitive nature of the documents and information contained in the clean room, access to the clean room was limited to a small group of designated Yale New Haven Health representatives and only as absolutely necessary.

95. Counsel at Cravath, including those who have appeared on behalf of Yale New Haven Health in this action, are not included in Exhibit A to the Clean Team Agreement.

96. Upon information and belief, in preparation for filing Yale New Haven Health’s lawsuit, individuals at Cravath were granted access to the clean room and/or PMH’s Highly Confidential Information, in violation of the Clean Team Agreement.

V. Yale New Haven Health Did Not Use Best Efforts to Obtain the Consent of Governmental Authorities

97. In order for the APA to move forward, Connecticut’s Office of Health Strategy (“OHS”) requires the parties to submit a price constraint counterproposal.

98. Section 5.7(a) of the APA requires that Yale New Haven Health “use best efforts to take any and all actions as may be required to . . . obtain Consent of any [] Governmental Authority.” Namely, here, Yale New Haven Health was required to obtain consent for the acquisition from OHS.

99. OHS’s requirement is without limitation and conditions and does not “admit exclusions” with respect to Yale New Haven Health’s obligations to take action, including extreme actions, to obtain such consents.

100. Yale New Haven Health’s decision not to submit a price constraint counterproposal to OHS until the week of February 12, 2024, was self-determined by Yale New Haven Health and resulted in OHS being unable to finalize a settlement or order.

101. Yale New Haven Health’s unnecessary and unilateral delay in actively negotiating a price constraint resulted in a period of approximately six months to obtain the Certificate of Need, a period much longer than necessary and again driven solely by Yale New Haven Health’s desire to be able to negotiate the ability to raise its prices even higher than what the State of Connecticut would allow.

102. Yale New Haven Health’s delay tactics and extended transaction timeline also breached Section 5.7(a) of the APA and imposed additional costs on PMH.

103. Yale New Haven Health’s waiting until the week of February 12, 2024, to submit a price constraint counterproposal to OHS resulted in OHS being unable to finalize a settlement or order.

104. Yale New Haven Health’s delay therefore violated its specific obligation under the APA to use best efforts to obtain OHS’s consent and further violated the APA’s requirement that

Yale New Haven Health perform and consummate the purchase of the Purchased Assets in accordance with the terms of the APA.

VI. Yale New Haven Health Attempted to Change the Terms of the APA and Filed Suit After PMH Disagreed

105. On January 31, 2024, Yale New Haven Health transmitted a proposal to PMH titled “Non-Binding Proposal Regarding Amendments to Asset Purchase Agreement” that sought to amend the terms of the APA (the “Proposal”), most notably to reduce the “Base Purchase Price” from \$435 million to [REDACTED].

106. On February 12, 2024, Yale New Haven Health suggested the Proposal stemmed from or was related to the occurrence of certain supposed changes or events after February 28, 2022, that resulted in a MAC to PMH’s business and assets, including PMH’s unidentified purported breaches of the APA.

107. Yale New Haven Health’s Proposal failed to point to any evidence demonstrating there had been a MAC, much less one that was continuing in nature.

108. On February 15, 2024, PMH responded in writing and rejected Yale New Haven Health’s Proposal and demanded Yale New Haven Health comply with its obligations. (Feb. 15 Ltr. At 1.)

109. PMH further demanded Yale New Haven Health fulfill its obligations under the APA, stating that Yale New Haven Health’s failure to comply with the terms of the Agreement would result in irreparable damage to PMH, and PMH would not hesitate to enforce the terms of Section 10.15, including but not limited to seeking a court order to enforce the terms and provisions of this Agreement and ensure that Yale New Haven Health holds up its end of the bargain. (Feb. 15 Ltr. At 2.)

110. PMH also advised Yale New Haven Health of its failure to use best efforts to submit a price constraint counterproposal to OHS was a breach of the APA. (Feb. 15 Ltr. At 3.)

111. On March 27, 2024, Yale New Haven Health responded in writing, describing “several conditions precedent to closing the transaction” that PMH allegedly failed to satisfy, including there being a MAC with regard to PMH’s finances and management, and alleged noncompliance with certain covenants in the APA. (Mar. 27 Ltr. At 2-3.)

112. On April 18, 2024, PMH responded to Yale New Haven Health in writing, reminding Yale New Haven Health of the extremely high standard for a finding that a MAC has occurred and “all of Yale New Haven Health’s arguments set forth in its March 27 letter allege isolated and one-time occurrence of events and no such purported occurrences of events mount to a continuing Material Adverse Change.” (Apr. 18 Ltr. At 2.)

113. On May 2, 2024, Yale New Haven Health shared with PMH an unfiled summons and complaint against Plaintiffs.

114. On May 3, 2024, Yale New Haven Health filed its lawsuit in this Court.

115. Upon information and belief, in late 2023 or early 2024, and no later than March 6, 2023, Yale New Haven Health engaged Cravath as outside counsel to assess a potential lawsuit against PMH in an effort to discharge Yale New Haven Health of its obligation to complete its acquisition of PMH.

116. Nevertheless, during meetings and closing calls between the deal parties, including on April 22, 2024, Yale New Haven Health continued to represent to PMH it was making good faith efforts to close the contemplated transaction. Upon information and belief, Yale New Haven Health knew these representations were untrue when it made them.

117. Yale New Haven Health knew it had an obligation to close the transaction under the APA but nevertheless abandoned good-faith efforts to achieve full performance.

118. Yale New Haven Health's decision to breach the APA and file suit while still representing to PMH it planned to close the transaction was fundamentally deceptive and unfair to PMH.

119. PMH continued to incur expenses submitting required materials to the government, obtaining third-party consents, and compensating its transactional attorneys for services rendered in connection with the acquisition.

120. PMH was further injured because, pursuant to the APA, it continued to allow Yale New Haven Health access to Confidential and Highly Confidential Information.

COUNT ONE

BREACH OF CONTRACT

121. Plaintiffs reallege and incorporate by reference the allegations in every preceding paragraph as though fully set forth herein.

122. The APA and the binding provisions therein form a valid, written contract between PMH and Yale New Haven Health.

123. The Confidentiality Agreement and the binding provisions therein form a valid, written contract between PMH and Yale New Haven Health.

124. The Clean Team Agreement and the binding provisions therein form a valid, written contract between PMH and Yale New Haven Health.

125. PMH performed all its obligations under the APA, and to the extent any remaining obligations are to be performed prior to or at the closing, PMH can and will be able to perform such obligations and has negotiated in good faith in order to finalize the transaction.

126. PMH performed all its obligations under the Confidentiality Agreement and has not disclosed Confidential Information to any person or organization not authorized to receive information under the Confidentiality Agreement.

127. PMH performed all its obligations under the Clean Team Agreement and has not disclosed Confidential Information to any person other than Permitted Representatives.

128. Yale New Haven Health has breached the APA by failing to deliver the agreed-upon purchase price to PMH and by failing to take reasonable best efforts to complete the acquisition of the Purchased Assets.

129. Yale New Haven Health has breached the APA by disclosing Confidential Information to the press without notice to or approval from PMH.

130. Yale New Haven Health has breached the APA by failing to use best efforts to obtain consent from OHS to complete the acquisition of PMH for the agreed-upon purchase price.

131. Yale New Haven Health has breached the Confidentiality Agreement by disclosing Confidential Information to the press without notice to or approval from PMH.

132. Yale New Haven Health has breached the Clean Team Agreement by distributing Highly Confidential Information to persons who are not Permitted Representatives under the Agreement.

133. By reason of the foregoing breaches of contract, PMH has sustained damages in the amount of at least \$435 million, or another amount to be proven at trial.

COUNT TWO

DECLARATORY RELIEF

134. Plaintiffs reallege and incorporate by reference the allegations in every preceding paragraph as though fully set forth herein.

135. Section 6.4 of the APA provides Yale New Haven Health is obligated to consummate the transactions described in the APA unless there has been a “Material Adverse Change since the Balance Sheet Date that is continuing.”

136. There have been no facts, circumstances, conditions, changes, events, or occurrences since the Balance Sheet Date constituting a Material Adverse Change.

137. Accordingly, as there has been no Material Adverse Change, Yale New Haven Health is obliged to consummate all transactions described in the APA, including the acquisition of the Purchased Assets.

COUNT THREE

DECLARATORY RELIEF

138. Plaintiffs reallege and incorporate by reference the allegations in every preceding paragraph as though fully set forth herein.

139. Section 6.1(c) of the APA provides “[a]ll of the covenants in this Agreement to be complied with or performed by Seller and the Selling Entities on or before the Closing Date pursuant to the terms hereof shall have been duly complied with and performed in all material respects.”

140. PMH has complied with or performed all covenants in the APA in all material respects, and to the extent any remaining obligations are to be performed prior to or at the closing, PMH can and will be able to perform such obligations.

141. Accordingly, Yale is obliged to consummate all transactions described in the APA, including the acquisition of the Purchased Assets.

COUNT FOUR

BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

142. Plaintiffs reallege and incorporate by reference the allegations in every preceding paragraph as though fully set forth herein.

143. The APA and the binding provisions therein form a valid, written contract between PMH and Yale New Haven Health.

144. As a party to the APA, PMH reasonably expected to receive benefits under the contract, including the full purchase price, in exchange for the sale of the Purchased Assets to Yale New Haven Health.

145. Yale New Haven Health interfered with PMH's right to receive benefits under the APA by deciding to breach the APA and not consummate the contemplated transaction, by cutting off negotiations and communications with PMH, and by continuing to represent to PMH it wanted to consummate the contemplated transaction when it knew that was untrue.

146. When committing the acts by which Yale New Haven Health injured PMH's rights to receive under the APA, Yale New Haven Health acted in bad faith when it made a measured, deliberate decision to breach the APA in an effort to coerce PMH and drive down the already agreed-on purchase price.

COUNT FIVE

VIOLATION OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT (C.G.S.A. § 42-110b(a))

147. Plaintiffs reallege and incorporate by reference the allegations in every preceding paragraph as though fully set forth herein.

148. Yale New Haven Health's misrepresentations to PMH about its intentions to complete the acquisition and its decision to breach the APA were fundamentally unfair to PMH.

The parties had already agreed to the material terms of the transaction, including the purchase price, and PMH reasonably relied on Yale New Haven Health's promises in the APA.

149. When Yale New Haven Health decided it did not want to pay the purchase price agreed to in the binding APA and would not complete the transaction as required, it continued to mislead PMH into believing that Yale New Haven Health was continuing, in good faith, towards closing.

150. Yale New Haven Health misrepresented itself to PMH, made a closed-door decision to abandon its obligations under the APA, delayed seeking approval from OHS, continued to request and access PMH's Confidential and Highly Confidential Information, and secretly engaged outside counsel to pursue a lawsuit against PMH in an attempt to force PMH to reduce the purchase price that was agreed to in the binding APA.

151. Yale New Haven Health's acts were immoral, unscrupulous, unethical, and oppressive.

152. PMH has suffered substantial injuries due to Yale New Haven Health's unfair practices. Because PMH relied on Yale New Haven Health's representations it intended to close the transaction and continue to negotiate in good faith, PMH continued to incur expenses submitting required materials to the government, obtaining third-party consents, and compensating its transactional attorneys for services rendered in connection with the acquisition. PMH was further injured because, pursuant to the APA, it continued to allow Yale New Haven Health access to Confidential and Highly Confidential Information.

153. PMH has also sustained a substantial injury because Yale New Haven Health's unfair trade practices have resulted in a failed transaction. Had Yale New Haven Health not misrepresented to PMH it planned to continue to negotiate with PMH and close the transaction,

PMH would not have incurred these costs and would not have continued to provide Confidential and Highly Confidential Information to Yale New Haven Health that could be used to competitively disadvantage the Purchased Assets.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court enter judgment as follows:

1. Declaring that there has been no Material Adverse Change and that PMH has satisfied the Closing Conditions of the APA to the extent possible;
2. Awarding damages in the amount of \$435 million, or another amount to be proven at trial, including interest thereon;
3. Ordering Yale New Haven Health to perform under the APA by promptly completing the acquisition of the Purchased Assets and delivering the entire purchase price to PMH;
4. Awarding punitive damages;
5. Awarding reasonable costs and attorneys' fees pursuant to Section 10.2 of the APA; and
6. Granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York
June 5, 2024

Respectfully submitted,

PLAINTIFFS PROSPECT MEDICAL HOLDINGS, INC., PROSPECT CT, INC., PROSPECT ECHN, INC. D/B/A EASTERN CONNECTICUT HEALTH NETWORK, PROSPECT ROCKVILLE HOSPITAL, D/B/A THE ROCKVILLE GENERAL HOSPITAL, PROSPECT MANCHESTER HOSPITAL, INC. D/B/A THE MANCHESTER MEMORIAL HOSPITAL, PROSPECT WATERBURY, INC. D/B/A THE WATERBURY HOSPITAL, PROSPECT CT MEDICAL FOUNDATION,

INC. D/B/A EASTERN CT MEDICAL
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MEDICAL GROUP, PROSPECT ECHN
HOME HEALTH, INC. D/B/A VISITING
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ASSOCIATES OF GREATER WATERBURY
LLC, PROSPECT CT MANAGEMENT
SERVICES, INC. D/B/A MEDICAL
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(*Pro Hac Vice Application Forthcoming)