

PUBLIC

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

COMMISSIONERS: **Andrew N. Ferguson, Chairman**
 Melissa Holyoak
 Mark Meador

In the Matter of)

Asbury Automotive Group, Inc.,)
 a corporation,)

Asbury Ft. Worth Ford, LLC, a limited liability)
 company, also d/b/a David McDavid Ford)
 Ft. Worth,)

McDavid Frisco – Hon, LLC, a limited liability)
 company, also d/b/a David McDavid Honda of)
 Frisco,)

McDavid Irving – Hon, LLC, a limited liability)
 company, also d/b/a David McDavid Honda of)
 Irving, and)

Ali Benli, individually and as an officer of)
 Asbury Ft. Worth Ford, LLC,)
 McDavid Frisco – Hon, LLC, and)
 McDavid Irving – Hon, LLC,)

Respondents.)

DOCKET NO. 9436

**JOINT EXPEDITED MOTION FOR FURTHER STAY AND CONTINUANCE
OF ADMINISTRATIVE PROCEEDINGS**

Complaint Counsel and Respondents Asbury Automotive Group, Inc., Asbury Ft. Worth Ford, LLC, McDavid Frisco – Hon, LLC, McDavid Irving – Hon, LLC, and Ali Benli (collectively “Respondents”) jointly move pursuant to 16 C.F.R. §§ 3.41, 4.3 to continue the commencement of the administrative hearing currently scheduled to begin on October 20, 2025

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to December 19, 2025, and to extend all pre-hearing deadlines for an additional 60 days.

Consistent with the Commission's March 25, 2025 Order Granting Joint Motion for Further Stay and Continuance of Administrative Proceedings, there is good cause for a limited continuance of this proceeding, including the evidentiary hearing and all discovery and filing deadlines, to allow the federal court to rule on the parties' preliminary motions in the collateral federal action, *Asbury Automotive Group, Inc., et al. v. Fed. Trade Comm'n, et al.*, No. 4:24-cv-00950-O (N.D. Tex.).¹

BACKGROUND

On August 16, 2024, the Commission issued an administrative complaint against Asbury Automotive Group, Inc.; Asbury Ft. Worth Ford, LLC; McDavid Frisco – Hon, LLC; McDavid Irving – Hon, LLC; and Ali Benli (collectively, “Respondents”). On October 4, 2024, Respondents filed a complaint for injunctive and declaratory relief in the United States District Court for the Northern District of Texas, seeking preliminarily and permanently to enjoin the Part 3 proceeding on constitutional grounds. On October 14, 2024, Respondents filed an expedited motion for a preliminary injunction staying these proceedings pending adjudication of Respondents' constitutional claims in the collateral federal action. On November 12, 2024, Defendants in the federal action filed a motion to dismiss the federal complaint. The preliminary motions in the collateral federal action were fully briefed on December 24, 2024 and remain pending before the district court.

On October 29, 2024, the Commission granted the parties' joint expedited motion for a four-month stay of the administrative proceeding to allow the parties to brief, and the district court to decide, the issues raised by the parties' preliminary motions in the federal court action.

¹ Respondents note that, by joining this motion, they do not waive any defenses they may have in this matter.

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The Commission granted a joint motion for a two-month stay, on similar grounds, on March 25, 2025, and Administrative Law Judge Dania L. Ayoubi entered a corresponding revised scheduling order on March 28, 2025.

ARGUMENT

Commission Rule 3.41(b) provides that “upon a showing of good cause” the Commission “may order a later date for the evidentiary hearing to commence.” 16 C.F.R. § 3.41(b). Further, Commission Rule 4.3 provides that the Commission, for good cause shown, may extend any time limit prescribed by Commission rules or by order of the Commission or an Administrative Law Judge. 16 C.F.R. § 4.3. Here, there is good cause for a limited continuance of this proceeding, including the evidentiary hearing and all discovery and filing deadlines, to allow the federal district court to decide Respondents’ expedited motion for preliminary injunction and federal Defendants’ motion to dismiss the collateral federal action.

In other Part 3 matters, the Commission has concluded good cause exists to postpone administrative proceedings to allow for the resolution of a motion for preliminary injunction in a parallel federal proceeding. *See In re Meta Platforms, Inc.*, No. 9411, 2023 WL 621507, at *1-2 (F.T.C. Jan. 11, 2023) (granting motion to postpone administrative hearing until after date expected for federal court decision on preliminary injunction); *In re Novant Health, Inc.*, No. 9425, 2024 WL 2974553 (F.T.C. June 5, 2024) (same); *In re FleetCor Techs., Inc.*, No. D-9403, 2021 WL 6618368 (F.T.C. Aug. 25, 2021) (same); *In re Hackensack Meridian Health, Inc.*, No. 9399, 2021 WL 2379546, at *1-2 (F.T.C. May 25, 2021) (same); *In re Thomas Jefferson Univ.*, No. 9392, 2020 WL 7237952, at *1-2 (F.T.C. Nov. 6, 2020) (same); *In re RAG-Stiftung*, No. 9384, 2020 WL 91294, at *1-3 (F.T.C. Jan. 2, 2020) (same); *In re Sanford Health*, No. 9376, 2017 WL 5845596, at *1-2 (F.T.C. Nov. 21, 2017) (same); *In re The Penn State Hershey Med.*

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Ctr., No. 9368, 2016 WL 3345405, at *1 (F.T.C. June 10, 2016) (same); *In re Advocate Health Care Network*, No. 9369, 2016 WL 3182774, at *2 (F.T.C. June 2, 2016) (same).

Absent a continuance, the parties will be required to conduct discovery in this Part 3 proceeding while simultaneously awaiting resolution of the parties' pending motions to determine whether one or both of these actions may proceed. A planned, time-limited continuance avoids any inefficiencies that may arise from preparing for the administrative trial while awaiting resolution of the pending motions in the district court, and the requested relief will not prejudice the Commission's ability to discharge its duties.

CONCLUSION

For the foregoing reasons, Complaint Counsel and Respondents respectfully request that the Commission enter an order granting the joint expedited motion to continue the evidentiary hearing until December 19, 2025 and extend all pre-hearing deadlines by 60 days.

Dated: May 22, 2025

/s/ Sarah Abutaleb

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Complaint Counsel

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Counsel for Respondents

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**[Proposed] ORDER GRANTING THE PARTIES’ JOINT EXPEDITED MOTION FOR
FURTHER STAY AND CONTINUANCE OF ADMINISTRATIVE PROCEEDINGS**

Commission Rule 3.41(b), 16 C.F.R. § 3.41(b), provides that “upon a showing of good cause” the Commission “may order a later date for the evidentiary hearing to commence.”

Commission Rule 4.3, 16 C.F.R. § 4.3, provides that the Commission, for good cause shown, may extend any time limit prescribed by Commission rules or by order of the Commission or an

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Administrative Law Judge. Under the circumstances presented in the Motion, we find good cause to order the requested continuance of this proceeding, including the evidentiary hearing and all discovery and filing deadlines. Accordingly,

IT IS HEREBY ORDERED THAT the stay and continuance requested in the Joint Expedited Motion for Further Stay and Continuance of Administrative Proceedings is **GRANTED** and that the evidentiary hearing in this proceeding shall commence at 10:00 a.m. on December 19, 2025;

IT IS FURTHER ORDERED that all pre-hearing deadlines in this proceeding are hereby extended by 60 days.

By the Commission.

April J. Tabor
Secretary

Seal:
ISSUED:

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SEPARATE MEET AND CONFER STATEMENT

Complaint Counsel conferred by email with Respondents' Counsel on May 22, 2025.

This motion seeks relief that cannot be obtained solely by agreement of the parties.

Respondents' Counsel joins Complaint Counsel in the filing of this motion.

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/s/ Sarah Abutaleb

Sarah Abutaleb
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600 Pennsylvania Ave., NW
Mail Stop CC-10232
Washington, DC 20580

Complaint Counsel

PUBLIC**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of May, 2025, I filed the foregoing document and its attachments 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 Dania L. Ayoubi
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave NW, Rm. H-110
Washington, DC 20580
oalj@ftc.gov

I further certify that on this 22nd day of May, 2025, a true and correct copy of the foregoing and its attachments were served on all counsel of record—Ed Burbach, Michael Lockerby, Robert Johnson, John Sepehri, Megan Chester, Jamie D. Brooks, James Doty, and Dan Dwyer—by email.

/s/ Sarah Abutaleb

Sarah Abutaleb
Federal Trade Commission
600 Pennsylvania Ave., NW
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Washington, DC 20580

Complaint Counsel