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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

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.)
)

JOINT STATUS REPORT

Pursuant to the Court’s June 4, 2025 Order, which directed the parties to file a report: (1) advising this Court of any settlement discussions; (2) providing any updates on the federal district court proceeding, Case No. 4:24-cv-00950-O (N.D. Tex.); and (3) providing a proposal to amend the March 28, 2025 Revised Scheduling Order, 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”) hereby submit this Joint Status Report.

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I. Settlement Discussions

Complaint Counsel and counsel for Respondents have had limited further communications about settlement, which have not resulted in significant progress. However, following Complaint Counsel's May 6, 2025 Motion to the Commission to temporarily reopen the administrative Proceeding, "for the sole purpose of permitting issuance of an Amended Administrative Complaint that removes Count IV and its supporting allegations from the action" ("Motion"),¹ Respondents are hopeful that should the Motion be granted further settlement discussions will be fruitful. Complaint Counsel is ready when settlement discussion restart. The Motion is still pending before the Commission.

II. Status of Federal District Court Proceedings

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. (ECF No. 1, Compl., at 31-32, *Asbury Automotive Group, Inc., et al. v. Fed. Trade Comm'n, et al.*, No. 4:24-cv-00950-O (N.D. Tex. Oct. 4, 2024) ("District Court Action").) On October 14, 2024, Respondents filed an expedited motion for a preliminary injunction to stay this administrative proceeding pending adjudication of Respondents' constitutional claims in the District Court Action. (ECF No. 6.) On November 12, 2024, Defendants in the District Court Action filed a motion to dismiss. (ECF No. 24.) Respondents' expedited motion for a preliminary injunction and stay was fully briefed on December 10, 2024 (ECF No. 29), and Defendants' motion to

¹ Respondents state that on April 23, 2025, President Donald Trump issued Executive Order No. 14281, 90 Fed. Reg. 17537 ("EO"), which required the Federal Trade Commission to, within 45 days of the date of the EO, "evaluate pending proceedings that rely on theories of disparate-impact liability and take appropriate action with respect to such matters consistent with the policy of this order." EO §§ 4, 6, 90 Fed. Reg. at 17538. Count IV of the FTC's original Administrative Complaint alleges "Discriminatory Financing Practices" in violation of Section 701(a)(1) of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1), and Section 202.4(a) of Regulation B, 12 C.F.R. § 202.4(a).

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dismiss was fully briefed on December 24, 2024 (ECF No. 30). As of the date of this filing, these preliminary motions remain pending before the district court.

On February 24, 2025 (ECF No. 31), and February 28, 2025 (ECF No. 32), the parties filed supplemental materials in the District Court Action addressing the position of the United States Department of Justice regarding restrictions on the removal of certain principal officers of the United States. On March 19, 2025, the district court ordered the parties to file supplemental briefing on the impact of the President's removal of Commissioners Alvaro Bedoya and Rebecca Kelly Slaughter. (ECF No. 33.) The parties subsequently filed two rounds each of responsive materials. (ECF Nos. 34, 37, 43-44.) As of the date of this filing, the district court has not taken any further action in this matter, including to alter the proceedings as a result of the Commissioners' removal.

III. Scheduling Order

This Court's June 4, 2025 Order directs the parties to provide a proposal to amend the March 28, 2025 Revised Scheduling Order to reflect the December 19, 2025 hearing date ordered by the Commission in its June 3, 2025 Order, which further ordered that all pre-hearing deadlines in this proceeding are extended by 60 days. The parties have prepared the following alternative proposals to revise the March 28, 2025 Revised Scheduling Order to implement the Commission's order consistent with 16 C.F.R. § 4.3.

Respondent's Proposed Schedule Reflecting December 19, 2025 Hearing Date:

At this time, Complaint Counsel's Motion to revise its administrative complaint is still pending before the Commission. As such, the parties are currently unaware what claims they will be litigating at the Evidentiary Hearing. Respondents believe the below proposed times provide the fairest timeline to prepare for the Evidentiary Hearing (assuming Complaint Counsel's Motion is granted), while also following the Commission's latest Order regarding the new hearing date and approaching due process. As set forth in Respondents' Motion for Expedited Preliminary Injunction and subsequent briefing in the

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federal court case, due process is lacking. For example, Respondents strongly believe that the deadlines proposed by Complaint Counsel would deprive the Respondents of effective due process by setting forth exceedingly short deadlines for Respondents to identify experts and produce experts reports after receipt of Complaint Counsel's identification of experts and production of expert reports.

Respondents propose:

- June 13, 2025 - Parties file Joint Status Report #2.
- August 12, 2025 - Complaint Counsel serves proposed expert witness list.
- August 12, 2025 - Complaint Counsel serves supplemental proposed fact witness list with a brief summary of the proposed testimony.
- September 6, 2025 - Respondents serve proposed expert witness list.
- September 6, 2025 - Respondents serve supplemental proposed fact witness list with a brief summary of the proposed testimony.
- September 19, 2025 - Deadline for parties to serve document requests, interrogatories, and subpoenas, except for discovery for purposes of authenticity and admissibility of exhibits.
- October 14, 2025 - Deadline for parties to serve requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of documents.
- October 20, 2025 - Close of fact discovery, except for discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
- October 27 2025 - Complaint Counsel serves expert witness reports.
- November 4, 2025 - Complaint Counsel serves final proposed witness and exhibit lists, including depositions, copies of all proposed exhibits (except for demonstrative, illustrative, or summary exhibits and expert-related exhibits), the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness. Complaint Counsel's final proposed witness list shall include no more than twenty-five fact witnesses testifying live at the hearing. See Additional Provision 17.

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Complaint Counsel provides the Administrative Law Judge (ALJ) with courtesy copies of final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.

November 19, 2025 - Respondents serve expert witness reports. Respondents' expert reports shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).

November 21, 2025 - Parties file Joint Status Report #3.

November 21, 2025 - Respondents serve final proposed witness and exhibit lists, including depositions, copies of all proposed exhibits (except for demonstrative, illustrative, or summary exhibits and expert-related exhibits), the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondents' final proposed witness list shall include no more than twenty-five fact witnesses testifying live at the hearing. See Additional Provision 17.

Respondents provide the ALJ with courtesy copies of final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.

November 21, 2025 - Parties intending to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).

November 21, 2025 - Complaint Counsel to identify rebuttal expert witness(es) and serve rebuttal expert witness report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondents' expert witness reports. If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert witness report(s) or seeking leave to submit surrebuttal expert witness report(s)).

December 1, 2025 - Deadline for parties to depose expert witnesses (including rebuttal expert witnesses) and exchange expert-related proposed exhibits.

December 1, 2025 - Deadline to file motions for in camera treatment of proposed trial exhibits. See Additional Provision 15.

December 1, 2025 - Deadline for parties to file motions in limine to preclude admission of evidence. See Additional Provision 16.

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- December 1, 2025 - Parties exchange objections to final proposed witness lists and exhibit lists, serving courtesy copies on the ALJ. Parties are to review the Commission's Rules on the admissibility of evidence before filing objections to exhibits and only raise objections that are necessary and valid.
- December 2, 2025 - Complaint Counsel files pretrial brief supported by legal authority.
- December 2, 2025 - Deadline for parties to file responses to motions for in camera treatment of proposed exhibits.
- December 5, 2025 - Deadline for parties to file responses to motions in limine to preclude admission of evidence.
- December 9, 2025 - Parties exchange proposed stipulations as to law, facts, the admissibility of proposed exhibits, and the expertise of any expert witnesses.
- December 12, 2025 - Respondents file pretrial brief supported by legal authority.
- December 16, 2025 - Final prehearing conference begins at 10:00 a.m. Eastern Time.

The parties shall meet and confer prior to the final prehearing conference regarding trial logistics and proposed stipulations as to law, facts, admissibility of exhibits, and expertise of any expert witnesses. To the extent the parties have agreed to stipulate to any issues of law, facts, admissibility of exhibits, and/or expertise of any expert witnesses, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the final prehearing conference. At the final prehearing conference, the parties' list of stipulations shall be marked as "JX1" and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required. Any subsequent stipulations may be offered as agreed to by the parties.

Also at the final prehearing conference, the parties may present any objections to the final proposed witness lists and proposed exhibits. All proposed exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admissibility of proposed exhibits, the parties shall prepare a list identifying each proposed exhibit to which admissibility is stipulated, which shall be offered into evidence as a joint exhibit

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marked as “JX2” and signed by each party. No signature by the ALJ is required.

December 19, 2025 - Evidentiary Hearing begins at 10:00 a.m. Eastern Time.

Complaint Counsel’s Proposed Schedule Reflecting December 19, 2025 Hearing Date:

Complaint Counsel’s proposed schedule modifies the dates by extending all pre-hearing deadlines by 60 days, as ordered in the Commission’s June 4, 2025 Order, and consistent with 16 C.F.R. § 4.3. Respondents’ proposal deviates from the Commission’s June 4, 2025 Order and the Part 3 rules in at least two ways. First, it extends by only 35 days (from July 8 to August 12) Complaint Counsel’s deadline to serve proposed expert witness lists, supplemental proposed fact witness lists, and fact witness summaries. Second, it elongates the time for Respondents to serve rebuttal expert reports from 14 days to 23 days, while truncating the time for Complaint Counsel to do the same from 10 days to 2 days. *See* 16 C.F.R. § 3.31A(a) (Respondents serve expert rebuttal reports within 14 days and Complaint Counsel within 10 days).

Respondents also state that “the parties are currently unaware what claims they will be litigating at the Evidentiary Hearing.” While the Commission has not yet ruled on the Motion to amend the Administrative Complaint, the amendment would only reduce the number of issues for litigation. Respondents do not explain, and it is not clear, how awaiting a ruling on the proposed amendment justifies their proposed timeline. The Court should abide by its ruling at the September 12, 2024 scheduling hearing (*See* Sept. 12, 2024 Hr’g Tr. 27:1-18.), subsequently reflected in its Scheduling Order (Sept. 13, 2024) and Revised Scheduling Order (Mar. 28, 2025), and reject Respondents’ attempt to alter the Part 3 rules for expert discovery for the third time.

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Complaint Counsel proposes:

- August 12, 2025 - Parties file Joint Status Report #3.
- August 29, 2025 - Complaint Counsel serves proposed expert witness list.
- August 29, 2025 - Complaint Counsel serves supplemental proposed fact witness list with a brief summary of the proposed testimony.
- September 8, 2025 - Respondents serve proposed expert witness list.
- September 8, 2025 - Respondents serve supplemental proposed fact witness list with a brief summary of the proposed testimony.
- September 19, 2025 - Deadline for parties to serve document requests, interrogatories, and subpoenas, except for discovery for purposes of authenticity and admissibility of exhibits.
- October 14, 2025 - Deadline for parties to serve requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of documents.
- October 20, 2025 - Close of fact discovery, except for discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
- October 27, 2025 - Complaint Counsel serves expert witness reports.
- November 4, 2025 - Complaint Counsel serves final proposed witness and exhibit lists, including depositions, copies of all proposed exhibits (except for demonstrative, illustrative, or summary exhibits and expert-related exhibits), the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness. Complaint Counsel's final proposed witness list shall include no more than twenty-five fact witnesses testifying live at the hearing. See Additional Provision 17.

Complaint Counsel provides the Administrative Law Judge (ALJ) with courtesy copies of final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.
- November 10, 2025 - Respondents serve expert witness reports. Respondents' expert reports shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).

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- November 10, 2025 - Parties file Joint Status Report #4.
- November 12, 2025 - Respondents serve final proposed witness and exhibit lists, including depositions, copies of all proposed exhibits (except for demonstrative, illustrative, or summary exhibits and expert-related exhibits), the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondents' final proposed witness list shall include no more than twenty-five fact witnesses testifying live at the hearing. See Additional Provision 17.

Respondents provide the ALJ with courtesy copies of final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.
- November 14, 2025 - Parties intending to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).
- November 21, 2025 - Complaint Counsel to identify rebuttal expert witness(es) and serve rebuttal expert witness report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondents' expert witness reports. If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert witness report(s) or seeking leave to submit surrebuttal expert witness report(s)).
- November 24, 2025 - Deadline for parties to depose expert witnesses (including rebuttal expert witnesses) and exchange expert-related proposed exhibits.
- November 24, 2025 - Deadline to file motions for in camera treatment of proposed trial exhibits. See Additional Provision 15.
- November 28, 2025 - Deadline for parties to file motions in limine to preclude admission of evidence. See Additional Provision 16.
- December 1, 2025 - Parties exchange objections to final proposed witness lists and exhibit lists, serving courtesy copies on the ALJ. Parties are to review the Commission's Rules on the admissibility of evidence before filing objections to exhibits and only raise objections that are necessary and valid.
- December 1, 2025 - Complaint Counsel files pretrial brief supported by legal authority.

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- December 3, 2025 - Deadline for parties to file responses to motions for in camera treatment of proposed exhibits.
- December 5, 2025 - Deadline for parties to file responses to motions in limine to preclude admission of evidence.
- December 9, 2025 - Parties exchange proposed stipulations as to law, facts, the admissibility of proposed exhibits, and the expertise of any expert witnesses.
- December 15, 2025 - Respondents file pretrial brief supported by legal authority.
- December 16, 2025 - Final prehearing conference begins at 10:00 a.m. Eastern Time.

The parties shall meet and confer prior to the final prehearing conference regarding trial logistics and proposed stipulations as to law, facts, admissibility of exhibits, and expertise of any expert witnesses. To the extent the parties have agreed to stipulate to any issues of law, facts, admissibility of exhibits, and/or expertise of any expert witnesses, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the final prehearing conference. At the final prehearing conference, the parties' list of stipulations shall be marked as "JX1" and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required. Any subsequent stipulations may be offered as agreed to by the parties.

Also at the final prehearing conference, the parties may present any objections to the final proposed witness lists and proposed exhibits. All proposed exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admissibility of proposed exhibits, the parties shall prepare a list identifying each proposed exhibit to which admissibility is stipulated, which shall be offered into evidence as a joint exhibit marked as "JX2" and signed by each party. No signature by the ALJ is required.

- December 19, 2025 - Evidentiary Hearing begins at 10:00 a.m. Eastern Time.

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Dated: June 13, 2025

/s/ Mark Glassman

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PUBLIC**CERTIFICATE OF SERVICE**

I hereby certify that on June 13, 2025, I caused a true and correct copy of the foregoing Joint Status Report to be served by email on the Office of Administrative Law Judges (oalj@ftc.gov), the Office of the Secretary (ElectronicFilings@ftc.gov), and all counsel of record, who are identified below:

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James Doty
Sarah Abutaleb
Daniel Dwyer

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Ed Burbach
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Robert Jonson
John Sepeheri
Megan Chester
Brandon Livengood

/s/ Mark L. Glassman
Mark L. Glassman