

PUBLIC

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)	DOCKET NO. 9436
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.)	
)	

THRID REVISED SCHEDULING ORDER

Pursuant to the Federal Trade Commission’s August 5, 2025 Order resetting the evidentiary hearing in this matter to commence on March 19, 2026 and extending all pre-hearing deadlines by ninety days, the Second Revised Scheduling Order deadlines are hereby revised as follows¹:

November 12, 2025 - Parties file Joint Status Report #4.

¹ The Additional Provisions contained in the Scheduling Order issued on September 13, 2024 remain in effect and are incorporated into this Third Revised Scheduling Order.

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- December 1, 2025 - Complaint Counsel serves proposed expert witness list.

Complaint Counsel serves supplemental proposed fact witness list with a brief summary of the proposed testimony.
- December 8, 2025 - Respondents serve proposed expert witness list.

Respondents serve supplemental proposed fact witness list with a brief summary of the proposed testimony.
- December 18, 2025 - Deadline for parties to serve document requests, interrogatories, and subpoenas, except for discovery for purposes of authenticity and admissibility of exhibits.
- January 12, 2026 - Deadline for parties to serve requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of documents.
- January 20, 2026 - 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.
- January 26, 2026 - Complaint Counsel serves expert witness reports.
- February 2, 2026 - 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.
- February 9, 2026² - Respondents serve expert witness reports. Respondents'

² The Commission's Rules of Practice for Adjudicative Proceedings make clear that with respect to expert discovery, the following timelines apply:

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expert reports shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).

Parties file Joint Status Report #5.

- February 11, 2026 - 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.
- February 13, 2026 - 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).³
- February 19, 2026 - 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 shall serve the other parties with a report prepared by each of its expert witnesses not later than 14 days after the close of fact discovery. *Each respondent shall serve each other party with a report prepared by each of its expert witnesses not later than 14 days after the deadline for service of complaint counsel's expert reports.* Complaint counsel shall serve respondents with a list of any rebuttal expert witnesses and a rebuttal report prepared by each such witness not later than 10 days after the deadline for service of respondent's expert reports.

16 C.F.R. § 3.31A(a) (2009) (emphasis added).

³ The Standard Protective Order states that if a party or third party wishes in camera treatment for a document or transcript that a party intends to introduce into evidence, that party or third party shall file an appropriate motion with the ALJ within five days after it receives notice of a party's intent to introduce such material. Appendix A to Commission Rule 3.31. Commission Rule 3.45(b) states that parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least ten days' notice of the proposed use of such material. To resolve this apparent conflict, this Third Revised Scheduling Order requires that the parties provide at least ten days' notice to the opposing party or third parties to allow for the filing of motions for in camera treatment.

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Complaint Counsel's rebuttal expert witness report(s) or seeking leave to submit surrebuttal expert witness report(s)).

- February 23, 2026 - Deadline for parties to depose expert witnesses (including rebuttal expert witnesses) and exchange expert-related proposed exhibits.

Deadline to file motions for in camera treatment of proposed trial exhibits. *See* Additional Provision 15.

Deadline for parties to file motions in limine to preclude admission of evidence. *See* Additional Provision 16.

- March 2, 2026 - 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.

Complaint Counsel files pretrial brief supported by legal authority.

Deadline for parties to file responses to motions for in camera treatment of proposed exhibits.

- March 5, 2026 - Deadline for parties to file responses to motions in limine to preclude admission of evidence.

- March 9, 2026 - Parties exchange proposed stipulations as to law, facts, the admissibility of proposed exhibits, and the expertise of any expert witnesses.

- March 16, 2026 - Respondents file pretrial brief supported by legal authority.

- March 17, 2026 - 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

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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.

March 19, 2026 - Evidentiary Hearing begins at 10:00 a.m. Eastern Time.

ORDERED:

Dania L. Ayoubi

Dania L. Ayoubi
Acting Chief Administrative Law Judge

Date: August 21, 2025