

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

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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.)	
_____)	

**JOINT STATUS REPORT AND MOTION TO HOLD CERTAIN DEADLINES IN
ABEYANCE**

The parties in the above action hereby submit this Joint Status Report and Motion to Hold Certain Deadlines in Abeyance pursuant to the Commission’s September 30, 2025 Shutdown Stay Order (described below).

On November 19, 2025, for the reasons explained below, the parties filed with the Commission a Joint Expedited Motion for Further Stay and Continuance of Administrative Proceedings (“Commission Joint Motion”). The Commission’s consideration of this motion may

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overlap with certain imminent discovery deadlines that this Court's Third Revised Scheduling Order set for December 1, 8, and 18, 2025, and complying with those deadlines would be premature and disruptive to this case if the Commission Joint Motion is granted. Accordingly, to permit the Commission time to act on the Commission Joint Motion, the parties jointly move this Court to hold in abeyance the discovery deadlines that will fall on December 1, 8, and 18, 2025 ("December Discovery Deadlines"). Alternatively, the parties request that the Court postpone all deadlines in the Scheduling Order by 30 days.

I. Joint Status Report

The parties previously have advised the Court of *Asbury Automotive Group, Inc., et al. v. Fed. Trade Comm'n, et al.*, No. 4:24-cv-00950-O (N.D. Tex.) ("District Court Action"), an action filed by Respondents in the U.S. District Court for the Northern District of Texas, seeking preliminarily and permanently to enjoin this Part 3 proceeding on constitutional grounds. Respondents filed the District Court Action on October 4, 2024. (Dkt. No. 1) 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 on October 14, 2024. (Dkt. No. 6) The Commission filed a motion to dismiss the District Court Action on November 12, 2024. (Dkt. No. 24).

On August 11, 2025, the federal district court issued an order (the "Partial Federal Dismissal Order") that denied the Asbury Respondents' request for preliminary injunctive relief, dismissed multiple but not all of the Asbury's Respondents' claims in the federal matter, and ordered the parties to further brief one claim for summary judgment and agree to a briefing schedule regarding same. However, subsequent to the Partial Federal Dismissal Order, the United States Court of Appeals for the Fifth Circuit issued an opinion—*Space Exploration Tech.*

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Corp. v. NLRB, No. 24-50627, 2025 WL 2396748 (5th Cir. Aug. 19, 2025), which the Asbury Respondents assert necessitates the district court’s reconsideration of several of its rulings in the Partial Federal Dismissal Order. On August 20, 2025, the Asbury Respondents notified the district court of their intent to seek reconsideration.

Following a hearing on September 3, 2025, the district court directed the parties to brief reconsideration on the dismissed claims before briefing summary judgment on the non-dismissed claim. The parties agreed to the following briefing schedule for the Asbury Respondents’

Motion for Reconsideration:

09/26/2025 Motion for Reconsideration
10/17/2025 FTC Defendants’ response to Motion for Reconsideration
10/31/2025 Reply

On September 26, 2025, the Asbury Respondents filed an Opposed Motion for Reconsideration seeking an indicative ruling and brief in support. The Asbury Respondents filed a Notice of Appeal concurrently.

On October 1, 2025, the federal government was partially shut down due to a lapse in appropriations. This lapse continued for 43 days until November 12, 2025. On November 19, 2025, the district court adopted a revised scheduling order requiring the FTC to file a response to the Motion for Reconsideration by November 26, 2025, and Asbury to file a reply on December 12, 2025.

Just before the partial government shutdown, on September 30, 2025, Commission Secretary April J. Tabor issued a Commission order in this action (the “Shutdown Stay Order”) that stated as follows:

In the event that a lapse in appropriations results in a shutdown of most Commission operations, the Commission hereby directs that this proceeding be fully stayed for the duration of the shutdown and for an additional five business days thereafter. The

Administrative Law Judge shall have the discretion to adjust any applicable deadlines as warranted.

The Shutdown Stay Order does not expressly address the date of the hearing in this matter, which in turn, affects the feasibility of pre-hearing deadlines.

On November 19, 2025, the parties filed the Commission Joint Motion to request an explicit Commission order resetting the Hearing Date and providing for the adjustment of all deadlines by an amount of time commensurate with the Commission's September 30 order relating to the partial shutdown. Additionally, the parties requested that the Hearing Date and all pre-hearing deadlines be moved back an additional 90 days to accommodate the ongoing collateral action. The Commission Joint Motion remains pending.

II. Joint Motion to Hold Certain Deadlines in Abeyance

As a result of the partial government shutdown, the parties were not able to address the imminent approach of the December Discovery Deadlines earlier. The occurrence of those deadlines as set forth in the Third Revised Scheduling Order, however, would be potentially disruptive of this case should the Commission grant the Commission Joint Motion. Particularly, that Order set party expert and fact witness disclosures for December 1 and 8, 2025, and final discovery requests for December 18, 2025.¹ Those deadlines would be substantially premature should the Commission Joint Motion be granted.

The Shutdown Stay Order granted this Court "discretion to adjust any applicable deadlines as warranted" as a result of disruptions caused by the government shutdown. In accordance with that discretion, as well as the discretion granted to the Court by Part 3 Rules

¹ Pursuant to Rule 3.21(c)(2), 16 C.F.R. § 3.21(c)(2), the parties state that these deadlines have been extended, respectively, since December 30, 2024, January 6, 2025, and January 17, 2025, as set forth in the Court's original Scheduling Order.

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(see, e.g., 16 C.F.R. §§ 3.31A(f), 4.3(b)), the parties move the Court to issue an order holding in abeyance the December Discovery Deadlines. Those deadlines could be rescheduled after the Commission has acted on the Commission Joint Motion. Alternatively, should the Court not wish to hold the December Discovery Deadlines in abeyance, the parties request that the Court postpone all deadlines in the Scheduling Order by 30 days.

Respectfully submitted,

Dated: November 24, 2025

/s/ Mark L. Glassman

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Counsel for Respondents

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[Proposed] ORDER HOLDING IN ABEYANCE CERTAIN DISCOVERY DEADLINES

Commission Rule 4.3, 16 C.F.R. § 4.3, provides that the Administrative Law Judge, for good cause shown, may extend any time limit prescribed by order of the ALJ, or if expressly authorized to do so, by order of the Commission. Commission Rule 3.21(c)(2), 16 C.F.R. § 3.21(c)(2), provides that the ALJ may, for good cause shown, “grant a motion to extend any deadline or time specified in this scheduling order other than the date of the evidentiary hearing.” The Commission issued an Order on September 30, 2025, granting the ALJ “discretion to adjust any applicable deadlines” in this matter “as warranted.”

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The parties have filed a Joint Motion to Hold Certain Deadlines in Abeyance. Under the circumstances presented in the Motion, there is good cause to order the requested relief. Accordingly,

IT IS HEREBY ORDERED THAT the deadlines to occur on December 1, 8, and 18, 2025, set forth in this Court’s Third Revised Scheduling Order are hereby held in abeyance.

IT IS FURTHER ORDERED that the parties shall submit a joint proposal to amend the August 21, 2025 Third Revised Scheduling Order within 14 days of the Commission acting on the Joint Expedited Motion for Further Stay and Continuance of Administrative Proceedings, submitted by the parties on November 19, 2025.

ORDERED:

Dania L. Ayoubi
Acting Chief Administrative Law Judge

Date: _____

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of November, 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 24th day of November, 2025, a true and correct copy of the foregoing and its attachments were served on all counsel of record—Edward D. Burbach, Michael Lockerby, John Sepehri, Robert Johnson, Megan Chester, Brandon Livengood, Mark L. Glassman, Jamie D. Brooks, James Doty, Dan Dwyer, and Sarah Abutaleb—by email.

/s/ Mark L. Glassman

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Complaint Counsel