

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

COMMISSIONERS: **Andrew N. Ferguson, Chairman**  
**Mark R. Meador**

**IN THE MATTER OF**

**PHILIP SERPE,**

**Appellant.**

**MATTER NO. D09441**

**APPELLANT'S SECOND NOTICE OF SUPPLEMENTAL AUTHORITY**

Appellant Philip Serpe respectfully submits this notice of supplemental authority: *In re Express Scripts, Inc.*, No. 25-2281, 2026 WL 1355370 (4th Cir. May 15, 2026). *Express Scripts* confirms that the availability of a civil money penalty remedy in Serpe's adjudication is "virtually determinative in entitling [him] to a jury trial." 2026 WL 1355370, at \*5; Op. Br. at 17–18. Further, "deny[ing] the jury right" "requires showing" both that the suit "*would not* have been heard at law" and that it "*would* have been heard in equity." 2026 WL 1355370, at \*4. Claims with civil money penalty remedies historically required jury trials. Op. Br. at 18–19; *see, e.g., Tull v. United States*, 481 U.S. 412, 414, 427 (1987) (Clean Water Act claim for dumping fill with civil fine remedy required jury trial on liability determination). Thus, Serpe should prevail on the Seventh Amendment issue, the sanctions imposed against him should be vacated, and the adjudication should be dismissed.

Dated: May 19, 2026.

Respectfully submitted,

/s/ Joshua M. Robbins

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**CERTIFICATE OF SERVICE**

Pursuant to 16 CFR § 1.146(a) and 16 CFR § 4.4(b), I certify that on May 19, 2026, I filed the foregoing document electronically using the FTC’s E-Filing System, which will send notification of the filing. A courtesy copy will be sent via email to the following:

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