PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Andrew N. Ferguson, Chairman**
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 "the Asbury Respondents") jointly move pursuant to 16 C.F.R. §§ 3.41 and 4.3 to continue the commencement of the administrative hearing currently scheduled to begin on February 2, 2027, by 181 days to Monday, August 2, 2027, and to extend all pre-hearing deadlines for a

commensurate number of days. Consistent with the Commission's March 17, 2026 Order granting the parties' March 6, 2026 Joint Expedited Motion for Further Stay and Continuance of Administrative Proceedings, there is continued good cause for an additional limited continuance of this proceeding, including the evidentiary hearing and all discovery and filing deadlines, to allow the federal courts to rule on the pending motions and petition 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.); 25-11102 (5th Cir.).[1]

BACKGROUND

On August 16, 2024, the Commission issued an administrative complaint against the Asbury Respondents. On October 4, 2024, the Asbury Respondents filed a complaint for injunctive and declaratory relief against the Federal Trade Commission (the "FTC" or "Commission") and its Commissioners in their official capacities (the "Commissioners" and together with the FTC, "FTC Defendants") 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, the Asbury Respondents filed an expedited motion for a preliminary injunction staying these proceedings pending adjudication of the Asbury Respondents' constitutional claims in the collateral federal action. On November 12, 2024, the FTC Defendants in the federal action filed a motion to dismiss the federal complaint. The Asbury Respondents' claims in the collateral federal action were fully briefed and remain partially pending before the district court.

On August 11, 2025, the federal district court issued an order that denied the Asbury Respondents' request for preliminary injunctive relief and dismissed all but one of their additional

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

claims in the federal matter. On September 26, 2025, the Asbury Respondents filed a Notice of Appeal. Although the non-dismissed claim remains pending in the District Court, that court has indicated an intention to "wait for the Fifth Circuit's decision regarding Plaintiffs' appeal" before addressing the surviving claim through summary judgment. (Dkt. 74). The Asbury Respondents filed their appellate brief on April 23, 2026, the FTC filed a response on June 25, 2026, and the Asbury Respondents then filed their Reply on July 16, 2026. Furthermore, on July 10, 2026, the FTC filed supplemental authorities with the Fifth Circuit concerning the United States Supreme Cout's recent decision in *Trump v. Slaughter*, ___ S. Ct. ____, No. 25-332, 2026 WL 1855612 (U.S. June 29, 2026) regarding the President's removal powers under Article II of the United States Constitution. After resolution of the appeal, the parties, at a minimum, will have to brief the surviving claim 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. On March 25, 2025, the Commission granted a joint motion for a two-month stay, on similar grounds. On June 3, 2025, the Commission granted a joint motion for an additional two-month stay, on similar grounds. On June 18, 2025, FTC Administrative Law Judge Dania L. Ayoubi entered a corresponding revised scheduling order. On August 5, 2025, the Commission granted a joint motion for an additional three-month stay, on similar grounds. On August 21, 2025, FTC Administrative Law Judge Dania L. Ayoubi entered a corresponding revised scheduling order. On November 25, 2025, the Commission granted a joint motion for an additional 140-day stay, on similar grounds. On December 10, 2025, FTC Administrative Law Judge Dania L. Ayoubi entered

a corresponding revised scheduling order. On March 17, 2026, the Commission again granted a joint motion for an additional stay for 180 days on similar grounds.

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 court of appeals to decide the Asbury Respondents' appeal, and upon resolution of the appeal, to allow the federal district court to decide the claim or claims then pending before it.

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 parallel federal proceedings. *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. 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 the federal courts' resolution of the Asbury Respondents' appeal and surviving district court claim to determine whether the action 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 matters in the district court and the court of appeals, and the requested relief will not prejudice the Commission's ability to discharge its duties.

CONCLUSION

For the foregoing reasons, Complaint Counsel and the Asbury Respondents respectfully request that the Commission enter an order granting the joint expedited motion to continue the evidentiary hearing until August 2, 2027, and to commensurately extend all pre-hearing deadlines.

Dated: August 4, 2026

/s/ Brandon Livengood

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Complaint Counsel

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COMMISSIONERS: **Andrew N. Ferguson, Chairman**
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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 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 August 2, 2027;

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

By the Commission.

April J. Tabor
Secretary

Seal:
ISSUED:

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SEPARATE MEET AND CONFER STATEMENT

Respondents' Counsel conferred with Complaint Counsel between July 27 2026 and August 3, 2026. 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.

/s/ Brandon Livengood

Brandon Livengood

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of August, 2026, 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
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ElectronicFilings@ftc.gov

The Honorable Dania L. Ayoubi
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave NW, Rm. H-110
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I further certify that on this 4th day of August, 2026, a true and correct copy of the foregoing and its attachments were served on all counsel of record—Michael Lockerby, John Sepehri, Robert Johnson, Brandon Livengood, Mark L. Glassman, Jamie D. Brooks, James Doty, Dan Dwyer, and Sarah Abutaleb—by email.

/s/ Brandon Livengood
Brandon Livengood