

PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Andrew N. Ferguson, Chairman
Rebecca Kelly Slaughter
Alvaro M. Bedoya
Melissa Holyoak

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 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 “Respondents”) jointly move pursuant to 16 C.F.R. §§ 3.41, 4.3 to continue the commencement of the administrative hearing currently scheduled to begin on August 18, 2025 to

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October 20, 2025, and to extend all pre-hearing deadlines for an additional 60 days. Consistent with the Commission’s October 29, 2024 Order Granting Joint Expedited Motion for a Four-Month Stay of Administrative Proceedings, there is good cause for a limited continuance of this proceeding, including the evidentiary hearing and all discovery and filing deadlines, to allow the federal court to rule on the parties’ preliminary motions 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.).¹

BACKGROUND

On August 16, 2024, the Commission issued an administrative complaint against Asbury Automotive Group, Inc.; Asbury Ft. Worth Ford, LLC; McDavid Frisco – Hon, LLC; McDavid Irving – Hon, LLC; and Ali Benli (collectively, “Respondents”). 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. On October 14, 2024, Respondents filed an expedited motion for a preliminary injunction staying these proceedings pending adjudication of Respondents’ constitutional claims in the collateral federal action. On November 12, 2024, Defendants in the federal action filed a motion to dismiss the federal complaint.

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. The preliminary motions in the collateral federal action were fully briefed on December 24, 2024 and remain pending before the district court.

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

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 federal district court to decide Respondents’ expedited motion for preliminary injunction and federal Defendants’ motion to dismiss the collateral federal action.

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 a parallel federal proceeding. *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).

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Absent a continuance, the parties will be required to expend resources conducting discovery in this Part 3 proceeding while simultaneously awaiting resolution of the parties' pending motions to determine whether one or both of these actions 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 motions in the district court, and the requested relief will not prejudice the Commission's ability to discharge its duties.

CONCLUSION

For the foregoing reasons, Complaint Counsel and Respondents respectfully request that the Commission enter an order granting the joint motion to continue the evidentiary hearing until October 20, 2025 and extend all pre-hearing deadlines by 60 days.

Dated: February 21, 2025

/s/ Jamie D. Brooks

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Complaint Counsel

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Counsel for Respondents

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DOCKET NO. 9436

**[Proposed] ORDER GRANTING THE PARTIES’ JOINT 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,

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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 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 October 20, 2025;

IT IS FURTHER ORDERED that all pre-hearing deadlines in this proceeding are hereby extended by 60 days.

By the Commission.

April J. Tabor
Secretary

Seal:
ISSUED:

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SEPARATE MEET AND CONFER STATEMENT

Complaint Counsel conferred by video conference with Respondents’ Counsel on February 14, 2025. 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.

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/s/ Jamie D. Brooks

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Washington, DC 20580

Complaint Counsel

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record—Ed Burbach, Michael Lockerby, Robert Johnson, John Sepehri, Megan Chester, James Doty, Sarah Abutaleb, and Daniel Dwyer—by email on this 21st day of February, 2025.

/s/ Jamie D. Brooks

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Complaint Counsel