

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

FAULK COMPANY, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Case No. 4:24-cv-00609
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
_____	)	

**JOINT PROPOSAL REGARDING BRIEFING SCHEDULE**

Plaintiff Faulk Company, Inc. and Defendant the United States of America (collectively, “the Parties”), pursuant to the Court Order entered on February 4, 2025 (ECF No. 27), state as follows:

1. On February 4, 2025, the Court entered an order advising the Parties that it “proposes that the Parties’ briefing on Defendants’ Motion to Dismiss be converted to a motion for summary judgment.” ECF No. 27 at 1. The Court noted that “[i]f the Parties so desire, they may also submit an additional 10 pages as cross-motions for summary judgment to supplement their current briefing.” *Id.* at 1 n.2. The Court ordered the Parties to “meet and confer regarding this proposal and submit any objections to transitioning to summary judgment by February 11, 2025.” *Id.* at 2. If the Parties agree with the Court’s proposal, the Court ordered that they “include a joint proposal for a briefing schedule by February 11, 2025.” *Id.*

2. On February 7, 2025, counsel had a telephone conference to discuss the Order. The Parties do not object to transitioning the United States’ motion to dismiss to a motion for summary judgment as to the following issues:

A. Count I: Whether 42 U.S.C. § 18081 and 26 U.S.C. § 4980H permit the IRS to certify and assess the employer shared responsibility payment against Faulk for tax year 2019 and thus whether Faulk is entitled to a refund under 26 U.S.C. § 7422.

B. Counts III and IV: Whether 45 C.F.R. § 155.31(i) conflicts with 42 U.S.C. § 18081 and 26 U.S.C. § 4980H.

C. Counts III and IV: Whether Faulk has standing to challenge 45 C.F.R. § 155.310(i).

D. Counts III and IV: Whether the Declaratory Judgment Act precludes issuance of a declaration invalidating 45 C.F.R. § 155.310(i).

3. The Parties believe that resolution of the above issues will be dispositive in determining Faulk's claims.

4. As requested by the Court, the Parties propose the following briefing schedule:

- March 13, 2025: Deadline to file optional brief to supplement current briefing (limit 10 pages)
- April 14, 2025: Deadline to file response to optional brief (limit 10 pages)

Dated: February 11, 2025

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/s/ Mary Elizabeth Smith  
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Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF FAULK  
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**CERTIFICATE OF SERVICE**

I certify that on February 11, 2025, I filed the foregoing document with the Clerk of Court using the CM/ECF electronic filing system, which will send notification to all counsel of record.

*/s/ Mary Elizabeth Smith*  
MARY ELIZABETH SMITH