

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

FEDERAL TRADE COMMISSION, et al.,

Defendants.

Case No. 6:25-cv-9-JDK

STATUS REPORT AND PROPOSED SCHEDULING ORDER

This Court directed the parties to “meet and confer to discuss appropriate deadlines for limited discovery and summary judgment briefing” and to “file a joint proposed scheduling order with these agreed-upon deadlines.” Dkt. 34. Defendants Federal Trade Commission (“FTC” or “Commission”), et al. (collectively, “Defendants”) met and conferred with Plaintiffs, who have informed us that they cannot agree to a proposed discovery schedule because they don’t agree that the Commission is entitled to the discovery it insists it needs before summary judgment. As explained below, the Court has already resolved this question and correctly rejected Plaintiffs’ position. The Commission respectfully submits the proposed scheduling order set forth below.

Consistent with this Court’s June 5 order, Dkt. 34, the FTC has sought to engage in good faith with Plaintiffs to address evidentiary issues relevant to this Court’s assessment of standing, ripeness, and remedies—should this case ever reach summary judgment in this forum. In that order, the Court recognized that Plaintiffs moved for a “combined briefing schedule to resolve Defendants’ motion to dismiss or transfer ... and forthcoming cross-motions for summary

judgment together,” but “Defendants are opposed” and “argue[d] that the motion to dismiss or transfer should be resolved first and that limited discovery is needed to address factual questions concerning standing, venue, and remedies.” *Id.* The Court “considered Plaintiffs’ motion” and denied it. *Id.* The Court accordingly “ORDER[ED] the parties to meet and confer to discuss appropriate deadlines for limited discovery and summary judgment briefing” *Id.*

The FTC was prepared to immediately move forward with limited discovery, as contemplated by the Court’s order. But after an initial discussion with Plaintiffs, the FTC first sought potential common ground and hoped to narrow any disputes in a more informal and less burdensome way than the formal discovery process and any necessary motions practice that would consume the Court’s time and resources. Unfortunately, after multiple meet and confers and after the FTC provided specific requests for the type of evidence Defendants seek in order to litigate the Court’s jurisdiction and venue, as well as any appropriate remedy, Plaintiffs have declined to provide any additional information necessary to resolve those issues. Indeed, Plaintiffs have offered hardly any more information than already appears in the complaint and have refused to provide the names or even locations of the association members on whose behalf Plaintiffs assert standing. They have offered nothing more than vague and unsupported suggestions about who the members with standing might generally be, and whether those anonymous members anticipate they might engage in future transactions that would be subject to HSR reporting.

Moreover, despite the FTC offering repeatedly to enter into a protective order to address potential concerns about confidentiality, Plaintiffs have thus far refused to even begin discussions about a potential protective order. Plaintiffs now refuse to entertain any discovery. Instead, Plaintiffs have circled back to the position that they have already asserted and that this

Court already rejected: that they should move for summary judgment now, before any discovery takes place. The Commission has already explained why that approach is both inappropriate and futile. *See* Dkt. 33. This Court's rejection of Plaintiffs' position was plainly correct: the parties cannot brief summary judgment concerning the Court's jurisdiction and venue, or about any remedies, without the facts necessary to address the disputed jurisdictional and remedial issues. Plaintiffs are now effectively seeking reconsideration of the Court's decision without moving for that relief.

Given Plaintiffs' refusal to engage with the Commission to jointly submit a mutually agreeable schedule, the Court should adopt the schedule the Commission proposes below, a very similar version of which the Commission shared with Plaintiffs in the course of meet-and-confer exchanges. This schedule permits limited discovery that would allow the parties to fully and efficiently submit summary judgment motions that the Court can consider with all the necessary facts. The Commission's proposed schedule would allow the parties to quickly address outstanding factual issues and provide both parties sufficient, but not extended, time to brief summary judgment after developing the relevant factual information. Because Plaintiffs decline to propose a joint schedule, the Court should adopt the following Proposed Scheduling Order:

Event	Date
Deadline for Proposed Scheduling Order	July 11, 2025
Plaintiffs provide any declarations, letters of support, or affidavits that Plaintiffs intend to offer as part of their summary judgment briefing • No side may submit as evidence more than 10 total declarations, notes of support, or affidavits from party or non-party witnesses, except for declarations relating solely to authenticity and admissibility of exhibits. • No party may submit as evidence a declaration, note of support, or affidavit from a party or non-party witness if such declaration or affidavit was	July 18, 2025

Event	Date
executed or served fewer than 4 business days prior to the party's agreed-to deposition date. In any event, no party or non-party declaration, note of support, or affidavit may be submitted as evidence if it was executed or served fewer than 14 calendar days before the close of fact discovery.	
Deadline for Proposed Protective Order	July 25, 2025
Defendants serve limited interrogatories and requests for production on parties - Interrogatories shall be limited at this time to 10 issued per party, with the understanding that interrogatories referring to "anticipated reporting part[ies]" will count as a singular interrogatory for the purposes of this calculation. - Requests for Production will be limited at this time to 3 per party, with the understanding that requests referring to "anticipated reporting part[ies]" will count as a singular request for the purposes of this calculation. "Anticipated reporting part[ies]" refers to any member of Plaintiffs' associations that Plaintiffs are using or intend to use to support standing.	July 25, 2025
Deadline for objections to party interrogatory requests or requests for production	August 1, 2025
Interrogatory responses due from parties	August 15, 2025
Responses to requests for production due from parties	August 15, 2025
Defendants issue any limited non-party discovery requests needed to address outstanding requests - Interrogatories shall be limited at this time to 5 per non-party. - Requests for Production shall be permitted only with agreement from the Parties or after petition to the Court.	August 18, 2025
Deadline for objections to non-party interrogatory requests or requests for production	August 22, 2025
Responses to non-party interrogatory requests or requests for production due from non-parties	August 29, 2025

Event	Date
Deadline for issuing deposition subpoenas • Where one side expects to offer a declaration, letter of support, or affidavit as evidence in support of its case, the opposing side may take one four-hour deposition of any declarant or author of a letter in support or affidavit, or any anticipated reporting part[ies]. The offering party may cross examine the deponent for a period not to exceed one hour. • Each side may take up to three additional depositions of opposing parties, not to exceed seven hours per deposition. No side may notice a deposition of someone on its own side.	September 1, 2025, or within 7 days of learning of potential deposition, letter, or affidavit, whichever is later
Close of fact discovery	September 24, 2025
Plaintiffs' Motion for Summary Judgment	September 25, 2025
Defendant's Motion for Summary Judgment and Opposition to Plaintiffs' Motion for Summary Judgment	November 5, 2025
Plaintiffs' Opposition to Defendants' Motion for Summary Judgment and Reply in Support of Motion for Summary Judgment	December 5, 2025
Defendants' Reply in Support of Motion for Summary Judgment	December 19, 2025

July 11, 2025

Respectfully submitted,

/s/ Benjamin F. Aiken

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ORDER GRANTING DEFENDANTS' PROPOSED SCHEDULE

Before the Court is Defendants' Status Report and Proposed Scheduling Order, as well as Plaintiffs' Status Report. Having considered the parties' positions, the Court hereby ADOPTS Defendants' proposed schedule and ORDERS the parties to adhere to the deadlines and specifications below:

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