

UNITED STATES DISTRICT COURT
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-00009-JDK

**DEFENDANTS' PARTIALLY OPPOSED MOTION FOR EXTENSION OF
TIME, EXTENSION OF PAGE LIMITS, AND RESCHEDULING OF ORAL
ARGUMENT**

Defendants the Federal Trade Commission and Chairman Andrew N. Ferguson (collectively, the “FTC” or “Commission”) respectfully request a 21-day extension of time to respond to plaintiffs’ motion for summary judgment and an additional 10 pages for that response and anticipated cross-motion for summary judgment. The Commission also requests that the Court reschedule the current oral argument date of October 2 to accommodate both this adjusted schedule and counsel for the Commission’s religious observances. In support of this motion, the Commission states as follows:

1. Plaintiffs filed a motion for summary judgment on August 1, 2025. *See* Dkt. 44. Under Local Rule CV-7(e), the Commission’s response is due on August

22, 2025. As is typical in cases arising under the Administrative Procedure Act, the Commission will file a combined opposition to summary judgment along with its own cross-motion for summary judgment. Under the Court's local rules, plaintiffs' combined response and reply brief would then be due September 12, 2025, and the Commission's reply would be due September 19.

2. On August 11, 2025, this Court ordered an oral argument on October 2, 2025, on both the Commission's pending motion to dismiss and transfer, Dkt. 30, and plaintiffs' motion for summary judgment. *See* Dkt. 51.
3. Undersigned lead counsel for the Commission, Mr. Aiken, is Jewish, and the Jewish holiday of Yom Kippur begins at sundown on October 1 and runs through sundown on October 2. Yom Kippur is one of the two Jewish High Holidays. Due to the travel time from Washington, DC to Tyler, Texas, and the Yom Kippur schedule, Mr. Aiken would be unable to appear on October 1 or October 2, and it would be difficult to appear on October 3, especially given the risk of travel-related delays. The Commission respectfully requests that the oral argument should be rescheduled to allow Mr. Aiken to observe the holiday. Plaintiffs do not oppose this request.
4. In an unfortunate bit of timing, Mr. Aiken's wife is also traveling for a work conference the week of October 6-10, 2025, the only week of the year that requires her to travel for work. Mr. Aiken and his wife have two young children, and due to family obligations and childcare responsibilities it is not

possible for Mr. Aiken to travel during the week of October 6-10. Mr. Aiken stands ready to appear for argument at any date following October 10.

5. The Commission also separately requests a 21-day extension of time to file its opposition and cross-motion for summary judgment so that the Commission's filing would be due September 12, 2025. The Commission has recently suffered substantial attrition in its Office of General Counsel, which has necessitated reassignment of duties and existing cases to other attorneys, including Mr. Aiken and his direct supervisor, and warrants a modest extension of time so that the Commission may effectively brief this case. This case also involves a number of complex issues, a large record, and a policy of national importance that demands more time and attention than a typical case.
6. Assuming no other extensions are sought for subsequent briefs, a 21-day extension would mean that summary judgment is fully briefed on October 10, 2025. As stated above, the Commission will be prepared to present oral argument as soon as the Court desires after that date.
7. The Commission also requests a 10-page extension for a combined response and cross-motion so that the filing is 40 total pages. This proposal would be more efficient for the Court and for the parties than were the Commission to otherwise file two separate, 30-page briefs, one seeking summary judgment and the other opposing plaintiffs' motion. The Commission further notes that plaintiffs' 30-page motion spends only three pages on standing and zero pages

on venue or remedies. As the Commission has stated from the beginning of this case, there are substantial issues related to all three issues, and the extra pages are necessary to more fully address them, which the Commission would otherwise do in a separate motion for summary judgment. The requested 10-page extension for a combined response and cross-motion would thus save 20 pages of briefing.

8. Counsel for the Commission conferred with counsel for plaintiffs about the requests in this motion. The Commission originally requested a 30-day extension of time, but plaintiffs opposed that request. Hoping to find common ground and avoid bothering the Court, the Commission offered to shorten that time to the now-requested 21-day extension, but plaintiffs opposed that request too, necessitating this motion. Plaintiffs also stated that they opposed the Commission's request for 10 extra pages for a combined opposition and cross-motion. Plaintiffs do not oppose, however, the Commission's request to reschedule the oral argument date.
9. So that the Court is not taken by surprise, the Commission plans to shortly bring a separate motion to stay *all* summary judgment deadlines until the Court has first resolved the Commission's pending motion to dismiss or transfer. The Commission will also ask, in the alternative, that the Court deny or defer ruling on plaintiffs' motion under Federal Rule of Civil Procedure 56(d) and allow the Commission to seek discovery necessary to respond to plaintiffs' motion. That request is separate from this request for

an extension of time, and should the Court deny the Commission's motion to stay or to deny or defer ruling on the motion for summary judgment, the Commission will be prepared to file its opposition and cross-motion for summary judgment on September 12, as this motion requests.

August 15, 2025

Respectfully Submitted

Benjamin F. Aiken

/s/ Benjamin F. Aiken

D.C. Bar No. 1046730
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
T: (202) 326-2151
baiken@ftc.gov

UNITED STATES DISTRICT COURT
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-00009-JDK

[PROPOSED] ORDER

Upon consideration of Defendants' Partially Opposed Motion for Extension of Time, Extension of Page Limits, and Rescheduling of Oral Argument, it is hereby ORDERED that the motion is granted. The Commission's response to Plaintiffs' Motion for Summary Judgment, Dkt. 44, is due September 12, 2025. That response may be up to 40 pages. The oral argument set for October 2, 2025, *see* Dkt. 51, is hereby vacated and will be rescheduled.

SO ORDERED.