

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

RYAN, LLC,

Plaintiff,

CHAMBER OF COMMERCE OF
THE UNITED STATES OF
AMERICA, BUSINESS
ROUNDTABLE, TEXAS
ASSOCIATION OF BUSINESS, and
LONGVIEW CHAMBER OF
COMMERCE,

*Plaintiff-
Intervenors,*

v.

FEDERAL TRADE COMMISSION,

Defendant.

Case No. 3:24-cv-986-E

**PLAINTIFF AND PLAINTIFF-INTERVENORS' MOTION FOR
EXPEDITED CONSIDERATION OF THEIR MOTION FOR LIMITED
RECONSIDERATION OF THE SCOPE OF PRELIMINARY RELIEF**

EXPEDITED TREATMENT REQUESTED

Pursuant to Local Rule 7.1, plaintiff Ryan LLC and plaintiff-intervenors the Chamber of Commerce of the United States of America, Business Roundtable, Texas Association of Business, and Longview Chamber of

Commerce respectfully move for expedited consideration by this Court of their motion for limited reconsideration of the scope of the preliminary relief issued by this Court in its July 3 Order.

1. Earlier today, plaintiffs filed a motion seeking limited reconsideration of the scope of the preliminary relief issued by the Court on July 3. ECF No. 157.

2. For the reasons explained below, plaintiffs respectfully request that the Court enter an expedited briefing schedule that would allow the Court to issue a ruling on their motion for reconsideration by July 17, in advance of their deadline to file a motion for summary judgment. In particular, plaintiffs request that the Court require the Commission to file any opposition to the motion for reconsideration by July 12, and that plaintiffs file any reply brief by July 15.

STATEMENT OF NATURE AND STAGE OF PROCEEDING

On July 3, 2024, the Court entered an order enjoining the Commission from enforcing the Noncompete Rule and staying the Rule's effective date. ECF No. 154. Earlier today, plaintiffs filed a motion for limited reconsideration of the scope of preliminary relief that the Court issued in that Order. ECF No. 157. Pursuant to Local Rule 7.1, this motion requests expedited briefing and decision on the motion for reconsideration.

STATEMENT OF ISSUE AND STANDARD OF REVIEW

The issue presented is whether to expedite briefing and decision on plaintiffs' motion for limited reconsideration of the scope of preliminary relief against the Noncompete Rule. Courts have "broad discretion" to set briefing schedules. *Tajonera v. Black Elk Energy Offshore Operations, L.L.C.*, 2015 WL 13227930, at *2 (E.D. La. Dec. 4, 2015); *see also, e.g., Conner v. Biden*, 2021 WL 6773174, at *3 (N.D. Tex. Dec. 28, 2021).

DISCUSSION

In its July 3 Order, the Court concluded that plaintiffs were entitled to preliminary injunctive relief and a stay of the Noncompete Rule's effective date because the parties affected by the Noncompete Rule would suffer "financial injury" if the Rule went into effect, and "if the requested injunctive

relief were not granted, the injury to both Plaintiffs and the public interest would be great.” Order 28. The parties harmed by the Rule include many of plaintiff-intervenors’ members in Texas and throughout the United States. *See, e.g.*, ECF No. 47, Ex. B, ¶¶ 6-8; *id.*, Ex. C, ¶¶ 7-10; *id.*, Ex. D, ¶¶ 7-12; *id.*, Ex. E ¶¶ 3, 9-12; *id.*, Ex. F ¶¶ 3, 10-13; *id.*, Ex. G ¶¶ 6-11. “Expedite[d]” briefing and consideration are warranted in this “time-sensitive” proceeding related to the Court’s preliminary-injunction and stay order. *Conner v. Biden*, 2021 WL 6773174, at *3.

Plaintiffs respectfully request an expedited briefing schedule that would permit the Court to issue a ruling on their motion for reconsideration by July 17. For the reasons explained by plaintiffs in their motion for preliminary relief, preparing to comply with the Noncompete Rule imposes significant harms and costs on affected parties, and obtaining a ruling by July 17 would limit those ongoing harms. ECF No. 47 at 30-31. It would also avoid other parties potentially having to intervene in this litigation in order to obtain protection against the Rule. Finally, this Court’s ruling on the motion for reconsideration could impact plaintiffs’ briefs in support of summary judgment, which are due on July 19. ECF No. at 156. To allow for a decision on that timeline, plaintiffs request that the Court require (1) the Commission

to file an opposition to the motion for limited reconsideration of the preliminary injunction by July 12 and (2) plaintiffs to file a reply brief by July 15.

This expedited briefing schedule is reasonable under the accelerated circumstances of this case. Plaintiffs' motion involves discrete questions of law. Plaintiffs have moved quickly to request reconsideration of the scope of the preliminary relief that the Court entered on July 3. And plaintiffs' counsel informed counsel for defendant on July 6 that plaintiffs were considering filing a motion for reconsideration of the scope of preliminary relief, so defendant has been aware of plaintiffs' position since that date. A ruling by July 17 would enable plaintiff-intervenors' members to avoid many of the costs and harms associated with the Rule that this Court recognized in its July 3 Order, and to take into account the Court's ruling in their motion for summary judgment due July 19.

CONCLUSION

For the foregoing reasons, plaintiffs respectfully request that this Court grant plaintiffs' motion for expedited briefing and consideration of their motion for limited reconsideration.

Dated: July 10, 2024

Jordan L. Von Bokern (D.C. Bar No. 1032962)
Tyler S. Badgley (D.C. Bar No. 1047899)
U.S. CHAMBER LITIGATION CENTER
1615 H Street NW
Washington, D.C. 20062
Tel: (202) 463-5337
jvonbokern@uschamber.com
tbadgley@uschamber.com

Liz Dougherty* (D.C. Bar No. 457352)
BUSINESS ROUNDTABLE
1000 Maine Avenue SW
Washington, D.C. 20024
202-872-1260
ldougherty@brt.org

* *Pro hac vice* pending

Respectfully submitted,

/s/ Robert L. Sayles
Robert L. Sayles (Texas Bar No. 24049857)
Boyce Holleman (Texas Bar No. 24126727)
BRADLEY ARANT BOULT CUMMINGS LLP
1445 Ross Avenue
Suite 3600
Dallas, TX 75202
Tel: (214) 257-9800
Fax: (214) 939-8787
rsayles@bradley.com
bholleman@bradley.com

Jeffrey B. Wall (Georgia Bar No. 750427)
Judson O. Littleton (D.C. Bar No. 1027310)
SULLIVAN & CROMWELL LLP
1700 New York Avenue, N.W.
Washington, D.C. 20006-5215
Tel: (202) 956-7000
wallj@sullcrom.com
littletonj@sullcrom.com

*Counsel for Plaintiff-Intervenors
Chamber of Commerce of the
United States of America, Business
Roundtable, Texas Association of
Business, and Longview Chamber
of Commerce*

Allyson N. Ho
Texas Bar No. 24033667
Elizabeth A. Kiernan
Texas Bar No. 24105666
GIBSON, DUNN & CRUTCHER
LLP
2001 Ross Avenue, Suite 2100
Dallas, TX 75201
Telephone: 214.698.3100
Facsimile: 214.571.2900
aho@gibsondunn.com
ekiernan@gibsondunn.com

Charles W. Fillmore
Texas Bar No. 00785861
H. Dustin Fillmore III
Texas Bar No. 06996010
THE FILLMORE LAW FIRM
LLP
201 Main Street, Suite 700
Fort Worth, TX 76102
Telephone: 817.332.2351
chad@fillmorefirm.com
dusty@fillmorefirm.com

/s/ Allyson N. Ho
Eugene Scalia (*pro hac vice*)
Amir C. Tayrani (*pro hac vice*)
Andrew G. I. Kilberg (*pro hac vice*)
Aaron Hauptman (*pro hac vice*)
Joshua R. Zuckerman (*pro hac vice*)
GIBSON, DUNN & CRUTCHER
LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036
Telephone: 202.955.8500
Facsimile: 202.467.0539
escalia@gibsondunn.com
atayrani@gibsondunn.com
akilberg@gibsondunn.com
ahauptman@gibsondunn.com
jzuckerman@gibsondunn.com

Counsel for Ryan, LLC

CERTIFICATE OF WORD COUNT

This Motion for Expedited Briefing complies with the Procedures for Cases Assigned to District Judge Ada Brown and Standing Order, Rule II(A), because it contains 774 words.

/s/ Robert L. Sayles
Robert L. Sayles

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1(b), I hereby certify that on July 8, 2024, counsel for plaintiffs conferred with Rachael L. Westmoreland and other counsel for defendant regarding plaintiffs' intention to file this motion. Defendant's counsel stated that defendant is opposed to this motion and the relief requested herein.

/s/ Judson O. Littleton
Judson O. Littleton

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2024, I electronically transmitted the attached document to the Clerk of the Court and all counsel of record using the ECF System for filing and service in accordance with Local Rule 5.1.

/s/ Robert L. Sayles
Robert L. Sayles