No. 24-13102

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PROPERTIES OF THE VILLAGES, INC.,

Plaintiff-Appellee,

v.

FEDERAL TRADE COMMISSION,

Defendant-Appellant.

On Appeal from the United States District Court
for the Middle District of Florida

Motion to Hold Appeal in Abeyance for 120 Days

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Eleventh Circuit Rule 26.1-1, counsel for appellant certifies that, to the best of his knowledge, the following persons and entities have an interest in the outcome of this litigation:

American Hotel & Lodging Association

American Investment Council

Araiza, William

Arensmeyer, John

Associated Builders and Contractors, Inc.

Baker & Hostetler LLP

Barack, Ryan D.

Bedoya, Alvaro

Boucek, Carolyn O.

Boynton, Brian M.

Consumer Technology Association

Corrigan, Hon. Timothy J.

Covington & Burling LLP

Creed & Gowdy, P.A.

Crooks, Jamie

Democracy Forward Foundation

Dempsey, Rachel

Emmer, Daniella

Epstein, Becker, & Green, P.C.

Fairmark Partners LLP

Farby, Lesley

Federal Trade Commission

Ferguson, Andrew N.

Friedman, Todd R.

Futures Industry Association

Glover, Matthew J.

Goodnature, Taisa M.

Gowdy, Bryan

Grigsby, Stacey K.

Hearn, Robert

Holyoak, Melissa

Home Care Association of America

Hudson, Brian

Independent Electrical Contractors

International Franchise Association

Janda, Sean R.

Klein, Jonathan M.

Khan, Lina M.

Kwall Barack Nadeau PLLC

Lammens, Hon. Philip R.

Lieberman, Michael

Liu, Wendy

Lubbers, Jeffrey

Managed Funds Association

Martin, Meagan L.

Mayer Brown LLP

McArthur, Eric D.

Mittal, Urja

Mody, Arjun

Muldowney, Patrick M.

Nachmany, Eli

Nadeau, Michelle Erin

National Association of Wholesaler-Distributors

National Employment Lawyers Association (Florida Chapter), Inc.

National Employment Law Project

National Federation of Independent Business Small Business Legal Center, Inc.

National Retail Federation

Parr, Jennifer

Posner, Eric A.

Properties of the Villages, Inc.

Public Citizen

Public Citizen Litigation Group

Raab, Michael S.

Restaurant Law Center

Rigby, Katherine G.

Roffino, John

Rose, Alexander

Saharsky, Nicole A.

Samburg, Mark B.

Securities Industry and Financial Markets Association

Seligman, David H.

Slaughter, Rebecca Kelly

Shane, Peter M.

Small Business Majority

Starr, Evan

Todd R. Friedman, P.A.

The Holding Company of The Villages, Inc.

The Villages of Lake-Sumter, Inc.

Thurston, Robin F.

Towards Justice

United States Council for International Business

Vernon, Emily A.

Warner, A. Millie

Weibust, Erik W.

Westmoreland, Rachael L.

Zehmer, Lauren Willard

s/ Sean R. Janda
Sean R. Janda

Pursuant to Federal Rule of Appellate Procedure 27, the government respectfully moves to hold this appeal in abeyance for 120 days. Plaintiff consents to this motion. In support of this motion, the government states the following:

1. In May 2024, the Federal Trade Commission issued a rule that defines most existing non-competes as unenforceable unfair methods of competition (subject to an exception for certain senior executives) and bans the future use of most non-competes. Non-Compete Clause Rule, 89 Fed. Reg. 38,342 (May 7, 2024). Plaintiff challenged that rule, and the district court entered a preliminary injunction prohibiting the Commission from enforcing the rule against plaintiff. *See* Dkt. No. 59, at 1-2. This appeal followed.

2. Following a change in administration, on January 20, 2025, President Trump designated Commissioner Andrew N. Ferguson as Chairman of the Commission. Chairman Ferguson has recently stated publicly that he believes the Commission should reconsider its defense of the challenged rule: "My view is that the Commission . . . basically needs to decide whether it's a good idea [and] it's in the public interest to continue defending this rule. . . . I'm going to be presenting at some point" to "my colleagues the decision about whether to continue defending this Rule." The Harvard Salient, *FTC Chairman Andrew Ferguson & Harvard Law Professor Adrian Vermueule: CORE Conference 2025*, at 35:17-:40, https://www.youtube.com/watch?v=ty3s-zjLQFk.

In light of the foregoing, the government respectfully moves to hold this appeal in abeyance for 120 days. An abeyance will conserve party and judicial resources and promote the efficient and orderly disposition of this appeal. The government respectfully proposes that, at the end of a 120-day abeyance period, the government can provide the Court with a status report regarding future steps in the case.

3. Counsel for plaintiff has informed the government that plaintiff consents to this request.

Respectfully submitted,

ERIC D. MCARTHUR
Deputy Assistant Attorney General[*]

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March 2025

[*] The Acting Assistant Attorney General is recused in this matter.

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(1)(E) because it contains 305 words. This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Garamond 14-point font, a proportionally spaced typeface.

s/ Sean R. Janda
Sean R. Janda