IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Ryan, L.L.C., Plaintiff-Appellee, Chamber of Commerce of the United States of America, *et al.*, Intervenor-Plaintiffs-Appellees, v. Federal Trade Commission, Defendant-Appellant.	No. 24-10951

MOTION TO HOLD APPEAL IN ABEYANCE FOR 120 DAYS

Pursuant to Federal Rule of Appellate Procedure 27, the government respectfully moves to hold this appeal in abeyance for 120 days. Plaintiff and intervenor-plaintiffs do not oppose this motion. In support of this motion, the government states the following:

1. 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 and intervenor-plaintiffs challenged that rule, and the district court granted summary judgment in their favor and vacated the rule universally. *See* ROA.5637. 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 and for intervenors-plaintiffs have informed the government that plaintiff and intervenors-plaintiffs do not oppose this motion.

Respectfully submitted,

MICHAEL S. RAAB

/s/ Sean R. Janda

SEAN R. JANDA
Attorneys, Appellate Staff
Civil Division, Room 7260
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-3388
sean.r.janda@usdoj.gov

March 2025

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 311 words, according to the count of Microsoft Word.

/s/ Sean R. Janda
Sean R. Janda