

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 10–cv–01546–REB–CBS

The Direct Marketing Association,

Plaintiff,

v.

Roxy Huber, in her capacity as Executive
Director, Colorado Department of Revenue,

Defendant.

PROPOSED SCHEDULING ORDER

The Plaintiff, the Direct Marketing Association, and the Defendant, Roxy Huber, Executive Director of the Colorado Department of Revenue, respectfully submit the proposed Scheduling Order attached hereto as Exhibit A (“Proposed Schedule”). The Proposed Schedule mirrors a schedule agreed upon between the parties and previously set forth in the Defendant’s Unopposed Motion 1) for Limited Expedited Discovery, 2) to Consolidate Preliminary Injunction Proceedings with a Trial on the Merits on Plaintiff’s Commerce Clause Claims, 3) to Stay Proceedings on Plaintiff’s Remaining Claims, and 4) in the Alternative, for an Extension of Time in which Defendant May Respond to Plaintiff’s Motion for Preliminary Injunction and Reply in Support of Her Motion to Dismiss, filed on September 1, 2010, now pending before the Court [Dkt. #27.] The Proposed Schedule is the result of lengthy discussions among counsel for the parties to

establish a process that will promote the efficient resolution, in a matter of a few months, of the issues presented by the Plaintiff's Motion for Preliminary Injunction and Incorporated Memorandum of Law, filed on August 13, 2010 [Dkt. #15], while staying proceedings on the remaining claims brought by the Plaintiff to be resolved, if necessary, after resolution of the Plaintiff's Commerce Clause claims. As set forth in the Proposed Schedule, because the parties believe that the Proposed Schedule may reduce litigation costs and promote the Court's case management of the action, the parties respectfully request that the Court enter the Scheduling Order attached as Exhibit A.

If the Court does not adopt the Proposed Schedule, the parties submit, in the alternative, the proposed Scheduling Order attached as Exhibit B ("Alternative Schedule"). Instead of a bifurcated schedule with a first phase involving expedited discovery and a final hearing on the merits of the Plaintiff's Commerce Clause claims in a few months, the Alternative Schedule provides a longer discovery period for proceedings on all of the Plaintiff's claims. Under the Alternative Schedule, the Court would resolve currently pending motions (*i.e.*, Plaintiff's Motion for Preliminary Injunction and Defendant's Motion to Dismiss [Dkt. #14]) and the parties would engage in discovery and dispositive motion practice with final resolution of the case some time after mid-2011. In the event the Court does not enter the Scheduling Order attached as Exhibit A, the parties propose entry of the Scheduling Order attached as Exhibit B.

Respectfully submitted,

s/ Matthew P. Schaefer

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Certificate of Service

I hereby certify that on September 16, 2010, I electronically filed the foregoing, Proposed Scheduling Order, with accompanying proposed orders, using the CM/ECF system, which will send notification of such filing to counsel of record:

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