

**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.

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**ORDER**

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THIS MATTER, coming before the Court on the parties' **Joint Status Report and Proposed Order [# 85]**, and it appearing to the Court that good cause exists for entry of an order approving the parties' joint proposal for further proceedings on Counts I and II of the Plaintiff's First Amended Complaint, asserting claims under the Commerce Clause of the United States Constitution, Art. I, § 8;

**THEREFORE, IT IS HEREBY ORDERED** as follows:

1. The parties shall conduct no further discovery and make no additional evidentiary submissions on Counts I and II (Commerce Clause). The Court shall defer all further proceedings on all other Counts in the complaint pending final resolution of Counts I and II.

2. The parties shall submit cross-motions for summary judgment on Counts I and II based on the existing record and according to the following schedule:
  - a. Motions Due: 45 days after the date of this Order;
  - b. Responses Due: 21 days after the relevant Motion is filed;
  - c. Replies Due: 14 days after the relevant Response is filed.
3. The Court shall certify any order granting summary judgment on Count I and/or Count II for interlocutory appeal pursuant to 28 U.S.C. § 1292(b).
4. If the court awards summary judgment on Count I and/or Count II, all further proceedings shall be stayed pending final action by the Tenth Circuit in response to a notice of appeal filed by one or both parties.
5. If the Court awards neither party summary judgment, the Magistrate shall promptly enter a Scheduling Order for resolution of all remaining issues in the case following the denial of such motions.

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District Court Judge.