

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

KEVIN CLARKE, TREVOR
BOECKMANN, HARRY CRANE, CORWIN
SMIDT, PREDICT IT, INC., ARISTOTLE
INTERNATIONAL, INC., MICHAEL
BEELER, MARK BORGHI, RICHARD
HANANIA, JAMES MILLER, JOSIAH
NEELEY, GRANT SCHNEIDER, and WES
SHEPHERD,

Plaintiffs,

v.

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

Civil Docket No. 1:22-cv-00909-DAE

The Honorable David Alan Ezra

PARTIES' AGREED JOINT SCHEDULING RECOMMENDATIONS

The below recommended schedule reflects discussions between the parties and is agreed to by all parties. The parties have reached agreement on all case management milestones except the appropriate time for the Defendant to produce the administrative record in this case. The parties will promptly return to this Court with an agreement on where the production of the administrative record fits into the below schedule or motions to resolve any disagreement that cannot be resolved.¹

1. Plaintiffs' response to Defendant's motion to amend preliminary injunction order.
October 12, 2023.

2. Defendant's reply in support of motion to amend preliminary injunction order.
October 19, 2023.

3. Plaintiffs' motion to file Second Amended Complaint if amendment is unconsented to by Defendant. November 1, 2023.

4. Defendant's response, if any, to motion to file Second Amended Complaint.
November 29, 2023.

5. Plaintiff's reply, if any, in support of motion to file Second Amended Complaint.
December 13, 2023.

6. Defendant's Answer and/or dispositive or partially dispositive motions (other than motions for summary judgment). No later than 60 days after the filing of Second Amended Complaint, either by consent or the Court's granting of motion to file.

¹ Defendant Commodity Futures Trading Commission believes that it may be possible to resolve some or all of the issues in this case by stipulation or agreement. If that proves to be the case, some litigation steps in this recommended scheduled may become unnecessary.

7. Plaintiffs' motion for summary judgment. No later than 60 days after filing of Answer or Court ruling on dispositive or partially dispositive motions (other than motions for summary judgment) if any, whichever comes later.

8. Defendant's response and cross-motion for summary judgment. No later than 45 days after Plaintiffs' motion for summary judgment.

9. Plaintiffs' response in opposition to and reply in support of summary judgment. No later than 28 days after Defendant's response and cross-motion.

10. Defendant's reply in support of summary judgment. No later than 21 days after Plaintiff's response and reply.

Respectfully submitted,

/s/ Martin B. White

Robert A. Schwartz (D.C. Bar No. 489240)

General Counsel

Anne W. Stukes (D.C. Bar No. 469446)*

Deputy General Counsel

Martin B. White (D.C. Bar No. 221259)*

Senior Assistant General Counsel

U.S. COMMODITY FUTURES TRADING
COMMISSION

Three Lafayette Centre

1155 21st Street, N.W.

Washington, DC 20581

Phone: (202) 993-1390

Fax: (202) 418-5567

mwhite@cftc.gov

* *Admitted pro hac vice*

/s/

Michael J. Edney

Michael J. Edney

Hunton Andrews Kurth LLP

2200 Pennsylvania Avenue, NW

Washington, DC 20037

T: (202) 778-2204
medney@huntonak.com

*Attorney for Plaintiffs Kevin Clarke, Trevor Boeckmann,
Harry Crane, Corwin Smidt, Aristotle International, Inc.,
Predict It, Inc., Michael Beeler, Mark Borghi, Richard
Hanania, James D. Miller, Josiah Neeley, Grant
Schneider, and Wes Shepherd*

CERTIFICATE OF SERVICE

I certify that on October 4, 2023, I caused the foregoing motion to be served on the Clerk of the Court using the Court's CM/ECF system, which will send notice to all counsel of record in this case.

/s/ Martin B. White