

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

KALSHIEX LLC,

Plaintiff,

v.

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

Civil Action No. 1:23-cv-03257 (JMC)

JOINT MOTION FOR ENTRY OF SCHEDULING ORDER AND FOR OTHER RELIEF

Plaintiff KalshiEx LLC (“Kalshi”) and Defendant Commodity Futures Trading Commission (“Commission” or “CFTC”) jointly move for the entry of a scheduling order setting deadlines for the submission of the certified list of contents of the administrative record, the submission of summary judgment motions and briefs, and dispensing with the deadline for the CFTC to submit an answer or other responsive pleading. In support of this motion, the parties represent and state as follows:

1. On November 1, 2023, Plaintiff filed this action challenging, pursuant to the Administrative Procedure Act, the Commission’s September 22, 2023 order prohibiting Kalshi from listing congressional control political event contracts on its exchange. ECF No. 1.

2. The parties agree that this is an action for judicial review of an administrative record, and that therefore this case is exempt under Local Civil Rule 16.3 from certain requirements, including certain scheduling order obligations under Fed. R. Civ. P. 16(b), initial disclosures pursuant to Fed. R. Civ. P. 26(a), and the obligation to meet and confer in order to develop a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f). *See* Local Civ. R. 16.3(a)-

(b).

3. The parties agree that this case can properly be resolved on summary judgment, without the need for discovery or a trial.

4. Accordingly, and in the interest of judicial economy, the parties propose that the CFTC's obligation to file an answer be dispensed and request that the Court strike the January 5, 2023 answer deadline and enter the following schedule:

- The CFTC will file the certified list of the contents of the administrative record with the Court by January 16, 2024.
- Kalshi will file a motion for summary judgment by January 25, 2024.
- The CFTC will file a cross-motion for summary judgment and a response in opposition to Kalshi's motion for summary judgment by February 26, 2024.
- Kalshi will file a reply in support of its motion for summary judgment and in opposition to the CFTC's cross-motion for summary judgment by March 27, 2024.
- The CFTC will file a reply in support of its cross-motion for summary judgment by April 10, 2024.
- The parties will jointly submit an appendix, in accordance with Local Civil Rule 7(n)(1), containing portions of the administrative record cited or relied upon in the motions for summary judgment and related briefing, by April 24, 2024.

5. Kalshi notes that, in negotiating this proposed schedule, it sought to avoid burdening the Court with a preliminary injunction motion. But given the subject matter of the contracts at issue—congressional control—this case is time sensitive. Specifically, meaningful relief for the upcoming election cycle is only possible if the case is adjudicated reasonably in advance of the 2024 congressional elections, with sufficient time to seek expedited interim relief in the Court of Appeals if necessary. With due regard for the Court's discretion over its own calendar, Kalshi therefore respectfully requests that the Court aim to rule on the cross motions by September 6, 2024, which is 60 days before the November 2024 congressional elections.

6. A proposed order reflecting the above is submitted herewith.

CONCLUSION

For the foregoing reasons, Plaintiff Kalshi and Defendant CFTC respectfully request that the Court dispense with the answer deadline and enter the above agreed-upon schedule, as reflected in the attached Proposed Scheduling Order.

Dated: November 28, 2023

Respectfully submitted,

/s/ Conor Daly

Conor Daly

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Counsel for Plaintiff Kalshi

CERTIFICATE OF SERVICE

I certify that on November 28, 2023, I caused the foregoing Joint Motion For Entry of Scheduling Order and For Other Relief to be to be filed with the Clerk of the Court for the United States District Court for the District of Columbia using the Court's CM/ECF system, which constitutes electronic service upon all counsel of record.

/s/ Conor Daly
Conor Daly