

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

KEVIN CLARK, 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 Ezra

**DEFENDANT CFTC'S CONSENTED MOTION FOR ADDITIONAL EXTENSION OF  
TIME TO FILE ANSWER OR DISPOSITIVE MOTION IN RESPONSE  
TO SECOND AMENDED COMPLAINT**

The Commodity Futures Trading Commission (“CFTC”) moves the Court for an additional 30-day extension of time to file an answer and/or a dispositive or partially dispositive motion in response to the Second Amended Complaint filed by Plaintiffs on November 27, 2023 (Dkt. 55). Counsel for Plaintiffs has advised counsel for the CFTC by email that Plaintiffs consent to this motion for extension.

The CFTC consented to the filing of the Second Amended Complaint. An answer or dispositive or partially dispositive motion (other than a motion for summary judgment, which may be filed later under the applicable rules) is currently due on January 26, 2024, pursuant to an earlier consent motion for extension of time granted by the Court. *See* November 30, 2023 Text Order. The CFTC now requests the Court to permit the filing of an answer and/or a dispositive or partially dispositive motion (other than a motion for summary judgment, which may be filed later) by February 26, 2024.<sup>1</sup>

The additional time is needed by the CFTC because lead counsel for the CFTC is scheduled for oral argument in the United States Court of Appeals for the Seventh Circuit in *Commodity Futures Trading Comm’n v. Donelson*, No. 23-01809, on January 18, 2024. *Donelson* raises issues, some of first impression, under multiple provisions of the Commodity Exchange Act, 7 U.S.C. §§ 1-23. Preparation for argument in *Donelson* is making it difficult for counsel to meet the current deadline for an answer or dispositive motion in response to the Second Amended Complaint in the present case before this Court. As explained in the CFTC’s previous consent motion for extension of time (Dkt. 56), the Plaintiffs’ Second Amended Complaint raises substantial issues of administrative law and policy not raised by the Plaintiffs’ earlier complaints and an appropriate response requires sustained analysis by the CFTC.

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<sup>1</sup> February 25, 2024 falls on a Sunday.

## CONCLUSION

For these reasons, the Court should grant the CFTC's motion for an additional 30-day extension of time and extend the deadline for the CFTC's response to the Second Amended Complaint until February 26, 2024.

Respectfully submitted,

/s/ Martin B. White

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U.S. COMMODITY FUTURES TRADING  
COMMISSION

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**CERTIFICATE OF SERVICE**

I certify that on January 4, 2024, I caused the foregoing document 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  
Martin B. White