

No. 24-2245

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

2311 RACING LLC, d/b/a 23XI RACING;
FRONT ROW MOTORSPORTS, INC.,

Plaintiffs-Appellees,

v.

NATIONAL ASSOCIATION FOR STOCK CAR AUTO RACING, LLC;
JAMES FRANCE,

Defendants-Appellants.

On Appeal from the United States District Court
for the Western District of North Carolina
No. 3:24-cv-00886-KDB-SCR

**DEFENDANTS-APPELLANTS' UNOPPOSED MOTION TO EXPEDITE
ORAL ARGUMENT**

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January 16, 2025

Pursuant to Federal Rule of Appellate Procedure 27 and this Court’s Local Rules 12(c) and 27, Defendants-Appellants National Association for Stock Car Auto Racing, LLC (NASCAR) and Jim France respectfully request that this Court schedule oral argument in this appeal for May 15, 2025. This appeal challenges preliminary injunction orders with important implications for one of the Nation’s premier racing leagues, NASCAR, and its upcoming 2025 Cup Series season. The orders compel NASCAR to guarantee Plaintiffs spots in all 2025 Cup Series races, as well as certain revenue payments—actions that affect NASCAR, its teams, and other NASCAR stakeholders. According to this Court’s January 3, 2025 briefing order, merits briefing will conclude by April 4, 2025. All parties have agreed not to seek any extensions of these deadlines, leaving ample time for a panel of this Court to prepare for a May 15, 2025 hearing. Plaintiffs-Appellees 2311 Racing LLC, and Front Row Motorsports, Inc., consent to this request.

1. This case concerns NASCAR’s “Charter” system, which provides Charter-holding teams specific payments from NASCAR and guaranteed starting positions in NASCAR Cup Series races. Before 2016, all teams raced in NASCAR Cup Series races as “open” teams, vying for positions without any guarantees. But in 2016, at the request of teams, NASCAR awarded thirty-six Charters to nineteen racing teams for free, fundamentally altering the competitive landscape. Those “2016 Charters” expired in December 2024. NASCAR and all other Charter-holding

racing teams—but not the Plaintiffs—have since entered into new Charter agreements, called the “2025 Charters.”

On October 4, 2024, Plaintiffs filed this lawsuit against Defendants, alleging that NASCAR had “used [its] monopsony power to impose manifestly anticompetitive terms” on teams in the 2016 and 2025 Charters, including the Charter’s release-of-claims and noncompete provisions. Dkt. No. 1 (¶ 126). Plaintiffs also sought a preliminary injunction, asking the district court to force NASCAR to grant Plaintiffs two 2025 Charters each, but without the release-of-claims provision—notwithstanding the fact that NASCAR’s best and final 2025 Charter offer had been withdrawn by NASCAR weeks earlier, and Plaintiffs had not accepted it, as they objected to material terms. *See* Dkt. No. 20. Meanwhile, Plaintiffs contracted with Stewart-Haas Racing, LLC (SHR)—one of the thirteen teams that had signed 2025 Charters—to acquire one 2025 Charter apiece from SHR. Such an assignment of a Charter would require NASCAR’s approval, as well as Plaintiffs’ assumption of the 2025 Charter terms.

On November 8, 2024, the district court denied Plaintiffs’ first motion for a preliminary injunction without prejudice. Dkt. Nos. 42, 43. Plaintiffs then filed a renewed motion for a preliminary injunction on November 26, 2024. Dkt. No. 51.

On December 18, 2024, the district court entered an order permitting Plaintiffs to enter two race cars each in all 2025 NASCAR Cup Series races under the “same

terms as other chartered cars,” except for the release. Dkt. No. 74 at 10-11. That order also enjoins NASCAR from denying approval of either of Plaintiffs’ purchase of SHR Charters, as well as from enforcing the release in those Charters. *Id.* at 20.

On December 19, 2024, Defendants filed a notice of appeal, seeking review of the district court’s December 18, 2024 order. Dkt. No. 81. Defendants also moved the district court to stay its injunction pending appeal. Dkt. No. 76. On December 23, 2024, the district court denied Defendants’ motion, but amended its injunction to “remove[]” the requirement that “NASCAR approve the transfer” of SHR’s Charter to 23XI, without prejudice to 23XI seeking a separate preliminary injunction related to that purchase. Dkt. No. 89 at 1-2. Plaintiffs then moved for a preliminary injunction related to 23XI’s purchase on December 24, 2024, Dkt. No. 93, which the district court granted two days later, Dkt. No. 94. Defendants filed an amended notice of appeal on December 27, 2024, encompassing the district court’s amended preliminary injunction order entered on December 23, 2024, as well as the additional preliminary injunction entered on December 26, 2024. Dkt. No. 95.

2. On January 3, 2025, this Court set a merits briefing schedule in this appeal that will have briefing concluded by April 4, 2025. ECF No. 13. Under that schedule, Defendants’ opening brief is due February 12, 2025; Plaintiffs’ response brief is due March 14, 2025; and Defendants’ reply brief is due April 4, 2025. *Id.* Defendants and Plaintiffs both agree that they will not request any extensions of

these deadlines, meaning a panel of this Court would have ample time to prepare for a May 15, 2025 argument.

3. Defendants respectfully request that this Court expedite argument in this appeal, scheduling it for May 15, 2025. Under 28 U.S.C. § 1657(a), courts “shall expedite the consideration of ... any action for temporary or preliminary injunctive relief.” Consistent with that directive, this Court and others have repeatedly recognized that “the granting or denying of a preliminary injunction is the basis for an expedited appeal,” including expedited oral argument. *American Bioscience, Inc. v. Thompson*, 269 F.3d 1077, 1084 n.8 (D.C. Cir. 2001); *see also Scotts Co. v. United Indus. Corp.*, 315 F.3d 264, 269 (4th Cir. 2002) (expediting oral argument in a preliminary injunction decision); *MicroStrategy Inc. v. Motorola, Inc.*, 245 F.3d 335, 337-39 (4th Cir. 2001) (same); *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 235 (4th Cir. 2014) (same).

The fact that this appeal arises from a preliminary injunction is reason enough to prioritize it when scheduling cases for this Court’s May 15, 2025 sitting. But there are additional grounds to expedite oral argument here. The injunctions have sweeping implications for NASCAR’s upcoming 2025 Cup Series season, as they grant Plaintiffs guaranteed race spots and millions in revenue payments from NASCAR. Pursuant to the 2025 Charter terms, those funds would have otherwise been used by NASCAR for the growth and promotion of the sport. The district

court's orders thus impact Charter teams and other NASCAR stakeholders alike by reducing the prize money, race purses, and promotional opportunities for teams, disrupting financial and strategic planning for the upcoming season. These orders also decrease the opportunities for "open teams" to participate in the 2025 Cup Series season. And these orders harm NASCAR by forcing it to partner with and redirect investments to teams that, in NASCAR's view, do not share its interest in growing the Cup Series.

4. Plaintiffs consent to scheduling oral argument in this appeal for May 15, 2025. While Defendants would ordinarily propose further alternative dates for argument, Plaintiffs are unavailable during the Court's only other May sitting—May 6-9, 2025—and no argument dates are currently set for April. If the case is not heard on May 15, the next available hearing date is not until September 9—just two months before the 2025 Cup Series ends and the district court's injunctions expire. NASCAR respectfully submits that obtaining a decision from this Court on these injunctions is crucial for both itself and its stakeholders before that time.

CONCLUSION

For the foregoing reasons, the Court should grant Defendants' motion to expedite oral argument in this appeal, scheduling argument for May 15, 2025.

Dated: January 16, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2), because it contains 1,180 words, excluding the parts exempted by Fed. R. App. P. 27(a)(2)(B) and 32(f).

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft Word 365 in Times New Roman 14-point font.

Dated: January 16, 2025

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