

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA, BUSINESS
ROUNDTABLE, and TENNESSEE
CHAMBER OF COMMERCE & INDUSTRY,

Plaintiffs,

v.

SECURITIES AND EXCHANGE
COMMISSION and GARY GENSLER, in his
official capacity as Chairman of the Securities
and Exchange Commission,

Defendants.

Civil Action No. 3:22-cv-00561

Judge Aleta A. Trauger

Magistrate Judge Jeffery S. Frensley

ORAL ARGUMENT REQUESTED

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiffs Chamber of Commerce of the United States of America, Business Roundtable, and Tennessee Chamber of Commerce and Industry (collectively, Plaintiffs) respectfully move for summary judgment. For all the reasons set forth in the accompanying Memorandum in Support of Plaintiffs' Motion for Summary Judgment filed concurrently herewith, the rule issued by the Securities and Exchange Commission (the Commission) and codified at *Proxy Voting Advice*, 87 Fed. Reg. 43,168 (July 19, 2022) (the 2022 Rule) and the Commission's order suspending enforcement of its prior rule imposing modest restrictions on Proxy Voting Advice Businesses (the Non-Enforcement Order) violate the Administrative Procedures Act and the Securities Exchange Act of 1934. Plaintiffs request that the Court issue a declaratory judgment that the 2022 Rule is arbitrary and capricious or otherwise contrary to law under 5 U.S.C. § 706(A), along with an order and judgment vacating and setting aside the 2022 Rule in its entirety as well as the Non-Enforcement Order. While this

case is pending, Plaintiffs also request that the Court issue an order delaying the effective date and implementation of the 2022 Rule.

DATED this 23rd day of September 2022.

U.S. CHAMBER LITIGATION
CENTER:

Daryl Joseffer (*pro hac vice*)
Tyler S. Badgley (*pro hac vice*)
1615 H Street NW
Washington, DC 20062
Tel: (202) 463-5337
djoseffer@uschamber.com
tbadgley@uschamber.com

BUSINESS ROUNDTABLE
Liz Dougherty (*pro hac vice*)
1000 Maine Avenue SW
Washington, DC 20024
Tel: (202) 872-1260
ldougherty@brt.org

/s/ Paul S. Davidson

Paul S. Davidson (Tenn. BPR No. 011789)
Michael A. Cottone (Tenn. BPR No. 033253)
WALLER LANSDEN DORTCH & DAVIS
LLP
511 Union Street, Suite 2700
Nashville, TN 37219
Phone: (615) 244-6380
Fax: (615) 244-6804
paul.davidson@wallerlaw.com
michael.cottone@wallerlaw.com

Jeffrey B. Wall (*pro hac vice*)
Elizabeth A. Rose (*pro hac vice*)
Leslie B. Arffa (*pro hac vice pending*)
Stephanie M. Kelly (*pro hac vice pending*)
SULLIVAN & CROMWELL LLP
1700 New York Avenue, N.W.
Washington, DC 20006-5215
Tel: (202) 956-7000
wallj@sullcrom.com
rosee@sullcrom.com
arffal@sullcrom.com
kellys@sullcrom.com

Matthew A. Schwartz (*pro hac vice*)
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Tel: (212) 558-4000
schwartzmatthew@sullcrom.com

*Counsel for Plaintiffs Chamber of
Commerce of the United States, Business
Roundtable, and Tennessee Chamber of
Commerce and Industry*

CERTIFICATE OF SERVICE

I hereby certify that, on September 23, 2022, a copy of the foregoing Motion for Summary Judgment was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

Daryl Joseffer
Tyler S. Badgley
U.S. Chamber Litigation Center
1615 H Street NW
Washington, DC 20062

Jeffrey B. Wall
Elizabeth A. Rose
Leslie B. Arffa
Stephanie M. Kelly
Sullivan & Cromwell LLP
1700 New York Avenue, N.W.
Washington, DC 20006

Liz Dougherty
Business Roundtable
1000 Maine Avenue SW
Washington, DC 20024

Matthew A. Schwartz
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004

Daniel E. Matro
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-9040

Michael A. Cottone
Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, TN 37219

/s/ Paul S. Davidson