

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

THE CHAMBER OF COMMERCE OF  
THE UNITED STATES OF AMERICA  
and THE GEORGIA CHAMBER OF  
COMMERCE,

*Petitioners,*

v.

FEDERAL TRADE COMMISSION,

*Respondent.*

Case No. 24-\_\_\_\_\_

**PETITION FOR REVIEW**

## **CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 and 26.1-3, Petitioner Georgia Chamber of Commerce certifies that it has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

The following is a complete list of interested persons pursuant to Eleventh Circuit Rule 26.1-2(a) that have an interest in the outcome of this appeal:

Bedoya, Alvaro

Chamber of Commerce of the United States of America

Dickey, Jennifer B.

Federal Trade Commission

Ferguson, Andrew N.

Georgia Chamber of Commerce

Holyoak, Melissa

Johson, Mark D.

Khan, Lina M.

Slaughter, Rebecca Kelly

Von Bokern, Jordan L.

Petitioners will file a revised certificate of interested persons should it become aware of information that would affect the disclosures required by Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1-4.

Respectfully submitted,

*/s/ Mark D. Johnson*

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Mark D. Johnson

*Counsel for Petitioners*

Date: October 22, 2024

## **PETITION FOR REVIEW**

Pursuant to 5 U.S.C. §§ 702–704, 706, 15 U.S.C. § 57a(e), and Federal Rule of Appellate Procedure 15(a), the Chamber of Commerce of the United States of America and the Georgia Chamber of Commerce petition this Court for review of the order issuing the Final Rule of the Federal Trade Commission in *Negative Option Rule*, RIN 3084-AB60 (“Final Rule”), issued on October 16, 2024. A copy of the Final Rule is attached as Exhibit A.

Venue is proper in this Circuit under 15 U.S.C. § 57a(e)(1)(A) because petitioner the Georgia Chamber of Commerce’s principal offices are located in Atlanta, Georgia.

The Final Rule is an attempt to regulate consumer contracts for all companies in all industries and across all sectors of the economy in which the customer purchases a service or subscription that will continue unless the customer exercises the option to cancel. The Final Rule calls these “negative option” contracts—estimated as covering over a billion paid subscriptions in the United States, Final Rule at 175—and deems them all to be deceptive unless they comply with onerous new regulatory obligations regarding disclosures, how those disclosures are

communicated, a “separate” consent requirement, regulations of truthful company representative communications with customers, and prescriptive mandates for service cancellation, among others.

Petitioners seek review of the order issuing the Final Rule on the grounds that it is arbitrary, capricious, and an abuse of discretion within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701, *et seq.*; unsupported by substantial evidence, 15 U.S.C. § 57a(e)(3)(A); based on determinations that “precluded disclosure of disputed material facts which w[ere] necessary for fair determination . . . of the rulemaking proceeding taken as a whole,” *id.* § 57a(e)(3)(B); and in excess of the Commission’s statutory authority, in violation of the U.S. Constitution, and otherwise contrary to law, *see* 15 U.S.C. § 57a(e)(3); 5 U.S.C. § 706. Petitioners respectfully request that this Court hold unlawful, vacate, enjoin, and set aside the Final Rule and provide such additional relief as may be appropriate.

Respectfully submitted,

*/s/ Mark D. Johnson*

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*Counsel for Petitioners*

Dated: October 22, 2024

## CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2024, I caused the foregoing Petition for Review to be electronically filed with the United States Court of Appeals for the Eleventh Circuit by using the Court's CM/ECF system.

I further certify that I will cause a true and correct copy of the foregoing Petition for Review, having been stamped by the Court with the date of filing, to be served upon the Secretary of the Federal Trade Commission via hand delivery at the following address. Such copy is being submitted to the Federal Trade Commission pursuant to 28 U.S.C. § 2112 by the persons who filed the Petition for Review in the United States Court of Appeals for the Eleventh Circuit.

Office of the Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Suite CC-5610  
Washington, DC 20580

I further certify that on October 22, 2024, I will cause one copy of the foregoing Petition for Review to be mailed to the Clerk of Court for the United States Court of Appeals for the Eleventh Circuit via UPS Next Day Delivery. There are no parties "admitted to participate in the agency

proceedings” for purposes of Federal Rule of Appellate Procedure 15(c)(1) other than the respondent.

*/s/ Mark D. Johnson*

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Mark D. Johnson