

EXHIBIT B

From: [Fahringer, Susan \(SEA\)](#)
To: [Andre Mura](#)
Cc: [Thompson, Anna M. \(SEA\)](#); [Amy Zeman](#); [Mark Troutman](#); [Zeke Wald](#); [Menaldo, Nicola C. \(SEA\)](#); [Earl, Erin K. \(SEA\)](#); [Schottlaender, Hayden \(DAL\)](#); [Marino, Trisha \(SEA\)](#)
Subject: RE: Brooks v. Thomson Reuters -- case schedule
Date: Thursday, October 06, 2022 11:12:00 AM

Hi, Andre. I'm available until noon today – will that work?

Susan Fahringer | Perkins Coie LLP

PARTNER

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E. SFahringer@perkinscoie.com

From: Andre Mura <amm@classlawgroup.com>
Sent: Thursday, October 06, 2022 11:06 AM
To: Fahringer, Susan (SEA) <SFahringer@perkinscoie.com>
Cc: Thompson, Anna M. (SEA) <AnnaThompson@perkinscoie.com>; Amy Zeman <amz@classlawgroup.com>; Mark Troutman <mht@classlawgroup.com>; Zeke Wald <zsw@classlawgroup.com>; Menaldo, Nicola C. (SEA) <NMenaldo@perkinscoie.com>; Earl, Erin K. (SEA) <EEarl@perkinscoie.com>; Schottlaender, Hayden (DAL) <HSchottlaender@perkinscoie.com>; Marino, Trisha (SEA) <TMarino@perkinscoie.com>
Subject: Re: Brooks v. Thomson Reuters -- case schedule

Thanks for your message. Please let me know a good time for us to confer live today.

Thanks,
Andre

Andre M. Mura (he/him) | Partner
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On Oct 6, 2022, at 10:37 AM, Fahringer, Susan (SEA) <SFahringer@perkinscoie.com> wrote:

Hi, Andre. Sounds like there are two issues here: (1) you'd like to wait until December 22 to file the Daubert motion(s) you envision, but you think drafting the Daubert motion(s) after you file your motion for class cert might somehow cause your team some inefficiency; and (2) you'd like another extension of the deadline to move for class certification and to amend the pleadings.

As to (1): Like you, we'd expect Judge Chen to want to consider the Daubert motions at the same time as the class cert motion. That simply means briefing on the Daubert motion(s) should be closed by March 9. I don't understand your concerns about your team duplicating its efforts, but I suspect that the minor waste that might entail can be easily avoided, and would pale in comparison to the waste that will be generated from a third extension of the case deadlines. So, it would be fine with us if you filed your Daubert Motion(s) on December 22 – in fact, January 16 would be fine. We would be happy to meet and confer to discuss briefing schedules that will allow briefing to close by 3/9, but one sensible option is:

1. Plaintiffs' Motion(s): 1/16/23
2. TR Response: 2/13 (4 weeks later).
3. Plaintiffs' Reply: 2/27 (2 weeks later).
4. TR motion(s) (if any): 1/26.
5. Plaintiffs' Response: 2/23 (4 weeks later)
6. TR Reply: 3/9 (2 weeks later).

As to (2), there is no reason to tie the other case deadlines to the Daubert motions. We agreed to your February 2022 request for an extension of the case schedule. We agreed again when you asked to extend the case schedule a second time, in March 2022. The current schedule – now twice extended, at plaintiffs' request – has allowed ample time for your team to draft Plaintiffs' motion for class cert and to decide whether you want to seek to amend the complaint. Additional delay would be costly and inefficient, and is unnecessary. I'm afraid that this time, we cannot accommodate your request.

As always, happy to confer on this live.

Thanks,
Susan

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E. SFahringer@perkinscoie.com

From: Andre Mura <amm@classlawgroup.com>

Sent: Tuesday, October 04, 2022 6:05 PM

To: Fahringer, Susan (SEA) <SFahringer@perkinscoie.com>; Thompson, Anna M. (SEA) <AnnaThompson@perkinscoie.com>; Amy Zeman <amz@classlawgroup.com>; Mark Troutman <mht@classlawgroup.com>; Zeke Wald <zsw@classlawgroup.com>

Cc: Menaldo, Nicola C. (SEA) <NMenaldo@perkinscoie.com>; Earl, Erin K. (SEA) <EEarl@perkinscoie.com>; Schottlaender, Hayden (DAL)

<HSchottlaender@perkinscoie.com>; Marino, Trisha (SEA)

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Subject: Re: Brooks v. Thomson Reuters -- case schedule

Hi Susan,

Happy to explain.

Our proposed schedule attempts to balance the needs of counsel, the demands of this case, and courts' preferences in handling *Daubert* and class certification motions together. Because courts consider *Daubert* challenges before they reach the class cert motions, we've seen that courts prefer *Daubert* motions and class cert briefs to be handled simultaneously and often schedule them to that effect. *See Cholakyan v. Mercedes-Benz, USA, LLC*, 281 F.R.D. 534, 541–42 (C.D. Cal. 2012) (explaining that courts must consider *Daubert* challenges prior to resolving the merits of class cert); *see also Hadley v. Kellogg Sales Co.*, 324 F. Supp. 3d 1084, 1092, 1106–10 (N.D. Cal. 2018) (receiving class cert opposition and *Daubert* motion at the same time and considering simultaneously); *Johnson v. Nissan N. Am., Inc.*, No. 3:17-cv-00517-WHO, 2022 WL 2869528, at *2 (N.D. Cal. Jul. 21, 2022) (extending class cert and *Daubert* deadlines together, then ruling on class cert and *Daubert* motions in one order).

The proposed schedule reflects that preference, and meets a few of our additional concerns. First, we will necessarily have to consider the opinions of Professor Kivetz, Professor Bambauer, and Mr. Kidder alongside our experts' opinions as we write our class cert brief. Waiting to prepare the *Daubert* motion is likely to cause duplicative effort because of the relationship between our experts and yours. Second, the time between the close of expert discovery and the present deadline for our class cert brief is under a month. Your experts' reports are lengthy and include many citations—it will be time consuming and effort intensive to adequately consider and prepare any *Daubert* challenges Plaintiffs may want to bring, as well as to prepare an opening class cert brief. Third, both I and Jenn Bennett (who are leading the briefing) have a number of significant deadlines coming up in the next 45 days: the response brief in an appeal on which I am lead is due 11/18; the *In re 3M* cases have resumed after a pause, and choice of law, *Daubert*, and summary judgment briefs will be due in several of our cases; and Jenn has multiple, significant briefing deadlines and oral arguments that have been scheduled for October and November.

As for the complaint amendment deadline, that has always been tied to the class cert motion deadline, and the proposal simply keeps that the same.

Thanks,
Andre

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strictly prohibited; and you are asked to notify us immediately by return email or telephone at [\(510\) 350-9700](tel:350-9700). Thank you.

From: Fahringer, Susan (SEA) <SFahringer@perkinscoie.com>

Date: Tuesday, October 4, 2022 at 2:15 PM

To: Andre Mura <amm@classlawgroup.com>, Thompson, Anna M. (SEA) <AnnaThompson@perkinscoie.com>, Amy Zeman <amz@classlawgroup.com>, Mark Troutman <mht@classlawgroup.com>, Zeke Wald <zsw@classlawgroup.com>

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Subject: RE: Brooks v. Thomson Reuters -- case schedule

Hi, Andre. We'll consider your proposal. As we do that, can you explain why you believe that you need to wait to file plaintiffs' motion for class certification (or to amend the complaint) until you're ready to file a Daubert (or similar) motion? And can you point us to any other case you're aware of where the court set a schedule similar to what you're proposing now?

Thanks,
Susan

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E. SFahringer@perkinscoie.com

From: Andre Mura <amm@classlawgroup.com>

Sent: Monday, October 03, 2022 5:23 PM

To: Thompson, Anna M. (SEA) <AnnaThompson@perkinscoie.com>; Amy Zeman <amz@classlawgroup.com>; Mark Troutman <mht@classlawgroup.com>; Zeke Wald <zsw@classlawgroup.com>

Cc: Fahringer, Susan (SEA) <SFahringer@perkinscoie.com>; Menaldo, Nicola C. (SEA) <NMenaldo@perkinscoie.com>; Earl, Erin K. (SEA) <EEarl@perkinscoie.com>; Schottlaender, Hayden (DAL) <HSchottlaender@perkinscoie.com>; Marino, Trisha (SEA) <TMarino@perkinscoie.com>

Subject: Brooks v. Thomson Reuters -- case schedule

Hi Susan,

We write regarding the case schedule. We propose adjusting the case schedule to set briefing deadlines for *Daubert* motions to coincide with class cert briefing, and to reset the deadlines so that the parties have sufficient time to prepare all these filings. Please let us know by noon

on Thursday, Oct 6 whether you have edits or would stipulate to such a schedule. In the meantime, we're available to discuss by video if that would be helpful. If we cannot reach some agreement, we intend to move the Court for the relief reflected in the proposal.

Regards,

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