

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA, *et al.*,
ex rel. PAUL PIETSCHNER,

Plaintiffs,

v.

KATHRYN PETRALIA; ROBERT FROHWEIN;
and SPENCER ROBINSON,

Defendants.

Civil Action No. 4:21-CV-110-SDJ

JOINT MOTION FOR ENTRY OF AMENDED SCHEDULING ORDER

Plaintiff United States of America (the “United States”), Relator Paul Pietschner, and Defendants Kathryn Petralia, Robert Frohwein, and Spencer Robinson (“Defendants”) (collectively referred to as the “Parties”), by and through their respective counsel, jointly file this Motion for the entry of an Amended Scheduling Order.

I.

This action involves claims against Defendants, who are former executives of a financial technology company, Kabbage, Inc., seeking to recover treble damages and civil penalties under the False Claims Act (“FCA”), 31 U.S.C. §§ 3729–3733, and to recover money for common law claims for payment by mistake and unjust enrichment, relating to Kabbage’s participation in the Government’s Paycheck Protection Program (“PPP”).

On May 30, 2025, the Court entered a Scheduling Order in this action. ECF No. 96.

On October 1, 2025, a lapse in appropriations began. On October 8, 2025, the United States District Court for the Eastern District of Texas entered General Order 25-06, staying “all civil actions...pending in the Eastern District of Texas wherein the United States or an agency, corporation, officer or employee of the United States is a party and that party is represented of

record by the United States Attorney (or an Assistant United States Attorney) for the Eastern District of Texas” General Order 25-06 further provided that, “[a]ll such cases shall remain stayed until such time as an appropriations bill or a continuing resolution is enacted restoring funding to the Department of Justice or a subsequent Order lifting this stay (in whole or in part) is entered. All deadlines and due dates in such cases are extended for a period of time commensurate with the duration of the lapse in appropriations.”

On November 12, 2025, the lapse in appropriations ended and appropriations were restored through January 30, 2026 for most agencies, along with full-year appropriations for others. The lapse in appropriations lasted 43 days.

II.

Given the 43-day lapse in appropriations and the entry of the Court’s General Order 25-06, the Parties conferred on the current Scheduling Order to submit to the Court an amended Scheduling Order to reflect the lapse. Upon reassessment of the Scheduling Order due to the lapse and the complexity of discovery and emerging discovery disputes, the Parties represent that there is good cause for the entry of an amended scheduling order. The Parties have also extended certain deadlines to allow for resolution of summary judgment motions before trial. Defendants have also proposed to include in the amended scheduling order additional deadlines associated with summary judgment motion briefing. While it may be difficult to ascertain now how much time will be needed for summary judgment briefing, the United States is unopposed. The Parties therefore, jointly request that this Court enter the proposed Amended Scheduling Order, which extends all current deadlines preceding the Final Pre-Trial Conference by a total range of approximately seven-and-a-half to eleven months.

The Parties also respectfully request that this Court grant leave to increase the deposition limits set forth in Federal Rules of Civil Procedure 30(a)(2)(A)(i) and 31(a)(2)(A)(i), allowing the Parties up to 25 fact depositions per side (excluding depositions should Defendants invoke the advice-of-counsel defense), by way of entering the Parties' proposed Amended Scheduling Order. Should Defendants invoke the advice-of-counsel defense, the Parties have agreed to confer on a mutual increase in the number of depositions associated with this defense.

The Parties propose a modest extension of the dispositive motions and mediation completion deadlines to allow the Parties additional time to consider and resolve any expert discovery disputes. The Parties estimate that extending the current deadlines by the proposed timeline will allow the Parties sufficient time to iron out, with or without court intervention, emerging discovery issues. The Parties recognize that the Final Pre-Trial Conference and the jury selection and trial docket date range were set based on the Parties' and Court's availability and are subject to this Court's further modification.

A copy of the Proposed Amended Scheduling Order is filed concurrently herewith.

Date: February 9, 2026

Respectfully submitted,

/s/ Christopher E. Babbitt

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CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2026, I caused a true and correct copy of the foregoing document to be transmitted through the Court's electronic mailing service (CM/ECF) to all counsel of record who have consented to electronic service by the Court's electronic mailing service (CM/ECF).

/s/ Sharon K. Hogue

SHARON K. HOGUE

CERTIFICATE OF CONFERENCE

I hereby certify that the parties have complied with Local Rule CV-7(h) and counsel for all parties have conferred on this motion and the proposed amended scheduling order beginning November 17, 2026 through February 6, 2026. All parties agree and join in this motion for entry of the attached Amended Scheduling Order.

/s/ Sharon K. Hogue

SHARON K. HOGUE