

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 BANNOCK STREET DENVER, COLORADO 80202</p> <hr/> <p><b>Plaintiff:</b> FREEDOM TO DRIVE INC.  v. <b>Defendant:</b> THE COLORADO AIR QUALITY CONTROL COMMISSION</p>	<p><b>COURT USE ONLY</b></p>
<p><b>Attorneys for Plaintiff:</b> Paul M. Seby, #27487 Matthew K. Tieslau #47483 GREENBERG TRAUIG, LLP 1144 15th Street, Suite 3300 Denver, CO 80202 Phone Number: 303.572.6500 Fax Number: 303.572.6540 E-Mail: <a href="mailto:sebyp@gtlaw.com">sebyp@gtlaw.com</a> <a href="mailto:tieslaum@gtlaw.com">tieslaum@gtlaw.com</a></p>	<p>Case Number: 2019CV34156  Division: 259 Courtroom:</p>
<p align="center"><b>PLAINTIFF'S STATUS REPORT</b></p>	

Plaintiff Freedom to Drive Inc. (“FTD”), by and through undersigned counsel, respectfully submits the following Status Report pursuant to this Court’s January 16, 2020 Order granting the Joint Motion to Hold Case in Abeyance.

**STATUS OF FEDERAL LITIGATION**

Several petitions for review have been filed in the U.S. Court of Appeals for the District of Columbia Circuit challenging the U.S. Environmental Protection Agency’s (“EPA”) final agency action partially withdrawing the waiver it had historically provided to California for that

state's greenhouse gas emission standards and zero-emission vehicle programs under Section 209 of the federal Clean Air Act, as well as the National Highway Traffic Safety Administration's final agency action declaring via rule that such programs are federally preempted (the "Federal Litigation"). See *California v. Wheeler*, No. 19-1239 (D.C. Cir. Pet'n filed Nov. 15, 2019) (brought by the State of Colorado and others); *Union of Concerned Scientists v. Nat'l Highway Traffic Safety Admin.*, No. 19-1230 (D.C. Cir. Pet'n filed Oct. 28, 2019); *Sierra Club v. Wheeler*, No. 19-1243 (D.C. Cir. Pet'n filed Nov. 22, 2019) (brought by Defendant-Intervenors and others); *Advanced Energy Econ. v. EPA*, No. 19-1249 (D.C. Cir. Pet'n filed Nov. 25, 2019); *City and Cty. of San Francisco v. Wheeler*, No. 19-1246 (D.C. Cir. Pet'n filed Nov. 25, 2019); *Calpine Corp. v. EPA*, No. 19-1245 (D.C. Cir. Pet'n filed Nov. 25, 2019); *S. Coast Air Quality Mgmt. Dist. v. EPA*, No. 19-1241 (D.C. Cir. Pet'n filed Nov. 15, 2019); *Nat'l Coal. for Advanced Transp. v. EPA*, No. 19-1242 (D.C. Cir. Pet'n filed Nov. 15, 2019). The court consolidated these petitions on December 2, 2019. See *Union of Concerned Scientists v. Nat'l Highway Traffic Safety Admin.*, No. 19-1230 (D.C. Cir. Order Dec. 2, 2019).

The consolidated cases are presently awaiting a schedule for merits briefing. The D.C. Circuit has denied motions to expedite (by respondents and respondent-intervenors) and motions to hold the cases in abeyance (by petitioners). The court has not yet resolved a pending motion, filed by petitioners and fully briefed as of March 16, 2020, regarding completion of the administrative record.

**PLAINTIFF FREEDOM TO DRIVE'S INTENTIONS**

FTD continues to reserve its right to prosecute this action until such time as FTD can evaluate the final conclusion of the aforementioned Federal Litigation. Therefore, FTD respectfully requests that this Court continue to hold this action in abeyance.

Respectfully submitted this 16th day of April, 2020.

GREENBERG TRAUERIG, LLP

*s/ Paul M. Seby*

Paul M. Seby (#27487)

Matthew K. Tieslau (#47483)

GREENBERG TRAUERIG, LLP

1144 15th Street, Suite 3300

Denver, Colorado 80202

Phone Number: 303.572.6500

Fax Number: 303.572.6540

E-Mail: [SebyP@gtlaw.com](mailto:SebyP@gtlaw.com)

[TieslauM@gtlaw.com](mailto:TieslauM@gtlaw.com)

**ATTORNEYS FOR PLAINTIFF FREEDOM  
TO DRIVE INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of April 2020, a copy of the foregoing **PLAINTIFF'S STATUS REPORT** was filed with the Court via the Colorado Court's E-Filing System and served upon counsel for the Defendant electronically through the same.

*s/ Susan E. Law*

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Susan E. Law