

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

2311 RACING LLC d/b/a 23XI RACING, and
FRONT ROW MOTORSPORTS, INC.,

Plaintiffs,

v.

NATIONAL ASSOCIATION FOR STOCK
CAR AUTO RACING, LLC, and JAMES
FRANCE,

Defendants.

Civil Action No. 3:24-cv-886-FDW-SCR

NASCAR'S MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant NASCAR¹ respectfully moves to dismiss the Complaint of Plaintiffs 2311 Racing LLC and Front Row Motorsports, Inc. As set forth more fully in the accompanying Memorandum, the grounds for this Motion are as follows:

1. Most of Plaintiffs' claims are time-barred by the statute of limitations and laches because they concern conduct that occurred more than four years ago. In particular, Plaintiffs' allegations pertaining to: (1) the 2018 acquisition of Automobile Racing Club of America ("ARCA") (Compl. ¶12); (2) the 2019 acquisition of International Speedway Corporation ("ISC") (*id.* ¶14); (3) the 2019 adoption of Next Gen car requirements (*id.* ¶ 13); (4) NASCAR's exclusivity arrangements with racetracks, with the only specific factual

¹ The Complaint names National Association for Stock Car Auto Racing, LLC, as a defendant, but NASCAR Event Management, LLC, the entity that signed the 2025 Charter Agreements, is responding too.

allegation predating October 2020 (*id.* ¶¶88-89); and (5) the 2016 Charter provisions (*id.* ¶¶70-77) are all barred by the four-year statute of limitations and the doctrine of laches.

2. Plaintiffs lack antitrust standing to sustain their challenges to the 2025 Charter's release of claims and noncompete provisions, which are their only claims that arguably fall within the statute of limitations, because Plaintiffs did not sign the Charters and their failure to secure preferred contractual terms is not antitrust injury.
3. Plaintiffs' proposed market definition is legally deficient because it analyzes the market *post-investment* rather than *pre-investment*. Under settled law, "[a] plaintiff cannot establish a relevant [] market by claiming to be 'locked in' a market that it entered knowing in advance that doing so would entail lock-in costs and other economic risks." *Virginia Vermiculite, Ltd. v. W.R. Grace & Co.-Conn.*, 108 F. Supp. 2d 549, 583 (W.D. Va. 2000).
4. Plaintiffs have not alleged any facts demonstrating exclusionary conduct by NASCAR for two reasons. First, NASCAR did not refuse to deal with Plaintiffs; rather, NASCAR proposed contractual terms which Plaintiffs rejected and which are no longer available. Second, Plaintiffs have not pleaded any facts plausibly demonstrating that either of the two challenged Charter provisions reduces competition.

The grounds for this Motion are more fully set forth in NASCAR's accompanying Memorandum of Law.

Dated: December 2, 2024.

Respectfully submitted,

By: /s/ Tricia Wilson Magee
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WORD COUNT CERTIFICATION

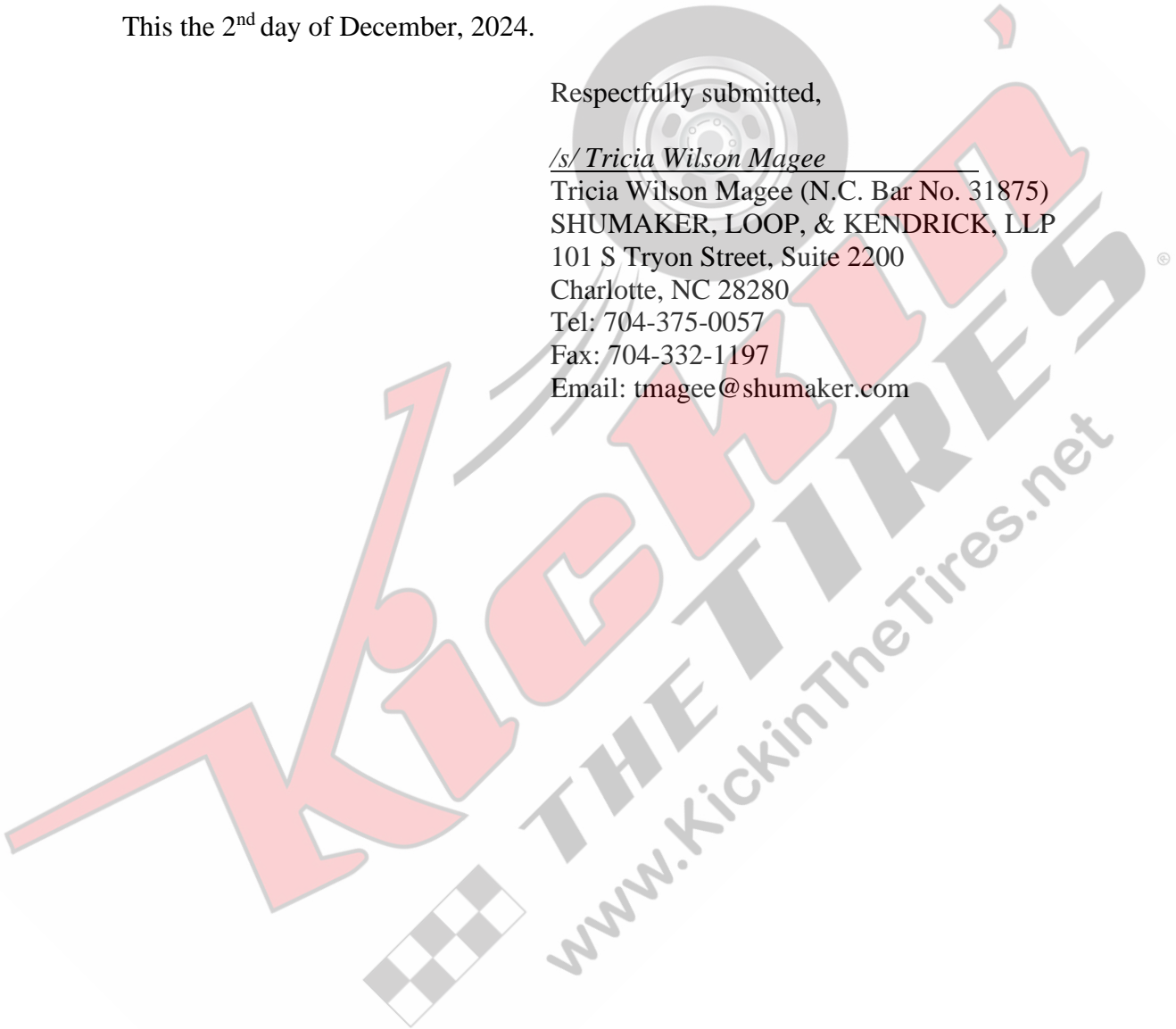
I hereby certify that the foregoing document contains fewer than 4,500 words according to the word count feature in Microsoft Word and is therefore in compliance with the word limitation set forth in Judge Whitney’s Scheduling Order.

This the 2nd day of December, 2024.

Respectfully submitted,

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ARTIFICIAL INTELLIGENCE (AI) CERTIFICATION

I hereby certify the following:

1. No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard on-line legal research sources Westlaw, Lexis, FastCase, and Bloomberg;

2. Every statement and every citation to an authority contained in this document has been checked by an attorney in this case and/or a paralegal working at his/her direction as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

This the 2nd day of December, 2024.

/s/ Tricia Wilson Magee

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NASCAR'S MOTION TO DISMISS** was electronically filed using the Court's CM/ECF system, which will automatically send notice of filing to all parties of record as follows:

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This the 2nd day of December, 2024.

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