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Attorneys for Non-Parties  
Matt Davis and Robert Shemin

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DISTRICT**

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**FEDERAL TRADE COMMISSION, and  
UTAH DIVISION OF CONSUMER  
PROTECTION,**

**Plaintiffs,**

v.

**ZURIXX, LLC, *et al.*,**

**Defendants.**

**STIPULATED MOTION TO PERMIT  
DEPOSITIONS AFTER THE FACT  
DISCOVERY DEADLINE**

**Case No.: 2:19-cv-00713-DAK-DAO**

**Judge Dale Kimball**

**Magistrate Judge Daphne A. Oberg**

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Pursuant to Rules 1 and 29 of the Federal Rules of Civil Procedure, non-parties Matt Davis and Robert Shemin (collectively, “Non-Parties”); Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection (collectively, “Plaintiffs”); Defendants Zurixx, LLC, Brand Management Holdings, LLC, CAC Investment Ventures, LLC-Utah, CAC Investment Ventures, LLC-Puerto Rico, Carlson Development Group, LLC-Utah, Carlson Development Group, LLC-Puerto Rico, CJ Seminar Holdings, LLC, Dorado Marketing and Management, LLC, Zurixx Financial, LLC-Utah, Zurixx Financial, LLC-Puerto Rico, Cristopher A Cannon, James M. Carlson, and Jeffrey D. Spangler (collectively, “Zurixx Defendants”); and JSS

Investment Ventures, LLC, JSS Trust, Gerald D. Spangler, and Relief Defendant Stephenie J. Spangler (collectively, “JSS Defendants”) (Zurixx Defendants and JSS Defendants, collectively, “Defendants”), hereby stipulate and move the Court for entry of the proposed Order submitted herewith to permit the taking of the Non-Parties’ depositions in this matter after the current deadline to complete fact discovery of October 22, 2021.

This Motion is based upon the following:

1. The Non-Parties are parties to related actions brought by the Receiver in, respectively, *Broadbent v. Davis, et al.*, Case No. 2:20-cv-00545, and *Broadbent v. Robert Shemin Worldwide, LLC, et al.*, 2:20-cv-00763 (collectively, “Receiver’s Actions”).
2. Plaintiffs previously sought to take the depositions of the Non-Parties. In response, the Non-Parties each filed a Motion to Quash Subpoena and for Protective Order (“Protective Order Motions”), asserting objections to their depositions being held at the time due to the pendency of a ruling by the District Judge on Motions to Dismiss and the impact of *AMG Capital* in this action and the Receiver’s Actions, as described in those Protective Order Motions [Dkt. Nos. 277 & 284].
3. Following a hearing on motions between the Plaintiffs and Defendants regarding amendment of the schedule in this case, the Magistrate Judge entered an Order, among other things, denying the Protective Order Motions as moot, stating that “[d]uring the hearing on these motions, it became clear the parties were willing to delay the depositions rather than holding them as scheduled.” [Dkt. No. 304 at 2]. The Magistrate Judge also entered an Amended Scheduling Order, setting the new close of fact discovery as October 22, 2021 [Dkt. No. 305].

4. Subsequently, Plaintiffs have sought to reschedule depositions of the Non-Parties. During the meet-and-confer process, the Non-Parties have opposed the setting of their depositions on the grounds previously asserted in their Protective Order Motions, inasmuch as the pending rulings described therein have still not been issued by the District Judge. Consequently, the Non-Parties assert their depositions should not take place at this time and have requested that their depositions be taken after such rulings, which may also be after the October 22 close of fact discovery.

5. Plaintiffs do not agree with the Non-Parties' positions. However, to conserve judicial resources and avoid litigating a motion for a protective order, Plaintiffs do not oppose the depositions being taken after October 22 if the Magistrate Judge permits, with the proviso that Plaintiffs' non-opposition is without prejudice to their issuing subpoenas and/or moving to compel such depositions at a later date.

6. Defendants do not oppose depositions of the Non-Parties being taken after October 22.

Based upon the foregoing, the Non-Parties, Plaintiffs, and Defendants move the Court for entry of the proposed Order submitted herewith that (a) permits the taking of the Non-Parties' depositions in this matter after the current deadline to complete fact discovery of October 22, 2021; and (b) is without prejudice to the respective positions of the Non-Parties, Plaintiffs, and Defendants relative to seeking or opposing such depositions of the Non-Parties.

DATED this 14<sup>th</sup> day of September, 2021.

**Respectfully Submitted,**

/s/ Eric K. Schnibbe

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Eric K. Schnibbe  
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*Attorneys for Non-Parties Matt Davis and  
Robert Shemin*

/s/ Thomas Harris  
(Affixed with express permission)

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**CERTIFICATE OF SERVICE**

I hereby certify that I am employed by the law firm of MCNEILL VON MAACK, 175 South Main Street, Suite 1050, Salt Lake City, Utah 84111, and that, pursuant to Rule 5(b) of the Federal Rules of Civil Procedure, a true and correct copy of the foregoing **STIPULATED MOTION TO PERMIT DEPOSITIONS AFTER THE FACT DISCOVERY DEADLINE** was delivered to all counsel of record this 14<sup>th</sup> day of September, 2021, by:

- Hand Delivery
- Depositing the same in the U.S. Mail, postage prepaid
- Electronic Mail
- Submission to the CM/ECF System

/s/ Camille Coley\_\_\_\_\_

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**ORDER GRANTING STIPULATED  
MOTION TO PERMIT DEPOSITIONS  
AFTER THE FACT DISCOVERY  
DEADLINE**

**Case No.: 2:19-cv-00713-DAK-DAO**

**Judge Dale Kimball**

**Magistrate Judge Daphne A. Oberg**

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Before the Court is the Stipulated Motion to Permit Depositions after the Fact Discovery Deadline (“Motion”), filed by the Non-Parties, Plaintiffs, and Defendants.

Based upon the Motion, and good cause appearing, the Motion is hereby GRANTED as follows:

1. Notwithstanding the deadline for the close of fact discovery, which is October 22, 2021, Plaintiffs are permitted to take the depositions of the Non-Parties Matt Davis and Robert Shemin after October 22, 2021.

2. This Order is without prejudice to the respective positions of the Non-Parties, Plaintiffs, and Defendants relative to seeking or opposing the scheduling of depositions of the Non-Parties Matt Davis and Robert Shemin, whether before or after the October 22, 2021 deadline for the close of fact discovery.

SO ORDERED

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2021.

BY THE COURT

\_\_\_\_\_  
Daphne A. Oberg  
United States Magistrate Judge