

**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

DEFENDANTS' ANSWER TO COMPLAINT AND DEFENSES

Defendant NASCAR Event Management, LLC (“NASCAR”)¹ and James France (“Jim France” and together with NASCAR, “Defendants”) respond as follows to the allegations set forth in the October 2, 2024 Complaint of Plaintiffs 2311 Racing LLC d/b/a 23XI Racing (“23XI”) and Front Row Motorsports, Inc. (“Front Row” and together with 23XI, “Plaintiffs”).

This is not a true antitrust case. Though Plaintiffs fill their Complaint with inflammatory language about how anticompetitive NASCAR’s Charter Agreement supposedly is, in Court Plaintiffs’ counsel admitted that Plaintiffs do not want to dismantle NASCAR’s Charter system; indeed, Plaintiffs “like the [C]harters. The [C]harters are important to the teams.” Doc. 41 (“Transcript”), 15:13-14. Plaintiffs also confess they do not wish to challenge as anticompetitive the Charters’ broadcast revenue split, as it is undeniably fair and advantageous to them. Transcript 49:1-6. Instead, after two years of Charter negotiations, Plaintiffs now seek to use this Court and the antitrust laws to renegotiate the two terms from NASCAR’s now-expired final Charter offer that they are unhappy with—“the release, [and] the provision that says there are covenants not to compete. Period.” Transcript 49:3-6. Neither provision is anticompetitive, and the antitrust laws do not allow a plaintiff to sue to obtain better terms than it achieved in arms’-length commercial negotiations. That is especially true here, where Plaintiffs wish to eliminate only those commitments teams made to NASCAR as part of the Charter Agreement, but maintain the corresponding commitment NASCAR made to teams. The hypocrisy of Plaintiffs’ request could not be more apparent.

The Goodwill Provision. Plaintiffs challenge a common provision in the sports industry requiring that a team participate exclusively in a league. These provisions are common—and pro-

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.

competitive—because they allow the league and teams to focus on delivering the best entertainment product possible for the benefit of fans, media partners, and sponsors. Plaintiffs also ignore the fact that the Goodwill provision is one half of a set of mutual commitments. In exchange for agreeing to the provision, Charter teams are guaranteed entry into all NASCAR Cup Series races. If Plaintiffs wish to do away with the Goodwill provisions in the Charter Agreements, then provisions guaranteeing Charter teams a starting position in all races, a longer Charter Agreement term, and higher payments to Charter teams would have to fall away as well.

The Section 10.3 Release. Plaintiffs now concede that they never raised the release found in Section 10.3 in over two years of negotiations over the 2025 Charter Agreement. *See* Transcript 42:21-22 (“[NASCAR’s counsel] is right. We did not even raise [the release] in the negotiations.”). Releases of claims are common in sports and commercial contracts—and regularly upheld as lawful. Plaintiffs ignore this and also the fact that teams received a reciprocal release as part of the 2016 Charter negotiations. The release of teams by NASCAR is found in Section 10.4—and if Section 10.3 were to fall away as Plaintiffs argue, then NASCAR’s release in Section 10.4 would need to fall away as well, and teams could be subject to potential exposure regarding the structure of the negotiations or other conduct.

Except to the extent expressly admitted, Defendants deny each and every allegation in the Complaint, including any allegations contained in its headings or footnotes. Defendants do not admit that any document purportedly cited, quoted, or referenced by the Complaint is accurate, relevant, or admissible in this action, and Defendants reserve all objections regarding admissibility. Defendants further reserve the right to change, supplement, and amend this Answer and these Affirmative Defenses if and when new information is revealed to it. Defendants deny that Plaintiffs are entitled to any relief.

SPECIFIC RESPONSES PLAINTIFFS' ALLEGATIONS

1. Paragraph 1 characterizes this action and asserts legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 1, except admit that NASCAR is a stock car racing organization and that NASCAR is considered one of the top motorsport series in the world and one of the largest sports leagues in America. Defendants further admit that NASCAR sanctions the Cup Series, a stock car racing series.

2. Defendants deny the allegations in the first sentence of Paragraph 2, except admit that NASCAR was formed in 1948 and that, since that time, Defendants have invested in and grown NASCAR. Defendants further admit that independent race teams compete with each other in NASCAR events. Defendants further respond that NASCAR has invested to develop a racing series that attracts many millions of fans and created valuable opportunities for teams, broadcasters, and sponsors. The second and third sentences of Paragraph 2 assert legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations.

3. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 3 regarding the ownership and operation of other major professional sports leagues, including the NFL and the NBA, and therefore deny them on that basis. Defendants further respond that Paragraph 3 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the remaining allegations in Paragraph 3, except admit that NASCAR is privately owned by members of the France family, including Jim France, the current CEO. Defendants further admit that

NASCAR is a premier stock car racing series in the United States, but denies any implication that NASCAR is its own relevant antitrust market.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding teams finances, now and in the past, including their access to funds to invest in their operations, and therefore deny the allegations in Paragraph 4 on that basis, except admit that for most of NASCAR's history, teams competed with each other for entry into NASCAR events, and competed in those events pursuant to yearly contracts. Defendants admit that Paragraph 4 purports to refer to statements made in news articles, that the written documents that speak for themselves, and to the extent the allegations differ from or mischaracterize, misuse, or misstate those documents, Defendants deny those allegations.

5. Defendants deny that NASCAR economically exploited teams. Defendants admit that cars have engaged in "start-and-park" but lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding why teams engaged in "start-and-park", and therefore deny those allegations on that basis. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 5, and therefore deny them on that basis, except admit that Paragraph 5 purports to refer to a statement made in a news article, a written document that speaks for itself. Defendants also deny that Plaintiffs' out-of-context quotations accurately reflect the referenced article.

6. The first sentence in Paragraph 6 asserts legal arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in the first sentence of Paragraph 6 and deny any implication that NASCAR and the France family received the full proceeds of those contracts. Defendants admit that NASCAR's popularity has led to valuable opportunities with broadcasters which have benefitted entities including teams, and that

media rights agreements NASCAR has entered with television broadcasters reflect this growth. Defendants admit that public sources state that in 2001, NASCAR entered media rights agreements with NBC, TBS, and FOX valued at \$2.4 billion over six years (2001-2006) and worth \$400 million per year. Defendants admit that public sources state that in 2007, NASCAR entered media rights agreements with FOX, ESPN, and TNT valued at \$4.48 billion over eight years (2007-2014) and worth \$820 million per year. Defendants admit that public sources state that in 2015, NASCAR entered media rights agreements with Fox and NBC valued at approximately \$8.2 billion over ten years (2015-2024) and worth \$820 million per year. Defendants admit that public sources state that NASCAR's latest media rights agreements with Fox, NBC, Amazon, and Warner Brothers are valued at approximately \$7.7 billion over seven years (2025-2031) and worth approximately \$1.1 billion per year. Defendants further admit that public sources state that, in total, the media rights agreements NASCAR has entered since 2001 are worth approximately \$23.1 billion, and that teams have received an ever-increasing percentage of those proceeds.

7. Defendants admit that racing teams formed the Race Team Alliance to collectively negotiate with NASCAR on behalf of the teams, but deny that it was formed in 2015. Defendants admit that Paragraph 7 purports to refer to a statement made in a news article, a written document that speaks for itself. To the extent the allegations differ from or mischaracterize, misuse, or misstate that document, Defendants deny those allegations. Defendants deny any remaining allegations in Paragraph 7.

8. Defendants admit that the RTA negotiated for the 2016 Charter Agreement on behalf of all teams other than Wood Brothers Racing. Defendants admit that the 2016 Charter Agreements were created at the request of the racing teams and was the result of extensive negotiations between NASCAR and the RTA both represented by outside counsel. Defendants

admit that the RTA secured a provision in the 2016 Charter Agreements that guaranteed each charter car would have entry into every Cup Series race for the duration of the Charter Agreement. Defendants further admit that the term of the original 2016 Charter Agreements, which lasted from 2016 until December 31, 2020, was extended through December 31, 2024 for teams that—at some point between January 1, 2020 and March 1, 2020—provided NASCAR with written notice of their desire to extend the term for an additional four years.

9. Paragraph 9 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in the first and second sentences of Paragraph 9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in the third sentence of Paragraph 9, and therefore deny them on that basis. Defendants admit that the last sentence of Paragraph 9 purports to refer to a statement made in a news article, a written document that speaks for itself. To the extent the allegations differ from or mischaracterize, misuse, or misstate that document, Defendants deny those allegations.

10. Defendants deny that only eight of the teams that were granted Charters in 2016 remain in the sport. Defendants further respond that teams that were granted Charters and subsequently exited the sport did so for many reasons. On information and belief, teams that exited the sport sold the Charters they received for free for millions or tens of millions of dollars. To the extent that any further response is required, Defendants deny the remaining allegations of Paragraph 10.

11. Defendants admit that the 2016 Charter Agreement contains a goodwill provision, but deny that the provision is anticompetitive and deny that it prevents teams from competing in all other professional stock racing series.

12. Defendants admit that NASCAR acquired the Automobile Racing Club of America (“ARCA”) in 2018, but deny that ARCA was the only other recognizable stock car racing series competitor in the United States. Defendants admit that the Menard Series is considered the highest level of competition within the ARCA organization. Defendants further admit that the Menard Series held races at the Daytona International Speedway and at the Michigan International Speedway. Defendants admit that in 2018, nine of the 20 Menard Series races were held on tracks that also hosted NASCAR events. Defendants deny all remaining allegations in Paragraph 12, including the allegations in the final sentence of Paragraph 12.

13. Defendants admit that in accordance with the terms of the 2016 Charter Agreement, teams participating in NASCAR’s Cup Series races are required to purchase Next Gen car parts, that such parts include intellectual property of NASCAR, and that these car parts remain the property of NASCAR, but deny that Next Gen car program was developed to exercise control over teams. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the last sentence of Paragraph 13, and therefore deny them on that basis. The remaining allegations contain legal arguments and conclusions to which no response is required. To the extent a response is required, Defendants deny all remaining allegations in this Paragraph.

14. Paragraph 14 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 14, except Defendants admit that NASCAR acquired International Speedway Corporation (“ISC”) in 2019 for \$2 billion, that the transaction was reviewed by regulators who did not challenge the transaction, and that ISC owned 13 racetracks that were part of the transaction.

15. Paragraph 15 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 15.

16. Defendants admit that the 2016 Charter owners joined together to negotiate through a joint negotiating committee to obtain their preferred terms for the 2025 Charter Agreement. Defendants also admit that negotiations for the 2025 Charter Agreement began in 2022, as requested jointly by the teams. The rest of Paragraph 16 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 16.

17. Defendants admit that the 2016 Charter Agreement teams collectively sought to make the 2025 Charter Agreement permanent. Defendants further admit that NASCAR negotiated with the teams collectively and with individual teams, but denies that it ceased negotiating with the teams collectively. The rest of Paragraph 17 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 17.

18. Defendants deny the allegations in Paragraph 18.

19. Defendants admit that NASCAR senior leadership, including Jim France, called teams regarding the deadline to sign the 2025 Charter Agreement. Defendants deny the remaining allegations in the first sentence of Paragraph 19. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the last sentence of Paragraph 19, and therefore deny them on that basis.

20. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 20 concerning the teams' thought processes

regarding any decisions they made, and therefore deny those allegations on that basis. Defendants lack knowledge or information sufficient to form a belief as to the truth of whether uncredited, anonymous team owners made such statements or why they made them, and on that basis, deny the allegations in the second, third, fourth, and fifth sentences of Paragraph 20. Defendants deny any remaining allegations in Paragraph 20.

21. Defendants admit that the 2025 Charter Agreements and the 2016 Charter Agreements, as is common in sports contracts, contained non-compete provisions, but deny Plaintiffs' characterization of those provisions. The agreements speak for themselves. The rest of Paragraph 21 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in the first sentence of Paragraph 21.

22. Defendants admit that the 2025 Charter Agreement contains reciprocal release of claims provisions that are the same as those contained in the 2016 Charter Agreement. The rest of Paragraph 22 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 22.

23. Paragraph 23 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 23, and therefore deny them, except admit that 23XI Racing and Front Row Motorsports were the only two Cup Series teams that declined to sign the 2025 Charter Agreement. Defendants admit that 23XI Racing and Front Row Motorsports currently own 2016 Charter Agreements that are due to expire at the end of 2024. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the final sentence of Paragraph 23 pertaining to Plaintiffs'

reasons for not signing the 2025 Charter Agreements, and therefore deny those allegations on that basis. Defendants deny the remaining allegations in the final sentence of Paragraph 23.

24. Paragraph 24 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 24.

25. Paragraph 25 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 25, and specifically deny that Plaintiffs are entitled to any relief.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26, and therefore deny those allegations on that basis.

27. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27, and therefore deny those allegations on that basis.

28. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28, and therefore deny those allegations on that basis.

29. Defendants admit that 23XI purchased a 2016 Charter from another team in 2020.

30. Defendants admit that NASCAR approved 23XI's purchase of a 2016 Charter prior to its closing in 2020 and that 23XI signed a joinder agreement at the time.

31. Defendants admit that 23XI made its debut under its first Charter in the 2021 Cup Series with the No. 23 car driven by Bubba Wallace.

32. Defendants admit the allegations in Paragraph 32.

33. Defendants admit that, in 2021, 23XI purchased a second 2016 Charter from another race team and that 23XI signed a joinder agreement at the time. Defendants lack

knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 33, and therefore deny those allegations on that basis.

34. Defendants admit that the second car that 23XI fielded in the NASCAR Cup Series was the No. 45 car. Defendants admit that the No. 45 car was driven in the 2024 season by Tyler Reddick, who won the 2024 NASCAR Cup Series Regular Season Championship. Defendants further admit that Tyler Reddick participated in the 2024 NASCAR Playoffs.

35. Defendants admit that Stewart-Haas Racing, LLC signed the 2025 Charter Agreement. Defendants further admit that transferring a Charter Agreement requires NASCAR's approval. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 35, and therefore deny those allegations on that basis.

36. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36, and therefore deny those allegations on that basis.

37. Defendants lack sufficient knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37, and therefore deny those allegations on that basis, except admit that Front Row currently participates in the NASCAR Cup Series and NASCAR Craftsman Truck Series.

38. Defendants admit that Front Row received two 2016 Charter Agreements from NASCAR at no charge, which expire on December 31, 2024.

39. Defendants admit that Front Row currently runs No. 34 car, which was driven by Michael McDowell in the 2024 season, and No. 38 car, which was driven by Todd Gilliland in the 2024 season.

40. Defendants admit that Michael McDowell won the 2021 Daytona 500. Defendants further admit that Michael McDowell won the NASCAR Cup Series race at Indianapolis Motor Speedway in 2023, and that this victory secured his spot at the NASCAR Playoffs in 2023. Defendants lack sufficient knowledge or information as to the truth of the allegations in the last sentence of Paragraph 40, and therefore deny those allegations on that basis.

41. Defendants admit that Stewart-Haas currently owns four Charters and has executed the 2025 Charter Agreement for all four of its Charters. Defendants further admit that transferring a Charter Agreement requires NASCAR's approval. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 41, and therefore deny those allegations on that basis. Defendants further respond that a transfer request was recently submitted by Stewart-Haas to NASCAR seeking approval of the transfer of an executed 2025 Charter to Front Row.

42. Defendants admit that NASCAR is a limited liability company organized under the laws of the state of Florida. Defendants further admit that NASCAR's principal place of business is in Daytona Beach, Florida.

43. Defendants admit that NASCAR is privately owned. Defendants admit that NASCAR was founded in 1948 by Bill France Sr. Defendants further admit that Jim France has been the Chief Executive Officer of NASCAR since August 2018.

44. To the extent that Paragraph 44 states legal conclusions and arguments, no response is required. To the extent that a response is required, Defendants admit that NASCAR is a privately owned company. Defendants further admit that members of the France family, including Jim France and Lesa France Kennedy, are owners, along with others.

45. Defendants admit that NASCAR is a sanctioning body for stock car racing, but deny that NASCAR sanctions three national series for stock car racing in the United States. Defendants respond that NASCAR sanctions three national series: the Cup Series, the Xfinity Series, and the Craftsman Truck Series, the last of which is comprised of modified pickup truck races. Defendants deny any remaining allegations in Paragraph 45.

46. Defendants admit that the Cup Series is NASCAR's highest level of professional competition. Defendants admit that the Cup Series is the most popular series that NASCAR sanctions. Defendants further admit that the Cup Series season consists of thirty-six races, but denies that the thirty-six races occur on thirty-six different tracks. Defendants admit that the tracks that host Cup Series races include (but are not limited to) short tracks, intermediate tracks, superspeedways, and road courses.

47. Paragraph 47 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 47, except admit that NASCAR operates a stock car racing series in the United States.

48. Defendants admit that Jim France is CEO, chairman, and executive vice president of NASCAR. Defendants admit that Jim France is the son of NASCAR founder Bill France Sr. Defendants further admit that Jim France has served as chairman of International Speedway Corporation ("ISC"), and that he has served as its secretary, assistant treasurer, vice president, executive vice president, president, and CEO.

49. Defendants admit that Jim France has served as NASCAR's CEO and chairman since August 6, 2018 after initially being appointed on an interim basis. The second sentence of Paragraph 49 states legal conclusions and arguments to which no response is required. To the

extent that a response is required, Defendants deny the allegations in the second sentence of Paragraph 49.

50. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50 and therefore deny those allegations on that basis, except admit that Paragraph 50 purports to refer to an unspecified 2015 Forbes article.

51. Paragraph 51 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants admit that members of the France family, including Jim France, have an ownership interest in ISC, ARCA, International Motor Sports Association, Action Express Racing, and Motor Racing Network.

52. Paragraph 52 states legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants admit that Plaintiffs have filed their Complaint pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1337, and Section 15 of the Clayton Act, 15 U.S.C. § 4, that Plaintiffs purport to seek to restrain Defendants from violating Sections 1 and 2 of the Sherman Act. Defendants deny that anything they have done is anticompetitive or a violation of the antitrust laws, and deny that Plaintiffs are entitled to any relief.

53. Paragraph 53 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 53, except admit that they have transacted business throughout the United States.

54. Defendants admit that, since 2018, NASCAR has hosted and organized at least two Cup Series stock car competitions each year at Charlotte Motor Speedway in Charlotte, North Carolina: the Coca Cola 600 and the Bank of American Royal 400. NASCAR further admits that it hosted its All-Star race in this district in 2023 and 2024. Defendants further admit that NASCAR has corporate offices in Charlotte, North Carolina. The allegations in Paragraph 54, including in

the footnote, purport to characterize or paraphrase a webpage, which speaks for itself, and to the extent the allegations differ from or mischaracterize, misuse, or misstate that webpage, Defendants deny those allegations.

55. Defendants admit that Jim France has transacted business in North Carolina, but deny that such transactions are related to Plaintiffs' allegations. The rest of Paragraph 55 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny those allegations.

56. Paragraph 56 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants admit that Plaintiffs filed a complaint alleging that venue for that complaint was proper in this Court.

57. Paragraph 57 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants admit that the 2016 Charter Agreement includes a provision regarding dispute resolution for disagreements, disputes, controversies, or claims "arising under or in connection with" the 2016 Charter Agreement. 2016 Charter Agreement § 17(a). Defendants deny the allegations in the second sentence of Paragraph 57.

58. Paragraph 58 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 58.

59. Defendants admit that NASCAR was founded in 1948 by Bill France Sr. Defendants further admit that the allegations in Paragraph 59, including the footnote, purport to refer to statements made in a news article. The rest of Paragraph 59 states legal conclusions and

arguments to which no response is required. To the extent that a response is required, Defendants deny the remaining allegations in Paragraph 59.

60. The first sentence Paragraph 60 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in the first sentence of Paragraph 60. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 60, and therefore deny those allegations on that basis. Defendants admit that the allegations in Paragraph 60 purport to refer to statements made in a news article.

61. Defendants deny the allegations in the first sentence of Paragraph 61. Defendants admit that NASCAR held a Talladega 500 race in 1969, fifty-five years prior to this litigation being filed. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations from over fifty years ago in the remainder of Paragraph 61, and therefore deny those allegations on that basis. Defendants admit that the allegations in Paragraph 61 purport to refer to statements made in a news article.

62. Defendants admit that Bill France Jr. became the CEO of NASCAR in 1972. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations from over 50 years ago in the remainder of Paragraph 62, and therefore deny those allegations on that basis. Defendants admit that the allegations in Paragraph 62 purport to refer to statements made in a news article.

63. Defendants admit that Brian France is the son of Bill France Jr. and that he served as CEO and Chairman of NASCAR beginning in 2003, but deny that he served through 2019. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding a non-party in the last sentence of Paragraph 63, and deny them on that basis.

64. Defendants admit the allegation in the first sentence of Paragraph 64. The second sentence of Paragraph 64 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the remaining allegations in Paragraph 64.

65. Defendants admit that NASCAR acquired ISC in 2019. Defendants further admit that the France family owned a controlling percentage of ISC's voting stock since ISC was founded. Defendants further admit that the ISC increased the number of tracks it owned over time. The rest of Paragraph 65 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny those allegations in Paragraph 65.

66. Defendants admit the first sentence of Paragraph 66. The second sentence Paragraph 66 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in the second sentence of Paragraph 66.

67. The first sentence of Paragraph 67 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in the first sentence of Paragraph 67. Defendants deny that NASCAR signed its first national television contract in 2001, but admit that the first time NASCAR's season was nationally televised was 2001. Defendants admit that Dale Earnhardt tragically lost his life during the Daytona 500 in 2001, but deny Plaintiffs' heinous and deplorable allegations and inferences that the tragic death of a driver benefitted NASCAR or anyone else. Defendants admit that in 2004, NASCAR entered a sponsorship agreement with Nextel, which became Sprint after Sprint and Nextel engaged in a transaction. Defendants admit that this was a ten-year agreement beginning in 2004.

68. Defendants admit that public sources state that in 2015, NASCAR entered media rights agreements with Fox and NBC valued at approximately \$8.2 billion over ten years (2015-2024). Defendants admit that public sources state that NASCAR's latest media rights agreements with Fox, NBC, Amazon, and Warner Brothers are valued at approximately \$7.7 billion over seven years (2025-2031). Defendants further respond that the allegations in Paragraph 68 purport to characterize or paraphrase articles, which speak for themselves, and to the extent the allegations differ from or mischaracterize, misuse, or misstate the articles, Defendants deny those allegations

69. Paragraph 69 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 69.

70. Defendants admit that prior to 2016, stock car racing teams competed in NASCAR events pursuant to yearly agreements with NASCAR. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 70 regarding the revenues generated by stock car racing teams prior to 2016, and therefore deny those allegations on that basis.

71. Defendants admit that teams formed the RTA to jointly negotiate with NASCAR on behalf of stock car racing teams, but deny that they sought "fairer terms" as improper legal argument and conclusion. Defendants admit that the allegations in the second sentence of Paragraph 71, including the footnote, are included in a news article, but deny Plaintiffs' characterization.

72. Defendants admit that, by August 2014, all but one stock car racing team who would receive a 2016 Charter Agreement had joined the RTA. Defendants admit that NASCAR and the RTA announced that they had reached an agreement regarding the 2016 Charter

Agreements in February 2016. Defendants admit that NASCAR negotiated with the RTA, which led to the creation of the 2016 Charter Agreements, at the teams' request. The last sentence of Paragraph 72 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in the last sentence of Paragraph 72. Defendants further respond that the allegations in Paragraph 72 purport to characterize or paraphrase articles, which speak for themselves, and to the extent the allegations differ from or mischaracterize, misuse, or misstate the articles, Defendants deny those allegations. Defendants deny any remaining allegations in Paragraph 72.

73. Defendants admit that in 2016, NASCAR entered into 36 Charter Agreements, without charge, with racing teams. The second sentence in Paragraph 73 states legal conclusions and arguments to which no response is required. Defendants further respond that teams that were granted Charter Agreements and subsequently exited the sport did so for many reasons. On information and belief, teams that exited the sport sold the Charter Agreements they received for free for millions or tens of millions of dollars.

74. To the extent Paragraph 74 asserts legal conclusions and argument, no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 74. To the extent Plaintiffs seek to characterize the 2016 Charter Agreement, Defendants respond that the agreement speaks for itself. Defendants admit that teams do not share their sponsorship revenue with NASCAR and NASCAR does not share its sponsorship revenue with teams.

75. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding other major professional sports in the United States, including the NFL and NBA, and therefore deny those allegations on that basis. The rest of the first sentence contains legal contains legal arguments and conclusion to which no response is required. To the extent a

response is required, Defendants deny Plaintiffs' characterizations of the payments as "modest" but admit that public sources state that under the 2016 Charter Agreements the Charter teams received approximately 37% of broadcast revenues attributable to the Cup Series.

76. Paragraph 76 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 76.

77. Defendants admit that the term of the original 2016 Charter Agreements, lasted from 2016 until December 31, 2020, and was extended through December 31, 2024 for teams that—at some point between January 1, 2020 and March 1, 2020— provided NASCAR with written notice of their desire to extend the term for an additional four years.

78. Paragraph 78 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 78.

79. Paragraph 79 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 79.

80. Paragraph 80 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 80.

81. Paragraph 81 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 81.

82. Defendants deny that the 2024 Cup Series took place on twenty eight different tracks, but admit the other allegations in Paragraph 82.

83. Defendants deny the allegations in Paragraph 83.

84. Paragraph 84 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 84, except admit that Jim France and Lesa France Kennedy have each previously served as the CEO of ISC and that NASCAR acquired ISC in 2019 for \$2 billion in a transaction that was reported to and not challenged by regulators.

85. Defendants admit that in 2024, more than half of Cup Series races were held on NASCAR-owned tracks and that the Cup Series races currently take place on 26 different tracks and that NASCAR owns 13 of those tracks. To the extent any further response is required, Defendants deny the remaining allegations in Paragraph 85.

86. Paragraph 86 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 86.

87. Paragraph 87 states conclusions and arguments to which no response is required. To the extent a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 87 and therefore deny those allegations on that basis.

88. Paragraph 88 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants admit that Paragraph 88 purports to refer to an agreement dated June 2, 2020, a written document that speaks for itself, and to the

extent that the allegations differ from or mischaracterize, misuse, or misstate that document, Defendants deny those allegations.

89. Paragraph 89 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 89.

90. Paragraph 90 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 90, except admit that ARCA was founded in 1953 as a regional stock car racing series in Ohio.

91. Paragraph 91 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 91.

92. Defendants admit that NASCAR acquired ARCA. Defendants admit that the second sentence of Paragraph 92, and its footnote, purport to refer to statements made in a news article, a written document that speaks for itself, but deny the allegations contained in that quotation.

93. Paragraph 93 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 93.

94. Paragraph 94 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 94.

95. Paragraph 95 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 95.

96. Paragraph 96 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 96.

97. Paragraph 97 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 97. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of Paragraph 97 and therefore deny those allegations on that basis.

98. Defendants admit that 1949 was the inaugural season of the Cup Series, and that the Cup Series was called the “Strictly Stock Division” at that time. Defendants further admit that the rules for NASCAR’s Cup Series have changed over time, but deny Plaintiffs’ characterization of those changes.

99. Defendants deny the allegations in Paragraph 99, except admit that as the 2016 Charter Agreement allows, Next Gen cars use single-source suppliers for parts like the chassis and the body. Defendants admit that NASCAR rules, which the teams endorsed, limit the number of Next Gen cars a team may own, and that NASCAR and the chassis supplier may exercise discretion regarding whether a chassis can be repaired or must be replaced in the event of a crash.

100. Paragraph 100 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 100. Defendants lack knowledge or information sufficient to form a belief as to the truth of the

allegations in the final sentence of Paragraph 100 and therefore deny those allegations on that basis.

101. Paragraph 101 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 101. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 101 and therefore deny those allegations on that basis.

102. Paragraph 102 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 102.

103. Defendants admit that the teams holding the 2016 Charter Agreements collectively approached NASCAR in February 2022 seeking to begin negotiations for the 2025 Charter Agreement prior to the date provided under the 2016 Charter Agreement. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 103 and therefore deny those allegations on that basis.

104. Paragraph 104 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations of Paragraph 104.

105. Paragraph 105 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations of Paragraph 105.

106. Paragraph 106 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations of Paragraph 106 including that NASCAR stopped negotiating with the teams collectively.

107. Paragraph 107 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations of Paragraph 107, except admit that NASCAR engaged in individual negotiations with certain teams to address their individual requests regarding the 2025 Charter Agreements while still negotiating with the teams negotiating collectively.

108. Defendants deny the allegations in Paragraph 108, except admit that the NASCAR negotiated with the Plaintiffs and other teams.

109. Paragraph 109 states legal conclusions and arguments to which no response is required. To the extent that a response is required, deny the allegations in Paragraph 109.

110. Paragraph 110 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 110.

111. Paragraph 111 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 111.

112. Paragraph 112 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 112, except admit that open teams are not eligible to receive certain payments from NASCAR that Charter teams contract for.

113. Paragraph 113 states legal conclusions and arguments to which no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 113 concerning what the teams purportedly believed, and therefore deny those allegations on that basis.

Defendants deny the remaining allegations in Paragraph 113, except admit that the 2025 Charter Agreement contains a mutual release, which speaks for itself.

114. Defendants admit that the 2025 Charter Agreements and the 2016 Charter Agreements as is common in sports contracts, contained non-compete provisions, but deny Plaintiffs' characterization of the meaning of those provisions. The agreements speak for themselves. The final sentence of Paragraph 114 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in the last sentence of Paragraph 114.

115. Defendants deny the allegations in Paragraph 115, except admit that Plaintiffs are the only Cup Series teams with 2016 Charter Agreements that did not sign the 2025 Charter Agreements. Defendants lack knowledge or information sufficient to form a belief as to the truth of whether uncredited, anonymous team owners made such statements or why they made them, and on that basis, deny the allegations in the remaining sentences of Paragraph 115.

116. Paragraph 116 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 116, and therefore deny those allegations on that basis. Defendants otherwise deny the allegations in Paragraph 116.

117. Paragraph 117 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 117.

118. Paragraph 118 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 118.

119. Paragraph 119 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 119.

120. Paragraph 120 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 120.

121. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 121, and deny the allegations on that basis.

122. Paragraph 122 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 122.

123. Paragraph 123 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 123.

124. Paragraph 124 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 124.

125. Paragraph 125 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 125.

126. Paragraph 126 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 126.

127. Paragraph 127 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 127.

128. Paragraph 128 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 128.

129. Paragraph 129 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 129.

130. Paragraph 130 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 130.

131. Defendants admit that NASCAR's Cup Series races have occurred in 20 states. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 131, and deny them on that basis.

132. Defendants admit that NASCAR enters into commercial agreements with racetracks. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 132, and deny them on that basis.

133. Paragraph 133 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants admit that they are engaged in interstate commerce but deny any remaining allegations in Paragraph 133.

134. Paragraph 134 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 134.

135. Defendants incorporate and reallege their response to paragraphs 1-134 as if fully set forth herein.

136. Paragraph 136 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 136.

137. Paragraph 137 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 137.

138. Paragraph 138 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 138, except admit that NASCAR acquired ISC, including its racetracks, in 2018.

139. Paragraph 139 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 139.

140. Paragraph 140 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 140.

141. Paragraph 141 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 141.

142. Paragraph 142 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 142.

143. Paragraph 143 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 143.

144. Paragraph 144 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 144.

145. Paragraph 145 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 145.

146. Paragraph 146 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 146.

147. Paragraph 147 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 147.

148. Paragraph 148 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 148.

149. Paragraph 149 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 149.

150. Defendants incorporate and reallege their response to paragraphs 1-149 as if fully set forth herein.

151. Paragraph 151 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 151.

152. Paragraph 152 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 152.

153. Paragraph 153 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 153.

154. Paragraph 154 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 154.

155. Paragraph 155 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 155.

156. Paragraph 156 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 156.

157. Paragraph 157 states legal conclusions and argument to which no response is required. To the extent that a response is required, Defendants deny the allegations in Paragraph 157.

158. Paragraph 158 asserts legal conclusions and argument to which no response is required. To the extent that a response is deemed necessary, Defendants admit that, in the Complaint, Plaintiffs purport to seek damages. Defendants deny that Plaintiffs are entitled to any of that relief, and further deny the remaining allegations in paragraph 158.

RESPONSE TO PRAYER FOR RELIEF

Plaintiffs' Prayer for Relief contains no factual allegations and, therefore, no response is required. To the extent a response is required, Defendants deny that Plaintiffs are entitled to the relief sought in the Complaint or to any relief whatsoever.

Defendants deny the allegations in the Complaint, whether express or implied, that are not expressly admitted herein.

RESPONSE TO DEMAND FOR JURY TRIAL

Plaintiffs' Demand for Jury Trial does not require a response. To the extent a response is required, Defendants deny that Plaintiffs have been harmed or are entitled to a trial by jury.

AFFIRMATIVE AND OTHER DEFENSES

Defendants assert the following defenses with respect to the causes of action alleged in the Complaint, without assuming the burden of proof or persuasion where such burden rests on Plaintiffs. Defendants have not knowingly or intentionally waived any applicable defenses or counterclaims, and they reserve the right to assert and rely upon other applicable defenses or counterclaims that may become available or apparent throughout the course of the action. Defendants reserve the right to amend, or seek to amend, their Answer, including their affirmative other defenses and counterclaims.

FIRST DEFENSE

Defendants plead and assert that Plaintiffs' claims are estopped in part based on party admissions. Plaintiffs' counsel admitted that Plaintiffs "do not challenge the whole charter agreements." Nov. 4, 2024 Hr'g Tr. 49:5-6. Instead, Plaintiffs only challenge the "specific provisions that go to the release [Section 10.3 and] the provision that says there are covenants not to compete. Period." *Id.* at 49:3-5; *see also id.* at 42:18-20 ("The only term that [is] itself an exclusionary act [is Section 10.3]. We're not trying to get a better deal."). To the extent Plaintiffs' Complaint challenges any portion of the 2016 or 2025 Charter Agreements that extend beyond those terms, Plaintiffs are estopped from making those arguments. Indeed, Plaintiffs' counsel confirmed, "We are not contending the charter agreements are antitrust violations. We are not seeking to invalidate the charter agreements." *Id.* 48:22-24. And in Plaintiffs' Renewed Motion for a Preliminary Injunction, they "made clear [that] they are only contending that very small portions of the more than 100-page charter agreement—the restrictive covenants and release terms—are exclusionary acts. . . ." Doc. No. 52 at 10.

SECOND DEFENSE

Defendants plead and assert that to the extent that Plaintiffs' claims concern alleged conduct that took place more than four years ago (prior to October 2, 2020), Plaintiffs' claims are barred, in whole or in part, by the four-year- statute of limitations for antitrust claims. Plaintiffs' allegations concerning the 2016 Charter Agreements; the 2018 acquisition of Automobile Racing Club of America; the 2019 acquisition of International Speedway Corporation; the 2019 adoption of Next Gen car requirements; NASCAR's exclusivity arrangements, which all were entered into before October 2020; and provisions in the 2016 Charter Agreement are barred by the four-year statute of limitations for antitrust claims.

THIRD DEFENSE

Defendants plead and assert that Plaintiffs' claims for injunctive relief are barred, in whole or in part, by the doctrine of laches. Plaintiffs have been aware at least of the 2016 Charter Agreement; the 2018 acquisition of Automobile Racing Club of America; the 2019 acquisition of International Speedway Corporation; and the 2019 adoption of Next Gen car requirements, but sat on their rights, including for longer than the four-year limitations period. Further, Plaintiff 23XI acquired Charter Agreements in fall 2020 and fall 2021, racing for the first time in the 2021 season, after the alleged unlawful conduct.

FOURTH DEFENSE

Defendants plead and assert that Plaintiffs' claims are barred, in whole or in part, by the doctrines of unclean hands and *in pari delicto*. Between 2014 and 2016, eighteen NASCAR race teams (including Plaintiff Front Row) joined together to speak with a "unified voice" for the purpose of negotiating a Charter Agreement(s) from NASCAR. These teams sought more stability and predictability regarding their participation in the NASCAR Cup Series, including guaranteed

starting positions and a fixed payment schedule. As part of receiving a guaranteed starting position in races and fixed payments, the Charter teams agreed to a provision that limited their ability to participate in certain other races that were similar to NASCAR. Upon information and belief, the teams were concerned that negotiating jointly may violate antitrust laws. The initial chairman of the RTA made clear, “We’re very careful with how we do things.” And as was reported at the time, they needed to be in order to avoid potential antitrust liability because “a group of separate businesses cannot get together and act in concert to rig the deals that can be made.”² To facilitate a positive working relationship between the teams and NASCAR during the term of the Charter Agreement, each party agreed to mutual release provisions contained in Sections 10.3 and 10.4 of the Charter. Teams that received the 2016 Charter Agreements from NASCAR received them for free.

Beginning in 2022, Plaintiffs, collectively with other teams holding 2016 Charter Agreements, established a Team Negotiating Committee (“TNC”) for the purpose of negotiating the 2025 Charter Agreement. Curtis Polk led the TNC negotiations and devised various coercive strategies to extract favorable financial and non-financial terms in the 2025 Charter negotiations. These strategies included, but are not limited to, boycotts and potential boycotts of NASCAR events, negative media campaign to affect the media rights negotiations and threats/coercion to other team owners to “not break ranks.” On information and belief, the establishment of the TNC, as well as the tactics used by Plaintiffs and spearheaded by Curtis Polk individually, were for the purpose to extort more beneficial terms, and this litigation is merely a continuation of this scheme. The above-referenced agreement and conduct by Plaintiffs and Curtis Polk regarding joint

² See, e.g., <https://www.sportingnews.com/us/nascar/news/race-team-alliance-team-owners-tv-money-rick-hendrick-roger-penske-joe-gibbs/1nzypz3dnjp91vrzbt5m0zvvs>.

negotiating likely constitute a per se violation of the antitrust laws, which prohibit competitors from agreeing to eliminate competition between them and instead jointly negotiate with a buyer.

Ultimately, the teams' negotiations with NASCAR resulted in the 2025 Charter Agreements. The 2025 Charter Agreements contained identical mutual releases in Sections 10.3 and 10.4 of the Charter Agreement. And similar to the 2016 Charter Agreement, the 2025 Charter Agreement included a similar goodwill provision. This provision recognizes the benefits that Charter teams receive, including guaranteed starting positions and increased payouts, in exchange for the teams' agreement to develop the Cup Series in collaboration with NASCAR. Just like the 2016 Charter Agreement, teams that received the 2025 Charter Agreements from NASCAR received it for free, despite the ability to sell the Charter Agreement to other teams for tens of millions of dollars.

To the extent Plaintiffs or other teams that jointly negotiated with Plaintiffs advocated for the inclusion of terms that Plaintiffs now claim are anticompetitive or did not object to the inclusion of such terms, Plaintiffs have unclean hands. Further, to the extent that Plaintiffs argue that a Charter Agreement harms competition, Plaintiffs have unclean hands regarding the agreements. As Plaintiffs' counsel made clear: Plaintiffs "like the charters [and] [t]he charters are important to the teams." Nov. 4, 2024 Hr'g Tr. 15:13-14. Plaintiffs and other teams holding 2016 Charter Agreements further collectively boycotted at least one meeting with NASCAR in an attempt to obtain their preferred contract terms.

FIFTH DEFENSE

Defendants plead and assert that Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver and/or release. Both Plaintiffs repeatedly waived and/or released all of their claims as alleged by signing agreements with NASCAR that contained release provisions, which

waived Plaintiffs' claims against NASCAR and its affiliates.³ Front Row signed this release provision most recently on February 6, 2024, and 23XI signed the release provision most recently on March 14, 2024.

SIXTH DEFENSE

Defendants plead and assert that Plaintiffs' claims are barred in whole or in part because the claims are based on lawful conduct. Defendants' conduct is based on pro-competitive business rationale and has led to an expansion of the sport, which has in turn led to increased payments to teams Racing in the NASCAR Cup Series.

SEVENTH DEFENSE

Defendants plead and assert that the Complaint fails to state a claim upon which relief can be granted.

EIGHTH DEFENSE

Defendants plead and assert that the alleged market definition fails as a matter of both fact and law.

NINTH DEFENSE

Defendants plead and assert that the Complaint fails to allege any plausible harm to competition or consumers.

TENTH DEFENSE

Defendants plead and assert that any alleged harm to competition is not actionable because it does not constitute harm to competition.

³ See Doc. 38-2 (Open Team Owner Agreement, entered into by NASCAR and Plaintiff 23XI) at § 11; Doc. 38-4 (Open Team, entered into by NASCAR and Plaintiff Front Row Motorsports) at § 11.

ELEVENTH DEFENSE

Defendants plead and assert that Plaintiffs' claimed injuries are self-inflicted and that Plaintiffs failed to mitigate their damages.

TWELFTH DEFENSE

Defendants plead and assert that Plaintiffs' alleged claims may be barred in whole or in part because they are subject to arbitration and/or alternative dispute resolution pursuant to § 12.2 of the 2016 Charter Agreement or other agreement.

THIRTEENTH DEFENSE

Defendants plead and assert that Plaintiffs are not efficient enforcers of their claims because they have not been harmed and/or restrained by the conduct that Plaintiffs allege, including but not limited to the 2025 Charter Agreements because they are not a party to those agreements.

Dated: December 2, 2024.

Respectfully submitted,

By: /s/ Tricia Wilson Magee
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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 **DEFENDANTS' ANSWER TO COMPLAINT AND DEFENSES** 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.

/s/ Tricia Wilson Magee _____