

RULING NO. C2008-3/34

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Complaint of Capital One Services, Inc.

Docket No. C2008-3

PRESIDING OFFICER'S RULING  
SCHEDULING PREHEARING CONFERENCE

(Issued January 28, 2009)

The Complaint of Capital One Service's Inc. Regarding Discrimination and Other Violations of Law by the United States Postal Service was filed on June 19, 2008. Discovery and resolution of procedural matters proceeded apace through mid-September of 2008 at which time the Commission received several motions for extension of time related to the Jessica Lowrance discovery material.<sup>1</sup> The Commission granted these motions with the proviso that Capital One and the Postal Service each file weekly status reports. Granting these motions is consistent with a longstanding Commission policy of allowing the litigants to work matters out by themselves, as long as progress is demonstrated.

The Commission recently received its 15<sup>th</sup> weekly status report from Capital One and its 17<sup>th</sup> weekly status report from the Postal Service. The reports raise questions of how much actual progress is being made. The most recent Capital One status report

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<sup>1</sup> Motion of Capital One Services, Inc. for an Extension of Time to File Responses to Postal Service Motions to Strike Portions of the Lowrance Deposition Transcript, September 16, 2008; Consent Motion of the United States Postal Service for Extension of Time to Further Supplement Privilege Logs, September 18, 2008; and Consent Motion of Capital One Services, Inc. for Further Extension of Time to File Responses to Postal Service Motions to Strike Portions of the Lowrance Deposition Transcript, September 25, 2008.

indicates that the Postal Service has requested a “two week hiatus while it addresses internal issues.”<sup>2</sup> The Postal Service does not mention such a request.<sup>3</sup>

To better inform the Commission of the progress on discovery and to understand the expectations of both parties on bringing this case to a timely conclusion, the Commission is scheduling a prehearing conference for February 12, 2009 at 10:00 AM in the Commission’s hearing room.

Capital One and the Postal Service shall be prepared to discuss their views on the progress of discovery, what tasks remain, and propose a date for its conclusion. Capital One shall be prepared to discuss its intent for filing a direct case, including generally the amount and type of testimony it expects to present, and propose a date for its filing. The Postal Service shall be prepared to discuss the potential need for discovery, cross-examination, and rebuttal in light of the description offered by Capital One (with the understanding that Capital One’s direct case has yet to be filed).

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A prehearing conference is scheduled for February 12, 2009 at 10:00 AM in the Commission’s hearing room to discuss the topics identified in the body of this Ruling.

Dan G. Blair  
Presiding Officer

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<sup>2</sup> Fifteenth Weekly Status Report of Capital One Services, Inc. on Informal Discussions with the Postal Service Concerning Discovery Issues, January 21, 2009.

<sup>3</sup> Response of the United States Postal Service to P.O. Ruling No. C2008-3/23, Providing Seventeenth Stratus Report Regarding Supplement to Privilege Log, January 23, 2009.