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Client Alert: Fifth Circuit Issues an Expedited Appeal of CTA Nationwide Injunction

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December was an eventful month for the Corporate Transparency Act (CTA). The latest court ruling in the CTA conflict occurred on December 26, 2024, in *Texas Top Cop Shop, Inc., et al. v. Garland, et al.*, when the Fifth Circuit reinstated the nationwide preliminary injunction prohibiting enforcement of the CTA. As a result, no filings under the CTA are currently required, including beneficial ownership information reports for companies formed or registered before 2024 that were originally due by January 13, 2025.

The Fifth Circuit has issued an expedited appeal. The briefing will occur in February, and the court has scheduled an oral argument on March 25, 2025. Among the issues to be determined include the constitutionality of the Act.

Summary of Recent Events in the Case of *Texas Top Cop Shop, Inc., et al. v. Garland, et al.*

- **December 3, 2024:** The U.S. District Court for the Eastern District of Texas entered an order enjoining the Financial Crimes Enforcement Network (FinCEN) from enforcing the Act and granted a nationwide injunction that enjoined enforcement of the CTA reporting rules for all reporting companies.
- **December 23, 2024:** A motion's panel of the Fifth Circuit Court of Appeals granted FinCEN's motion to stay the district court's injunction, lifting the injunction and reinstating the CTA reporting rules.
- **December 26, 2024:** The Fifth Circuit vacated the motion's panel order granting the government's motion to stay the district court's preliminary injunction and enjoined enforcement of the CTA and the reporting rules. Thus, the nationwide injunction remains in effect.
- **December 27, 2024:** FinCEN announced on its website that "In light of a recent federal court order, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force."
- **December 31, 2024:** FinCEN appealed to the Supreme Court of the United States (SCOTUS), asking it to stay the injunction pending resolution of the appeal to the Fifth Circuit, or if FinCEN loses in the Fifth Circuit, pending SCOTUS's decision. FinCEN requested that SCOTUS limit the injunction to apply to only those parties in that case. FinCEN also asked that SCOTUS consider removing the appeal from the

Fifth Circuit and decide the merits itself.

Courts are split on whether the CTA is constitutional with federal judges in Oregon and Virginia holding that it is, while judges in Texas and Alabama held that it is not.

SCOTUS ordered the plaintiffs to respond to FinCEN's application last Friday, January 10, 2025. Once the plaintiffs' response is filed, a SCOTUS decision on FinCEN's application could be issued at any time.

If you have any questions, please reach out to [Christa Sullivan](#) or a member of [Shumaker's Corporate, Tax and Transactions](#) team.