

Practice Update

# Hold the Presses – Whiplash – Fifth Circuit Court of Appeals Reverses and Reinstates Nationwide CTA Preliminary Injunction

December 27, 2024

*This alert is an update to the December 24, 2024, article: [Stay of Preliminary Injunction Reinstates CTA Reporting Requirements](#).*

On December 26, 2024, a separate panel of the Fifth Circuit Court of Appeals (Appeal Panel) vacated its earlier order lifting (Fifth Circuit Motion Panel) the nationwide preliminary injunction enjoining enforcement of the Corporate Transparency Act (CTA) imposed by the United States District Court for the Eastern District of Texas in the case of *Texas Top Cop Shop v. Garland*, USDC case No. 4:24-CV-478 U.S. (District Court Injunction). As a result, the Financial Crimes Enforcement Network of the U.S. Department of Treasury (FinCEN) issued an alert on December 27, 2024 indicating that filing beneficial ownership information (BOI) reports is only voluntary. Reporting companies are not required to file BOI reports with FinCEN and will not be subject to liability for failing to do so while the order remains in force.

The Appeal Panel order emphasized the necessity of preserving the constitutional status quo during the ongoing appeal of the District Court's Injunction. The appeal of the District Court's Injunction remains

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expedited, suggesting that an examination of the CTA's constitutionality will follow shortly.

This decision came just days after the Fifth Circuit Motion Panel had lifted the District Court Injunction on December 23, 2024. As a result of the Fifth Circuit Motion Panel order, FinCEN agreed to permit reporting companies that were created or registered prior to January 1, 2024 to have until January 13, 2025 to file their BOI reports, but that deadline is suspended with the injunction reinstated.

While the contradictory positions of the Fifth Circuit Court of Appeals is frustrating and causes confusion for companies that are trying to comply with the requirements of the CTA, in light of these rapid changes, it is advisable for reporting companies to keep a close eye on the proceedings related to the District Court Injunction and continue assessing their BOI reporting requirements.

For any questions regarding how this vacate affects your specific situation, please feel free to contact your Akerman representative.

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