



5TH CIRCUIT REINSTATES INJUNCTION AGAINST CORPORATE TRANSPARENCY ACT DURING APPEAL; FILING NOW VOLUNTARY

December 27, 2024

On Dec. 26, 2024, a merits panel of the 5th U.S. Circuit Court of Appeals issued an [order](#) vacating the stay issued by the court's motions panel earlier this week, effectively reinstating the district court's injunction against the U.S. Department of Treasury's enforcement of the Corporate Transparency Act (CTA). This means the district court injunction is back in effect; the CTA and its reporting obligations are unenforceable, and any reporting is voluntary pending appeal. This status is expected to remain until at least March 25 when oral arguments are scheduled.

The order is the latest development in ongoing litigation that has left businesses uncertain as the CTA's filing deadline approaches. On Dec. 3, the U.S. District Court for the Eastern District of Texas issued a preliminary injunction barring Treasury from enforcing the CTA nationwide. The government quickly appealed to the 5th Circuit.

On Dec. 23, a motions panel of the 5th Circuit stayed the injunction, effectively restoring the CTA's reporting obligations and allowing Treasury to enforce the act during the appeal. The panel also ordered the appeal to be expedited to the next available merits panel.

The next day, CTA challengers filed a petition for an en banc hearing before all 17 judges on the 5th Circuit. The court requested the government's response to the petition, indicating some interest in considering the motion.

Two days after the en banc petition and three days after the stay order (including Christmas), the merits panel vacated the motions panel's stay. The panel explained it was maintaining the "constitutional status quo while the merits panel considers the parties' weighty substantive arguments." The reversal likely stems from different judges comprising the merits panel, though the potential en banc hearing may have influenced the decision.



The government must file its brief by Feb. 7, with challengers responding by Feb. 21. Oral arguments are set for March 25 in New Orleans. The panel members hearing the appeal will be announced about a week before, likely March 17.

For questions about reporting deadlines or litigation status, contact our Corporate and Securities practice group attorneys or John Guild, a partner in Appeals and White Collar Criminal and Regulatory Defense.

The case is *Texas Top Cop Shop, Inc. v. Garland*, No. 24-40792 (5th Cir. 2024).

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