

Clients & Friends Memo

Corporate Transparency Act Remains on Hold Despite SCOTUS Stay of Injunction

January 25, 2025

On January 23, 2024, the Supreme Court overturned a nationwide injunction enjoining enforcement of the Corporate Transparency Act (“CTA”). However, the implementing regulations of the CTA remain unenforceable due to a district court order still in effect in a separate case.

On December 3, 2024, a judge of the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction in *Texas Top Cop Shop, Inc., et al. v. Garland*, enjoining the federal government from enforcing the CTA, its implementing regulations, and its reporting deadlines after finding that Congress likely exceeded its authority in enacting the law.¹

On December 23, 2024, a three-judge motions panel of the Fifth Circuit stayed the injunction.² On December 26, 2024, a Fifth Circuit merits panel vacated the portion of the motions panel’s order that stayed the injunction, causing the injunction to go back into effect.³ On December 31, 2024, the government applied to Justice Samuel Alito for a stay of the injunction.⁴ Justice Alito referred the application to the full Supreme Court, which granted the stay on January 23, 2025.⁵

However, a federal district court order blocking enforcement of the CTA’s implementing regulations in a different case is still in effect. On January 7, 2025, in *Smith v. U.S. Department of the Treasury*, a different judge of the U.S. District Court for the Eastern District of Texas found the CTA is likely unconstitutional and stayed the effective date of the CTA’s implementing regulations, including the

¹ *Texas Top Cop Shop, Inc. v. Garland*, No. 4:24-CV-478, 2024 WL 4953814 (E.D. Tex. Dec. 3, 2024).

² Unpublished Order, *Texas Top Cop Shop, Inc. v. Garland*, No. 24-40792 (5th Cir. Dec. 23, 2024), ECF No. 140-2.

³ Order, *Texas Top Cop Shop, Inc. v. Garland*, No. 24-40792 (5th Cir. Dec. 26, 2024), ECF No. 160-2.

⁴ Application for a Stay of the Injunction Issued by the United States District Court for the Eastern District of Texas, *Garland v. Texas Top Cop Shop, Inc.*, No. 24A653 (Dec. 31, 2024).

⁵ On Application for Stay, *Garland v. Texas Top Cop Shop, Inc.*, No. 24A653 (Jan. 23, 2025).

requirement to file beneficial ownership reports.⁶ That stay remains in place, and the government has not yet appealed.

A FinCEN alert published after the Supreme Court's January 23, 2025 order states that "[a]s a separate nationwide order issued by a different federal judge in Texas (*Smith v. U.S. Department of the Treasury*) still remains in place, reporting companies are not currently required to file beneficial ownership information."⁷ FinCEN also stated that reporting companies may continue to voluntarily submit their reports.⁸

The constitutionality of the CTA has been challenged in several other courts. The issue is on appeal in the Eleventh Circuit, where a U.S. district court in Alabama found the CTA unconstitutional.⁹ However, in Michigan, Oregon, and Virginia, U.S. district courts have denied preliminary injunctions with respect to the CTA.¹⁰

The government's appeal in the Fifth Circuit remains on an expedited track, with oral argument scheduled for March 25, 2025.¹¹

We will continue to monitor developments related to the enforceability of the CTA.

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⁶ Memorandum Opinion and Order Granting Motion for Preliminary Relief, *Smith v. U.S. Dep't of the Treasury*, No. 6:24-cv-336-JDK (E.D. Tex. Jan. 7, 2025), ECF No. 30.

⁷ *Beneficial Ownership Information*, FinCEN, available at <https://fincen.gov/boi> (last accessed Jan. 24, 2025).

⁸ *Id.*

⁹ Notice of Appeal, *Nat'l Small Bus. United v. Yellen*, No. 5:22-CV-1448-LCB (N.D. Ala. Mar. 11, 2024), ECF No. 54.

¹⁰ Case Management Order, *Small Bus. Ass'n. of Mich. v. Yellen*, No. 1:24-cv-314 (W.D. Mich. Apr. 26, 2024), ECF No. 24; Notice of Appeal, *Firestone v. Yellen*, No. 3:24-CV-1034-SI (D. Or. Nov. 18, 2024), ECF No. 19; Notice of Appeal, *Cmty. Associations Inst. v. Yellen*, No. 1:24-CV-1597 (MSN/LRV) (E.D. Va. Nov. 4, 2024), ECF No. 41.

¹¹ Clerk's Memorandum, *Texas Top Cop Shop, Inc. v. Garland*, No. 24-40792 (5th Cir. Dec. 26, 2024), ECF No. 165-2.