

## Texas Top Cop Shop v. Garland Litigation

On Tuesday, December 3, 2024, in the case of Texas Top Cop Shop, Inc., et al. v. Garland, et al., No. 4:24-cv-00478 (E.D. Tex.), a federal district court in the Eastern District of Texas, Sherman Division, issued an order granting a nationwide preliminary injunction that: (1) enjoins the CTA, including enforcement of that statute and regulations implementing its beneficial ownership information reporting requirements, and (2) stays all deadlines to comply with the CTA's reporting requirements.

The Department of Justice, on behalf of the Department of the Treasury, filed a Notice of Appeal on December 5, 2024.

Texas Top Cop Shop is only one of several cases in which plaintiffs have challenged the CTA that are pending before courts around the country. Several district courts have denied requests to enjoin the CTA, ruling in favor of the Department of the Treasury. The Department of the Treasury and the U.S. Department of Justice continue to believe—consistent with the conclusions of the U.S. District Courts for the Eastern District of Virginia and the District of Oregon—that the CTA is constitutional.

While this litigation is ongoing, FinCEN will comply with the order issued by the U.S. District Court for the Eastern District of Texas for as long as it remains in effect. Therefore, reporting companies are not currently required to file their beneficial ownership information with FinCEN and will not be subject to liability if they fail to do so while the preliminary injunction remains in effect. The CTA filing deadline of January 1, 2025 is not in effect while this nationwide preliminary injunction remains in effect.

Nevertheless, reporting companies may continue to voluntarily submit beneficial ownership information reports.

On Friday, December 13, 2024, the Treasury filed an emergency motion for a stay of the preliminary injunction before the Fifth Circuit Court of Appeals. In response, the Fifth Circuit ordered the parties to file responsive briefs on Tuesday, December 17 and Thursday, December 19.

If the Fifth Circuit grants the motion, the preliminary injunction would be stayed pending appeal and the January 1, 2025 filing deadline would come back into force. Consequently, many law firms have issued memoranda to advise reporting companies to continue to prepare to file their BOI reports, in case the Fifth Circuit orders the January 1 deadline back into force.

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