

# FinCEN Seeks SCOTUS Ruling on Corporate Transparency Act Injunction

Article By:

Kiernan L. Ignacio

Kathleen M. Porter

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As reported in our prior alerts, the case of *Texas Top Cop Shop, Inc., et al. v. Garland, et al.*, has taken business owners on a roller coaster ride over the past month.

- December 3, 2024: The U.S. District Court for the Eastern District of Texas ruled in favor of the plaintiffs and granted a nationwide injunction that halted enforcement of the Corporate Transparency Act (CTA) reporting rules for all reporting companies.
- December 23, 2024: A motions panel of the Fifth Circuit Court of Appeals granted a motion of the Financial Crimes Enforcement Network (FinCEN) to lift that injunction and reinstate the CTA reporting rules with modified deadlines.
- December 26, 2024: A separate panel of the Fifth Circuit Court of Appeals (the panel slated to hear the appeal on its merits in March 2025) reversed the December 23rd ruling and once again halted immediate enforcement of the CTA reporting rules for all reporting companies.
- December 31, 2024: FinCEN sought relief from the Supreme Court of the United States (SCOTUS), seeking again to have the injunction lifted or, alternatively, have it narrowed to only apply to the plaintiffs in the *Texas Top Cop Shop* case. FinCEN also asked that SCOTUS consider taking the appeal away from the Fifth Circuit and decide the merits itself.

Even if SCOTUS does not decide the merits at this time, it may ultimately determine the constitutionality of the CTA. This is because, at present, there are three other pending federal cases challenging the constitutionality of the CTA. District courts in Oregon and Virginia have denied preliminary injunction motions raising constitutional claims similar to those raised in the *Texas Top Shop* case. See *Firestone, et al. v. Janet Yellen, et al.*, and *Cnty. Associations Inst. v. Yellen*. A district court in Alabama has held that the CTA violates the Constitution but issued an injunction only covering the plaintiffs in that case. See *Small Business United v. Yellen*. These three district court decisions are now on appeal to the Ninth, Fourth, and Eleventh Circuit Court of Appeals.

SCOTUS has ordered the plaintiffs to respond to FinCEN's application no later than 4:00 p.m. EST on Friday, January 10, 2025. Once the plaintiffs' response is filed, a SCOTUS decision on FinCEN's application could be issued at any time.

FinCEN has confirmed that reporting companies are not required to file beneficial ownership reports for as long as the injunction of the CTA in the Texas Top Cop Shop case remains in effect.

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