

The Judicial Conference Of The United States Is Stepping In To Stop “Judge-Shopping,” But Right-Wing Special Interests Notched Dozens Of Wins—Several With National Implications—Before These Reforms Came

SUMMARY: In March 2024, the Judicial Conference of the United States, the policymaking body of the federal judiciary, [announced reforms](#) to the assignment of certain cases. No longer will civil cases seeking state or national injunctions be automatically heard in the federal court in which they are filed. Instead, they will be randomly assigned across the district.

The change is meant to prevent “judge shopping,” the practice of strategically placing cases in single-judge districts of the federal court system so that a specific, ideologically aligned judge will hear one’s case.

Judge shopping has been particularly [pernicious in North Texas](#), where right-wing special interests have sought out conservative judges appointed by former President Trump.

Although the reforms likely help to curtail the practice, **a review by Accountable.US found that since the beginning of the Biden administration, right-wing special interests and GOP-led states have shopped their fringe legal theories in the Northern District of Texas more than two dozen times.** Some of these cases—including the [ongoing lawsuit](#) challenging the FDA’s decades-old approval of the abortion pill mifepristone—have had national implications.

Additional cases include, among others:

- The state of Texas chose, among 21 federal court divisions in Texas, to **sue President Biden in Fort Worth in an attempt to keep the COVID-era enforcement of Title 42 in place.**
- An **anonymous plaintiff sued Planned Parenthood on behalf of Texas and Louisiana in Amarillo** in an attempt to bankrupt the healthcare provider.
- **Missouri joined Texas in suing the Biden administration over its decision to end President Trump’s controversial “Remain in Mexico” policy for asylum-seekers.** They chose the Amarillo division of the Northern District of Texas as the initial venue for their case.
- **Stephen Miller’s Washington D.C.-based America First Legal Foundation backed two Amarillo-based physicians** who sued the Biden administration in order to win the right to discriminate against LGBTQ patients.

- A right-wing nonprofit law firm based in Wisconsin found a plaintiff in Amarillo to sue the Biden administration over its decision to regulate firearms equipped with stabilizing braces.
- A Colorado-based right-wing legal foundation partnered with two plaintiffs in the Fort Worth area to **sue the Justice Department and the Bureau of Alcohol, Tobacco, Firearms and Explosives over its regulation of “ghost guns.”**
- **Utah, backed by Texas and 23 other states as well as Big Oil, sued the Biden administration over a rule promoting environmental, social, and governance (ESG) investing.** Utah chose Amarillo, Texas, as the venue for its case.
- A group of influential anti-vaxxers incorporated a nonprofit in Amarillo, Texas, and then sued the Centers for Disease Control and Prevention in order to gain access to the agency’s Covid-19 vaccine safety monitoring database.

In March 2024, The Judicial Conference Of The United States Changed Rules Around Case Assignment So That Civil Cases Seeking A National Injunction Could Not Be “Judge-Shopped” In Single-Judge Divisions Of The Federal Judiciary, Particularly In North Texas.

March 2024: The Judicial Conference Of The United States Reformed Judge Assignment Procedures So That Civil Cases With Statewide Or National Implications Are Allocated At Random

The Judicial Conference Of The United States Is The Policymaking Body For Federal Courts. “The Judicial Conference of the United States, the policymaking body for the federal courts, said district courts may continue to assign cases to a single-judge division if those cases don’t seek to bar or mandate state or federal actions through declaratory judgment or injunctive relief.” [The Washington Post, [3/12/24](#)]

March 2024: The Judicial Conference Of The United States Announced Policy Changes To How Potentially High-Impact Civil Cases Are Assigned To Judges. “Federal judiciary leaders on Tuesday announced a policy that requires assigning judges at random in civil cases that have statewide or national implications, an effort to address widespread concerns about ‘judge shopping’ in single-judge divisions.” [The Washington Post, [3/12/24](#)]

- **The New Policy Prevents Civil Cases With Statewide Or National Implications From Being Placed Before Judges In Single-Judge Districts And Requires That They Are Instead Assigned At Random.** “Federal judiciary leaders on Tuesday announced a policy that requires assigning judges at random in civil cases that have statewide or national implications, an effort to address widespread concerns about ‘judge shopping’ in single-judge divisions. The Judicial Conference of the United States, the

policymaking body for the federal courts, said district courts may continue to assign cases to a single-judge division if those cases don't seek to bar or mandate state or federal actions through declaratory judgment or injunctive relief. When random assignments are required, the case will be assigned to a judge within the same judicial district." [The Washington Post, [3/12/24](#)]

The Policy Changes Are Meant To Curtail "Judge Shopping," A Practice That Has Enabled Conservatives To Win Lawsuits By Placing Them Before Ideologically Aligned Judges, Often In North Texas

"Judge Shopping" Is A Legal Tactic In Which Plaintiffs File A Lawsuit In A Manner Or Location Likely To Place Their Case Before A Judge Favorable To Them. "Federal courts moved Tuesday to make it harder to file lawsuits in front of judges seen as friendly to a point of view, a practice known as judge shopping that gained national attention in a major abortion medication case." [Associated Press, [3/12/24](#)]

- **Prior Status Quo, Which Permitted The Practice, Allowed Attorneys To Essentially Choose Which Judge Heard Their Case If They Opted To File In A Single-Judge District.** "In divisions with only one judge, often in rural areas, that means private or state attorneys can essentially pick which judge will hear it." [Associated Press, [3/12/24](#)]

By Resorting To Judge Shopping, Conservatives Have Won A Series Of Highly Controversial Legal Rulings In Recent Years, Impacting Policies On Abortion, Immigration, And Gun Control. "A litigation tactic that has helped fuel a series of conservative victories in cases ranging from abortion to immigration to gun rights suffered a setback Tuesday after the federal judiciary's policymaking body said it will require federal courts to take steps to combat so-called judge-shopping." [Politico, [3/12/24](#)]

Judge Shopping Has Been Particularly Egregious In Texas, Where In Recent Years, Conservatives Have Filed Dozens Of Cases In Divisions With Few Or Single Judges. "The issue has drawn particular attention in Texas, where the state's attorney general's office and conservative activists have filed dozens of cases challenging Biden administration policies in divisions with few — or even just one — judge." [Politico, [3/12/24](#)]

Judge Shopping Gained National Attention After Texas Judge And Former Anti-Abortion Activist Mathew J. Kacsmaryk Ruled To Suspend The Food And Drug Administration's Approval Of Mifepristone, A Widely Used Abortion Medication. "The issue has drawn particular attention in Texas, where the state's attorney general's office and conservative activists have filed dozens of cases challenging Biden administration policies in divisions with few — or even just one — judge. One particular favorite of conservatives has been Judge Matthew Kacsmaryk, who sits in Amarillo, is the only judge in that division and was appointed by President Donald Trump. Last April, Kacsmaryk — a former litigator for abortion-rights opponents — suspended the Food and Drug Administration's approval of mifepristone, which is used for medication abortions." [Politico, [3/12/24](#)]

- **Judge Kacsmaryk Was Appointed By Donald Trump.** "That case was filed in Amarillo, Texas, where it was all but certain to go before U.S. District Judge Matthew Kacsmaryk, an appointee of former President Donald Trump who is a former attorney for

a religious liberty legal group with a long history pushing conservative causes.” [Politico, [3/12/24](#)]

- **Kacsmark Is The Only Judge In The Northern District Court Of Texas, Amarillo Division, And A “Favorite Of Conservatives” Seeking To Judge Shop.** “One particular favorite of conservatives has been Judge Matthew Kacsmark, who sits in Amarillo, is the only judge in that division and was appointed by President Donald Trump.” [Politico, [3/12/24](#)]

Texas District Court Judge Reed O’Connor, Another Sought-After Target For Conservative Judge Shopping, Has Heard Almost Half Of Texas’ Suits Against The Federal Government. “They effectively chose their own judge. That is because there is only one active judge in the Fort Worth Division of the Federal District Court for the Northern District of Texas. He is Judge Reed O’Connor, and he has quite a track record... Since 2015, The Texas Tribune found, Judge O’Connor has heard almost half of the state’s suits against the federal government filed in federal court in Texas.” [The New York Times, [12/24/18](#)]

- **Judge O’Connor Is One Of Only Two Active Judges In The Fort Worth Division Of Texas’ Northern District.** “The Fort Worth division of Texas’ Northern District is also a go-to forum for lawsuits against the Biden administration, as 90% of the cases filed there are assigned to either Judge Mark Pittman, a Trump appointee, or Judge Reed O’Connor, a George W. Bush appointee with a very conservative reputation.” [CNN, [3/3/22](#)]
- **Judge O’Connor Was Appointed By President George W. Bush.** “O’Connor, 53, was nominated to the bench by then-President George W. Bush in 2007 after serving nine years as a federal prosecutor in the Northern District of Texas.” [Dallas Morning News, [12/18/18](#)]

Judge Mark Pittman, The Other Judge In Texas’ Fort Worth Division, Is A Trump Appointee With High Involvement In Judge Shopped Cases. “The Fort Worth division of Texas’ Northern District is also a go-to forum for lawsuits against the Biden administration, as 90% of the cases filed there are assigned to either Judge Mark Pittman, a Trump appointee, or Judge Reed O’Connor, a George W. Bush appointee with a very conservative reputation.” [CNN, [3/3/22](#)]

Prior To The Implementation Of Random Case Assignment, Extremist Right-Wing Groups “Shopped” Their Fringe Legal Theories On Abortion, The Second Amendment, And Other Issues Across The Northern District Of Texas.

An Anonymous Plaintiff Sued Planned Parenthood On Behalf Of Texas And Louisiana In Amarillo In An Attempt To Bankrupt The Women's Health Organization.

An Anonymous Plaintiff Sued Planned Parenthood On Behalf Of Texas And Louisiana, Alleging That The Medical Provider Was Improperly Reimbursed For Services By The Texas And Louisiana Medicaid Programs...

February 2021: An Anonymous Male Plaintiff Brought A Civil Fraud Action On Behalf Of The United States, Texas, And Louisiana, Claiming That Planned Parenthood Had Illegally Filed Claims With The Federal Medicaid Program. "On February 5, 2021 an anonymous Plaintiff, "Relator Alex Doe," brought this civil fraud action on behalf of the United States, Texas, and Louisiana against Defendants Planned Parenthood Federation of America, Inc., and other Planned Parenthood affiliates. Plaintiff sought to recover damages and civil penalties they alleged were owed to the United States, Texas, and Louisiana as a result of Planned Parenthood having presented "false or fraudulent claims for payment of approval under the Medicaid program, and having concealed or improperly avoided an obligation to repay money wrongfully obtained under the Medicaid program." [Civil Rights Litigation Clearinghouse, accessed [3/13/24](#)]

- **The Case Was Filed In The Northern District Of Texas Amarillo Division And Was Therefore Assigned To Judge Matthew Kacsmaryk.** "The case was filed in the Northern District of Texas Amarillo Division and was assigned to Judge Matthew J. Kacsmaryk." [Civil Rights Litigation Clearinghouse, accessed [3/13/24](#)]

November 2021: Texas Notified The Court That It Would Intervene In The Case. "On November 1, 2021, Texas notified the Court of its decision to intervene in the suit. Texas filed a complaint in intervention on January 6, 2022." [Civil Rights Litigation Clearinghouse, accessed [3/13/24](#)]

...But Two Separate Federal Courts Had Already Authorized Planned Parenthood To Continue Collecting Reimbursements At Least Through March 2021

October 2015: Louisiana Terminated Planned Parenthood From Its Medicaid Program. "Planned Parenthood's termination from the Louisiana Medicaid program became final under state law on or about October 15, 2015." [United States ex rel. v. Planned Parenthood Federation of America, Inc., et al, [2/5/21](#)]

January 2017: Texas Terminated Planned Parenthood From Its Medicaid Program. "Planned Parenthood's termination from the Texas Medicaid program became final under state law on January 19, 2017." [United States ex rel. v. Planned Parenthood Federation of America, Inc., et al, [2/5/21](#)]

Planned Parenthood Fought The Terminations In State And Federal Court And Was Able To Continue Collecting Reimbursements Through March 2021. "In response, Planned Parenthood sued both states and won. Two federal court orders explicitly allow the nonprofit to

continue receiving Medicaid reimbursements for medical services provided to patients in Louisiana and Texas...Nevertheless, in December 2020, the extremely conservative Fifth Circuit reversed the lower court decisions in Planned Parenthood's lawsuits against Texas and Louisiana. Planned Parenthood then sued in state court, obtaining an injunction to continue to receive Medicaid reimbursements, which they did until March 2021, when the case was dismissed." [Ms. Magazine, [8/3/23](#)]

The Plaintiff In The Amarillo Case Claimed That The Fifth Circuit's Reversal Of The Original Preliminary Injunction (In Favor Of Planned Parenthood) Meant That The Health Organization Illegally Collected Reimbursements From The Time It Was Kicked Off The State Medicaid Program.

10. On November 23, 2020, the *en banc* Fifth Circuit vacated the preliminary injunction in the Texas case, and reversed the Louisiana case. Seven judges in the majority wrote separately, affirming Texas' determination that Planned Parenthood was not a qualified provider based on the information that Relator had provided to the state and federal governments.

11. Planned Parenthood therefore became aware no later than November 23, 2020 that it had knowingly presented or caused to be presented millions of dollars of false or fraudulent claims for payment or approval under the Medicaid program. From at least January 2010 through 2015, Planned Parenthood violated the FCA, TMFPA, and LMAPIL by submitting claims and receiving payments from the United States and the Plaintiff States for Medicaid services while failing to comply with

[United States ex rel. v. Planned Parenthood Federation of America, Inc., et al, [2/5/21](#)]

The Plaintiffs Are Seeking An Estimated \$1.8 Billion From Planned Parenthood—An Amount That Could Bankrupt The Organization

The Plaintiffs In The Case Are Seeking \$1.8 Billion In Reimbursement, Penalties, And Fees. "Texas is seeking more than \$1.8 billion in reimbursement, penalties and fees." [Texas Tribune, [8/15/23](#)]

If The Plaintiffs Win, They Could Bankrupt Planned Parenthood's Texas Affiliates And Possibly The Entire Organization. "When you add up the money the reproductive health provider allegedly owes, plus the various fines and penalties they could be hit with, Planned Parenthood estimates that they could be ordered to pay as much as \$1.8 billion, more than enough to bankrupt Planned Parenthood Federation of America — the national organization that unites Planned Parenthood's local affiliates — and wipe out its affiliates in Texas and Louisiana." [Vox, [5/24/23](#)]

August 2023: Judge Kacsmaryk Heard Oral Arguments In The Case After Refusing To Dismiss The Case

Planned Parenthood Asked Judge Kacsmaryk To Dismiss The Case On Its Merits, But He Did Not. “Planned Parenthood has called this lawsuit meritless and asked Kacsmaryk to dismiss it entirely. But Texas and the anonymous plaintiff recently filed a brief claiming a June Supreme Court decision about the False Claims Act clarified the law in their favor.” [Texas Tribune, [8/15/23](#)]

August 15, 2023: Judge Kacsmaryk Heard Oral Arguments In The Case. “Kacsmaryk is scheduled to hear arguments from both sides today. He has not said when he will rule.” [Texas Tribune, [8/15/23](#)]

A Trial Will Begin In Mid-April 2024

A Trial Date Is Set For April 16, 2024. “The court issued a scheduling order on October 23, 2023, which set a trial date for April 16, 2024.” [Civil Rights Litigation Clearinghouse, accessed [3/13/24](#)]

A Coalition Of Republican-Led States Looking To Stop President Biden From Ending President Trump’s “Remain In Mexico” Policy Filed Their Case In Amarillo, Texas.

February 2021: The Biden Administration Ended The Trump-Era “Remain In Mexico” Policy...

February 2021: The Biden Administration Canceled Oral Arguments In A Supreme Court Case Challenging Donald Trump’s “Remain In Mexico” Policy. “In another switch, the Department Homeland Security suspended the Trump administration's policy of sending people seeking asylum, from Honduras, El Salvador, and Guatemala, back across the border to Mexico, instead of allowing them to wait in the U.S. for their cases to be heard. From late January 2019 until the program was halted because of the Covid-19 pandemic, more than 68,700 people were shuttled back to Mexico under what the government called the Migrant Protection Program. Acting Solicitor General Elizabeth Prelogar asked the court to take both cases off the calendar and put further proceedings on hold. The border wall case was to be argued Feb. 22 with the "remain in Mexico" case to be heard a week later, on March 1. Both will probably be dismissed as moot, since the Biden Justice Department is unlikely to defend either facet of the Trump immigration policy.” [NBC News, [2/2/21](#)]

- **The “Migrant Protection Protocols”—More Commonly Called The “Remain In Mexico”—Was A Trump-Era Policy That Required Immigration Authorities To Send Single Asylum-Seekers From Central America Back To Mexico While Their Immigration Petition Was Pending.** “The Trump administration began implementing a new hard-line immigration policy by sending a single asylum-seeker from Central America back to Tijuana, Mexico, to await his assigned court date later this year in San Diego...Officially dubbed "Migrant Protection Protocols," the policy was announced by Homeland Security Secretary Kirstjen Nielsen last December. Administration officials initially called it a "Remain in Mexico" policy to deter the waves of asylum-seeking

families fleeing mainly the Northern Triangle nations of Guatemala, El Salvador and Honduras.”

Texas And Missouri Sued The Biden Administration Over Ending “Remain In Mexico” In Amarillo

April 13, 2021: Texas And Missouri Sued The Biden Administration For Ending The “Remain In Mexico” Policy.

UNITED STATES DISTRICT COURT	
NORTHERN DISTRICT OF TEXAS	
AMARILLO DIVISION	
THE STATE OF TEXAS and)
)
THE STATE OF MISSOURI,)
)
<i>Plaintiffs,</i>)
)
v.)
)
JOSEPH R. BIDEN, JR.,)
in his official capacity as)
President of the United States of)
America;)
)
The UNITED STATES OF AMERICA;)
)

Case No. _____

[The State of Texas et al. v. Joseph R. Biden, Jr., et al., [4/13/21](#)]

June 2021: The Biden Administration Formally Ended The “Remain In Mexico” Policy In A Memo. “A couple months later, Homeland Security Secretary Alejandro Mayorkas formally ended the policy in a June memo, and the administration later worked to admit those migrants who had been subject to it.” [CNN, [8/14/21](#)]

Judge Kacsmaryk Sided With Texas And Missouri, But The Supreme Court Ultimately Reversed His Decision And Returned The Case Back To Kacsmaryk

August 2021: Judge Kacsmaryk Sided With Texas And Missouri, Arguing That The Policy Change Violated The Administrative Procedure Act. “But late Friday, Judge Matthew Kacsmaryk, a Trump appointee, blocked the administration from implementing that memo, though he stayed his order for seven days “to allow the federal government time to seek emergency relief at the appellate level.” Kacsmaryk said that the Biden administration’s termination of the policy violated the Administrative Procedure Act, a law that dictates what procedures agencies must go through to implement certain policies. Specifically, the judge said that Mayorkas “failed to consider several of the main benefits of” the policy known as the Migrant Protection Protocols in his June memo, nor did he discuss the rise in border crossings.” [CNN, [8/14/21](#)]

June 2022: The Supreme Court Ultimately Ruled That The Biden Administration Had The Power To End The Policy. “The Supreme Court on Thursday cleared the way for the Biden

administration to end the so-called "Remain in Mexico" policy, a program first implemented under President Donald Trump that required asylum-seekers to await their court hearings outside the U.S. In a 5-4 opinion written by Chief Justice John Roberts, the high court rejected arguments by Republican-led states seeking to force officials to keep the policy, ruling the decision to end it did not violate a 1996 migrant detention law and that a second memo terminating the program should have been considered by lower courts." [CBS News, [6/30/22](#)]

Judge Kacsmaryk Heard The Case A Second Time And Again Ruled That The Biden Administration Should Keep The Policy In Place While Legal Challenges Played Out

December 2022: Judge Kacsmaryk Issued A Preliminary Injunction Against The Biden Administration, Again Finding That The Current Administration Likely Violated The Administrative Procedure Act By Ending The "Remain In Mexico" Policy. "But the Supreme Court also returned the case to lower courts for additional proceedings, tasking U.S. District Judge Matthew Kacsmaryk with determining whether the administration's action was "arbitrary and capricious" in violation of the Administrative Procedure Act, which governs how federal agencies develop and issue regulations. Kacsmaryk ruled that the plaintiff in this case, Texas, met all requirements for a preliminary injunction to be issued: a likelihood to succeed on the merits of its argument, a likelihood of irreparable harm, the balance of equities tipping in its favor and the public interest being in favor. Kacsmaryk, who was appointed by former President Trump, found that the memo that the Biden administration issued in October 2021 failed to adequately include several considerations, including "key benefits" of the policy like the reduction of asylum claims without merit. He said in his ruling that the government also did not consider states' costs and reliance interests in federal immigration policy." [The Hill, [12/15/22](#)]

Mexico Ultimately Rejected Any Reinstatement Of The "Remain In Mexico" Policy

February 2023: As Legal Wrangling Over The "Remain In Mexico" Policy Continued, Mexico Announced That It Would Not Accept A Reinstatement Of The Policy, Effectively Ending It. "Mexico's Ministry of Foreign Affairs said Monday it rejects any effort to reimplement the controversial Trump-era policy known as "remain in Mexico" for asylum-seekers... 'Regarding the possible implementation of this policy for the third time, the Ministry of Foreign Affairs, on behalf of the Government of Mexico, expresses its rejection of the U.S. government's intention to return individuals processed under the program to Mexico,' the statement said." [ABC News, [2/7/23](#)]

The Biden Administration Appealed Kacsmaryk's Temporary Injunction Against The Removal Of The Policy, But Withdrew The Appeal Before It Was Heard By The Fifth Circuit

February 2023: The Biden Administration Appealed Kacsmaryk's Decision To Temporarily Halt The Termination Of The "Remain In Mexico" Policy While Legal Challenges Played Out. "On December 15, 2022, Judge Kacsmaryk issued an opinion granting Texas' motion to 'stay' the termination of RMX, holding again that the federal government did not go through the required procedures. The Biden Administration appealed that decision to the Fifth Circuit two

months later, but then voluntarily dismissed the appeal (before it was briefed) in May 2023.” [Justice Action Center, accessed [3/13/24](#)]

May 2023: The Biden Administration Voluntarily Dismissed The Appeal. “In mid-May 2023, the Biden Administration voluntarily dismissed this appeal (before any briefing was filed), choosing instead to return to the district court and proceed to final judgment there.” [Justice Action Center, accessed [3/13/24](#)]

The Case Returned To Judge Kacsmaryk’s Court, Where It Remains Undecided Pending A Final Judgment On The Merits

May 2023: The Biden Administration Dismissed Its Appeal, Returning The Case To The District Court For Final Judgment. “In mid-May 2023, the Biden Administration voluntarily dismissed this appeal (before any briefing was filed), choosing instead to return to the district court and proceed to final judgment there.” [Justice Action Center, accessed [3/13/24](#)]

October 2023: The Last Brief Was Filed In The Case, Which Now Awaits Final Judgment. “On July 17, 2023, Judge Kacsmaryk granted the parties’ motion to set a schedule to further brief any remaining issues in the case. Under that schedule, the parties each filed two briefs, the last in early October 2023. The parties are now just waiting for Judge Kacsmaryk to decide any issues remaining to enter final judgment (which could then be appealed again to the Fifth Circuit).” [Justice Action Center, accessed [3/13/24](#)]

The State Of Texas Chose (Among 28 Divisions In Texas) To Sue President Biden In The Fort Worth Division In An Attempt To Keep The COVID-Era Enforcement Of Title 42 In Place

Title 42 Of The United States Code Permits The President To Stop Immigration Into The United States During A Public Health Emergency

Passed In 1944, Title 42 Permits The Surgeon General, With The President’s Approval, To Prohibit Individuals From Certain Countries In The Interest Of Public Health. “Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose. (July 1, 1944, ch. 373, title III, § 362, 58 Stat. 704.)” [U.S. Code, [7/1/44](#)]

At The Start Of The COVID-19 Pandemic, President Trump Invoked Powers Under Title 42 To Expel Unauthorized Border Crossers And Asylum Seekers Along The U.S.-Mexico Border

March 2020: The Trump Administration Invoked Title 42 At The Start Of The COVID-19 Pandemic.

I. Purpose and Application

I issue this order pursuant to Sections 362 and 365 of the Public Health Service (PHS) Act, 42 U.S.C. §§ 265, 268, and their implementing regulations, which authorize the Director of the Centers for Disease Control and Prevention (CDC) to suspend the introduction of persons into the United States when the Director determines that the existence of a communicable disease in a foreign country or place creates a serious danger of the introduction of such disease into the United States and the danger is so increased by the introduction of persons from the foreign country or place that a temporary suspension of such introduction is necessary to protect the public health.

[Centers for Disease Control and Prevention, [3/20/20](#)]

In Practice, The Order Was Used To Expel Asylum Seekers And Migrants Coming To Ports Of Entry Along The U.S.-Mexico Border. “The use of Trump’s Title 42 policy made it impossible for most migrants and asylum seekers to enter or seek protection in the US, as thousands were quickly expelled to Mexico or to their home countries.” [Al Jazeera, [4/7/21](#)]

- **In FY2020, Title 42 Expulsions Along The Southern Border Numbered Close To 200,000.**

U.S. Border Patrol Monthly Enforcement Encounters 2020: Title 42 Expulsions and Title 8 Apprehensions

U.S. Border Patrol (USBP)	Enforcement Actions	MAR	APR	MAY	JUN	JUL	AUG	SEPT	FY20 TOTAL
Southwest Border	Title 42 Expulsions ²	7,081	15,003	20,044	28,470	35,376	42,742	48,327	197,043
	Title 8 Apprehensions ¹	23,308	1,179	1,549	2,366	3,160	4,541	6,444	203,608
	Total	30,389	16,182	21,593	30,836	38,536	47,283	54,771	400,651

[U.S. Customs and Border Protection, accessed [6/26/23](#)]

The Trump Administration Used The Order To Expel Unaccompanied Minors Who Arrived At The Southern Border. “DHS’s use of hotels to house minors pending their expulsion pursuant to the Title 42 process comports with CDC’s general guidance to detention facilities, which state that the ideal quarantine conditions are individual rooms with solid walls and a closed door,’ the government said in a Tuesday court filing, citing Title 42, the United States Code dealing with public health, social welfare and civil rights which CBP says grants them the authority to quickly send migrants back across the border without a hearing in immigration court.” [ABC News, [8/6/20](#)]

November 2023: A Federal District Court In Washington D.C. Issued An Order Blocking The Trump Administration From Applying Title 42 To Unaccompanied Children. “A district

court today issued an order blocking application of the Trump administration's "Title 42" order to all unaccompanied children, nationwide, in a class-action lawsuit brought by the American Civil Liberties Union, Texas Civil Rights Project, Center for Gender & Refugee Studies, and Oxfam. The challenged order restricts immigration at the border based on an unprecedented and unlawful invocation of the Public Health Service Act, located in Title 42 of the U.S. Code... The lawsuit, P.J.E.S. v. Wolf, was filed in district court in Washington, D.C. The ACLU of Texas and ACLU of D.C. are co-counsel." [ACLU, [11/18/20](#)]

Although It Initially Continued Title 42, The Biden Administration Relaxed Its Enforcement In The Case Of Unaccompanied Children

Upon Entering Office, The Biden Administration Kept Title 42 In Place But Relaxed The Expulsion Of Unaccompanied Minors. "January 2021: Biden takes office, but faces criticism for not immediately moving to end Title 42. The administration does, however, end the practice of expelling unaccompanied minors under the rule, per the November 2020 federal court ruling." [Al Jazeera, [4/7/21](#)]

Texas Subsequently Filed Suit In Fort Worth Federal Court—One Of 28 Federal Court Divisions In Texas—To Compel The Biden Administration To Expel Unaccompanied Children

March 22, 2021: Texas Sued The Biden Administration In Federal Court.

Case 4:21-cv-00579-P Document 1 Filed 04/22/21 Page 1 of 34 PageID 1	
IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, FORT WORTH DIVISION	
STATE OF TEXAS, Plaintiff, v. JOSEPH R. BIDEN, JR., in his official capacity as President of the United States; UNITED STATES OF AMERICA; U.S. DEPT OF HEALTH & HUMAN SERVICES; CENTERS FOR DISEASE CONTROL & PREVENTION; U.S. DEPT OF HOMELAND SECURITY; U.S. CUSTOMS & BORDER PROTECTION; U.S. IMMIGRATION & CUSTOMS ENFORCEMENT; XAVIER BECERRA, Secretary, U.S. Dep't of Health and Human Services, in his official capacity; ROCHELLE WALENSKY, Director, Centers for Disease Control & Prevention, in her official capacity; ALEJANDRO MAYORKAS, Secretary, U.S. Dep't of Homeland Security, in his official capacity; TROY MILLER, Senior Official Performing the Duties of the Commissioner, U.S. Customs & Border Protection, in his official capacity; TAE JOHNSON, Acting Director, U.S. Immigration & Customs Enforcement, in his official capacity, Defendants.	Civil Action No. 4:21-cv-00579

[State of Texas v. Joseph R. Biden, Jr. et al., Complaint, [4/22/21](#)]

- **Texas Called On The Court To Force The Biden Administration To Apply Title 42 To All Migrants, Including Unaccompanied Minors.**

VI. PRAYER FOR RELIEF

141. For these reasons, Texas asks this Court to:

- a. Hold unlawful and set aside the CDC's February Order promulgated at 86 Fed. Reg. 9,942 (Feb. 17, 2021);
- b. Issue nationwide preliminary and permanent injunctive relief enjoining Defendants from enforcing the February Order promulgated at 86 Fed. Reg. 9,942 (Feb. 17, 2021), and order Defendants to continue to apply the rules in place on January 19, 2021 to all covered aliens until Defendants amend such rules pursuant to the APA's notice-and-comment rulemaking and 30-day-notice requirements or pursuant to a lawful exception from those requirements;

[State of Texas v. Joseph R. Biden, Jr. et al., Complaint, [4/22/21](#)]

The State Of Texas Sued In The Fort Worth Division.

Case 4:21-cv-00579-P Document 1 Filed 04/22/21 Page 1 of 34 PageID 1

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, FORT WORTH DIVISION

STATE OF TEXAS,

Plaintiff,

v.

JOSEPH R. BIDEN, JR., in his official

Civil Action No. 4:21-cv-00579

[State of Texas v. Joseph R. Biden, Jr. et al., Complaint, [4/22/21](#)]

- **There Are 28 Divisions Within Texas' Four Federal Judicial Districts.** "Texas is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of Texas...The Northern District comprises seven divisions...The Southern District comprises seven divisions...The Eastern District comprises seven divisions...The Western District comprises seven divisions." [U.S. Code, accessed [1/26/24](#)]

In March 2022, Judge Mark Pittman Ruled In Favor Of Texas

March 2022: Judge Mark Pittman Ruled In Favor Of Texas, But Another Ruling On The Same Day By An Appellate Court In Washington D.C., Stopped Enforcement Of The Lower Court Ruling. "In March 2022, U.S. District Judge Mark Pittman in Fort Worth ruled in favor of Texas and ordered the Biden administration to stop exempting unaccompanied children from Title 42 expulsions. That same day, a federal appellate court in Washington, D.C., reaffirmed a lower court's ruling in a separate case that it's illegal to expel asylum-seeking migrant families to countries where they could be persecuted or tortured." [Texas Tribune, [4/29/22](#)]

After Title 42 Expired Judge Pittman Rejected An Attempt By Texas To Amend The Lawsuit To Focus On The End Of Title 42, Following Which Texas And The Biden Administration Agreed To Dismiss The Case

April 1, 2022: The CDC Announced The Expiration Of Title 42. “Today, following a thorough reassessment, the CDC Director is issuing a Public Health Determination and terminating an Order under 42 U.S.C. §§ 265, 268 and 42 C.F.R. § 71.40 (i.e., “Title 42”), suspending the right to introduce migrants into the United States. In consultation with the Department of Homeland Security (DHS), this termination will be implemented on May 23, 2022, to enable DHS time to implement appropriate COVID-19 mitigation protocols, such as scaling up a program to provide COVID-19 vaccinations to migrants and prepare for resumption of regular migration under Title 8.” [Centers for Disease Control & Prevention, dated [4/1/22](#)]

April 7, 2022: Texas Asked The Court If It Could Amend Its Complaint To Challenge The Administration’s Termination Of Title 42. “The CDC’s recent order terminating its previous Title 42 orders will take effect on May 23, 2022. See 87 F.R. 19941, 19955 (Apr. 6, 2022). Texas intends to (1) amend its complaint to challenge the termination order under the APA and (2) move to stay or postpone, or in the alternative preliminarily enjoin the implementation of, that order.” [State of Texas v. Joseph R. Biden, Jr. et. al., Status Report, dated [4/7/22](#)]

April 14, 2022: The Court Denied Texas’ Motion To Amend Its Complaint Almost A Year After Initially Filing Its Lawsuit. “Texas initiated the above-captioned case almost a year ago. See ECF No. 1. Now before the Court is the Parties’ Joint Status Report and Motion for Scheduling Order (“Motion”). ECF No. 106. By the Motion, Texas seeks to file an amended complaint, which would drastically alter the nature and scope of the instant dispute. Because of this potentially drastic change, the Court held a hearing. See ECF Nos. 108, 109. At the hearing, the Court voiced its concerns with allowing an amended complaint at this stage in the litigation and heard argument from the Parties. Having further considered the Parties’ arguments, and for the reasons the Court stated on the record at the hearing, the Court DENIES the Motion.” [State of Texas v. Joseph R. Biden, Jr. et. al., Order, dated [4/14/22](#)]

October 11, 2022: Texas And The Biden Administration Notified The Court That They Had Agreed That The Lawsuit Had “Been Superseded By Later Events” And Should Be Dismissed. “Plaintiff and Defendants have, by and through the undersigned counsel, conferred as directed by the Court’s October 3, 2022 order. As background, the most recent substantive event in this case was the Court’s preliminary injunction relating to the treatment of unaccompanied alien children under two Title 42 orders issued by the Centers for Disease Control & Prevention (CDC) in July 2021 and August 2021. The parties are generally of the opinion that these matters have by now largely been superseded by later events. In light of these intervening events, the parties anticipate soon filing an appropriate stipulation or other document to formally terminate this action, and are in the process of conferring about specific language for that anticipated filing and securing the necessary internal approvals for it.” [State of Texas v. Joseph R. Biden, Jr. et. al., Status Report, dated [10/11/22](#)]

October 18, 2022: The Case Was Dismissed. “Pursuant to Rule 41(a)(1)(A)(ii), the parties stipulate that this action is hereby dismissed without prejudice.” [State of Texas v. Joseph R. Biden, Jr. et. al., Status Report, dated [10/18/22](#)]

The D.C.-Based America First Legal Foundation Backed A Restaurant In Erath County, Texas, To Prevent The Small Business Administration From Giving Preference To Minority- And Women-Owned Businesses When Administering The Restaurant Revitalization Fund, Part Of The American Rescue Plan Act Of 2021

The American Rescue Plan Act Of 2021 Included A Restaurant Revitalization Fund That Initially Prioritized Women-, Veteran-, And Minority-Owned Establishments

The American Rescue Plan Act Of 2021 Was A \$1.9 Trillion Stimulus Package Signed Into Law By President Biden In March 2021. “Seven weeks into President Biden’s term, his first major piece of legislation, the American Rescue Plan Act, is set to become law. The House passed a final version of the bill this afternoon, and it now heads to Biden’s desk, where he is expected to sign it on Friday. But the \$1.9 trillion relief package, which he proposed even before taking office, is more than a stopgap measure to shore up the economy or respond to the coronavirus pandemic.” [The New York Times, [3/10/21](#)]

The American Rescue Plan Act Of 2021 Appropriated \$28.6 Billion For A Restaurant Revitalization Fund Program For Establishments That Suffered COVID-19-Related Losses. “The Small Business Administration’s (SBA’s) \$28.6 billion Restaurant Revitalization Fund Program (RRF) was authorized by P.L. 117-2, the American Rescue Plan Act of 2021. The RRF provided grants of up to \$5 million per permanent physical business location (not to exceed \$10 million per applicant and any affiliated businesses) to restaurants and other similar places of business that had experienced COVID-19-related revenue loss.” [Congressional Research Service, [8/15/22](#)]

Congress Directed The Small Business Administration To Prioritize Applications From Small Businesses Owned And Controlled By Women, Veterans, And Socially And Economically Disadvantaged Individuals For The First 21 Days Of The Restaurant Revitalization Fund Program’s Existence. “The SBA also was required to provide priority to small businesses owned and controlled by women, veterans, and socially and economically disadvantaged individuals and to award grants only to these prioritized groups during the initial 21 days that the program was operational. The SBA announced that during this period, it would accept applications from all eligible applicants but would distribute funds only to applicants that self-certified their eligibility as a prioritized group.” [Congressional Research Service, [8/15/22](#)]

- **The Fund Began Accepting Applications In May 2021 And Was Quickly Overwhelmed By The Number Of Applications—Leaving Little, If Any, Money For Applicants Who Were Not Among The Identified Priority Groups.** “The fund began taking applications on May 3 and was soon overwhelmed. More than 362,000 businesses applied, seeking \$75 billion — nearly three times what Congress had allocated. Little, if any, money would have been left for applicants outside the priority groups.” [The New York Times, [6/14/21](#)]

A Fort Worth-Area Restaurant Backed By The America First Legal Foundation Sued The Small Business Administration Over Its Prioritization Of Women- And Minority-Owned Restaurants In The Restaurant Revitalization Fund Program

The America First Legal Foundation Is A Legal Group Run By Longtime Trump Adviser Stephen Miller. “Longtime Trump adviser Stephen Miller’s legal group saw a major jump in revenue last year, raising \$44 million, significantly more than the \$6 million garnered during 2021. Miller’s national non-profit, America First Legal, registered as a 501c(3), saw a near 600 percent revenue jump, according to a Bloomberg New analysis of tax filings provided by Accountable.US, a progressive watchdog group.” [The Hill, [11/17/23](#)]

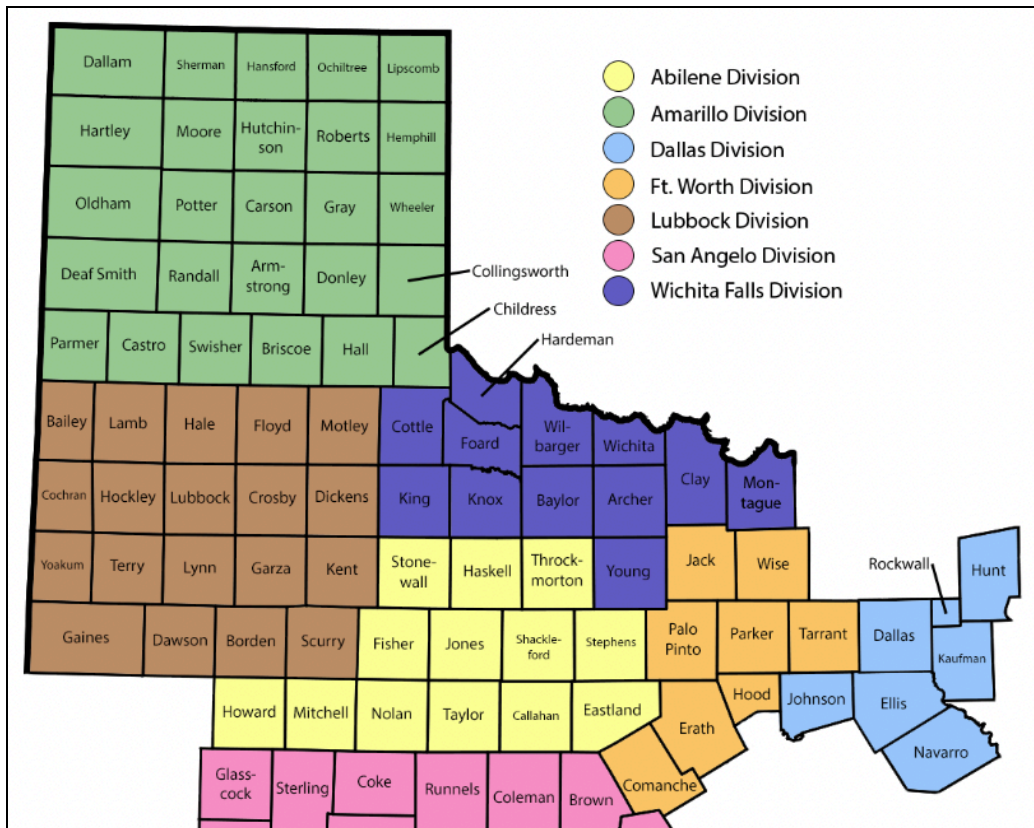
- **America First Legal Foundation Is Based In Washington D.C.**

A For the 2022 calendar year, or tax year beginning 01-01-2022 , and ending 12-31-2022			
B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input checked="" type="checkbox"/> Application pending	C Name of organization America First Legal Foundation		D Employer identification number 86-2190372
	Doing business as		
	Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	E Telephone number
	611 Pennsylvania Ave SE 231		(202) 964-3721
	City or town, state or province, country, and ZIP or foreign postal code Washington, DC 200034303		G Gross receipts \$ 44,399,187

[America First Legal Foundation, [Form 990](#), 2022]

Greer’s Ranch Cafe Is Located In Erath County, Texas. “Plaintiff Greer’s Ranch Café is a limited liability company incorporated under the laws of Texas. It operates in Erath County, Texas.” [Greer’s Ranch Cafe et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/13/21](#)]

- **Erath County, Texas, Is Located Within The Fort Worth Division Of The Northern District Of Texas.**



[United States District Court Northern District of Texas, accessed [1/29/24](#)]

May 2021: Greer's Ranch Cafe Filed A Class-Action Lawsuit Against The Small Business Administration.

Case 4:21-cv-00651-O Document 1 Filed 05/13/21 Page 1 of 7 PageID 1

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

Greer's Ranch Café and Philip Greer,
on behalf of themselves and others
similarly situated,

Plaintiffs,

v.

Isabella Casillas Guzman, in her official
capacity as administrator of the Small
Business Administration; **United States
Small Business Administration,**

Defendant.

Case No. 4:21-cv-00651

PLAINTIFFS' CLASS-ACTION COMPLAINT

[Greer's Ranch Cafe et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/13/21](#)]

- **Greer's Ranch Cafe Argued That The SBA Violated The Constitution By Giving Preference To Certain Business Owners On Account Of Their Sex And Race.** "The Constitution prohibits the federal government from discriminating on account of race or ethnicity. See *Bolling v. Sharpe*, 347 U.S. 497 (1954). The Constitution likewise prohibits the federal government from engaging in sex discrimination absent an "exceedingly persuasive justification." See *United States v. Virginia*, 518 U.S. 515, 531 (1996)....The Small Business Administration is violating the Constitution and Title VI by discriminating on account of race and sex in administering the Restaurant Revitalization Fund." [Greer's Ranch Cafe et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/13/21](#)]
- **Greer's Ranch Cafe Was Backed By The America First Legal Foundation.**

Respectfully submitted.	
<u>/s/ Jonathan F. Mitchell</u>	
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[Greer's Ranch Cafe et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/13/21](#)]

The Restaurant Ultimately Dropped The Lawsuit After Its Owner Decided Not Submit An Application To The Restaurant Revitalization Fund

Greer's Ranch Cafe Dropped The Case Just Six Days After Filing His Complaint And Ultimately Never Applied For Funding From The SBA. "On May 13, represented by America First Legal, Greer filed a lawsuit against SBA aimed at eliminating priority RRF categories. Greer told The Counter that he was referred to the group by local elected officials who patronized the restaurant. There was just one catch: Greer never actually filed an application of his own. In fact, just six days after filing the lawsuit, he canceled his own case...Greer said he pulled out because there were other restaurants who were more than willing to take up the cause. Indeed, America First Legal almost immediately filed another lawsuit with new plaintiffs. Greer said that he never ended up filing an RRF application because he thought that the money would run out before his restaurant would get any consideration. That doesn't exactly track: The federal judge overseeing his case had directed Greer to apply, and ordered SBA to process it as if the application had been filed on May 3, according to court documents. Greer was unclear about why he didn't follow through, and instead opted to bow out of the lawsuits altogether." [The Counter, [6/24/21](#)]

The D.C.-Based, America First Legal Foundation Backed A Restaurant In Keller, Texas, To Prevent The Small Business Administration From Giving Preference To Minority- And Women-Owned Businesses In Administering The Restaurant Revitalization Fund, Part Of The American Rescue Plan Act Of 2021

The D.C.-Based MAGA-Aligned America First Legal Foundation Represented A Local Restaurant Near Fort Worth In Challenging The Prioritization Of Certain Establishments When Doling Out Restaurant Revitalization Funds

Blessed Cajuns LLC Operates A Restaurant Called “The Lost Cajun Keller” In Keller, Texas. “Plaintiff Blessed Cajuns LLC is a limited liability company incorporated under the laws of Texas, operating under the name “The Lost Cajun Keller.” It operates in Keller, Texas.” [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/23/21](#)]

- **Keller, Texas, Is Located Within The Fort Worth Division Of The Northern District Of Texas.** “Fort Worth Division...Cities in Tarrant County...Keller.” [United States District Court Northern District of Texas, accessed [1/29/24](#)]

May 2021: Blessed Cajuns LLC Filed A Class-Action Lawsuit Against The Small Business Administration (SBA).

Case 4:21-cv-00677-O Document 1 Filed 05/23/21 Page 1 of 7 PageID 1	
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION	
Blessed Cajuns LLC, Janice Smith, Jason Smith, PSBH LLC, and Eric Nyman, on behalf of themselves and others similarly situated,	
Plaintiffs,	Case No. 4:21-cv-00677
v.	
Isabella Casillas Guzman, in her official capacity as administrator of the Small Business Administration; United States Small Business Administration,	
Defendants.	
PLAINTIFFS' CLASS-ACTION COMPLAINT	

[Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/23/21](#)]

- **The Plaintiffs Argued That The SBA Violated The Constitution By Giving Preference To Certain Business Owners On Account Of Their Sex And Race.** “The Constitution prohibits the federal government from discriminating on account of race or ethnicity. See *Bolling v. Sharpe*, 347 U.S. 497 (1954). The Constitution likewise prohibits

the federal government from engaging in sex discrimination absent an “exceedingly persuasive justification.” See *United States v. Virginia*, 518 U.S. 515, 531 (1996)....The Small Business Administration is violating the Constitution and Title VI by discriminating on account of race and sex in administering the Restaurant Revitalization Fund.” [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/23/21](#)]

- **Blessed Cajuns LLC Was Backed By The America First Legal Foundation.**

Respectfully submitted.	
<u>/s/ Jonathan F. Mitchell</u>	
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chad@fillmorefirm.com	
dusty@fillmorefirm.com	
Dated: May 23, 2021	<i>Counsel for Plaintiffs and the Proposed Class</i>

[Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Complaint, filed [5/23/21](#)]

In May 2021, Judge Reed O'Connor Ruled Against The Federal Government, Directing It To Evaluate Applications On A “First Come, First Served” Basis

Five Days After, Blessed Cajuns LLC Filed Its Class Action Lawsuit, Judge Reed O'Connor Granted The Plaintiffs' Preliminary Injunction. “Plaintiffs seek a preliminary injunction to enjoin the Small Business Administration from distributing \$28.6 billion in grants awarded to a priority group based on race or gender. Having considered the motion, briefing, and applicable law, and for the reasons set forth below, the Court GRANTS the motion.” [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Order, dated [5/28/21](#)]

- **Judge O'Connor Ordered The SBA To Consider Applications “In Accordance With A Race-Neutral, Sex-Neutral ‘First Come, First Served’ Policy.”** “For the foregoing reasons, the Court concludes that Plaintiffs have met their burden of proving each of the four elements for a preliminary injunction. See Fed. R. Civ. 65. Accordingly, the Court GRANTS Plaintiffs Motion for Preliminary Injunction (ECF Nos. 6–7) and ENJOINS Defendants Isabella Casillas Guzman and the United States Small Business Administration, and their officers, agents, servants, employees, attorneys, designees, and subordinates, as well as any person acting in concert or participation with them (1) to process and consider Plaintiffs Jason and Janice Smith's and Plaintiff Eric Nyman's applications for RRF grants as if the SBA had initiated processing of those applications at the time the

applications were filed and (2) from processing or considering any RRF application filed later in time than Plaintiffs Jason and Janice Smith's application and Plaintiff Eric Nyman's application, respectively, until their applications has been processed and considered in accordance with a race-neutral, sex-neutral "first come, first served" policy." [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Order, dated [5/28/21](#)]

Following Judge O'Connor's Order, The SBA Distributed Grants In The Order In Which They Were Received Until The Fund Ran Out Of Money

After Judge O'Connor's Order, The SBA Considered Applications On A "First Come, First Served" Basis. "In response to this Court's preliminary-injunction order of May 28, 2021, the defendants represented to this Court that they would cease processing all 'priority' applications until the Small Business Administration 'completes processing all previously filed non-priority applications, and only then if the RRF is not first exhausted.'" [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Amended Complaint, dated [8/11/21](#)]

June 2021: The SBA Closed The Restaurant Revitalization Fund After The Money Congress Allocated Had All Been Spent. "On June 30, 2021, the Small Business Administration announced that it was closing the Restaurant Revitalization Fund because the \$28.6 billion that had been allocated to the Fund was exhausted." [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Amended Complaint, dated [8/11/21](#)]

The Plaintiffs Subsequently Amended Their Complaint To Argue That Two Of Them Had Unfairly Been Denied Grants, But Eventually Dismissed Their Lawsuit

August 2021: The Plaintiffs Filed An Amended Complaint.

Case 4:21-cv-00677-O Document 40 Filed 08/11/21 Page 1 of 12 PageID 962	
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION	
Blessed Cajuns LLC; Janice Smith; Jason Smith; PSBH LLC; Eric Nyman; Lynds Inn, LLC; Andrew Lynds; Heather Brown; OCF Cafe LLC; Ori Feibush; GBB Hospitality Group LLC; GBB Services LLC; Jimmy Loup; 7th Avenue Property Management Inc.; Eric Schiller, Plaintiffs,	Case No. 4:21-cv-00677-O
v.	
Isabella Casillas Guzman, in her individual capacity and in her official capacity as administrator of the Small Business Administration; United States Small Business Administration, Defendants.	
PLAINTIFFS' SECOND AMENDED COMPLAINT	

[Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Amended Complaint, dated [8/11/21](#)]

The New Complaint Objected To Two Of The Plaintiffs' Grant Applications Not Being Approved. "Most of the plaintiffs in this case had their applications approved and received payments from the Fund after this Court issued its preliminary injunction but before the Fund closed. But plaintiff GBB Hospitality Group LLC and its owner, Jimmy Loup, never had their application approved—even though Mr. Loup submitted the application within the first few minutes after the Fund began accepting applications on May 3, 2021. Plaintiff 7th Avenue Property Management Inc. and its owner, Eric Schiller, likewise never had their application approved, even though Mr. Schiller submitted his application on May 5, 2021." [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Amended Complaint, dated [8/11/21](#)]

- **The Complaint Alleged That The Applications Would Have Been Approved Had The SBA Not Initially Given Grants To Priority Groups.** "The application submitted by GBB Hospitality Group LLC and Mr. Loup, as well as the application submitted by 7th Avenue Property Management Inc. and Mr. Schiller, would have been approved if Administrator Guzman had not deployed the patently unconstitutional use of race and sex preferences that the plaintiffs sued to enjoin."
- **The Complaint Asked The Court To Order The SBA Administrator To Pay Damages From Her Own Funds.**

- | | |
|----|--|
| c. | award Mr. Loup, GBB Hospitality Group LLC, and GBB Services LLC damages against Administrator Guzman in her individual capacity; |
| d. | award Mr. Schiller and 7th Avenue Property Management Inc. damages against Administrator Guzman in her individual capacity; |

February 2022: The Plaintiffs Dismissed Their Case. "The plaintiffs dismiss their action under Rule 41(a)(1)(A)(i), without prejudice." [Blessed Cajun LLC et al. v. Isabella Casillas Guzman et al., Notice of Dismissal, dated [2/28/22](#)]

Stephen Miller's Washington D.C.-Based America First Legal Foundation Backed Two Physicians In Amarillo Who Successfully Sued The Biden Administration For The Right To Discriminate Against LGBTQ Patients

In 2021, The Department Of Health And Human Services Said That Section 1557 Of The Affordable Care Act Prohibited Discrimination On The Basis Of Sexual Orientation Or Gender Identity

Section 1557 Of The Affordable Care Act Prohibits Discrimination On The Basis Of Race, Color, National Origin, Sex, Age, Or Disability In Healthcare. "Except as otherwise provided in Title I of the ACA, Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in a health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance. Section 1557 also prohibits discrimination on the basis of race, color, national origin, sex, age, or

disability under any program or activity that is administered by an Executive Agency, or any entity established under Title I of the ACA or its amendments. The statute cites Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972 (Title IX), the Age Discrimination Act of 1975 [4] (Age Act), and Section 504 of the Rehabilitation Act of 1973 (Section 504) to identify the grounds of discrimination prohibited by Section 1557.” [Federal Register, [8/4/22](#)]

May 2021: The Department Of Health And Human Services Notified The Public That It Would Begin Interpreting Section 1557 Of The Affordable Care Act As Prohibiting Discrimination On The Basis Of Sexual Orientation And Gender Identity In Line With The Supreme Court’s Ruling In *Bostok*. “HHS is informing the public that, consistent with the Supreme Court’s decision in *Bostock* and Title IX, beginning May 10, 2021, the Department of Health and Human Services (HHS) will interpret and enforce Section 1557’s prohibition on discrimination on the basis of sex to include: (1) Discrimination on the basis of sexual orientation; and (2) discrimination on the basis of gender identity.” [Federal Register, [5/10/21](#)]

- **In *Bostok v. Clayton County*, The Supreme Court Ruled That The Prohibition On “Sex” Discrimination Found In Title VII Of The Civil Rights Act Of 1964 Extended To Gay, Lesbian, Bisexual, And Transgender Individuals.** “Held: An employer who fires an individual merely for being gay or transgender violates Title VII. Pp. 4–33. (a) Title VII makes it ‘unlawful . . . for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual . . . because of such individual’s race, color, religion, sex, or national origin.’” [*Bostok v. Clayton County*, [6/15/20](#)]

Two Amarillo-Based Physicians—Backed By A D.C.-Based Nonprofit Law Firm—Sued The Biden Administration Hoping To Win The Right To Discriminate Against LGBT Individuals In The Provisioning Of Healthcare

Two Amarillo-Based Physicians Sued The Biden Administration In Federal Court In Amarillo. “On August 25, 2021 two doctors sued Secretary of Health and Human Services (HHS), Xavier Becerra, and the United States in the U.S.District Court for the Northern District of Texas to enjoin the HHS’ interpretation of sex discrimination to include discrimination on the basis of sexual orientation and gender identity.” [Civil Rights Litigation Clearinghouse, accessed [10/11/23](#)]

- **Dr. Susan Neese Is An Internal Medicine Specialist In Amarillo, Texas.** “Plaintiff Susan Neese, M.D., is an internal medicine specialist in Amarillo, Texas. She is affiliated with Baptist Saint Anthony’s Hospital, which receives federal money and is subject to section 1557.” [Susan Neese, et al. v. Xavier Becerra, et al., [8/25/21](#)]
- **Dr. James Hurly Is A Board-Certified Pathologist In Amarillo, Texas.** “Plaintiff James Hurly, M.D., is a board-certified pathologist in Amarillo, Texas. He is employed by the Amarillo Pathology Group, which receives federal money and is subject to section 1557.” [Susan Neese, et al. v. Xavier Becerra, et al., [8/25/21](#)]

The Washington D.C.-Based America First Legal Foundation Represented The Plaintiffs In The Case.

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[Susan Neese, et al. v. Xavier Becerra, et al., [8/25/21](#)]

- **The America First Legal Foundation Is A Nonprofit Law Firm Founded By Former Trump Adviser Stephen Miller.** “A conservative legal group led by former top Trump aide Stephen Miller has emerged as a frequent opponent to several Biden administration initiatives by mounting court challenges, succeeding in blocking policies they say are examples of reverse discrimination. Miller touts America First Legal as “the long-awaited answer to the (American Civil Liberties Union),” and his group has garnered several legal victories against the Biden administration in the past few weeks and months, most notably on issues of racial discrimination.” [CNN, [12/15/22](#)]

In His Judgment, Judge Kacsmaryk Outright Rejected The Supreme Court’s Precedent In *Bostok* And Ruled In Favor Of The Plaintiffs

November 2022: Kacsmaryk Wrote In His Judgment That “Section 1557 Of The ACA Does Not Prohibit Discrimination On Account Of Sexual Orientation And Gender Identity”—Flatly Disregarding The Supreme Court’s Decision In *Bostok v. Clayton County*.

2. The Court awards Plaintiffs and the certified class declaratory relief under 28 U.S.C. § 2201. The Court **DECLARES**:

- Plaintiffs and members of the certified class need not comply with the interpretation of “sex” discrimination adopted by Defendant Becerra in his Notification of Interpretation and Enforcement of May 10, 2021; and
- Section 1557 of the ACA does not prohibit discrimination on account of sexual orientation and gender identity, and the interpretation of “sex” discrimination that the Supreme Court of the United States adopted in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), is inapplicable to the prohibitions on “sex” discrimination in Title IX of the Education Amendments of 1972 and in Section 1557 of the ACA.

[Susan Neese, et al. v. Xavier Becerra, et al., [11/22/22](#)]

As Of March 2024, The Case Is Pending Ruling From The Fifth Circuit, Which Heard Oral Arguments In January 2024

The Federal Government Appealed Judge Kacsmaryk's Ruling And Successfully Escalated *Neese v. Beerra* To The Fifth Circuit Court Of Appeals. "The federal government appealed the ruling to the U.S. Court of Appeals for the Fifth Circuit, contending the doctors don't have legal standing to challenge HHS's enforcement of Section 1557, as they haven't done anything to violate it, nor do they appear likely to. Neese and Hurly claim in the suit that they're at risk of sanctions from the U.S. government, including loss of federal funds, because they won't provide certain services to transgender clients." [Advocate, [1/12/24](#)]

January 8, 2024: A Three-Judge Panel Of Fifth Circuit Appellate Judges Heard Oral Arguments For *Neese v. Becerra*. [Court Listener, [1/8/24](#)]

A California-Based Gun Rights Group Partnered With A Gun Owner In The Fort Worth Area To Challenge A Texas Law Prohibiting Individuals Between The Ages Of 18 And 21 From Openly Carrying A Handgun In Public Spaces

In June 2021, Texas Passed A Law Allowing Gun Owners Over The Age Of 21 To Carry Handguns In Public Without A Permit

June 2021: A New Texas Law Allowed Residents Of The State To Carry Handguns In Public "Without Going Through Training Or Having To Get Permits." "A new state law will soon let most Texans carry handguns in public without going through training or having to get permits. Gov. Greg Abbott lauded the so-called 'constitutional carry' legislation and other firearms bills when he signed them into law. 'You could say that I signed into law today some laws that protect gun rights,' Abbott said at the bill signing in June. 'But today, I signed documents that instilled freedom in the Lone Star State.'" [Texas Tribune, [8/16/21](#)]

The New Law Maintained Restrictions On Public Carry For Those Under 21 Or With Certain Criminal Convictions. "The new law — set to go into effect Sept. 1 — will allow anyone 21 years or older to carry a handgun in public without need for a permit or training as long as they aren't otherwise prohibited from owning a firearm by law, such as people with felony or domestic violence convictions." [Texas Tribune, [8/16/21](#)]

Five Months Later, The Firearms Policy Coalition And Two Individuals Sued The Texas Department Of Public Safety And Three Local Officials Over The 21-Year Age Requirement

November 9, 2021: Firearms Policy Coalition, Inc., Aidan Andrews, And Jordyn Blakey Sued County-Level Officials In Parker County, Fannin County, And Grayson County And The Director Of The Texas Department Of Public Safety In The Northern District Of Texas.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

AIDAN ANDREWS,	:	
	:	
JORDYN BLAKEY, and	:	
	:	
FIREARMS POLICY	:	Civil Rights Complaint
COALITION, INC.,	:	42 U.S.C. § 1983
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
STEVEN C. MCCRAW, in his	:	Civil Action No. <u>3:21-cv-2767</u>
official capacity as Director of	:	
the Texas Department of Public	:	
Safety,	:	
	:	
JOHN FORREST, in his official	:	
capacity as County Attorney of	:	
Parker County,	:	
	:	
RICHARD E. GLASER, in his	:	
official capacity as Criminal District	:	
Attorney of Fannin County, and	:	
	:	
J. BRETT SMITH, in his official	:	
capacity as District Attorney of	:	
Grayson County,	:	
	:	
Defendants.	:	

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

- **The Firearms Policy Coalition Is A Gun Rights Advocacy Organization.** “FPC’s efforts are focused on the right to keep and bear arms and adjacent issues including freedom of speech, due process, unlawful searches and seizures, separation of powers, asset forfeitures, privacy, encryption, and limited government.” [Firearms Policy Coalition, accessed [1/25/24](#)]
- **Aidan Andrews And Jordyn Blakey Are Individuals Who Were Between The Ages Of 18 And 21 At The Time The Lawsuit Was Filed.**

12. Plaintiffs Aidan Andrews, and Jordyn Blakey are ordinary, law-abiding, adult individuals over 18 years old but under 21 years old.

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

- **The Texas Department Of Public Safety Is The State Law Enforcement Agency Responsible For Enforcing Gun Laws.**

23. Defendant Steven C. McCraw is sued in his official capacity as the Director of the Texas Department of Public Safety, which includes the Texas Rangers and the Texas Highway Patrol. As “executive director of the department,” TEX. GOV’T CODE ANN. *id.* § 411.002, McCraw has a duty “to enforce the laws protecting the public safety and provide for the prevention and detection of crime,” *id.* § 411.002, and he administers the State’s carry-license regime, *see, e.g., id.* § 411.174, 177.

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

The Lawsuit Asked The Court To Invalidate The Restrictions On Open Carry For 18 To 20-Year-Olds On Second Amendment Grounds.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants, as follows:

- a) Declare that the 18-to-20-Year-Old Carry Ban consisting of TEXAS PENAL CODE §§ 46.02 and 46.15(b)(6)(A), TEXAS GOV’T CODE § 411.172 (a)(2) and (g), and all related

20

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laws,⁴ regulations, policies, practices, and customs, violates the right to keep and bear arms as guaranteed by the Second and Fourteenth Amendments to the United States Constitution—facially, as applied to otherwise qualified 18-to-20-year-olds, or as applied to otherwise qualified 18-to-20-year-old women;

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

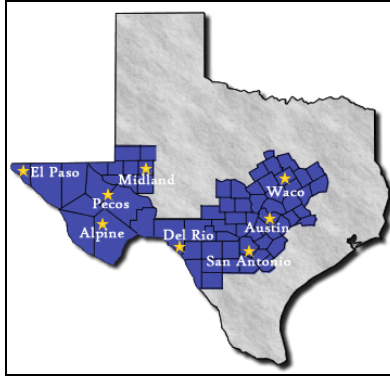
The Plaintiffs Justified Filing In Fort Worth On The Basis That “A Substantial Part Of The Events” That Caused Them To Sue Occurred In The Northern District Of Texas, Despite Only One Of The Three Plaintiffs And One Of The Four Defendants Being Located There

The Firearms Policy Coalition Was A Delaware Corporation Headquartered In California.

22. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a 501(c)(4) non-profit organization incorporated under the laws of Delaware with its principal place of business in Sacramento, California. The purposes of FPC include defending and promoting the People’s rights—

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

One Defendant Was Located In The Western District Of Texas.



[Western District of Texas, accessed [1/25/24](#)]

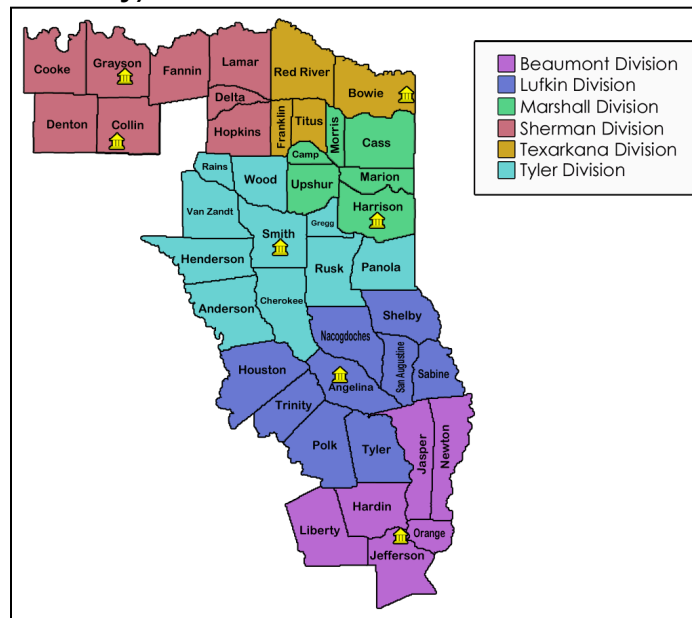
- **The Texas Department Of Public Safety Is Headquartered In Austin.**

The Texas Department of Public Safety (DPS) headquarters is located at:

Texas Department of Public Safety
5805 North Lamar Blvd
Austin, TX 78752-4431

[Texas Department of Public Safety, accessed [1/29/24](#)]

One Plaintiff And Two Defendants Were Located In The Eastern District Of Texas (Fannin County And Grayson County).



[Eastern District of Texas, accessed [1/29/24](#)]

- **Jordyn Blakey Was A Resident Of Fannin County.**

21. Plaintiff Jordyn Blakey is a natural person, over the age of 18 but under the age of 21, and a citizen of Fannin County, Texas and the United States. Ms. Blakey has never been

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

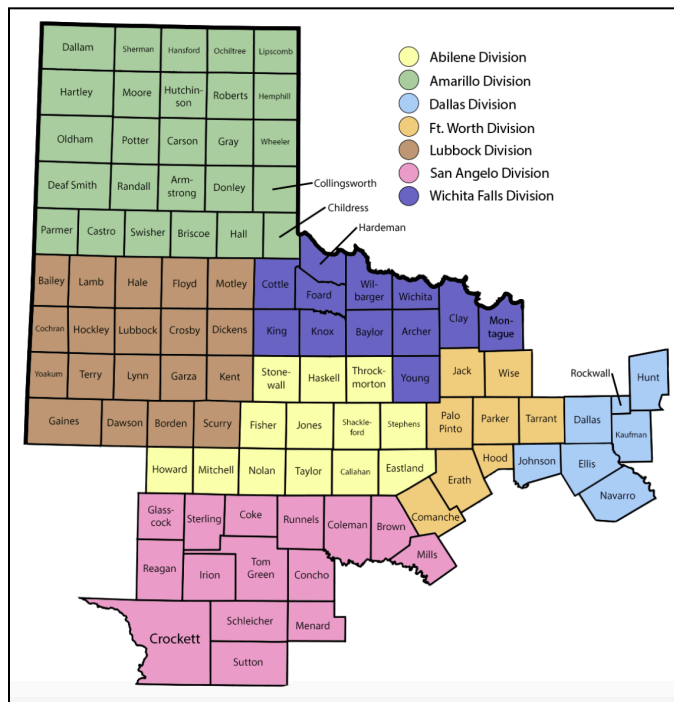
- **District Attorneys In Fannin County And Grayson County Were Named As Defendants.**

RICHARD E. GLASER, in his official capacity as Criminal District Attorney of Fannin County, and

J. BRETT SMITH, in his official capacity as District Attorney of Grayson County,

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

One Plaintiff And One Defendant Were Located In The Northern District Of Texas (Parker County).



[United States District Court, Northern District of Texas, accessed [1/25/24](#)]

- **Aidan Andrews Was A Resident Of Parker County.**

20. Plaintiff Aidan Andrews is a natural person, over the age of 18 but under the age of 21, and a citizen of Parker County, Texas and the United States. Mr. Andrews has never been

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

- **The County Attorney Of Parker County Was Named As A Defendant.**

JOHN FORREST, in his official capacity as County Attorney of Parker County,

[Firearms Policy Coalition, Inc et al, v. McCraw et al, Complaint, filed [11/9/21](#)]

In 2022, Judge Mark Pittman Invalidated The Requirement That Gun Owners Carrying Openly Be 21 Or Older And Texas Dropped An Attempted Appeal

August 2022: Judge Pittman Invalidated Restrictions On Young Adults Carrying Handguns On Second Amendment Grounds. “Based on the Second Amendment’s text, as informed by Founding-Era history and tradition, the Court concludes that the Second Amendment protects against’ prohibiting young adults from carrying handguns, Pittman wrote in his August decision.” [Texas Tribune, [12/21/22](#)]

September 2022: Texas Appealed Pittman’s Decision. “In September, the state filed a notice of appeal, which angered gun rights activists.” [Texas Tribune, [12/21/22](#)]

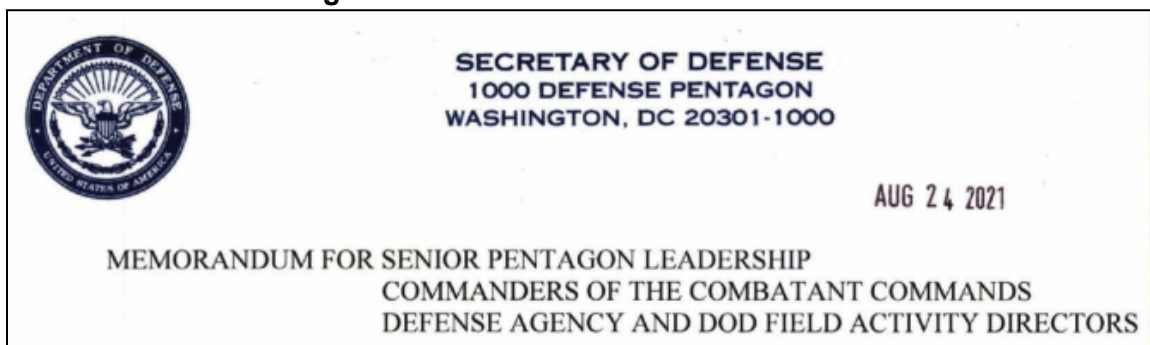
December 2022: Texas Withdrew Its Appeal. “But Texas Department of Public Safety Director Steven McCraw withdrew the appeal to the 5th U.S. Circuit Court of Appeals this week.” [Texas Tribune, [12/21/22](#)]

The Plano-Based First Liberty Institute Partnered With 26 Navy SEALs To Challenge The Department Of Defense’s COVID-19 Vaccine Mandate

In August 2021, The Department Of Defense Issued A Memorandum Mandating All Service Members Be Vaccinated Against COVID-19

July 2021: President Biden Directed The Department Of Defense To Add The COVID-19 Vaccine To Its List Of Required Immunizations. “Today, the President will announce that he is directing the Department of Defense to look into how and when they will add COVID-19 vaccination to the list of required vaccinations for members of the military. This is particularly important because our troops serve in places throughout the world—many where vaccination rates are low and disease is prevalent.” [The White House, [7/29/21](#)]

August 2021: The Secretary Of Defense Issued A Memorandum Mandating All Service Members Be Vaccinated Against COVID-19.



[Department of Defense, [8/24/21](#)]

In November 2021, A Group Of 26 Navy SEALs, Backed By The Plano, Texas-Based First Liberty Institute, Sued President Biden And DoD To Prevent The Department From Mandating COVID-19 Vaccines For Service Members

The First Liberty Institute Is A Right-Wing Christian Law Firm Based In Plano, Texas.

“First Liberty, formerly the Liberty Institute, is a religious liberty legal group based in Plano. Its attorneys have argued several cases before the U.S. Supreme Court, including one in which the high court found a school district discriminated against a football coach who prayed on the sidelines after a game.” [Texas Tribune, [3/15/23](#)]

November 2021: 26 Navy SEALs And Other Members Of The U.S. Navy Sued President Biden And The Department Of Defense.

Case 4:21-cv-01236-O Document 1 Filed 11/09/21 Page 1 of 38 PageID 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. NAVY SEALs 1-26;

U.S. NAVY SPECIAL WARFARE
COMBATANT CRAFT CREWMEN 1-5;

U.S. NAVY EXPLOSIVE ORDNANCE
DISPOSAL TECHNICIAN 1; and

U.S. NAVY DIVERS 1-3,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official
capacity as President of the United States of
America; LLOYD J. AUSTIN, III,
individually and in his official capacity as
United States Secretary of Defense; UNITED
STATES DEPARTMENT OF DEFENSE;
CARLOS DEL TORO, individually and in
his official capacity as United States Secretary
of the Navy,

Defendants.

Case No. _____

COMPLAINT

[U.S. Navy SEALs 1-26 et al. v. Joseph R. Biden, Jr., et al., Complaint, filed [11/9/21](#)]

- **The Service Members Requested An Exemption From The COVID-19 Vaccine Mandate On Religious Grounds.** “Plaintiffs are requesting religious accommodations or exemptions from Defendants’ Vaccine Mandates that set forth Plaintiffs’ sincerely-held religious beliefs regarding the COVID-19 vaccines.” [U.S. Navy SEALs 1-26 et al. v. Joseph R. Biden, Jr., et al., Complaint, filed [11/9/21](#)]
- **The Plaintiffs Were Backed By The First Liberty Institute.**

Respectfully submitted this 9th day of November, 2021.

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Attorneys for Plaintiffs

[U.S. Navy SEALs 1-26 et al. v. Joseph R. Biden, Jr., et al., Complaint, filed [11/9/21](#)]

The Lawsuit Was Filed In Fort Worth Because At Least One Of The Unnamed Plaintiffs Was Reportedly Based There

The Anonymous Plaintiffs Claimed That They Could File Their Lawsuit In The Fort Worth Division Of The Northern District Of Texas Because At Least One Of Them Was Purportedly Located There. “Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) because Defendants are officers and employees of the United States and agencies of the United States, and the military workplace and the location in which a substantial part of the events or omissions giving rise to the claims of at least one Plaintiff is in Fort Worth, Texas, in this Court’s District and Division. Due to national security and personal security interests, Plaintiffs cannot reveal their exact locations.” [U.S. Navy SEALs 1-26 et al. v. Joseph R. Biden, Jr., et al., Complaint, filed [11/9/21](#)]

Judge Reed O’Connor Ruled In Favor Of The Navy SEALs, But The Supreme Court Ultimately Overruled Him

January 2022: Judge Reed O’Connor Ordered That Members Of The Military May Refuse An Order To Take The COVID-19 Vaccine On Religious Grounds. “And yet, on Monday, a notoriously partisan federal judge in Texas thumbed his nose at decades of law and Supreme Court precedents, holding that members of the military may refuse an order to take the Covid-19 vaccination if they object to it on religious grounds. In a brief order in US Navy SEALs 1-26 v. Biden, US District Court Judge Reed O’Connor claims that a policy requiring nearly all servicemembers to be vaccinated against Covid-19 violates both the First Amendment and a federal religious liberty statute.” [Vox, [1/4/22](#)]

March 2022: The Supreme Court, In Acting On An Emergency Application, Restored The Navy’s Ability To Consider Service Members Vaccination Status In Decisions Concerning

Assignment And Deployment. “The Supreme Court on Friday restored the Navy’s ability to consider the vaccination status of 35 of its service members in decisions about where they should be assigned or deployed. The court’s brief, unsigned order gave no reasons, which is typical when the justices act on emergency applications. The court’s three most conservative members — Justices Clarence Thomas, Samuel A. Alito Jr. and Neil M. Gorsuch — dissented. In a concurring opinion, Justice Brett M. Kavanaugh said courts should not second-guess military officials.” [The New York Times, [3/25/22](#)]

The DoD Rescinded Its COVID-19 Vaccine Mandate In January 2023

January 2023: The Secretary Of Defense Rescinded The Covid-19 Vaccine Mandate After Congress Directed It To In The National Defense Authorization Act. “Today in a memo, Secretary Austin rescinded the Aug. 24, 2021 memorandum mandating that members of the Armed Forces under DoD authority be vaccinated against COVID-19, and the memorandum of Nov. 30, 2021, pertaining to the vaccination of National Guard and Reserve personnel. This rescission requirement was established by the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023.” [U.S. Department of Defense, [1/10/23](#)]

A Republican Congresswoman From Fort Worth, Backed By The Austin-Based Texas Public Policy Foundation, Sued The CDC And HHS To Prevent The Agencies From Implementing The So-Called “Mask Mandate” For Airlines And Other Commercial Transportation Systems

In January 2021, The CDC Ordered That Face Masks Be Worn On Most Forms Of Public Transportation

January 2021: The Centers For Disease Control And Prevention Ordered That Face Masks Be Worn On Nearly All Forms Of Public Transportation To Prevent The Spread Of COVID-19. “The U.S. Centers for Disease Control and Prevention (CDC) issued a sweeping order late Friday requiring the use of face masks on nearly all forms of public transportation Monday as the country continues to report thousands of daily COVID-19 deaths. The order, which takes effect at 11:59 p.m. EST on Monday (0459 GMT Tuesday), requires face masks to be worn by all travelers on airplanes, ships, trains, subways, buses, taxis, and ride-shares and at transportation hubs like airports, bus or ferry terminals, train and subway stations and seaports.” [Reuters, [1/29/21](#)]

Republican Rep. Elizabeth Van Duyne Of Fort Worth, Backed By The Austin-Based Texas Public Policy Foundation And Texas AG Ken Paxton, Sued To Prevent The Government From Enforcing Its Mask Mandate

Congresswoman Elizabeth Van Duyne Represents The 24th Congressional District Of Texas, Which Encompasses Fort Worth. “Congresswoman Beth Van Duyne proudly represents the 24th Congressional District of Texas, which includes portions of Dallas and Tarrant counties. Cities which are wholly, or partially included in the 24th District include: Addison, Bedford, Carrollton, Colleyville, Coppell, Dallas, Euless, Farmers Branch, Flower Mound, Fort Worth, Grapevine, Haltom City, Hurst, Irving, Keller, Lewisville, North Richland

Hills, Richardson, Roanoke, Southlake, Trophy Club, Watauga, and Westlake.”
[Congresswoman Beth Van Duyne, accessed [1/29/23](#)]

February 2022: Congresswoman Van Duyne And The State Of Texas Sued The Centers For Disease Control And Prevention.

Case 4:22-cv-00122-O Document 1 Filed 02/16/22 Page 1 of 12 PageID 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ELIZABETH VAN DUYN, and THE	§	
STATE OF TEXAS,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	CIVIL ACTION NO. _____
	§	
CENTERS FOR DISEASE CONTROL	§	
AND PREVENTION, ROCHELLE P.	§	
WALENSKY, in her official capacity as	§	
Director of the CDC, SHERRI A. BERGER,	§	
in her official capacity as Chief of Staff of the	§	
CDC, UNITED STATES DEPARTMENT	§	
OF HEALTH AND HUMAN SERVICES,	§	
XAVIER BECERRA, in his official	§	
capacity as Secretary of HHS, and	§	
UNITED STATES OF AMERICA.	§	
<i>Defendants.</i>	§	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

[Van Duyne et al. v. Centers for Disease Control and Prevention et al., Complaint, filed [2/16/22](#)]

- **The Plaintiffs Alleged That The Mask Mandate Was Unlawful Because Congress Did Not Authorize It And The CDC Never Sought Public Comment.** “Attorney General Ken Paxton, alongside the Texas Public Policy Foundation (TPPF) on behalf of Congresswoman Beth Van Duyne, sued the Biden Administration for its illegal mask mandate for airlines and airports. The Centers for Disease Control and Prevention’s (CDC) mandate was unlawfully issued. It was not authorized by Congress, and the CDC did not put the mandate up for notice and comment, which is ordinarily required for regulations like this. Yet a person’s failure to comply with the Administration’s mask mandate carries criminal penalties.” [Attorney General of Texas, [2/16/22](#)]

The Lawsuit Was Backed By The Austin-Based Texas Public Policy Foundation, A Right-Wing Think Tank. “James Leininger, who earned a fortune selling medical beds, founded Texas Public Policy Foundation in 1989 to promote charter schools. As it evolved, the organization embraced other causes including criminal justice, immigration, border security, taxes, and energy. Mr. Leininger bankrolled Rick Perry’s successful gubernatorial campaign in 2000, and Mr. Perry reciprocated by donating the proceeds of his 2010 book, “Fed Up! Our Fight to Save America from Washington,” to the group. Other wealthy conservative donors began writing checks, including Tim Dunn, an oilman who is the vice chairman of the board. In 2015, the group moved into a \$20 million six-story headquarters in downtown Austin, where the Texas Capitol is visible from the headquarter’s ‘Governor Rick Perry Liberty Balcony.’” [The New York Times, [12/4/22](#)]

Judge O’Connor Ordered The Case Moot After A Federal Court In Florida Vacated The Mask Mandate

April 2022: Judge Kathryn Mizelle Of The Middle District Of Florida Struck Down The Federal Mask Mandate For Airplanes And Other Modes Of Public Transportation. “U.S. District Judge Kathryn Kimball Mizelle struck down the federal mask mandate for airplanes and other modes of public transportation Monday, writing in a 59-page ruling that the Centers for Disease Control and Prevention had exceeded its authority and failed to follow proper rulemaking procedures... Mizelle sits on the District Court for the Middle District of Florida. She was nominated by former President Donald Trump in September 2020 at age 33 and confirmed by a 49-to-41 Senate vote later that year.” [NPR, [4/19/22](#)]

May 2022: Judge O’Connor Ordered The Fort Worth Case Moot Following Judge Mizelle’s Ruling. “On April 13, 2022, the Transportation Security Agency (“TSA”) extended the public transportation mask mandate through May 3, 2022.¹ On April 18, 2022, a United States District Judge for the Middle District of Florida issued an opinion vacating the mask mandate at issue in this case. See *Health Freedom Defense Fund, Inc. v. Biden*, ECF No. 53, No. 8:21-cv-1693 (M.D. Fla. April 18, 2022). The Government appealed the decision. See *Health Freedom Defense Fund, Inc. v. Biden*, No. 22-11287 (11th Cir., Apr. 21, 2022). TSA has not renewed the mask mandate, which has since expired. The Court ordered the parties to brief mootness, standing, and irreparable harm. Plaintiffs concede that “TSA is not enforcing the CDC’s Mask Mandate today.” Pls.’ Resp. to Defs.’ Cross-Brief 2, ECF No. 40. Having considered the motion, briefing, and applicable law, the Court STAYS proceedings in this case and HOLDS the pending preliminary injunction motion in abeyance pending resolution of the appeal in *Health Freedom*. The Court DIRECTS the Clerk of Court to terminate all pending motions and close the case.” [Van Duyne et al. v. Centers for Disease Control and Prevention et al., Order, dated [5/24/22](#)]

The Washington D.C.-Based Family Research Council Action Challenged The Biden Administration’s Mask Mandate After Finding A Co-Plaintiff Living In The Fort Worth Area

In January 2021, The CDC Ordered That Face Masks Be Worn On Most Forms Of Public Transportation

January 2021: The Centers For Disease Control And Prevention Ordered That Face Masks Be Worn On Nearly All Forms Of Public Transportation To Prevent The Spread Of COVID-19. “The U.S. Centers for Disease Control and Prevention (CDC) issued a sweeping order late Friday requiring the use of face masks on nearly all forms of public transportation Monday as the country continues to report thousands of daily COVID-19 deaths. The order, which takes effect at 11:59 p.m. EST on Monday (0459 GMT Tuesday), requires face masks to be worn by all travelers on airplanes, ships, trains, subways, buses, taxis, and ride-shares and at transportation hubs like airports, bus or ferry terminals, train and subway stations and seaports.” [Reuters, [1/29/21](#)]

In March 2022, Family Research Council Action, An Anti-LGBTQ Hate Group, Joined A Texas State Representative And Two Other Individuals To Sue The Biden Administration To Prevent Enforcement Of The Mask Mandate

March 23, 2022: Family Research Council Action, Matthew Krause, Donna Bramson, And An Unnamed Minor Sued The Biden Administration, Including The Federal Aviation

Administration, Centers For Disease Control And Prevention, And Transportation Security Administration In The Fort Worth Division Of The Northern District Of Texas.

Case 4:22-cv-00209-O Document 1 Filed 03/23/22 Page 1 of 18 PageID 1

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

FAMILY RESEARCH COUNCIL ACTION, INC.,
MATTHEW KRAUSE, DONNA BRAMSON, and S.P.,
a minor, by his next friend and father, Anthony
Perkins,

Plaintiffs,

v.

Civil Action No.:
22-209

JOSEPH R. BIDEN, JR., in his official capacity
as President of the United States, U.S. DEPARTMENT
OF TRANSPORTATION, PETER P. BUTTIGIEG, in
his official capacity as Secretary of Transportation,
FEDERAL AVIATION ADMINISTRATION,
STEPHEN M. DICKSON, in his official capacity as
Administrator of the FAA, U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES, XAVIER
BECERRA, in his official capacity as Secretary of
Health and Human Services, CENTERS FOR
DISEASE CONTROL AND PREVENTION,
ROCHELLE P. WALENSKY, in her official capacity
as Director of the CDC, SHERRI A. BERGER, in her
official capacity as Chief of Staff of the CDC, U.S.
DEPARTMENT OF HOMELAND SECURITY,
ALEJANDRO MAYORKAS, in his official capacity as
Secretary of Homeland Security, TRANSPORTATION
SECURITY ADMINISTRATION, DAVID P.
PEKOSKE, in his official capacity as Administrator
of the TSA, and the UNITED STATES OF AMERICA,

Defendants.

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

Family Research Council Action Is The Lobbying Arm Of The Family Research Council, An Anti-LGBTQ Hate Group. “Based in Washington, D.C., FRC Action is the legislative affiliate of Family Research Council.” [Family Research Council Action, accessed [1/29/24](#)]

- **The Family Research Council Is A Southern Poverty Law Center Designated Hate Group Dedicated To Curtailing LGBTQ Rights.** “FRC often makes false claims about the LGBTQ community based on discredited research and junk science. The intention is to dehumanize LGBTQ people as the organization battles against LGBTQ rights.” [Southern Poverty Law Center, accessed [1/29/24](#)]

Matthew Krause Was A Member Of The Texas House Of Representatives.

5. Plaintiff Matthew Krause serves in the Texas House of Representatives from the 93d District. He is a U.S. citizen and a resident of Tarrant County. As such,

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

The Lawsuit Asked The Court To Prevent Enforcement Of The Mask Mandate.

WHEREFORE, Plaintiffs request that the Court:

- a. Declare that the agency actions implementing the Mask Mandate imposed by Executive Order 13998 are arbitrary and capricious;
- b. Declare that the agency actions extending the Mask Mandate imposed by Executive Order 13998 beyond March 18, 2022, are arbitrary and capricious;
- c. Hold unlawful and set aside those agency actions;

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

Family Research Council Action Is Based In Washington D.C., But Justified Filing In Fort Worth By Arguing That The Mask Mandate Applies To Airports In Northern Texas And By Suing Alongside Two Local Plaintiffs

The Lawsuit Objected To Mask Mandates On Airplanes, And Argued That Fort Worth Was The Proper Venue There Is An Airport There.

25. Venue is appropriate in this judicial district and division under 5 U.S.C. § 703, under 28 U.S.C. § 1391(e)(1)(B) because the Defendants are agencies of the United States or officers thereof acting their official capacities and a substantial part of the events complained of herein occurred in this district and division, as well as

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

- **“The Events Complained Of Herein” Refers To Being Required To Wear A Mask On A Commercial Airplane.**

60. Many FRC Action members travel on commercial airplanes, and there is no reason to doubt whether they comply with the Mask Mandate. Representative Krause and Mrs. Bramson are two such members who act in accordance with the Mask Mandate.

61. But for the Mask Mandate, many FRC Action members would not wear a mask when flying on an airplane. Representative Krause and Mrs. Bramson are two such members.

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

- **Dallas Fort Worth International Airport Is Located In The Same County As Fort Worth.**

40. Dallas Fort Worth International Airport (“DFW”) is located in the City of Fort Worth, which is in Tarrant County, in the State of Texas.

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

The Lawsuit Also Argued That Fort Worth Was The Proper Venue Because Two Of The Plaintiffs Live Nearby.

of the events complained of herein occurred in this district and division, as well as

under 28 U.S.C. § 1391(e)(1)(C) because two of the Plaintiffs reside in this district and division.

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

- **Matthew Krause And Donna Bramson Live Near Fort Worth.**

5. Plaintiff Matthew Krause serves in the Texas House of Representatives from the 93d District. He is a U.S. citizen and a resident of Tarrant County. As such, he resides in the Fort Worth Division of the Northern District of Texas.

6. Plaintiff Donna Bramson is a U.S. citizen and a resident of Tarrant County. As such, she resides in the Fort Worth Division of the Northern District of Texas.

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

Family Research Council Action Is Located In Washington D.C.

4. Plaintiff Family Research Council Action, Inc., (FRC Action) is a 501(c)(4) nonpartisan, nonprofit organization incorporated and headquartered in Washington, D.C. FRC Action has over 1,400 members who reside in Texas, including members who reside in the Fort Worth Division of the Northern District of Texas.

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

The Remaining Plaintiff, An Unnamed Minor, Lives In Louisiana.

7. Plaintiff S.P. is a minor child. S.P. is a U.S. citizen who resides in Louisiana. He is participating in this litigation through his next friend and father, Anthony Perkins.

[Family Research Council Action, Inc. et al v. Biden et al, Complaint, filed [3/23/22](#)]

The Case Was Originally Assigned To Judge Mark Pittman Before It Was Transferred To Judge Reed O'Connor, Who Put It On Hold After A Florida Court Vacated The Mask Mandate And The Mandate Expired

March 23, 2022: The Case Was Assigned To Judge Mark Pittman.

Mar 23, 2022

New Case Notes: A filing fee has been paid. File to: Judge Pittman.

[CourtListener, accessed [1/29/24](#)]

March 24, 2022: Judge Pittman Transferred The Case To Judge Reed O'Connor.

Mar 24, 2022

ORDER: The above-styled case is hereby TRANSFERRED to the docket of the Honorable United States District Judge Reed O'Connor. (Ordered by Judge Mark Pittman on 3/24/2022) (mmw) (Entered: 03/24/2022)

[CourtListener, accessed [1/29/24](#)]

May 24, 2022: Judge O'Connor Stayed Proceedings In The Case After The TSA Did Not Extend The Mask Mandate And A Judge In Similar Case Vacated The Mask Mandate.

harm. Having considered the motion, briefing, and applicable law, the Court **STAYS** proceedings in this case and **HOLDS** the pending preliminary injunction motions in abeyance pending resolution of the appeal in *Health Freedom*. The Court **DIRECTS** the Clerk of Court to terminate all pending motions and close the case. Finally, the Court **ORDERS** the parties to file a joint status

[Family Research Council Action, Inc. et al v. Biden et al, Order, dated [5/24/22](#)]

- **April 18, 2022: A Federal Court In Florida Vacated The Mask Mandate.**

transportation mask mandate through May 3, 2022.¹ On April 18, 2022, a United States District Judge for the Middle District of Florida issued an opinion vacating the mask mandate at issue in this case. *See Health Freedom Defense Fund, Inc. v. Biden*, ECF No. 53, No. 8:21-cv-1693 (M.D. Fla. April 18, 2022). The Government appealed the decision. *See Health Freedom Defense Fund*,

[Family Research Council Action, Inc. et al v. Biden et al, Order, dated [5/24/22](#)]

- **May 3, 2022: The Transportation Security Administration's Mask Mandate Expired.**

"On April 13, 2022, the Transportation Security Agency ("TSA") extended the public transportation mask mandate through May 3, 2022... TSA has not renewed the mask mandate, which has since expired." [Family Research Council Action, Inc. et al v. Biden et al, Order, dated [5/24/22](#)]

A Colorado-Based Right-Wing Legal Foundation Partnered With Two Plaintiffs In The Fort Worth Area To Sue The Justice Department And The Bureau Of Alcohol, Tobacco, Firearms And Explosives Over Its Regulation Of “Ghost Guns”

In April 2022, Attorney General Merrick Garland Signed Final Rule 2021R-05F, Expanding The Bureau Of Alcohol, Tobacco, Firearms And Explosives’ (ATF) Statutory Authority Over Regulating Gun Kits

April 2022: Merrick Garland Signed ATF Final Rule 2021R-05F, “Definition Of ‘Frame or Receiver’ And Identification Of Firearms.” “Summary of Final Rule 2021R-05F – Definition of “Frame or Receiver” and Identification of Firearms – On April 11, 2022, the Attorney General signed ATF final rule, Definition of “Frame or Receiver” and Identification of Firearms...” [Bureau of Alcohol, Tobacco, Firearms and Explosives, accessed [1/24/24](#)]

Final Rule 2021R-05F Reclassified Weapon Parts Kits So That They Now Fell Under The Classification Of Firearms And Would Therefore Be Subjected To Greater Regulation.

“Consistent with the GCA, and to ensure proper licensing, marking, recordkeeping, and background checks with respect to certain weapon parts kits, the final rule adopts the proposed clarification of the term “firearm” to include weapon (e.g., pistol, revolver, rifle, or shotgun) parts kits that are designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive.” [Federal Register, [4/26/22](#)]

- **Parts Kits, Or Ghost Gun Kits, Are Unserialized And Untraceable Firearms That Can Be Bought Online And Assembled At Home.** “Ghost guns are unserialized and untraceable firearms that can be bought online and assembled at home. They are often sold through “ghost gun kits,” which include all of the parts and often the equipment necessary to build these weapons at home. These kits are widely available and can be purchased by anyone, including prohibited purchasers, domestic abusers, and gun traffickers — without a background check.” [Brady United, accessed [1/24/24](#)]

Two Fort Worth-Area Gun Owners, Backed By Two Out-Of-State Advocacy Groups, Sued The Department Of Justice To Prevent It From Reclassifying Ghost Guns

A Coalition Of Two Gun Owners, A Firearms Manufacturer, And A Gun Rights Group Sued The Department Of Justice.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

JENNIFER VANDERSTOK; MICHAEL G.
ANDREN; TACTICAL MACHINING,
LLC, a limited liability company;
FIREARMS POLICY COALITION, INC., a
nonprofit corporation,

Plaintiffs,

v.

MERRICK GARLAND, in his official
capacity as Attorney General of the United
States; UNITED STATES DEPARTMENT
OF JUSTICE; STEVEN DETTELBAACH, in
his official capacity as Director of the
Bureau of Alcohol, Tobacco, Firearms and
Explosives; and BUREAU OF ALCOHOL,
TOBACCO, FIREARMS AND
EXPLOSIVES,

Defendants.

Civil Action No. 4:22-cv-691

**PETITION FOR JUDICIAL REVIEW OF AGENCY ACTION AND
REQUEST FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

[Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]

- **The Plaintiffs Argued That The Bureau Of Alcohol, Tobacco, Firearms And Explosives Had Exceeded Its Statutory Jurisdiction And Authority In Drafting A New Regulation Concerning “Ghost Guns.”** “Under 5 U.S.C. § 706(2)(c), “[t]he reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right[.]” 98. If the agency’s regulation is not consistent with a statutory definition established by Congress, the agency has gone outside the bounds of its authority since it derives its authority from Congress.” [Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]

The Plaintiffs Were Backed By The Nevada Firearms Policy Coalition And The Colorado-Based Mountain States Legal Foundation.

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**Pro hac vice applications forthcoming*

Attorneys for Plaintiffs

[Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]

The Plaintiffs Argued That They Could File In Fort Worth Because Two Of Co-Plaintiffs Lived In The Area

The Lawsuit Was Filed In Fort Worth Because Plaintiffs VanDerStok, Ardren, And Tactical Machining Either Lived In The City Or Conducted Business There. “Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391(e)(1)(B) and (C) because Plaintiffs Ardren and VanDerStok reside in this district; Plaintiff Tactical Machining has engaged in several business transactions in this district; and Plaintiff FPC has members that reside in this district, which include Plaintiffs Ardren, VanDerStok, and Tactical Machining.” [Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]

- **Jennifer VanDerStok Lives In Mineral Wells, Texas.** “Plaintiff Jennifer VanDerStok is a United States citizen who lives in Mineral Wells, Texas.” [Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]
- **Michael G. Ardren Lives In Springtown, Texas.** “Plaintiff Michael G. Ardren is a United States citizen who lives in Springtown, Texas.” [Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]
- **Tactical Machining Is Registered In Florida But Conducts Business With Customers In The Fort Worth Area.** “Plaintiff Tactical Machining, LLC is a producer and retailer of the items the Agencies seek to regulate under the Final Rule. Tactical Machining is a corporation in good standing registered and located in Deland, Florida. Tactical Machining has had several sales direct to customers in this district.” [Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]

All Three Plaintiffs From Fort Worth Are Also Members Of The Nevada-Based Firearms Policy Coalition. "...and Plaintiff FPC has members that reside in this district, which include Plaintiffs Andren, VanDerStok, and Tactical Machining." [Jennifer VanDerStok et al. v. Merrick Garland et al., Complaint, filed [8/11/22](#)]

Judge O'Connor Ultimately Granted Summary Judgment Against ATF, Striking Down Its Final Rule

June 2023: Judge O'Connor Granted Summary Judgment In Favor Of The Plaintiffs. "On June 30th, Judge Reed O'Connor of the US District Court for the Northern District of Texas issued an order granting summary judgment in favor of our clients!" [Mountain States Legal Foundation, [7/5/23](#)]

- **Judge O'Connor Reasoned That Parts Of Weapons Were Not Weapons And Therefore Could Not Be Regulated As Such.** "In sum, there is a legal distinction between a weapon parts kit, which may be an aggregation of partially manufactured parts not subject to the agency's regulatory authority, and a "weapon" which "may readily be completed [or] assembled . . . to expel a projectile." Defendants contend that drawing such a distinction will produce the absurd result whereby a person lawfully prohibited from possessing a firearm can obtain the necessary components and, given advances in technology, self-manufacture a firearm with relative ease and efficiency. Even if it is true that such an interpretation creates loopholes that as a policy matter should be avoided, it not the role of the judiciary to correct them. That is up to Congress. And until Congress enacts a different statute, the Court is bound to enforce the law as written." [Mountain States Legal Foundation, [7/5/23](#)]

The Supreme Court Issued A Stay Of Judge O'Connor's Ruling While The Case Was Heard By The Fifth Circuit Appellate Court, Which Upheld O'Connor's Decision To Vacate The Rule, Prompting The Federal Government To Appeal To The Supreme Court

August 2023: In A 5-4 Vote, The Supreme Court Issued A Stay Of Judge O'Connor's Ruling, While The Case Was Heard On Appeal. "The Supreme Court handed down a brief order on Tuesday that will prevent violent criminals and other individuals who are not allowed to have guns from evading a federal law requiring background checks for gun buyers. The vote was 5-4, with Chief Justice John Roberts and Justice Amy Coney Barrett joining the Court's three Democratic appointees...Judge Reed O'Connor, who is known for handing down dubiously reasoned opinions that implement Republican Party policies, ruled that these ghost gun kits are immune from the laws requiring serial numbers and background checks." [Vox, [8/8/23](#)]

November 2023: The Fifth Circuit Appeals Court Upheld O'Connor's Decision To Vacate The Two Provisions Challenged By The Plaintiffs. "Accordingly, the judgment of the district court is AFFIRMED to the extent it holds unlawful the two challenged portions of the Final Rule, and VACATED and REMANDED as to the remedy." [VanDerStok et al. v. Garland et al., Opinion, dated [11/9/23](#)]

- **The Fifth Circuit Reversed O'Connor's Decision To Invalidate The Entire Rule.** "We turn now to the appropriate remedy. The Government argues that the district court's universal vacatur of the entire Final Rule (i.e., not just the two challenged portions) was overbroad, regardless of the merits of the case. While this Court's precedent generally sanctions vacatur under the APA,²⁷ we VACATE the district court's vacatur order and REMAND to the district court for further consideration of the remedy, considering this Court's holding on the merits." [VanDerStok et al. v. Garland et al., Opinion, dated [11/9/23](#)]

February 2024: The Department Of Justice Appealed The Case To The Supreme Court. "In accordance with the Court's order, Defendants respectfully notify the Court that Defendants have filed a petition for certiorari with the Supreme Court in this case." [VanDerStok et al. v. Garland et al., Notice, dated [2/8/24](#)]

The D.C.-Based Right-Wing Law Firm Consovoy McCarthy Backed Two Plaintiffs In The Fort Worth Area Who Successfully Challenged The Biden Administration's Student Loan Debt Forgiveness Plan All The Way To The Supreme Court

In August 2022, Responding To A Decades-Long Increase In College Tuition And Student Debt, The Biden Administration Announced A Student Loan Debt Forgiveness Plan Designed To Relieve Tens Of Millions Of Americans' Debt Burdens And Advance Racial Equity

After The Early 1990s College Tuition Rose Dramatically, More Than Doubling At Public Four-Year Schools And Nearly Doubling At Private Four-year Schools. "Between 1993-94 and 2023-24, average published tuition and fees increased from \$2,650 to \$3,990 at public two-year, from \$5,380 to \$11,260 at public four-year, and from \$23,300 to \$41,540 at private nonprofit four-year institutions, after adjusting for inflation." [The College Board, [11/23](#)]

Rising Tuition Costs Have Required Most Students To Take Tens Of Thousands Of Dollars In Student Loans. "That has left many students from low- and middle-income families with no choice but to borrow if they want to get a degree. According to a Department of Education analysis, the typical undergraduate student with loans now graduates with nearly \$25,000 in debt." [The White House, [8/24/22](#)]

August 24, 2022: The Biden Administration Announced A Plan To Offer "Targeted Debt Relief" To Some Student Loan Holders. "Today, President Biden is announcing a three-part plan to provide more breathing room to America's working families as they continue to recover from the strains associated with the COVID-19 pandemic. This plan offers targeted debt relief as part of a comprehensive effort to address the burden of growing college costs and make the student loan system more manageable for working families." [The White House, [8/24/22](#)]

The Plan Would Have Canceled Up To \$20,000 In Debt For Pell Grant Recipients And \$10,000 In Debt For Other Borrowers, Which The Biden Administration Claimed Would Provide Relief To Tens Of Millions Of Americans And Advance Racial Equity. "The Department of Education will provide up to \$20,000 in debt cancellation to Pell Grant recipients

with loans held by the Department of Education, and up to \$10,000 in debt cancellation to non-Pell Grant recipients.” [The White House, [8/24/22](#)]

- **White House: The Plan Would “Provide Relief To Up To 43 Million Borrowers” And Fully Cancel The Debt Of 20 Million.** “If all borrowers claim the relief they are entitled to, these actions will: Provide relief to up to 43 million borrowers, including cancelling the full remaining balance for roughly 20 million borrowers.” [The White House, [8/24/22](#)]
- **White House: The Plan Would “Advance Racial Equity” By Targeting Relief To Economically Marginalized Communities.** “By targeting relief to borrowers with the highest economic need, the Administration’s actions are likely to help narrow the racial wealth gap. Black students are more likely to have to borrow for school and more likely to take out larger loans. Black borrowers are twice as likely to have received Pell Grants compared to their white peers. Other borrowers of color are also more likely than their peers to receive Pell Grants. That is why an Urban Institute study found that debt forgiveness programs targeting those who received Pell Grants while in college will advance racial equity.” [The White House, [8/24/22](#)]

Less Than Two Months Later, Two Student Loan Holders Not Eligible For The Program’s Maximum Forgiveness, Sued The Department Of Education Seeking To Block The Debt Forgiveness Program

October 10, 2022: Myra Brown And Alexander Taylor, Student Loan Holders Not Eligible For Maximum Forgiveness Under The Biden Administration’s Plan, Sued The Department Of Education In The Fort Worth Division Of The Northern District Of Texas.

Case 4:22-cv-00908-O Document 1 Filed 10/10/22 Page 1 of 15 PageID 1

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION	
MYRA BROWN and ALEXANDER TAYLOR, <div style="text-align: right;">PLAINTIFFS,</div> <div style="text-align: center;">v.</div> U.S. DEPARTMENT OF EDUCATION; MIGUEL CARDONA, in his official capacity as the Secretary of Education, <div style="text-align: right;">DEFENDANTS.</div>	CIVIL ACTION NO. _____

[Brown v. U.S. Department of Education, Complaint, filed [10/10/22](#)]

- **Myra Brown Was A Student Loan Holder Not Eligible For Debt Forgiveness.**

13. Plaintiff Myra Brown received her undergraduate degree from the University of Texas at El-Paso in 1993. Ms. Brown then attended graduate school at the Cox School of Business at Southern Methodist University in Dallas, Texas. Ms. Brown completed her graduate school studies in 2002. To pay for graduate school, Ms. Brown received student loans through the Federal Family Education Loan Program ("FFELP").

14. Ms. Brown currently has two FFELP loans totaling more than \$17,000. Because Ms. Brown's loans are commercially held and not in default, she is ineligible for debt forgiveness under the Debt Forgiveness Program.

[Brown v. U.S. Department of Education, Complaint, filed [10/10/22](#)]

- **Alexander Taylor Was A Student Loan Holder Eligible For Debt Forgiveness, But Not Eligible For Maximum Forgiveness.**

15. Plaintiff Alexander Taylor received his undergraduate degree from the University of Dallas. To pay for his undergraduate studies, Mr. Taylor received federal student loans through the Direct Loan Program.

16. Mr. Taylor currently has four loans totaling more than \$35,000. Mr. Taylor's loans are held by the Department of Education and he made less than \$125,000 in 2020 and 2021. Because Mr.

- 3 -

Case 4:22-cv-00908-O Document 1 Filed 10/10/22 Page 4 of 15 PageID 4

Taylor never received a Pell Grant, he is ineligible for the full \$20,000 in debt forgiveness under the Debt Forgiveness Program.

[Brown v. U.S. Department of Education, Complaint, filed [10/10/22](#)]

The Lawsuit Asked The Court To Vacate The Debt Forgiveness Program.

WHEREFORE, Plaintiffs ask this Court to enter judgment in their favor and to provide them with the following relief:

- a. Declare that the Debt Forgiveness Program has been adopted without observance of procedure required by law and therefore violates the APA.
- b. Preliminarily and permanently enjoin Defendants from enforcing, applying, or implementing the Program anywhere within the Department's jurisdiction.
- c. Vacate and set aside the Program.

[Brown v. U.S. Department of Education, Complaint, filed [10/10/22](#)]

The Lawsuit Justified Filing In Fort Worth Because Myra Brown Lived There.

20. Venue is proper in this Court under 28 U.S.C. §1391(e) because this is an action against an officer and an agency of the United States, a plaintiff resides in this judicial district, and no real property is involved in the action. Venue is proper in the Fort Worth Division of this Court because Plaintiff Myra Brown resides in this division.

[Brown v. U.S. Department of Education, Complaint, filed [10/10/22](#)]

The Plaintiffs Were Backed By Right-Wing D.C. Law Firm Consovoy McCarthy

Lawyers From Consovoy McCarthy Filed The Complaint On Behalf Of The Plaintiffs.

Respectfully submitted,

/s/ James F. Hasson

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**Admitted in Illinois, but not Virginia.
Supervised by principals at firm.*

Counsel for Plaintiffs

[Brown v. U.S. Department of Education, Complaint, filed [10/10/22](#)]

Consovoy McCarthy Is A “Central Player In The Contemporary Conservative Legal Movement” That Has Represented Republican Officials Including Donald Trump. “The affirmative action and student loan decisions -- each delivered by the high court's 6-3 conservative majority -- underscored both the court's rightward shift and Consovoy McCarthy's position as a central player in the contemporary conservative legal movement. The decade-old, Arlington, Virginia-based firm now has more than 20 lawyers. It has represented the Republican National Committee and several Republican officials. It also spearheaded lawsuits for former President Donald Trump over his financial records.” [Reuters, [7/3/23](#)]

- **Consovoy McCarthy Was Hired To Defend Anti-Trans Laws In Tennessee.** “The state of Tennessee recently hired the firm to help defend its law banning transition care for transgender minors.” [Reuters, [7/3/23](#)]
- **Consovoy McCarthy Represented The Plaintiffs Who Successfully Sued To Overturn Affirmative Action.** “Consovoy McCarthy represented Students for Fair Admissions, a group founded by anti-affirmative action activist Edward Blum, in the successful challenges to race-based admissions policies at Harvard and the University of North Carolina.” [Reuters, [7/3/23](#)]

Consovoy McCarthy Is Based In Northern Virginia, With Offices In Boston And Salt Lake City.

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[Consovoy McCarthy, accessed [1/29/24](#)]

The Case Went All The Way To The Supreme Court, Which Dismissed It But Blocked The Debt Forgiveness Program In A Separate Case

October 10, 2022: The Case Was Assigned To Judge Reed O'Connor.

Oct 10, 2022	New Case Notes: A filing fee has been paid. File to: Judge O Connor.
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[CourtListener, accessed [1/29/24](#)]

October 12, 2022: Judge O'Connor Recused Himself And The Case Was Reassigned To Judge Mark Pittman.

Oct 12, 2022	Court Request for Recusal: Judge Reed C. O'Connor recused. Pursuant to instruction in Special Order 3-249, the Clerk has reassigned the case to Judge Mark Pittman for all further proceedings. Future filings should indicate the case number as: 4:22-cv-00908-P. (bcr) (Entered: 10/12/2022)
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[CourtListener, accessed [1/29/24](#)]

November 10, 2022: Judge Pittman Ruled In Favor Of The Plaintiffs, Blocking The Debt Forgiveness Program.

This Final Judgment is issued pursuant to Federal Rule of Civil Procedure 58. Per the Order entered on November 10, 2022:

It is **ORDERED AND ADJUDGED** that Final Judgment is entered in favor of the Plaintiffs.

Plaintiffs' Motion for Summary Judgment (ECF No. 3) is **GRANTED** and Defendants' Motion to Dismiss (ECF No. 25) is **DENIED**.

The Court **DECLARES UNLAWFUL** and **VACATES** the Program.

The Clerk is **DIRECTED** to transmit a true copy of this Final Judgment to the Parties.

SO ORDERED on this 10th day of November 2022.

[Brown v. U.S. Department of Education, Order, dated [11/20/22](#)]

November 10, 2022: The Department Of Education Appealed The Ruling.

Nov 10, 2022	NOTICE OF APPEAL as to 37 Order on Motion for Injunction, Order on Motion to Dismiss/Lack of Jurisdiction, 38 Order to the Fifth Circuit by Miguel Cardona, U.S. Department of Education. T.O. form to appellant electronically at
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[CourtListener, accessed [1/29/24](#)]

December 1, 2022: The Fifth Circuit Appellate Court Denied The Department Of Education's Request To Stay The Order Blocking The Debt Relief Program.

Dec 1, 2022	ORDER of USCA No. 22-11115 as to 39 Notice of Appeal, filed by U.S. Department of Education, Miguel Cardona. IT IS ORDERED that appellants opposed motion for stay pending appeal is DENIED. IT IS FURTHER ORDERED that this matter is expedited to the next available randomly designated regular oral argument panel. The Clerk is directed to
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[CourtListener, accessed [1/29/24](#)]

December 19, 2022: The Supreme Court Agreed To Hear An Appeal.

Dec 19, 2022	SUPREME COURT ORDER No. 22-535 (22A489) CERTIORARI GRANTED. Enclosed is a copy of the Supreme Court order granting certiorari. Consideration of the application for a stay presented to Justice Alito and by him referred to
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[CourtListener, accessed [1/29/24](#)]

June 30, 2023: The Supreme Court Found That The Plaintiffs Lacked Standing To Sue And Dismissed The Case. "Holding: Respondents lack Article III standing to assert a procedural challenge to the student-loan debt-forgiveness plan adopted by the Secretary of Education pursuant to Higher Education Relief Opportunities for Students Act of 2003."

[SCOTUSblog, accessed [1/29/24](#)]

June 30, 2023: The Supreme Court Blocked The Debt Forgiveness Plan In A Separate Case Brought By Six Conservative States. "The court sided with six conservative-leaning states - Arkansas, Iowa, Kansas, Missouri, Nebraska and South Carolina -that objected to Biden's student loan forgiveness. Its ruling dealt a blow to the 26 million borrowers who applied for relief after Biden announced the plan in August 2022 and represented a political setback for Biden." [Reuters, [7/1/23](#)]

The Anti-Abortion Group Alliance For Hippocratic Medicine (AHM) Incorporated In Amarillo Following The Dobbs Decision And Then Sued In Matthew Kacsmark's Court To Challenge The FDA's Decades-Old Approval Of The Abortion Pill Mifepristone.

The Alliance For Hippocratic Medicine Is A Coalition Of Anti-Abortion Groups

The Alliance For Hippocratic Medicine Is Comprised Of The Catholic Medical Association, The Coptic Medical Association Of North America, The American College Of Pediatricians, The American Association Of Pro-Life OBGYNs, And The Christian Medical & Dental Associations.



[The Alliance for Hippocratic Medicine, accessed [3/13/24](#)]

- **The Alliance For Hippocratic Medicine Opposed Abortion And Gender-Affirming Care.** “OUR VALUES Sanctity of life which is defined as beginning at fertilization and ending in natural death. Sanctity of the body asserting no difference between biological sex and gender except in the case of rare, diagnosable disorders of sexual development...” [The Alliance for Hippocratic Medicine, accessed [3/13/24](#)]
- **AHM Has Claimed, “We Represent Approximately 30,000 Physicians And Other Healthcare Professionals Who Believe All Pregnant Women And Their Preborn Babies Deserve Excellent Healthcare.”** “We represent approximately 30,000 physicians and other healthcare professionals who believe all pregnant women and their preborn babies deserve excellent healthcare. As such, we applaud Texas’s passion for protecting preborn children.” [AAPLOG, accessed [08/28/23](#)]
- **Before AHM’s Creation, Its Member Groups “Worked Together In Various Configurations To Push Anti-Abortion And Anti-LGBTQIA+ Narratives,” Using The Same Claim That They Represented 30,000 Physicians** “Before AHM was officially formed, these groups worked together in various configurations to push anti-abortion and anti-LGBTQIA+ narratives, typically indicating that it represents “over 30,000 physicians who practice according to the Hippocratic Oath”; this 30,000 figure is the same one used when the AHM name was adopted.” [Equity Forward, accessed [08/28/23](#)]

The Alliance For Hippocratic Medicine Incorporated In Amarillo In August 2022, Just Weeks After The Supreme Court Overturned Roe v. Wade

June 24, 2022: The Supreme Court Ruled On Dobbs, Overturning Roe v. Wade. “The Supreme Court on Friday overruled Roe v. Wade, eliminating the constitutional right to an abortion after almost 50 years in a 6-to-3 ruling.” [The New York Times, [6/24/22](#)]

August 5, 2022: The Alliance For Hippocratic Medicine Incorporated In Amarillo, Texas.



Franchise Tax Account Status
As of : 12/22/2022 08:53:10

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

ALLIANCE FOR HIPPOCRATIC MEDICINE	
Texas Taxpayer Number	32085759861
Mailing Address	2604 HIGHWAY 421 BRISTOL, TN 37620-9486
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	08/05/2022
Texas SOS File Number	0804675645
Registered Agent Name	LEAH DAVIS
Registered Office Street Address	500 S. TAYLOR, SUITE 900 AMARILLO, TX 79101

[Texas, Office of the Comptroller, dated [12/22/22](#)]

November 2022: The Alliance For Hippocratic And Several Co-Plaintiffs Sued The FDA Over Its Approval Of The Abortion Pill Mifepristone In Federal Court In Amarillo

The Alliance For Hippocratic Medicine (AHM) Was The Lead Plaintiff In The Mifepristone Complaint, Alongside Co-Plaintiffs The American College Of Pediatricians, The American Association Of Pro-Life Obstetricians And Gynecologists, The Christian Medical & Dental Associations, And Four Individual Physicians. “ACPeds, in addition to being a co-plaintiff in the case, is also a founding member of the Alliance for Hippocratic Medicine, which is serving as the lawsuit’s lead plaintiff. The complaint, which was filed by ADF—along with the ruling of a lower-court judge who accepted its arguments—have been widely panned for cherry-picking and mischaracterizing research to claim, falsely, that mifepristone causes high rates of serious complications.” [Mother Jones, [05/17/23](#)]

ALLIANCE FOR HIPPOCRATIC MEDICINE, on behalf of itself, its member organizations, their members, and these members' patients; **AMERICAN ASSOCIATION OF PRO-LIFE OBSTETRICIANS AND GYNECOLOGISTS**, on behalf of itself, its members, and their patients; **AMERICAN COLLEGE OF PEDIATRICIANS**, on behalf of itself, its members, and their patients; **CHRISTIAN MEDICAL & DENTAL ASSOCIATIONS**, on behalf of itself, its members, and their patients; **SHAUN JESTER, D.O.**, on behalf of himself and his patients; **REGINA FROST-CLARK, M.D.**, on behalf of herself and her patients; **TYLER JOHNSON, D.O.**, on behalf of himself and his patients; and **GEORGE DELGADO, M.D.**, on behalf of himself and his patients,
Plaintiffs,

[Complaint, Alliance for Hippocratic Medicine et al. v. U.S. Food and Drug Administration, Case 2:22-cv-00223-Z, [11/18/22](#)]

The AHM Filed Its Lawsuit “Where Kacsmarky Hears All Federal Civil Cases.” “Three months later, the lawsuit was filed in the same Texas Panhandle city where Kacsmarky hears all federal civil cases.” [The Intercept, [02/28/23](#)]

In An Act Of “Judge Shopping,” AHM Was Thought To Have “Orchestrated” Placing The Mifepristone Case Before “Far Right” Trump-Appointed U.S. District Judge Matthew Kacsmarky In Amarillo, Texas, Who Has “Regularly Overseen Politically Charged Cases During The Biden Administration.”

AHM’s Incorporation Documents Suggested That They “Orchestrated To Land The Case Before Judge Matthew Kacsmarky, A Trump-Appointed Darling Of The Far Right.” “The incorporation documents, obtained from the Texas secretary of state, provide further evidence that the plaintiffs cherry-picked a court they believed would be amenable to their arguments, an act of forum shopping that was orchestrated to land the case before Judge Matthew Kacsmarky, a Trump-appointed darling of the far right.” [The Intercept, [02/28/23](#)]

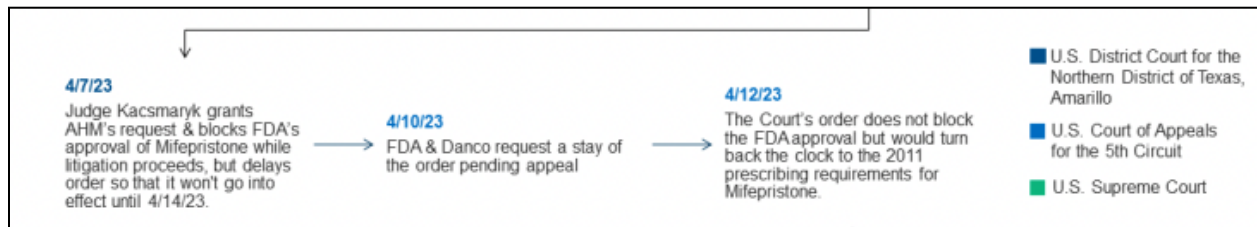
- **Three Months After Incorporating, The Alliance Filed Its Lawsuit “Where Kacsmarky Hears All Federal Civil Cases.”** “Three months later, the lawsuit was filed in the same Texas Panhandle city where Kacsmarky hears all federal civil cases.” [The Intercept, [02/28/23](#)]
- **AHM Was Incorporated “Just Down The Street From Kacsmarky’s Courthouse” And “Less Than 300 Feet Away.”** “The Alliance for Hippocratic Medicine, was incorporated after the Supreme Court overturned Roe v. Wade just down the street from Kacsmarky’s courthouse. Literally around the corner, less than 300 feet away, in fact.” [Religion Dispatches, [04/10/23](#)]

- **Cases Filed In Amarillo, Texas Have “A 100 Percent Chance Of Having The Case Assigned To Judge Matthew Kacsmarky.”** “It was filed in Amarillo. Why Amarillo? By filing there, Mr. Paxton had a 100 percent chance of having the case assigned to Judge Matthew Kacsmarky — appointed to the bench by President Donald Trump in 2019 and a former deputy general counsel to the First Liberty Institute, which frequently litigates religious liberty cases before the Supreme Court.” [The New York Times, [02/05/23](#)]

April 2023: Matthew Kacsmarky Issued National Injunction Suspending The FDA’s Approval Of Mifepristone

April 7, 2023: Matthew Kacsmarky Suspended The FDA’s Approval Of Mifepristone, Ruling That The Agenda Approved The Drug “In Violation Of Its Statutory Duty.” [Texas Tribune, [4/7/23](#)]

April 10, 2023: The FDA And Drug Manufacturer Danco Request A Stay Of Kacsmarky’s Order Pending Appeal, Which The 5th Circuit Court Of Appeals Partially Grants.



[KKF.org, [4/21/23](#)]

August 2023: A Conservative Panel Of Fifth Circuit Court Of Appeals Judges—including Judges James Ho, Cory Wilson, And Jennifer Elrod—Imposed “Unprecedented” Restrictions On Abortion Pill Mifepristone In A Lawsuit Brought By The Anti-Abortion Alliance For Hippocratic Medicine (AHM).

August 2023: A Panel Of The Fifth Circuit Court Of Appeals Imposed Restrictions On Abortion Drug Mifepristone In A Case Brought By “A Group Of Anti-Abortion Doctors Called The Alliance For Hippocratic Medicine.” “A federal appeals court on Wednesday imposed restrictions on the abortion pill mifepristone, though the ruling will not have an immediate impact on the medication’s availability. The U.S. Court of Appeals for the 5th Circuit ruled that several decisions the Food and Drug Administration took to make mifepristone more broadly available to women did not take safety concerns into account. [...] The three-judge panel at the 5th Circuit heard oral arguments in May from the FDA, mifepristone distributor Danco Laboratories and a group of anti-abortion doctors called the Alliance for Hippocratic Medicine.” [CNBC, [08/16/23](#)]

- **The Appeal Arose From A “Much Broader” Ruling Issued By Judge Matthew Kacsmarky, Judge From The U.S. District Of The Northern District Of Texas.** “The case ended up in the 5th Circuit on appeal after U.S Judge Matthew Kacsmarky of the Northern District of Texas issued a much broader ruling in April that suspended the FDA approval of mifepristone.” [CNBC, [08/16/23](#)]

The Fifth Circuit Decision Was Paused From Taking Effect Until The Supreme Court Decides The Case. “The ruling is paused from taking effect until the Supreme Court makes a decision about the case. The high court imposed the pause in April upon request from the Biden administration after lower courts had ruled against the pill in the spring.” [CNBC, [08/16/23](#)]

If The Supreme Court Upholds The Fifth Circuit’s Ruling, Women Would No Longer Be Able To Obtain Mifepristone Via Telemedicine Appointments Or By Mail, And Would Have To Have Three Follow-Up Appointments After Receiving A Prescription From A Doctor. “If the Supreme Court upholds Wednesday’s ruling, women would no longer be able to obtain the abortion pill through telemedicine appointments and by mail. Patients would have to receive a prescription from a doctor and have three follow-up appointments in person.” [CNBC, [08/16/23](#)]

- **The Restrictions Would “Shorten The Time Period When Women Can Take The Pill To 49 Days Into Their Pregnancy, Down From 70 Days.”** “The restrictions would also shorten the time period when women can take the pill to 49 days into their pregnancy, down from 70 days.” [CNBC, [08/16/23](#)]

March 2024: The Supreme Court Is Set To Hear Oral Arguments In The Case

December 13, 2023: The Supreme Court Agreed To Review The Lower Court’s Ruling Significantly Restricting Access To Mifepristone. “The Supreme Court on Wednesday morning agreed to review a ruling by a federal appeals court that would significantly restrict (but not eliminate altogether) access to a drug used in medication abortions, which account for over half of all abortions performed in the United States. Wednesday’s announcement means that the justices will weigh in on the issue of abortion for the first time since overruling the constitutional right to an abortion last year in *Dobbs v. Jackson Women’s Health Organization*. Their decisions in the new cases, *Food and Drug Administration v. Alliance for Hippocratic Medicine* and *Danco Laboratories v. Alliance for Hippocratic Medicine*, are likely to come sometime next summer, in the middle of the 2024 presidential campaign.” [SCOTUSBlog, [12/13/23](#)]

March 26, 2024: Oral Arguments In The Case Are Scheduled To Take Place.

Food and Drug Administration v. Alliance for Hippocratic Medicine

     Share

Consolidated with:

- ***Danco Laboratories, L.L.C. v. Alliance for Hippocratic Medicine***

Docket No.	Op. Below	Argument	Opinion	Vote	Author	Term
23-235	5th Cir.	Mar 26, 2024	TBD	TBD	TBD	OT 2023

[SCOTUSBlog, accessed [3/13/24](#)]

The Nevada-Based Firearms Policy Coalition Recruited Two Gun Owners In The Fort Worth Area In Order To Sue The Biden Administration Over Its Rule Requiring Gun Owners To Register Stabilizing Braces

In January 2023, The Bureau Of Alcohol, Tobacco, Firearms And Explosives Expanded The Definition Of Short-Barreled Rifles To Include Pistols Equipped With Stabilizing Braces, An Accessory That Has Been Repeatedly Used In Mass Shootings, Requiring Gun Owners To Register Stabilizing Braces

Stabilizing Braces Are A Pistol Accessory That Allow Users To Easily Shoot With One Hand. “Stabilizing braces, also known as pistol braces or SIG braces, are accessories that attach to the back of a gun and strap to the forearm, anchoring and lengthening the weapon and allowing the shooter to shoot one-handed more easily.” [Florida Times-Union, [5/29/23](#)]

Stabilizing Braces Have Been Repeatedly Used In Mass Shootings. “...a man using a stabilizing brace killed 10 people at a grocery store in Boulder, Colorado. A stabilizing brace was also used in a shooting in Dayton, Ohio, that left nine people dead in 2019 and most recently in a school shooting in Nashville, Tennessee.” [Associated Press, [6/22/23](#)]

January 13, 2023: The Bureau Of Alcohol, Tobacco, Firearms And Explosives Revised Its Definition Of “Short-Barreled Rifle” To Include Pistols With Stabilizing Braces. “The rule outlines the factors ATF would consider when evaluating firearms equipped with a purported “stabilizing brace” (or other rearward attachment) to determine whether these weapons would be considered a “rifle” or “short-barreled rifle”... The rule’s amended definition of “rifle” clarifies that the term “designed, redesigned, made or remade, and intended to be fired from the shoulder” includes a weapon that is equipped with an accessory, component, or other rearward attachment (e.g., a “stabilizing brace”) that provides surface area that allows the weapon to be fired from the shoulder.” [Bureau of Alcohol, Tobacco, Firearms and Explosives, accessed [1/25/24](#)]

The New Rule Required Owners To Register Stabilizing Braces, Since They Can Make Pistols “Easy To Conceal” and “Dangerously Powerful.” “In January, the Bureau of Alcohol, Tobacco, Firearms and Explosives finalized the new regulations on pistols with stabilizing braces, also called pistol braces, that require owners to register them and pay a fee or remove the braces. The agency found the accessories can make pistols as dangerously powerful and easy to conceal as short-barreled rifles or sawed-off shotguns.” [Associated Press, [6/22/23](#)]

Three Weeks Later, The Firearms Policy Coalition And Two Individuals Sued The Bureau Of Alcohol, Tobacco, Firearms And Explosives Over The Stabilizing Brace Registration Requirement

January 31, 2023: The Firearms Policy Coalition, William Mock, And Christopher Lewis Sued The Bureau Of Alcohol, Tobacco, Firearms And Explosives In The Fort Worth Division Of The Northern District Of Texas.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

WILLIAM T. MOCK; CHRISTOPHER
LEWIS; and FIREARMS POLICY
COALITION, INC., a nonprofit corporation,

Plaintiffs,

v.

MERRICK GARLAND, in his official
capacity as Attorney General of the United
States; the UNITED STATES
DEPARTMENT OF JUSTICE; STEVEN
DETTELBAUGH, in his official capacity as
the Director of the Bureau of Alcohol,
Tobacco, Firearms and Explosives; and the
BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES,

Defendants.

Civil Action No. 3:23-cv-232

[Mock v. Garland, Complaint, filed [1/31/23](#)]

- **The Firearms Policy Coalition Is A Gun Rights Advocacy Organization.** “FPC’s efforts are focused on the right to keep and bear arms and adjacent issues including freedom of speech, due process, unlawful searches and seizures, separation of powers, asset forfeitures, privacy, encryption, and limited government.” [Firearms Policy Coalition, accessed [1/25/24](#)]
- **Christopher Lewis Is The Owner Of A Braced Pistol.**

Aledo, Texas, within Parker County. Mr. Lewis lawfully owns at least one braced pistol that he purchased from an FFL in accordance with federal law that will newly be treated as a short-barreled rifle under the Agencies’ Final Rule. Mr. Lewis has

[Mock v. Garland, Complaint, filed [1/31/23](#)]

- **William Mock Is The Owner Of A Braced Pistol.**

3. Plaintiff William T. Mock is a resident of Weatherford, Texas within Parker County. He lawfully owns at least one braced pistol that will be subject to heightened legal requirements as a short-barreled rifle under the Agencies’ Final Rule. Mr. Mock also has plans to purchase at least one more braced pistol within the

[Mock v. Garland, Complaint, filed [1/31/23](#)]

The Lawsuit Objected To The New Rule’s Classification Of Pistols With Stabilizing Braces As Short-Barreled Rifles.

1. This lawsuit challenges, *inter alia*, the *Factoring Criteria for Firearms with Attached Stabilizing Braces* (“Final Rule”), 88 Fed. Reg. 6,478 (Jan. 31, 2023),¹ promulgated by the Department of Justice (“DOJ”) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF,” collectively “Agencies”) to regulate “braced pistols” as “short-barreled rifles.” In so doing, for the reasons set forth herein, the Agencies violate the Administrative Procedure Act (“APA”) and the United States Constitution.

[Mock v. Garland, Complaint, filed [1/31/23](#)]

The Lawsuit Asked The Court To Overturn The Rule.

Plaintiffs request the following relief from this Honorable Court:

1. Holding unlawful and setting aside the Final Rule;

[Mock v. Garland, Complaint, filed [1/31/23](#)]

The Firearms Policy Coalition Is A Delaware Corporation Located In Nevada, But Joined Two Fort Worth Locals To Justify Suing There

The Firearms Policy Coalition Is Incorporated In Delaware And Based In Nevada.

5. Plaintiff Firearms Policy Coalition, Inc. (“FPC”), is a nonprofit organization incorporated under the laws of Delaware with its principal place of business in Clark County, Nevada, and members across the country. FPC’s purposes

[Mock v. Garland, Complaint, filed [1/31/23](#)]

William Mock Is A Resident Of Weatherford, Texas.

3. Plaintiff William T. Mock is a resident of Weatherford, Texas within Parker County. He lawfully owns at least one braced pistol that will be subject to

[Mock v. Garland, Complaint, filed [1/31/23](#)]

Christopher Lewis Is A Resident Of Aledo, Texas.

4. Plaintiff Christopher Lewis is a United States citizen who lives in Aledo, Texas, within Parker County. Mr. Lewis lawfully owns at least one braced

[Mock v. Garland, Complaint, filed [1/31/23](#)]

The Lawsuit Justified Suing In Fort Worth Because Mock And Lewis Live In The District.

18. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e)(1)(B) and (C) because Plaintiffs Mock and Lewis reside in this district; and because Plaintiff FPC has members (including Mock and Lewis) that reside—and whose rights are primarily being curtailed—in this district.

[Mock v. Garland, Complaint, filed [1/31/23](#)]

Judge Reed O'Connor Declined To Temporarily Block The Rule, But The Fifth Circuit Appellate Court Overruled Him And Blocked The Rule Until O'Connor Hears The Full Case

The District Judge Originally Denied The Request To Block The Rule. “The Texas-based federal judge presiding in the case refused to block the rule, which required registration of the devices and payment of a fee.” [Associated Press, [8/1/23](#)]

May 2023: The Fifth Circuit Appellate Court Agreed To Temporarily Block The Rule. “But in May, the 5th U.S. Circuit Court of Appeals issued a temporary block of the rule as it applied to the plaintiffs, their customers and members.” [Associated Press, [8/1/23](#)]

August 1, 2023: The Fifth Circuit Appellate Court Sent The Case Back To Judge Reed O'Connor, Who Originally Heard It. “On Tuesday, the panel voted 2-1 to extend the block on enforcement for 60 days and send the case back to U.S. District Judge Reed O'Connor in Texas.” [Associated Press, [8/1/23](#)]

The Milwaukee-Based Wisconsin Institute For Law & Liberty Found An Individual In Amarillo, Texas, Willing To Sue The Bureau Of Alcohol, Tobacco, Firearms And Explosives In Order To Block A Federal Rule Regulating “Stabilizing Braces”

The Wisconsin Institute For Law & Liberty Is A 501(c)(3) Public Interest Law Firm That Champions Right-Wing Causes

The Wisconsin Institute For Law & Liberty Is A Conservative Public Interest Law Firm Based In Milwaukee. “The Wisconsin Institute for Law & Liberty (WILL) is a 501(c)(3) nonprofit organization that participates in court cases it believes will uphold the rule of law, individual liberty, constitutional government, or civil society...Location: Milwaukee, Wis.” [Ballotpedia, accessed [8/23/23](#)]

- **The Wisconsin Institute For Law & Liberty Has Been Called “The ACLU Of Wisconsin’s Right.”** [Bradley Impact Fund, accessed [4/23/23](#)]

The Wisconsin Institute For Law & Liberty Is An Affiliate Of The State Policy Network.

AFFILIATES

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Institute for Reforming Government

State: Wisconsin

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Avenue Suite 201 Madison, WI 53703

MacIver Institute for Public Policy

State: Wisconsin

Address: 10 E. Doty Street,
Suite 820 Madison, WI 53703

Phone: 608-630-2093

Contact: Annette Olson



Wisconsin Institute for Law and Liberty

State: Wisconsin

Address: 330 East Kilbourn
Ave Suite 725 Milwaukee, WI 53202

Phone: 414-727-9455

Contact: Collin Roth



[State Policy Network, accessed [8/23/23](#)]

- **The State Policy Network Is Behind An Ongoing Effort To Restrictive Voting In Key Swing States.** “As Republican legislatures across the country seek to usher in a raft of new restrictions on voting, they are being prodded by an array of party leaders and outside groups working to establish a set of guiding principles to the efforts to claw back access to voting...An internal document described a “two-year effort” to work closely with allies like American Legislative Exchange Council (known as ALEC) and the libertarian State Policy Network to ‘produce model legislation for state legislatures to adopt’ and hire lobbyists in “crucial states.” [The New York Times, [4/7/21](#)]

January 2023: Following Several Mass Shootings, The Bureau Of Alcohol, Tobacco, Firearms And Explosives Published A Final Rule Reclassifying Firearms Equipped With Stabilizing Braces As Rifles

Mass Shooters In Colorado And Ohio Used Stabilizing Braces. “A man using a stabilizing brace on an AR-15 pistol killed 10 people at a grocery store in Boulder, Colorado. Another used one at a school in Nashville, Tennessee that killed three 9-year-old children and three school staff members. Stabilizing pistol braces also were used in mass shootings in Colorado Springs and in Dayton, Ohio.” [The Florida Times-Union, [5/29/23](#)]

January 13, 2023: The Bureau Of Alcohol, Tobacco, Firearms And Explosives Published Its Final Rule Reclassifying Most Firearms Equipped With Stabilizing Braces As “Rifles.”

“On January 13, 2023, the Attorney General signed ATF final rule 2021R-08F, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces,’” amending ATF’s regulations to clarify when a rifle is designed, made, and intended to be fired from the shoulder. The final rule was published in the Federal Register on January 31, 2023. The rule outlines the factors ATF would consider when evaluating firearms equipped with a purported “stabilizing brace” (or other rearward attachment) to determine whether these weapons would be considered a “rifle” or “short-barreled rifle” under the Gun Control Act of 1968, or a “rifle” or “firearm” subject to regulation under the National Firearms Act. The rule’s amended definition of “rifle” clarifies that the term “designed, redesigned, made or remade, and intended to be fired from the shoulder” includes a weapon that is equipped with an accessory, component, or other rearward attachment (e.g., a “stabilizing brace”) that provides surface area that allows the weapon to be

fired from the shoulder, provided other factors, as listed in the definition, indicate the weapon is designed and intended to be fired from the shoulder.” [ATF, accessed [1/13/23](#)]

- **The Rule Would Compel Gun Owners Possessing A Firearm With A Stabilizing Brace To Remove The Brace, Register It, And Pay A Fee, Or Forfeit And Destroy The Firearm.** “Under this rule, guns with pistol braces designed to be fired from the shoulder would now be considered a short-barreled rifle regulated by the National Firearm Act. Gun owners possessing such firearms are now required to remove the brace, register it and pay a fee, or forfeit or destroy the firearm.” [The Florida Times-Union, [5/29/23](#)]

January 2023: The Wisconsin Institute For Law & Justice Found A Man In Amarillo, Texas, Who Would Sue The Bureau Of Alcohol, Tobacco, Firearms And Explosives To Block The New Rule Regulating Stabilizing Braces

Darren A. Britto Is A Resident Of Amarillo, Texas, And An Owner Of Firearms Equipped With Stabilizing Braces. “Plaintiff Darren A. Britto is a resident of Amarillo, Texas. Mr. Britto is a decorated Marine combat veteran, serving with distinction around the globe, including in Operation Desert Shield, Operation Desert Storm, Somalia, Afghanistan, and Iraq. Mr. Britto is a contributing writer for online Second Amendment-related publications. He owns a pistol with a stabilizing brace. This pistol has a barrel less than sixteen inches, thereby making it a “short barrel rifle” under the new rule. Mr. Britto uses this firearm for personal defense, competitive sport shooting, recreation with his family, and as part of his employment as a firearms instructor certified by the NRA and the State of Texas. Mr. Britto uses the stabilizing brace because it makes the firearm more accurate and therefore safer.” [Britto et al v. Bureau of Alcohol, Tobacco, Firearms and Explosives, [1/31/23](#)]

January 2023: Britto Became The Lead Plaintiff In A Lawsuit Challenging The New ATF Rule Regulating Stabilizing Braces.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION
DARREN A. BRITTO, GABRIEL A.TAUSCHER, and SHAWN M. KROLL,
Plaintiffs,
v.
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES,
Defendant.
COMPLAINT

[Britto et al v. Bureau of Alcohol, Tobacco, Firearms and Explosives, [1/31/23](#)]

Lawyers With The Wisconsin Institute For Law & Justice—Who Are Not Licensed To Practice Law In Texas—Represented Britto In The Case.

WISCONSIN INSTITUTE FOR
LAW & LIBERTY, INC.

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[Britto et al v. Bureau of Alcohol, Tobacco, Firearms and Explosives, [1/31/23](#)]


November 2023: Judge Kacsmarky Issued A Nationwide Injunction Blocking Enforcement Of The Rule

May 31, 2023: Judge Kacsmarky Issued A Preliminary Injunction In Favor Of The Plaintiffs In The Case.

subsequent clarification order.¹ Accordingly, the Court **GRANTS IN PART** the Motion and issues a preliminary injunction as to the Plaintiffs in this case only, pending resolution of the expedited appeal of *Mock*. The Court may order additional briefing at a later date in accordance with the Fifth Circuit's decision.

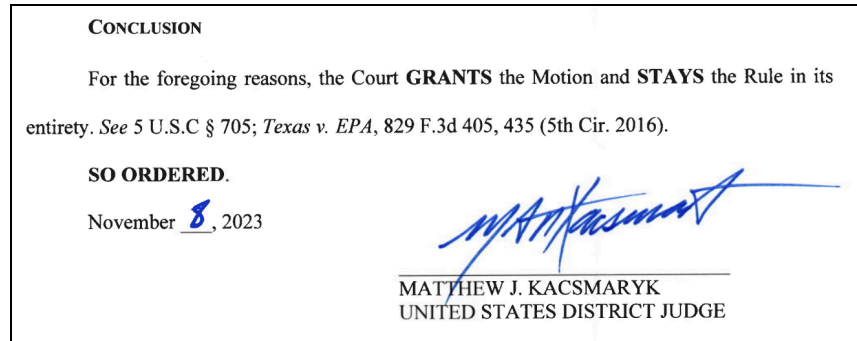
SO ORDERED.

May 31, 2023


MATTHEW J. KACSMARKY
UNITED STATES DISTRICT JUDGE

[Britto et al v. Bureau of Alcohol, Tobacco, Firearms and Explosives, [5/31/23](#)]

November 8, 2023: Judge Kacsmarky Issued A Nationwide Injunction In Favor Of The Plaintiffs.



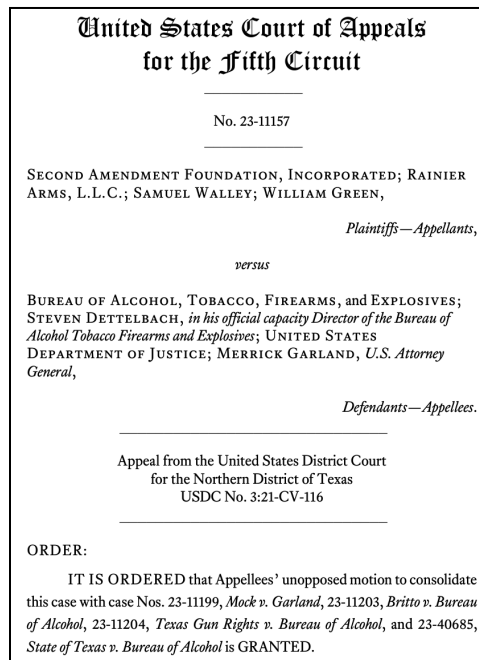
[Britto et al v. Bureau of Alcohol, Tobacco, Firearms and Explosives, [11/8/23](#)]

- **Judge Kacsmarik's Order Invalidated The Rule Nationwide.** "This is the first injunction that applies to all Americans, not just the plaintiffs in pending cases!" [Wisconsin Institute for Law & Liberty, accessed [3/13/24](#)]

The Federal Government Appealed Kacsmarik's Decision To The Fifth Circuit Appellate Court, Where It Was Consolidated With Other Firearm-Related Lawsuits

November 29, 2023: The ATF Appealed Kacsmarik's Decision To The Fifth Circuit Appeals Court. "PLEASE TAKE NOTICE that defendant hereby appeals to the United States Court of Appeals for the Fifth Circuit from this Court's opinion and order dated November 8, 2023, ECF No. 68, granting plaintiffs' motion for a preliminary injunction, ECF No. 14." [Britto et al v. Bureau of Alcohol, Tobacco, Firearms and Explosives, [11/29/23](#)]

December 22, 2023: The Fifth Circuit Consolidated The Lawsuit With Four Other Firearm-Related Cases.



[Second Amendment Foundation, Inc. et. al. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives et. al., Order, dated [12/22/23](#)]

Oklahoma Joined Texas In Suing The Department Of Health And Human Services To Prevent The Department From Defining A “Public Health Emergency”

In January 2017, The Obama Administration’s Department Of Health And Human Services Issued New Rules Defining How It Would Respond To Disease Outbreaks, Including Recognizing World Health Organization-Declared Public Health Emergencies

January 19, 2017: The Department Of Health And Human Services And Centers For Disease Control Published New Rules Dictating Its Response To Public Health Crises.

“The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is issuing this final rule (FR) to amend its regulations governing its domestic (interstate) and foreign quarantine regulations to best protect the public health of the United States.” [Federal Register, [1/19/17](#)]

The New Rules Included A Provision Defining “Public Health Emergency,” Including Three Possibilities For Recognizing Emergencies Determined By The World Health Organization.

Public health emergency as used in this part means:

- (1) Any communicable disease event as determined by the Director with either documented or significant potential for regional, national, or international communicable disease spread or that is highly likely to cause death or serious illness if not properly controlled; or
- (2) Any communicable disease event described in a declaration by the ☐ Secretary pursuant to 319(a) of the Public Health Service Act ([42 U.S.C. 247d](#) (a)); or
- (3) Any communicable disease event the occurrence of which is notified to the World Health Organization, in accordance with Articles 6 and 7 of the International Health Regulations, as one that may constitute a Public Health Emergency of International Concern; or
- (4) Any communicable disease event the occurrence of which is determined by the Director-General of the World Health Organization, in accordance with Article 12 of the International Health Regulations, to constitute a Public Health Emergency of International Concern; or
- (5) Any communicable disease event for which the Director-General of the World Health Organization, in accordance with Articles 15 or 16 of the International Health Regulations, has issued temporary or standing recommendations for purposes of preventing or promptly detecting the occurrence or reoccurrence of the communicable disease.

[Federal Register, [1/19/17](#)]

In January 2023, Texas And Oklahoma Sued The Department Of Health And Human Services Over The Inclusion Of The World Health Organization In The Definition Of Public Health Emergencies

January 18, 2023: The States Of Texas And Oklahoma Sued The Department Of Health And Services In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-00066-Y Document 1 Filed 01/18/23 Page 1 of 19 PageID 1	
United States District Court Northern District of Texas Fort Worth Division	
STATE OF TEXAS, STATE OF OKLAHOMA, <i>Plaintiffs,</i> v. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services, MARVIN FIGUEROA, in his official capacity as Director of Intergovernmental and External Affairs of the Department of Health and Human Services, <i>Defendants.</i>	Case No:

[State of Texas v. U.S. Department of Health and Human Services, Complaint, filed [1/18/23](#)]

The Lawsuit Objected To The Definition Of “Public Health Emergency” Referencing The World Health Organization. “Filed last week in U.S. District Court in the Northern District of Texas, the lawsuit notes that the HHS’s definition of public health emergency exceeds the agency’s scope by unlawfully giving the WHO the authority to invoke emergency health powers in this nation.” [Oklahoma Attorney General, [1/30/23](#)]

The Lawsuit Asked The Court To Declare The Sections Referencing The World Health Organization Unlawful.

For these reasons, the Plaintiffs respectfully request the following relief:
a) A declaration that the plain text of definitions (4) and (5) of public health emergency in 42 C.F.R. § 70.1 authorizes agency action based solely on decisions of the Director of the WHO;
b) A declaration that the plain text of definition (3) of public health emergency in 42 C.F.R. § 70.1 authorizes agency action based solely on decisions of WHO member states;
c) A declaration that those definitions are unlawful delegations of authority to outside entities;

[State of Texas v. U.S. Department of Health and Human Services, Complaint, filed [1/18/23](#)]

Texas And Oklahoma Chose To Sue In The Northern District Of Texas Out Of Seven Districts In Which They Could Have Sued

There Are Four Federal District Courts In Texas. “There are four federal district courts in Texas.” [Texas A&M University School of Law, accessed [1/25/24](#)]

There Are Three Federal District Courts In Oklahoma. “Oklahoma has three federal district courts, which are the U.S. District Courts for the Eastern, Western, and Northern Districts of Oklahoma.” [Justia, accessed [1/25/24](#)]

The Plaintiffs Chose To Sue In The Northern District Of Texas.

Case 4:23-cv-00066-Y Document 1 Filed 01/18/23 Page 1 of 19 PageID 1	
United States District Court Northern District of Texas Fort Worth Division	
STATE OF TEXAS, STATE OF OKLAHOMA, <i>Plaintiffs,</i> v. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services, MARVIN FIGUEROA, in his official capacity as Director of Intergovernmental and External Affairs of the Department of Health and Human Services, <i>Defendants.</i>	Case No:

[State of Texas v. U.S. Department of Health and Human Services, Complaint, filed [1/18/23](#)]

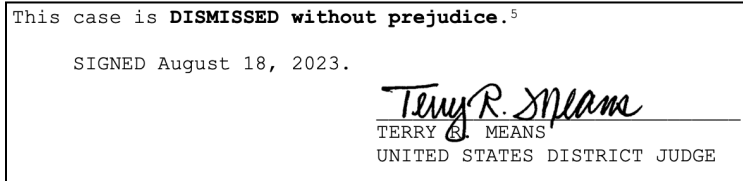
In August 2023, Senior Judge Terry Means Dismissed The Lawsuit

August 18, 2023: The Court Granted A Motion By The Department Of Health And Human Services To Dismiss The Case.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION		
STATE OF TEXAS, et al.	\$	
	\$	
VS.	\$	ACTION NO. 4:23-CV-66-Y
	\$	
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.	\$	
	\$	
	\$	
<u>OPINION AND ORDER GRANTING MOTION TO DISMISS</u>		
Before the Court is a motion to dismiss for lack of jurisdiction (doc. 14) filed by Defendants. For the reasons set forth below, the motion will be granted.		

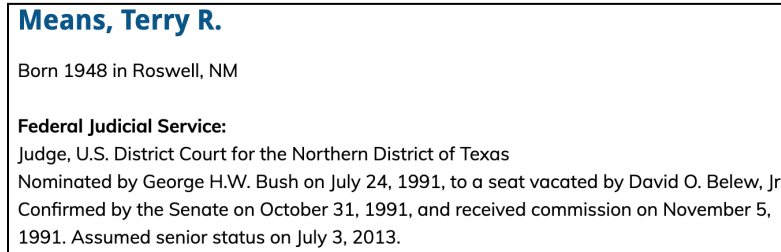
[State of Texas v. U.S. Department of Health and Human Services, Order, dated [8/18/23](#)]

The Case Was Dismissed By Judge Terry Means.



[State of Texas v. U.S. Department of Health and Human Services, Order, dated [8/18/23](#)]

- **Judge Terry Means Is A Senior Judge.**



[Federal Judicial Center, accessed [1/25/24](#)]

Utah, Backed By Texas And 22 Other States As Well As Big Oil, Sued In Amarillo To Stop A Rule Promoting Environmental, Social, And Governance (ESG) Investing, A Case That They Ultimately Lost In District Court.

The Biden Administration Issued A Rule In 2021 Making It Easier For Retirement Plans To Incorporate Environmental, Social, And Governance (ESG) Investing In Their Strategy

January 2023: The Biden Administration's Rule Which Clarified That Investment Plans Could Consider Environmental, Social, And Governance (ESG) Factors While Still Upholding Their Fiduciary Duties To Shareholders Goes Into Effect. "On November 22, 2022, the US Department of Labor (DOL) released a final rule (Final Rule) 1 amending its "Investment Duties" regulation (29 CFR § 2550.404a-1) to clarify the application of the fiduciary responsibility duties under the Employee Retirement Income Security Act of 1974, as amended (ERISA), to the selection of plan investments that consider climate change and other environmental, social, and governance (ESG) factors." [Latham & Watkins, [1/24/23](#)]

Utah And 24 Other States, Including Texas, Sued In Amarillo, Texas, To Stop The New ESG Rule

January 2023: Utah And 24 Other States Sued To Block The New ESG Rule.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION	
STATE OF UTAH; STATE OF TEXAS; COMMONWEALTH OF VIRGINIA; STATE OF LOUISIANA; STATE OF ALABAMA; STATE OF ALASKA; STATE OF ARKANSAS; STATE OF FLORIDA; STATE OF GEORGIA; STATE OF INDIANA; STATE OF IDAHO; STATE OF IOWA; STATE OF KANSAS; COMMONWEALTH OF KENTUCKY; STATE OF MISSISSIPPI; STATE OF MISSOURI; STATE OF MONTANA; STATE OF NEBRASKA; STATE OF NEW HAMPSHIRE; STATE OF NORTH DAKOTA STATE OF OHIO; STATE OF SOUTH CAROLINA; STATE OF TENNESSEE; STATE OF WEST VIRGINIA; STATE OF WYOMING; LIBERTY ENERGY INC.; LIBERTY OILFIELD SERVICES LLC; WESTERN ENERGY ALLIANCE; and JAMES R. COPLAND, <i>Plaintiffs,</i>	No. 23-cv- _____

[State of Utah et al. v. Martin J. Walsh et al., [9/21/23](#)]

- **The Co-Plaintiffs Also Included An Oil Company, An Energy Trade Association, And A Senior Fellow At The Right-Wing Think Tank The Manhattan Institute.** “The plaintiffs include Texas, Florida and West Virginia, as well as oilfield services firm Liberty Energy; Western Energy Alliance, an oil and natural gas trade association; and James R. Copland, a senior fellow at the Manhattan Institute who is a participant in a retirement plan subject to ERISA.” [Roll Call, [2/2/23](#)]

Although “Sympathetic” To The Republican States’ Argument, Judge Kacsmaryk Ruled Against Them Based On Precedent

September 2023: Judge Kacsmaryk Granted Summary Judgment In Favor Of The Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

STATE OF UTAH, *et al.*,

Plaintiffs,

v.

2:23-CV-016-Z

MARTIN J. WALSH, SECRETARY OF
LABOR, *et al.*,

Defendants.

MEMORANDUM OPINION
AND ORDER

Before the Court are parties' competing motions for summary judgment. Plaintiffs filed their Motion for Summary Judgment ("Motion") (ECF No. 92), on May 16, 2023. Defendants filed their Cross-Motion for Summary Judgment ("Cross-Motion") (ECF No. 94), on June 2, 2023. Having considered the motions, pleadings, and relevant law, the Court **DENIES** the Motion and **GRANTS** the Cross-Motion.

[State of Utah, et al. v. Martin J. Walsh, et al., [9/21/23](#)]

- **Kacsmarky Wrote That "While The Court Is No Unsympathetic To Plaintiffs' Concerns Over ESG Investing Trends," He Could Not Find That The Rule Violated The Administrative Procedure Act.** "For all these reasons, the Rule does not violate the APA. And while the Court is not unsympathetic to Plaintiffs' concerns over ESG investing trends, it need not condone ESG investing generally or ultimately agree with the Rule to reach this conclusion." [State of Utah, et al. v. Martin J. Walsh, et al., [9/21/23](#)]

Kacsmarky's Ruling Was Appealed And Were Signed By Affiliates From A Fossil Fuel Firms.

A Group Of 26 State Attorney Generas Appealed The Decision Made ByThe District Court Of Northern Texas. "A group of 26 state attorneys general have appealed to the 5th U.S. Circuit Court of Appeals the dismissal of their complaint challenging the legality of the Department of Labor's final rule permitting environmental, social and governance factors to be used when selecting retirement plan investments. The states' lawsuit, Utah et al. v. Walsh, was dismissed on September 21 by the U.S. District Court for the District of Northern Texas because the Employee Retirement Income Security Act of 1974 does not specifically forbid ESG factors or a tiebreaker test that permits non-financial factors to be used in ERISA-covered investment decisions." [Plansponsor, [10/27/24](#)]


The Appeal Did Not Spell Out The Legal Argument And Was Signed By Two Fossil Fuel Firms And One Fossil Fuel Lobby. "The appeal notice did not spell out the legal argument for

the appeal. The appeal was also signed by industry plaintiffs Liberty Energy Inc. and Liberty Oilfield Services LLC, two fossil fuel firms; and Western Energy Alliance, a fossil fuel lobby.” [Plansponsor, [10/27/24](#)]

A Group Of Noted Anti-Vaxxers Incorporated A Nonprofit Organization In Amarillo And Then Sued The Centers For Disease Control In Order To Access To V-Safe, The CDC’s COVID-19 Vaccine Safety Monitoring System.

The Freedom Coalition Of Doctors For Choice Incorporated In Amarillo, Texas, In January 2023

January 2023: The Freedom Coalition Of Doctors For Choice Incorporated In Amarillo, Texas.

FREEDOM COALITION OF DOCTORS FOR CHOICE	
Texas Taxpayer Number	32088148757
Mailing Address	600 S TYLER ST STE 2100 AMARILLO, TX 79101-2304
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	01/26/2023
Texas SOS File Number	0804899545
Registered Agent Name	REGISTERED AGENTS INC.
Registered Office Street Address	5900 BALCONES DRIVE STE 100 AUSTIN, TX 78731

[Texas Comptroller of Public Accounts, accessed [10/12/23](#)]

The Freedom Coalition Of Doctors For Choice Says Its Sole Purpose Is To Obtain And Disseminate Data From The Centers For Disease Control’s V-Safe Database, Its COVID-19 Vaccine Safety Monitoring System...

The Freedom Coalition Of Doctors For Choice Says That It “Exists For The Sole Purpose Of Obtaining And Disseminating To The Public The Data From The Free-Text Fields In The CDC’s V-Safe Database.” “Freedom Coalition of Doctors for Choice is a nonprofit that exists for the sole purpose of obtaining and disseminating to the public the data from the free-text fields in the CDC’s v-safe database.” [Freedom Coalition of Doctors for Choice, accessed [10/12/23](#)]

- **The V-Safe Database Is A Repository Of Health Surveys Completed By More Than 151 Million Individuals Who Received The COVID-19 Vaccine.** “V-safe was developed specifically for COVID-19 vaccines and has been an essential component of the pandemic vaccine safety monitoring systems that have successfully characterized the safety of the COVID-19 vaccines used in the United States. CDC is developing a new version of v-safe which will allow users to share their post-vaccination experiences with new vaccines... Since its launch in December 2020, 10.1 million v-safe participants completed more than 151 million health surveys about their experiences following COVID-19 vaccination, and v-safe data have been included in more than 20 scientific publications.” [Centers for Disease Control and Prevention, accessed [10/12/23](#)]

...But Some Of Its Members Use Their Platforms To Spread Misinformation About COVID-19

Carole Browner And Harvey Risch Are Among The 91 Members Of The Freedom Coalition Of Doctors For Choice. “Current members... Carole Browner, MPH, PhD, UCLA School of Medicine... Harvey Risch, MD, PhD...” [Doctors for Freedom of Choice, accessed [10/12/23](#)]

- **Carole Browner Is A Medical Anthropologist And Professor At The University Of California, Los Angeles.** “I am a Professor in the UCLA Department of Anthropology, the Department of Women’s Studies, and the Center for Culture and Health, within the David Geffen School of Medicine’s NPI-Semel Institute for Neuroscience and Human Behavior.” [University of California, Los Angeles, accessed [10/12/23](#)]
- **Harvey Risch Is Professor Emeritus Of Epidemiology In The Department Of Epidemiology And Public Health At The Yale School Of Public Health And Yale School Of Medicine.** “Dr. Harvey Risch is Professor Emeritus of Epidemiology in the Department of Epidemiology and Public Health at the Yale School of Public Health and Yale School of Medicine.” [Yale School of Public Health, accessed [10/12/23](#)]

Harvey Risch Has Argued That COVID Vaccines Have A “Negative Benefit” Over Time. “The vaccines only make a very narrow range of antibodies to the spike protein,” compared to the broader exposure experienced when one gets infected, Risch, an epidemiology professor at the Yale School of Public Health, told EpochTV’s “American Thought Leaders.” “The problem with that is, of course, that when the spike protein changes because of new strains of the virus, the ability of the immune system to make antibodies that correlate to the new strains becomes reduced to the point where it may be almost ineffective over longer periods of time,” he said. That leads to the antibodies being triggered by the vaccines not binding strongly enough to neutralize. “What that means is they become interfering antibodies, instead of neutralizing antibodies,” Risch said. “And that’s the reason I believe that we’ve seen what’s called negative benefit—negative vaccine efficacy over longer time—over four to six to eight months after the last vaccine dose, that one sees the benefit of the vaccines turn negative.” [Epoch Times, [7/26/22](#)]

- **A 2023 Study Published In The International Journal Of Infectious Diseases Postulated That Alleged “Negative Vaccine Effectiveness” Likely Stems From Researchers’ Biases.** “Since the emergence of the SARS-CoV-2 Omicron variant, multiple observational studies have reported negative vaccine effectiveness (VE) against infection, symptomatic infection, and even severity (hospitalization), potentially leading to an interpretation that vaccines were facilitating infection and disease. However, current

observations of negative VE likely stem from the presence of various biases (e.g., exposure differences, testing differences).” [National Institutes of Health, [3/27/23](#)]

Harvey Risch Has Suggested—With Scant Evidence—That COVID Vaccines May Be Causing A Increased Incidence Of Cancers. “There is evidence that cancers are occurring in excess after people receive COVID-19 vaccinations, according to Dr. Harvey Risch...Dr. Risch said that in his opinion, cancer is something a healthy human body can fight and disable, as the non-normal cancerous cells are gobbled up when detected in a body with a functional immune system. If the immune system is compromised, however, it cannot cope with the task of neutralizing cancerous cells, and cancerous cells are left to multiply and grow, leading to symptoms of cancer. ‘That’s the mechanism I think is most likely here,’ Dr. Risch said. “We know that the COVID vaccines have done various degrees of damage to the immune system in a fraction of people who have taken them.” [The Epoch Times, [9/20/23](#)]

Carole Browner And Harvey Risch Were A Part Of Public Health And Medical Professionals For Transparency, Which Sued The Food & Drug Administration To Retrieve Data Concerning The Pfizer And BioNTech Vaccine. “The Food and Drug Administration is asking a judge to give it 75 years to produce data concerning the Pfizer and BioNTech vaccine, up 20 years from a previous request...The case was brought on behalf of the Public Health and Medical Professionals for Transparency, which stated that the FDA wasn't complying with its request for data in a timely manner. The group includes Dr. Carole Browner, a research professor at the University of California–Los Angeles's David Geffen School of Medicine; Peter Doshi, an associate professor at the University of Maryland School of Pharmacy, and Dr. Harvey Risch, a professor of epidemiology at the Yale School of Public Health.” [Epoch Times, [12/10/21](#)]

- **Other Members Of Public Health And Medical Professionals For Transparency Are Noted Anti-Vaxxers.** “It’s worth noting that while Campbell calls the people who have joined PHMPT “prestigious” and “highly qualified,” the list is primarily notable for its inclusion of multiple individuals who have made dubious claims about COVID-19 or the vaccines. Among several others, the list of signatories includes Idaho pathologist Dr. Ryan Cole, who has baselessly said that the vaccines cause cancer, and Dr. Stella Immanuel, who has falsely promoted hydroxychloroquine as a COVID-19 “cure” and has previously claimed that some medicines are made of space alien DNA.” [Factcheck.org, [3/18/22](#)]
- **Documents Received Through This Public Records Request Fueled Conspiracy Theories Around COVID-19 Vaccines.** “Some of the misleading online claims also center around how the Pfizer document was obtained and suggest there was a government cover-up, so we’ll provide some background on the topic...The document was released by the FDA in response to a Freedom of Information Act request from Public Health and Medical Professionals for Transparency. The group asked the FDA for all of its documents related to the Pfizer/BioNTech COVID-19 vaccine — or around 329,000 pages, plus other files — four days after the agency gave full approval to the vaccine...PHMPT then posted the documents on its website. Shortly thereafter, misleading or false claims began circulating online about the safety of the Pfizer/BioNTech vaccine using the documents, which our colleagues at Health Feedback have also addressed.” [Factcheck.org, [3/18/22](#)]

The Freedom Coalition Of Doctors For Choice Sued The Centers For Disease Control And Prevention To Gain Access To The V-Safe Database In Federal Court In Amarillo

June 2023: The Freedom Coalition Of Doctors For Choice Sued The Centers For Disease Control And Prevention In Amarillo, Texas, Under The Freedom Of Information Act.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION	
<div style="border: 1px solid black; padding: 10px;"><p>FREEDOM COALITION OF DOCTORS FOR CHOICE,</p><p style="text-align: right;">Plaintiff,</p><p style="text-align: center;">v.</p><p>CENTERS FOR DISEASE CONTROL AND PREVENTION, AND U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES</p><p style="text-align: right;">Defendants.</p></div>	<p>Civil Action No. 2:23-cv-00102</p>
<p><u>COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF</u></p> <p>Plaintiff, as for its Complaint regarding a Freedom of Information Act request, alleges as follows:</p>	

[Freedom Coalition of Doctors for Choice v. Centers for Disease Control and Prevention et al., [6/16/23](#)]

- **Judge Matthew Kacsmaryk Has Yet To Rule In The Case.** [Justia, accessed [10/12/23](#)]

After Reincorporating In The Fort Worth Area, The Virginia-Based MAGA Group America First Policy Institute Sued The Department Of Health And Human Services To Compel The Department To Expedite A FOIA Request

In 2021, The Trump-Aligned America First Policy Institute Submitted Four Freedom Of Information Act Requests To The Department Of Health And Human Services, Which It Claims Did Not Supply The Requested Documents

April 13, 2021: Former Trump Officials Founded The America First Policy Institute To Advance Trump's Agenda. "A constellation of Trump administration stars today will launch the

America First Policy Institute, a 35-person nonprofit group with a first-year budget of \$20 million and the mission of perpetuating former President Trump's populist policies.” [Axios, [4/13/21](#)]

July 21, 2021: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Health And Human Services Seeking Copies Of Emails Between The Office Of The Assistant Secretary For Health And Facebook, Google, And Twitter.

**Plaintiff's First FOIA Request
(FOIA Case No. 2021-01468-FOIA-OS (2021-01468-FOIA-PHS))**

14. On July 21, 2021, AFPI, through its employee, agent, and Director for AFPI's Center for American Freedom, James Sherk ("Mr. Sherk"), submitted a FOIA request to HHS for:

copies of all e-mail communication between officers or employees of the OFFICE of the Assistant Secretary for Health that were either sent to, or received from the following e-mail domains between January 20, 2021 and the date of the completion of this request: @fb.com; @google.com; @twitter.com (Date Range for Record Search: From 1/20/2021 To 7/21/2021).

[America First Policy Institute v. U.S. Department of Health and Human Services, Complaint, filed [4/17/23](#)]

September 10, 2021: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Health And Human Services Seeking Copies Of Emails Discussing Its Previous Request.

**Plaintiff's Second FOIA Request
(FOIA Case No. 2021-01723-FOIA-PHS)**

35. On September 10, 2021, AFPI, through Mr. Sherk, submitted a FOIA request to HHS regarding internal communications between HHS personnel that referenced its earlier FOIA request. This FOIA request sought:

all HHS e-mail communications pertaining to FOIA request 2021-01468-FOIA-PHS (formerly designated request 2021-01468-FOIA-OS) between July 21, 2021 and September 10, 2021. This includes all e-mails to/from HHS staff discussing the request and how to respond to it.

[America First Policy Institute v. U.S. Department of Health and Human Services, Complaint, filed [4/17/23](#)]

September 15, 2021: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Health And Human Services Seeking Copies Of Emails From The Office Of The Assistant Secretary For Health That Contain Certain Terms Or Are Correspondence With Facebook, Google, Or Twitter.

Plaintiff's Third FOIA Request
(FOIA Case No. 2021-01733-FOIA-PHS)

50. On September 15, 2021, AFPI, through Mr. Sherk, submitted a FOIA request to HHS regarding communications between HHS employees working with the Office of the Assistant Secretary for Health ("OASH"). This FOIA request sought:

copies of all e-mail communications between the HHS employees in list [sic] in the attached spreadsheet that:

Were either sent to, or received from, the following e-mail domains between January 20, 2021 and September 9, 2021:

@fb.com @google.com @twitter.com,

OR

Contain any of the following terms in the header or body of the e-mail:

Facebook, Google, YouTube, Alphabet, Twitter, Misinformation, Fake News, Take Down, Narrative, Zuckerberg, Dorsey.

This request pertains to e-mail communications between January 20, 2021 and September 15, 2021.

[America First Policy Institute v. U.S. Department of Health and Human Services, Complaint, filed [4/17/23](#)]

September 15, 2021: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Health And Human Services Seeking Copies Of Emails From The Office Of The Surgeon General That Contain Certain Terms Or Are Correspondence With Facebook, Google, Or Twitter.

Plaintiff's Fourth FOIA Request
(FOIA Case No. 2021-01734-FOIA-PHS)

65. On September 15, 2021, AFPI, through Mr. Sherk, submitted a FOIA request to HHS regarding communications between HHS employees working with the Office of the Surgeon General ("OSG"). This FOIA request sought:

copies of all e-mail communications between the HHS employees in list [sic] in the attached spreadsheet that:

Were either sent to, or received from, the following e-mail domains between January 20, 2021 and September 9, 2021:

@fb.com @google.com @twitter.com,

OR

Contain any of the following terms in the header or body of the e-mail:

12

Case 4:23-cv-00369-O Document 1 Filed 04/17/23 Page 13 of 19 PageID 13

Facebook, Google, YouTube, Alphabet, Twitter, Misinformation, Fake News, Take Down, Narrative, Zuckerberg, Dorsey.

This request pertains to e-mail communications between January 20, 2021 and September 15, 2021.

[America First Policy Institute v. U.S. Department of Health and Human Services, Complaint, filed [4/17/23](#)]

The America First Policy Institute Claimed That It Had Not Received The Documents It Requested.

HHS Failed To Comply With Any Of AFPI's FOIA Requests

80. To date, AFPI has received no responsive documents for any of its four FOIA requests from HHS.

[America First Policy Institute v. U.S. Department of Health and Human Services, Complaint, filed [4/17/23](#)]

In April 2023, The America First Policy Institute Sued The Department Of Health And Human Services, Seeking To Expedite The Release Of The Documents It Requested

April 17, 2023: The America First Policy Institute Sued The Department Of Health And Human Services In The Northern District Of Texas.

Case 4:23-cv-00369-O Document 1 Filed 04/17/23 Page 1 of 19 PageID 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

AMERICA FIRST POLICY INSTITUTE,

Plaintiff,

-against-

U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

Defendant.

Civil Action No.

4:23-cv-00369

[America First Policy Institute v. U.S. Department of Health and Human Services, Complaint, filed [4/17/23](#)]

The Lawsuit Asked The Court To Declare That The Department Of Health And Human Services Had Violated The Freedom Of Information Act And Order It To Release The Requested Documents.

WHEREFORE, AFPI respectfully asks that this Court enter judgment in its favor and to provide the following relief:

- A. An order declaring that HHS has violated FOIA;
- B. An order compelling HHS to expeditiously conduct a reasonable search for all records responsive to AFPI's four FOIA requests and to demonstrate that it employed search methods reasonably likely to lead to the discovery of responsive records;
- C. An order compelling HHS to produce within 20 days, or at such other time that this Court deems proper, all records responsive to AFPI's FOIA requests that are subject to disclosure under FOIA and/or any indexes to the extent that the HHS seeks to invoke any FOIA exemptions;

[America First Policy Institute v. U.S. Department of Health and Human Services, Complaint, filed [4/17/23](#)]

The America First Policy Institute Moved From Northern Virginia To Fort Worth Before Filing The Lawsuit

In 2021, America First Policy Institute Was Located In Arlington, Virginia.

Form 990 Department of the Treasury Internal Revenue Service	Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) ▶ Do not enter social security numbers on this form as it may be made public. ▶ Go to www.irs.gov/Form990 for instructions and the latest information.		OMB No. 1545-0047 2021 Open to Public Inspection
	A For the 2021 calendar year, or tax year beginning 01-01-2021, and ending 12-31-2021		
B Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization AMERICA FIRST POLICY INSTITUTE INC		D Employer identification number 85-4202763
	Doing business as		E Telephone number (571) 348-1802
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite PO BOX 2646		G Gross receipts \$ 18,214,382
	City or town, state or province, country, and ZIP or foreign postal code ARLINGTON, VA 22202		
	F Name and address of principal officer: BROOKE ROLLINS PO BOX 2646 ARLINGTON, VA 22202		H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. See instructions. H(c) Group exemption number ▶
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: ▶ AMERICAFIRSTPOLICY.COM			
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation: 2020 M State of legal domicile: TX	

[America First Policy Institute, [Form 990](#), 2021]

In 2022, America First Policy Institute Was Located In Fort Worth.

Form 990 Department of the Treasury Internal Revenue Service	Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) ▶ Do not enter social security numbers on this form as it may be made public. ▶ Go to www.irs.gov/Form990 for instructions and the latest information.		OMB No. 1545-0047 2022 Open to Public Inspection
	A For the 2022 calendar year, or tax year beginning 01-01-2022, and ending 12-31-2022		
B Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization AMERICA FIRST POLICY INSTITUTE INC		D Employer identification number 85-4202763
	Doing business as		E Telephone number (571) 348-1802
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite 1635 ROGERS RD		G Gross receipts \$ 28,028,491
	City or town, state or province, country, and ZIP or foreign postal code FORT WORTH, TX 76107		
	F Name and address of principal officer: BROOKE ROLLINS 1635 ROGERS RD FORT WORTH, TX 76107		H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. See instructions. H(c) Group exemption number ▶
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: ▶ AMERICAFIRSTPOLICY.COM			
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation: 2020 M State of legal domicile: TX	

[America First Policy Institute, [Form 990](#), 2022]

The Case Was Assigned To Judge Reed O'Connor

April 18, 2023: The Case Was Assigned To Judge Reed O'Connor.

Apr 18, 2023	New Case Notes: A filing fee has been paid. File to: Judge O Connor.
[CourtListener, accessed 1/26/24]	

The Department Of Health And Human Services Agreed To Release The Documents America First Policy Institute Requested

July 14, 2023: The Department Of Health And Human Services Agreed To Turn Over The Requested Documents. “HHS has completed its searches of documents potentially responsive to AFPI’s FOIA requests and has begun reviewing the results for the purpose of producing non-exempt portions of any responsive records to AFPI. HHS anticipates that it will make its first production of documents on July 31, 2023, and that it will be able to complete its production of documents on October 31, 2023 based on Plaintiff’s agreement to exclude certain log-type documents from its second request.” [America First Policy Institute v. U.S. Department of Health and Human Services, Status Report, filed [7/14/23](#)]

From July 2023 To February 2024, The Department Of Health And Human Services Released Documents To America First Policy Institute On Several Occasions. “As set forth in the January 12, 2024 Joint Status Report, HHS has made releases of documents to AFPI on July 31, 2023, August 31, 2023, September 29, 2023, November 1, 2023, November 30, 2023, and January 2, 2024.¹ Since the January 12, 2024 Joint Status Report, HHS has made additional releases to AFPI on January 31, 2024, and February 29, 2024.” [America First Policy Institute v. U.S. Department of Health and Human Services, Status Report, filed [3/12/24](#)]

Arizona-Based Knife Rights, Inc., Sued The Department Of Justice In Fort Worth In A Gambit To Expand The Scope Of The Second Amendment To Include Knives

Longstanding Federal Law Places Restrictions On Certain Knives

The Federal Switchblade Act Of 1958 Restricts Certain Knives From Being Owned And Sold Across State Lines. “The Federal Switchblade Act became law in 1958 and imposes restrictions on the manufacture, possession and transportation of switchblade knives across state lines. It defines a switchblade knife as a blade that the user can open automatically with the push of a button or other mechanical device.” [Mandell Law, accessed [1/26/24](#)]

In June 2023, Knife Rights, Inc. And Two Stores That Sell Knives Sued The Department Of Justice, Seeking To Expand The Scope Of Second Amendment To Include Knives And Thereby Overturn Federal Knife Restrictions

June 1, 2023: Knife Rights, Inc., RGA Auction Services LLC, MOD Specialties, Russell Arnold, And Jeffrey Folloder Sued The Department Of Justice In The Northern District Of Texas.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

KNIFE RIGHTS, INC.; RUSSELL
ARNOLD; JEFFREY FOLLODER;
RGA AUCTION SERVICES LLC
d.b.a. FIREARM SOLUTIONS; AND
MOD SPECIALTIES,

Plaintiffs,

v.

MERRICK B. GARLAND, Attorney
General of the United States; UNITED
STATES DEPARTMENT OF
JUSTICE,

Defendants.

Civil Action No. 4:23-cv-547

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **Knife Rights, Inc. Is A Pro-Knife Advocacy Organization.**

11. Plaintiff Knife Rights, Inc. (“Knife Rights”) is a section 501(c)(4) member advocacy organization incorporated under the laws of Arizona with a primary place of business in Gilbert, Arizona. Knife Rights serves its members, supporters, and the public through efforts to defend and advance the right to keep and bear bladed arms. Knife Rights has members and supporters in Texas and states

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **RGA Auction Services Is A Gun And Knife Store.**

15. Retailer Plaintiff RGA Auction Services LLC is a Texas business, doing business as “Firearms Solutions,” and is a state and federally licensed firearms retailer, and knife retailer, in Mansfield, Texas. Plaintiff Firearms Solutions brings

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **Russell Arnold Is The Owner Of RGA Auction Services.**

12. Plaintiff Russell Gordon Arnold is an adult natural person, a citizen of the United States, and a resident of Mansfield, Texas. Plaintiff Arnold is a peaceable, non-violent individual who is eligible to keep and bear arms under State and federal law. Plaintiff Arnold is also the owner and operator of RGA Auction Services LLC,


[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **MOD Specialties Is A Gun And Knife Store.**

16. Retailer Plaintiff MOD Specialties is a Texas business, doing business as “MOD Specialties,” and is a state and federally licensed firearms retailer, and knife retailer, in Katy, Texas. Plaintiff MOD Specialties brings this action on behalf

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **Jeffrey Folloder Is The Owner Of MOD Specialties.**

MOD SPECIALTIES, INC.	
Texas Taxpayer Number	32057672639
Mailing Address	20603 BIG WELLS DR KATY, TX 77449-6260
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	06/29/2015
Texas SOS File Number	0802243574
Registered Agent Name	JEFFREY E FOLLODER
Registered Office Street Address	20603 BIG WELLS DRIVE KATY, TX 77449

[Texas Comptroller of Public Accounts, accessed [1/26/24](#)]

The Lawsuit Asked The Court To Extend The Scope Of The Second Amendment To Include Knives And Overturn Federal Restrictions On Certain Knives.

WHEREFORE, Plaintiffs pray for the following relief:

1. A declaratory judgment that the relevant provisions of Federal Knife Ban and Defendants' enforcement of the Federal Knife Ban violates the right to keep and bear arms protected under the Second Amendment to the U.S. Constitution;

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **“Federal Knife Ban” Refers To Restrictions On Certain Knives Being Owned And Sold Across State Lines.**

3. Despite Supreme Court precedent, the Federal Switchblade Act, 15 U.S.C. §§ 1241-1245, enacted in 1958 as Pub. Law 85-623, prohibits the introduction, manufacture for introduction, transportation, or distribution into interstate commerce of switchblade knives, as defined. 15 U.S.C. § 1241(b). (“Federal Knife Ban”).

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

The Plaintiffs Filed The Lawsuit In Fort Worth, Despite The Fact That Only One Of Them Is Based There

The Lawsuit Justified Filing In Fort Worth On The Basis That “A Plaintiff” Is Located There.

19. Venue lies in this Court under 28 U.S.C. § 1391, as this is an action against officers and agencies of the United States, a plaintiff resides in this judicial district, no real property is involved in this action, and the events giving rise to Plaintiffs' claims arose or exist in this District in which the action is brought.

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

Knife Rights, Inc. Is An Arizona Organization.

11. Plaintiff Knife Rights, Inc. (“Knife Rights”) is a section 501(c)(4) member advocacy organization incorporated under the laws of Arizona with a primary place of business in Gilbert, Arizona. Knife Rights serves its members,

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

MOD Specialties And Its Owner Are Located In Katy, Texas, Outside The Northern District.

16. Retailer Plaintiff MOD Specialties is a Texas business, doing business as “MOD Specialties,” and is a state and federally licensed firearms retailer, and knife retailer, in Katy, Texas. Plaintiff MOD Specialties brings this action on behalf

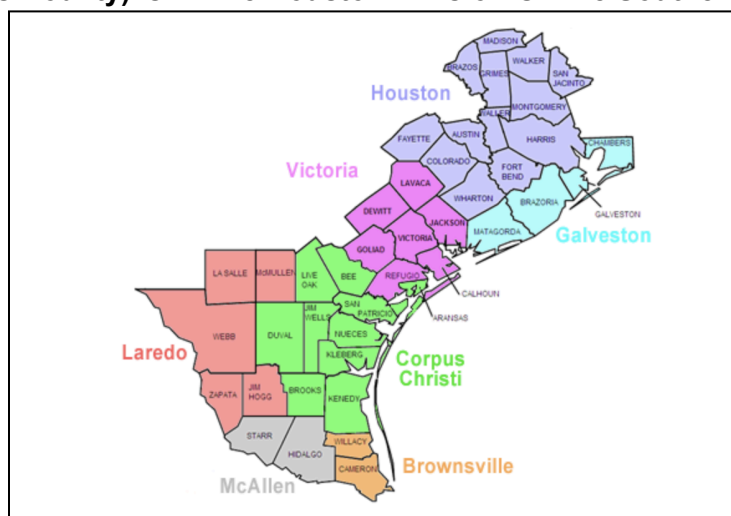
[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **Co-Plaintiff Jeffrey Folloder, Owner Of MOD Specialties, Lives In Katy.**

13. Plaintiff Jeffery E. Folloder is an adult natural person, a citizen of the United States, and a resident of Katy, Texas. Plaintiff Folloder is a peaceable, non-

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **Katy (Harris County) Is In The Houston Division Of The Southern District Of Texas.**



[United States District Court, Southern District of Texas, accessed [1/24/24](#)]

RGA Auction Services And Its Owner Are Located In Mansfield, Texas, Near Fort Worth.

15. Retailer Plaintiff RGA Auction Services LLC is a Texas business, doing business as “Firearms Solutions,” and is a state and federally licensed firearms retailer, and knife retailer, in Mansfield, Texas. Plaintiff Firearms Solutions brings

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

- **Co-Plaintiff Russell Arnold, Owner Of RGA Auction Services, Lives In Mansfield.**

12. Plaintiff Russell Gordon Arnold is an adult natural person, a citizen of the United States, and a resident of Mansfield, Texas. Plaintiff Arnold is a peaceable, non-violent individual who is eligible to keep and bear arms under State and federal law. Plaintiff Arnold is also the owner and operator of RGA Auction Services LLC,

[Knife Rights, Inc. v. Garland, Complaint, filed [6/1/23](#)]

The Case Was Assigned To Judge Reed O'Connor

June 1, 2023: The Case Was Assigned To Judge Reed O'Connor.

Jun 1, 2023

New Case Notes: A filing fee has been paid. File to: Judge O Connor.

[CourtListener, accessed [1/26/24](#)]

A Group Called Texas Gun Rights Incorporated In The Fort Worth Area And Then Sued The Bureau Of Alcohol, Tobacco, Firearms, And Explosives To Prevent The Agency From Reclassifying Pistols With Stabilizing Braces As Short-Barreled Rifles

In January 2023, The Bureau Of Alcohol, Tobacco, Firearms And Explosives Expanded The Definition Of Short-Barreled Rifles To Include Pistols Equipped With Stabilizing Braces, An Accessory That Has Been Repeatedly Used In Mass Shootings

Stabilizing Braces Are A Pistol Accessory That Allow Users To Easily Shoot With One Hand. “Stabilizing braces, also known as pistol braces or SIG braces, are accessories that attach to the back of a gun and strap to the forearm, anchoring and lengthening the weapon and allowing the shooter to shoot one-handed more easily.” [Florida Times-Union, [5/29/23](#)]

Stabilizing Braces Have Been Repeatedly Used In Mass Shootings. “...a man using a stabilizing brace killed 10 people at a grocery store in Boulder, Colorado. A stabilizing brace was also used in a shooting in Dayton, Ohio, that left nine people dead in 2019 and most recently in a school shooting in Nashville, Tennessee.” [Associated Press, [6/22/23](#)]

January 13, 2023: The Bureau Of Alcohol, Tobacco, Firearms And Explosives Revised Its Definition Of “Short-Barreled Rifle” To Include Pistols With Stabilizing Braces. “The rule outlines the factors ATF would consider when evaluating firearms equipped with a purported “stabilizing brace” (or other rearward attachment) to determine whether these weapons would be considered a “rifle” or “short-barreled rifle”... The rule’s amended definition of “rifle” clarifies that the term “designed, redesigned, made or remade, and intended to be fired from the shoulder” includes a weapon that is equipped with an accessory, component, or other rearward attachment (e.g., a “stabilizing brace”) that provides surface area that allows the weapon to be fired from the shoulder.” [Bureau of Alcohol, Tobacco, Firearms and Explosives, accessed [1/25/24](#)]

In June 2023, Texas Gun Rights, Inc. And The National Association For Gun Rights Sued The Bureau Of Alcohol, Tobacco, Firearms And Explosives Over The Redefinition

June 8, 2023: Texas Gun Rights, Inc. And The National Association For Gun Rights Sued The Bureau Of Alcohol, Tobacco, Firearms And Explosives In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-00578-O Document 1 Filed 06/08/23 Page 1 of 26 PageID 1	
IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION	
TEXAS GUN RIGHTS, INC., and NATIONAL ASSOCIATION FOR GUN RIGHTS INC.,	
Plaintiffs,	
v.	Civil Action No. _____
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES,	
Defendant.	

[Texas Gun Rights, Inc v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, Complaint, filed [6/8/23](#)]

- **National Association For Gun Rights Is A Gun Rights Advocacy Organization.** “Accepting NO COMPROMISE on the issue of gun control, NAGR works tirelessly to hold politicians accountable for their anti-gun views, and has made great strides in protecting and preserving the Second Amendment.” [National Association for Gun Rights, accessed [1/25/24](#)]
- **Texas Gun Rights Is A Texas-Based Gun Rights Advocacy Organization.** “Texas Gun Rights is organized as a 501(c)(4) non-profit, non-partisan, grassroots citizen organization made up of gun owners and lovers of liberty... We invite all Texans who believe in freedom, liberty, and private property to join Texas Gun Rights.” [Texas Gun Rights, accessed [1/25/24](#)]

The Lawsuit Objected To The New Rule’s Classification Of Pistols With Stabilizing Braces As Short-Barreled Rifles.

1. ATF promulgated a rule reclassifying pistols with stabilizing braces (which are designed and intended to be attached to the user's forearm) as short-barreled rifles (which are, by contrast, designed and intended to be fired from the shoulder). ATF made this change without legal authority and despite repeatedly concluding just the opposite.

2. This regulatory about-face means that, by bureaucratic fiat, ATF purports to regulate Americans by federal laws that were never intended to apply to them and their firearms. The result is a significant infringement on the Second Amendment and an affront to the rule of law.

[Texas Gun Rights, Inc v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, Complaint, filed [6/8/23](#)]

The Lawsuit Asked The Court To Block The Rule's Enforcement And Declare It Void.

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Enter a temporary restraining order prohibiting ATF from enforcing the Rule nationwide, or in the alternative, a temporary restraining order prohibiting ATF from enforcing the Rule against Plaintiffs and their employees, members and family members;

B. Enter a preliminary injunction prohibiting ATF from enforcing the Rule nationwide, or in the alternative, a preliminary injunction prohibiting ATF from enforcing the Rule against Plaintiffs and their employees, members and family members;

- 22 -

[Case 4:23-cv-00578-O](#) [Document 1](#) [Filed 06/08/23](#) [Page 23 of 26](#) [PageID 23](#)

C. Enter a declaratory judgment declaring that ATF does not have authority to enforce the Rule, the Rule conflicts with the relevant statutes, the Rule is arbitrary and capricious, the Rule is void for vagueness, the Rule violates the Separation of Powers and the Second Amendment, or, in the alternative, the statutes granting ATF such unbridled power violate the Nondelegation Doctrine.

[Texas Gun Rights, Inc v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, Complaint, filed [6/8/23](#)]

The Plaintiffs Justified Filing In Fort Worth On The Basis That Texas Gun Rights, Inc. Is Headquartered There, But Texas Gun Rights Was Headquartered In Austin Until Registering A New Corporation Near Fort Worth And Changing Its Address In February 2023

The Lawsuit Justified Filing In The Fort Worth Division Because Texas Gun Rights, Inc. Is Headquartered There.

8. Venue in this District is proper pursuant to 5 U.S.C. § 703 and 28 U.S.C. § 1391 because Plaintiff Texas Gun Rights, Inc. resides in and has its principal place of business within this District, Plaintiffs' members reside in this district, and a substantial part of the events giving rise to the claims occurred in this District.

[Texas Gun Rights, Inc v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, Complaint, filed [6/8/23](#)]

Texas Gun Rights Inc. Was Incorporated Near Fort Worth In February 2023.

TEXAS GUN RIGHTS, INC.	
Texas Taxpayer Number	32088562262
Mailing Address	200 S OAKRIDGE DR STE 101-327 HUDSON OAKS, TX 76087-1794
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	02/22/2023
Texas SOS File Number	0804939183
Registered Agent Name	REGISTERED AGENTS, INC.
Registered Office Street Address	5900 BALCONES DRIVE, SUITE 100 AUSTIN, TX 78731

[Texas Comptroller of Public Accounts, accessed [1/25/24](#)]

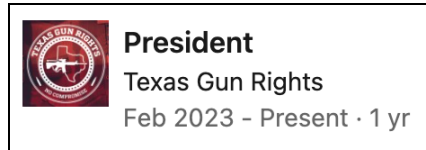
Texas Gun Rights President Chris McNutt Listed His Workplace As Texas Gun Rights, LLC Before Changing it To Texas Gun Rights In February 2023. "Serving as President, Chris is leading the charge to restore every law-abiding Texan's right to keep and bear arms." [Texas Gun Rights, accessed [1/25/24](#)]

- **Until February 2023, Chris McNutt Listed His Workplace As Texas Gun Rights, LLC.**



[LinkedIn, accessed [1/25/24](#)]

- **After February 2023, Chris McNutt Listed His Workplace As Texas Gun Rights.**



[LinkedIn, accessed [1/25/24](#)]

Texas Gun Rights, LLC Is Located In Austin.

TEXAS GUN RIGHTS, LLC	
Texas Taxpayer Number	32052454074
Mailing Address	2407 S CONGRESS AVE STE E126 AUSTIN, TX 78704-5505
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	11/12/2013
Texas SOS File Number	0801881948
Registered Agent Name	C T CORPORATION SYSTEM
Registered Office Street Address	1999 BRYAN ST., STE. 900 DALLAS, TX 75201

[Texas Comptroller of Public Accounts, accessed [1/25/24](#)]

In Late February Or Early March 2023, Texas Gun Rights' Website Changed Its Listed Address From Austin To Hudson Oaks, Texas.

- February 27, 2023: Texas Gun Rights' Website Listed An Address In Austin.

Copyright © Texas Gun Rights
2407 S Congress Ave., Ste E 126 | Austin, TX
78704

[Internet Archive, [2/27/23](#)]

- March 11, 2023: Texas Gun Rights' Website Listed An Address In Hudson Oaks.

Copyright © Texas Gun Rights
Texas Gun Rights
200 S. Oakridge Dr.
Suite 101-327
Hudson Oaks, TX 76087

[Internet Archive, [3/11/23](#)]

Judge Reed O'Connor Temporarily Blocked The Enforcement Of The New Definition And Put The Lawsuit On Hold Until A Similar Case Is Decided

The Case Was Assigned To Judge Reed O'Connor.

Jun 8, 2023

New Case Notes: A filing fee has been paid. File to: Judge O Connor.

[CourtListener, accessed [1/26/24](#)]

October 4, 2023: The Court Issued A Temporary Order Blocking The New Rule. “WILL is representing the National Association for Gun Rights Inc. (NAGR) and Texas Gun Rights, Inc. (TGR) on behalf of their members in the case... WILL sought a preliminary injunction to protect the members of the NAGR and TGR from ATF’s unlawful rule. This morning, a federal judge granted that request and issued the injunction that will remain in force while the lawsuit is pending.” [Wisconsin Institute For Law & Liberty, [10/4/23](#)]

Judge O’Connor Suspended The Case Until A Similar Case, *Mock v Garland*, Is Decided.

Nov 13, 2023	ORDER: The request is hereby GRANTED. The proceedings in this case are hereby STAYED until entry of final judgment in Mock, at which point the Parties must file a joint status report with the Court detailing whether (1) proceedings should continue; (2) the case should be dismissed; or (3) whether an extension of the stay is needed. (Ordered by Judge Reed C. O'Connor on 11/13/2023) (mmw) (Entered: 11/13/2023)
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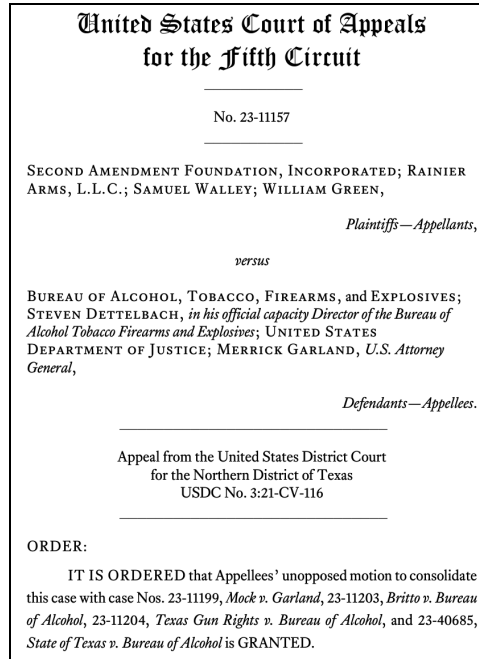
[CourtListener, accessed [1/26/24](#)]

- ***Mock v Garland* Is Another Lawsuit Challenging The Stabilizing Brace Rule.** “Mock v. Garland - FPC Lawsuit Challenging the ATF's Pistol Brace Rule” [Firearms Policy Coalition, accessed [1/26/24](#)]

The Federal Government Appealed O’Connor’s Block On Enforcement Of The New Definition To The Fifth Circuit Appellate Court, Where It Was Consolidated With Other Firearm-Related Lawsuits

November 29, 2023: The Federal Government Appealed O’Connor’s Injunction To The Fifth Circuit Appellate Court. “PLEASE TAKE NOTICE that defendant hereby appeals to the United States Court of Appeals for the Fifth Circuit from this Court’s opinion and order dated October 4, 2023, ECF No. 36, granting plaintiffs’ motion for a preliminary injunction, ECF No. 10.” [Texas Gun Rights, Inc v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, Notice of Appeal, filed [11/29/23](#)]

December 22, 2023: The Fifth Circuit Consolidated The Lawsuit With Four Other Firearm-Related Cases.



[Second Amendment Foundation, Inc. et. al. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives et. al., Order, dated [12/22/23](#)]

The State of Texas Challenged The Biden Administration's Interpretation Of Title IX Following The Bostock Ruling in Fort Worth Federal Court In Order To Win The Right To Discriminate Against Transgender Athletes

In June 2022, The Biden Administration Extended Title IX Protections Against Sex Discrimination To Include Transgender Students, Following The Supreme Court's Similar *Bostock* Ruling

June 15, 2020: The Supreme Court Ruled In *Bostock v. Clayton County* That Existing Protections Against Sex Discrimination Extend To Discrimination Based On Sexuality Or Gender Identity. "In the 6-3 decision last Monday regarding the scope of 'employment discrimination based on ... sex,' which is banned under Title VII of the Civil Rights Act of 1964, the high court stated that 'it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex.'" [NBC News, [6/23/20](#)]

June 22, 2022: Following The *Bostock* Ruling, The Biden Administration Interpreted Title IX To Prohibit Discrimination Against Transgender Students. "The Biden administration proposed sweeping changes Thursday to federal rules under the gender equity law Title IX that would... extend Title IX's prohibition on discrimination based on sex to sexual orientation and gender identity, giving landmark protections to transgender students... The Biden administration has said it is using the 2020 Supreme Court decision in *Bostock v. Clayton County*, which held that employees cannot be discriminated against in workplaces because they are gay or transgender, to guide its approach to LGBTQ rights in education settings." [NBC News, [6/23/22](#)]

In June 2023, The State Of Texas Sued The Department Of Education, Seeking To Continue Discriminating Against Transgender Student Athletes

June 14, 2023: The State Of Texas Sued The Department Of Education In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-00604-Y Document 1 Filed 06/14/23 Page 1 of 16 PageID 1

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION	
THE STATE OF TEXAS, <i>Plaintiff,</i> v. MIGUEL CARDONA, in his official capacity as Secretary of Education; United States Department of Education; MERRICK B. GARLAND, in his official capacity as Attorney General of the United States; and UNITED STATES DEPARTMENT OF JUSTICE, <i>Defendants.</i>	No. __:23-cv-____

[The State of Texas v Cardona et al, Complaint, filed [6/14/23](#)]

The Lawsuit Objected To The Department Of Education's Intent To Investigate Schools That Follow A Texas Law Requiring Them To Discriminate Against Transgender Athletes.

44. The Notice also advises that the Department "will open an investigation of allegations that an individual has been discriminated against because of sexual orientation or gender identity in education programs or activities." *Id.* The Notice, that is, states that schools will be investigated for following Texas law. *See, e.g.,* Tex. Educ. Code § 33.0834 ("an interscholastic athletic competition sponsored or authorized by a school district or open-enrollment charter school may not allow a

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ase 4:23-cv-00604-Y Document 1 Filed 06/14/23 Page 13 of 16 PageID 13

student to compete in an interscholastic athletic competition sponsored or authorized by the district or school that is designated for the biological sex opposite to the student's biological sex ...").

[The State of Texas v Cardona et al, Complaint, filed [6/14/23](#)]

- **January 18, 2022: A Texas Law Went Into Effect Requiring Transgender Athletes To Play On Sports Teams That Do Not Match Their Gender Identity.** "Last year, the

Texas Legislature passed House Bill 25, which requires that student athletes play on sports teams that correspond to the sex listed on their birth certificate, and the certificate athletes present must have been issued near the time of birth. The law went into effect Tuesday, making Texas the 10th state in the U.S. to enact similar legislation.” [Texas Tribune, [1/18/22](#)]

The Lawsuit Asked The Court To Reverse The Expansion Of Discrimination Protections To Transgender Students.

Plaintiff the State of Texas respectfully requests that the Court:

- a. Declare that the June 22 Notice of Interpretation, the June 23 Dear Educator Letter, and the Fact Sheet guidance are unlawful agency actions because Title IX does not bar discrimination on the basis of sexual orientation or gender identity, the regulations implementing Title IX do

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:23-cv-00604-Y Document 1 Filed 06/14/23 Page 16 of 16 PageID 16

not bar such discrimination, and these agency actions were required to be promulgated pursuant to notice-and-comment rulemaking;

- b. Set aside, *i.e.*, vacate the June 22 Notice of Interpretation, the June 23 Dear Educator Letter, and the Fact Sheet;

[The State of Texas v Cardona et al, Complaint, filed [6/14/23](#)]

Texas Chose To Sue In The Northern District Of Texas Out Of Four Districts In Which They Could Have Sued

There Are Four Federal District Courts In Texas. “There are four federal district courts in Texas.” [Texas A&M University School of Law, accessed [1/25/24](#)]

Texas Sued In The Northern District Of Texas.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

THE STATE OF TEXAS,
Plaintiff,

v.

MIGUEL CARDONA, in his official
capacity as Secretary of Education;
United States Department of
Education; MERRICK B. GARLAND,
in his official capacity as Attorney
General of the United States; and
UNITED STATES DEPARTMENT OF
JUSTICE,
Defendants.

No. __:23-cv-_____

[The State of Texas v Cardona et al, Complaint, filed [6/14/23](#)]

The Case Was Originally Assigned To Judge Terry Means Before He Recused Himself, Sending The Case To Judge Reed O'Connor

June 14, 2023: The Case Was Assigned To Judge Terry Means.

Jun 14, 2023

New Case Notes: A filing fee has been paid. File to: Judge Means.

[Courtlistener, accessed [1/26/24](#)]

June 16, 2023: Judge Means Recused Himself And The Case Was Reassigned To Judge Reed O'Connor.

Jun 16, 2023

Court Request for Recusal: Senior Judge Terry R Means recused. Pursuant to instruction in Special Order 3-249, the Clerk has reassigned the case to Judge Reed C. O'Connor for all further proceedings. Future filings should indicate

[Courtlistener, accessed [1/26/24](#)]

The Case Is Ongoing. [Courtlistener, accessed [1/26/24](#)]

The Right-Wing D.C.-Based Institute For Free Speech Challenged A Texas Law Banning Nonprofit Corporations From Contributing Pro Bono Legal Services To Political Campaigns

In December 2022, The Texas Ethics Commission Issued An Advisory Opinion That Interpreted The Texas Election Code To Prohibit Pro Bono Legal Services To Political Campaigns

December 14, 2022: The Texas Ethics Commission Issued An Advisory Opinion Saying Free Legal Services Are In-Kind Campaign Contributions And Therefore Prohibited By The Texas Election Code. "No. Section 253.094 of the Texas Election Code prohibits corporations from making political contributions to candidates and political committees. Legal services provided without charge to candidates or political committees are in-kind contributions.

When those services are given with the intent that they be used in connection with a campaign, they are in-kind campaign contributions.” [Texas Ethics Commission, [12/14/22](#)]

In August 2023, The Institute For Free Speech Sued The Members Of The Texas Ethics Commission, Seeking To Overturn The Restrictions On Pro Bono Legal Services To Political Campaigns

August 3, 2023: The Institute For Free Speech Sued Members Of The Texas Ethics Commission In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-00808-P Document 1 Filed 08/03/23 Page 1 of 20 PageID 1	
IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION	
INSTITUTE FOR FREE SPEECH, a nonprofit corporation and public interest law firm,	
Plaintiff,	
v.	Cause No. _____
J.R. JOHNSON, in his official and individual capacities as Executive Director of the Texas Ethics Commission; MARY KENNEDY, CHRIS FLOOD, and RICHARD SCHMIDT in their official capacities as commissioners of the Texas Ethics Commission; and RANDALL ERBEN, CHAD CRAYCRAFT, PATRICK MIZELL, JOSEPH SLOVACEK, and STEVEN WOLENS, in their individual and official capacities as commissioners of the Texas Ethics Commission;	COMPLAINT
Defendants.	

[Institute for Free Speech v. Johnson et al, Complaint, filed [8/3/23](#)]

- **The Institute For Free Speech Is A Free Speech Legal Advocacy Group.** “The Institute for Free Speech promotes and defends the First Amendment rights to freely speak, assemble, publish, and petition the government through strategic litigation, communication, activism, training, research, and education.” [Institute for Free Speech, accessed [1/25/24](#)]

The Lawsuit Asked The Court To Void The Interpretation Of The Texas Election Code That Holds Lawyers Liable For Pro Bono Services To Political Campaigns.

The Texas Election Code subjects corporations to civil liability and criminal penalties for making contributions to a candidate or political committee. The Commission has interpreted those restrictions to apply to the provision of pro bono legal services by a corporation to a candidate or political committee, effectively barring such services even for the purpose of mounting a civil rights challenge to the interpretation or constitutionality of a Texas law or regulation.

Such a regulatory regime runs afoul of the First Amendment and the Supremacy Clause. This court should hold that the application of the Texas Election Code is unconstitutionally void and unenforceable as-applied to a corporation's provision of pro bono legal services and is also facially overbroad.

[Institute for Free Speech v. Johnson et al, Complaint, filed [8/3/23](#)]

The Institute For Free Speech Is A D.C.-Based Organization That Sued In Fort Worth Because It Might Have Clients There One Day

The Institute For Free Speech Is Located In Washington, D.C.

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[Institute for Free Speech, accessed [1/25/24](#)]

The Institute For Free Speech Claimed That Fort Worth Was The Proper Place To Sue Because There Are “Potential Clients” In The District.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). The TEC's Executive Director and Commissioners perform their official duties throughout Texas, including in this district. But for the Commission's regulatory regime, IFS would legally represent potential clients located in Tarrant County and Navarro County, both of which are counties within this district. IFS's associational,

[Institute for Free Speech v. Johnson et al, Complaint, filed [8/3/23](#)]

In November 2023, Judge Mark Pittman Ordered The Case Transferred To Another Court

November 8, 2023: Judge Mark Pittman Concluded That The Northern District Of Texas Was Not The Appropriate Court To Hear The Case, And Transferred It To The Austin Division Of The Western District Of Texas.

CONCLUSION

This case does not belong in the Northern District and certainly not in the Fort Worth Division. The only apparent connection to the Northern District is that the effects of the Commission's regulatory regime are experienced within this district because Plaintiff would, in the future, like to represent parties residing in the Northern District. But the effects of the Commission's regulatory regime are also experienced in Austin, all events that gave rise to this action occurred in Austin, and the Parties' counsel are effectively working out of Austin and DC. Thus, having considered the relevant private- and public-interest factors, the Court concludes that this case should be and is hereby **TRANSFERRED** to the Western District of Texas, Austin Division.

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SO ORDERED on this 8th day of November 2023.

A handwritten signature in black ink that reads "Mark T. Pittman". The signature is fluid and cursive, with the first name "Mark" and last name "Pittman" clearly legible, and "T." as a middle initial.

Mark T. Pittman
UNITED STATES DISTRICT JUDGE

[Institute for Free Speech v. Johnson et al, Order, dated [11/8/23](#)]

Texas Gun Rights Incorporated In The Fort Worth Area Shortly Before Suing The Biden Administration For Enforcing Its Ban On Forced Reset Triggers, Accessories That Enable AR-15-Type Rifles To Fire More Rapidly

In March 2022, The Bureau Of Alcohol, Tobacco, Firearms And Explosives Notified Businesses Holding Federal Firearms Licenses Of Its Decision That Some Forced Reset Triggers Meet The Definition Of “Machineguns” By Making AR-15-Type Rifles Fully Automatic

A Forced Reset Trigger Is An Accessory That Allows AR-15 Rifles And Pistols To Fire Continuously, Producing “A Near Full[y]-Auto[matic] Experience.” “What’s the difference between a binary trigger and a forced reset trigger? Both are ‘drop in’ mechanisms for standard AR-15 rifles and pistols. Both produce a near full-auto experience... A forced reset trigger does exactly what its name implies. It forces the trigger to reset itself. It literally moves your finger forward as it resets. Therefore, if you maintain a constant pressure on the trigger, it will reset and then your pressure will pull it again.” [SharpShooters USA, [5/21/21](#)]

The Bureau Of Alcohol, Tobacco, Firearms And Explosives Concluded That Forced Reset Triggers Can Turn An AR-Type Rifle “Into A Machinegun” And Classified Them As Such.

“These particular FRTs are being marketed as replacement triggers for AR-type firearms... ATF’s examination found that some FRT devices allow a firearm to automatically expel more than one shot with a single, continuous pull of the trigger. For this reason, ATF has concluded that FRTs that function in this way are a combination of parts designed and intended for use in converting a weapon into a machinegun, and hence, ATF has classified these devices as a ‘machinegun’ as defined by the NFA and GCA.” [Bureau of Alcohol, Tobacco, Firearms and Explosives, [3/22/22](#)]

March 22, 2022: The Bureau Of Alcohol, Tobacco, Firearms And Explosives Notified Federal Firearms License Holders Of Its Decision And Reminded Them That Violating Regulations On Machine Guns Can Result In Seizure Of Property, Fines, And Imprisonment. “OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES... ATF’s position is that any FRT that allows a firearm to automatically expel more than one shot with a single, continuous pull of the trigger is... subject to the GCA prohibitions regarding the possession, transfer, and transport of machineguns under 18 U.S.C. §§ 922(o) and 922(a)(4). They are also subject to registration, transfer, taxation, and possession restrictions under the NFA... Under 26 U.S.C. § 5871, any person who violates or fails to comply with the provisions of the NFA may be fined up to \$10,000 per violation and is subject to imprisonment for a term of up to ten years. Further, pursuant to 26 U.S.C. § 5872, any machinegun possessed or transferred in violation of the NFA is subject to seizure and forfeiture.” [Bureau of Alcohol, Tobacco, Firearms and Explosives, [3/22/22](#)]

In August 2023, The National Association For Gun Rights, Texas Gun Rights, Inc., And Three Individuals Sued The Bureau Of Alcohol, Tobacco, Firearms And Explosives, Seeking To Overturn The Bureau’s Interpretation

August 9, 2023: National Association For Gun Rights, Inc., Texas Gun Rights, Inc., Patrick Carey, James Wheeler, And Travis Speegle Sued The Bureau Of Alcohol, Tobacco, Firearms And Explosives In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-00830-O Document 1 Filed 08/09/23 Page 1 of 16 PageID 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

NATIONAL ASSOCIATION FOR GUN RIGHTS, INC.,)
TEXAS GUN RIGHTS, INC.,)
PATRICK CAREY,)
JAMES WHEELER,) Case No. _____
and)
TRAVIS SPEEGLE,)
Plaintiffs,)
v.)
MERRICK GARLAND,)
IN HIS OFFICIAL CAPACITY AS)
ATTORNEY GENERAL)
OF THE UNITED STATES,)
U. S. DEPARTMENT OF JUSTICE,)
STEVEN DETTELBACH,)
IN HIS OFFICIAL CAPACITY AS)
DIRECTOR OF THE)
BUREAU OF ALCOHOL, TOBACCO,)
FIREARMS AND EXPLOSIVES,)
and)
BUREAU OF ALCOHOL, TOBACCO,)
FIREARMS AND EXPLOSIVES,)
Defendants.)

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

- **National Association For Gun Rights, Inc. Is A Gun Rights Advocacy Organization.** “Accepting NO COMPROMISE on the issue of gun control, NAGR works tirelessly to hold politicians accountable for their anti-gun views, and has made great strides in protecting and preserving the Second Amendment.” [National Association for Gun Rights, accessed [1/25/24](#)]
- **Texas Gun Rights Is A Texas-Based Gun Rights Advocacy Organization.** “Texas Gun Rights is organized as a 501(c)(4) non-profit, non-partisan, grassroots citizen organization made up of gun owners and lovers of liberty... We invite all Texans who believe in freedom, liberty, and private property to join Texas Gun Rights.” [Texas Gun Rights, accessed [1/25/24](#)]
- **Patrick Carey Is The Owner Of Two Forced Reset Triggers.**

7. Prior to August 22, 2022, Mr. Carey owned two “FRT 15 – Rare Breed Trigger” forced reset triggers. See Exhibit A (Declaration of Patrick Carey).

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

- **James Wheeler Is The Co-Owner Of A Guns And Ammunition Store Who Owns And Sells Forced Reset Triggers.**

14. Mr. Wheeler has a Federal Firearms License and is the 50% owner of a small business selling firearms and ammunition.

15. Mr. Wheeler personally owns one FRT; his business owns two additional FRTs.

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

- **Travis Speegle Is The Owner Of Ten Forced Reset Triggers.**

19. Mr. Speegle owns 10 FRTs.

20. Mr. Speegle intends to purchase additional FRTs.

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

The Lawsuit Asked The Court To Block Enforcement Of The New Interpretation And Declare That Forced Reset Triggers Are Not Machine Guns.

b. The issuance of a preliminary injunction, halting Defendants' enforcement of the challenged statutory interpretation that forced reset triggers are machineguns.

c. A declaratory judgment, pursuant to the Declaratory Judgment Act (28 U.S.C. §§ 2201-2202), 5. U.S.C. § 706, and/or other applicable law, that holds unlawful and sets aside ATF's action, finding that rapid, semi-automatic fire is not fully automatic fire and that FRTs are not machineguns under federal law.

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

The Plaintiffs Justified Filing In Fort Worth On The Basis That Texas Gun Rights, Inc. Is Headquartered There, But Texas Gun Rights Was Headquartered In Austin Until Registering A New Corporation Near Fort Worth And Changing Its Address In February 2023

The Lawsuit Justified Filing In The Fort Worth Division Because Texas Gun Rights, Inc. Is Headquartered There.

3. Venue is proper in this district pursuant to 5 U.S.C. § 703 and 28 U.S.C. § 1391(e) because one or more Plaintiffs resides within the Northern District of Texas and Plaintiff Texas Gun Rights, Inc., is headquartered in the Fort Worth Division.

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

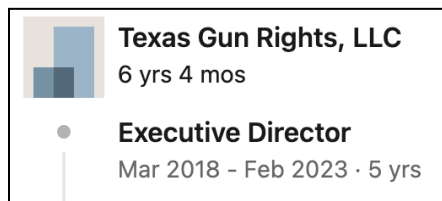
Texas Gun Rights Inc. Was Incorporated Near Fort Worth In February 2023.

TEXAS GUN RIGHTS, INC.	
Texas Taxpayer Number	32088562262
Mailing Address	200 S OAKRIDGE DR STE 101-327 HUDSON OAKS, TX 76087-1794
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	02/22/2023
Texas SOS File Number	0804939183
Registered Agent Name	REGISTERED AGENTS, INC.
Registered Office Street Address	5900 BALCONES DRIVE, SUITE 100 AUSTIN, TX 78731

[Texas Comptroller of Public Accounts, accessed [1/25/24](#)]

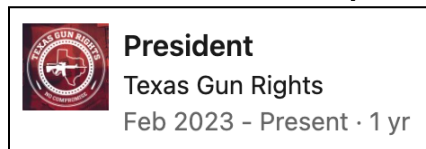
Texas Gun Rights President Chris McNutt Listed His Workplace As Texas Gun Rights, LLC Before Changing it To Texas Gun Rights In February 2023. “Serving as President, Chris is leading the charge to restore every law-abiding Texan’s right to keep and bear arms.” [Texas Gun Rights, accessed [1/25/24](#)]

- **Until February 2023, Chris McNutt Listed His Workplace As Texas Gun Rights, LLC.**



[LinkedIn, accessed [1/25/24](#)]

- **After February 2023, Chris McNutt Listed His Workplace As Texas Gun Rights.**



[LinkedIn, accessed [1/25/24](#)]

Texas Gun Rights, LLC Is Located In Austin.

TEXAS GUN RIGHTS, LLC	
Texas Taxpayer Number	32052454074
Mailing Address	2407 S CONGRESS AVE STE E126 AUSTIN, TX 78704-5505
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	11/12/2013
Texas SOS File Number	0801881948
Registered Agent Name	C T CORPORATION SYSTEM
Registered Office Street Address	1999 BRYAN ST., STE. 900 DALLAS, TX 75201

[Texas Comptroller of Public Accounts, accessed [1/25/24](#)]

In Late February Or Early March 2023, Texas Gun Rights’ Website Changed Its Listed Address From Austin To Hudson Oaks, Texas.

- **February 27, 2023: Texas Gun Rights' Website Listed An Address In Austin.**

Copyright © Texas Gun Rights
2407 S Congress Ave., Ste E 126 | Austin, TX
78704

[Internet Archive, [2/27/23](#)]

- **March 11, 2023: Texas Gun Rights' Website Listed An Address In Hudson Oaks.**

Copyright © Texas Gun Rights

Texas Gun Rights
200 S. Oakridge Dr.
Suite 101-327
Hudson Oaks, TX 76087

[Internet Archive, [3/11/23](#)]

None Of The Other Plaintiffs Were Located In The Fort Worth Division Of The Northern District Of Texas

The National Association For Gun Rights Is Incorporated In Virginia And Headquartered In Colorado.

4. Plaintiff National Association for Gun Rights, Inc. ("NAGR") is a Virginia corporation with its headquarters in Loveland, Colorado. NAGR is organized and operated as a non-profit

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

Patrick Carey Lives In Louisiana.

6. Plaintiff Patrick Carey is a natural person, a United States citizen, and resident of Zachary, Louisiana.

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

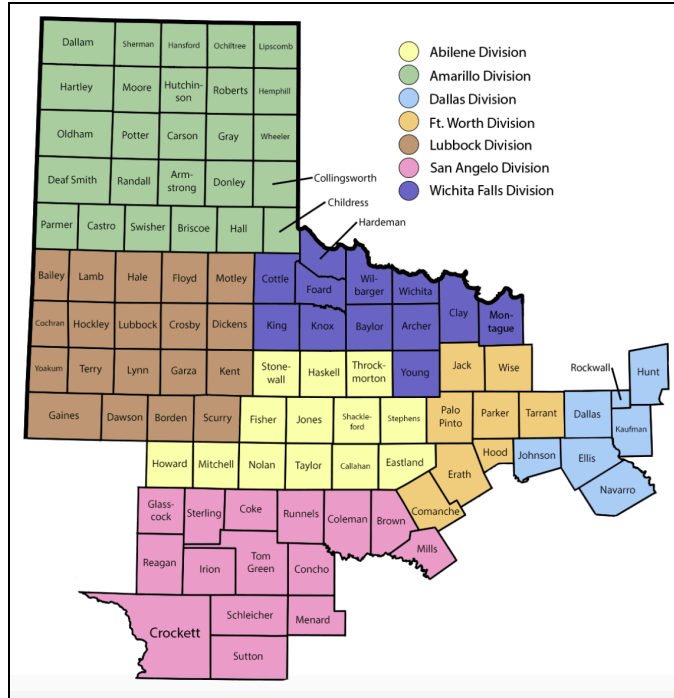
James Wheeler Lives In Crandall, Texas, Which Is In The Dallas Division Of The Northern District Of Texas.

12. Plaintiff James "J.R." Wheeler is a United States citizen, and resident of Crandall, Texas.
See Exhibit B (Declaration of James Joseph Ross Wheeler).

13. Mr. Wheeler is located in the Northern District of Texas.

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

- **Crandall, Texas, (Kaufman County), Is In The Dallas Division Of The Northern District Of Texas.**



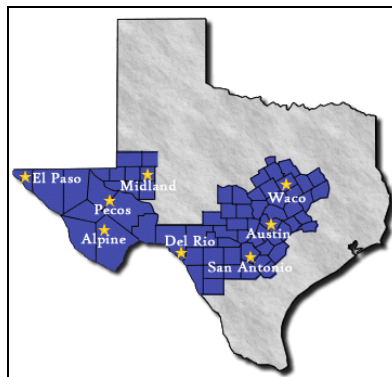
[United States District Court, Northern District of Texas, accessed [1/25/24](#)]

James Speegle Lives In Austin, Which Is In The Western District Of Texas.

18. Plaintiff Travis Speegle is an U.S. Citizen and resident of Austin, Texas. *See* Exhibit C (Declaration of Travis Speegle).

[National Association for Gun Rights v. Garland, Complaint, filed [8/9/23](#)]

- **Austin Is In The Western District Of Texas.**



[Western District of Texas, accessed [1/25/24](#)]

Judge Reed O'Connor Temporarily Blocked The Bureau Of Alcohol, Tobacco, Firearms And Explosives' Interpretation, Which The Bureau Unsuccessfully Appealed

October 8, 2022: Judge Reed O'Connor Temporarily Blocked The New Interpretation From Applying To All Of The National Association For Gun Rights' Nationwide Members.

"A federal judge in Texas has sharply limited the Biden administration's ability to enforce a ban on forced reset triggers... While the order, handed down Sunday by U.S. District Judge Reed O'Connor in Fort Worth, does not block the rule altogether, it could have a broad effect because it applies to all members of the National Association for Gun Rights (NAGR). The group says it has 4.5 million members across the country... O'Connor's order is a preliminary injunction, not a final ruling, and will remain in effect while O'Connor hears the case." [Reuters, [10/9/23](#)]

November 30, 2022: The Fifth Circuit Appellate Court Denied An Attempt By The Bureau Of Alcohol, Tobacco, Firearms And Explosives To Reverse O'Connor's Decision. "Judge O'Connor issued a preliminary injunction (PI) barring the ATF from taking enforcement actions over forced reset triggers. The ATF appealed to the Fifth Circuit Court of Appeals and asked the court to stay the lower court's decision. The Fifth Circuit has now reviewed the ATF's motion and denied the requested stay, meaning the injunction will remain in place for now, protecting the public from the ATF taking enforcement actions over Rare Breed's FRT-15." [AmmoLand Shooting Sports News, [12/5/23](#)]

The MAGA-Aligned America First Policy Institute, Which Moved From D.C. To The Fort Worth Area, Sued The Department Of Homeland Security To Compel The Department To Expedite A FOIA Request Seeking Records Related To The 2020 Election

From 2021 To 2023, The Trump-Aligned America First Policy Institute Submitted Three Freedom Of Information Act Requests To The Department Of Homeland Security, Which It Claims Did Not Supply The Requested Documents

April 13, 2021: Former Trump Officials Founded The America First Policy Institute To Advance Trump's Agenda. "A constellation of Trump administration stars today will launch the America First Policy Institute, a 35-person nonprofit group with a first-year budget of \$20 million and the mission of perpetuating former President Trump's populist policies." [Axios, [4/13/21](#)]

July 22, 2021: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Homeland Security Seeking Copies Of Emails Between The Cybersecurity & Infrastructure Security Agency And Facebook, Google, And Twitter.

17. On July 22, 2021, AFPI, through its employee, agent, and Director for AFPI's Center for American Freedom, James Sherk ("Mr. Sherk"), submitted a FOIA request to CISA, an operational component of Defendant DHS, for:

copies of all e-mail communication between officers or employees of the Cybersecurity & Infrastructure Security Agency (CISA) that were either sent to, or received from, the following e-mail domains between January 20, 2021 and the date of the completion of this request:

@fb.com
@google.com
@twitter.com.

[America First Policy Institute v. Department of Homeland Security, Complaint, filed [10/12/23](#)]

December 15, 2022: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Homeland Security Seeking Information About Delegation Of Authority By The Department's Officials.

47. On December 15, 2022, AFPI, through its employee, agent, and policy analyst for the Center for American Freedom, Jacob Sagert ("Mr. Sagert"), submitted a FOIA request to Defendant DHS for:

all active documents detailing the delegation of the [Secretary/Administrator/other agency head's] statutory authority to subordinate officers and employees (e.g., the agency Delegation Manual). This request encompasses documents detailing sub delegations of authority from subordinate officers or employees (e.g. an assistant secretary) to their subordinates.

(brackets in the original).

[America First Policy Institute v. Department of Homeland Security, Complaint, filed [10/12/23](#)]

February 22, 2023: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Homeland Security Seeking Records Of Payments To Lawyers Under The Back Pay Act.

59. On February 22, 2023, AFPI, through Mr. Sagert, submitted a FOIA request to DHS for:

For Fiscal Years 2022 and 2023, records detailing all attorney fee awards that the agency paid under the Back Pay Act (5 U.S.C. 5596(b)(1)(A)(ii)), including for each case: The total amount of attorney fees awarded; The hourly rate that attorney fees were paid at; The party receiving such attorney fees; and The "unjustified or unwarranted personnel action" that was corrected; and the total amount of underlying backpay awarded or otherwise paid out pursuant to 5 U.S.C. 5596(b)(1)(A)(i).

[America First Policy Institute v. Department of Homeland Security, Complaint, filed [10/12/23](#)]

The America First Policy Institute Claimed That It Had Not Received The Documents It Requested.

HHS Failed to Comply with any of AFPI's FOIA Requests

71. To date, AFPI has received no responsive non-exempt documents for any of its three FOIA requests made to DHS or its operational components.

[America First Policy Institute v. Department of Homeland Security, Complaint, filed [10/12/23](#)]

In October 2023, The America First Policy Institute Sued The Department Of Homeland Security, Seeking To Expedite The Release Of The Documents It Requested

October 12, 2023: The America First Policy Institute Sued The Department Of Homeland Security In The Northern District Of Texas.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

AMERICA FIRST POLICY INSTITUTE,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY,

Defendant.

Civil Action No. _____

[America First Policy Institute v. Department of Homeland Security, Complaint, filed [10/12/23](#)]

The Lawsuit Asked The Court To Declare That The Department Of Homeland Security Had Violated The Freedom Of Information Act And Order It To Release The Requested Documents.

WHEREFORE, AFPI respectfully asks that this Court enter judgment in its favor and provide the following relief:

- A. An order declaring that DHS has violated FOIA;
- B. An order compelling DHS to expeditiously conduct a reasonable search for all records responsive to AFPI's FOIA request and to demonstrate that it employed search methods reasonably likely to lead to the discovery of responsive records;

Case 4:23-cv-01039-P Document 1 Filed 10/12/23 Page 16 of 16 PageID 16

- C. An order compelling DHS to produce within 20 days, or at such other time that this Court deems proper, all records responsive to AFPI's FOIA request that are subject to disclosure under FOIA and/or any indexes to the extent that DHS seeks to invoke any FOIA exemptions;

[America First Policy Institute v. Department of Homeland Security, Complaint, filed [10/12/23](#)]

The America First Policy Institute Moved From The D.C. Area To Fort Worth Before Filing The Lawsuit

In 2021, America First Policy Institute Was Located In Arlington, Virginia.

Form 990 Department of the Treasury Internal Revenue Service	Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) ▶ Do not enter social security numbers on this form as it may be made public. ▶ Go to www.irs.gov/Form990 for instructions and the latest information.		OMB No. 1545-0047 2021 Open to Public Inspection
	A For the 2021 calendar year, or tax year beginning 01-01-2021, and ending 12-31-2021		
B Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization AMERICA FIRST POLICY INSTITUTE INC		D Employer identification number 85-4202763
	Doing business as		E Telephone number (571) 348-1802
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite PO BOX 2646		G Gross receipts \$ 18,214,382
	City or town, state or province, country, and ZIP or foreign postal code ARLINGTON, VA 22202		
	F Name and address of principal officer: BROOKE ROLLINS PO BOX 2646 ARLINGTON, VA 22202		H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. See instructions. H(c) Group exemption number ▶
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: ▶ AMERICAFIRSTPOLICY.COM			
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation: 2020 M State of legal domicile: TX	

[America First Policy Institute, [Form 990](#), 2021]

In 2022, America First Policy Institute Was Located In Fort Worth.

Form 990 Department of the Treasury Internal Revenue Service	Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) ▶ Do not enter social security numbers on this form as it may be made public. ▶ Go to www.irs.gov/Form990 for instructions and the latest information.		OMB No. 1545-0047 2022 Open to Public Inspection
	A For the 2022 calendar year, or tax year beginning 01-01-2022, and ending 12-31-2022		
B Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization AMERICA FIRST POLICY INSTITUTE INC		D Employer identification number 85-4202763
	Doing business as		E Telephone number (571) 348-1802
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite 1635 ROGERS RD		G Gross receipts \$ 28,028,491
	City or town, state or province, country, and ZIP or foreign postal code FORT WORTH, TX 76107		
	F Name and address of principal officer: BROOKE ROLLINS 1635 ROGERS RD FORT WORTH, TX 76107		H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. See instructions. H(c) Group exemption number ▶
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: ▶ AMERICAFIRSTPOLICY.COM			
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation: 2020 M State of legal domicile: TX	

[America First Policy Institute, [Form 990](#), 2022]

The Case Was Assigned To Judge Mark Pittman

October 12, 2023: The Case Was Assigned To Judge Mark Pittman.

October 12, 2023	Filing 3 New Case Notes: A filing fee has been paid. File to: Judge Pittman.
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[Justia, accessed [1/26/24](#)]

The MAGA-Aligned America First Policy Institute, Which Moved From D.C. To The Fort Worth Area, Sued The Department Of Veterans Affairs For Records Related To A Settlement Paid To Former VA Employees Who Were Terminated Under A Controversial, Trump-Era Law

In July 2023, The Department Of Veterans Affairs Reached A Settlement With A Government Employees' Union Over Firings Under A Trump-Era Law That Weakened Civil Service Protections

A Trump-Era Law Contained A Provision Weakening Civil Service Protections For Department Of Veterans Affairs Employees So That They Could More Easily Be Fired.

"Section 714 of the Trump-era Veterans Affairs (VA) Accountability and Whistleblower Protection Act of 2017... was designed to allow officials to fire feds faster by weakening their civil service protections." [Washington Post, [4/7/23](#)]

Government Employees' Union: The Law Was A "Massive Failure" That Resulted In Firings That Did "Even More Damage" To The Department. "As AFGE predicted, the law has been a massive failure. Since enactment of the law, thousands of lower-level VA employees such as housekeepers, food service workers, and nursing assistants have been fired. Within its first year, more than 2,600 employees were fired – with only 5 being top officials. Instead of making the VA more efficient, it's created even more damage to this massive agency that takes care of nine million veterans every year." [American Federation of Government Employees, [8/7/23](#)]

- **The American Federation Of Government Employees Is A Union Representing Hundreds Of Thousands Of Employees Of The Federal Government.** "AFGE represents over 750,000 workers in nearly every agency of the federal and D.C. governments, spread across over 900 local unions." [American Federation of Government Employees, accessed [1/26/24](#)]

July 28, 2023: The Department Of Veterans Affairs And The American Federation Of Government Employees Reached A Settlement That Reinstated Or Compensated Former Employees Affected By The Law. "Today, the Department of Veterans Affairs announced a new settlement agreement with the American Federation of Government Employees (AFGE) that resolves litigation over adverse actions taken against former VA employees under the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017... As part of the agreement, many former VA employees will have the option either to return to work at VA or receive compensation in lieu of being reinstated. However, according to the terms of the agreement, hundreds of former VA employees who the VA and AFGE mutually agree were terminated for grievous misconduct will not be eligible to return to work." [Department of Veterans Affairs, [7/28/23](#)]

From 2021 To 2023, The Trump-Aligned America First Policy Institute Submitted Three Freedom Of Information Act Requests Regarding Compensation Paid And Employees Reinstated Under The Settlement To The Department Of Veterans Affairs, Which It Claims Did Not Supply The Requested Documents

April 13, 2021: Former Trump Officials Founded The America First Policy Institute To Advance Trump's Agenda. "A constellation of Trump administration stars today will launch the America First Policy Institute, a 35-person nonprofit group with a first-year budget of \$20 million and the mission of perpetuating former President Trump's populist policies." [Axios, [4/13/21](#)]

November 29, 2021: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Veterans Affairs Seeking Records Of Compensation Paid Under The Settlement.

<p>Plaintiff's First FOIA Request (FOIA Request No. 23-02967-F)</p> <p>15. On November 29, 2021, AFPI, through its employee, agent, and Director for AFPI's Center for American Freedom, James Sherk ("Mr. Sherk"), submitted a FOIA request to the Veterans Health Administration ("VHA"), an operational component of Defendant DVA, for:</p> <p style="padding-left: 40px;">copies of all DVA approved and paid claims for compensation for the items covered by Section I.B.4(b) through I.B.4(e) of the aforementioned agreement, enumerated above. I would prefer to receive these records in an electronic format. If it is necessary to photocopy them, I consent to up to \$100 in fees for such actions.</p> <p style="text-align: center;">3</p> <hr/> <p>Case 4:23-cv-01141-O Document 1 Filed 11/10/23 Page 5 of 21 PageID 5</p> <p>16. The "aforementioned agreement" referenced in Mr. Sherk's request referred to the July 19, 2021, settlement agreement between the DVA and the American Federation of Government Employees ("AFGE"), which Mr. Sherk provided the following link to in</p>

[America First Policy Institute v. U.S. Department of Veterans Affairs, Complaint, filed [11/10/23](#)]

August 10, 2023: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Veterans Affairs Seeking Records Of Compensation Paid And Employees Reinstated Under The Settlement.

**AFPI's Second FOIA Request
(FOIA Request No. 23-12386-F)**

42. On August 10, 2023, AFPI, through Mr. Sherk, submitted a FOIA request to Defendant DVA for:

6

Case 4:23-cv-01141-O Document 1 Filed 11/10/23 Page 8 of 21 PageID 8

records detailing, through the date of production of this request:

1. The compensation paid, pursuant this settlement agreement, to employees who experienced adverse actions;
2. The total number of employees reinstated pursuant to this settlement agreement; and
3. The basis for which each individual employee who was reinstated pursuant to this settlement agreement was initially dismissed.

Records indicating the aggregate compensation paid to the relevant employees fully satisfy request #1 and no further production is necessary for that request. If such records are unavailable, AFPI requests records detailing compensation paid to each individual employee who received compensation pursuant to the settlement agreement.

43. The "settlement agreement" referenced in Mr. Sherk's request referred to the July 28, 2023, settlement agreement between the DVA and the AFGE; Mr. Sherk included the

[America First Policy Institute v. U.S. Department of Veterans Affairs, Complaint, filed [11/10/23](#)]

August 23, 2023: The America First Policy Institute Submitted A Freedom Of Information Act Request To The Department Of Veterans Affairs Seeking Records Of Compensation Paid And Employees Reinstated Under The Settlement.

**AFPI's Third FOIA Request
(FOIA Request No. 24-00752-F)**

54. On August 23, 2023, AFPI, through Mr. Sherk, submitted a FOIA request to Defendant DVA for:

records detailing, through the date of production of this request:

1. The make whole relief paid, pursuant to this settlement agreement, to employees covered by the settlement agreement; and
2. The total number of employees reinstated pursuant to this settlement agreement;

8

Case 4:23-cv-01141-O Document 1 Filed 11/10/23 Page 10 of 21 PageID 10

Provided that records indicating the aggregate compensation paid to the relevant employees fully satisfy request #1 and no further production is necessary for that request. If such records are unavailable, AFPI requests records detailing the make whole relief paid to each individual employee who received compensation pursuant to the settlement agreement.

55. The "settlement agreement" referenced in Mr. Sherk's request referred to the July 5, 2022 ,settlement agreement between the DVA and the AFGE which Mr. Sherk provided the

[America First Policy Institute v. U.S. Department of Veterans Affairs, Complaint, filed [11/10/23](#)]

The America First Policy Institute Claimed That It Had Not Received The Documents It Requested.

DVA Failed to Comply with Three of AFPI's FOIA Requests

71. To date, AFPI has received no responsive non-exempt documents for request numbers 23-02967-F, 23-12386-F, or 24-00752-F from the DVA or any of its operational components.

[America First Policy Institute v. U.S. Department of Veterans Affairs, Complaint, filed [11/10/23](#)]

In November 2023, The America First Policy Institute Sued The Department Of Veterans Affairs, Seeking To Expedite The Release Of The Documents It Requested

November 10, 2023: The America First Policy Institute Sued The Department Of Veterans Affairs In The Northern District Of Texas.

Case 4:23-cv-01141-O Document 1 Filed 11/10/23 Page 1 of 21 PageID 1

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS

AMERICA FIRST POLICY INSTITUTE,

Plaintiff,

v.

U.S. DEPARTMENT OF VETERANS AFFAIRS,

Defendant.

Civil Action No. _____

[America First Policy Institute v. Department of Veterans Affairs, Complaint, filed [11/10/23](#)]

The Lawsuit Asked The Court To Declare That The Department Of Veterans Affairs Had Violated The Freedom Of Information Act And Order It To Release The Requested Documents.

WHEREFORE, AFPI respectfully asks that this Court enter judgment in its favor and provide the following relief:

A. An order declaring that the DVA has violated FOIA;

B. An order compelling the DVA to expeditiously conduct a reasonable search for all records responsive to AFPI's FOIA request and to demonstrate that it employed search methods reasonably likely to lead to the discovery of responsive records;

C. An order compelling the DVA to produce within 20 days, or at such other time that this Court deems proper, all records responsive to AFPI's FOIA requests that are subject to disclosure under FOIA and/or any indexes to the extent that the DVA seeks to invoke any FOIA exemptions;

[America First Policy Institute v. Department of Veterans Affairs, Complaint, filed [11/10/23](#)]

The America First Policy Institute Moved From The D.C. Area To Fort Worth Before Filing The Lawsuit

In 2021, America First Policy Institute Was Located In Arlington, Virginia.

Form 990 Department of the Treasury Internal Revenue Service	Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) ▶ Do not enter social security numbers on this form as it may be made public. ▶ Go to www.irs.gov/Form990 for instructions and the latest information.		OMB No. 1545-0047 2021 Open to Public Inspection
A For the 2021 calendar year, or tax year beginning 01-01-2021, and ending 12-31-2021			
B Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending		C Name of organization AMERICA FIRST POLICY INSTITUTE INC Doing business as Number and street (or P.O. box if mail is not delivered to street address) Room/suite PO BOX 2646 City or town, state or province, country, and ZIP or foreign postal code ARLINGTON, VA 22202	
		D Employer identification number 85-4202763 E Telephone number (571) 348-1802 G Gross receipts \$ 18,214,382	
F Name and address of principal officer: BROOKE ROLLINS PO BOX 2646 ARLINGTON, VA 22202		H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "No," attach a list. See instructions. H(c) Group exemption number ▶	
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: ▶ AMERICAFIRSTPOLICY.COM			
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation: 2020 M State of legal domicile: TX	

[America First Policy Institute, [Form 990](#), 2021]

In 2022, America First Policy Institute Was Located In Fort Worth.

Form 990 Department of the Treasury Internal Revenue Service	Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) ▶ Do not enter social security numbers on this form as it may be made public. ▶ Go to www.irs.gov/Form990 for instructions and the latest information.		OMB No. 1545-0047
			2022 Open to Public Inspection
A For the 2022 calendar year, or tax year beginning 01-01-2022 , and ending 12-31-2022			
B Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending		C Name of organization AMERICA FIRST POLICY INSTITUTE INC Doing business as Number and street (or P.O. box if mail is not delivered to street address) Room/suite 1635 ROGERS RD City or town, state or province, country, and ZIP or foreign postal code FORT WORTH, TX 76107	D Employer identification number 85-4202763 E Telephone number (571) 348-1802 G Gross receipts \$ 28,028,491
F Name and address of principal officer: BROOKE ROLLINS 1635 ROGERS RD FORT WORTH, TX 76107		H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. See instructions. H(c) Group exemption number ▶	
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: ▶ AMERICAFIRSTPOLICY.COM			
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation: 2020	M State of legal domicile: TX

[America First Policy Institute, [Form 990](#), 2022]

The Case Was Assigned To Judge Reed O'Connor

November 10, 2023: The Case Was Assigned To Judge Reed O'Connor.

November 10, 2023	Filing 3 New Case Notes: A filing fee has been paid. File to: Judge O Connor.
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[Justia, accessed [1/26/24](#)]

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