

Since January 2017, The U.S. Chamber Of Commerce Has Filed Nearly 60% Of Its Lawsuits Challenging Federal Regulations In The Pro-Industry Fifth Circuit, Taking "Judge Shopping" To New Extremes

Summary: "Judge shopping"—the practice of filing lawsuits in districts where sympathetic judges will hear a particular case—has [entered](#) headlines in recent months. On March 12, 2024, Fifth Circuit Court of Appeals Judges James Ho And Edith Jones [blasted](#) a rule the Judicial Conference recommended to curtail the practice. On March 21, 2024, Senate Democratic Leader Chuck Schumer (NY) [penned](#) a letter to the Northern District of Texas urging the court to adopt the proposed policy, with Republicans penning their own letter defending judge shopping.

On March 7, 2024, the U.S. Chamber of Commerce [filed](#) a lawsuit in the Northern District of Texas challenging the CFPB's [recent](#) Credit Card Late Fee Rule, which capped credit card fees at \$8. The initial Judge, Reed O'Connor, [recused](#) himself shortly **after Accountable.US [found](#)** O'Connor disclosed owning stock in some of the largest credit card issuers. The case was then reassigned to federal judge Mark Pittman, who [believed](#) the case should not have been submitted to the Northern District of Texas, given only one of the six plaintiffs had a presence in Fort Worth, ultimately sending the case to Washington, D.C. where the majority of the groups are headquartered. However, the Fifth Circuit Court of Appeals [issued](#) a stay, blocking this transfer, a massive win for industry seeking to undo the CFPB's rule [aimed](#) at **saving consumers over \$10 billion in annual late fees.**

A review by Accountable.US of legal challenges by the U.S. Chamber of Commerce since President Trump took office in January 2017 shows that about 59% of its lawsuits challenging federal regulations were filed within district courts under the [notoriously pro-industry](#) Fifth Circuit's jurisdiction. Among these thirteen are:

- In October 2024, the U.S. Chamber [filed a lawsuit](#) in the U.S. District Court for the Southern District Of Mississippi—which is under the Fifth Circuit's [jurisdiction](#)—challenging the U.S. Department Of Labor's (DOL's) rule [expanding protections](#) for agricultural workers with H-2A visas, after claiming the DOL was "[impos\[ing\] labor organizing procedures on agricultural employers.](#)"
- In May 2024, the U.S. Chamber [led a lawsuit](#) in the Fifth Circuit's U.S. District Court for The Western District Of Texas challenging the Occupational Safety And Health Administration's (OSHA's) Walkaround Rule, which gave union figures expanded access to workplaces during safety inspections. The Chamber claimed the rule was part of the Biden administration's "['Whole-Of-Government' approach to promoting unionization at all costs.](#)"
- In April 2024, the U.S. Chamber of Commerce [filed a lawsuit](#) in the Fifth Circuit's U.S. District Court for the Northern District of Texas challenging the Federal Trade Commission's (FTC's) ban on employer noncompete agreements. The district court [dismissed](#) the Chamber's challenge due to its intervention in a similar FTC lawsuit, also filed in the Northern District of Texas, before the court [struck down](#) the noncompete ban in favor of the Chamber and its allies in August 2024.
- In March 2024, the U.S. Chamber of Commerce [filed a lawsuit](#) in the Northern District of Texas challenging the CFPB's latest Credit Card Late Fee Rule. The initial judge, Reed O'Connor, [recused](#) himself **after Accountable.US [found](#)** that **O'Connor disclosed owning stock in credit card issuers.** The next judge, Mark Pittman, [initially transferred](#) the case to Washington, D.C. since only one of the six plaintiffs had a presence in Texas, before the Fifth Circuit [blocked](#) its transfer.

- In February 2024, the U.S. Chamber, alongside national and Texas trade groups, [challenged](#) final Community Reinvestment Act rulemaking by federal bank regulators by filing a lawsuit in the Northern District of Texas, which was [assigned](#) to [Trump-appointed](#) Judge Matthew J. Kacsmaryk, who ultimately sided with industry by [approving](#) a motion for preliminary injunction halting agency implementation of the rule until the lawsuit was settled.
- In November 2023, the U.S. Chamber, alongside numerous trade groups, [filed a lawsuit](#) in the Eastern District Court of Texas challenging the National Labor Relation Board's rulemaking on joint employment. Chamber President and CEO Suzanne Clark [celebrated](#) a March 2024 ruling which vacated the rule, and vowed the Chamber would fight "[unionization](#)" "[at all costs](#)."
- In May 2023, the U.S. Chamber of Commerce [criticized](#) SEC rulemaking aimed at further regulating company stock buyback reporting, [vowing](#) to explore legal options, [ultimately filing](#) a successful lawsuit that was heard by the Fifth Circuit Court of Appeals. The Fifth Circuit ultimately vacated the rule in December 2023, a move that [received praise](#) from Chamber CEO Suzanne Clark who said she hoped this would signal the SEC should stop pushing a "[far-reaching and aggressive agenda](#)."
- In September 2022, the U.S. Chamber, alongside numerous national and Texas trade groups, [challenged](#) the CFPB's changes to its examination manual aimed at enforcing Unfair, Deceptive or Abusive Acts or Practices (UDAAP). The Chamber [argued](#) the CFPB overstepped its powers granted by Congress, with the Eastern District of Texas siding With industry and nullifying the update in September 2023 after the Chamber [urged](#) the court to vacate on the grounds the Supreme Court was [hearing](#) a challenge to the CFPB's funding structure from the Community Financial Services of America, a payday lending group.
- In August 2021, the U.S. and Tyler Area Chambers of Commerce [successfully pressured](#) federal regulators, including the Departments of Health and Human Services and Labor, to rescind rulemaking after they [filed](#) a [lawsuit](#) in the Eastern District of Texas alleging the agencies "[exceeded their statutory authority](#)" on rulemaking aimed at increasing transparency on pricing for health plans.
- In September 2017, the U.S. Chamber [joined](#) banking groups in a [lawsuit](#) filed in the Northern District of Texas aimed at blocking CFPB rulemaking banning forced arbitration clauses in financial services contracts, contesting it used "[biased data](#)." The Chamber later [received a major victory](#) when the Senate voted to overturn the law, subsequently dropping the case when former President Trump [signed](#) the law into action in November 2017.
- In June 2016, the U.S. Chamber of Commerce [filed](#) a [lawsuit](#) challenging the Department of Labor's updated fiduciary rule, appealing their case before the Fifth Circuit in February 2017 after the district court denied its motion for summary judgment. Interestingly, [current](#) Fifth Circuit judge James Ho [initially worked](#) on the case while in private practice at Gibson Dunn & Crutcher LLP. Ultimately, former Chamber President and CEO Thomas J. Donohue [celebrated](#) a March 1, 2017 decision by the Trump administration to reverse the June 2016 rule saying he looked forward to working with the administration.
- On March 14, 2024, the U.S. Chamber [filed](#) a [petition for review](#) in the Fifth Circuit Court of Appeals challenging rulemaking by the Securities and Exchange Commission on increased climate disclosures, with the group arguing it "[erodes the reasonable investor standard of materiality](#)." Former Fifth Circuit law clerks [Daryl Joseffer](#) and [Tyler Badgley](#) represented the Chamber and ultimately [pressured](#) the SEC to enter a stay on April 4, 2024.

- On January 30, 2024, the U.S. Chamber [filed a lawsuit](#) in the Fifth Circuit challenging the Federal Communications Commission's (FCC's) [digital discrimination rule](#), claiming it would hurt broadband access for Americans by increasing compliance costs for companies and would lead to state governments facilitating prices.

Meanwhile, just a handful of cases were filed in courts under the Sixth, Ninth, Eleventh, And DC Circuits, two of which challenged Trump administration policies:

- In October 2024, the U.S. Chamber [filed](#) an Eleventh Circuit lawsuit challenging the FTC's "[Click-To-Cancel](#)" rule, calling it an "[abuse of power by a commission determined to micromanage the economy.](#)"
- In June 2024, the U.S. Chamber [filed](#) a D.C. Circuit court petition [challenging](#) the Environmental Protection Agency's (EPA's) designation of "[forever chemicals](#)" PFOA and PFOS as hazardous substances subject to superfund treatment.
- In May 2024, the U.S. Chamber [filed](#) a D.C. Circuit challenge against the EPA's "[Safer Communities By Chemical Accident Prevention Rule](#)," which sought to "[further protect at-risk communities from chemical accidents.](#)"
- In March 2024, the U.S. Chamber [filed](#) a [petition for review](#) in the D.C. Court of Appeals challenging the Environmental Protection Agency's rule tightening air quality standards for particulate matter.
- In June 2023, the U.S. Chamber, alongside several local chambers, [filed a lawsuit](#) in the Southern District of Ohio challenging the constitutionality of the Inflation Reduction Act's Medicare price negotiation measures, filing a motion to halt its implementation the next month.
- In February 2023, the U.S. Chamber, alongside the Kentucky Chamber and other trade associations, [filed a lawsuit](#) in the Eastern District of Kentucky challenging the EPA and Army's new Waters of the United States rule, which is now pending in that court.
- In July 2022, the U.S. Chamber [filed a lawsuit](#) against the SEC over the agency's decision to roll back the Trump administration's proxy advisor rule claiming it did "[not follow proper procedures](#)" and removed key investor protections, with the challenge making it to the Sixth Circuit after the Middle District of Tennessee ruled against the Chamber with the case still [pending](#) a decision.
- In July 2020, the U.S. Chamber [sued](#) the Trump Administration over an anti-immigration proclamation it dubbed "not welcome" signs, successfully winning a case in the Northern California District Court which blocked the administration's ban on certain non-immigrant employment, with the U.S. Chamber celebrating it as "[a great victory for American businesses.](#)"
- And in October 2020, the U.S. Chamber and several business groups [sued](#) the Trump Administration over its H-1B Visa Rule implemented by the Departments of Homeland Security and Labor, arguing the rule would "[devastate high-skilled immigration](#)," and after a series of fights in court, DHS dropped its challenge in court for implementing its "[Lottery Rule.](#)"

"Judge Shopping"—The Practice Of Filing Lawsuits Where Sympathetic Judges Will Hear A Particular Case"—Has Entered Headlines In March, With Fifth Circuit Court Of Appeals Judges James Ho And Edith Jones Blasting A Rule That A 26-Member Judicial Conference Recommended For Implementation To Curtail The Practice, With Senate Democratic Leader Chuck Schumer (NY) Penning A Letter To The Northern District Of Texas Urging The Court To Adopt The Rule, While Republicans Defend Judge Shopping.

In March 2024, Fifth Circuit Court Of Appeals Judges James C. Ho And Edith Jones Criticized The 26-Member Judicial Conference Which Approved Policies Designed To Curtail "Judge Shopping" Where Lawsuits Are Filed In Specific Districts With Sympathetic Judges To Hear A Particular Case, Claiming It "Was The Result Of Political Pressure And Conflicted With Federal Law."

March 2024: Fifth Circuit Court Of Appeals Judges James C. Ho And Edith Jones Defended The Practice Of "Judge Shopping," Claiming Judicial Policymakers' Recommendations "[Were] The Result Of Political Pressure And Conflicted With Federal Law." "Two conservative federal appeals court judges on Wednesday criticized judicial policymakers for adopting a new rule aimed at curtailing "judge shopping" by state attorneys general, activists and others who challenge government policies in courthouses where one or two sympathetic judges hear most cases. U.S. Circuit Judges James Ho and Edith Jones of the 5th U.S. Circuit Court of Appeals in separate statements said the policy approved by the U.S. Judicial Conference on Tuesday was the result of political pressure and conflicted with federal law." [Reuters, [03/13/24](#)]

- **The Rule Was Made By A 26-Member Judicial Conference And Was Aimed At Curtailing Efforts By Actors To Challenge Biden Administration Policies Often Used By Conservative Litigants.** "The rule the 26-member Judicial Conference approved was designed to curb a litigation strategy used by conservative litigants to challenge Biden administration policies, often in one-or-two judge courthouses in Texas." [Reuters, [03/13/24](#)]

In March 2024, Senate Democratic Leader Chuck Schumer (NY) Urged The Northern District Court Of Texas To Adopt The Policy Recommendations That Would Curtail "Judge Shopping" With Republican Lawmakers Penning Their Own Letter Defending The Practice.

March 2024: In A Letter To Northern District Of Texas Chief Judge David Godbey, Senate Democratic Leader Chuck Schumer (NY) Urged Courts To Implement New Judiciary Policy To Curtail "'Judge Shop[ping]" Where Challenges To Federal And State Laws Are Assigned To Sympathetic Judges. "Democratic U.S. Senate Majority Leader Chuck Schumer on Thursday urged the chief judge of a federal district court in Texas to implement a new judicial policy that would curtail the ability of conservative litigants to "judge shop" and steer cases challenging government policies to sympathetic jurists. Schumer in a letter to Chief U.S. District Judge David Godbey of the Northern District of Texas asked him to put a policy the U.S. Judicial Conference adopted last week that aims to ensure that cases challenging federal and state laws are randomly assigned judges into effect "as soon as possible." [Reuters, [03/21/24](#)]

The Updated Policy Would Require Cases To Be Assigned To A Judge Randomly Throughout Federal Districts "Rather Than Stay In The Specific, Smaller Division, Or Courthouse, Where The Cases Were

Initially Filed. "That policy would require lawsuits challenging federal or state laws to be assigned a judge randomly throughout a federal district rather than stay in the specific, smaller division, or courthouse, where the cases were initially filed." [Reuters, [03/21/24](#)]

Meanwhile, Republicans Defended The Practice Saying In A Letter Led By Senate Minority Leader Mitch McConnell (KY) That They Were Pleased The Policies Were Merely "Suggestions" And Not Binding. "In a separate letter, opens new tab on Thursday to U.S. District Judge Robert Conrad, the director of the Administrative Office of U.S. Courts, 18 Senate Republicans including Minority Leader Mitch McConnell said they were pleased the judiciary clarified that the new policy amounted to "suggestions" and was not binding." [Reuters, [03/21/24](#)]

Shortly Following The Policy Recommendation, Sixth District Court Of Appeals Chief Judge Jeffrey Sutton Celebrated The Move Saying Its "'An Elegant Solution'" To A Problem Where One Federal Judge Can Block Policy Access Across The Country.

Sixth Circuit Chief Judge Jeffrey Sutton Celebrated The Policy Changes, Saying Its "An Elegant Solution" To A Problem Where One Judge Can Block Policy Access Across The Country. "'I'm really proud that we did this,' 6th Circuit Chief Judge Jeffrey Sutton said of the action taken Tuesday by the Judicial Conference of the United States, which sets policies for the federal judiciary. [...] Speaking with reporters by videoconference after a Judicial Conference meeting in Washington, Sutton called the new policy 'an elegant solution' to a problem he said was fueled by an increasing number of nationwide injunctions — orders in which a single federal judge blocks a policy across the country." [Politico, [03/12/24](#)]

Fifth Circuit Court Of Appeals

On October 8, 2024, The U.S. Chamber Filed A Still-Pending Lawsuit In The Fifth Circuit's U.S. District Court For The Southern District Of Mississippi Challenging The U.S. Department Of Labor's (DOL's) Rule Expanding Protections For Agricultural Workers With H-2A Visas, After Claiming The DOL Was "Impos[ing] Labor Organizing Procedures On Agricultural Employers."

On October 8, 2024, The U.S. Chamber And Industry Allies Filed A Still-Pending Lawsuit In The U.S. District Court For The Southern District Of Mississippi—In The Fifth Circuit's Jurisdiction—Challenging The U.S. Department Of Labor's (DOL's) Rule Expanding Protections For Agricultural Workers With H-2A Visas, Claiming The DOL Unlawfully Expanded Labor Rights For These Workers.

October 8, 2024: The U.S. Chamber Of Commerce Filed A Lawsuit Challenging The Department Of Labor's (DOL's) H-2A Rule In The U.S. District Court For The Southern District Of Mississippi, Which Is In The Fifth Circuit's Jurisdiction. "Forum U.S. District Court for the Southern District of Mississippi [...] U.S. Chamber files coalition lawsuit challenging Department of Labor's H-2A Rule as statutorily unauthorized and an infringement on employers' First Amendment rights [...] October 08, 2024" [U.S. Chamber of Commerce, accessed [10/30/24](#)]

International Fresh Produce Association, American Farm Bureau Federation, Mississippi Farm Bureau Federation, Stone County Farm Bureau, Chamber of Commerce of the United States of America, AmericanHort, Florida Fruit & Vegetable Association, North American Blueberry Council, Texas International Produce Association, and the State of Mississippi,

Plaintiffs,

[Complaint, International Fresh Produce Association et al. v. U.S. Department of Labor et al., Case No. [1:24-cv-00309-HSO-BWR](#)]

- **The Fifth Circuit Has Appellate Jurisdiction Over The U.S. District Court For The Southern District Of Mississippi.** [Justia, accessed [10/30/24](#)]

The Lawsuit Was Over The DOL's Rule Titled "Improving Protections for Workers in Temporary Agricultural Employment." "This case concerns a regulation recently promulgated by the U.S. Department of Labor (DOL) titled Improving Protections for Workers in Temporary Agricultural Employment in the United States, 89 Fed. Reg. 33898." [Complaint, International Fresh Produce Association et al. v. U.S. Department of Labor et al., Case No. [1:24-cv-00309-HSO-BWR](#)]

- **On June 28, 2024, The DOL Published A Final Rule Requiring Employers Participating In The H-2A Program To "Provide Assurances That They Will Not Intimidate, Threaten, Or Otherwise Discriminate Against Certain Workers Or Others For Engaging In 'Activities Related To Self-Organization.'" "On June 28, 2024, the Department of Labor published a final rule on H-2A visas. In its summary, DOL states, 'This final rule requires employers to provide assurances that they will not intimidate, threaten, or otherwise discriminate against certain workers or others for engaging in 'activities related to self-organization,' including 'concerted activities for the purpose of mutual aid or protection relating to wages or working conditions.' DOL contends the rule 'does not require H-2A employers to recognize labor organizations or to engage in any collective bargaining activities.'" [Forbes, [10/09/24](#)]**

The Lawsuit Claimed That The Rule Unlawfully Expanded Labor Rights For Holders Of H-2A Visas And That The Biden Labor Department Was "Using Immigration Law To Impose Labor Organizing Procedures On Agricultural Employers." "A new lawsuit seeks to block a Labor Department rule that farm and business groups say unlawfully expands labor rights for H-2A visa holders. Courts have stayed the rule in several states, but it could go into effect in dozens of other states. Farm and business groups argue the Department of Labor is using immigration law to impose labor organizing procedures on agricultural employers." [Forbes, [10/09/24](#)]

The Lawsuit Claimed That The H-2A Rule Extended National Labor Relations Act-Like Protections To Agricultural Workers Whose Employers Participate In The H-2A Temporary Agricultural Worker Program. "The plaintiffs argue that even though Congress did not extend federal labor standards under the National Labor Relations Act of 1935 to agricultural workers, DOL's H-2A rule 'extends NLRA-like protections to all agricultural workers whose employers happen to participate in the H-2A Temporary Agricultural Worker Program.'" [Forbes, [10/09/24](#)]

The Case Was Still Pending As Of October 30, 2024. [U.S. Chamber of Commerce, accessed [10/30/24](#)]

In November 2023: The U.S. Chamber Submitted A Comment On The DOL's H-2A Rule Claiming The Changes Were "Unconstitutional, Are Without Statutory Authority, Or Clearly Contravene Existing Federal Law."

November 2023: The U.S. Chamber Submitted A Comment Claiming The DOL's H-2A Rule Changes Were "Unconstitutional, Are Without Statutory Authority, Or Clearly Contravene Existing Federal Law."

"Re: Notice of Proposed Rulemaking, Employment and Training Administration and Wage and Hour Division, Department of Labor; Improving Protections for Workers in Temporary Agricultural Employment in the United States (88 Fed. Reg. 63,750-63,832, September 15, 2023) [...] The U.S. Chamber of Commerce submits the following comments on the above- referenced notice of proposed rulemaking ('NPRM' or 'proposal'). The Chamber is very concerned with the approach the U.S. Department of Labor ('Department' or 'DOL') has taken with this proposal. Many of the most significant changes DOL purports to make to the H-2A Temporary Agricultural Worker Program are unconstitutional, are without statutory authority, or clearly contravene existing federal law. Many other proposed changes will only serve to make it more difficult for American farmers to use the one program that allows them to meet their workforce needs at a time when their companies are struggling mightily to do so." [U.S. Chamber of Commerce, [11/14/23](#)]

On May 21, 2024, The U.S. Chamber Led A Still-Pending Lawsuit In The Fifth Circuit's U.S. District Court For The Western District Of Texas Challenging The Occupational Safety And Health Administration's (OSHA's) Walkaround Rule, Which Gave Union Figures Expanded Access To Workplaces During Safety Inspections.

On May 21, 2024, The U.S. Chamber Of Commerce Led A Coalition Of Business Groups In Filing A Still-Pending Lawsuit In The Fifth Circuit's U.S. District Court For The Western District Of Texas' Waco Division Challenging The Occupational Safety And Health Administration's (OSHA's) Walkaround Rule, Which Gave Union Figures Access To Workplaces During Safety Inspections.

May 21, 2024: The U.S. Chamber Of Commerce And Other Business Groups Filed A Lawsuit In The Western District Of Texas, Waco Division—Which Is In The Fifth Circuit's Jurisdiction—Challenging The Occupational Safety And Health Administration's (OSHA's) Walkaround Rule, Which Gave Union Figures Expanded Access To Workplaces To Assist In Safety Inspections. "Today, the U.S. Chamber of Commerce and a coalition of business groups filed a lawsuit in the Western District of Texas, Waco Division against the Occupational Safety and Health Administration (OSHA). The lawsuit challenges OSHA's new walkaround rule, which gives union organizers, activists, plaintiffs' attorneys, and even competitors access to workplaces under the guise of 'assisting' OSHA inspectors during routine inspections." [U.S. Chamber of Commerce, [05/21/24](#)]

- **The U.S. Chamber's Lawsuit Was Joined By Other Business Groups, Including The National Association Of Manufacturers, The National Retail Federation, And Others.** "The Chamber is joined by co-plaintiffs, including the Greater Waco Chamber of Commerce, Longview Chamber of Commerce, Associated Builders and Contractors, Alliance for Chemical Distribution, Associated General Contractors, International Franchise Association, International Warehouse Logistics Association, National Association of Manufacturers, National Association of Wholesaler-Distributors, National Federation of Independent Business, and National Retail Federation." [U.S. Chamber of Commerce, [05/21/24](#)]

- **The Fifth Circuit Has Appellate Jurisdiction Over The U.S. District Court For The Western District Of Texas.** [Justia, accessed [10/30/24](#)]
- **The Case Was Still Pending As Of October 30, 2024.** [U.S. Chamber of Commerce, [05/21/24](#)]

The U.S. Chamber Claimed That “OSHA Upended Over 50 Years Of Precedent By Dramatically Expanding The Type Of Third Parties Allowed To Accompany Inspectors” And That The Walkaround Rule Was Part Of The Biden Administration’s “‘Whole-Of-Government’ Approach To Promoting Unionization At All Costs.”

The U.S. Chamber Claimed That “OSHA Upended Over 50 Years Of Precedent By Dramatically Expanding The Type Of Third Parties Allowed To Accompany Inspectors” And Claimed The Third Parties Could “Expose Companies To Excessive Lawsuits And Unionization Efforts.” “OSHA upended over 50 years of precedent by dramatically expanding the type of third parties allowed to accompany inspectors during walkarounds. The OSH Act permits employee representatives to accompany the inspectors, which was generally limited to employees themselves, with very limited exceptions. The presence of these third parties can expose companies to excessive lawsuits and unionization efforts, cause disturbances, reveal confidential business information, and raise safety concerns.” [U.S. Chamber of Commerce, [05/21/24](#)]

Marc Freedman, The Vice President Of U.S. Chamber’s Employment Policy Division, Claimed That OSHA’s Walkaround Rule Was Part Of The Biden Administration’s “‘Latest Regulation To Take A ‘Whole-Of-Government’ Approach To Promoting Unionization At All Costs.’” “OSHA’s new walkaround rule is the Administration’s latest regulation to take a ‘whole-of-government’ approach to promoting unionization at all costs,” said Marc Freedman, vice president of the Chamber’s Employment Policy Division.” [U.S. Chamber of Commerce, accessed [10/30/24](#)]

In April 2024, The U.S. Chamber Of Commerce Filed A Lawsuit In The Fifth Circuit’s U.S. District Court For The Northern District Of Texas Challenging The Federal Trade Commission’s (FTC’s) Ban On Employer Noncompete Agreements—The District Court Dismissed The Chamber’s Challenge Due To Its Intervention In A Similar FTC Lawsuit, Before Striking Down The Noncompete Ban In Favor Of The Chamber And Its Allies In August 2024.

On April 24, 2024, The U.S. Chamber Filed A Coalition Lawsuit In The U.S. District Court For The Northern District Of Texas—Which Is In The Fifth Circuit’s Jurisdiction—Challenging The Federal Trade Commission’s (FTC’s) Ban On Employer Noncompete Agreements, Calling The Ban “An Astonishing Power Grab.”

April 24, 2024: The U.S. Chamber Of Commerce Filed A Coalition Lawsuit in The U.S. District Court For The Northern District Of Texas—Which Is In The Fifth Circuit’s Jurisdiction—Against The Federal Trade Commission (FTC) Challenging Its Ban On Employer Noncompete Agreements, Claiming It Set A “Dangerous Precedent For Government Micromanagement.” “U.S. District Court for the Northern District of Texas [...] The Chamber filed a coalition lawsuit against the Federal Trade Commission (FTC) after the agency voted to ban employer noncompete agreements. The FTC’s action sets a dangerous precedent for government

micromanagement and will harm employees, employers, and the economy.” [U.S. Chamber of Commerce, [04/24/24](#)]

- **The U.S. Chamber Filed A Motion To Stay The Ban’s Effective Date And For A Preliminary Injunction.** “U.S. Chamber files motion for stay of effective date and for preliminary injunction [...] April 24, 2024” [U.S. Chamber of Commerce, [04/24/24](#)]
- **The Fifth Circuit Has Appellate Jurisdiction Over The U.S. District Court For The Northern District Of Texas.** [Justia, accessed [10/30/24](#)]

The U.S. Chamber Claimed That, Through Its Noncompete Ban, The FTC Sought To “Simply Declare Common Business Practices To Be ‘Unfair Methods Of Competition’ And Thus Illegal.” “Why it matters: The Chamber continues fighting back against government micromanagement. The FTC contends that by using regulation they can simply declare common business practices to be ‘unfair methods of competition’ and thus illegal. This is despite the fact that noncompete agreements have been around longer than the 110-year-old FTC and until now no one has suggested that they are illegal.” [U.S. Chamber of Commerce, [04/24/24](#)]

The U.S. Chamber Claimed Its Challenge Was About “Stopping An Astonishing Power Grab By The FTC.” “Challenging the FTC in court is about more than noncompete agreements. It is about stopping an astonishing power grab by the FTC.” [U.S. Chamber of Commerce, [04/24/24](#)]

On May 30, 2024, The District Court Dismissed The U.S. Chamber’s Lawsuit Due To The Group’s Intervention In A Similar FTC Challenge Filed By Tax Firm Ryan, LLC—On August 20, 2024, The Same District Court Granted A Victory To Ryan LLC And The Chamber When It Struck Down The FTC’s Noncompete Ban.

May 30, 2024: The District Court Dismissed The U.S. Chamber’s Lawsuit Due To Its Intervention In Another Challenge To The FTC’s Noncompete Ban Filed By Ryan LLC, A Tax Firm. “District court dismisses challenge to FTC Noncompete Rule without prejudice after U.S. Chamber and coalition plaintiffs intervene in separate challenge to Rule [...] May 30, 2024” [U.S. Chamber of Commerce, [04/24/24](#)]

- **The District Court Dismissed The U.S. Chamber’s Case Due To Its Intervention In Another Related Case.** “This court previously granted the FTC’s motion to apply the first-to-file doctrine and stayed proceedings in this case. Doc. 27. Plaintiffs have now notified the court of their intervention in the first-filed Ryan case. Doc. 28. So this action is ripe for dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2). See Doc. 31 at 12 (plaintiffs’ notice of intent to dismiss).” [Order, Chamber of Commerce of the United States et al. v. Federal Trade Commission, Case No. 6:24-cv-00148, [05/30/24](#)]
- **May 8, 2024: The U.S. Chamber Filed A Motion To Intervene In Ryan LLC V. FTC, Which Also Challenged The Agency’s Ban On Noncompete Agreements.** “Ryan LLC v. FTC [...] U.S. Chamber files coalition brief to intervene in company’s challenge to Federal Trade Commission’s Noncompete Rule, which bans noncompete agreements nationwide May 08, 2024 [...] The Chamber intervened in a coalition lawsuit against the Federal Trade Commission (FTC) after the agency voted to ban employer noncompete agreements. The FTC’s action sets a dangerous precedent for government micromanagement and will harm employees, employers, and the economy.” [U.S. Chamber of Commerce, [05/08/24](#)]
- **Ryan LLC Claims To Be “An Award-Winning Global Tax Services Firm.”** “Ryan is an award-winning global tax services firm achieving international recognition and market leadership through client service excellence, workplace innovation, and employee development.” [Ryan LLC, accessed [10/30/24](#)]

August 20, 2024: The U.S. District Court For The Northern District Of Texas Granted Summary Judgement To Ryan LLC—As Well As The U.S. Chamber And Other Trade Groups That Intervened In The Case—To Strike Down The FTC’s Noncompete Ban. “The United States District Court for the Northern District of Texas today granted summary judgment to Gibson Dunn’s client, Ryan, LLC, in its challenge to the Federal Trade Commission’s Non-Compete Rule. The Rule would have retroactively invalidated over 30 million employment contracts and preempted the laws of 46 states. The court set aside the rule, with nationwide effect, ordering that ‘the Rule shall not be enforced or otherwise take effect on its effective date of September 4, 2024 or thereafter.’ Ryan, LLC was the first party to challenge the lawfulness of the Non-Compete Rule. A group of trade associations led by the United States Chamber of Commerce intervened in the case to challenge the Rule as well.” [Gibson, Dunn & Crutcher, [08/20/24](#)]

In March 2024, The U.S. Chamber Of Commerce Filed A Lawsuit In The Northern District Of Texas Challenging The CFPB's Latest Credit Card Late Fee Rule, With The Initial Judge Reed O'Connor Recusing Himself After Accountable.US Found That O'Connor Disclosed Owning Stock In Credit Card Issuers, With The Next Judge Mark Pittman Transferring The Case To Washington, D.C. Since Only One Of The Six Plaintiffs Had A Presence In Texas, Before The Fifth Circuit Temporarily Blocked The Case's Transfer.

On March 7, 2024, The U.S. Chamber Of Commerce Alongside National And Texas-Based Financial Services Trade Groups Sued The Consumer Financial Protection Bureau (CFPB) Over Its Recent Credit Card Late Fee Rule That Capped Late Fees At \$8, With The Case Initially Being Assigned Judge Terry Means Who Requested The Case Be Reassigned To An "Active Status Judge," With The Case Eventually Being Assigned To Bush-Appointee Judge Reed O'Connor.

March 7, 2024: The U.S. Chamber Of Commerce Sued The Consumer Financial Protection Bureau (CFPB) Over Its Credit Card Late Fee Rule In The Northern District Of Texas, With The Groups Arguing The CFPB “Exceed[ed] Its Authority, And Ignor[ed] Congress' Intent That Fees Be High Enough To Deter Late Payments, Ensure Cardholder Accountability, And Compensate Issuers For Their Costs When Payments Are Late.” “The Consumer Financial Protection Bureau was sued on Thursday over its new rule capping late fees on credit cards at \$8, which banking groups and the U.S. Chamber of Commerce say punishes consumers who pay their bills on time. In a complaint filed in the Fort Worth, Texas, federal court, the fee's opponents accused the bureau of exceeding its authority, and ignoring Congress' intent that fees be high enough to deter late payments, ensure cardholder accountability, and compensate issuers for their costs when payments are late. The plaintiffs include the Chamber, the American Bankers Association, the Consumer Bankers Association, and three Texas-based trade groups.” [Reuters, [03/07/24](#)]

- **The Case Was Assigned To Bush-Appointee Judge Reed O'Connor.** “The case was assigned to U.S. District Judge Reed O'Connor, an appointee of former President George W. Bush.” [Reuters, [03/07/24](#)]

The Case Had Previously Been Assigned To Judge Terry Means, Who Requested The Case Be Reassigned To An “Active-Status” Judge Due To His Senior Status:

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

CHAMBER OF COMMERCE OF THE \$
UNITED STATES OF AMERICA, ET AL.\$
VS. \$ ACTION NO. 4:24-CV-213-Y
CONSUMER FINANCIAL PROTECTION \$
BUREAU, ET AL. \$

ORDER FOR REASSIGNMENT

The undersigned judge, having taken senior status, desires to have this case re-assigned to an active-status judge. The clerk of the Court is therefore DIRECTED to re-assign this case by random draw to another judge.

SIGNED March 7, 2024.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

[PACER Filing, accessed [03/08/24](#)]

By March 15, 2024, Judge Reed O'Connor Recused Himself From The Chamber's Lawsuit With No Explanation, However, Accountable.US In The Lead Up To His Recusal Uncovered O'Connor Had Disclosed Stock Holdings For Chamber Of Commerce Members Capital One, A Bank And Major Issuer Of Credit Cards, And Visa, One Of The Largest Payment Card Services Companies."

March 15, 2024: Judge Reed O'Connor Recused Himself From The Chamber's Lawsuit Against The CFPB's Credit Card Late Fee Rule With No Explanation. "A conservative federal judge in Texas has recused himself from hearing a lawsuit by business and banking groups challenging the U.S. Consumer Financial Protection Bureau's new rule that aims to lower credit card late fees, a case that a progressive watchdog argued he could not hear due to conflicts of interest. U.S. District Judge Reed O'Connor in Fort Worth in an order on Thursday, opens new tab did not say why he was stepping aside from presiding over the lawsuit by groups including the U.S. Chamber of Commerce, the nation's largest business lobby, after having set a rapid schedule to consider blocking the rule." [Reuters, [03/15/24](#)]

- **Trump-Appointee, Judge Mark Pittman Was Assigned To the Case Following O'Connor's Recusal.** "The case will now be heard by U.S. District Judge Mark Pittman, an appointee of Republican former President Donald Trump and the only other active judge in Fort Worth, who similarly has often ruled for conservative plaintiffs." [Reuters, [03/15/24](#)]

O'Connor's Recusal Came Amid Accountable.US Findings That O'Connor's Had Disclosed "Stock Holdings For Chamber Of Commerce Members Capital One, A Bank And Major Issuer Of Credit Cards, And Visa, One Of The Largest Payment Card Services Companies." "His recusal came shortly before a progressive government watchdog group, Accountable.US, issued a press release detailing research into what it called conflicts of interests arising from investments listed in O'Connor's financial disclosure reports. Those investments, detailed in O'Connor's 2022 disclosure report, opens new tab, included stock holdings for Chamber of Commerce members Capital One, a bank and major issuer of credit cards, and Visa, one of the largest payment card services companies." [Reuters, [03/15/24](#)]

On March 28, 2024, Federal Judge Mark Pittman Initially Transferred The Lawsuit To Washington, D.C. After He Raised That None Of The Banks Or Credit Issuers Affected Had A Presence In Fort Worth Texas.

On March 28, 2024, Bloomberg Law Reported The Lawsuit Brought By The Chamber Against The CFPB's Credit Card Late Fee Rule Would Be Transferred To Washington, D.C. After A Texas Judge Ruled "None Of The Banks Or Credit Companies Affected By The CFPB's Rule Are Based In The Fort Worth Division Of The Northern District Of Texas." "A lawsuit brought by the US Chamber of Commerce and banking trade groups challenging the Consumer Financial Protection Bureau's credit card late fee rule will be transferred to Washington, D.C., after a Texas federal judge ruled the case doesn't belong in his court. None of the banks or credit companies affected by the CFPB's rule are based in the Fort Worth Division of the Northern District of Texas, while most of the attorneys working on the case are located in the nation's capital, Judge Mark Pittman said in a Thursday ruling." [Bloomberg Law, [03/28/24](#)]

- **The Judge, Mark Pittman Said "There Appears To Be An Attenuated Nexus To The Fort Worth Division, Given Only One Plaintiff Of The Six In This Matter Has Even A Remote Tie To The Fort Worth Division."** "A federal judge in Texas has ordered business and banking groups to explain why their lawsuit challenging the U.S. Consumer Financial Protection Bureau's new rule governing credit card late fees belongs in his court instead of a different venue. U.S. District Judge Mark Pittman in an order on Monday, opens new tab said he was concerned that 'there appears to be an attenuated nexus to the Fort Worth division, given only one plaintiff of the six in this matter has even a remote tie to the Fort Worth division.'" [Reuters, [03/19/24](#)]

However, The Fifth Circuit Court Of Appeals Temporarily Blocked The Transfer To D.C., Granted An Extended Stay For The Chamber.

April 2024: Shortly After Judge Pittman Transferred The Case To D.C, The Fifth Circuit Court Of Appeals Put A Hold Transferring It, Granting An Extended Stay. "Their challenge quickly hit a roadblock last month when a Texas federal district judge decided the case didn't belong in his court. The US Court of Appeals for the Fifth Circuit on March 29 put a hold on transferring the case to Washington, D.C. The Fifth Circuit in its latest order extended the stay through the end of Friday." [Bloomberg Law, [04/02/24](#)]

In February 2024, The U.S. Chamber Alongside National And Texas Trade Groups Challenged Final Community Reinvestment Act Rulemaking By Federal Bank Regulators, Filing A Lawsuit In The Northern District Of Texas Assigned To Trump-Appointed Federal Judge Matthew J. Kacsmark, Who Ultimately Sided With Industry By Approving Of A Motion For Preliminary Injunction Halting Agency Implementation Of The Rule Until The Lawsuit Was Settled.

In February 2024, Numerous National And Texas Banking Trade Associations, Including The U.S. Chamber Of Commerce, Filed A Lawsuit That Was Assigned To Trump-Appointed Judge Matthew J. Kacsmark Which Challenged Federal Bank Regulators Implementing Rulemaking Under The Community Reinvestment Act The Groups Alleged "Violate[d] The Administrative Procedure Act" With Regulators Exceeding Their Statutory Authority.

On February 5, 2024, Several U.S. Banking And Business Trade Groups, Including The U.S. Chamber, Filed A Lawsuit In The Northern District Court Of Texas Challenging The Implementation Of The Community Reinvestment Act (CRA) In A Rule Adopted By Federal Banking Regulators In October 2023. "Several national and Texas banking and business trade groups have filed a lawsuit in the U.S. District Court for the Northern District of Texas challenging the final regulations (Final Rules) implementing the Community Reinvestment Act of 1977 (CRA) that were jointly adopted in October 2023 by the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Federal Reserve Board (Agencies). The national trade groups include the American Bankers Association, Independent Community Bankers of America, and U.S. Chamber of Commerce." [Ballard Spahr Consumer Finance Monitor, [02/07/24](#)]

The Trade Groups Alleged "The Final Rules Violate The Administrative Procedure Act (APA) Because They Exceed The Agencies' Statutory Authority Under The CRA Which Is Limited To Assessing A Bank's "Record Of Meeting The Credit Needs Of Its Entire Community." "The Final Rules violate the Administrative Procedure Act (APA) because they exceed the Agencies' statutory authority under the CRA which is limited to assessing a bank's 'record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such institution.'" [Ballard Spahr Consumer Finance Monitor, [02/07/24](#)]

The Lawsuit Was Assigned To The "Very Conservative" Judge Matthew J. Kacsmark, In A Venue Seen As "Not Surprising" Due To The Fifth Circuit Court Of Appeals Being "Viewed As A Favorable Forum For Lawsuits Challenging Federal Agency Actions." "The new lawsuit has been assigned to Judge Matthew J. Kacsmark, who is known to be very conservative. It is not surprising that the trade groups chose a Texas federal district court as the venue for the lawsuit. The Fifth Circuit is widely viewed as a favorable forum for lawsuits challenging federal agency actions, particularly given the recent success that trade groups have had in the Fifth Circuit in challenging regulations issued by the CFPB." [Ballard Spahr Consumer Finance Monitor, [02/07/24](#)]

- **Judge Kacsmark Was Appointed By President Trump In 2019.** [United States District Court Northern District Of Texas, accessed [04/08/24](#)]

Although The Rules Were Effective April 1, 2024, Compliance For The Majority Of Its Provisions Won't Be Enforced Until January 1, 2026, With The Groups Seeking A Preliminary Injunction That Bars These Agencies From Implementing These Rules Until The Lawsuit Is Decided. "Although the Final Rules are effective April 1, 2024, the compliance date for the majority of the Final Rules' provisions is January 1, 2026. Despite the delayed compliance date, the trade groups are expected to seek a preliminary injunction that enjoins the Agencies from implementing and enforcing the Final Rules while the lawsuit is pending. In their preliminary injunction motion, the trade groups will likely allege, as they do in the complaint, that given the complexity of the Final Rules and the changes they require, banks cannot wait until 2025 or 2026 to make those changes and must act now. They note that the OCC has acknowledged an estimated industry compliance cost of \$90 million for the first twelve months after publication of the Final Rules in the Federal Register (which occurred on February 1, 2024)." [Ballard Spahr Consumer Finance Monitor, [02/07/24](#)]

The Complaint Was Filed By The Texas Bankers Association, Amarillo Chamber Of Commerce, Independent Community Bankers Of America, And The U.S. Chamber, Among Others. "Pursuant to Rule 65 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1331, and the Administrative Procedure Act, 5 U.S.C. § 705, the Texas Bankers Association, Amarillo Chamber of Commerce, the American Bankers Association, the Chamber of Commerce of the United States of America, the Longview Chamber of Commerce, the Independent Community Bankers of America, and the Independent Bankers Association of Texas ('Plaintiffs') respectfully move the Court to preliminarily enjoin recently promulgated regulations issued pursuant to the Community Reinvestment Act of 1977 ('CRA'), 12 U.S.C. § 2901 et. seq. (hereinafter the 'Final Rules')." [U.S. Chamber of Commerce, [02/09/24](#)]

On March 29, 2024, The U.S. Northern District Of Texas Approved Of The Plaintiffs' Motion For Preliminary Injunction, Halting The Agencies' Implementation Of The Final Rules Until The Lawsuit Was Resolved.

“On March 29, 2024, The U.S. Northern District Of Texas Granted The Plaintiffs' Motion For Preliminary Injunction And Enjoined The Agencies From Enforcing The Final Rules Against Plaintiffs Pending The Resolution Of The Lawsuit.” “On March 29, 2024, the U.S. District Court for the Northern District of Texas granted the Plaintiffs' motion for preliminary injunction and enjoined the Agencies from enforcing the Final Rules against Plaintiffs pending the resolution of the lawsuit. The court also extended the effective date of the Final Rule's implementation by one day for each day the injunction remains in place.” [Ballard Spahr Consumer Finance Monitor, [04/02/24](#)]

In November 2023, The U.S. Chamber Alongside Numerous Trade Groups Filed A Lawsuit In The Eastern District Court Of Texas Challenging The National Labor Relation Board's Rulemaking On Joint Employment, With President And CEO Suzanne Clark Celebrating A March 2024 Ruling Which Vacated The Rule, Vowing The Chamber Would Fight "Unionization" "At All Costs."

On November 9, 2023, The U.S. Chamber Alongside Numerous Trade Groups Including The American Hotel And Lodging Association, National Retail Federation And Others, Challenged The National Labor Relations Board's (NLRB's) Joint Employment Rulemaking, Which The Groups Contended Had Already Increased Compliance Costs For Many Businesses From Similar Rulemaking In Effect From 2015 To 2017.

On November 9, 2023, The U.S. Chamber Filed A Lawsuit In The U.S. District Court For The Eastern District Of Texas Challenging National Labor Relations Board (NLRB) Rulemaking Allowing The Agency To Declare Joint Employment Status In Franchising, Contracting And Supply Chains Business Relations. “Today, the U.S. Chamber of Commerce and a coalition of business groups filed a lawsuit against the National Labor Relations Board (NLRB) in the U.S. District Court for the Eastern District of Texas over its new joint employer rule. The rule makes it easier for the agency to declare joint employment status exists in business relationships where it traditionally doesn't, like franchising, contracting, and supply chains. It upends a longstanding precedent by broadening liability for employers and enabling unions to organize across companies rather than store by store. Many companies could find themselves facing liability for workers they don't employ and workplaces they don't actually control.” [U.S. Chamber of Commerce, [11/09/24](#)]

The U.S. Chamber Contended That If The Rule Was Fully Implemented It Would "Have Far-Reaching Consequences," Alleging Companies Had Already Faced \$33 Billion In Annual Compliance Costs From 2015 To 2017 After A Similar Rule Was Implemented. "If the rule is allowed to go into effect, it will have far-reaching consequences for businesses of all sizes. A previously expanded joint employer rule was in place from 2015 to 2017 and cost franchise businesses, a majority of which are small businesses, \$33 billion per year. That resulted in 376,000 lost job opportunities and led to 93% more lawsuits." [U.S. Chamber of Commerce, [11/09/24](#)]

- **The Chamber Filed The Suit Alongside Numerous Trade Groups Including The American Hotel And Lodging Association, The National Retail Federation, International Franchise Association, And Others.** "The Chamber is joined by co-plaintiffs: the American Hotel and Lodging Association,

Associated Builders and Contractors, Associated General Contractors of America, Coalition for a Democratic Workplace, International Franchise Association, Longview Chamber of Commerce, National Retail Federation, National Association of Convenience Stores, Restaurant Law Center, Texas Association of Business, and Texas Restaurant Association." [U.S. Chamber of Commerce, [11/09/24](#)]

On November 13, 2023, The Chamber Filed For Summary Judgment In Its Challenge To The NLRB's Rulemaking.

On November 13, 2023, The U.S. Chamber Filed For A Summary Judgment In Its Challenge To The NLRB Joint Employer Rule:

U.S. Chamber moves for summary judgment in challenge to National Labor Relations Board joint employer rule

November 13, 2023

[Motion for Summary Judgment](#)

[U.S. Chamber Litigation Tracker, accessed [04/11/24](#)]

On March 8, 2024, The U.S. District Court For Eastern Texas Vacated The NLRB's Joint Employer Rule In A Massive Victory For The U.S. Chamber, With Chamber President And CEO Suzanne Clark Celebrating The Decision And Vowing To "Fight Against The NLRB And Its Campaign To Promote Unionization."

On March 8, 2024: The U.S. District Court For The Eastern District Of Texas Vacated The NLRB's Joint Employer Rule, With Chamber President And CEO Suzanne P. Clarke Celebrating The Ruling As "A Major Win For Employers," Adding "The U.S. Chamber Will Continue To Fight Back Against The NLRB And Its Campaign To Promote Unionization At All Costs." "Late Friday night, the U.S. Chamber of Commerce obtained a major legal victory for American businesses of all sizes, including franchises and contractors, employers, and workers after the U.S. District Court for the Eastern District of Texas vacated the National Labor Relations Board (NLRB) joint employer rule. U.S. Chamber of Commerce President and CEO Suzanne P. Clark issued the following statement: 'This ruling is a major win for employers and workers who don't want their business decisions micromanaged by the NLRB. It will prevent businesses from facing new liabilities related to workplaces they don't control, and workers they don't actually employ. The U.S. Chamber will continue to fight back against the NLRB and its campaign to promote unionization at all costs.'" [U.S. Chamber of Commerce, [03/09/24](#)]

In May 2023, The U.S. Chamber Of Commerce Criticized SEC Rulemaking Aimed At Further Regulating Company Stock Buyback Reporting, Vowing To Explore Legal Options, Ultimately Filing A Successful Lawsuit That Was Heard By The Fifth Circuit Court Of Appeals Which Vacated The Rule In December 2023, Receiving Praise From Chamber CEO Clark Who Said She Hoped This Would Signal The SEC Should Stop Pushing A "Far-Reaching And Aggressive Agenda."

In Early May 2023, The U.S. Chamber Of Commerce Criticized Rulemaking By The Securities And Exchange Commission (SEC) On Share Repurchases Claiming Buybacks "Improve Returns For Savers And Investors," Hinting The Chamber Would File A Lawsuit, Which Was Received By The U.S. Fifth Circuit Court Of Appeals On May 16, 2023.

May 3, 2023: Following Rulemaking By The Securities And Exchange Commission (SEC) On Company Stock Buyback Reporting Requirements, Center For Capital Markets Competitiveness (CCMC) Executive Vice President Tom Quaadman Said Buyback Programs "Improve Returns For Savers And Investors Across The Economy," Claiming The SEC Was "Disincentiviz[ing] Share Repurchases" "Hurting The Wages Of American Workers." "Tom Quaadman, Executive Vice President, Center for Capital Markets Competitiveness (CCMC) at the U.S. Chamber of Commerce issued the following statement today after the SEC announced a final rule on share repurchase agreements. 'Share repurchase agreements (also known as stock buybacks) improve returns for savers and investors across the economy while at the same time ensuring that capital flows to where it is most likely to result in investments that grow our economy and improve our standard of living. Today's rule by the Securities and Exchange Commission to disincentivize share repurchases will hurt the retirement savings of millions of Americans and result in slower economic growth – hurting the wages of working Americans.'" [U.S. Chamber of Commerce, [05/03/23](#)]

Quaadman Further Hinted The Chamber Would "Pursue Litigation To Protect Investors." "Market regulations should reflect economic realities, and it is unfortunate that the SEC chose to prioritize political policies over American investors and the best interests of our economy. The U.S. Chamber will carefully evaluate the impact of this rule and if it looks at all like the proposed rule, we will pursue litigation to protect investors." [U.S. Chamber of Commerce, [05/03/23](#)]

May 12, 2023: The U.S. Chamber Filed A Lawsuit Alongside The Texas Association Of Business And Longview Chamber Against The SEC's Stock Buyback Rule:

U.S. Chamber files lawsuit, with co-plaintiffs Texas Association of Business and Longview Chamber, against the Securities and Exchange Commission's final share-repurchase rule requiring companies to disclose daily repurchase activity and to provide justification for their repurchase activity

May 12, 2023

The [lawsuit](#) seeks to protect returns for investors as well as the ability of companies to make decisions free from [government](#) micromanagement.

Noel J. Francisco, James Burnham, Brian C. Rabbitt, Brinton Lucas, Charles E.T. Roberts, and Ryan M. Proctor of Jones Day and the U.S. Chamber's Litigation Center served as co-counsel for the U.S. Chamber.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

- **The Lawsuit Ultimately Made It To The Fifth Circuit Court Of Appeals On May 16, 2023.** [U.S. Chamber of Commerce, [05/16/23](#)]

On July 3, 2023, The U.S. Chamber Filed An Opening Appellate Briefing In The Fifth Circuit Court Of Appeals Challenging SEC's Rulemaking.

On July 3, 2023, The U.S. Chamber Filed An Opening Appellate Brief Challenging The SEC's Final Repurchase Rule:

U.S. Chamber and coalition file opening appellate brief challenging the Securities and Exchange Commission's final share-repurchase rule, which requires companies to disclose daily repurchase activity and to provide justification for their repurchase activity

July 03, 2023

[Click here](#) to view the brief.

[U.S. Chamber Litigation Tracker, [04/08/24](#)]

- **The Motion Was Filed In The Fifth Circuit Court Of Appeals.** [U.S Chamber of Commerce, [07/03/23](#)]

On October 31, 2023, The U.S. Fifth Circuit Court Of Appeals Ruled The SEC "Acted Arbitrarily," Further Vacating The Rule On December 19, 2023 With Chamber President And CEO Suzanne Clark Celebrating The Decision Saying She Hoped It "[Would] Cause The SEC To Take Pause" On Pushing Its "Far-Reaching And Aggressive Agenda."

On October 31, 2023, The U.S. Fifth Circuit Court Of Appeals Ruled That The SEC "Acted Arbitrarily And Capriciously," Violating The Administrative Procedure Act:

Fifth Circuit holds that the Securities and Exchange Commission acted arbitrarily and capriciously, in violation of the Administrative Procedure Act, in promulgating its share-repurchase rule

October 31, 2023

[Opinion](#)

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

On December 19, 2023 The U.S. Chamber Celebrated "A Major Victory" After The Fifth Circuit Court Of Appeals Vacated The SEC's Buyback Rule. "The U.S. Chamber of Commerce obtained a major victory for American businesses, investors, and retirement savers after the Fifth Circuit Court of Appeals vacated the Securities and Exchange Commission's (SEC) stock buyback rule." [U.S. Chamber of Commerce, [12/19/23](#)]

Chamber President And CEO Suzanne Clark Said The Decision "Underscores A Much Deeper Problem" Adding She Hoped The Decision "[Would] Cause The SEC To Take Pause Before It Attempts To Move Forward On Its More Far-Reaching And Aggressive Agenda." "The Fifth Circuit's decision on buybacks is a big win for American businesses, investors, and retirees over government micromanagement," said Chamber President and CEO Suzanne P. Clark. "The court's decision to vacate this rule underscores a much deeper problem as the SEC rushes to adopt a slew of ideologically driven rules: a failure to even consider the cost and impact these regulations will have on companies, U.S. capital markets, and investors. The Chamber is hopeful that the court's decision will cause the SEC to take pause before it attempts to move forward on its more far-reaching and aggressive agenda." [U.S. Chamber of Commerce, [12/19/23](#)]

In September 2022, The U.S. Chamber Alongside Numerous National And Texas Trade Groups Challenged The CFPB's Change To Its Examination Manual Aimed At Enforcing Unfair, Deceptive Or Abusive Acts Or Practices (UDAAP), Arguing The Agency Overstepped Its Powers Granted By Congress—The Eastern District Of Texas Ultimately Sided With Industry Nullifying The Update In September 2023 After The Chamber Urged The Court To Vacate On The Grounds The Supreme Court Was Hearing A Challenge To The CFPB's Funding Structure From The Community Financial Services Of America, A Payday Lending Group.

In September 2022, The U.S. Chamber Alongside Numerous National And Texas Banking Groups Sued The CFPB Over Its Updated Examination Manual Enforcing Oversight Of Unfair, Deceptive, Or Abusive Acts Or Practices (UDAAP) Arguing Other Federal Regulator Are Granted These Powers By Congress And That The CFPB Had "Exceed[ed] Its Statutory Authority."

On September 28, 2022, The U.S. Chamber, Alongside The American Bankers And Consumers Bankers Associations And Other Trade Groups, Filed A Lawsuit In The Eastern District Of Texas Challenging The CFPB's Changes To Its Examination Manual In A Move Industry Said "Exceed[ed] Its Statutory Authority." "The U.S. Chamber of Commerce today filed a lawsuit in the Eastern District of Texas with co-plaintiffs American Bankers Association, Consumer Bankers Association, Independent Bankers Association of Texas, Longview Chamber of Commerce, Texas Association of Business, and Texas Bankers Association against the Consumer Financial Protection Bureau (CFPB) for exceeding its statutory authority when amending its examination manual." [U.S. Chamber of Commerce, [09/28/22](#)]

- **The Chamber And Accompanying Trade Groups Alleged The CFPB Exceeded Its Statutory Authority When It Updated Its Examination Manual Over Regulating "Unfair, Deceptive, Or Abusive Acts Or Practices (UDAAP)," Claiming Other Federal Regulators Are Instead Granted These Powers.** "The U.S. Chamber and co-plaintiffs are challenging the CFPB's recent update to the Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) section of its examination manual to include discrimination and in particular disparate impact. Congress has not given the CFPB the power to do so, as allegations of discrimination are handled by other agencies through statutes such as the Equal Credit Opportunity Act, the Fair Housing Act, and the Home Mortgage Disclosure Act. The failure by Congress to grant such authority raises a "major questions" issue as recently decided by the Supreme Court." [U.S. Chamber of Commerce, [09/28/22](#)]

The U.S. Chamber Alongside Its Co-Plaintiffs Filed A Motion For Summary Judgement On November 29, 2022.

On November 29, 2022, The U.S. Chamber Filed A Motion For Summary Judgment In The Eastern District Of Texas:

U.S. Chamber and co-plaintiffs file motion for summary judgment

November 29, 2022

[Click here](#) to view.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In January 2023, The U.S. Chamber Alongside Its Co-Plaintiffs Submitted A Reply In Support Of Its Summary Judgment And Opposition To Motion To Dismiss, Later Notifying The Eastern Texas District Court Of The Supreme Court's Decision To Hear CFPB V. Community Financial Services Of America On The Grounds The CFPB's Funding Structure Is Unconstitutional, A Move The Chamber Celebrated With Chamber Chief Policy Officer Neil Bradley Urging The Courts To Bring The CFPB Under The Appropriations Process.

January 2023: The U.S. Chamber Submitted A Brief Urging The Eastern District Of Texas To Support Plaintiff's Motion For A Summary Judgement and Opposition To The Motion To Dismiss The Case:

U.S. Chamber and co-plaintiffs file reply in support of their motion for summary judgment and opposition to motion to dismiss

January 10, 2023

[Click here](#) to view the brief. Bruce A. Smith of Ward, Smith & Hill PLLC, Cameron T. Norris, Bryan K. Weir, and David L. Rosenthal of Consovoy McCarthy PLLC, and the U.S. Chamber's Litigation Center served as co-counsel for the U.S. Chamber.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

February 2023: The U.S. Chamber And Its Co-Plaintiffs Wrote To The Eastern District Of Texas Notifying The Court Of The Supreme Court's Decision To Hear Consumer Financial Protection Bureau v. Community Financial Services Association of America On The Grounds The Agency's Funding Structure Is Unconstitutional, Urging The Court To Halt The CFPB's Rulemaking Until This Opinion Is Issued:

Plaintiffs write to notify the Court that the U.S. Supreme Court granted certiorari on the Appropriations Clause issue in *CFPB v. Cmty. Fin. Servs. Ass'n of Am., Ltd.*, No. 22-448 (Exhibit A). As Plaintiffs explained in our brief, this grant does not change our need for relief and the Court should decide Plaintiffs' APA claims regardless. *See, e.g.*, Doc. 17 at 2, 9-10. Plus, the Supreme Court did not expedite that case, so it may not issue its opinion until June 2024. Yet the CFPB's unlawful interpretation of its UDAAP authority is already in effect. And the law of the Fifth Circuit is that the CFPB is unconstitutionally funded, which should halt the agency action we challenge here. *Cmty. Fin. Servs. Ass'n of Am., Ltd. v. CFPB*, 51 F.4th 616, 643 (5th Cir. 2022).

[U.S. Chamber of Commerce, [02/27/23](#)]

Following The Supreme Court's Decision To Hear CFSA's Challenge Against The CFPB's Funding Structure, Chamber Vice President And Chief Policy Officer Neil Bradley Celebrated The Decision

Saying "The CFPB's Broad Power Touches Every Consumer" And Its Recent Actions Were Just "The Most Recent Example Of Why Oversight Is Necessary." "U.S. Chamber of Commerce Executive Vice President and Chief Policy Officer Neil Bradley issued the following statement today regarding the Supreme Court's decision to hear a case challenging the funding structure of the Consumer Financial Protection Bureau. 'The Chamber welcomes the Supreme Court's announcement today that it will hear a case challenging the funding mechanism of the Consumer Financial Protection Bureau. The CFPB's broad power touches every consumer in the United States and its decisions often have far-reaching consequences. Recent actions by the agency to penalize responsible consumers who pay their bills on time is only the most recent example of why oversight is necessary.'" [U.S. Chamber of Commerce, [04/27/23](#)]

Bradley Further Urged The Supreme Court To Rule The CFPB's Funding Must Be Brought Under The Annual Appropriations Process. "The lack of accountability to Congress has forced the plaintiffs in this case, as well as the Chamber in separate litigation, to go to court to defend against regulatory overreach. Given the significant impact it has on the financial services available to U.S. consumers, the CFPB should be brought under the appropriations process and have its budget subject to congressional oversight." [U.S. Chamber of Commerce, [04/27/23](#)]

The Eastern District Of Texas Ultimately Sided With Industry, Ruling In September 2023 That The CFPB Overstepped Its Supervision Authority In Updating Its Examination Manual, Adding That The CFPB's Funding Structure Was Unconstitutional.

September 2023: The Eastern District Court Of Texas Ruled The CFPB "Acted Outside Its Authority Granted By Congress," Vacating The Manual Update On The Grounds That The CFPB's Funding Structure Was Unconstitutional. "The Eastern District of Texas ruled that the CFPB acted outside its authority granted by Congress when it updated its Supervision and Examination manual for financial institutions. The district court also ruled that the CFPB's funding mechanism was unconstitutional. The court vacated the manual update and prohibited the CFPB from pursuing any action against any Chamber members based on that update. Had it been allowed to stand, the CFPB's update would have created confusion in the banking sector, limiting its ability to provide needed services to businesses and consumers." [U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In August 2021, The U.S. And Tyler Area Chambers Of Commerce Successfully Pressured Federal Regulators, Including The Departments Of Health And Human Services And Labor, To Rescind Rulemaking After It Filed A Lawsuit In The Eastern District Of Texas Alleging The Agencies "Exceeded Their Statutory Authority" On Rulemaking Aimed At Increasing Transparency On Pricing For Health Plans.

On August 10, 2021, The U.S. And Tyler Area Chambers Of Commerce Filed A Lawsuit In The Eastern District Of Texas Challenging The Departments Of Health And Human Services, Labor And Internal Revenue Service Over Its Rulemaking Requiring Healthcare Plans To Post Internal Pricing Data And To Include "Historical Net Price" Data That Is Machine-Readable.

On August 10, 2021, The U.S. Chamber And Tyler Area Chamber Of Commerce Filed A Lawsuit Against The Departments Of Health And Human Services, Labor, And Internal Revenue Service Alleging They

"Exceeded Their Statutory Authority And Violated The Administration Protection Act" In Introducing Their Transparency In Coverage Rule:

U.S. Chamber and Tyler Area Chamber file lawsuit challenging HHS-DOL-IRS Transparency in Coverage regulations, which impose new disclosure and compliance obligations on insurers and self-insured employers

August 10, 2021

Plaintiffs [allege](#) that the agencies exceeded their statutory authority and violated the Administrative Procedure Act in promulgating the regulations.

Jeremiah J. Anderson, Jeffrey S. Bucholtz, Nikesh Jindal, and Alexander Kazam of King & Spalding LLP, Michael E. Jones of Potter Minton, PC, and the U.S. Chamber's Litigation Center served as co-counsel for the U.S. Chamber.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

- **The Complaint Filed In The Eastern District Of Texas Aimed To Block The Implementation Of Provisions Contained In The Transparency In Coverage Rule.** "Two chambers of commerce, the Chamber of Commerce the United States of America and the Tyler (TX) Area Chamber of Commerce, filed a lawsuit on August 10, 2021, in the US District Court for the Eastern District of Texas against the United States departments of Health and Human Services, Labor and Treasury to block the implementation of two provisions contained in the federal regulations entitled Transparency in Coverage ("Rule")" [JD Supra, [08/13/21](#)]

The Chambers Challenged A Provision Requiring Healthcare Plans To Post Internal Pricing Data And Another Provision Requiring The "Historical Net Price" Of Prescription Drugs In Machine-Readable Files. "The first challenged provision requires health plans to post on a website internal pricing data, including allowed amounts, in-network rates, and the negotiated rates for all services and the "historical net price" of prescription drugs, in "machine-readable" (searchable) files. The second provision being challenged requires the inclusion of the "historical net price" of prescription drugs in the machine-readable files. The provisions are set to go into effect for "plan years" beginning after January 11, 2022. Another major provision of the Rule, the one requiring insurers to provide "cost-sharing information" to individuals upon request via a website or in paper form, is not being challenged in the lawsuit." [JD Supra, [08/13/21](#)]

Ten Days Following The Initial Lawsuit, Federal Agencies Announced Plans To Conduct New Rulemaking And Defer Enforcement, With The Chambers Withdrawing Their Challenges On August 25, 2021.

Ten Days Following The Chambers' Complaint, Federal Agencies "Announced They Would Conduct A New Rulemaking And Defer Enforcement," With The U.S. Chamber And Tyler Area Chamber Dismissing Their Challenge On August 25, 2021 After The Agencies Announced Plans To Create New Rules:

U.S. Chamber and Tyler Area Chamber dismiss, without prejudice, their action challenging provisions of the Transparency in Coverage rule, following defendants' decision to defer enforcement and to conduct a new rulemaking
August 25, 2021

[Click here](#) to view the dismissal notice.

Ten days after the Chamber filed suit against parts of the Transparency in Coverage Rule, federal agencies announced they would conduct a new rulemaking and defer enforcement of every provision we challenged.
August 20, 2021

[Click here](#) to view the announcement.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In September 2017, The U.S. Chamber Joined Banking Groups In A Lawsuit Filed In The Northern District Of Texas Aimed At Blocking CFPB Rulemaking Banning Forced Arbitration Clauses In Financial Services Contracts, Contesting The Agency Used "Biased Data," Later Receiving A Major Victory When The Senate Voted To Overturn The Law, Subsequently Dropping The Case When Former President Trump Signed The Law Into Action In November 2017.

In September 2017, The U.S. Chamber And Numerous Banking And Financial Services Trade Groups Filed A Lawsuit In The Northern District Of Texas, Dallas Division Claiming That The CFPB's July 2017 Rulemaking Aimed At Making It Easier For Consumers To Join Class Action Lawsuits Violated The Dodd-Frank Act And Was Based On "Biased Data."

September 29, 2017: The U.S. Chamber, Alongside Numerous Banking And Financial Services Industry Groups, Filed A Lawsuit In The Northern District Of Texas, Dallas Division Challenging The CFPB's Arbitration Rule, Claiming The Rule "Violate[d] The Requirements Of The Dodd-Frank Act Because The CFPB Study Was Flawed And Based On Biased Data." "The U.S. Chamber of Commerce, American Bankers Association, American Financial Services Association, Consumer Bankers Association, Financial Services Roundtable, and a coalition of associations located throughout Texas filed a legal challenge to the Consumer Financial Protection Bureau's (CFPB) anti-arbitration rule. The lawsuit was filed in the Northern District of Texas, Dallas Division. As outlined in the complaint, the legal challenge rests on several grounds, including that the rule violates the requirements of the Dodd-Frank Act because the CFPB study was flawed and based on biased data, and because the rule is harmful to consumers." [U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

- **The CFPB Introduced The Rule In July 2017 Aimed At Making It Easier For Consumers To Collectively Sue Banks Or Financial Companies That Engage In Harmful Or Abusive Practices.** "Many consumer financial products like credit cards and bank accounts have arbitration clauses in their contracts that prevent consumers from joining together to sue their bank or financial company for wrongdoing. By forcing consumers to give up or go it alone – usually over small amounts – companies can sidestep the court system, avoid big refunds, and continue harmful practices. The CFPB's new rule will deter wrongdoing by restoring consumers' right to join together to pursue justice and relief through group lawsuits." [Consumer Financial Protection Bureau, [07/10/17](#)]

On October 19, 2017, The Chamber And Its Coalition Of Banking Trade Groups Claimed The CFPB's Rulemaking Was "Both Constitutionally Infirm And Inconsistent," Adding The Chamber Was Seeking A Preliminary Injunction. "The U.S. Chamber, along with a coalition, filed a lawsuit in the U.S. District Court for the Northern District of Texas challenging the legality of the Consumer Financial Protection Bureau's ("CFPB") new regulation banning pre-dispute arbitration agreements. As the complaint explains, the arbitration rule is both constitutionally infirm and inconsistent with the governing statutes, the Dodd-Frank Wall Street Reform and Consumer Protection Act, and the Administrative Procedure Act. Recognizing the legal problems that would result from retroactive application of an arbitration rule to pre-existing contracts—and that the tens of thousands of companies subject to an arbitration regulation imposed by the CFPB would need considerable time to decide upon new dispute resolution procedures and adapt their forms and procedures for entering into contracts—Congress provided that any arbitration regulation imposed by the CFPB could be applied only to new contracts entered into 180 or more days after the rule's effective date. The Chamber seeks a preliminary injunction to stop the running of that 180-day period during the pendency of this litigation." [U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In October 2017, The Senate Voted To Override The CFPB's Rulemaking Banning Forced Arbitration Clauses, With Republicans Siding With Industry Claims It Would Lead To Costly Class-Action Lawsuits That Rarely Benefit Consumers.

On October 24, 2017, The Senate Voted 51 To 50 To Repeal The CFPB's Rulemaking Banning Mandatory Arbitration Clauses With Republicans Siding With Industry On The Notion It Would Subject Companies To "Class-Action Lawsuits That Rarely Deliver Significant Compensation For Plaintiffs." "The Senate voted 51 to 50 late Tuesday to repeal the Consumer Financial Protection Bureau's rule banning mandatory arbitration clauses in financial contracts, ending months of fighting between the consumer agency on the one hand and the financial services industry and a few fellow regulators on the other. [...] Financial companies and the powerful U.S. Chamber of Commerce both opposed the rule, joining Republicans who claimed that the new regulation would expose financial companies to costly class-action lawsuits that rarely deliver significant compensation for plaintiffs. They pointed to a CFPB study that found that consumers who went through a closed-door arbitration process received more than \$5,000 on average opposed to \$32 in class-action lawsuits." [American Banker, [10/24/17](#)]

The CRA Was Ultimately Signed Into Law On November 1, 2017 By Former President Donald Trump, Which Ultimately Ended The Chamber's Lawsuit Against The CFPB's Arbitration Rule.

On November 1, 2017, The Chamber Celebrated The Successful CRA Vote Against The CFPB's Arbitration Rule, Ultimately Dismissing Its Lawsuit Once President Trump Signed The Legislation Into Law. "After a long and vigorous fight led by the Chamber, the anti-arbitration rule was rejected by Congress. Exercising its authority under the Congressional Review Act (CRA), the Senate joined the House in passing legislation to repeal the rule. After President Trump signed the legislation into law, eliminating the anti-arbitration rule for good, the Chamber dismissed its lawsuit." [U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In February 2017, The U.S. Chamber Filed an Appeal in the Fifth Circuit Shortly After The Northern District Of Texas Denied The Plaintiffs' Motion For Summary Judgment In Its 2016 Challenge Against The Department Of Labor's (DOL's) Fiduciary Rule—In March 2017, The Trump DOL Successfully Pressured The DOL To Reverse Course And Delay Implementation Of The Fiduciary Rule In A Move Praised By Former Chamber President And CEO Thomas J. Donohue.

In June 2016, Current Fifth Circuit Judge James Ho Worked With The U.S. Chamber Of Commerce On A Complaint Opposing The Department Of Labor's "Fiduciary Rule For Brokers And Registered Investment Advisers Serving Americans With Individual Accounts (IRAs) And 401(k) Plans."

June 2016: The U.S. Chamber Of Commerce Submitted A Complaint Alongside Other Trade Groups In Opposition To The "Department Of Labor's Fiduciary Rule For Brokers And Registered Investment Advisers Serving Americans With Individual Retirement Accounts (IRAs) And 401(k) Plans." "The U.S. Chamber of Commerce, Texas Association of Business, Greater Irving-Las Colinas Chamber of Commerce, Lake Houston Area Chamber of Commerce, Lubbock Chamber of Commerce, Financial Services Institute, Financial Services Roundtable, Insured Retirement Institute, and Securities Industry and Financial Markets Association filed a legal challenge to the Department of Labor's fiduciary rule for brokers and registered investment advisers serving Americans with Individual Retirement Accounts (IRAs) and 401(k) plans." [U.S. Chamber of Commerce, [06/01/16](#)]

- **The Fiduciary Rule Was Posted By The Department Of Labor (DOL) In April 2016.** [Federal Register, [04/08/16](#)]

James Ho—While A Partner At Gibson Dunn & Crutcher LLP—Worked On The Original Complaint Filed By The U.S. Chamber Litigation Center. "The industry plaintiffs are represented by Eugene Scalia, Jason J. Mendro, Paul Blankenstein, Rachel E. Mondl, and James C. Ho of Gibson Dunn & Crutcher LLP." [U.S. Chamber of Commerce, [06/01/16](#)]

On February 24, 2017, The U.S. Chamber Appealed Their Case Before The Fifth Circuit Court Of Appeals, Shortly After The Northern District Of Texas Denied The Plaintiffs' Motion For Summary Judgement.

On February 9, 2017, The District Court For The Northern District Of Texas "Denied The Plaintiffs Motion For Summary Judgement And Granted The Defendants Motions On All Claims":

Fiduciary Rule lawsuit decided

February 09, 2017

The district court [denied](#) the plaintiffs motion for summary judgment and granted the defendants motion on all claims.

U.S. Chamber files lawsuit challenging DOL rule that prevents financial professionals from best serving retirement savers

June 01, 2016

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

On February 24, 2017, The U.S. Chamber Appealed The Case On The Fiduciary Rule To The Fifth Circuit And Said, "We Remain Confident In The Merits And Strength Of Our Case And Stand By Our Assertion That The Department Of Labor Exceeded Its Authority." "Appealed case to fifth circuit "The U.S. Chamber of Commerce, Financial Services Institute, Financial Services Roundtable, Insured Retirement Institute, and Securities Industry and Financial Markets Association (Co-Plaintiffs) issued the following statement on their notice of appeal to the U.S. Court of Appeals for the Fifth Circuit, which was filed today: "We remain confident in the merits and strength of our case and stand by our assertion that the Department of Labor exceeded its authority. We have long supported a best interest standard, adopted by the appropriate regulatory authority and across all individual investor accounts, not just retirement. This is a misguided rule that will harm retirement savers and financial services firms that provide needed assistance and options to their clients, including modest savers and small business employees. Further, the 'private right of action' mechanism creates unwarranted litigation risk for financial advisors, who will face the threat of meritless class action lawsuits challenging their every move." [U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

On March 1, 2017, Former Chamber President And CEO Thomas J. Donohue Celebrated The Trump Administration's DOL Which Decided To Reverse Course And Delay The Implementation Of The Fiduciary Rule.

On March 1, 2017, The DOL Under Then-President Trump Reversed Its Rulemaking, With Former Chamber President And CEO Thomas J. Donohue Saying, "We Commend The Department Of Labor For Its Swift Action To Protect Retirement Savers By Issuing A Notice Of Proposed Rulemaking To Delay The Fiduciary Rule." "U.S. Chamber of Commerce President and CEO Thomas J. Donohue issued the following statement today regarding the Department of Labor's notice of proposed rulemaking to delay the fiduciary rule: "We commend the Department of Labor for its swift action to protect retirement savers by issuing a notice of proposed rulemaking to delay the fiduciary rule, which will help ensure all Americans have access to the advice and choices needed when saving for their future." [U.S. Chamber of Commerce, [03/01/17](#)]

- **Donohue Served As The Chamber's President And CEO From 1997 To 2019.** [U.S. Chamber of Commerce, accessed [04/10/24](#)]

Donahue Added, "Now, We Look Forward To Working With The Administration And Congress On Policy" That "Meets The Retirement Needs Of Small Business Owners, Employees, And Retirement Savers." "Our goal is to strengthen our nation's retirement system so it meets the retirement needs of small business owners, employees, and retirement savers. Now, we look forward to working with the administration and Congress on policy that achieves this shared objective." [U.S. Chamber of Commerce, [03/01/17](#)]

On March 14, 2024, The U.S. Chamber Filed A Petition For Review In The Fifth Circuit Court Of Appeals Challenging Rulemaking By The Securities And Exchange Commission On Increased Climate Disclosures, With The Group Arguing It "Erodes The Reasonable Investor Standard Of Materiality," With Former Fifth Circuit Law Clerks Daryl Joseffer And Tyler Badgley Representing The Chamber, Which Pressured The SEC To Enter A Stay On April 4, 2024.

On March 14, 2024, The U.S. Chamber Filed A Petition For Review In The Fifth Court Of Appeals Challenging The Securities And Exchange Commission (SEC) Final Climate Disclosure Rule , Alleging It "Erodes The Reasonable Investor Standard Of Materiality And Micromanages How Companies Make Key Determinations About Materiality."

On March 14, 2024, The U.S. Chamber Of Commerce Filed A Petition For Review In The Fifth Circuit Court Of Appeals Alleging The SEC's Climate Disclosure Rule "Erodes The Reasonable Investor Standard Of Materiality And Micromanages How Companies Make Key Determinations About Materiality":

U.S. Chamber files lawsuit with co-plaintiffs against the Securities and Exchange Commission's final climate disclosure rule that seriously erodes the reasonable investor standard of materiality and micromanages how companies make key determinations about materiality

March 14, 2024

[Click here](#) to view the petition for review filed by the U.S. Chamber and co-plaintiffs Texas Association of Business and Longview Chamber of Commerce.

Eugene Scalia, Jonathan C. Bond, Brian A. Richman, Max E. Schulman, Brian McCarty of Gibson, Dunn & Crutcher LLP served as outside counsel.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

The Chamber, Who Was Represented By Darryl Joseffer And Tyler S. Badgley Are Both Former Law Clerks For Fifth Circuit Judges Jerry E. Smith And Edith H. Jones, Respectively.

**In the United States Court of Appeals
for the Fifth Circuit**

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA; TEXAS
ASSOCIATION OF BUSINESS; and LONGVIEW CHAMBER OF COMMERCE,

Petitioners,

v.

SECURITIES AND EXCHANGE COMMISSION

Respondent.



On Petition for Review of an Order of the
Securities & Exchange Commission

PETITION FOR REVIEW

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[U.S. Chamber of Commerce, [03/14/24](#)]

U.S. Chamber Litigation Center Executive Vice President And Chief Counsel Daryl Joseffer Served As A Law Clerk For Fifth Circuit Judge Jerry E. Smith From 1995 To 1996.

Daryl Joseffer Serves As The U.S. Chamber Litigation Center's Executive Vice President And Chief Counsel:



Executive Vice President and Chief Counsel, U.S. Chamber Litigation Center, U.S. Chamber of Commerce

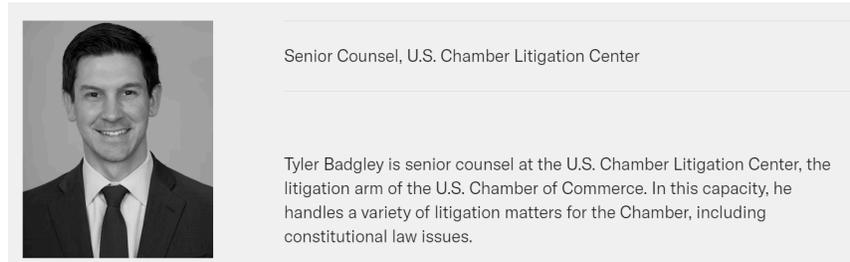
Daryl Joseffer is executive vice president and chief counsel at the [U.S. Chamber Litigation Center](#), the litigation arm of the U.S. Chamber of Commerce. A former principal deputy solicitor general, Joseffer has argued 12 cases in the U.S. Supreme Court and briefed many more. He has argued dozens of appeals in other courts across the country.

[U.S. Chamber of Commerce, accessed [02/06/24](#)]

Joseffer Previously Served As A Law Clerk For Fifth Circuit Judge Jerry E. Smith. "Previously, he served in the Solicitor General's Office and as a deputy general counsel in the White House Office of Management and Budget, a partner at Kirkland & Ellis, and a law clerk to the Honorable Jerry E. Smith, Circuit Judge of the U.S. Court of Appeals for the Fifth Circuit." [U.S. Chamber of Commerce, accessed [02/06/24](#)]

U.S. Chamber Litigation Senior Counsel Tyler Badgley, Who "Handles A Variety Of Litigation Matters For The Chamber" On Constitutional Law, Served As A Law Clerk For Judge Edith H. Jones From August 2016 To August 2017.

Tyler Badgley Serves As The Senior Counsel For The U.S. Chamber Litigation Center, Described As The "Litigation Arm Of The U.S. Chamber" Where "He Handles A Variety Of Litigation Matters For The Chamber, Including Constitutional Law Issues":



[U.S. Chamber of Commerce, accessed [02/06/24](#)]

According To His Bio, Badgley Served As A Law Clerk For Fifth Circuit Judge Edith H. Jones. "Badgley served as a law clerk to the Honorable Edith H. Jones of the United States Court of Appeals for the Fifth Circuit." [U.S. Chamber of Commerce, accessed [02/06/24](#)]

On March 26, 2024 The Chamber Filed A Motion For Stay Pending A Review Of The SEC's Final Rule, With The SEC Entering A Stay On April 4, 2024.

On March 26, 2024, The Chamber And Coalition Of Groups Filed A Motion For Stay Pending The Review Of the SEC's Climate Disclosure Rule, With The SEC Entering A Stay Of Its Climate Rule Pending Judicial Review On April 4, 2024:

SEC enters stay of its climate disclosure rule pending judicial review of the rule

April 04, 2024

[SEC Discretionary Stay](#)

U.S. Chamber and coalition file motion for stay pending review of the Securities and Exchange Commission's climate disclosure rule

March 26, 2024

[Motion for Stay Pending Review](#)

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

- **A Stay is An Action Taken By A Court To Stop Legal Proceedings Of An Action Of A Party And Is Usually A Temporary Pause Of The Action.** "Stay is an action taken by a court to stop a legal proceeding or the actions of a party. A stay most commonly is issued by a court as a stay of proceedings in order to stop litigation from continuing, and they normally are only temporary. A court will do this for many reasons such as if there is another proceeding occurring that will affect the present one or if a party must do something before the proceeding can continue." [Cornell Law School, accessed [04/10/24](#)]

On January 30, 2024, The U.S. Chamber Filed A Lawsuit In The Fifth Circuit Challenging Rulemaking By The Federal Communications Commission (FCC) Claiming Recent Rulemaking Dubbing It The "Digital Discrimination Rule" Claiming It Would Hurt Broadband Access For Americans By Increasing Compliance Costs For Companies Adding It Would Lead To State Governments Facilitating Prices.

In January 2024, The U.S. Chamber Filed A Lawsuit In The Fifth Circuit Challenging The Federal Communications Commission's (FCC's) Digital Discrimination Rule, Claiming It Would Hurt Broadband Access For Americans By Increasing Compliance Costs For Companies Adding It Would Lead To State Governments Facilitating Prices.

On January 30, 2024, The U.S. Chamber Of Commerce Filed A Lawsuit In The Fifth Circuit Court Of Appeals Challenging The Federal Communications Commission's (FCC's) Digital Discrimination Rule, Claiming The Rule Was "Overly Broad" And Would Lead To State Governments Facilitating Pricing. "Today, the U.S. Chamber of Commerce, the Texas Association of Business, and the Longview Chamber of Commerce filed a lawsuit against the Federal Communications Commission (FCC) in the U.S. Court of Appeals for the Fifth Circuit over the Commission's recent rulemaking that gives itself sweeping authority over the broadband marketplace. The 'digital discrimination rule' is overly broad, covering nearly every business practice related to providing access to broadband — including pricing — and exerting authority over any business or local government involved in facilitating that access." [U.S. Chamber of Commerce, [01/30/24](#)]

The Chamber Further Said, "The Lawsuit Challenges The FCC For Exceeding Its Statutory Authority And Acting Arbitrarily And Capriciously In Violation Of The Administrative Procedure Act," Claiming The FCC Rule Would Lead To Fewer Americans Receiving Broadband Services Due To Increased Compliance Costs. "The lawsuit challenges the FCC for exceeding its statutory authority and acting arbitrarily and capriciously in violation of the Administrative Procedure Act. The FCC's action will also make it more difficult to deploy broadband service to all Americans and communities due to increased compliance costs and stifled private sector investment." [U.S. Chamber of Commerce, [01/30/24](#)]

Sixth Circuit Court Of Appeals

In July 2022, The U.S. Chamber Filed A Lawsuit Against The SEC Over The Agency's Decision To Roll Back The Trump Administration's Proxy Advisor Rule Claiming It Did "Not Follow Proper Procedures" And Removed Key Investor Protections, With The Challenge Making It To The Sixth Circuit After The District Court For Tennessee Ruled Against The Chamber With The Case Still Pending A Decision.

In July 2022, The U.S. Chamber And Other Trade Groups Filed A Lawsuit In The Middle District Of Tennessee Challenging The SEC's Decision To Rollback A 2020 Proxy Advisor Rule Introduced Under The Trump Administration, As The Agency Failed To "Follo[w] Proper Procedures."

On July 20, 2022, The U.S. Chamber Of Commerce Filed A Lawsuit Against The Securities And Exchange Commission (SEC) In The U.S. Middle District of Tennessee Challenging Its Changes To The 2020 Proxy Advisor Rule, Claiming The Agency Did "Not Follo[w] Proper Procedures Or Provid[e] Adequate Justification For Its Decision To Roll Back The 2020 Proxy Advisor Rule Before It Was Allowed To Take Effect." "Today the U.S. Chamber of Commerce filed a lawsuit, with co-plaintiffs Business Roundtable and the Tennessee Chamber of Commerce & Industry, against the Securities and Exchange Commission (SEC) for not following proper procedures or providing adequate justification for its decision to roll back the 2020 Proxy Advisor Rule before it was allowed to take effect." [U.S. Chamber of Commerce, [07/20/22](#)]

Following The Initial Lawsuit, The Chamber And Business Roundtable Filed A Brief In Support Of Summary Judgment Before The United States District Court Middle District Of Tennessee Ruled Against The Chamber And Dismissed Its Case.

In November 2022, The Chamber, Business Roundtable And Tennessee Chamber Filed A Brief In Support Of Summary Judgment Before The United States Middle District Of Tennessee Nashville Division Granted The SEC's Motion For Summary Judgement And Dismissed The Chamber's Complaint In April 2023:

District court grants SEC's motion for summary judgment and dismisses complaint challenging its 2022 proxy advisor rule

April 24, 2023

[Click here](#) to view the opinion.

U.S. Chamber, Business Roundtable, and Tennessee Chamber file reply brief in support of summary judgment on their challenge to the SEC's 2022 proxy advisor rule

November 22, 2022

[Click here](#) to view the brief.

U.S. Chamber, Business Roundtable, and Tennessee Chamber move for summary judgment on their challenge to the SEC's 2022 proxy advisor rule

September 23, 2022

[Click here](#) to read the memorandum in support of plaintiffs' motion for summary judgment.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In June 2023, The U.S. Chamber Challenged The District Court's Decision By Sending An Appellate Brief To The Sixth Circuit Where The Case Is Still "Pending."

In June 2023, The U.S. Chamber Filed An Appellate Brief Challenging The District Court's Ruling In The Sixth Circuit Court Of Appeals:

U.S. Chamber and coalition file opening appellate brief challenging district court's grant of summary judgment dismissing challenge to the SEC's 2022 proxy advisor rule

June 20, 2023

[Click here](#) to view the opening brief.

Jeffrey B. Wall, Elizabeth A. Rose, Leslie B. Arffa, Stephanie M. Kelly, and Matthew A. Schwartz of Sullivan & Cromwell LLP and the U.S. Chamber Litigation Center served as co-counsel for the Chamber.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

And According to The Chamber, This Case Status Is Still "Pending" A Decision:

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| Forum |
| U.S. Court of Appeals for the Sixth Circuit |
| Case Status |
| Pending |
| Docket Number |
| 23-5409 |

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In June 2023, The U.S. Chamber Led A Coalition Lawsuit In The Southern District Of Ohio Challenging The Constitutionality Of The Inflation Reduction Act's Medicare Price Negotiation Measures.

In June 2023, The U.S. Chamber, Alongside Several Local Chambers, Filed A Lawsuit To Challenge The Constitutionality Of The Inflation Reduction Act's Medicare Price Negotiation Measures, Filing A Motion To Halt Its Implementation The Next Month.

In June 2023, The U.S. Chamber Of Commerce, Alongside Several Local Chambers Of Commerce Filed A Lawsuit Challenging The Inflation Reduction Act's Drug Pricing Measures As Unconstitutional, Filing A Motion For Preliminary Injunction The Following Month To Halt Implementation:

U.S. Chamber files coalition motion for preliminary injunction, seeking to halt implementation of the drug-price-control provisions of the Inflation Reduction Act as inconsistent with due process

July 12, 2023

[Click here](#) to view the memorandum.

U.S. Chamber files coalition lawsuit challenging drug-price-control provisions of Inflation Reduction Act as unconstitutional on separation-of-powers, due process, Excessive Fines Clause, enumerated powers, and First Amendment grounds

June 09, 2023

[Click here](#) to view the complaint filed by the Dayton Area Chamber of Commerce, Ohio Chamber of Commerce, Michigan Chamber of Commerce, and U.S. Chamber of Commerce.

Gregory A. Ruehlmann, Jeffrey S. Bucholtz, Christine M. Carletta, and Alexander Kazam of King & Spalding LLP, as well as Tami H. Kirby of Porter Wright Morris & Arthur LLP and the U.S. Chamber's Litigation Center, served as co-counsel for the U.S. Chamber.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

The Case Is Currently Pending In The U.S. District Court For The Southern District Of Ohio.

The Case Is Currently Pending In The U.S. District Court For The Southern District Of Ohio:

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|---|
| Forum |
| U.S. District Court for the Southern District of Ohio |
| Case Status |
| Pending |
| Docket Number |
| 3:23-cv-00156-TMR-PBS |

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In February 2023, The U.S. Chamber, Alongside The Kentucky Chamber And Other Trade Associations, Filed A Lawsuit In The Eastern District Of Kentucky Challenging The EPA And Army's New Waters Of The United States Rule Which Is Now Pending In That Court.

In February 2023, The U.S. Chamber, Alongside The Kentucky Chamber And Other Trade Associations, Filed A Lawsuit In The Eastern District Of Kentucky Challenging The EPA And Army's New Waters Of The United States Rule.

In February 2023, The U.S. Chamber Of Commerce, Alongside The Kentucky Chamber Of Commerce And Other Trade Associations, Filed A Lawsuit In The Eastern District Of Kentucky Challenging The EPA And Army's New Waters Of The United States Rule:

U.S. Chamber files coalition lawsuit in Eastern District of Kentucky challenging the Environmental Protection Agency's and U.S. Army's "phase 1" Waters of the United States Rule as unlawful

February 22, 2023

The U.S. Chamber of Commerce, the Kentucky Chamber of Commerce, and other associations filed a [lawsuit](#) in the U.S. District Court for the Eastern District of Kentucky against the Environmental Protection Agency (EPA) and the Army Corps of Engineers challenging their new Waters of the United States (WOTUS) rule.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

The Case Is Currently Pending In The U.S. District Court For Eastern District Of Kentucky.

The Case Is Currently Pending In The U.S. District Court For Eastern District of Kentucky:

Forum

U.S. District Court for the
Eastern District of
Kentucky

Case Status

Decided

Docket Number

[3:23-cv-00008-GFVT](#)

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

Ninth Circuit Court of Appeals

In July 2020, The U.S. Chamber Sued The Trump Administration Over An Anti-Immigration Proclamation It Dubbed "Not Welcome" Signs, Successfully Winning A Case In The Northern California District Court That Blocked The Administration's Bans On Certain Non-Immigration Employment, With The Chamber Celebrating It As "A Great Victory For American Businesses."

In July 2020, The U.S. Chamber And Industry Sued The Trump Administration In The U.S. District Court For Northern California Over Anti-Immigration Policies Former Chamber CEO Donohue Dubbed As "Not Welcome" Signs.

On July 21, 2020, The U.S. Chamber, The National Association Of Manufacturers, And The National Retail Federation, Filed A Lawsuit In The U.S. District Court For Northern California Challenging Federal Restrictions That Would Inhibit Companies To Employ Lawful Immigrants, With Then-Chamber President And CEO Thomas Donohue Calling It "'Not Welcome'" Signs. "Today, the U.S. Chamber of Commerce, the National Association of Manufacturers, the National Retail Federation, and others sued to challenge federal restrictions on businesses' ability to meet their workforce needs through lawful immigration. U.S. Chamber CEO Thomas J. Donohue released the following statement after today's suit was filed: 'Our lawsuit seeks to overturn these sweeping and unlawful immigration restrictions that are an unequivocal 'not welcome' sign to the engineers, executives, IT experts, doctors, nurses, and other critical workers who help drive the American economy. Left in place, these restrictions will push investment abroad, inhibit economic growth, and reduce job creation.'" [U.S. Chamber of Commerce, [07/21/20](#)]

On October 1, 2020, The Northern California Court Blocked The Trump Administration's Efforts To Go Ahead With A Ban On Various Nonimmigrant Workers Who Were Set To Enter The U.S. By The End Of 2020, With The Chamber Celebrating The Decision, Calling It "A Great Victory For American Businesses And Our Nation's Economy."

On October 1, 2020, The District Court For Northern California Blocked The Trump Administration's Efforts To Go Ahead With The Ban On Various Type Of Nonimmigrant Workers, With The Chamber Celebrating The Move As "A Great Victory For American Businesses And Our Nation's Economy":

Motion for preliminary injunction granted

October 01, 2020

The District Court [blocked](#) the Trump administration from enforcing its entry ban on various types of nonimmigrant workers from entering the U.S. through the end of the calendar year. This is a great victory for American businesses and our nation's economy, as the bans cover the following nonimmigrant visa classifications that many employers rely upon to meet their workforce needs: H-1B, H-2B, L-1, and J-1.

U.S. Chamber files reply brief in support of preliminary injunction

August 28, 2020

[Click here](#) to view the brief.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

On October 31, 2020, The U.C. Chamber Filed A "Motion To Clarify Preliminary Injunction" Alleging Trump's State Department Failed To Comply With The Northern California District's Injunction On Its Anti-Immigration Proclamation, With The Northern District Granting Its Motion To Clarify And Requiring The State Department To Fully Comply With Its October 1st Ruling.

On October 31, 2020, The U.S. Chamber Filed A "Motion To Clarify Preliminary Injunction" Alleging The State Department Failed To Follow The District Court's Injunction, Filing A Reply Brief On November 13, 2020 In Support Of Its Motion "To Clarify The Preliminary Injunction Against The President's June 22 Nonimmigrant Visa Proclamation," With The Northern District Of California Granting The Chamber's Motion To Require The State Department To Comply With Its Preliminary Injunction:

N.D. Cal grants U.S. Chamber's motion to require Department of State to comply with preliminary injunction against implementation of June 22 nonimmigrant visa proclamation

November 18, 2020

[Click here](#) to view the order.

U.S. Chamber and coalition of plaintiffs file reply brief in support of motion to clarify the preliminary injunction against implementation of the President's June 22 nonimmigrant visa proclamation

November 13, 2020

[Click here](#) to view the brief.

U.S. Chamber and coalition of plaintiffs challenging implementation of nonimmigrant visa proclamation file motion to clarify preliminary injunction and to compel discovery into Department of State's failure to comply with preliminary injunction

October 31, 2020

[Click here](#) to view the motion.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In February 2021, The U.S. Chamber Was Granted Its Motion Filed In The Ninth Circuit Which Aimed To Block The Government's Appeal To The District Court's Ruling, With The Case Being Dismissed As "Moot" On April 8, 2021.

On February 11, 2021, The U.S. Chamber Filed A Motion—Granted By The Ninth Circuit Court Of Appeals—To Block The Government's Appeal On The Anti-Immigration Rule Set To Expire On March 31, 2021, With The Ninth Circuit Ultimately Dismissing Its Challenge On April 8, 2021 Following Its Expiration:

Challenge dismissed as moot

April 08, 2021

The Ninth Circuit dismissed as moot the U.S. Chamber's challenge to the non-immigrant visa proclamation following its expiration.

Appeal held in abeyance

February 11, 2021

The U.S. Chamber filed a motion – which the Ninth Circuit granted – to effectively put the government's appeal in abeyance until after the non-immigrant visa proclamation is set to expire on March 31, 2021.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

On April 15, 2021, The District Court Granted The Chamber Its Motion For Leave To Amend Its Complaint Adding Claims The Department Of Homeland Security (DHS) Implemented A Prevailing Wage Rule And Lottery Rule:

Motion to amend granted

April 15, 2021

The District Court granted the Chamber's motion for leave to amend its complaint to add claims challenging the final prevailing wage rule and the DHS lottery rule. [Click here](#) to see continuation of this challenge under the caption *Chamber v. DHS*.

[U.S. Chamber Litigation Tracker, accessed [04/08/24](#)]

In October 2020, The U.S. Chamber And Business Groups Also Sued The Trump Administration Over Its H-1B Visa Rule Implemented By The Departments Of Homeland Security (DHS) And Labor (DOL), Claiming The Rules Would "Devastate High-Skilled Immigration," And After A Series Of Fights In Court, DHS Dropped Its Challenge In Court For Implementing The "Lottery Rule."

On October 19, 2020, The U.S. Chamber Sued The Trump Administration Over Its H1-B Visa Program Rules, Which The Trade Group Claimed, "Would Devastate High-Skilled Immigration" And Broke "Notice-And-Comment Requirements" For Rulemaking, A Violation Of The Administrative Procedure Act.

On October 19, 2020, The U.S. Chamber Led A Coalition Of Groups Suing Trump's Departments Of Labor And Homeland Security Over Its H-1B Visa Program Alleging It "Would Devastate High-Skilled Immigration" Into The U.S. "U.S. Chamber leads coalition of business and higher education plaintiffs in lawsuit to challenge DHS and DOL rules that would devastate high-skilled immigration under the H-1B visa program" [U.S. Chamber Litigation Tracker, accessed [04/11/24](#)]

The Groups Said The Rules Would "Undermine High Skilled Immigration Into The United States," Adding The Agencies Did Not Follow "Notice-And-Comment Requirements Or Rulemaking Under The Administrative Procedure Act." "The U.S. Chamber of Commerce, the National Association of Manufacturers, and others filed a lawsuit in the Northern District of California against recent regulations that will undermine high skilled immigration into the United States. The complaint alleges that the DHS and DOL rules were promulgated as final rules without following the notice-and-comment requirements or rulemaking under the Administrative Procedure Act, and also exceed the agencies' statutory authority and are arbitrary and capricious." [U.S. Chamber Litigation Tracker, accessed [04/11/24](#)]

In November 2020, The U.S. Chamber Submitted A Reply Brief In Its Challenge Against DHS And DOL, With The Northern District Of California Vacating The Rules On December 1, 2020.

On November 13, 2020, The U.S. Chamber Of Commerce Submitted A Reply Brief Arguing The DHS And DOL Failed To Follow The Notice And Comment Period, With The Northern District Of California Issuing A Judgment Against The Agencies, Vacating The H1-B Rules On December 1, 2020:

U.S. Chamber successfully blocks DOL & DHS's attempt to rewrite the H1-B, etc. visa rules without notice and comment

December 01, 2020

The Northern District of California issued a [judgment](#) against both DHS and DOL H-1B rules, vacating both.

U.S. Chamber and coalition of plaintiffs file reply brief in support of motion for preliminary injunction and partial summary judgment

November 13, 2020

The [reply brief](#) argued that DHS and DOL failed to follow notice-and-comment procedures before finalizing H-1B regulations that will cost employers billions of dollars.

[U.S. Chamber Litigation Tracker, accessed [04/11/24](#)]

On August 6, 2021, The Chamber Filed A Reply In Its Motion For Summary Judgment, With The DHS Ultimately Dismissing Its Appeal In November 2021 On Its "Lottery Rule."

On August 6, 2021, The Chamber Filed A Reply In Its Motion For Summary Judgment In Opposition To The Government's Cross-Motion For Summary Judgment, With The District Court Ultimately Vacating The Department's Lottery Rule, Before DHS Dismissed Its Appeal In November 2021:

Ninth Circuit grants government’s motion to voluntarily dismiss its appeal

December 02, 2021

[Click here](#) to view the order.

Department of Homeland Security voluntarily dismisses its appeal from district court decision

November 30, 2021

The Department of Homeland Security voluntarily [dismissed](#) its Ninth Circuit appeal from the district court decision vacating Lottery Rule, which sought to price many highly skilled laborers out of the United States market. The U.S. Chamber brought this suit to challenge two immigration regulations, both of which the district court invalidated. With this dismissal, the suit is now over.

District court vacates Department of Homeland Security’s Lottery Rule

September 15, 2021

[Click here](#) to view the order. The court previously vacated the other immigration regulation challenged in this case, the Department of Labor’s Prevailing Wage Rule.

U.S. Chamber files reply in support of its motion for summary judgment, and opposition to the government’s cross-motion for summary judgment, in challenge to the DHS’s Lottery Rule, which would price many skilled laborers out out of the U.S. market

August 06, 2021

[Click here](#) to view the brief.

[U.S. Chamber Litigation Tracker, accessed [04/11/24](#)]

D.C. Circuit Court of Appeals

In June 2024, The U.S. Chamber Filed A D.C. Circuit Court Petition Challenging The Environmental Protection Agency’s (EPA’s) Designation Of “Forever Chemicals” PFOA And PFOS As Hazardous Substances Subject To Superfund Treatment.

On June 10, 2024, The U.S. Chamber Filed A Petition Asking The D.C. Circuit Court To Review The Environmental Protection Agency’s (EPA’s) Designation Of “Forever Chemicals” PFOA And PFOS As Hazardous Superfund Substances Under The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

June 10, 2024: The U.S. Chamber Of Commerce Challenged An Environmental Protection Agency (EPA) Rule Designating “Forever Chemicals” As “Hazardous Superfund Substances.” “The US Chamber of Commerce and two other trade groups are opposing in D.C. federal court the EPA’s designation of the two commonly detected ‘forever chemicals’ as hazardous Superfund substances. The petition, filed June 10 and

docketed Wednesday, is the first to ask the US Court of Appeals for the D.C. Circuit to review the agency's move. The Chamber was joined by Associated General Contractors of America Inc. and the National Waste and Recycling Association." [Bloomberg Law, [06/12/24](#)]

- **The Lawsuit Was Filed In The U.S. Court Of Appeals For The D.C. Circuit.** "Forum [...] U.S. Court of Appeals for the D.C. Circuit" [U.S. Chamber of Commerce, accessed [10/30/24](#)]

The EPA Labeled The Chemicals, Perfluorooctanoic Acid (PFOA) And Perfluorooctane Sulfonic Acid (PFOS), As Hazardous Under The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Subjecting Them To Heightened "Superfund" Mitigation And Cleanup Treatment. "Attorneys have predicted litigation even before the Environmental Protection Agency published its final rule, due to the liability companies now face and because the regulation marks the first time that the agency has directly designated hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act, or Superfund law. Labeling the two chemicals—perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS)—hazardous CERCLA substances also opens the door to the agency or states requiring companies to clean up properties contaminated with them and for potentially responsible parties to sue each other to help cover what can be multimillion-dollar cleanup costs. The EPA's designation means it's decided that both per- and polyfluoroalkyl substances (PFAS) can present a substantial danger to people and the environment." [Bloomberg Law, [06/12/24](#)]

The Widely Used Chemicals "Can Be Found In Nearly All US Residents, And They're So Ubiquitous They're Even Found In Rain." "Yet for decades the two very persistent chemicals were used to make so many thousands of products used by industries, federal facilities, and state and local governments. The result is that both chemicals can be found in nearly all US residents, and they're so ubiquitous they're even found in rain." [Bloomberg Law, [06/12/24](#)]

The Case Was Still Pending As Of October 2024. [U.S. Chamber of Commerce, accessed [10/30/24](#)]

April 19, 2024: The U.S. Chamber Issued A Statement Against The EPA's Final Rule Designating PFOA And PFOS As Hazardous Chemicals Under CERCLA, Calling The Rule "Troubling" And Calling On The EPA To Revisit The Designation.

April 19, 2024: The U.S. Chamber Issued A Statement Following The Release Of EPA's Final Rule Designating PFOA And PFOS As Hazardous Chemicals Under CERCLA, With Chuck Chaitovitz, The Chamber's Vice President of Environmental Affairs and Sustainability Calling The Rule "Troubling" And Calling On The EPA To "Revisit This Designation." "Chuck Chaitovitz, Vice President of Environmental Affairs and Sustainability at the U.S. Chamber of Commerce today released the following statement following EPA's final rule on the CERCLA hazardous substance designation of PFOA and PFOS: 'It is troubling that the EPA selected an approach to the cleanup of legacy PFOA and PFOS that is less effective than other approaches available to the agency. Rather than prioritizing our shared goal of the expeditious cleanup of these chemicals, the use of a CERCLA designation appears to prioritize creating new opportunities for litigation. Local governments, landowners, and businesses will now likely have to devote resources that could have been used to improve our environment to fighting frivolous litigation. We call on EPA to revisit this designation and work on a more logical, durable approach.'" [U.S. Chamber of Commerce, [04/19/24](#)]

In May 2024, The U.S. Chamber Filed A D.C. Circuit Challenge Against The EPA’s “Safer Communities By Chemical Accident Prevention Rule,” Which Sought To “Further Protect At-Risk Communities From Chemical Accidents.”

On May 10, 2024, The U.S. Chamber And Other Industry Groups Filed A Petition In The D.C. Circuit Court Challenging The EPA’s “Safer Communities By Chemical Accident Prevention Rule,” Which Sought To “Further Protect At-Risk Communities From Chemical Accidents.”

May 10, 2024: The U.S. Chamber And Other Industry Groups Filed A Petition For Review In The D.C. Circuit Court Challenging An EPA Rule Adding New Requirements To Its Risk Management Program (RMP) Regulations. “U.S. Chamber and co-petitioners file petition for review in D.C. Circuit challenging EPA rule, issued under the Clean Air Act, adding new requirements to EPA’s Risk Management Program (RMP) regulations [...] May 10, 2024” [U.S. Chamber of Commerce, accessed [10/30/24](#)]

- **Co-Petitioners Included The Alliance For Chemical Distribution, The American Petroleum Institute, And Others:**

NATIONAL ASSOCIATION OF CHEMICAL
DISTRIBUTORS, d/b/a ALLIANCE FOR
CHEMICAL DISTRIBUTION; AMERICAN
CHEMISTRY COUNCIL; AMERICAN FUEL &
PETROCHEMICAL MANUFACTURERS;
AMERICAN PETROLEUM INSTITUTE;
CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA; and
SOCIETY OF CHEMICAL
MANUFACTURERS & AFFILIATES,

Petitioners,

[Petition for Review, National Association of Chemical Distributors et al.
v. U.S. Environmental Protection Agency, Case No. 24-1127, [05/10/24](#)]

The Case Was Still Pending As Of October 30, 2024. [U.S. Chamber of Commerce, accessed [10/30/24](#)]

March 1, 2024: The EPA’s “Safer Communities By Chemical Accident Prevention Rule” Amended The RMP To “Further Protect At-Risk Communities From Chemical Accidents, Especially Those Located Near Facilities In Industry Sectors With High Accident Rates.” “Today, Mar. 1, the U.S. Environmental Protection Agency is announcing finalized amendments to the Risk Management Program to further protect at-risk communities from chemical accidents, especially those located near facilities in industry sectors with high accident rates. The ‘Safer Communities by Chemical Accident Prevention Rule; includes EPA’s most protective safety provisions for chemical facilities in history, requiring stronger measures for prevention, preparedness, and public transparency. “ [Environmental Protection Agency, [03/01/24](#)]

EPA Administrator Michael S. Regan Said, “This Final Rule Is A Critical Piece Of The Biden-Harris Administration’s Commitment To Advancing Environmental Justice,” Noting That “Many Communities That Are Vulnerable To Chemical Accidents Are In Overburdened And Underserved Areas Of The

Country.” “Many communities that are vulnerable to chemical accidents are in overburdened and underserved areas of the country,’ said EPA Administrator Michael S. Regan. ‘This final rule is a critical piece of the Biden-Harris Administration’s commitment to advancing environmental justice by putting in place stronger safety requirements for industrial facilities and new measures to protect communities from harm.”
[Environmental Protection Agency, [03/01/24](#)]

In March 2024, The U.S. Chamber Filed A Petition For Review In The D.C. Court Of Appeals Challenging The Environmental Protection Agency’s Rule Tightening Air Quality Standards For Particulate Matter.

In March 2024, The U.S. Chamber Filed A Petition For Review In The D.C. Court Of Appeals Challenging The Environmental Protection Agency’s Rule “Tightening The National Ambient Air Quality Standards (NAAQS) For Particulate Matter.”

On March 6, 2024, The Chamber Filed A Petition For Review In The D.C. Court Of Appeals Challenging The Environmental Protection Agency’s Rule “Tightening The National Ambient Air Quality Standards (NAAQS) For Particulate Matter”:

U.S. Chamber and co-petitioners file petition for review in D.C. Circuit challenging EPA rule, issued under the Clean Air Act, tightening the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM2.5)

March 06, 2024

[Petition for Review](#)

Elbert Lin, Lucinda Minton Langworthy, and Erica N. Peterson of Hunton Andrews Kurth LLP served as outside counsel.

[U.S. Chamber Litigation Tracker, accessed [04/11/24](#)]

Eleventh Circuit Court Of Appeals

In October 2024, The U.S. Chamber Filed An Eleventh Circuit Lawsuit Challenging The FTC’s “Click-To-Cancel” Rule, Calling It An “Abuse Of Power By A Commission Determined To Micromanage The Economy.”

On October 22, 2024, The U.S. Chamber Filed A Lawsuit In The Eleventh Circuit Challenging The FTC’s “Click-To-Cancel” Rule To Fight “Tricks And Traps” In Subscription Services, With The Chamber Calling It An “Abuse Of Power By A Commission Determined To Micromanage The Economy.”

October 22, 2024: The U.S. Chamber Filed A Lawsuit In The Eleventh Circuit Challenging The Federal Trade Commission’s (FTC’s) Negative Option Rule On Subscription Services, Also Known As Its “Click-To-Cancel” Rule. “Forum U.S. Court of Appeals for the Eleventh Circuit [...] U.S. Chamber files coalition lawsuit challenging Federal Trade Commission’s Negative Option Rule, which imposes burdensome requirements on businesses that offer subscription plans [...] October 22, 2024” [U.S. Chamber of Commerce, accessed [10/30/24](#)]

- **October 16, 2024: The FTC Announced Its Final “Click-To-Cancel” Rule, On Subscription Services And “Other Negative Option Offers.”** “On Oct. 16, 2024, the Federal Trade Commission announced its final ‘Click-to-Cancel’ Rule for subscription services and other negative option offers. The rule requires sellers to make it as easy for consumers to cancel subscriptions as it was to sign up for them.” [Greenberg Traurig, [10/28/24](#)]
- **The FTC’s Rule Would Apply “To Almost All Negative Option Programs In Any Media.”** “The Commission’s updated rule will apply to almost all negative option programs in any media.” [Federal Trade Commission, [10/16/24](#)]

The “Click-To-Cancel” Rule Will “Require Sellers To Make It As Easy For Consumers To Cancel Their Enrollment As It Was To Sign Up,” With FTC Chair Lina Khan Saying The Rule Will End “Tricks And Traps” That Cost Consumers Time And Money. “The Federal Trade Commission today announced a final ‘click-to-cancel’ rule that will require sellers to make it as easy for consumers to cancel their enrollment as it was to sign up. Most of the final rule’s provisions will go into effect 180 days after it is published in the Federal Register. ‘Too often, businesses make people jump through endless hoops just to cancel a subscription,’ said Commission Chair Lina M. Khan. ‘The FTC’s rule will end these tricks and traps, saving Americans time and money. Nobody should be stuck paying for a service they no longer want.’” [Federal Trade Commission, [10/16/24](#)]

The U.S. Chamber Accused The FTC Of “Exceeding Its Statutory Authority, Acting Arbitrarily And Capriciously In Violation Of The Administrative Procedure Act, And Infringing On Free Speech Protections.” “The lawsuit challenges the FTC for exceeding its statutory authority, acting arbitrarily and capriciously in violation of the Administrative Procedure Act, and infringing on free speech protections guaranteed under the First Amendment.” [U.S. Chamber of Commerce, [10/29/24](#)]

U.S. Chamber Executive Vice President And Chief Policy Officer Neil Bradley Claimed, “The FTC’s Expansive Subscription Rule Is The Latest Abuse Of Power By A Commission Determined To Micromanage The Economy And Undermine American Free Enterprise.” “U.S. Chamber of Commerce Executive Vice President and Chief Policy Officer Neil Bradley issued the following statement. ‘The FTC’s expansive subscription rule is the latest abuse of power by a Commission determined to micromanage the economy and undermine American free enterprise. This rule raises significant legal and procedural concerns that will have real and profound consequences on American consumers and businesses.’” [U.S. Chamber of Commerce, [10/29/24](#)]

The Case Was Still Pending As Of October 30, 2024. [U.S. Chamber of Commerce, accessed [10/30/24](#)]