

Numerous Companies And Trade Associations Opposing Biden Policies And Progressives Are “Venue-Shopping” In The Fort Worth Division Of The Northern District Of Texas In An Apparent Attempt To Push Their Cases In Front Of Two Ultra-Conservative, GOP-Appointed District Judges

SUMMARY: The Fort Worth division of the Northern District of Texas has two district judges: Judge [Reed O'Connor](#) and Judge [Mark Pittman](#). Both were appointed by Republican presidents: O'Connor by George W. Bush and Pittman by Trump. Both also share an ultra-conservative jurisprudence as evidenced by their [deep ties to the Federalist Society](#) and, in O'Connor's case, a [longstanding antagonism](#) towards the Affordable Care Act.

Over several years, right-wing groups — many with [ties to Leonard Leo](#) — have manipulated the legal system to [strategically place](#) lawsuits in front of specific federal judges, [including Judges O'Connor](#) and [Pittman](#). For many, the “venue shopping” strategy has [paid off](#).

Now, companies and trade associations opposed to both the Biden administration's policies and progressives appear to be adopting a similar strategy. Several have gone so far as to sue the Biden administration in Fort Worth regardless of the fact that they are not based in the area.

A review of the federal docket for the Fort Worth division since January 2021 reveals **at least ten instances where companies and trade groups appeared to “venue shop.”** In general, these out-of-district plaintiffs accomplished this feat in one of two ways: by finding a local co-plaintiff or arguing that their business transactions in the area permit them to file there.

This practice has become more common over time; **eight of the ten cases were filed just within the past year.**

1. December 2021: A national trade association representing the construction industry teamed up with two trade groups in northern Texas to contest President Biden's vaccine mandate for federal contractors.
2. December 2022: A group of small lenders — only one of which was based in Fort Worth — sued the Small Business Administration after the agency refused to forgive their PPP loans, which they received despite being ineligible.
3. January 2023: A Nevada-based gun parts manufacturer sued the Biden administration to prevent it from enforcing a new rule regulating the sale of gun kits. The company argued that it could file its lawsuit in Fort Worth since it conducts business there.
4. February 2023: An Austin-based trade group representing for-profit colleges sued the Department of Education in Fort Worth to prevent the agency from implementing a rule protecting students who were defrauded by post-secondary educational institutions.

5. September 2023: Humana, a Kentucky-based health insurance company, filed a lawsuit in Fort Worth challenging the Biden administration's plan to recoup \$4.7 billion in overpayments to Medicare Advantage insurers.
6. November 2023: The American Hospital Association sued HHS in Fort Worth over the agency's new guidelines restricting the use of IP capture technology on the basis that a co-plaintiff, Texas Health Resources, maintained its principal place of business in the area.
7. November 2023: Several national trade groups joined an Amarillo-based contractor to prevent the Biden administration from regulating the wages of certain workers on federally funded construction projects under an existing law.
8. November 2023: Elon Musk's California-based company, X Corp., sued the media watchdog group Media Matters For America in Fort Worth federal court on the basis that there are "millions of Texas users" on the social media app 'X.'
9. December 2023: The Washington D.C.-based American Association of Cosmetology Schools partnered with one of its Fort Worth-based members to contest the Department of Education's gainful employment rule.
10. January 2024: The Houston-based multinational oil and gas corporation ExxonMobil sued an activist investor group to prevent it from filing climate-related proposals at the company's next shareholder meeting.

The Fort Worth Division Of North Texas Has Two District Judges, Reed C. O'Connor And Mark T. Pittman—Both Were Appointed By Republican Presidents

Judge Mark Pittman Was Appointed By President Donald Trump On The Recommendation Of Senators John Cornyn And Ted Cruz. "President Donald Trump announced plans to nominate three judges to the Federal District Courts in Texas, including Wes Hendrix for the Northern District of Texas in Lubbock... Hendrix will be nominated along with Mark Pittman for the U.S. District Court for the Northern District of Texas in Fort Worth, and Sean Jordan for the Eastern District of Texas in Plano, all at the recommendation of U.S. Senators John Cornyn and Ted Cruz." [Lubbock Avalanche-Journal, [1/17/19](#)]

Judge Reed O'Connor Was Appointed By President George W. Bush. "O'Connor, 53, was nominated to the bench by then-President George W. Bush in 2007 after serving nine years as a federal prosecutor in the Northern District of Texas." [Dallas Morning News, [12/18/18](#)]

Judges O'Connor And Pittman Have Long-standing Ties To The Federalist Society

Judge Mark Pittman Was A Founding Member Of The Fort Worth Chapter Of The Federalist Society. “Judge Pittman is a former vice-president and founding member of the Fort Worth Chapter of the Federalist Society.” [Northern District of Texas, [8/8/19](#)]

Judge Mark Pittman Is A Federalist Society Contributor. “Judge Pittman worked in commercial litigation and then as a prosecutor before joining the bench. He is also a contributor to and founder of conservative judicial activist organizations, like the Federalist Society.” [Alliance for Justice, [12/21/22](#)]

- **April 18, 2023: Judge Pittman Spoke On A Federalist Society Panel.**

<i>Apr</i> 18 2023 Tuesday 12:00 p.m. CST	<i>Views from the Bench</i> <i>Dallas Lawyers Chapters</i> Belo Mansion 2101 Ross Ave Dallas, TX 75201 Speakers: Ada Brown · Sean D. Jordan · Mark Timothy Pittman · Brantley Starr
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[Federalist Society, accessed [1/24/24](#)]

- **September 18, 2021: Judge Pittman Spoke On A Federalist Society Panel.**

<i>Sep</i> 18 2021 Saturday 8:30 a.m. CST	<i>Advice for Young Lawyers Roundtable</i> <i>Seventh Annual Texas Chapters Conference</i> George W. Bush Presidential Center 2943 SMU Boulevard Dallas, TX 75205 Speakers: Carter Burwell · Charles R. Eskridge · James Wesley Hendrix · Sean D. Jordan · Jeremy Kernodle · Mark Timothy Pittman
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[Federalist Society, accessed [1/24/24](#)]

Judge Reed O’Connor Is A Frequent Federalist Society Contributor. “O’Connor, who has contributed to the conservative Federalist Society, previously worked at a Texas-based private law practice, as an assistant district attorney for the Northern District of Texas and as a counsel to the Senate Judiciary Committee.” [Axios, [4/12/23](#)]

- **September 22, 2023: Judge O’Connor Spoke On A Federalist Society Panel.**

<i>Sep</i> 23 2023 Saturday 11:30 a.m. CST	<i>Panel Discussion: The Consequences of Disruption</i> <i>2023 Texas Chapters Conference</i> Four Seasons Hotel Houston 1300 Lamar St Houston, TX 77010 Speakers: Robert Ahdieh · James Davis Blacklock · Gregg Costa · Reed O’Connor · Hiram Sasser · J. Ammon Smartt
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[Federalist Society, accessed [1/24/24](#)]

- **August 17, 2023: Judge O’Connor Spoke On A Federalist Society Panel.**

<p><i>Aug</i> 17 2023</p> <p>Thursday 12:00 p.m. CST</p>	<p><i>Perspectives from the Bench</i> <i>Texas A&M Student Chapter</i></p> <p>Texas A&M University School of Law 1515 Commerce St Fort Worth, TX 76102</p> <p>Speakers: James C. Ho · Matthew J. Kacsmaryk · Reed O'Connor</p>
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[Federalist Society, accessed [1/24/24](#)]

- **June 12, 2023: Judge O'Connor Spoke At A Federalist Society Event.**

<p><i>Jun</i> 12 2023</p> <p>Monday 12:00 p.m. CST</p>	<p><i>What Happened at Stanford Law School and Why We Should Care</i> <i>San Antonio Lawyers Chapter</i></p> <p>Paesano's Lincoln Heights 555 E. Basse Rd. San Antonio, TX 78209</p> <p>Speakers: Reed O'Connor</p>
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[Federalist Society, accessed [1/24/24](#)]

- **November 7, 2022: Judge O'Connor Spoke On A Federalist Society Panel.**

<p><i>Nov</i> 7 2022</p> <p>Monday 12:00 p.m. CST</p>	<p><i>SCOTUS on Religious Liberty</i> <i>Texas A&M Student Chapter</i></p> <p>Texas A&M University School of Law 1515 Commerce Street Fort Worth, TX 76102</p> <p>Speakers: Ryan L. Bangert · Reed O'Connor · Hiram Sasser</p>
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[Federalist Society, accessed [1/24/24](#)]

- **September 15, 2022: Judge O'Connor Spoke At A Federalist Society Event.**

<p><i>Sep</i> 15 2022</p> <p>Thursday 12:00 p.m. CST</p>	<p><i>The Future of Religious Freedom</i> <i>Tyler Lawyers Chapter</i></p> <p>Willow Brook Country Club 3205 W Erwin St Tyler, TX 75702</p> <p>Speakers: Reed O'Connor</p>
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[Federalist Society, accessed [1/24/24](#)]

- **November 5, 2019: The Federalist Society Hosted A "Small Dinner With Judge Reed O'Connor."**

<p><i>Nov</i> 5 2019</p> <p>Tuesday 6:00 p.m. EST</p>	<p><i>Small Dinner with Judge Reed O'Connor</i> <i>DC Young Lawyers Chapter</i></p> <p>McCormick & Schmick's 1652 K St NW Washington, DC 20006</p> <p>Speakers: Reed O'Connor</p>
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[Federalist Society, accessed [1/24/24](#)]

- **February 20, 2018: Judge O'Connor Spoke At A Federalist Society Event.**

<p><i>Feb</i> 20 2018</p> <p>Tuesday 12:00 p.m. PST</p>	<p><i>Careers in Public Interest</i> <i>Stanford Student Chapter</i></p> <p>Stanford Law School 559 Nathan Abbott Way Stanford, CA 94305</p> <p>Speakers: Reed O'Connor</p>
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[Federalist Society, accessed [1/24/24](#)]

- **April 5, 2017: Judge O'Connor Spoke At A Federalist Society Event.**

<p><i>Apr</i> 5 2017</p>	<p><i>Advice and Consent: A Conversation about the Judicial Confirmation Process</i></p> <p>Speakers: Brian T. Fitzpatrick · Reed O'Connor</p>
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[Federalist Society, accessed [1/24/24](#)]

- **August 11, 2016: Judge O'Connor Spoke On A Federalist Society Panel.**

<p><i>Aug</i> 11 2016</p> <p>Thursday 12:00 p.m.</p>	<p><i>Supreme Court Preview October Term 2015</i></p> <p>The Fort Worth Club 306 W. 7th Street Fort Worth, Texas 76102</p> <p>Speakers: Matthew J. Kacsmaryk · Reed O'Connor · Jerry E. Smith · Aaron M. Streett</p>
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[Federalist Society, accessed [1/24/24](#)]

- **July 9, 2015: Judge O'Connor Spoke On A Federalist Society Panel.**

<p><i>Jul</i> 9 2015</p> <p>Thursday 12:00 p.m. CST</p>	<p><i>Panel Discussion - Supreme Court October 2014 Term</i></p> <p>The Fort Worth Club 306 W. 7th Street Fort Worth, TX 76102</p> <p>Speakers: Matthew J. Kacsmaryk · Reed O'Connor · Aaron M. Streett · David O. Taylor</p>
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[Federalist Society, accessed [1/24/24](#)]

December 2021: A National Trade Association Representing The Construction Industry Teamed Up With Two Trade Groups In Northern Texas To Contest President Biden’s Vaccine Mandate For Federal Contractors.

In September 2021, President Biden Signed An Executive Order Directing Executive Departments And Agencies To Develop COVID-19 Safety Protocols For Contractors

September 9, 2021: President Biden Signed Executive Order 14042, Directing Executive Departments And Agencies To Develop COVID-19 Safety Protocols. “Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors...Sec. 2. Providing for Adequate COVID-19 Safety Protocols for Federal Contractors and Subcontractors...” [The White House, [9/9/21](#)]

These Protocols Eventually Included Vaccine Mandates

September 24, 2021: The Safer Federal Workforce Task Force Issued Guidance Requiring All Federal Contractors To Be Fully Vaccinated By December 8, 2021. “Covered contractors must ensure that all covered contractor employees are fully vaccinated for COVID-19, unless the employee is legally entitled to an accommodation. Covered contractor employees must be fully vaccinated no later than December 8, 2021. After that date, all covered contractor employees must be fully vaccinated by the first day of the period of performance on a newly awarded covered contract, and by the first day of the period of performance on an exercised option or extended or renewed contract when the clause has been incorporated into the covered contract.” [Safer Federal Workforce Task Force, [9/24/21](#)]

In December 2021, The Associated General Contractors Of America, Which Represents The National Construction Industry, Sued The Biden Administration And Several Executive Departments Over Their Vaccine Mandates

December 14, 2021: The Associated General Contractors Of America, The Associated General Contractors Of Texas, And Texo Sued The Biden Administration In The Northern District Of Texas.

Case 4:21-cv-01344-O Document 1 Filed 12/14/21 Page 1 of 58 PageID 1

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

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.
2300 Wilson Blvd., Suite 300
Arlington, VA 22201

**THE ASSOCIATED GENERAL CONTRACTORS OF TEXAS,
HIGHWAY, HEAVY, UTILITIES &
INDUSTRIAL BRANCH**
300 Barton Springs Rd.
Austin, TX 78704

TEXO, THE CONSTRUCTION ASSOCIATION
11101 N Stemmons Freeway
Dallas, TX 75229

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official capacity as President of the United States; **the UNITED STATES OF AMERICA; OFFICE OF MANAGEMENT AND BUDGET; SHALANDA D. YOUNG**, in her official capacity as Acting Director of the Office of Management and Budget; **FEDERAL ACQUISITION REGULATORY COUNCIL; GENERAL SERVICES ADMINISTRATION; DEPARTMENT OF VETERANS AFFAIRS; DEPARTMENT OF DEFENSE**; and, **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,**

Defendants,

Civil Action No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

[The Associated General Contractors of America et al. v. Joseph R. Biden, Jr. et al., filed [12/14/21](#)]

- **Associated General Contractors Of America Is A Trade Organization Representing Construction Contractors And Related Businesses.** “The Associated General Contractors of America, the voice of the construction industry, is an organization of

qualified construction contractors and industry related companies dedicated to skill, integrity and responsibility.” [Associated General Contractors of America, accessed [1/24/24](#)]

- **Associated General Contractors Of Texas Is A Texas Chapter Of Associated General Contractors Of America.** “The Texas Chapter of the Highway, Heavy, Utilities, and Industrial Branch of the Associated General Contractors of America.” [Associated General Contractors of Texas, accessed [1/24/24](#)]
- **TEXO, The Construction Association, Represents The Construction Industry In North And East Texas And Is An Affiliate Of The Associated General Contractors Of America.** “TEXO was founded in 2009 to build the best construction community for North and East Texas... Today, a decade later, TEXO is the largest construction industry trade association in Texas and one of the country’s largest chapters affiliated with both the national ABC and AGC.” [TEXO, accessed [1/24/24](#)]

Although The Associated General Contractors Of America Is Based In Washington D.C. And Headquartered In Virginia, The Group Argued That It Could File Its Lawsuit In Fort Worth Because Its Co-Plaintiffs Were Located There

The Associated General Contractors Of America Is Based In Washington D.C. And Headquartered In Virginia.

990 Form Department of the Treasury	Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) Do not enter social security numbers on this form as it may be made public. ▶ Go to www.irs.gov/Form990 for instructions and the latest information.	OMB No. 1545-0047 2021 Open to Public Inspection
A For the 2021 calendar year, or tax year beginning 01-01-2022 , and ending 12-31-2022		
B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization ASSOCIATED GENERAL CONTRACTORS OF AMERICA INC % CHRISTINE E SOUDERS Doing business as Number and street (or P.O. box if mail is not delivered to street address) Room/suite 2300 WILSON BOULEVARD SUITE 300 City or town, state or province, country, and ZIP or foreign postal code ARLINGTON, VA 222013608	D Employer identification number 53-0029260 E Telephone number (703) 548-3118 G Gross receipts \$ 27,971,032
I Tax-exempt status: <input type="checkbox"/> 501(c)(3) <input checked="" type="checkbox"/> 501(c) (6) ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527	F Name and address of principal officer: ROBERT C LANHAM JR 2300 WILSON BOULEVARD SUITE 300 ARLINGTON, VA 222013608	H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. See instructions. H(c) Group exemption number ▶
J Website: ▶ WWW.AGC.ORG	K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶	L Year of formation: 1918 M State of legal domicile: DC

[Associated General Contractors of America, [Form 990](#), 2021]

The Associated General Contractors Of America Argued They Could File Their Lawsuit In Fort Worth Because The Other Two Co-Plaintiffs, The Associated General Contractors Of Texas And TEXO, Were Located In The Northern District Of Texas.

20. Venue is proper in this judicial district under 28 U.S.C. § 1391(e) because certain of the Plaintiffs (AGC of Texas and TEXO) reside in this district and no real property is involved, and the actions that are the subject of this Complaint were taken, at least in material part, in this judicial district. The facts giving rise to this lawsuit occurred or had impacts, at least in material part, in the Fort Worth Division of this judicial district.

[The Associated General Contractors of America et al. v. Joseph R. Biden, Jr. et al., filed [12/14/21](#)]

Nevertheless, The Plaintiffs Asked For Injunctive Relief That Would Take Effect Nationwide

The Plaintiffs In The Case Requested An Injunction Against All The Executive Departments Identified In The Lawsuit.

Count VI: Injunctive Relief (Brought against all Defendants)

204. Plaintiffs re-allege and incorporate by reference the allegations of the preceding paragraphs.

205. The Vaccine Mandate threatens immediate and irreparable harm to Plaintiff associations' and their members, including a loss of highly trained employees, difficulty in completing existing contracts, and significant expenditure of time and resources in ensuring compliance.

[The Associated General Contractors of America et al. v. Joseph R. Biden, Jr. et al., filed [12/14/21](#)]

The Case Was Assigned Judge Reed O'Connor, Who Ultimately Did Not Issue An Injunction

Judge Reed O'Connor Was Assigned To The Case.

4:21-cv-01344-O The Associated General Contractors of America Inc et al v. Joseph R Biden et al
Reed C. O'Connor, presiding
Date filed: 12/14/2021
Date terminated: 05/16/2023
Date of last filing: 05/16/2023

[PACER, accessed [1/24/24](#)]

December 14, 2021: Judge O'Connor Deferred A Ruling On Motion VI, Calling For Injunctive Relief.

Dec 14, 2021

ORDER deferring ruling on 6 Motion for TRO; deferring ruling on 6 Motion for Injunction and requiring notice and a status report. (Ordered by Judge Reed C. O'Connor on 12/14/2021) (Judge Reed C. O'Connor) (Entered: 12/14/2021)

Main Document

Order on Motion for Injunction AND Order on Motion for TRO

Buy on PACER

[Court Listener, accessed [1/24/24](#)]

December 2022: A Group Of Small Lenders—Only One Of Which Was Based In Fort Worth—Sued The Small Business Administration After The Agency Refused To Forgive Their PPP Loans, Which They Received Despite Being Ineligible.

The 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Created The Paycheck Protection Program (PPP Loans)

March 27, 2020: President Trump Signed The Coronavirus Aid, Relief, and Economic Security (CARES) Act Into Law In Order To Provide Direct Economic Assistance To American Workers During The COVID-19 Pandemic. “The Coronavirus Aid, Relief, and Economic Security (CARES) Act (2020) and the Coronavirus Response and Consolidated Appropriations Act (2021) provided fast and direct economic assistance for American workers, families, small businesses, and industries...The CARES Act was passed by Congress on March 25, 2020 and signed into law on March 27, 2020.” [U.S. Department of the Treasury, accessed [1/24/24](#)]

- **The CARES Act Established The Paycheck Protection Program, Which Provided Small Businesses With Funds To Cover Payroll Costs For Their Employees For Up To Eight Weeks.** “The Paycheck Protection Program established by the CARES Act, is implemented by the Small Business Administration with support from the Department of the Treasury. This program provides small businesses with funds to pay up to 8 weeks of payroll costs including benefits. Funds can also be used to pay interest on mortgages, rent, and utilities.” [U.S. Department of the Treasury, accessed [1/24/24](#)]

“First Draw” PPP Loans Excluded “Financial Companies Primarily Engaged In The Business Of Lending”

Only Certain Businesses—Such As Sole Proprietors, Small Business, And Nonprofits, Among Others—Were Eligible For First Draw PPP Loans. “First Draw PPP loans can be used to help fund payroll costs...The following entities affected by COVID-19 may be eligible: Sole proprietors, independent contractors, and self-employed persons Any small business concern that meets SBA’s size standards (either the industry size standard or the alternative size standard) Any business, 501(c)(3) non-profit organization, 501(c)(19) veterans organization, or tribal business concern (sec. 31(b)(2)(C) of the Small Business Act) with the

greater of: 500 employees, or That meets the SBA industry size standard if more than 500...”
[Small Business Administration, accessed [1/24/24](#)]

Financial Businesses Primarily Engaged In The Business Of Lending Were Ineligible For PPP Loans. “The following are ineligible for PPP loans, even if they meet the size standards described in B-1 above:[18] A financial business primarily engaged in the business of lending, e.g., banks, life insurance companies (independent agents may be eligible), finance companies, factoring companies, investment companies and other businesses whose stock in trade is money and which are engaged in financing.” [Winston & Strawn LLP, [6/23/20](#)]

A Group Of Small Lenders Who Erroneously Received PPP Loans Sued The Small Business Administration In Fort Worth Federal Court, Seeking To Get Their Loans Forgiven

December 2022: Eight Small Lending Companies Sued The Small Business Administration In Fort Worth Federal District Court.

<p>Case 4:22-cv-01070-O Document 1 Filed 12/02/22 Page 1 of 35 PageID 1</p>	
<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION</p>	
<hr/>	
<p>AVOCET VENTURES, LP; NET PAY ADVANCE, INC.; MODEL FINANCE CO.; KASHABLE LLC; CONSUMER LENDING ASSOCIATES, LLC; FREEWAY FUNDING, INC.; CREDITCORP; and APPALACHIAN LENDING CORPORATION,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>UNITED STATES SMALL BUSINESS ADMINISTRATION; ISABELLA CASILLAS GUZMAN, <i>in her official capacity as Administrator of the Small Business Administration</i>; JANET YELLEN, <i>in her official capacity as United States Secretary of Treasury</i>; and THE UNITED STATES OF AMERICA,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p>Case No. 4:22-cv-01070</p> <p>Judge Magistrate Judge</p>

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

The Plaintiffs Had All Received First Draw PPP Loans.

38. To mitigate this substantial financial harm, Plaintiffs applied for and received first-draw PPP loans. Plaintiffs then used their first-draw PPP loan proceeds for eligible expenses, including by paying the wages of their employees during the height of the pandemic, when Plaintiffs' business revenues were severely throttled.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

However, The SBA Refused To Forgive The Plaintiffs PPP Loans As The Companies Were Ineligible For The Loans In The First Place.

Only One Of The Co-Plaintiffs Was Located In The Fort Worth Area

Plaintiff Avocet Ventures, LP, Lending Business Located In Fort Worth, Texas.

10. Plaintiff Avocet is a small development, investment, and finance business based in Fort Worth, Texas, helping local families fulfill the dream of home ownership for almost twenty years.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

Plaintiff Net Pay Advance, Inc. Is A Small Lending Company Located In Kansas.

11. Plaintiff Net Pay Advance, Inc. ("Net Pay") is a small lending business based in Wichita, Kansas, providing consumers in California, Kansas, and Texas with financing options since 2007.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

Plaintiff Model Finance Co. Is A Small Lending Business Located In California.

12. Plaintiff Model Finance Co. ("Model") is a small, family-owned finance business based in Orange, California, providing consumers in California, Arizona, Florida, Nevada, North Carolina, Texas, Washington, Ohio, Georgia, and South Carolina with recreational financing options for over fifty-five years.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

Plaintiff Kashable LLC Is A Lending Company Located In New York City.

13. Plaintiff Kashable LLC (“Kashable”) is a small finance and technology business based in New York City, New York, providing financial wellness products and services, including a loan program, to employees of certain employers and developing innovative products to improve the financial well-being of working America, with a commitment to both reliability and affordability.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

Plaintiff Consumer Lending Associates, LLC, Is A Lending Company Located In Kansas City, Missouri.

14. Plaintiff Consumer Lending Associates, LLC (“CLA”) is a small finance business based in Kansas City, Missouri, providing consumers with financing options for almost twenty years.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

Plaintiff Freeway Funding, Inc. Is A Small Lending Company Located In California.

15. Plaintiff Freeway Funding, Inc. (“Freeway”) is a small finance business specializing in auto loans based in Camarillo, California, providing consumers with auto-financing options for over fifteen years.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

Plaintiff CreditCorp Is A Lending Company Located In Tennessee.

16. Plaintiff CreditCorp is a small finance business based in Cleveland, Tennessee, providing consumers with -financing options.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

Plaintiff Appalachian Lending Corporation Is A Lending Company Located In Johnson City, Tennessee.

17. Plaintiff Appalachian Lending Corporation (“Appalachian”) is a small independently owned and operated finance business located in Johnson City,

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

The Plaintiffs Asked The Court To Compel The SBA To Forgive All PPP Loans Erroneously Taken Out By Lending Companies

The Plaintiffs Asked The Court To Vacate The SBA's Exclusion Rule Nationwide And Grant Forgiveness To All Lending Companies That Took Out PPP Loans.

4. This Court should, among other relief: (1) vacate the Exclusion Rule nationwide to the extent that the Rule applies to “[f]inancial businesses primarily engaged in the business of lending”; (2) require that the SBA grant forgiveness of all first-draw PPP loans to all “[f]inancial businesses primarily engaged in the business of lending” who were denied forgiveness because they are “[f]inancial businesses primarily engaged in the business of lending,” including all Plaintiffs; and (3) require the SBA to reimburse such businesses for all payments they have made on PPP loans.

[Avocet et al. v. U.S. Small Business Administration et al., filed [12/2/22](#)]

The Parties In The Case Ultimately Sought Arbitration And The Case Was Vacated

June 6, 2023: The Plaintiffs And The SBA Asked The Court To Vacate The Case After They Agreed To Seek Arbitration.

JOINT MOTION TO VACATE MEDIATION DEADLINE OR, ALTERNATIVELY, TO EXTEND THE MEDIATION DEADLINE

Plaintiffs and Defendants, jointly, respectfully request that this Court vacate the mediation order within Paragraph II.5 of the Court’s Scheduling Order, ECF No. 20, which currently requires the parties to conduct mediation in this matter by June 21, 2023.

In the parties’ Joint Status Report of March 21, 2023, the parties indicated that they “are not now considering mediation or arbitration to resolve this [Administrative Procedure

[Avocet et al. v. U.S. Small Business Administration et al., filed [6/6/23](#)]

January 2023: A Nevada-Based Gun Parts Manufacturer Sued The Biden Administration To Prevent It From Enforcing A New Rule Regulating The Sale Of Gun Kits, Arguing That The Lawsuit Could Be Brought In Fort Worth As The Company Conducts Business There.

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

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

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

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

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

In January 2023, Polymer80, A Major Manufacturer Of Ghost Gun Kits, Sued The Attorney General To Prevent ATF From Enforcing The New Regulation

January 9, 2023: Polymer80, Inc. Sued Merrick Garland, The Department Of Justice, And ATF To Prevent It From Implementing The Final Rule Implementing Ghost Gun Kits.

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

POLYMER80, INC.,

Plaintiff,

v.

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

Defendants.

Civil Action No. 4:23-cv-29

POLYMER 80, INC.'S COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

[Polymer80, Inc. v. Merrick Garland et al., Complaint, filed [1/9/23](#)]

Polymer80 Is A Manufacturer Of Ghost Gun Kits And Parts. “What he didn’t mention to the committee is that he owns a company called Polymer80, one of the country’s most prolific manufacturers of ghost gun kits and parts.” [ProPublica, [8/24/22](#)]

- **ATF Has Estimated That Polymer80 Was Responsible For More Than 88 Percent Of The Ghost Guns Recovered By Police Between 2017 And 2021.** “The Bureau of Alcohol, Tobacco and Firearms (ATF) estimated that Polymer80 was responsible for more than 88 percent of the ghost guns recovered by police between 2017 and 2021, though there are nearly 100 manufacturers selling parts, or full kits, which can be made into unserialized guns, a list compiled by Everytown shows.” [The Washington Post, [7/12/23](#)]

Although Polymer80 Is Based In Nevada, It Argued That It Could File Its Lawsuit In Fort Worth Because The Company Has Conducted Business There

Polymer80 Is Incorporated And Based In Nevada.

ENTITY INFORMATION	
Entity Name:	POLYMER80 INC.
Entity Type:	Domestic Corporation (78)
Formation Date:	12/16/2014
Termination Date:	
Compliance Hold:	

[esos.nv.gov, accessed [1/24/24](#)]

Polymer80 Argued That It Could File Its Lawsuit In Nevada Because The Company “Has Engaged In Business Transactions In This District.”

24. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(e)(1)(B) and (C). A substantial part of the events giving rise to these claims occurred in this district; a substantial part of the property that is the subject of the action is situated in this district; and Polymer80 has engaged in business transactions in this district. *See* Kelley Decl., at ¶ 6.

[Polymer80, Inc. v. Merrick Garland et al., Complaint, filed [1/9/23](#)]

The Case Was Assigned To Reed O’Connor Who Granted A Preliminary Injunction In Favor Of Polymer80

March 28, 2023: Judge Reed O’Connor Granted Polymer80’s Motion For A Preliminary Injunction, Preventing ATF From Enforcing The New Rule. “A Federal Judge has granted Polymer80’s request for a temporary restraining order (TRO) and preliminary injunction against the ATF over the latter’s Final Rule on Frames and Receivers, as well as the agency’s infamous Open Letter on December 27, 2022. In his decision, Judge Reed O’Connor of the Northern District of Texas wrote that “ATF’s new definition of ‘frame or receiver’... is facially unlawful.” Polymer80 immediately reopened sales of products banned by ATF decree last year. The TRO and preliminary injunction forbid ATF from enforcing the rule against Polymer80 or its customers. The preliminary injunction is a good sign. Judges only grant those motions if they believe the plaintiff, in this case Polymer80, has a good chance of succeeding on the merits of their case, as Judge O’Connor noted in the decision.” [Gun Mag Warehouse, [3/28/23](#)]

However, In A 5-4 Vote, The Supreme Court Intervened And Ordered The Rule Stay In Place As The Legal Challenge Moved Forward

August 8, 2023: The Supreme Court Voted 5-4 To Allow The Biden Administration To Enforce The New Rule Regulating Ghost Guns As Polymer80 Made Its Way Through The Courts. “The Supreme Court on Tuesday temporarily revived the Biden administration’s regulation of “ghost guns” — kits that can be bought online and assembled into untraceable homemade firearms...The court’s brief order gave no reasons, which is typical when the justices act on emergency applications. The order was provisional, leaving the regulation in place while a challenge moves forward in the courts. The vote was 5 to 4...” [The New York Times, [8/8/23](#)]

February 2023: An Austin-Based Trade Group Representing For-Profit Colleges Sued The Department Of Education In Fort Worth Federal District Court To Prevent The Agency From Implementing A Rule Protecting Students Who Were Defrauded.

In October 2022, The Department Of Education Released A Rule Restoring A Program That Protects Students Who Were Misled By Their Schools With Regard To The Quality Of The Education They Would Receive

Borrower Defense To Repayment Is A Program That Cancels Student Debt Held By Students Who Were Misled By Their Schools. “A relief program known as Borrower Defense to Repayment lets borrowers who were substantially misled by their schools seek to have their debts forgiven. It has been used by hundreds of thousands of borrowers who attended for-profit schools that committed fraud and broke consumer protection laws.” [New York Times, [10/31/22](#)]

October 31, 2022: The Department Of Education Released Several Student Loan Rules Reversing Changes Made During The Trump Administration, Including Restoring Borrower Defense To Repayment. “The Education Department finalized a flurry of new rules on Monday for its student loan programs, rolling back changes made during the Trump administration and making adjustments that will reduce the total sums owed by many borrowers.” [New York Times, [10/31/22](#)]

- **One Of The New Rules Restored Borrower Defense To Repayment After It Had Been “Crippled” By The Trump Administration.** “Betsy DeVos, the education secretary under former President Donald J. Trump, made complex rule changes that crippled the program. The Biden administration’s changes will essentially unwind her actions and set a new standard for adjudicating any claims still pending on, or submitted after, July 1, 2023.” [New York Times, [10/31/22](#)]

In April 2023, Career Colleges & Schools Of Texas Sued The Department Of Education

September 1, 2023: Career Colleges & Schools Of Texas Sued The Department Of Education In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-00206-O Document 1 Filed 02/28/23 Page 1 of 84 PageID 1

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

CAREER COLLEGES
& SCHOOLS OF TEXAS,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
EDUCATION; MIGUEL CARDONA,
in his official capacity as the Secretary
of Education,

Defendants.

CASE NO.: 4:23-CV-206

[Career Colleges & Schools of Texas v. U.S. Department of Education, filed [2/28/23](#)]

- **Career Colleges & Schools Of Texas Is A Trade Association Representing More Than 70 Private Universities.**

3. As set forth in greater detail below, CCST is a trade association for the proprietary sector of higher education. The majority of CCST's more than 70 member schools participate in

[Career Colleges & Schools of Texas v. U.S. Department of Education, filed [2/28/23](#)]

The Lawsuit Objected To The Department Of Education's New Borrower Defense To Repayment Rule.

4. The Final Rule upends critical regulations governing borrower defenses to repayment ("BDR"). For the third time since 2016, the Department has introduced amendments aimed at "streamlining" the resolution of borrower defense claims. Among other things, the latest iteration creates a borrower defense framework with new federal standards, adjudicatory schemes, and evidentiary presumptions. The apparent goals of this new framework are to accomplish massive loan forgiveness for borrowers and to reallocate the correspondingly massive financial liability to institutions of higher education. The Final Rule will cause financial and reputational harm to schools, educational harm to students, and budgetary harm to the public fisc.

[Career Colleges & Schools of Texas v. U.S. Department of Education, filed [2/28/23](#)]

The Lawsuit Asked The Court To Vacate The Rule.

9. For the reasons set forth herein, the Final Rule must be vacated and set aside, and Defendants should be enjoined from implementing or enforcing the Final Rule in any manner.

[Career Colleges & Schools of Texas v. U.S. Department of Education, filed [2/28/23](#)]

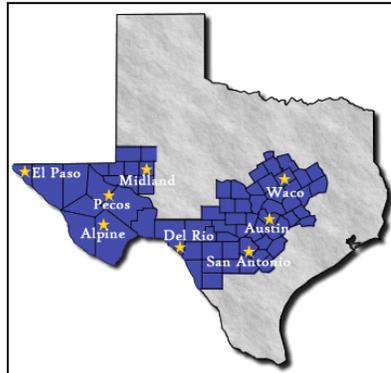
Despite Being Headquartered In Austin, Career Colleges & Schools Of Texas Sued In Fort Worth On The Basis That The District Is Home To A Small Fraction Of Its Membership, As Well As Borrowers Who Hold Student Debt

Career Colleges & Schools Of Texas Is Headquartered In Austin.

Career Colleges & Schools of Texas
Lisa Tomsio
3616 Far West Blvd., Suite #117-PMB 365
Austin, TX 78731
(512) 402-7797

[Career Colleges & Schools of Texas, accessed [1/24/24](#)]

- **Austin Is In The Western District Of Texas.**



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

Career Colleges & Schools Of Texas Argued That It Could Sue In The Northern District Of Texas Because “A Significant Number Of The Borrowers Who Will Be Subject” To The Rule Live There.

15. Texas is home to 2.9 million student loan borrowers, the second largest number of borrowers of any state; these borrowers hold \$85.4 billion of student loan debt in 2019, the second largest amount of debt of borrowers in any state. See Zack Friedman, *Student Loan Debt Statistics In 2022: A Record \$1.7 Trillion*, Forbes.com (May 16, 2022), <https://www.forbes.com/sites/zackfriedman/2022/05/16/student-loan-debt-statistics-in-2022-a-record-17-trillion/>. A significant number of the borrowers who will be subject to the challenged rule reside in this District.

[Career Colleges & Schools of Texas v. U.S. Department of Education, filed [2/28/23](#)]

Career Colleges & Schools Of Texas Argued That It Could Sue In The Fort Worth Division Because Some Of Its Members Are Located There.

18. CCST's member schools that reside in this District (and in the Fort Worth Division) and are Direct Loan program participants (collectively, the "Fort Worth Schools") will suffer concrete injury from the Final Rule.

[Career Colleges & Schools of Texas v. U.S. Department of Education, filed [2/28/23](#)]

Only 3% Of All Students Who Attended Schools Affiliated With Career Colleges & Schools Of Texas Are In Fort Worth

Career Colleges & Schools Of Texas Members Serve Over 160,000 Students. "More than 600 licensed career schools and colleges provide practical education to more than 160,000 students in Texas." [Career Colleges & Schools of Texas, accessed [1/24/24](#)]

- **Career Colleges & Schools Of Texas Members In The Fort Worth Division Serve Over 5,000 Students.**

20. During the 2020-2021 school term alone, the Fort Worth Schools provided employment to hundreds of residents as instructional staff members, and were responsible for providing education and workforce training to more than 5,000 students—of which 66% were female, 29% were Hispanic or Latino, and 29% were Black or African American.

[Career Colleges & Schools of Texas v. U.S. Department of Education, filed [2/28/23](#)]

The District Court In Fort Worth Transferred The Case To Another District, But The Fifth Circuit Appellate Court Halted Implementation Of The Rule

Judge Mark Pittman Granted A Request From The Department Of Justice To Transfer The Case. "U.S. District Judge Mark Pittman, a Donald Trump appointee, agreed with the Justice Department that a lawsuit against new regulations for the Education Department's borrower defense to repayment program should be transferred to the Western District of Texas in Austin, moving the case away from the Northern District of Texas, a court dominated by Republican-appointed judges." [Fox News, [4/18/23](#)]

The Court Of Appeals For The Fifth Circuit Blocked The Implementation Of The New Rule. "The U.S. Court of Appeals for the 5th Circuit on Monday blocked new rules implemented by the Department of Education that aimed to make it easier for defrauded borrowers to get access to student debt relief." [The Hill, [8/7/23](#)]

September 2023: Humana, A Kentucky-Based Health Insurance Company, Filed A Lawsuit In Fort Worth Federal Court Challenging The Biden Administration's Plan To Recoup \$4.7 Billion In Overpayments To Medicare Advantage Insurers.

In January 2023, The Centers For Medicare And Medicaid Services Announced A New Rule Defining The Procedure For Reclaiming Billions In Overpayments To Medicare Advantage Insurers

Medicare Advantage, Also Known As Medicare Part C, Is A Federal Program That Pays Private Companies To Administer Medicare Benefits. “Medicare Advantage Plans, sometimes called ‘Part C’ or ‘MA Plans,’ are offered by private companies approved by Medicare. Medicare pays these companies to cover your Medicare benefits.” [Department of Health and Human Services, [4/15](#)]

The Federal Government Has Consistently Overpaid Private Healthcare Companies For Administering Medicare Advantage Plans. “Studies and audits have identified billions of dollars of excess payments to health plans that weren't supported by patients' medical records.” [Axios, [1/30/23](#)]

- **2023: A Nonpartisan Congressional Advisory Group Estimated That Medicare Advantage Plans Cost \$27 Billion More Than Traditional Medicare In 2023.** “Medicare spends 6 percent more for MA enrollees than it would spend if those beneficiaries were enrolled in FFS Medicare, a difference that translates into a projected \$27 billion in 2023.” [Medicare Payment Advisory Commission, [3/15/23](#)]
- **2020: The Department Of Health And Human Services Office Of Inspector General Estimated That Centers For Medicare And Medicaid Services Overpaid \$50 Billion In Four Years.** “CMS estimates that from 2013 through 2017, Medicare paid \$50 billion in overpayments that resulted from plan-submitted diagnoses that were not supported by beneficiaries' medical records.” [Department of Health and Human Services Office of Inspector General, [9/10/20](#)]
- **2014: A Nonpartisan Inequality Watchdog Found That Federal Officials Made More Than \$36 Billion In “Improper” Medicare Advantage Payments In Four Years.** “Federal officials have made billions in ‘improper’ payments to Medicare Advantage plans traced to risk score errors. Medicare Advantage risk scores rose much faster than the national average in hundreds of counties nationwide between 2007 and 2011. That rise in risk scores cost taxpayers more than \$36 billion.” [The Center for Public Integrity, [6/4/14](#)]

January 2023: The Biden Administration Announced A New Rule Defining Procedures For Auditing Medicare Advantage Providers And Recovering Overpayments. “The Biden administration on Monday finalized an oft-delayed plan to step up audits of Medicare Advantage insurers in order to identify and recover overpayments.” [Axios, [1/30/23](#)]

- **The Centers For Medicare And Medicaid Services Expected The New Rule To Recover \$4.7 Billion In Overpayments.** “The US Medicare agency will seek about \$4.7 billion over 10 years in clawback payments from private insurers that manage its programs under a long-awaited rule finalized Monday, a blow to the industry that sets up a likely court fight.” [Bloomberg News, [1/30/23](#)]

In September 2023, The Insurance Company Humana Sued The Department Of Health And Human Services Over The New Rule

September 1, 2023: Humana And Its Texas Subsidiary Sued The Department Of Health And Human Services In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-00909-O Document 1 Filed 09/01/23 Page 1 of 44 PageID 1

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

HUMANA INC.,

and

HUMANA BENEFIT PLAN OF TEXAS,
INC.,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity
as Secretary of the United States Department
of Health and Human Services,

and

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

No. _____

[Humana Inc. et al. v. Becerra et al., filed [9/1/23](#)]

Humana Reoriented Its Business Around Medicare Advantage Revenue And Could Be Heavily Affected By More Stringent Auditing Rules. “Humana is the second largest provider of MA plans in the U.S. after UnitedHealth. Medicare premiums make up the lion’s share of Humana’s revenue, and the company refocused its business entirely on government plans earlier this year. As such, the payer would be heavily affected by the audits.” [Healthcare Dive, [9/5/23](#)]

Despite Being Based In Kentucky, Humana Sued In Fort Worth Because Part Of Its Nationwide Business Occurs There

Humana Is A Delaware Corporation And Its Principal Place Of Business Is In Kentucky.

THE PARTIES

7. Plaintiff Humana Inc. is a Delaware corporation whose principal place of business is Jefferson County, Kentucky. As of 2023, Humana Inc. and its subsidiaries contracted directly with more than 900,000 physicians and healthcare professionals and more than 3,660 hospitals nationwide to provide medical care to enrollees in their Medicare Advantage plans. Humana Inc. and its subsidiaries serve approximately 18 percent of all Medicare Advantage enrollees—more than 5.5 million seniors and other eligible enrollees.

[Humana Inc. et al. v. Becerra et al., filed [9/1/23](#)]

Humana Is Structured As The Parent Company Of 34 Insurance Companies Operating In 18 States. “Humana Insurance Company is a member of a holding company system. The ultimate parent is Humana Inc. The holding company consists of 34 insurance companies operating in 18 states and Puerto Rico.” [Wisconsin Office of the Commissioner of Insurance, [4/4/22](#)]

Humana Argued That It Could File Its Lawsuit In The Fort Worth Division Of The Northern District Of Texas Because Some Of Its Employees And Customers Are In Texas.

9. Humana Inc. and its subsidiaries conduct significant business in the state of Texas, employing more than 5,100 people in the state and serving more than 1.8 million members statewide, including Medicare Advantage, Medicare Part D, Dual-Eligible Special

4

[Case 4:23-cv-00909-O](#) [Document 1](#) [Filed 09/01/23](#) [Page 6 of 44](#) [PageID 6](#)

Needs Plans, and TRICARE members. Through its Medicare Advantage subsidiaries, Humana serves more than 425,000 Medicare Advantage beneficiaries who reside in Texas. The Medicare benefits of these Texas citizens will be threatened by the Final Rule at issue in this case.

[Humana Inc. et al. v. Becerra et al., filed [9/1/23](#)]

The Case Was Assigned To Judge Reed O’Connor, But The Department Of Justice Has Argued For Moving The Case To Another Court

The Case Was Assigned to Judge Reed O’Connor, Who Previously Ruled Against The Affordable Care Act. “The case was assigned to U.S. District Judge Reed O’Connor, a Fort

Worth judge who previously declared unconstitutional all or part of the Affordable Care Act, also known as Obamacare.” [Reuters, [9/5/23](#)]

The Department Of Justice Argued For Transferring The Case To Another Court And Dismissing It. “The Department of Justice wants Humana's complaint against the Department of Health and Human Services thrown out, but it wants the decision made in a court other than the one where the case was filed.” [Healthcare Finance News, [12/29/23](#)]

November 2023: The American Hospital Association Sued The Department Of Health And Human Services Over Guidelines Restricting The Use Of IP Capture Technology In Fort Worth District Court, On The Basis That A Co-Plaintiff, Texas Health Resources, Maintained Its Principal Place Of Business In The Area.

In December 2022, The Department Of Health And Human Services Issued Guidelines Restricting The Use Of IP Capture Technology To Counter The Ongoing Collection Of Sensitive Medical Information

The Health Insurance Portability And Accountability Act Established Standards For Privacy In Healthcare. “The Health Insurance Portability and Accountability Act of 1996 (HIPAA) established new standards for the confidentiality, security, and transmissibility of health care information.” [American Hospital Association, accessed [1/24/24](#)]

Tracking Technologies May Have Collected Protected Medical Information From Millions Of Patients In 2022. “In 2022 alone, several major health systems have had to disclose to OCR and millions of patients that their use of tracking technologies may have led to unauthorized disclosure of protected health information (PHI).” [Nelson Mullins, [12/27/22](#)]

June 2022: An Investigation By Technology Journalists Found IP Tracking Software On Top Hospitals’ Websites Sending Identifiable Medical Details To Facebook. “A tracking tool installed on many hospitals’ websites has been collecting patients’ sensitive health information—including details about their medical conditions, prescriptions, and doctor’s appointments—and sending it to Facebook.” [The Markup, [6/16/22](#)]

- **33 Top Hospitals Had The Tracking Software Installed.** “The Markup tested the websites of Newsweek’s top 100 hospitals in America. On 33 of them we found the tracker, called the Meta Pixel, sending Facebook a packet of data whenever a person clicked a button to schedule a doctor’s appointment.” [The Markup, [6/16/22](#)]

- **Facebook’s Tracking Software Uses IP Capture Technology To Identify Individuals’ Data.** “The Meta Pixel sends information to Facebook via scripts running in a person’s internet browser, so each data packet comes labeled with an IP address that can be used in combination with other data to identify an individual or household.” [The Markup, [6/16/22](#)]

December 2022: The Office For Civil Rights In The Department Of Health And Human Services Issued Guidelines Restricting The Use Of IP Capture Technology By Businesses Covered By The Health Insurance Portability And Accountability Act. “The U.S. Department of Health and Human Services’ (‘HHS’) Office for Civil Rights (‘OCR’) issued guidance regarding the obligations of HIPAA Covered Entities and Business Associates under the HIPAA Privacy, Security, and Breach Notification Rules (‘HIPAA Rules’) when they use online third-party tracking technologies (‘tracking technologies’) as part of their operations... the most important takeaway from the OCR’s new guidance is that an IP address itself constitutes ‘individually identifiable health information’ (‘IIHI’) when it is collected through tracking technology on a covered entity’s website or mobile app.” [Clark Hill, [12/20/22](#)]

In November 2023, The American Hospital Association, Texas Health Resources, And Two Co-Plaintiffs Sued The Department Of Health And Human Services In Fort Worth Over The New Guidelines

November 2, 2023: The American Hospital Association, Texas Hospital Association, Texas Health Resources, And United Regional Healthcare System Sued The Department Of Health And Human Services And Its Office For Civil Rights In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-01110-P Document 1 Filed 11/02/23 Page 1 of 23 PageID 1

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

<p>AMERICAN HOSPITAL ASSOCIATION; TEXAS HOSPITAL ASSOCIATION; TEXAS HEALTH RESOURCES; UNITED REGIONAL HEALTH CARE SYSTEM,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>MELANIE FONTES RAINER, IN HER OFFICIAL CAPACITY AS DIRECTOR OF OFFICE FOR CIVIL RIGHTS, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; XAVIER BECERRA, IN HIS OFFICIAL CAPACITY AS SECRETARY OF U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">NO.</p>
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[American Hospital Association et al v. Melanie Fontes Rainer et al, filed [11/2/23](#)]

- **The American Hospital Association Is A Trade Organization Representing Hospitals And Health Care Networks.** “The American Hospital Association (AHA) is the national organization that represents and serves all types of hospitals, health care networks, and their patients and communities.” [American Hospital Association, accessed [1/24/24](#)]
- **The Texas Hospital Association Is A Trade Organization Representing Hospitals And Health Care Networks In Texas .** “Founded in 1930, the Texas Hospital Association is the leadership organization and principal advocate for the state’s hospitals and health care systems.” [Texas Hospital Association, accessed [1/24/24](#)]
- **Texas Health Resources Is A Healthcare Network.** “Texas Health Resources is a faith-based, nonprofit health system that cares for more patients in North Texas than any other provider. We serve North Texas through Texas Health Physicians Group, hospitals, outpatient facilities, Neighborhood Care & Wellness Centers, home health and preventive and fitness services.” [Texas Health Resources, accessed [1/24/24](#)]
- **United Regional Health Care System Is A Major Hospital In Wichita Falls, Texas.** “United Regional Health Care System is located in Wichita Falls, Texas, and provides comprehensive medical care including inpatient and outpatient services, advanced diagnostics, surgical specialties, and life-saving emergency care to a nine-county service area. We have the area’s only Level II Trauma Center and serve as the Primary Stroke Center for the region.” [United Regional Health Care System, accessed [1/24/24](#)]

The Lawsuit Asked The Court To Declare That IP Addresses Are Not Individually Identifiable Health Information And Prevent Enforcement Of The Guidelines

26. As applied to Unauthenticated Public Webpages, the Bulletin is unlawful. The Court should set aside the Bulletin insofar as it provides that the Proscribed Combination is IIHI, declare that the Proscribed Combination is not IIHI under the statutory and regulatory definition, and enjoin OCR from enforcing its contrary position against the Hospitals and the Associations’ other members.

[American Hospital Association et al v. Melanie Fontes Rainer et al, filed [11/2/23](#)]

- **“Proscribed Combination” Refers To A User’s IP Address Alongside A Record Of That IP Address Visiting A Webpage With Medical Information**

8. In that bolt-from-the-blue “Bulletin,” OCR took the position that when an online technology connects (1) an individual’s IP address with (2) a visit to an Unauthenticated Public Webpage that addresses specific health conditions or healthcare providers, that combination of information (the **Proscribed Combination**) is subject to restrictions on use and disclosure under HIPAA. For example, if a public-health researcher used her personal computer to search a

[American Hospital Association et al v. Melanie Fontes Rainer et al, filed [11/2/23](#)]

The American Hospital Association Is Based In Chicago And Has Members All Over The County, But Joined One Of Its Thousands Of Members To Be Able To Sue In Fort Worth

The American Hospital Association Is A National Organization With Thousands Of Members. “The American Hospital Association (AHA) is the national organization that represents and serves all types of hospitals, health care networks, and their patients and communities. Nearly 5,000 hospitals, health care systems, networks, other providers of care and 43,000 individual members come together to form the AHA.” [American Hospital Association, accessed [1/24/24](#)]

The American Hospital Organization Is Based In Chicago.

27. The American Hospital Association (AHA) is a trade association representing hospitals, healthcare systems, networks, and other providers of care. Its principal place of business is in Chicago, Illinois. AHA represents its members, including Texas Health Resources and United

[American Hospital Association et al v. Melanie Fontes Rainer et al, filed [11/2/23](#)]

Texas Health Resources Is An American Hospital Association Member Based In Arlington, Texas.

29. Plaintiff Texas Health Resources is a nonprofit health system, whose mission is to provide excellent medical care in the communities it serves. It is a Texas nonprofit corporation with its principal place of business in Arlington, Texas.

[American Hospital Association et al v. Melanie Fontes Rainer et al, filed [11/2/23](#)]

- **Texas Health Resources Is An American Hospital Association Member**

AHA represents its members, including Texas Health Resources

[American Hospital Association et al v. Melanie Fontes Rainer et al, filed [11/2/23](#)]

The Lawsuit Claimed The Right To Sue In Fort Worth On The Basis That Texas Health Resources Is Located In The Area.

38. Venue is proper in this district under 28 U.S.C. § 1391(e)(1)(B)-(C) and 5 U.S.C. § 703. Defendants are the United States and officers of an agency of the United States, acting in their official capacity; Plaintiff Texas Health Resources maintains its principal place of business in this district and division, and a substantial part of the events or omissions giving rise to its claim are occurring here.

[American Hospital Association et al v. Melanie Fontes Rainer et al, filed [11/2/23](#)]

The Case Was Assigned To Judge Mark Pittman

The Case Was Assigned To Judge Mark Pittman

Case Number:
4:23-cv-01110

Court:
[Texas Northern](#)

Nature of Suit:
[Other Statutes: Administrative Procedure Act/Review or Appeal of Agency Decision](#)

Judge:
[Mark Pittman](#)

[Law360, accessed [1/24/24](#)]

November 2023: Several National Trade Groups Joined An Amarillo-Based Contractor To Prevent The Biden Administration From Regulating The Wages Of Certain Workers On Federally Funded Construction Projects Under An Existing Law.

In August 2023, The Department Of Labor Issued A New Rule Praised By Labor Leaders For Expanding Protections Under A Fair Wage Law For Workers On Federally Funded Construction Projects

The Davis-Bacon Act Is A Federal Law Mandating Fair Wages For Workers On Federally Funded Construction Projects. “Davis-Bacon Act is a federal law codified in Title 40 of the U.S. Code that regulates prevailing wage rates on public works projects. Davis-Bacon Act

basically provides that all laborers and mechanics working on construction projects which are funded by the federal government shall not be paid a wage less than prevailing wage, as specified by the United States Department of Labor, in the locality in which work is performed.” [Cornell Legal Information Institute, accessed [1/24/24](#)]

August 23, 2023: The Department Of Labor Announced A New Rule Applying Davis-Bacon Act Requirements In More Circumstances. “On August 23, 2023, the United States Department of Labor (“DOL”) issued a final rule updating regulations issued under the Davis-Bacon Act.” [JD Supra, [10/17/23](#)]

- **The New Rule Expanded The Definition Of Work Locations Where Employers Need To Meet Davis-Bacon Act Requirements.** “Revisions to the definition of the ‘site of the work’ to expand ... where prevailing wages must be paid, to include locations that are either established specifically for a Davis-Bacon Act project or are dedicated exclusively, or nearly so, to the Davis-Bacon Act project for a specific period of time (i.e. weeks, months or more). The prior version of the regulation only applied Davis-Bacon Act labor rules to secondary sites that were established specifically for a Davis-Bacon Act project.” [JD Supra, [10/17/23](#)]
- **The New Rule Redefined Criteria For Determining Which Employers Don’t Need To Meet Davis-Bacon Act Requirements.** “Revises the definition of ‘material supplier,’ including adopting three criteria for determining if an employer is a ‘material supplier’ and therefore not subject to Davis-Bacon Act requirements.” [JD Supra, [10/17/23](#)]

Union President: New Rule “Delivered For Working People” By “Improv[ing] Legal Protections” And Ensuring Workers “Receive The Pay They Deserve.” “The Biden–Harris administration once again delivered for working people by ensuring that construction workers on federal and federally assisted projects receive the pay they deserve,’ said AFL-CIO President Liz Shuler. ‘Today’s final rule on Davis–Bacon and Related Acts will not only strengthen prevailing wage laws, but it also will improve legal protections from wage theft for more than one million workers on federal construction projects.’” [The Labor Tribune, [8/21/23](#)]

In November 2023, Associated General Contractors Of America, J. Lee Milligan, Inc, And Two Co-Plaintiffs Sued The Department Of Labor In Lubbock, Objecting To Expanded Protections And Seeking To Overturn The New Rule

November 7, 2023: Associated General Contractors Of America, Associated General Contractors Of Texas, Lubbock Chamber Of Commerce, And J. Lee Milligan, Inc Sued The Department Of Labor In The Lubbock Division Of The Northern District Of Texas.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

ASSOCIATED GENERAL CONTRACTORS
OF AMERICA; ASSOCIATED GENERAL
CONTRACTORS OF TEXAS; LUBBOCK
CHAMBER OF COMMERCE; and
J. LEE MILLIGAN, INC.,

Plaintiffs,

v.

U.S. DEPARTMENT OF LABOR and JULIE
SU, in her official capacity as Acting U.S.
Secretary of Labor,

Defendants.

Case No. 5:23-cv-272

[Associated General Contractors of America v. U.S. Department of Labor, filed [11/07/23](#)]

- **Associated General Contractors Of America Is A Trade Organization Representing Construction Contractors And Related Businesses.** “The Associated General Contractors of America, the voice of the construction industry, is an organization of qualified construction contractors and industry related companies dedicated to skill, integrity and responsibility.” [Associated General Contractors of America, accessed [1/24/24](#)]
- **Associated General Contractors Of Texas Is A Texas Chapter Of Associated General Contractors Of America.** “The Texas Chapter of the Highway, Heavy, Utilities, and Industrial Branch of the Associated General Contractors of America.” [Associated General Contractors of Texas, accessed [1/24/24](#)]
- **Lubbock Chamber Of Commerce Is A Network Representing Businesses In The Lubbock, Texas Area.** “Since 1913 the Lubbock Chamber has served as a unified voice for business by actively advocating for a pro-job, pro-growth, pro-business climate. This non-profit organization represents more than 1,400 member-businesses on the South Plains.” [Lubbock Chamber of Commerce, accessed [1/24/24](#)]
- **J. Lee Milligan, Inc. Is A Construction Firm.** “Through prudent management and a dedicated work force, the company has become one of the largest heavy highway construction firms in the area. JLM’s primary business focus was and remains directed at the heavy construction trades.” [J. Lee Milligan, Inc., accessed [1/24/24](#)]

The Lawsuit Objected To The Rule’s Expansion Of Workers And Work Locations Covered By Davis-Bacon Act Protections.

contracts by operation of law. *See* 29 C.F.R. § 5.5(e); Final Rule, 88 Fed. Reg. at 57739. The Final Rule also unlawfully extends the DBA to apply to workers who are not “mechanics and laborers” under the Act and unlawfully extends the scope of the work covered by DBA to include work that

1

Case 5:23-cv-00272-C Document 1 Filed 11/07/23 Page 2 of 108 PageID 2

is not performed “directly on the site of the work.” *See* 29 C.F.R. § 5.2; Final Rule, 88 Fed. Reg. at 57731–34.

[Associated General Contractors of America v. U.S. Department of Labor, filed [11/07/23](#)]

The Lawsuit Asked The Court To Overturn The Rule.

6. This action also seeks permanent relief in the form of a declaration that the challenged provisions of the Final Rule, 29 C.F.R. §§ 5.2 and 5.5(e), violate Article I, Section 1 and Article II, Section 3 of the Constitution, the APA and DBA and are arbitrary and capricious. The Court should hold unlawful and set aside the challenged Final Rule provisions, and DOL should be enjoined from implementing or enforcing the challenged Final Rule provisions in any manner.

[Associated General Contractors of America v. U.S. Department of Labor, filed [11/07/23](#)]

Associated General Contractors Of America Has Chapters In Every State, But Partnered With One Of Its Thousands Of Members To Sue In Lubbock

Associated General Contractors Of America Is A Nationwide Trade Organization With Thousands Of Members And Chapters In Every State.

10. Plaintiff Associated General Contractors of America (“AGC of America”) is a nationwide trade association of construction companies and related firms. It has served the construction industry since 1918, and over time, it has become the recognized leader of the industry in the United States. Today, AGC of America has more than 27,000 members in 89 chapters stretching from Puerto Rico to Hawaii. Among these members are more than 6,500 general contractors and over 9,000 specialty contractors. AGC of America has at least one chapter serving each and every state, Puerto Rico, and Washington, D.C., including 11 chapters in the state of Texas. AGC members construct both public and private buildings, including offices and

[Associated General Contractors of America v. U.S. Department of Labor, filed [11/07/23](#)]

J. Lee Milligan, Inc Is An Amarillo-Based Contractor That Works On Federally Funded Projects.

13. Plaintiff J. Lee Milligan, Inc. (“JLM”) is a heavy and highway construction contractor, located in Amarillo, Texas. JLM performs construction work as a prime contractor and subcontractor on federally funded, state funded, and privately funded projects. JLM also operates

[Associated General Contractors of America v. U.S. Department of Labor, filed [11/07/23](#)]

- **J. Lee Milligan, Inc Is A Member Of Associated General Contractors Of America In Its Texas Chapter**

Company	City	State Province	Chapter Name
J. Lee Milligan, Inc.	Amarillo	TX	AGC of Texas Highway, Heavy, Utilities & Industrial Branch

[Associated General Contractors of America Directory, accessed [1/24/24](#)]

November 2023: Elon Musk’s California-Based Company, X Corp., Sued The Media Watchdog Group Media Matters For America In Fort Worth Federal Court On The Basis That There Are “Millions Of Texas Users” Who Use The Social Media App ‘X.’

In November 2023, The Media Watchdog Group Media Matters For America Published A Report Documenting How X (Formerly Twitter) Places Ads Next To Content Promoting White Supremacy

Media Matters For America Is A Progressive Watchdog Group That Monitors Conservative Misinformation In The Media. “Media Matters for America is a web-based, not-for-profit, 501(c)(3) progressive research and information center dedicated to

comprehensively monitoring, analyzing, and correcting conservative misinformation in the U.S. media.” [Media Matters for America, accessed [1/22/24](#)]

November 2023: Media Matters Published A Series Of Reports Documenting The Placement Of Ads On X (Formerly Twitter) Next To Antisemitic And White Nationalist Content. “IBM, NBCUniversal and its parent company Comcast said last week that they stopped advertising on X after the Media Matters report said their ads were appearing alongside material praising Nazis. It was a fresh setback as the platform tries to win back big brands and their ad dollars, X’s main source of revenue. The Media Matters report pointed to ads from Apple and Oracle that also were placed next to antisemitic material on X. On Friday, it said it also found ads from Amazon, NBA Mexico, NBCUniversal and others next to white nationalist hashtags.” [AP, [11/21/23](#)]

- **HEADLINE: “As Musk Endorses Antisemitic Conspiracy Theory, X Has Been Placing Ads For Apply, Bravo, IBM, Oracle, And Xfinity Next To Pro-Nazi Content.** [Media Matters for America, [11/16/23](#)]
- **HEADLINE: “X Is Placing Ads For Amazon, NBA, Mexico, MBCUniversal, And Others Next To Content With White Nationalist Hashtags.** [Media Matters For America, [11/17/23](#)]

Within Days, X Corp.—Which Is Incorporated In Nevada—Sued Media Matters And One Of Its Reporters For Disparaging His Business...

November 20, 2023: X Corp. Sued Media Matters For America And One Of Its Reporters In The Fort Worth Division Of The Northern District Of Texas.

Case 4:23-cv-01175-O Document 1 Filed 11/20/23 Page 1 of 15 PageID 1

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

X CORP., a Nevada corporation,
Plaintiff,

v.

MEDIA MATTERS FOR AMERICA, a
Washington, D.C. non-profit corporation, and
ERIC HANANOKI,
Defendants.

Case No. 4:23-cv-1175

JURY TRIAL DEMANDED

[X Corp. v. Media Matters for America et al., filed [11/20/23](#)]

- **The Lawsuit Accused Media Matters On The Counts: Interference Of Contract, Business Disparagement, And Interference With Prospective Economic Advantage.** “The lawsuit accuses Media Matters of interference with contract, business disparagement, and interference with prospective economic advantage — claims that

could be difficult to prove given the First Amendment's high bar for legally prosecuting speech." [The Verge, [11/20/23](#)]

X Corp. Is Incorporated In Nevada, And Its Principal Place Of Business Is In San Francisco.

PARTIES

15. Plaintiff X Corp. is a corporation organized and existing under the laws of the State of Nevada, with its principal place of business in San Francisco, California. Plaintiff conducts significant business in Texas, including maintaining significant offices in Texas. It operates the social media platform "X" (formerly "Twitter"), an internet-based service that enables users to create and share their own content, interact with other users, and curate feeds of content.

[X Corp. v. Media Matters for America et al., filed [11/20/23](#)]

...And Sued In Fort Worth On The Basis That X Has "Millions Of Texas Users"

X Corp. Argued That It Could File Its Lawsuit In The Fort Worth Division Of The Northern District Of Texas Because Some Of Its Advertisers And Users Are In Texas.

19. This Court has personal jurisdiction over Media Matters because Media Matters' campaign against X Corp. was purposefully directed at, among others, relationships with advertisers who are located in, have a significant presence in, or transact substantial business in Texas. Likewise, this Court has personal jurisdiction over Media Matters because its attempts to harm X Corp.'s reputation potentially threatened X Corp.'s relationships with its hundreds of millions of users, including millions of Texas users. This Court has personal jurisdiction over Hananoki for substantially the same reasons.

[X Corp. v. Media Matters for America et al., filed [11/20/23](#)]

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

The Case Was Originally Assigned To Judge Mark Pittman But Then Reassigned To Judge Reed O'Connor After Pittman Recused Himself. "Judge Mark Pittman of Fort Worth

recused himself from lawsuit filed by X. It is reassigned to Reed O'Connor's Fort Worth federal court." [Fort Worth Star-Telegram, [11/28/23](#)]

December 2023: The Washington D.C.-Based American Association Of Cosmetology Schools Partnered With One Of Its Fort Worth-Based Members To Contest The Department Of Education's Gainful Employment Rule.

In September 2023, The Department Of Education Announced A Rule Withholding Federal Funding From Educational Programs That Don't Prepare Graduates For Gainful Employment

The Department Of Education's New Rule Keeps Federal Funds Away From Programs Whose Graduates Can't Afford Debt Payments Or Earn Less Than Non-Graduates. "The disclosure requirement is part of the U.S. Education Department's new financial value transparency and gainful-employment rule ... As part of the rule, programs at for-profit institutions as well as nondegree programs in any sector would have to show that graduates can afford their yearly debt payments and that they are making more than an adult in their state who didn't go to college. Failing either of those tests in two consecutive years could lead to a program losing access to federal financial aid."

A 2018 Study Found That Graduates From For-Profit Universities Earn Less And Are Less Likely To Be Employed. "We find that certificate-seeking students in for-profit institutions are 1.5 percentage points less likely to be employed and, conditional on employment, have 11 percent lower earnings after attendance than students in public institutions." [Cellini & Turner, Journal of Human Resources, [1/18](#)]

In December 2023, The American Association Of Cosmetology Schools Sued The Department Of Education In Fort Worth Over The New Rule

December 22, 2023: The American Association Of Cosmetology Schools And One Of Its Fort Worth-Based Members Sued The Department Of Education In The Fort Worth Division Of The Northern District Of Texas.

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

AMERICAN ASSOCIATION OF
COSMETOLOGY SCHOOLS

and

DUVALL'S SCHOOL OF COSMETOLOGY,
L.L.C.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
EDUCATION

and

MIGUEL CARDONA, in his official capacity as
Secretary of the U.S. Department of Education,

Defendants.

Case Number: 4:23-cv-1267

[American Association of Cosmetology Schools v. United States Department of Education, filed [12/22/23](#)]

American Association Of Cosmetology Schools: New Rule Would Threaten The “Very Existence” Of Cosmetology Schools. “The lawsuit from the American Association of Cosmetology Schools, filed Dec. 22 in the Northern District of Texas, argues that the rule would jeopardize the “very existence” of cosmetology schools and that it uses flawed measures to determine whether graduates of career education programs are gainfully employed.” [Inside Higher Ed, [1/5/24](#)]

- **Research Conducted By A Student Advocacy Group Found That The Rule Would Double Disqualifications To More Than 40% Of For-Profit Programs.** “Under the proposed earnings threshold, we found that over 40 percent of GE programs at for-profit institutions would fail — translating to 1,277 failing GE programs (Figure 1). Compared to the D/E rates measure, the number of failing GE programs at for-profits would double under the proposed earnings threshold.” [The Institute for College Access and Success, [6/22](#)]

The American Association Of Cosmetology Schools Operates From Washington D.C., But Justified Suing In Fort Worth Because One Of Their Hundreds Of Nationwide Members Is There

The American Association Of Cosmetology Schools Is Incorporated In New Jersey And Based In Washington, D.C.

STATE OF NEW JERSEY
NJ DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES
BUSINESS RECORDS SERVICE

Cart Retrieve Documents

Search Results Select Documents

Business Entity Status Report

Search Summary

Search Type: Business Name
Business Name: AMERICAN ASSOCIATION OF COSMETOLOGY SCHOOLS

Order Status Report	Order Copies	Business Name	Entity ID	City
<input type="checkbox"/>	<input type="checkbox"/>	AMERICAN ASSOCIATION OF COSMETOLOGY SCHOOLS, INC.	0900040683	Washington

[New Jersey Business Records Service, accessed [1/24/24](#)]

The American Association Of Cosmetology Schools Is A Nationwide Network With Hundreds Of Members. “AACS currently has more than 250 school owners as members comprising of over 500 schools across the nation.” [American Association Of Cosmetology Schools, accessed [1/23/24](#)]

The American Association Of Cosmetology Schools Argued That It Could File Its Lawsuit In The Fort Worth Division Of The Northern District Of Texas Because One Of Its Members, DuVall’s School Of Cosmetology, Is Near Fort Worth And Joined As A Co-Plaintiff.

17. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(1)(A) because no real property is involved and a plaintiff, DuVall, resides in the Fort Worth Division of the Northern District of Texas.

- **DuVall’s School Of Cosmetology Is An American Association Of Cosmetology Schools Member Based Near Fort Worth.**

12. DuVall’s School of Cosmetology, L.L.C. is a limited liability company organized and formed under the laws of the State of Texas, and whose principal place of business is located at 201 Harwood Road, Suite 218, Bedford, Tarrant County, Texas 76021.

13. DuVall is a member of AACS.

[American Association of Cosmetology Schools v. United States Department of Education, filed [12/22/23](#)]

The Case Was Assigned To Judge Reed O’Connor

December 22, 2023: The Case Was Assigned To Judge Reed O'Connor

Dec 22, 2023

New Case Notes: A filing fee has been paid. File to: Judge O Connor. Pursuant to Misc. Order 6, Plaintiff is provided the Notice of Right to Consent to Proceed Before A U.S. Magistrate Judge. Clerk to provide copy to plaintiff if not received electronically. Attorneys are further reminded that, if necessary, they must comply with Local Rule 83.10(a) within 14 days or risk the possible dismissal of this case without prejudice or without further notice. (bdb) (Entered: 12/26/2023)

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

January 2024: The Houston-Based Multinational Oil And Gas Corporation ExxonMobil Sued Activist Investors To Prevent Them From Filing Climate-Related Proposals At The Company's Next Shareholder Meeting.

In December 2023, Activist Investor Groups Arjuna Capital And Follow This Submitted A Proposal For Consideration At ExxonMobil's Next Shareholder Meeting That Would Accelerate Greenhouse Gas Emission Reductions

Arjuna Capital Is An Investing Group That Promotes Sustainability As A "Bottom Line Concern." "As engaged investors, we understand that economic vitality, environmental responsibility, and social justice are all bottom line concerns. This is what sustainability means. Arjuna Capital's investment strategies seek to provide competitive financial returns while promoting a more vibrant economy, a healthier environment, and a more just society." [Arjuna Capital, accessed [1/23/24](#)]

Follow This Is An Activist Investing Group That Pushes For Big Oil Companies To Prioritize Climate Action. "Follow This is a grassroots non-profit organisation with over 10,000 members, based in Amsterdam. We believe shareholders can be a force for good, as they ultimately decide on a company's course and hold them accountable for future progress ... We empower shareholders to vote for change at Big Oil shareholders' meetings (AGM). We do so by filing AGM resolutions that put climate action on the ballot." [Follow This, accessed [1/23/24](#)]

Arjuna Capital And Follow This Have Pressured Oil Companies To Reduce The Emissions That "Often Account For The Lion's Share Of A Firm's Carbon Footprint." "Arjuna Capital and Follow This have sought to put pressure on oil majors to establish so-called Scope 3 targets to reduce greenhouse house gas emissions produced when burning oil and gas. Scope 3 refer to the emissions produced from across a company's entire value chain, and often account for the lion's share of a firm's carbon footprint." [CNBC, [1/22/24](#)]

- **Arjuna Capital And Follow This's Proposals Aim To Push Oil Companies To Adopt Policies That "Align With The Paris Agreement."** "Proposals by Amsterdam-based non-profit Follow This and Massachusetts-based Arjuna Capital have become a fixture on the ballots of Big Oil's annual meetings, mostly encouraging oil majors to set

COMPLAINT

Exxon Mobil Corporation (“ExxonMobil”) files this complaint seeking a declaratory judgment that it may exclude Arjuna Capital (“Arjuna”) and Follow This’s shareholder proposal from ExxonMobil’s proxy statement pursuant to Rule 14a-8 under the Securities Exchange Act of 1934 and not present it for a shareholder vote at ExxonMobil’s 2024 annual shareholder meeting.

[Exxon Mobil Corporation v. Arjuna Capital, LLC, filed [1/21/24](#)]

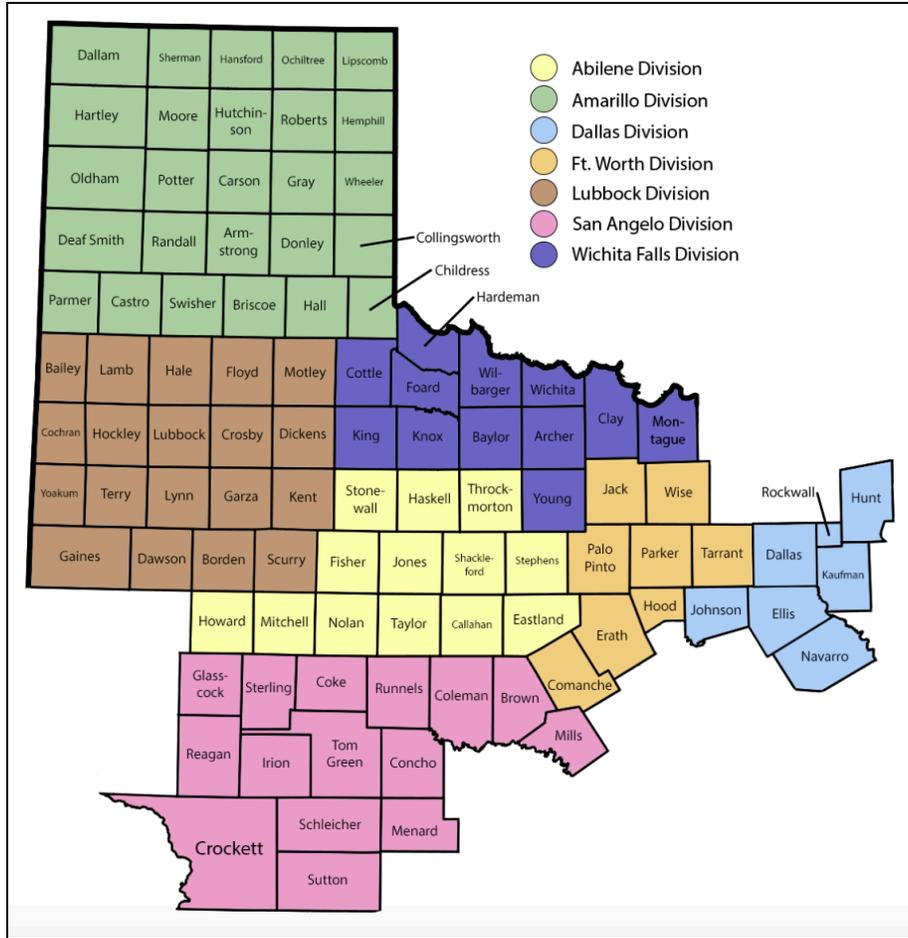
ExxonMobil Is Based Near Houston, But Justified Suing In Fort Worth Because Its Old Headquarters Was There

ExxonMobil Is Incorporated In New Jersey And Was Headquartered In The Northern District Of Texas Until Relocating To Spring, Texas.

28. ExxonMobil is a corporation organized under the laws of the state of New Jersey, with its principal place of business at 22777 Springwoods Village Parkway, Spring, Texas 77389. At the time of ExxonMobil’s 2022 and 2023 annual shareholder meetings, ExxonMobil was headquartered in this district. ExxonMobil relocated its headquarters from Irving, Texas to Spring, Texas in July 2023.

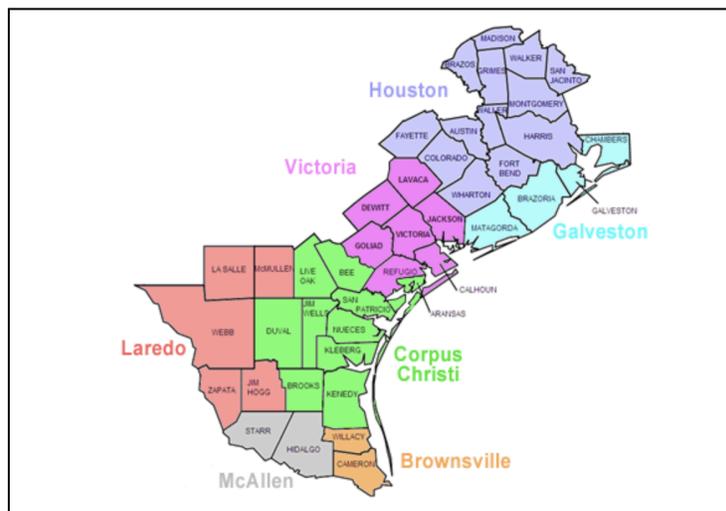
[Exxon Mobil Corporation v. Arjuna Capital, LLC, filed [1/21/24](#)]

- **ExxonMobil Was Previously Headquartered In Irving, Texas, (Dallas County), Which Is In The Dallas Division Of The Northern District Of Texas.**



[United States District Court, Northern District of Texas, accessed 1/24/24]

- **ExxonMobil Is Now Headquartered In Spring, Texas, (Houston County), Which Is In The Houston Division Of The Southern District Of Texas.**



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

ExxonMobil Argued That It Could File Its Lawsuit In The Fort Worth Division Of The Northern District Of Texas Because Previous Shareholder Meetings Happened There.

26. Venue as to both Defendants is proper under 28 U.S.C. § 1391(b)(2) and 15 U.S.C. § 78aa because the 2023 Proposal and the 2022 Proposal were delivered in this district and because the ExxonMobil annual shareholder meetings in 2023 and 2022 occurred in this district. These events are a substantial part of a claim at issue in this case, ExxonMobil's claims require an examination of the conduct and the proposals previously submitted in this district, and Defendants previously transacted business in this district.

[Exxon Mobil Corporation v. Arjuna Capital, LLC, filed [1/21/24](#)]

[###]