

FIFTH CIRCUIT UPDATE 2023-2024

*RAFFI MELKONIAN*

June 7, 2024

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Raffi Melkonian

@RMFIFTHCIRCUIT

Fifth Circuit Civil Opinions

2023

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Outstanding OT2023 Merits Decisions

| #  | Docket #     | Caption  | Grant Date | From       | Argue Date |
|----|--------------|--|------------|------------|------------|
| 21 | 22-448       | CFPB v. Cnty. Fin. Serv's Ass'n of Am., Ltd.     | 2/27/2023  | CA5        | 10/3/2023  |
| 22 | 22-807       | Alexander v. S.C. Conf. of the NAMCP             | 3/13/2023  | D.S.C.     | 10/11/2023 |
| 23 | 22-704       | Vidal v. Eker                                    | 6/12/2023  | CA-Md      | 11/1/2023  |
| 24 | 22-965       | United States v. Rahimi                          | 6/30/2023  | CAG        | 11/7/2023  |
| 25 | 22-6386      | Brown v. United States                           | 2/13/2023  | CA11       | 11/22/2023 |
| 26 | 22-6640      | Jackson v. United States                         | 2/13/2023  | CA11       | 11/22/2023 |
| 27 | 22-829       | SEC v. Jarkesy                                   | 6/30/2023  | CA5        | 11/29/2023 |
| 28 | 22-124       | Harrington v. Purdue Pharma L.P.                 | 8/10/2023  | CA2        | 12/4/2023  |
| 29 | 22-800       | Moore v. United States                           | 6/26/2023  | CA9        | 12/5/2023  |
| 30 | 22-674       | Campos-Chaves v. Garland                         | 6/30/2023  | CA5        | 1/8/2024   |
| 31 | 22-884       | Garland v. Shigo                                 | 6/30/2023  | CA9        | 1/8/2024   |
| 32 | 22-1108      | U.S. Tr. v. John Q. Hammons Fall 2006, LLC       | 9/29/2023  | CA10       | 1/9/2024   |
| 33 | 22-899       | Smith v. Arizona                                 | 9/29/2023  | Ariz. App. | 1/10/2024  |
| 34 | 22-1119      | Relentless v. Dep't of Commerce                  | 10/13/2023 | CA1        | 1/17/2024  |
| 35 | 22-423       | Loper Bright Enters. v. Raimondo                 | 3/1/2023   | CADC       | 1/17/2024  |
| 36 | 22-1108      | Corner Post v. Bd. of Governors                  | 9/29/2023  | CAR        | 2/30/2024  |
| 37 | 22-277       | Moody v. NetChoice, LLC                          | 9/29/2023  | CA11       | 2/26/2024  |
| 38 | 22-555       | NetChoice, LLC v. Paxton                         | 9/29/2023  | CA5        | 2/26/2024  |
| 39 | 22-229       | Centers v. Bank of America                       | 10/13/2023 | CA9        | 2/27/2024  |
| 40 | 22-976       | Garland v. Carroll                               | 11/2/2023  | CAG        | 2/28/2024  |
| 41 | 22-3         | Goldbase v. Suski                                | 11/2/2023  | CA9        | 2/28/2024  |
| 42 | 22-842       | Nat'l Rifle Ass'n v. Vullo                       | 11/2/2023  | CA2        | 2/28/2024  |
| 43 | 22-431       | Murthy v. Missouri                               | 10/20/2023 | CA5        | 2/28/2024  |
| 44 | 22-1079      | Truck Ins. Ex. v. Kaiser Cymposium Co.           | 10/13/2023 | CA4        | 2/29/2024  |
| 45 | 22-14        | Diaz v. United States                            | 11/13/2023 | CA9        | 2/29/2024  |
| 46 | 115 Original | Texas v. New Mexico                              | 1/22/2024  | Original   | 3/20/2024  |
| 47 | 22-1025      | Gonzalez v. Trevino                              | 10/13/2023 | CA5        | 3/20/2024  |
| 48 | 22-21        | Haroon v. Dep't of Defense                       | 12/8/2023  | CA-Md      | 3/22/2024  |
| 49 | 22-250       | Beccerra v. San Carlos Apache Tribe              | 11/20/2023 | CA9        | 3/22/2024  |
| 50 | 22-253       | Beccerra v. N. Arapaho Tribe                     | 11/20/2023 | CA10       | 3/22/2024  |
| 51 | 22-255       | FDA v. Alliance for Hippocratic Medicine         | 12/13/2023 | CA5        | 3/26/2024  |
| 52 | 22-256       | Danco Labs. v. Alliance for Hippocratic Medicine | 12/13/2023 | CA5        | 3/26/2024  |
| 53 | 22-146       | Connolly v. IRS                                  | 12/13/2023 | CAR        | 3/27/2024  |
| 54 | 22-270       | Erlinger v. United States                        | 11/20/2023 | CA7        | 3/27/2024  |
| 55 | 22-108       | Snyder v. United States                          | 12/13/2023 | CA7        | 4/15/2024  |
| 56 | 22-29        | Chilverini v. Napoleon                           | 12/13/2023 | CA6        | 4/15/2024  |
| 57 | 22-1272      | Fischer v. United States                         | 12/13/2023 | CADC       | 4/16/2024  |
| 58 | 22-582       | Thorneil v. Jones                                | 12/13/2023 | CA9        | 4/17/2024  |
| 59 | 22-118       | Smith v. Spitznir                                | 1/12/2024  | CA9        | 4/22/2024  |
| 60 | 22-175       | City of Grants Pass v. Johnson                   | 1/12/2024  | CA9        | 4/22/2024  |
| 61 | 22-234       | Dep't of State v. Munoz                          | 1/12/2024  | CA9        | 4/23/2024  |
| 62 | 22-267       | Starbucks Corp. v. McKlosney                     | 1/12/2024  | CA6        | 4/23/2024  |
| 63 | 22-726       | Moyle v. United States                           | 1/4/2024   | CAG        | 4/24/2024  |
| 64 | 22-797       | Idaho v. United States                           | 1/4/2024   | CAG        | 4/24/2024  |
| 65 | 22-1099      | Trump v. United States                           | 2/28/2024  | CADC       | 4/25/2024  |

National press has noticed issues

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# Tips and Tricks

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## Fifth Circuit Attorney's Toolbox

### Courts Can Adapt with Technology and Improve Practitioners' Experience

*The Bench*—May/June 2024

By Raffi Melkonian, Esquire



The U.S. Court of Appeals for the Fifth Circuit has often found itself in the news this past year, whether it's for important decisions on fraught social issues (such as abortion medications and border crossings) or for its continued grappling with more local disputes (such as the spate of lawsuits about Louisiana's "overdetention" of prisoners past the end of their sentences).

All that aside, the court has been making technological advancements that improve the day-to-day practice of lawyers in the circuit. The court's example could be adopted by other courts throughout the country; courts may be loathe to make big changes, but they can still make incremental reforms to improve the judicial process.



The Fifth Circuit's new "Attorney Toolbox" is a wonderful example of the trend. The court has long offered its judges hyperlinked copies of briefs. After the litigants filed their briefs, an internal court program linked all cases cited by the parties to the Westlaw or LEXIS databases and all record citations to the Fifth Circuit's Record on Appeal. That way, judges could simply click on a case on their tablets or computer screens and be taken directly to the cited authority.

The Record on Appeal in turn was automatically generated by the court from the entire district court record: in the Fifth Circuit, you needn't worry about manually creating a voluminous appellate appendix the way you do in other courts. Instead, the district court produces a paginated PDF document that includes every document filed in the trial court.

As welcome as these systems were, however, many Fifth Circuit lawyers worried about exactly how the citations would appear in the internal documents the judges would review. For example, when they clicked on page 454 of the Record on Appeal—the page with the key contractual provision—would it go to the correct page or would the link be broken?

The court's filing system also had pitfalls for less-experienced lawyers. The court requires parties to file so-called "Record Excerpts," which is a short selection of record materials primarily intended for a screening panel to decide whether a case merits oral argument. But many novice counsel included the wrong documents in the excerpts, leading to their briefs being rejected. Such rejections can be embarrassing but also cost clients needless money.

All that has now changed with the toolbox. Once you've done writing, the court's own system will hyperlink your cases to a legal database of choice. The system will also hyperlink your brief to the Record on Appeal. This solves the concern about not being able to check the final product. Lawyers now will be able to see exactly what the Fifth Circuit judges see. In addition, the toolbox will automatically generate the required Record Excerpts. This automatic functionality should help reduce the number of record excerpts that are rejected by the court for failing to conform to the rules. And if all that fails, the Fifth Circuit has also relatively recently instituted an automatic three-day emergency extension. This gives you extra time if on a due date you find yourself unable to file because of technological problems.

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First appeared as part of the conference materials for the  
34<sup>th</sup> Annual Conference on State and Federal Appeals session  
"U.S. Fifth Circuit Update"