

**Raffi Melkonian**

**@RMFIFTHCIRCUIT**

Fifth Circuit Civil Opinions

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### **About the Author**

Raffi Melkonian is a partner at the Houston law firm of [Wright, Close & Barger LLP](#). He practices in state and federal courts around the country, and in particular in Texas and in the United States Court of Appeals for the Fifth Circuit. He is a graduate of the University of St. Andrews, the University of Cambridge, and Harvard Law School, and was a law clerk for Judge Jennifer Walker Elrod of the Fifth Circuit.

## Introduction

Lawyers who practiced in New York City in the early 2000s will remember being handed a Zagat Guide to New York City restaurants. The ubiquitous burgundy-covered book offered pithy snippets about each significant restaurant in the City, along with a score and some symbols telling you whether it might be good to take a date or whether it was better suited to a raucous night out with the lads.

I remember reading my Zagat's late at night in my office as I worked in my ill-fated role as a Mergers and Acquisitions lawyer at a well-known law firm. I'd flip through the snappy descriptions while I looked out my window at all the people enjoying their free time on the weekends and evenings. Did I know what eating at the great Le Bernardin was like? No, but Zagat's description of the magisterial "seafood shrine" kept me going through many a night.

This year, I thought it would be fun to produce a Zagat-like guide to the cases of the Fifth Circuit. Below, you will find witty (and less witty) descriptions of each *published* civil case issued by the Fifth Circuit in 2023 (excluding petitions for writs of habeas corpus). Like Zagat's, I'm not trying to describe the whole case in these snippets. It's a morsel that hopefully tells you whether you should read the rest.

The descriptions are followed by tags to tell you what kind of case it is or some other salient fact: whether it involves **Civil Rights** or is a case that implicates **Textualism** or cites the crucial Scalia and Garner Hornbook, **Reading Law**. I have also indicated with three \*\*\* the cases of the greatest interest or significance of the year. All of these categories, of course, are mine, and you are welcome to disagree with my coding of the cases. Obviously, the trends illuminated by this work may be misleading: the published work of the Fifth Circuit may differ substantially from the unpublished docket. Nonetheless, I am still hopeful that something can be gleaned from this work.

At least for me, as the author, what the work below illustrates is the breadth of the Fifth Circuit's caseload. For example, out of the roughly 200 cases covered in this compendium, more than 30 involve invocations of qualified immunity, many in police cases. There are numerous challenges to administrative actions (more than I would have guessed), many of them raising broad challenges to agency power. This almanac also shows that if you want to litigate breaches of contract, insurance coverage is where it's at. And as one might guess, between various civil rights claims and labor and employment cases, allegations of discrimination and failure to accommodate occupy much of the Court's time during the year.

I hope this is a useful tool for readers. I intend to update it further with additional indexes and other changes as I discover errors or omissions. But as it stands, I think it accomplishes the goal of aping the Zagat: to give the reader a small taste of each significant case issued by the United States Court of Appeals for the Fifth Circuit for 2023. Happy reading!

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