

Alert | Financial Services Litigation



April 2024

5th Circuit Says District Court Lacked Jurisdiction to Transfer CFPB Late-Fee Rule Suit Out of Texas

In the ongoing lawsuit between the U.S. Chamber of Commerce and bank trade groups including the Fort Worth Chamber of Commerce, Longview Chamber of Commerce, American Bankers Association, Consumer Bankers Association, and Texas Association of Business (Plaintiffs) and the Consumer Financial Protection Bureau (CFPB) in the U.S. District Court for the Northern District of Texas over its new rule to limit credit card late fees to \$8 (the Final Rule), the case is on the move again.

In response to a March 28, 2024, order from the Hon. Judge Mark T. Pittman granting the CFPB's motion to transfer the case from Texas to Washington, D.C.,¹ the Fifth Circuit on April 5 ordered a return to Texas. Plaintiffs challenged the transfer as invalid because Judge Pittman's transfer decision came after Plaintiffs appealed their request for an immediate injunction against the Final Rule. A three-judge panel from the Fifth Circuit considered Plaintiffs' petition for writ of mandamus, and agreed that "the district court acted without jurisdiction." The Fifth Circuit stated, "Once a party properly appeals something a district court has done—here, the effective denial of a preliminary injunction—the district court has zero jurisdiction to do anything that alters the case's status. Importantly, we are not announcing today a broad rule regarding inter-circuit transfers. Indeed, we do not even reach the question of where this case rightly belongs. Our decision today is exceedingly narrow and procedural, focused not on the correctness of the district court's transfer order but rather on whether the court had jurisdiction to enter it. On these facts, it

¹ See [GT Alert](#).

did not.” For these reasons, the Court granted Plaintiffs’ petition for mandamus, vacated the district court’s transfer order, and ordered the district court to reopen the case in Texas.

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