

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

January 31, 2023

Lyle W. Cayce  
Clerk

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No. 22-10387

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NATIONAL HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; ARIZONA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, ARKANSAS HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; INDIANA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; ILLINOIS HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; LOUISIANA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; MOUNTAINEER PARK HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; NEBRASKA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; OKLAHOMA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; OREGON HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; PENNSYLVANIA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; WASHINGTON HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; TAMPA BAY HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,

*Plaintiffs—Appellants,*

STATE OF TEXAS; TEXAS RACING COMMISSION,

*Intervenor Plaintiffs—Appellants,*

*versus*

JERRY BLACK; KATRINA ADAMS; LEONARD COLEMAN; MD NANCY COX; JOSEPH DUNFORD; FRANK KEATING; KENNETH SCHANZER; HORSERACING INTEGRITY AND SAFETY AUTHORITY, INCORPORATED; FEDERAL TRADE COMMISSION;

COMMISSIONER KELLY SLAUGHTER; COMMISSIONER ROHIT  
CHOPRA; COMMISSIONER NOAH PHILLIPS; COMMISSIONER  
CHRISTINE WILSON,

*Defendants—Appellees.*

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Appeal from the United States District Court  
For the Northern District of Texas  
USDC No. 5:21-CV-71

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UNPUBLISHED ORDER

Before KING, DUNCAN, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

Appellees Jerry Black, Katrina Adams, Leonard Coleman, Nancy Cox, Joseph Dunford, Frank Keating, Kenneth Schanzer, and Horseracing Integrity and Safety Authority, Inc. have moved to vacate the panel’s opinion in light of Congress’s recent amendment to the Horseracing Integrity and Safety Act. *See* Consolidated Appropriations Act, 2023, div. O, tit. VII, § 701 (2022). They have also moved for panel rehearing on the same basis. The remaining Appellees—the Federal Trade Commission, Kelly Slaughter, Rohit Chopra, Noah Phillips, and Christine Wilson—have separately moved for panel rehearing, also based on the recent amendment.

The motion to vacate the panel’s opinion is DENIED. The motions for panel rehearing are DENIED. The case is REMANDED to the district court for further proceedings. Any further appeal will be to this panel.

The mandate shall issue forthwith.

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

January 31, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-10387 National Horsemen's Benevolent v. Black  
USDC No. 5:21-CV-71

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Melissa B. Courseault, Deputy Clerk  
504-310-7701

Mr. Joseph Forrest Busa  
Mr. Fernando Manuel Bustos  
Ms. Autum Flores  
Mr. Gregory George Garre  
Mr. Eric Grant  
Mr. Jeffrey Jennings  
Ms. Karen S. Mitchell  
Mr. Lide E. Paterno  
Ms. Lanora Christine Pettit  
Mr. John Roach  
Mr. Cody Tyler Rutowski  
Mr. Peter J. Sacopulos  
Mr. Paul Emmanuel Salamanca  
Mr. Pratik A. Shah  
Mr. Blake E. Stafford  
Mr. Reilly Stephens  
Mr. Mark Bernard Stern  
Mr. Daniel Robert Suhr