

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

July 21, 2023

Lyle W. Cayce  
Clerk

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No. 22-51124

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KEVIN CLARKE; TREVOR BOECKMANN; HARRY CRANE; CORWIN  
SMIDT; ARISTOTLE INTERNATIONAL, INCORPORATED; PREDICT  
IT, INCORPORATED; MICHAEL BEELER; MARK BORGHİ;  
RICHARD HANANIA; JAMES D. MILLER; JOSIAH NEELEY;  
GRANT SCHNEIDER; WES SHEPHERD,

*Plaintiffs—Appellants,*

*versus*

COMMODITY FUTURES TRADING COMMISSION,

*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:22-CV-909

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Before GRAVES, HO, and DUNCAN, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and was argued by  
counsel.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is REVERSED and REMANDED to the District Court for further proceedings in accordance with the opinion of this Court.

IT IS FURTHER ORDERED that defendant-appellee pay to plaintiffs-appellants the costs on appeal to be taxed by the Clerk of this Court.

JAMES C. HO, *Circuit Judge*, concurring.

JAMES E. GRAVES, JR., *Circuit Judge*, dissenting.