

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

KEVIN CLARKE, TREVOR  
BOECKMANN, HARRY CRANE, CORWIN  
SMIDT, PREDICT IT, INC., ARISTOTLE  
INTERNATIONAL, INC., MICHAEL  
BEELER, MARK BORGHI, RICHARD  
HANANIA, JAMES MILLER, JOSIAH  
NEELEY, GRANT SCHNEIDER, and WES  
SHEPHERD,

*Plaintiffs,*

v.

COMMODITY FUTURES TRADING  
COMMISSION,

*Defendant.*

Civil Docket No. 1:24-cv-00167-JMC

The Honorable Jia M. Cobb

**NOTICE OF FIFTH CIRCUIT MANDAMUS RULING RELEVANT TO THIS CASE  
AND REQUEST FOR RULING ON PROCEDURAL MOTION PREVIOUSLY FILED  
BY DEFENDANT CFTC BEFORE ANY COURT DETERMINATION REGARDING  
RESPONSE TO FIFTH CIRCUIT RULING**

This case was originally filed in the United States District Court for the Western District of Texas, but that court, under 5 U.S.C. § 1404(a), ordered the case transferred to the United States District Court for the District of Columbia, where it was docketed on January 19th of this year. Defendant Commodity Futures Trading Commission (“CFTC”) hereby notifies this Court that, on March 1, 2024, the United States Court of Appeals for the Fifth Circuit issued a writ of mandamus directing the District Court for the Western District of Texas to request a retransfer of this case back to the Western District of Texas. *See In re: Clarke*, No. 24-50079 (5th Cir. March 1, 2023). A copy of the Fifth Circuit ruling is attached as Attachment 1. As a result of the Fifth Circuit writ, this Court can expect to receive a request for retransfer in the immediate

future.

On February 21, 2024, the CFTC filed an opposed motion in this Court requesting procedures that should be followed in the event this Court receives a request for retransfer. *See* Dkt. 63. Specifically, the CFTC moved the Court, in the event of a request to retransfer, to stay all proceedings in this case and order briefing on the issue of retransfer before it determines whether to retransfer the case. A copy of the motion is attached as Attachment 2. Reasons for the motion are set forth therein. This Court has not yet ruled on the February 21, 2024 motion.<sup>1</sup>

The CFTC hereby requests that the Court rule on the CFTC's February 21 motion, or otherwise schedule briefing on the issue of retransfer, before it makes its determination regarding how to respond to the request for retransfer ordered by the Fifth Circuit's March 1, 2024 decision.

Respectfully submitted,

/s/ Martin B. White

Robert A. Schwartz (D.C. Bar No. 489240)

*General Counsel*

Anne W. Stukes (D.C. Bar. No. 469446)

*Deputy General Counsel*

Martin B. White (D.C. Bar. No. 221259)

*Senior Assistant General Counsel*

U.S. COMMODITY FUTURES TRADING  
COMMISSION

Three Lafayette Centre

1155 21st Street, N.W.

Washington, DC 20581

Phone: (202) 993-1390

Fax: (202) 418-5567

mwhite@cftc.gov

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<sup>1</sup> Under Local Civil Rule 7(b), Plaintiffs' opposition to the motion is due on March 6, 2024.

CERTIFICATE OF SERVICE

I certify that on March 3, 2024, I caused the foregoing document to be served on the Clerk of the Court using the Court's CM/ECF system, which will send notice to all counsel of record in this case.

/s/ Martin B. White

Martin B. White