

# Current Issues in Civil Law



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# *Hopkins v. Secretary of State Watson*

108 F.4th 371 (5th Cir. 2024)



**Claim:** Convicted felons filed a class action challenging the provision in the Mississippi Constitution permanently disenfranchising them.

**Question Presented:** Does the provision violate the Eighth Amendment?



# *Abraham Watkins Nichols Agosto Aziz & Stogner v. Festeryga*

109 F.4th 810, rehearing en banc granted,  
WL 4152421 (5th Cir. September 11, 2024)

**Claim:** Law firm sues former associate  
for taking clients and files to a new firm.

**Question Presented:** Is a remand order  
based on waiver by state-court  
participation one of the few that can be  
reviewed on appeal?





# *John Doe v. McKesson*

71 F.4th 278 (5th Cir. 2023)

**Claim:** Police officer sues organizer of Black Lives Matter protest after the officer is injured by an unidentified protester.

**Question Presented:** Would imposing liability in this scenario violate the First Amendment?



# *Plaquemines Parish v. BP American Production Company, 103 F.4th 324 (5th Cir. 2024)*

**Claim:** Several Louisiana coastal parishes, joined by the Louisiana Attorney General and the Louisiana Secretary of Natural Resources, filed lawsuits against various oil and gas companies, alleging violations of Louisiana's State and Local Coastal Resources Management Act of 1978. The companies removed these cases to federal court on the assertion that they satisfied the requirements of the federal officer removal statute due to their refining contracts with the government during World War II.

**Question Presented:** Did the oil companies satisfy the "acting under" requirement of the federal officer removal statute based on their compliance with federal regulations or cooperation with federal agencies?



# ***Barron v. United States of America***

111 F.4th 667 (5th Cir. 2024)

**Claim:** Anthony Barron, a civilian contractor, drowned while driving through a low water crossing at Camp Bullis, a U.S. military facility near San Antonio, Texas. His parents sued under the Federal Tort Claims Act on allegations that the crossing was not closed or guarded despite regulations requiring such measures during heavy rain. Their suit was premised on theories of general negligence, premises liability, and negligent undertaking.

## **Question Presented:**

Whether, under Texas law, a negligent undertaking claim can proceed when a premises liability claim is barred by the natural accumulation doctrine?

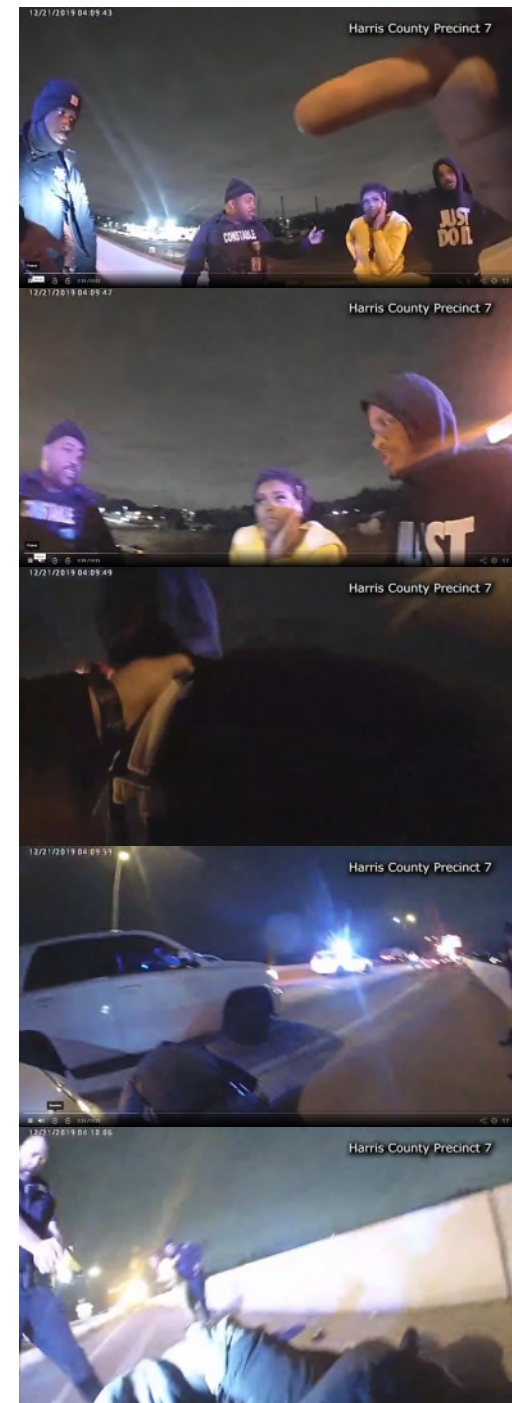


# *Spiller v. Harris County*

113 F.4th 573 (5th Cir. 2024)

**Claim:** Around 4 am, Spiller drove to assist his girlfriend, Moore, who had a minor single car accident on a Houston highway. Spiller and Moore peaceably conversed with officers at the scene until a supervisor, Sgt. Lindsay, arrived. While questioning Moore, Lindsay rebuked Spiller for attempting to answer for his girlfriend. Lindsay then directed Moore to go with an officer to a nearby truck stop for further procedures, and Lindsay told Spiller to follow them in his car. After Spiller attempted to ask Lindsay why and what would happen to Moore, Lindsay quickly approached Spiller, seized him at his neck, and slammed him on the hood of a car. They tumbled to the pavement and other officers intervened, tasing Spiller in his back. Spiller was arrested and taken into custody, but charges were later dropped. Spiller sued under 42 U.S.C. § 1983, alleging excessive force and other violations.

**Question Presented:** Whether video evidence refutes Plaintiff's version of events and entitles officer to qualified immunity from excessive force claim on summary judgment.



# Sgt. Lindsay Body Camera Footage



For full video, see M. Shay, Harris County Deputy Constable Accused of Using Excessive Force, ABC13.com (Nov. 17, 2020), <https://perma.cc/BD7X-7VBL>.



# Consumers' Research v. CPSC

91 F.4th 342 (5th Cir. 2024), *reh'g denied*, 98 F.4th 646 (5th Cir. 2024)



**Claim:** Consumers' Research and By Two are educational organizations that research consumer products and regularly submit FOIA requests to the Consumer Product Safety Commission. The CPSC is an independent agency charged with protecting the public against unreasonable risks of injury from consumer products. Under 15 U.S.C. § 2053(a), the agency's commissioners can only be removed by the President for cause. The organizations sued the CPSC after the agency denied a set of FOIA requests in 2021. They argued that the CPSC's FOIA procedures are administered by an agency that is unconstitutionally insulated from the President.

**Question Presented:** Whether the CPSC's structure as an independent agency headed by a multi-member board with for-cause removal protection violates the Constitution's separation of powers.

# *Transamerica Life Ins. Co. v. Moore*



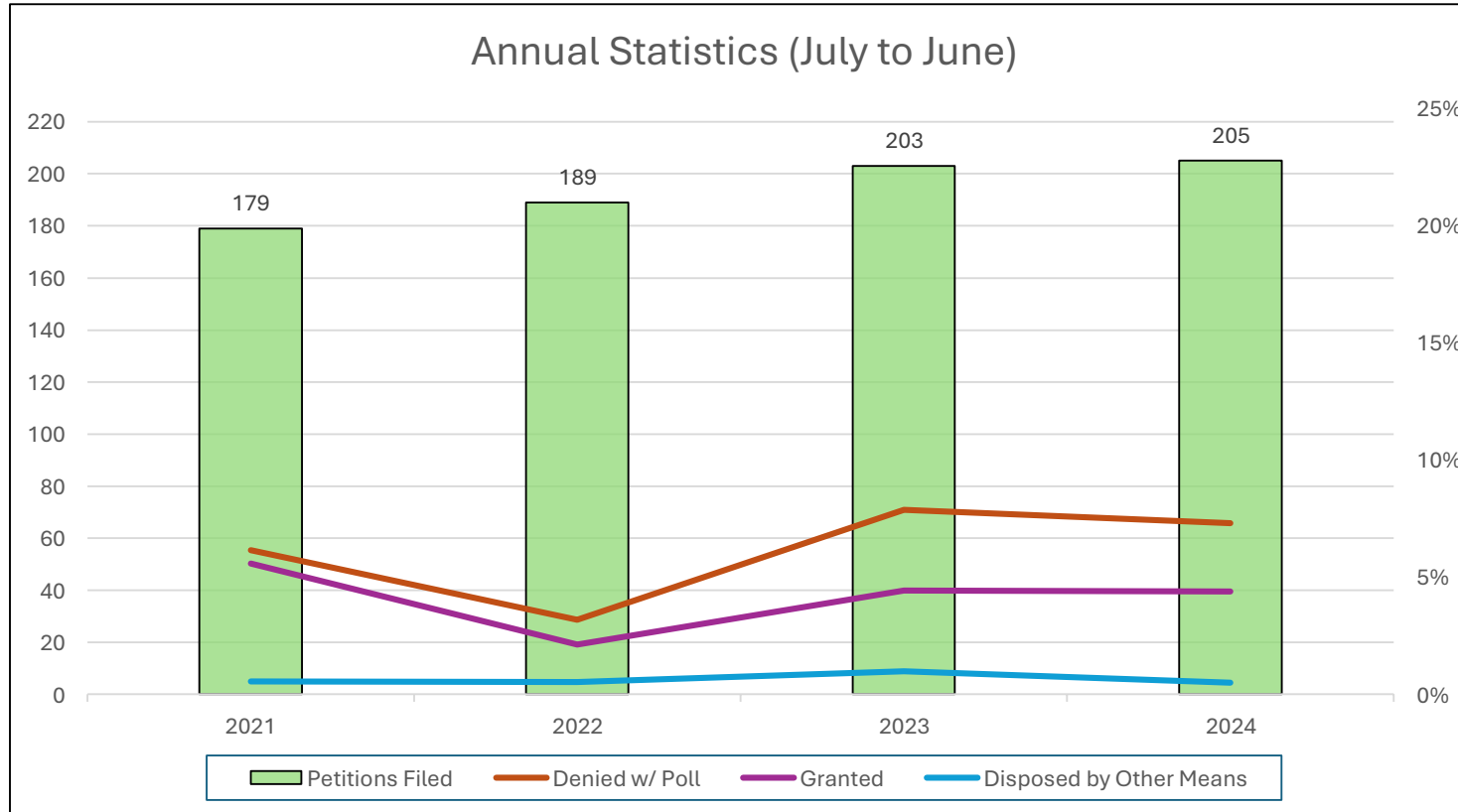
105 F.4th 823 (5th Cir. 2024)



**Claim:** Life insurer filed interpleader to determine who is entitled to life insurance proceeds.

**Question Presented:** Does a Texas law that strips the insured's spouse of beneficiary interests after divorce apply to someone who was named beneficiary before becoming the insured's spouse?

# En Banc Review in the Fifth Circuit



	2021	2022	2023	2024
Rehearing Petitions Filed	179	189	203	205
<b>Denied</b>	<b>175</b>	<b>163</b>	<b>199</b>	<b>199</b>
<i>with a poll vote</i>	11	6	16	15
<i>without a poll vote</i>	164	157	183	184
<b>Granted</b>	<b>10</b>	<b>5</b>	<b>9</b>	<b>9</b>
<i>on petition with argument</i>	7	3	8	7
<i>on petition without argument</i>	1	0	1	0
<i>sua sponte</i>	2	1	0	2
<b>Disposed by other means</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>1</b>

**Source:** Fifth Circuit, Clerk’s Annual Reports, <https://www.ca5.uscourts.gov/about-the-court/court-statistics>.

**Notes:** (1) Annual figures reflect the one-year period prior to June 30 in the year indicated (e.g., 2024 reflects figures from July 1, 2023 to June 30, 2024). (2) The amounts for grants, denials, and disposals (along with the percentages) are not only of the petitions filed within each statistical year because a handful of petitions remain pending at the open and close of the annual period. For instance, there were 25 petitions pending as of July 1, 2023 and 21 petitions pending as of June 30, 2024.