

No. 22-10061

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Jamie Wazelle; Tay Aung; Elizabeth Casel; Manivanh
Chanthanakhone; Manuel Contreras, *et al*,
Plaintiffs–Appellants,

v.

Tyson Foods, Incorporated; Ernesto Sanchez;
Kevin Kinikin; Farren Fernandez,
Defendants–Appellees.

On Appeal from the United States District Court
for the Northern District of Texas, Amarillo Division
No. 2:20-CV-203, Hon. Matthew J. Kacsmaryk, *Presiding Judge*

OPENING BRIEF FOR PLAINTIFFS–APPELLANTS

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Appellants	Appellees
Jamie Wazelle	Tyson Foods, Incorporated
Tay Aung	Ernesto Sanchez
Elizabeth Casel	Kevin Kinikin
Manivanh Chanthanakhone	Farren Fernandez
Manuel Contreras	
Rebeca Corral	
Patricia Cossey	
Jozette Escoto	
Cruz Garcia, Sr.	
Sheryl Gardner	
Denetria Gonzalez	
Rene Gutierrez	
Brian Hall	
Brandon Ivory	
Nini Aye Kayahphu	
Ko Latt	
Armando Lira	
Derestia Lira	
Mya Lira	
Valarie Lira	
Aung Moe	
Biak Morris	
Maleak Rector	
Maricela Rios	

<p>Natasha Rios Guadalupe Rondan Miguel Rondan Javier Rubio Ignacio Ruiz Sylvia Ruiz Mitchell Sanchez Billy Shaw Kyaw Soe Nyein Soe Thida Soe Breana Solis Ladonna Trull Tin Soe Danny Woodall Carlos Corral Jonathan Haws</p>	
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<p>District Judge Matthew J. Kacsmaryk</p>	
<p>Magistrate Judge Lee Ann Reno</p>	

Respectfully Submitted,

s/ Andrew R. Gould
Andrew R. Gould
*Attorney of Record for Plaintiffs–
Appellants*

STATEMENT REGARDING ORAL ARGUMENT

Plaintiffs–Appellants respectfully request oral argument. Although this appeal involves several significant legal issues, the primary one concerns subject-matter jurisdiction. Among other questions, this Court must decide if the Federal Government’s mere encouragement to a company to continue operating during the beginning days of the COVID-19 pandemic gives rise to federal-officer-removal jurisdiction under 28 U.S.C. § 1442(a)(1). Oral argument would substantially assist this Court in resolving that threshold—and nationally important—jurisdictional issue.

At the same time, Plaintiffs–Appellants note three related cases pending before this Court:

1. *Glenn v. Tyson Foods, Inc.*, No. 21-40622, consolidated with *Chavez v. Tyson Foods, Inc.*, No. 21-11110: This consolidated appeal, which arises from the district courts’ *grants* of plaintiffs’ motions to remand, involves substantially similar jurisdictional issues (including federal-officer removal). That appeal is fully briefed, and a panel of this Court (Willett, Englehardt, Wilson, JJ.) will hear oral argument on May 10, 2022.
2. *Fields v. Brown*, No. 21-40818: This appeal, which arises from the district court’s denial of plaintiffs’ motion to remand and its subsequent grant of defendants’ motion to dismiss, involves substantially similar jurisdictional and merits issues. Plaintiffs–Appellants filed their opening brief on March 9, 2022; Defendants–Appellees’ response brief is due on May 9.

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