

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

May 25, 2017

Lyle W. Cayce
Clerk

No. 15-50168

LYNN ROWELL, doing business as Beaumont Greenery; MICAH P. COOKSEY; MPC DATA AND COMMUNICATIONS, INCORPORATED; MARK HARKEN; NXT PROPERTIES, INCORPORATED; PAULA COOK; MONTGOMERY CHANDLER, INCORPORATED; SHONDA TOWNSLEY; TOWNSLEY DESIGNS, L.L.C.,

Plaintiffs - Appellants

v.

LESLIE L. PETTIJOHN, in her official capacity as Commissioner of the Office of Consumer Credit Commissioner of the State of Texas,

Defendant - Appellee

Appeal from the United States District Court
for the Western District of Texas

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before DAVIS, BARKSDALE, and DENNIS, Circuit Judges.

PER CURIAM:

In *Rowell v. Pettijohn*, 816 F.3d 73 (5th Cir. 2016), our court affirmed the dismissal of appellants' challenge to Texas' Anti-Surcharge Law, which prohibits merchants from imposing surcharges for credit-card purchases. We held the law did not implicate the First Amendment's free-speech protections and was not unconstitutionally vague. *Id.* at 82, 84.

No. 15-50168

On 29 March 2017, the Supreme Court, in a similar matter, *Expressions Hair Design v. Schneiderman*, 137 S. Ct. 1144 (2017), held speech was regulated and remanded to the second circuit. As a result, the Court remanded this matter to our court “for further consideration in light of *Expressions Hair Design*”. *Rowell v. Pettijohn*, No. 15-1455 (U.S. Apr. 3, 2017).

Accordingly, this matter is REMANDED to district court for further proceedings consistent with *Expressions Hair Design*.