

# A Latin prescription for redaction headaches

*New corporate reporting requirement could affect newspapers, depending on court outcome.*

On the first business day of January this year, the judge in *Gross v. Parson* pending in Cole County Circuit Court issued a *nunc pro tunc* judgment on his earlier partial judgment declaring the state law requiring redactions from court records unconstitutional.

*Nunc pro tunc*. Latin for: “Now for then.” Legalese for: “Do over.”\* Occasionally reporters might come across this phrase on Casenet, when a court issues a second judgment *nunc pro tunc*, correcting a clerical error in an earlier judgment. Trial judges retain their plenary power to correct their own records, and this includes their judgments. So, this Latin phrase lets them issue their own corrections.

The upshot is this: The *Gross v. Parson* decision, if it stands, should ameliorate the redaction headaches reporters have been facing ever since witness names began being blotted in court files. At press time, the Missouri Attorney General’s office still had not attempted an interlocutory appeal. And the time for a formal appeal typically does not begin until the case is fully decided.

The *nunc pro tunc* judgment does not alter though what is currently a standing order that the redaction portions of the law are unconstitutional. We will get more certainty once a final judgment resolving all matters is issued.

*\*It’s a phrase I wish I could apply to other areas of my life. If the New Year is a time for a reset, perhaps nunc pro tunc is the path forward this year.*

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In another year-end legal battle, small businesses nationwide continue to be whipsawed by decisions

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regarding the implementation of the Corporate Transparency Act (“CTA”)’s Beneficial Ownership Information reporting requirements. The Supreme Court on January 23, 2025, reinstated the law, despite a Fifth Circuit decision around Christmas that stayed the laws provisions – including stiff fines for failing to report – while the legal challenge works its way through the courts.

Although it surprises me every time I come across it, the federal CTA, which took effect in 2024, would have required businesses to register with the U.S. Department of Treasury’s Financial Crimes Enforcement

Network (FinCEN) by submitting a form and identification for business owners. The stated goal is to create a database that law enforcement, courts, regulators, prosecutors, banks (but alas, not journalists) to crack down on shell companies engaged in illicit activities. But the Act’s requirements are still not widely known, and they impose another administrative burden on small businesses.

Here’s the kicker, though: Originally, if a business failed to register by December 31, 2024, they may be subjected to a \$591 daily penalty. They could also be subject to a \$10,000 fine and up to two years of imprisonment.

Even though the Supreme Court reversed the Fifth Circuit’s freeze on the law’s requirements, another Texas U.S. District Court has issued a separate stay on the law. Because that separate stay remains unchallenged, FinCEN is taking the position – currently – that small businesses do not have to file beneficial ownership yet, but may do so voluntarily. More information can be found at <https://boiefiling.fincen.gov/>.

Take away for newspapers: As of right now, there is no reporting requirement in effect. But this could prove very temporary. It all could change as soon as the Fifth Circuit issues its substantive opinion on the CTA’s legality, or the other district court’s stay is rescinded or challenged.

