

JUDGE BRETT M. KAVANAUGH  
SENATE JUDICIARY COMMITTEE  
QUESTIONNAIRE

**APPENDIX 13(B)**  
CITATIONS FOR WRITTEN OPINIONS

**Below is a list of opinions I have written (including concurrences and dissents) that are available on Westlaw.**

*Saint Francis Med. Ctr. v. Azar*, No. 17-5098, 2018 WL 3188393 (D.C. Cir. June 29, 2018)

*Clemente v. FBI*, 714 Fed. App'x 2 (D.C. Cir. 2018)

*United States v. Brown*, 892 F.3d 385 (D.C. Cir. June 15, 2018)

*Island Architectural Woodwork, Inc. v. NLRB*, No. 16-1303, 2018 WL 2992909 (D.C. Cir. June 15, 2018)

*PHH Corp. v. CFPB*, 881 F.3d 75 (D.C. Cir. 2018)

*United States v. Haight*, 892 F.3d 1271 (D.C. Cir. 2018)

*FTC v. Boehringer Ingelheim Pharmaceuticals, Inc.*, 892 F.3d 1264 (D.C. Cir. 2018)

*Santa Fe Disc. Cruise Parking, Inc. v. Fed. Mar. Comm'n*, 889 F.3d 795 (D.C. Cir. 2018)

*United States v. Lee*, 888 F.3d 503 (D.C. Cir. 2018)

*Laccetti v. SEC*, 885 F.3d 724 (D.C. Cir. 2018)

*Nw. Corp. v. FERC*, 884 F.3d 1176 (D.C. Cir. 2018)

*Casey v. McDonald's Corp.*, 880 F.3d 564 (D.C. Cir. 2018)

*Saad v. SEC*, 873 F.3d 297 (D.C. Cir. 2017)

*Ortiz-Diaz v. HUD*, 697 Fed. App'x 6 (D.C. Cir. 2017)

*Ortiz-Diaz v. HUD*, 867 F.3d 70 (D.C. Cir. 2017)

*Competitive Enter. Inst. v. U. S. Dep't of Transp.*, 863 F.3d 911 (D.C. Cir. 2017)

*Navajo Nation v. U.S. Dep't of Interior*, 852 F.3d 1124 (D.C. Cir. 2017)

*Garza v. Hargan*, 874 F.3d 735 (D.C. Cir. 2017), *vacated sub nom.*, *Azar v. Garza*, 138 S. Ct. 1790 (2018)

*Lorenzo v. SEC*, 872 F.3d 578 (D.C. Cir. 2017), *cert. granted*, No. 17-1077, 2018 WL 646998 (U.S. June 18, 2018)

*Midwest Div. – MMC, LLC v. NLRB*, 867 F.3d 1288 (D.C. Cir. 2017)

*NLRB v. CNN Am., Inc.*, 865 F.3d 740 (D.C. Cir. 2017)

*Washington All. of Tech. Workers v. DHS*, 857 F.3d 907 (D.C. Cir. 2017), *cert. denied*, 138 S. Ct. 1276 (2018)

*U.S. Telecom Ass’n v. FCC*, 855 F.3d 381 (D.C. Cir. 2017)

*United States v. Anthem, Inc.*, 855 F.3d 345 (D.C. Cir.), *cert. dismissed*, 137 S. Ct. 2250 (2017)

*John Doe Co. v. CFPB*, 849 F.3d 1129 (D.C. Cir. 2017)

*Fourstar v. Garden City Group, Inc.*, 875 F.3d 1147 (D.C. Cir. 2017)

*Multicultural Media, Telecom & Internet Council v. FCC*, 873 F.3d 932 (D.C. Cir. 2017)

*Mexichem Fluor, Inc. v. EPA*, 866 F.3d 451 (D.C. Cir. 2017), *petition for cert. filed*, No. 17-1703

*Ams. for Clean Energy v. EPA*, 864 F.3d 691 (D.C. Cir. 2017)

*Allina Health Servs. v. Price*, 863 F.3d 937 (D.C. Cir. 2017), *petition for cert. filed*, No. 17-1484

*NRG Power Mktg., LLC v. FERC*, 862 F.3d 108 (D.C. Cir. 2017)

*Ames v. DHS*, 861 F.3d 238 (D.C. Cir. 2017)

*Envtl. Integrity Project v. EPA*, 864 F.3d 648, 649 (D.C. Cir. 2017)

*Limnia, Inc. v. U. S. Dep’t of Energy*, 857 F.3d 379 (D.C. Cir. 2017)

*Taylor v. Huerta*, 856 F.3d 1089 (D.C. Cir. 2017)

*Kahl v. Bureau of Nat'l Affairs, Inc.*, 856 F.3d 106 (D.C. Cir.), *cert. denied*, 138 S. Ct. 366 (2017)

*Kincaid v. Gov't of D.C.*, 854 F.3d 721 (D.C. Cir. 2017)

*Carpenters Indus. Council v. Zinke*, 854 F.3d 1 (D.C. Cir. 2017)

*Bais Yaakov of Spring Valley v. FCC*, 852 F.3d 1078 (D.C. Cir. 2017), *cert. denied*, 138 S. Ct. 1043 (2018)

*Johnson v. Interstate Mgmt. Co.*, 849 F.3d 1093 (D.C. Cir. 2017)

*Ctr. for Regulatory Reasonableness v. EPA*, 849 F.3d 453 (D.C. Cir. 2017), *cert. denied*, 138 S. Ct. 1041 (2018)

*Bahlul v. United States*, 840 F.3d 757 (D.C. Cir. 2016), *cert. denied*, 138 S. Ct. 313 (2017)

*United States v. Williams*, 836 F.3d 1 (D.C. Cir. 2016)

*Ortiz-Diaz v. HUD*, 831 F.3d 488 (D.C. Cir. 2016)

*Mingo Logan Coal Co. v. EPA*, 829 F.3d 710 (D.C. Cir. 2016)

*Int'l Union, Sec., Police & Fire Professionals of Am. v. Faye*, 828 F.3d 969 (D.C. Cir. 2016)

*Wesby v. D.C.*, 816 F.3d 96 (D.C. Cir. 2016)

*PHH Corp. v. CFPB*, 839 F.3d 1 (D.C. Cir. 2016)

*United States v. Burnett*, 827 F.3d 1108 (D.C. Cir.), *cert. denied sub nom., Young v. United States*, 137 S. Ct. 456 (2016)

*Stovic v. R.R. Ret. Bd.*, 826 F.3d 500 (D.C. Cir.), *cert. denied*, 137 S. Ct. 399 (2016)

*Verizon New England Inc. v. NLRB*, 826 F.3d 480 (D.C. Cir. 2016)

*United States v. Knight*, 824 F.3d 1105 (D.C. Cir. 2016)

*United States v. Nwoye*, 824 F.3d 1129 (D.C. Cir. 2016)

*Sack v. Dep't of Def.*, 823 F.3d 687 (D.C. Cir. 2016)

*In re Khadr*, 823 F.3d 92 (D.C. Cir. 2016)

*D.C. v. Dep't of Labor*, 819 F.3d 444 (D.C. Cir. 2016)

*Indep. Inst. v. FEC*, 816 F.3d 113 (D.C. Cir. 2016)

*United States v. Bell*, 808 F.3d 926 (D.C. Cir. 2015)

*Klayman v. Obama*, 805 F.3d 1148 (D.C. Cir. 2015)

*Meshal v. Higgenbotham*, 804 F.3d 417 (D.C. Cir. 2015)

*Eley v. D.C.*, 793 F.3d 97 (D.C. Cir. 2015)

*Ege v. DHS*, 784 F.3d 791 (D.C. Cir. 2015)

*Sissel v. HHS*, 799 F.3d 1035 (D.C. Cir. 2015)

*Mexichem Specialty Resins, Inc. v. EPA*, 787 F.3d 544 (D.C. Cir. 2015)

*Priests for Life v. HHS*, 808 F.3d 1 (D.C. Cir. 2015)

*Morgan Drexen, Inc. v. CFPB*, 785 F.3d 684 (D.C. Cir. 2015)

*Jackson v. Mabus*, 808 F.3d 933 (D.C. Cir. 2015)

*Abteu v. DHS*, 808 F.3d 895 (D.C. Cir. 2015)

*Friends of Animals v. Ashe*, 808 F.3d 900 (D.C. Cir. 2015)

*Fla. Bankers Ass'n v. U.S. Dep't of the Treasury*, 799 F.3d 1065 (D.C. Cir. 2015)

*EME Homer City Generation, LP v. EPA*, 795 F.3d 118 (D.C. Cir. 2015)

*State Nat. Bank of Big Spring v. Lew*, 795 F.3d 48 (D.C. Cir. 2015)

*Initiative & Referendum Inst. v. U.S. Postal Serv.*, 794 F.3d 21 (D.C. Cir. 2015)

*Energy Future Coal. v. EPA*, 793 F.3d 141 (D.C. Cir. 2015)

*S. New England Tel. Co. v. NLRB*, 793 F.3d 93 (D.C. Cir. 2015)

*Venetian Casino Resort, LLC v. NLRB*, 793 F.3d 85 (D.C. Cir. 2015)

*Indep. Producers Group v. Librarian of Cong.*, 792 F.3d 132 (D.C. Cir. 2015)

*United States v. Bostick*, 791 F.3d 127 (D.C. Cir. 2015)

*In re Stevenson*, 789 F.3d 197 (D.C. Cir. 2015)

*In re Murray Energy Corp.*, 788 F.3d 330 (D.C. Cir. 2015)

*United States v. Williams*, 784 F.3d 798 (D.C. Cir. 2015)

*Abbas v. Foreign Policy Group, LLC*, 783 F.3d 1328 (D.C. Cir. 2015)

*Cannon v. D.C.*, 783 F.3d 327 (D.C. Cir. 2015)

*Am. Meat Inst. v. U.S. Dep't of Agric.*, 760 F.3d 18 (D.C. Cir. 2014)

*Util. Air Regulatory Group v. EPA*, 744 F.3d 741 (D.C. Cir. 2014)

*Fogo De Chao (Holdings) Inc. v. U.S. Dep't of Homeland Sec.*, 769 F.3d 1127 (D.C. Cir. 2014)

*Al Bahlul v. United States*, 767 F.3d 1 (D.C. Cir. 2014)

*White Stallion Energy Ctr., LLC v. EPA*, 748 F.3d 1222 (D.C. Cir. 2014), *rev'd sub nom.*, *Michigan v. EPA*, 135 S. Ct. 2699 (2015)

*SeaWorld of Fla., LLC v. Perez*, 748 F.3d 1202 (D.C. Cir. 2014)

*Alaska v. U.S. Dep't of Agric.*, 772 F.3d 899 (D.C. Cir. 2014)

*Mathew Enter., Inc. v. NLRB*, 771 F.3d 812 (D.C. Cir. 2014)

*Ivy Sports Med., LLC v. Burwell*, 767 F.3d 81 (D.C. Cir. 2014)

*Odhiambo v. Republic of Kenya*, 764 F.3d 31 (D.C. Cir. 2014)

*Nat'l Min. Ass'n v. McCarthy*, 758 F.3d 243 (D.C. Cir. 2014)

*In re Kellogg Brown & Root, Inc.*, 756 F.3d 754 (D.C. Cir. 2014)

*Illinois Pub. Telecommunications Ass'n v. FCC*, 752 F.3d 1018 (D.C. Cir. 2014)

*BNSF Ry. Co. v. Surface Transp. Bd.*, 748 F.3d 1295 (D.C. Cir. 2014)

*Wu v. Stomber*, 750 F.3d 944 (D.C. Cir. 2014)

*Nat'l Sec. Archive v. CIA*, 752 F.3d 460 (D.C. Cir. 2014)

*United States v. Brice*, 748 F.3d 1288 (D.C. Cir. 2014)

*Foote v. Moniz*, 751 F.3d 656 (D.C. Cir. 2014)

*Nat'l Ass'n of Mfrs. v. EPA*, 750 F.3d 921 (D.C. Cir. 2014)

*Teltschik v. Williams & Jensen, PLLC*, 748 F.3d 1285 (D.C. Cir. 2014)

*NRDC v. EPA*, 749 F.3d 1055 (D.C. Cir. 2014)

*Communities for a Better Env't v. EPA*, 748 F.3d 333 (D.C. Cir. 2014)

*United States v. Wright*, 745 F.3d 1231 (D.C. Cir. 2014)

*Loving v. IRS*, 742 F.3d 1013 (D.C. Cir. 2014)

*Public Employees for Environmental Responsibility v. United States Section, International Boundary & Water Commission, United States–Mexico*, 740 F.3d 195 (D.C. Cir. 2014)

*Agape Church, Inc. v. FCC*, 738 F.3d 397 (D.C. Cir. 2013)

*United States v. Duvall*, 740 F.3d 604 (D.C. Cir. 2013)

*Ctr. for Biological Diversity v. EPA*, 722 F.3d 401 (D.C. Cir. 2013)

*Morley v. CIA*, 719 F.3d 689 (D.C. Cir. 2013), *vacated*, 810 F.3d 841 (D.C. Cir. 2016), *cert. denied*, 137 S. Ct. 174 (2016)

*Chlorine Inst., Inc. v. Fed. R.R. Admin.*, 718 F.3d 922 (D.C. Cir. 2013)

*Comcast Cable Commc'ns, LLC v. FCC*, 717 F.3d 982 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 1287 (2014)

*Ayissi-Etoh v. Fannie Mae*, 712 F.3d 572 (D.C. Cir. 2013)

*In re Sealed Case*, 716 F.3d 603 (D.C. Cir. 2013), *cert. dismissed*, 134 S. Ct. 1535 (2014)

*United States v. Martinez-Cruz*, 736 F.3d 999 (D.C. Cir. 2013)

*United States v. Malenya*, 736 F.3d 554 (D.C. Cir. 2013)

*Texas v. EPA*, 726 F.3d 180 (D.C. Cir. 2013)

*Huthnance v. D.C.*, 722 F.3d 371 (D.C. Cir. 2013)

*Howard v. Office of Chief Admin. Officer of U.S. House of Representatives*, 720 F.3d 939 (D.C. Cir. 2013)

*Gordon v. Holder*, 721 F.3d 638 (D.C. Cir. 2013)

*Grocery Mfrs. Ass'n v. EPA*, 704 F.3d 1005 (D.C. Cir.), *cert. denied*, 570 U.S. 917 (2013)

*Moore v. Hartman*, 704 F.3d 1003 (D.C. Cir.), *cert. denied*, 571 U.S. 944 (2013)

*Howard R.L. Cook & Tommy Shaw Found. ex rel. Black Employees of Library of Cong., Inc. v. Billington*, 737 F.3d 767 (D.C. Cir. 2013)

*Ali v. Obama*, 736 F.3d 542 (D.C. Cir. 2013)

*Beaumont Independent School Dist. v. U.S.*, 944 F.Supp.2d 23 (D.D.C. 2013)

*In re Aiken Cty.*, 725 F.3d 255 (D.C. Cir. 2013)

*Int'l Bhd. of Teamsters v. U.S. Dep't of Transp.*, 724 F.3d 206 (D.C. Cir. 2013), *cert. denied*, 571 U.S. 1157 (2014)



*Park v. Comm’r of IRS*, 722 F.3d 384 (D.C. Cir. 2013)

*Int’l Internship Program v. Napolitano*, 718 F.3d 986 (D.C. Cir. 2013)

*U.S. Postal Serv. v. Postal Regulatory Comm’n*, 717 F.3d 209 (D.C. Cir. 2013)

*N. Valley Commc’ns, LLC v. FCC*, 717 F.3d 1017 (D.C. Cir. 2013)

*Int’l Bhd. of Teamsters v. U.S. Dep’t of Transp.*, 714 F.3d 580 (D.C. Cir.), *opinion amended and superseded on denial of reh’g*, 724 F.3d 206 (D.C. Cir. 2013), *cert. denied*, 571 U.S. 1157 (2014)

*United States v. Cardoza*, 713 F.3d 656 (D.C. Cir. 2013)

*United States v. Fareri*, 712 F.3d 593 (D.C. Cir. 2013)

*Indiana Boxcar Corp. v. R.R. Ret. Bd.*, 712 F.3d 590 (D.C. Cir. 2013)

*Citizens for Responsibility & Ethics in Washington v. FEC*, 711 F.3d 180 (D.C. Cir. 2013)

*Cytori Therapeutics, Inc. v. Food & Drug Admin.*, 715 F.3d 922 (D.C. Cir. 2013)

*Farouki v. Petra Int’l Banking Corp.*, 705 F.3d 515 (D.C. Cir. 2013), *aff’d*, 608 Fed. App’x 8 (D.C. Cir. 2015)

*United States v. Duvall*, 705 F.3d 479 (D.C. Cir. 2013)

*Honeywell Int’l, Inc. v. EPA*, 705 F.3d 470 (D.C. Cir. 2013)

*Am. Rd. & Transp. Builders Ass’n v. EPA*, 705 F.3d 453 (D.C. Cir. 2013), *cert. denied*, 571 U.S. 1125 (2014)

*Hodge v. FBI*, 703 F.3d 575 (D.C. Cir. 2013)

*South Carolina v. United States*, No. CV 12-203 BMKJDBCKK, 2012 WL 11922225 (D.D.C. Aug. 22, 2012)

*Rollins v. Wackenhut Servs., Inc.*, 703 F.3d 122 (D.C. Cir. 2012)

*United States v. Mohammed*, 693 F.3d 192 (D.C. Cir. 2012)

*In re Aiken Cty.*, No. 11-1271, 2012 WL 3140360 (D.C. Cir. Aug. 3, 2012)

*Taylor v. Reilly*, 685 F.3d 1110 (D.C. Cir. 2012)

*Hall v. Sebelius*, No. 11-5076, 2012 WL 1940654 (D.C. Cir. May 30, 2012)

*Coal. for Responsible Regulation, Inc. v. EPA*, No. 09-1322, 2012 WL 6621785 (D.C. Cir. Dec. 20, 2012)

*Grocery Mfrs. Ass'n v. EPA*, 693 F.3d 169 (D.C. Cir. 2012)

*Miller v. Clinton*, 687 F.3d 1332 (D.C. Cir. 2012)

*United States v. Burwell*, 690 F.3d 500 (D.C. Cir. 2012)

*Angellino v. Royal Family Al-Saud*, 688 F.3d 771 (D.C. Cir. 2012)

*Rattigan v. Holder*, 689 F.3d 764 (D.C. Cir. 2012)

*Nat'l Fed'n of Fed. Employees–IAM v. Vilsack*, 681 F.3d 483 (D.C. Cir. 2012)

*Angellino v. Royal Family Al-Saud*, 681 F.3d 463 (D.C. Cir. 2012)

*Belize Soc. Dev. Ltd. v. Gov't of Belize*, 668 F.3d 724 (D.C. Cir. 2012), *cert. denied*, 568 U.S. 882 (2012)

*Vann v. U.S. Dep't of Interior*, 701 F.3d 927 (D.C. Cir. 2012)

*Judicial Watch, Inc. v. Soc. Sec. Admin.*, 701 F.3d 379 (D.C. Cir. 2012)

*Hamdan v. United States*, 696 F.3d 1238 (D.C. Cir. 2012)

*South Carolina v. United States*, 898 F. Supp. 2d 30 (D.D.C. 2012)

*EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7 (D.C. Cir. 2012), *rev'd*, 134 S. Ct. 1584 (2014)

*Chevron Corp. v. Weinberg Group*, 682 F.3d 96 (D.C. Cir. 2012)

*United States v. Glover*, 681 F.3d 411 (D.C. Cir. 2012)

*Nat'l Ass'n of Indep. Labor v. FLRA*, 680 F.3d 839 (D.C. Cir. 2012)

*Mobil Pipe Line Co. v. FERC*, 676 F.3d 1098 (D.C. Cir. 2012)

*New York–New York, LLC v. NLRB*, 676 F.3d 193 (D.C. Cir. 2012), *cert. denied*, 568 U.S. 1244 (2013)

*Mfrs. Ry. Co. v. Surface Transp. Bd.*, 676 F.3d 1094 (D.C. Cir. 2012)

*Metroil, Inc. v. ExxonMobil Oil Corp.*, 672 F.3d 1108 (D.C. Cir. 2012)

*Coal. for Mercury-Free Drugs v. Sebelius*, 671 F.3d 1275 (D.C. Cir. 2012)

*Veritas Health Servs., Inc. v. NLRB*, 671 F.3d 1267 (D.C. Cir. 2012)

*Keohane v. United States*, 669 F.3d 325 (D.C. Cir. 2012)

*Bakhtiar v. Islamic Republic of Iran*, 668 F.3d 773 (D.C. Cir. 2012)

*Hall v. Sebelius*, 667 F.3d 1293 (D.C. Cir. 2012), *cert. denied*, 568 U.S. 1085 (2013)

*U.S. Dep't of Navy v. Fed. Labor Relations Auth.*, 665 F.3d 1339 (D.C. Cir. 2012)

*Ne. Hosp. Corp. v. Sebelius*, 657 F.3d 1 (D.C. Cir. 2011)

*Stephens v. U.S. Airways Group*, 644 F.3d 437 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 1857 (2012)

*In re Aiken Cty.*, 645 F.3d 428 (D.C. Cir. 2011)

*Mahoney v. Doe*, 642 F.3d 1112 (D.C. Cir. 2011)

*Seven-Sky v. Holder*, 661 F.3d 1 (D.C. Cir. 2011), *cert. denied*, 567 U.S. 951 (2012)

*Heller v. D.C.*, 670 F.3d 1244 (D.C. Cir. 2011)

*Doe v. Exxon Mobil Corp.*, 654 F.3d 11 (D.C. Cir. 2011), *vacated*, 527 Fed. App'x 7 (D.C. Cir. 2013)

*Cohen v. United States*, 650 F.3d 717 (D.C. Cir. 2011)

*Roth v. U.S. Dep't of Justice*, 642 F.3d 1161 (D.C. Cir. 2011)

*Rattigan v. Holder*, 643 F.3d 975 (D.C. Cir. 2011)

*United States v. Franklin*, 663 F.3d 1289 (D.C. Cir. 2011)

*Bluman v. FEC*, 800 F. Supp. 2d 281 (D.D.C. 2011), *aff'd*, 565 U.S. 1104 (2012)

*Otay Mesa Prop., L.P. v. U.S. Dep't of Interior*, 646 F.3d 914 (D.C. Cir. 2011)

*America v. Mills*, 643 F.3d 330 (D.C. Cir. 2011), *cert. denied*, 566 U.S. 937 (2012)

*Omar v. McHugh*, 646 F.3d 13 (D.C. Cir. 2011)

*Blackwell v. FBI*, 646 F.3d 37 (D.C. Cir. 2011)

*Southwest Airlines Co. v. TSA*, 650 F.3d 752 (D.C. Cir. 2011)

*United States v. Brice*, 649 F.3d 793 (D.C. Cir. 2011)

*Univ. of Texas M.D. Anderson Cancer Ctr. v. Sebelius*, 650 F.3d 685 (D.C. Cir. 2011)

*Knop v. Mackall*, 645 F.3d 381 (D.C. Cir. 2011)

*United States v. Papagno*, 639 F.3d 1093 (D.C. Cir. 2011)

*Companhia Brasileira Carbureto de Calicio v. Applied Indus. Materials Corp.*, 640 F.3d 369 (D.C. Cir. 2011)

*United States v. Smith*, 640 F.3d 358 (D.C. Cir. 2011)

*Empresa Cubana Exportadora de Alimentos y Productos Varios v. U.S. Dep't of Treasury*, 638 F.3d 794 (D.C. Cir. 2011), *cert. denied*, 566 U.S. 986 (2012)

*Uthman v. Obama*, 637 F.3d 400 (D.C. Cir. 2011), *cert. denied*, 567 U.S. 905 (2012)

*Vatel v. All. of Auto. Mfrs.*, 627 F.3d 1245 (D.C. Cir. 2011)

*Apache Corp. v. FERC*, 627 F.3d 1220 (D.C. Cir. 2010)

*Hoopa Valley Tribe v. FERC*, 629 F.3d 209 (D.C. Cir. 2010)

*Al-Bihani v. Obama*, 619 F.3d 1 (D.C. Cir. 2010), *cert. denied*, 563 U.S. 929 (2011)

*United States v. Moore*, 612 F.3d 698 (D.C. Cir. 2010)

*El-Shifa Pharm. Indus. Co. v. United States*, 607 F.3d 836 (D.C. Cir. 2010), *cert. denied*, 562 U.S. 1178 (2011)

*Newdow v. Roberts*, 603 F.3d 1002 (D.C. Cir. 2010), *cert. denied*, 563 U.S. 1001 (2011)

*United States v. Jones*, 625 F.3d 766 (D.C. Cir. 2010), *aff'd*, 565 U.S. 400 (2012)

*Howmet Corp. v. EPA*, 614 F.3d 544 (D.C. Cir. 2010)

*Cablevision Sys. Corp. v. FCC*, 597 F.3d 1306 (D.C. Cir. 2010)

*Riordan v. SEC*, 627 F.3d 1230 (D.C. Cir. 2010), *abrogated by Kokesh v. SEC*, 137 S. Ct. 1635 (2017)

*Koretovff v. Vilsack*, 614 F.3d 532 (D.C. Cir. 2010)

*Blumenthal v. FERC*, 613 F.3d 1142 (D.C. Cir. 2010)

*In re Any & All Funds or Other Assets in Brown Bros. Harriman & Co. Account #8870792 in the Name of Tiger Eye Investments Ltd.*, 613 F.3d 1122 (D.C. Cir. 2010)

*RLI Ins. Co. v. All Star Transp. Inc.*, 608 F.3d 848 (D.C. Cir. 2010)

*Schaefer v. McHugh*, 608 F.3d 851 (D.C. Cir. 2010), *cert. denied*, 562 U.S. 1135 (2011)

*Recording Indus. Ass'n of Am., Inc. v. Librarian of Cong.*, 608 F.3d 861 (D.C. Cir. 2010)

*Action All. of Senior Citizens v. Sebelius*, 607 F.3d 860 (D.C. Cir. 2010)

*Washington Gas Light Co. v. FERC*, 603 F.3d 55 (D.C. Cir. 2010)

*Am. Trucking Associations, Inc. v. EPA*, 600 F.3d 624 (D.C. Cir. 2010)

*Republican Nat. Comm. v. FEC*, 698 F. Supp. 2d 150 (D.D.C.), *aff'd*, 561 U.S. 1040 (2010)

*Pasternack v. Nat'l Transp. Safety Bd.*, 596 F.3d 836 (D.C. Cir. 2010)

*Stewart v. St. Elizabeths Hosp.*, 589 F.3d 1305 (D.C. Cir. 2010)

*Davis v. Pension Ben. Guar. Corp.*, 571 F.3d 1288 (D.C. Cir. 2009)

*In re Grand Jury Subpoenas*, 571 F.3d 1200 (D.C. Cir. 2009)

*SoundExchange, Inc. v. Librarian of Cong.*, 571 F.3d 1220 (D.C. Cir. 2009)

*SEC v. Fed. Labor Relations Auth.*, 568 F.3d 990 (D.C. Cir. 2009)

*City of S. Bend, Ind. v. Surface Transp. Bd.*, 566 F.3d 1166 (D.C. Cir. 2009)

*Kiyemba v. Obama*, 561 F.3d 509 (D.C. Cir. 2009)

*In re Sealed Case*, 551 F.3d 1047 (D.C. Cir. 2009)

*Cohen v. United States*, 578 F.3d 1 (D.C. Cir. 2009), *reh'g granted*, 650 F.3d 717 (D.C. Cir. 2011)

*Nyunt v. Chairman, Broad. Bd. of Governors*, 589 F.3d 445 (D.C. Cir. 2009)

*Nat'l Postal Mail Handlers Union v. Am. Postal Workers Union*, 589 F.3d 437 (D.C. Cir. 2009)

*Winslow v. FERC*, 587 F.3d 1133 (D.C. Cir. 2009)

*Camden Cty. Council on Econ. Opportunity v. U.S. Dep't of Health & Human Servs.*, 586 F.3d 992 (D.C. Cir. 2009)

*Emily's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009)

*AD HOC Telecom. Users Comm. v. FCC*, 572 F.3d 903 (D.C. Cir. 2009)

*Stilwell v. Office of Thrift Supervision*, 569 F.3d 514 (D.C. Cir. 2009)

*Moshea v. Nat'l Transp. Safety Bd.*, 570 F.3d 349 (D.C. Cir. 2009)

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**I have one opinion for which I am the named author that is not available on Westlaw.**

*Redman v. Graham*, No. 05-7160 (D.C. Cir. Nov. 13, 2006). Copy supplied.

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 05-7160**

**September Term, 2006**

03cv00273

04cv00661

**Filed On: November 13, 2006**

[1004059]

Deborah A. Redman,  
Appellant

v.

Philip A. Graham, et al.,  
Appellees

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Consolidated with 05-7168

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05-7168

03cv00273

Deborah A. Redman,  
Appellant

v.

District of Columbia,  
Appellee

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06-7070

04cv00661

Deborah A. Redman,  
Appellant

v.

Raymond J. Pitts, Jr.,  
Appellee

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 05-7160**

**September Term, 2006**

**BEFORE:** Rogers, Griffith, and Kavanaugh,\* Circuit Judges

**ORDER**

Upon consideration of (i) the motions to dismiss in No. 05-7160, the responses thereto, and the reply; (ii) the motion for summary reversal in No. 05-7160 and the lodged response thereto (which includes a motion for summary affirmance); (iii) the motions to extend time to respond to the motion for summary reversal in No. 05-7160; (iv) the motion to dismiss in No. 05-7168 and the response thereto; (v) the motion for summary reversal in No. 05-7168, the response thereto, and the reply; (vi) the motion for summary reversal in No. 06-7070; (vii) the motion to consolidate No. 06-7070 with No. 05-7168, the response thereto, and the reply; and (viii) the motions for appointment of counsel, the responses thereto, and the reply, it is, for the reasons stated in the memorandum accompanying this order,

**ORDERED** that the motions for appointment of counsel be denied. It is

**FURTHER ORDERED** that the motion to extend time filed in No. 05-7160 by appellees Philip A. Graham and Schuman & Felts, Chartered be granted. The Clerk is directed to file the lodged document. It is

**FURTHER ORDERED** that the motions to dismiss No. 05-7160 be denied. It is

**FURTHER ORDERED** that the district court's judgment on appeal in No. 05-7160 be vacated as to Schuman & Felts and affirmed as to the remaining appellees. It is

**FURTHER ORDERED** that the motion to extend time filed in No. 05-7160 by appellees Lewis Bashoor and Long & Foster Real Estate, Inc. be dismissed as moot. It is

**FURTHER ORDERED** that the motion to dismiss No. 05-7168 be granted. It is

**FURTHER ORDERED** that the motion for summary reversal in No. 05-7168 be dismissed as moot. It is

**FURTHER ORDERED** that the motion for summary reversal in No. 06-7070 be denied, and, on the court's own motion, that the order on appeal in that case be

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\* For the reasons set forth in a statement accompanying this order, Judge Kavanaugh would affirm the judgment of the district court with respect to appellee Schuman & Felts, Chartered.

**United States Court of Appeals**

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 05-7160****September Term, 2006**

summarily affirmed. It is

**FURTHER ORDERED** that the motion to consolidate be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandates herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

## MEMORANDUM

In two separate district court actions, appellant alleged that the District of Columbia court system engaged in discrimination (Dist. Ct. No. 03cv0273) and that her former landlords, assisted by lawyers and realtors, engaged in discrimination and retaliation (Dist. Ct. No. 04cv0661). In both cases, the alleged discrimination was based on appellant's disability.

In appeal No. 05-7168, appellant challenges an interlocutory order entered in her suit against the court system (Dist. Ct. No. 03cv0273). The order appealed from did not amount to a final judgment, and this court has no jurisdiction to review it before final judgment is entered. See 28 U.S.C. § 1291; Diamond Ventures, LLC, v. Barreto, 452 F.3d 892, 895 n.5 (D.C. Cir. 2006). For this reason, the court grants the District of Columbia's motion to dismiss appeal No. 05-7168.

In appeals No. 05-7160 and No. 06-7070, appellant challenges the final judgment entered in her suit against her former landlords and affiliated parties (Dist. Ct. No. 04cv0661). The appellees in No. 05-7160 have moved to dismiss, contending that this appeal was initiated before final judgment was entered. Although appellees are correct about the timing of appellant's notice of appeal, the jurisdictional defect that existed when the appeal began has been cured by the entry of final judgment. See Fed. R. App. 4(a)(2); Outlaw v. Airtech Air Conditioning & Heating, Inc., 412 F.3d 156, 161-62 (D.C. Cir. 2005).

Also in appeals No. 05-7160 and No. 06-7070, appellant has moved for summary reversal, and appellees Philip A. Graham and Schuman & Felts, Chartered, have moved for summary affirmance. These motions placed the merits of this appeal before the court. Because the appropriate disposition is so clear, summary action is warranted.

With respect to Schuman & Felts, the judgment of the district court is vacated. Appellant alleges that Schuman & Felts engaged in discrimination and retaliation while representing Graham in litigation involving appellant. The district court dismissed appellant's claims against Schuman & Felts for failure to state a claim, relying on decisions limiting attorneys' liability to non-clients for professional negligence. These decisions are inapposite, however, because appellant has sued Schuman & Felts for discrimination and retaliation, not professional negligence. It follows that these cases will not support summary affirmance of the district court's decision to dismiss appellant's claims against Schuman & Felts. Moreover, "[a] motion to dismiss for failure to state a claim upon which relief can be granted is generally viewed with disfavor and rarely granted." Doe v. United States Department of Justice, 753 F.2d 1092, 1102 (D.C. Cir. 1985). For this reason, and in light of the district court's failure to articulate a proper basis on which to dismiss appellant's claims against Schuman & Felts, appellant should be allowed to clarify the theory of law, if any, under which her allegations fall and, if necessary, present evidence in support of these allegations.

**Redman v. Graham, 05-7160****Redman v. District of Columbia, 05-7168****Redman v. Pitts, 06-7070**

With respect to the remaining appellees in No. 05-7160, the judgment of the district court is affirmed. Appellant previously had the opportunity to raise her discrimination and retaliation allegations as defenses in an eviction suit. See Shin v. Portals Confederation Corp., 728 A.2d 615, 618-19 (D.C. 1999). Accordingly, further consideration of those claims is barred by *res judicata*. See id. at 619.

Finally, in No. 06-7070, we affirm the judgment of the district court in favor of appellee Raymond J. Pitts, Jr. Pitts never appeared in the district court. After granting motions to dismiss by the other defendants in Dist. Ct. No. 04cv0661, the district court instructed appellant to seek a default judgment or other appropriate action with respect to Pitts within 30 days. When appellant failed to respond to this instruction, the district court dismissed for want of prosecution. We hold that the court did not abuse its discretion.

KAVANAUGH, *Circuit Judge, dissenting from the decision to summarily reverse as to appellee Schuman & Felts:*

I would affirm the district court's dismissal of the complaint against the law firm Schuman & Felts. Plaintiff's complaint states that the defendant law firm represented a client in eviction proceedings. Amended Complaint at 2, Redman v. Graham, No. 04-cv-661 (D.D.C. Nov. 1, 2005). Plaintiff has asserted no legal theory by which an attorney representing a client in eviction proceedings can be subjected to civil liability for discrimination under the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*, the District of Columbia Human Rights Act, D.C. Code §§ 2-1401.01 *et seq.*, or the District of Columbia Rental Housing Act, D.C. Code § 42-3505.02. As relevant in this case, the Fair Housing Act applies to those who sell or rent real estate, the D.C. Human Rights Act applies to those who conduct transactions in real property, and the D.C. Housing Act applies to housing providers. Plaintiff concedes that Schuman & Felts was none of these. To the extent there is any ambiguity about the scope of liability under these statutes, the statutes should be read against the background common-law rule that "[a] lawyer, like other agents, is not as such liable for acts of a client that make the client liable." Restatement (Third) of the Law Governing Lawyers § 56 cmt. c (2000); see also Gen. Refractories Co. v. Fireman's Fund Ins. Co., 337 F.3d 297, 314 (3d Cir. 2003); Heffernan v. Hunter, 189 F.3d 405, 413 (3d Cir. 1999); Brown v. Donco Enters., Inc., 783 F.2d 644, 646-47 (6th Cir. 1986).