

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-7088

September Term 2011

1:11-cv-00477-RJL
1:11-cv-01527-RLW

Filed On: July 18, 2012

Shirley Sherrod,

Appellee

v.

Andrew Breitbart and Larry O'Connor,

Appellants

BEFORE: Tatel, Garland, and Brown, Circuit Judges

ORDER

Upon consideration of the motion to dismiss, or alternatively, for summary affirmance, the corrected response thereto, and the reply; the Rule 28(j) letters and the responses thereto; and the motion for leave to file a response to the district court's statement of reasons, the opposition thereto, the reply, and the lodged response to the statement of reasons, it is

ORDERED that the motion to dismiss be referred to the merits panel to which this case is assigned. The parties are directed to address in their briefs the issues presented in the motion to dismiss rather than incorporate those arguments by reference. It is

FURTHER ORDERED that the motion for summary affirmance be denied. The merits of the parties' positions are not so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). It is

FURTHER ORDERED that the motion for leave to file a response to the district court's statement of reasons be dismissed as moot.

The Clerk is directed to schedule this case for argument on the same date and before the same panel as No. 12-7012, 3M Company v. Boulter. The Clerk is also directed to enter a briefing schedule consistent with this order.

Per Curiam