

June 9, 2015

DELIVERED VIA ECF FILING

Clerk of Court
Seventh Circuit Court of Appeals
U.S. Courthouse
219 South Dearborn Street, Room 2722
Chicago, IL 60604

Dear Mr. Agnello:

Re: *Laurie A. Bebo v. Securities and
Exchange Commission*
Case No. 15-1511 – Appellant's
Citation of Supplemental Authority
Under Federal Rule 28(j)

Plaintiff-Appellant Laurie A. Bebo writes to inform the Court of a decision issued yesterday, June 8, 2015, by a federal district court in Georgia finding it had subject matter jurisdiction to hear a plaintiff's constitutional challenges to the enabling legislation of the Securities and Exchange Commission ("SEC") and to the appointment of the SEC's Administrative Law Judges ("ALJs"). *Hill v. S.E.C.*, No. 1:15-cv-010801 (N.D. Ga. June 8, 2015). The court preliminarily enjoined administrative proceedings pending against the plaintiff.

Although *Hill* is not binding on this Court, its analysis bears directly on the issue Ms. Bebo presented with this appeal: whether the district court has subject matter jurisdiction to hear her claims challenging the constitutionality of the law enabling the SEC's administrative proceedings and the tenure structure of the SEC's ALJs. (Appellant's Br. 1, 8-26.)

The SEC argued in *Hill*, as it does in this case, that once the SEC initiates an administrative enforcement action, a respondent's challenges to the SEC's structure and authority can only be decided by the courts of appeals following the administrative

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proceeding. Slip op. at 11-12. The court found this argument "in tension with 28 U.S.C. § 1331, which provides that federal district courts 'have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States'" *Id.* at 12.

The court examined 15 U.S.C. § 78y and found that "Congress's purposeful language allowing *both* district court and administrative proceedings" shows that Congress did not intend administrative proceedings to be an exclusive forum. *Id.* at 13. The court also found that the plaintiff would not have meaningful review if forced to await the conclusion of the process he contends is unconstitutional; that his claims are collateral to the merits of the allegations pending against him; and that constitutional issues are outside the agency's expertise. *Id.* at 18-21.

For these reasons, the *Hill* court found jurisdiction proper. Ms. Bebo urges this Court similarly to conclude that the district court has subject matter jurisdiction to hear her constitutional challenges and to reinstate her Complaint in that court.

Respectfully submitted,



Mark A. Cameli

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cc Ms. Megan Barbero (via ECF)
Mr. Mark R. Freeman (via ECF)
Mr. Mark B. Stern (via ECF)

Encl.