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D.C. Court of Appeals

ATTORNEY GENERAL'S AUTHORITY
RETAIL SERVICE STATION ACT / *PARENS PATRIAE* / LEGISLATIVE INTENT

Superior Court's dismissal of a suit by the Attorney General under the Retail Service Station Act was error. The Attorney General has standing and *parens patriae* authority to bring the suit. Injury to a quasi-sovereign interest is unnecessary for establishing parens patriae standing. A state may also derive such standing from a sovereign interest, like enforcing its legal code. The District has here alleged that it is enforcing its legal code, which is allegedly being violated through marketing agreements. Legislative history of the statute empowering the Attorney General indicates the office has broad power to litigate in the public interest. The Retail Service Station Act does not preclude enforcement action by the Attorney General as it does not clearly express legislative intent to curtail the Attorney General's enforcement authority. Reversed and remanded.

DISTRICT OF COLUMBIA v. EXXONMOBIL OIL CORPORATION, et al.

D.C.C.A. No. 14-CV-633. Decided on November 2, 2017. Before Thompson and Easterly, J.J., and Reid, Sr.J., with Judge Thompson writing for the Court and Judge Easterly dissenting. (Hon. Craig Iscoe, Trial Judge). *Catherine A. Jackson*, Asst. Atty. Gen., with whom *Karl A. Racine*, Atty. Gen. for D.C., *Todd S. Kim*, Solicitor Gen., *Loren L. AliKhan*, Dep. Solicitor Gen., *Donna M. Murasky*, Sr. Asst. Atty. Gen., and *Bennett Rushkoff*, Asst. Dep. Atty. Gen., were on the brief, for appellant. *Robert M. Loeb*, Esq., for appellee ExxonMobil Oil Corporation. *Ross C. Paolino*, Esq., and *Christina G. Sarchio*, Esq., were on the brief, for appellee. *Alphonse M. Alfano*, Esq., for appellees Anacostia Realty, LLC, Springfield Petroleum Realty, LLC, and Capitol Petroleum Group, LLC. *William L. Taylor*, Esq., and *Alan J. Thiemann*, Esq., were on the brief for Mid-Atlantic Petroleum Distributors Association, Inc., *amicus curiae*, in support of appellees.

THOMPSON, *Associate Judge*: This action arose when appellant District of Columbia ("the District"), asserting that it was acting "in its *parens patriae* capacity and through its Attorney General," brought suit against defendant/appellee ExxonMobil Oil Corp. ("Exxon") and defendants/appellees Anacostia Realty, LLC ("Anacostia") and Springfield Petroleum Realty, LLC ("Springfield") (affiliated entities sometimes hereafter referred to together as the "Distributors"), and Capitol Petroleum Group, LLC ("CPG") for declaratory and injunctive relief for claimed violations of D.C. Code § 36-303.01 (a)(6) and (11) (2012 Repl.), contained in Subchapter III of a statute known as the "Retail Service Station Act" ("RSSA"). The Superior Court granted defendants'/appellees' motions to dismiss the complaint, agreeing with the defendants that the District had not "established standing through common law *parens patriae* authority" and "does not have express or implied statutory authority" to maintain this action. The District argues that the trial court erred in dismissing the complaint. We agree and therefore reverse and remand for further proceedings.

I. Background

A. *The Allegations of the Complaint*

The complaint alleges that until 2009, Exxon owned a number of retail gasoline service stations located in the District, which it leased to independent retail dealers that operated the stations under franchise agreements. Under the franchise agreements, Exxon had the exclusive right to supply Exxon-branded gasoline to the retail service stations. Although refiner Exxon also had gasoline distribution agreements with wholesale gasoline distributors in the area, it prohibited them from supplying Exxon-branded gasoline to the franchisee retail service stations. Beginning in 2009, Exxon transferred ownership of its retail service station properties either to Anacostia or Springfield. Exxon also assigned to Anacostia or Springfield its rights under the franchise agreements.

According to the District — and this is the gravamen of its complaint — "[t]he dealer franchise agreements, and later versions of these agreements" unlawfully "compel the independent retail dealers operating these stations to buy their Exxon-branded gasoline exclusively from – and at prices set by" Anacostia or Springfield or CPG. The complaint further alleges that Exxon continues to enforce the unlawful exclusive-supply requirement through its distribution agreements with Anacostia and Springfield, which "allow only one supplier to supply [Exxon- branded] gasoline to each Exxon-branded gasoline station in D.C" As a result of the dealer-franchise and distribution agreements, the complaint alleges, the defendants/appellees "set the wholesale price[] paid for Exxon-branded gasoline in D.C.," depriving retail dealers who sell Exxon-branded gasoline and "many thousands of consumers in D.C" who purchase Exxon-branded gasoline in D.C. of "the benefits of competition in the wholesale supply of Exxon-branded gasoline" The complaint asserts that independent retail Exxon stations cannot "purchase

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Exxon-branded gasoline at prices below the prices charged by" the Distributors. The complaint further asserts that of the thirty-one Exxon-branded gasoline stations in the District, all of which are owned by Anacostia or Springfield, twenty- seven are operated by independent retail dealer franchisees, all of which are subject to and restricted by the allegedly unlawful dealer-franchise and distribution agreements. According to the complaint, these independent franchisee-operated retail stations comprise about 25% of the gasoline stations in the District.

The complaint charges that the dealer-franchise agreements between the Distributors and independent retail service stations and the distribution agreements between Exxon and the Distributors (all of which the District asserts constitute "marketing agreements" as that term is defined in the RSSA) violate two provisions of Subchapter III of the RSSA: D.C. Code § 36-303.01 (a)(6) and (11). D.C. Code § 36-303.01 (a)(6) states that:

> [No marketing agreement shall . . .] [p]rohibit a retail dealer from purchasing or accepting delivery of, on consignment or otherwise, any motor fuels, petroleum products, automotive products, or other products from any person who is not a party to the marketing agreement or prohibit a retail dealer from selling such motor fuels or products, provided that if the marketing agreement permits the retail dealer to use the distributor's trademark, the marketing agreement may require such motor fuels, petroleum products, and automotive products to be of a reasonably similar quality to those of the distributor, and provided further that the retail dealer shall neither represent such motor fuels or products as having been procured from the distributor nor sell such motor fuels or products under the distributor's trademark[.]

D.C. Code § 36-303.01 (a)(11) states that "no marketing agreement shall" "[c]ontain any term or condition which, directly or indirectly, violates this subchapter" The complaint asks for a declaration that defendants'/appellees' marketing agreements violate these provisions of District of Columbia law and for an injunction prohibiting enforcement of the agreements.

B. *The Trial Court's Ruling on the Motions to Dismiss*

The District filed its complaint on August 27, 2013, and appellees filed their motions to dismiss on October 7, 2013. Asserting that the RSSA sets out "a carefully crafted enforcement scheme in which the Mayor of the District of Columbia is authorized to enforce Subchapters II and IV of the Act" and in which "retail service station dealers are authorized to enforce Subchapter III," appellees argued first that the statute makes a "clear[] and explicit[] assign[ment of] separate roles," indicating that "no public enforcement of Subchapter III was intended" Accordingly, appellees argued, the Attorney General has no "cause of action" or "right of action" to enforce, and "no role . . . in enforcing," Subchapter III of the RSSA and that the allegations of the complaint otherwise fail to state a claim.

In addition to arguing that the District lacks statutory authority to sue to enforce Subchapter III of the RSSA, appellees argued that the District in its complaint failed to allege the concrete injury necessary to establish Article III-type standing to maintain this suit. Appellees argued that the complaint asserts in only a "vague and undefined way" that Exxon's and the Distributors' conduct deprives dealers and consumers of the benefits of competition. They contended in addition that the District failed to assert a "quasi-sovereign interest" — "a harm that is sufficiently severe and generalized as to threaten the economy of the District as a whole" — to support its assertion that it is suing as *parens patriae*.

After a hearing on January 9, 2014, the Superior Court issued its May 6, 2014, Order dismissing the complaint. The court began its analysis by noting that "the RSSA does [not] provide an express statutory right for the Attorney General or Mayor to pursue violations of Subchapter III" The court cited the provision of the RSSA that expressly gives the Mayor authority to enforce Subchapters II and IV of the statute (D.C. Code § 36-302.05 (a)) and the provision that "expressly allows for a retail dealer to file a civil action against distributors [in certain circumstances]" (D.C. Code § 36-303.06 (a)(1)) and reasoned that the "failure to give the Mayor authority to enforce violations of Subchapter III [was] not a mere oversight" The court further reasoned that because the RSSA contains no language making its provisions enforceable by " 'any person' injured or aggrieved," the statute also does not confer on the District implied authority to enforce Subchapter III.

The court rejected the District's argument that the broad authority to uphold the public interest vested in the Attorney General under D.C. Code § 1-301.81 (2012 Repl.) permits the Attorney General to sue to enforce the RSSA. Looking to the then-most-recent legislative history of the RSSA, the court reasoned that the Council of the District of Columbia (the "Council") "deliberately" and "consciously chose not to [amend the RSSA so as to] grant the Attorney General or Mayor the express ability to enforce penalties for violations of Subchapter III of the RSSA" The court's statement was a reference to Bill 19-299, proposed by the Attorney General and introduced in 2011, that would have given the Attorney General pre-complaint investigatory subpoena authority with respect to suspected violations of D.C. Code § 36-303.01 (a)(6) by any refiner or dealer, as well as express authority to sue to enjoin any such violations and to recover civil penalties, attorneys' fees, and costs.

Moving to the issue of standing, the court reasoned that the District's allegations were not "sufficiently concrete as to create an actual controversy between the District and Defendants" given that the allegations did not cite "specific effects of the unlawful marketing

agreements, which affect the economy of the District" In particular, the court reasoned, the complaint fell short because it fails to allege "that the price of ExxonMobil's fuel is too high at service stations"; that there is a "dealer who would want to purchase motor fuel from a third-party supplier"; that "there exists a third-party supplier, which would sign contracts with retail dealers for lower prices"; that "retail dealers desire such competition"; or "that if a retail dealer were to purchase gasoline from a third-party supplier, then that relationship would create or ensure lower prices for consumers" The court also remarked that the District's allegation that none of the twenty-seven independent retail dealers can purchase Exxon-branded gasoline at prices below the prices charged by the Distributors was "conclusory and unsupported by any factual allegations"

Citing *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592 (1982) ("*Snapp*"), the court rejected the District's argument that it has standing to sue through its *parens patriae* authority, reasoning that the complaint fails to "allege a quasi-sovereign interest" The court explained that a state asserts "a quasi- sovereign interest in the health and well-being of its citizens [only] when the articulated injury is sufficiently concrete and affects a substantial segment of its population" The court remarked that the District "is essentially alleging an abstract and hypothetical injury" The court observed in addition that the District was "requesting purely injunctive relief" but had "not alleged any specific future harm" "other than generally alleging that the marketing agreements damage the competitive effects of the gasoline markets"

Reiterating that the "Council thus far has chosen not to provide the Attorney General with authority to bring actions under Subchapter III," the court ruled that "[u]ntil such time as the Council changes its position, . . . the Attorney General has no standing to bring actions under that Subchapter of III of the RSSA" and that the Council "clearly intended for only retail dealers to have a right of action pursuant to Subchapter III" Accordingly, the court dismissed the complaint. This appeal by the District of Columbia followed.

II. Standard of Review

The trial court did not couch its rulings in terms of Rule 12 (b)(1) or Rule 12 (b)(6) of the Superior Court Rules of Civil Procedure, but we treat its ruling that the District lacks concrete-injury-in-fact standing as a ruling under Super. Ct. Civ. R. 12 (b)(1) and its ruling that only retailer dealers may sue to enforce Subchapter III of the RSSA as a ruling under Super. Ct. Civ. R. 12 (b)(6). Standing (and whether to uphold a dismissal under Super. Ct. Civ. R. 12 (b)(1) for lack of standing) is a question of law which this court considers on appeal *de novo*. *See* UMC, 120 A.3d at 42. Our review of a dismissal under Super. Ct Civ. R. 12 (b)(6) for failure to state a claim is also *de novo*. *Daley v. Alpha Kappa Alpha Sorority, Inc*., 26 A.3d 723, 730 (D.C. 2011). "[T]he dispute between the parties in this case requires us to decide the proper interpretation of a statute, a question of law," and our review of that issue, too, is *de novo*. *Medstar Health, Inc. v. District of Columbia* Dep't of Health, 146 A.3d 360, 368 (D.C. 2016).

III. Analysis

A. *Whether the District Has Standing to Maintain This Suit*

The trial court began its analysis by addressing the issue of whether the Attorney General has statutory authority to maintain this suit. For reasons we shall explain, that is the primary question presented by this appeal, but we begin instead with the "threshold jurisdictional question" of standing. *Grayson*, 15 A.3d at 229.

"[E]ven though Congress created the District of Columbia court system under Article I of the Constitution, rather than Article III, this court has followed consistently the constitutional standing requirement embodied in Article III" *Id.* at 224. "[T]he irreducible constitutional minimum of standing consists of three elements[:] The plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision" *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) (internal quotation marks and citation omitted); *see also Grayson*, 15 A.3d at 234 n.36 (explaining that the injury-in-fact requirement requires "an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical" (internal quotation marks and citations omitted)).

We also apply prudential standing rules, i.e., "judicially self-imposed limits on the exercise . . . of jurisdiction, such as the general prohibition on a litigant's raising another person's legal rights" *Id.* at 235 (internal quotation marks omitted); *Padou v. District of Columbia Alcoholic Bev. Control Bd.,* 70 A.3d 208, 211 (D.C. 2013) ("[U]nder the so called prudential principles of standing, a plaintiff may only assert its legal rights, [and] may not attempt to litigate generalized grievances" (internal quotation marks omitted)). The Supreme Court established in *Warth v. Seldin*, 422 U.S. 490 (1975), that the legislature may "either expressly or by clear implication" "grant a[] . . . right of action to persons who otherwise would be barred by prudential standing rules" *See id.* at 501 ("[P]ersons to whom Congress has gr*ante*d a right of action, either expressly or by clear implication, may have standing to seek relief on the basis of the legal rights and interests of others, and, indeed, may invoke the general public interest in support of their claim"); *see also*, *e.g., Utah ex rel. Div. of Forestry, Fire & State Lands v. United States*, 528 F.3d 712, 721 (10th Cir. 2008) ("[S]tate law may create the asserted legal interest"). To the extent this case raises a prudential standing issue, that issue is subsumed in our discussion in section III.B below.

1. The District Was Not Required to Assert Injury to a Quasi-Sovereign Interest to Establish Standing to Sue As *Parens Patriae*.

In their motions to dismiss and their arguments to the trial court, appellees framed the issue of standing in this case as an issue of whether the District had asserted an interest "sufficiently concrete [and particularized] to create an actual controversy between the state and the defendant for Article III purposes" Appellees argued that to do this, the District's complaint had to "establish an injury to a quasi-sovereign interest," "the most basic and most fundamental requirement[] for *parens patriae* standing" Citing *Snapp*, they told the court that, to establish that it was acting in pursuit of a quasi-sovereign interest, the District was required to allege "enough citizens injured," i.e., "injury to a substantial segment of the population," sufficient "to either damage the economy or threaten an injury to the economy" The District's opposition brief and the trial court's Order largely followed that lead, and the briefs on appeal likewise focus a great deal of attention on whether the District's complaint alleged concrete injury to a substantial enough segment of the District's population, such that the District was asserting a quasi- sovereign interest and has standing on that basis.

Importantly, however, the context of the Supreme Court's statements in *Snapp* on which the parties and the trial court have relied was its "articulat[ion of] the circumstances under which a state has *parens patriae* standing to bring an action [in federal court] under *federal* law" *Massachusetts v. Bull HN Info. Sys*., 16 F. Supp. 2d 90, 96 (D. Mass. 1998) (emphasis added); *see also Sierra Club v. Two Elk Generation Partners, Ltd*., 646 F.3d 1258, 1275 (10th Cir. 2011) ("[T]he *parens patriae* doctrine . . . is a doctrine of standing which affords state officials a platform from which to vindicate their quasi-sovereign interests in federal court"). The

Snapp Court did not purport to establish the requirements for bringing a *parens patriae* suit where a State (or, as here, the District) brings suit in its local court to enforce its own laws.

Moreover, as we discussed with the parties at oral argument, in *Snapp,* the Supreme Court distinguished a quasi-sovereign interest, which "consist[s] of a set of interests that the State has in the well-being of its populace," 458 U.S. at 602, from a *sovereign* interest. The Court explained that one "easily identified" "sovereign interest[]" is "the exercise of sovereign power over individuals and entities within the relevant jurisdiction," which "involves the power to create and enforce a legal code, both civil and criminal" 458 U.S. at 601. *See also Louisiana ex rel. Ieyoub v. Brunswick Bowling & Billiards Corp*., No. 95-404, 1995 U.S. Dist. LEXIS 3506, at *4-6 (E.D. La. Mar. 20, 1995) (stating, in remanding to state court an action initially brought there by the Louisiana Attorney General to remedy violations of state unfair trade laws but erroneously removed by the defendant to federal court, that "[t]he parties . . . discuss at length *parens patriae* standing and whether the State has a supporting 'quasi-sovereign' interest in this matter. But, the State's interest here, if any, is not quasi-sovereign, but sovereign. The State has a sovereign interest in 'the exercise of sovereign power,'" which includes '"the power to create and enforce a legal code, both civil and criminal"' (quoting *Snapp,* 458 U.S. at 601)).

Further, the Supreme Court has instructed that a "State has standing to sue . . . when [either] its sovereign [interests] or [its] quasi-sovereign interests are implicated" *Pennsylvania v. New Jersey,* 426 U.S. at 665 (discussing suits under the Court's original jurisdiction). In addition, while the Court confirmed in *Snapp* that "a *parens patriae* action c[an] rest upon the articulation of a 'quasi-sovereign' interest," *Snapp,* 458 U.S. at 602 (citing *Louisiana v. Texas*, 176 U.S. 1 (1900)), the Court has instructed as well that "when a State is 'a party to a suit involving a matter of sovereign interest,' it is *parens patriae* and 'must be deemed to represent all of its citizens"' *South Carolina v. North Carolina*, 558 U.S. 256, 266 (2010) (brackets omitted) (quoting *New Jersey v. New York*, 345 U.S. 369, 372-73 (1953)).

Thus, under the cases discussed above, a State's standing to sue as *parens patriae* may be based on its assertion of a sovereign interest (such as when it sues to "enforce [its] legal code," *Snapp,* 458 U.S. at 601) rather than on its assertion of a quasi-sovereign interest. The implication for this case is that appellees were not entitled to prevail on their claim that the District lacks *parens patriae* standing to maintain this action merely by satisfying the trial court that the District had not established a quasi-sovereign interest.

We recognize that even after enactment of the District's Home Rule charter, the District is merely "akin to a sovereign State" *Feaster v. Vance*, 832 A.2d 1277, 1287 (D.C. 2003); *see also District of Columbia v. John R. Thompson Co.,* 346 U.S. 100, 105-08 (1953) ("The subordinate legislative powers of a municipal character, which have been or may be lodged in the city corporations, or in the District corporation, do not make those bodies sovereign" (internal quotation marks omitted)); *District of Columbia v. Owens-Corning Fiberglas Corp*., 572 A.2d 394, 404 n.26 (D.C. 1989) ("[U]nder the Home Rule Act, the District government continues to exist as a body corporate for municipal purposes[.]" (internal quotation marks omitted)). However, this court has recognized that the District, which has "the burden of legislating upon essentially local District matters," D.C. Code § 1-201.02 (a) (2012 Repl.), is a sovereign for many purposes. *See*, *e.g., Feaster*, 832 A.2d at 1287 ("The District of Columbia government is thus both the *de jure* and the *de facto* sovereign with respect to local public employee labor relations in the District"); *Barnhardt v. District of Columbia*, 8 A.3d 1206, 1214 (D.C. 2010) (referring to the District of Columbia's "sovereign immunity"). Here, there is "no need for us to decide that the District has all the sovereignty of a state," *Owens-Corning,* 572 A.2d at 403, to conclude, as we do, that this case is a suit by the District based on its sovereign interest in enforcing statutory prohibitions its legislature has enacted as part of "the public policy of the District of Columbia" D.C. Code § 36-305.01 (2012 Repl.).

Our dissenting colleague criticizes that conclusion on the ground that the District never advanced a sovereign-interest theory of standing. To be sure, the District did focus its briefing, before us and in the trial court, on whether its complaint sufficiently pled a quasi-sovereign interest, but the District has not entirely overlooked what the Supreme Court said in *Snapp* about *parens patriae* standing and sovereign lawmaking power: The Court explained that "[o]ne helpful indication in determining whether an alleged injury to the health and welfare of its citizens suffices to give the State standing to sue as *parens patriae* is whether the injury is one that the State, if it could, would likely attempt to address through its sovereign lawmaking powers" 458 U.S. at 607. Relying on that statement in *Snapp,* the District argued in its brief to us that "[t]he fact that the District not only could address, but has addressed, the threat of injury to its wholesale gasoline market through legislation . . . confirms that the alleged injury suffices to provide the District with [the] *parens patriae* standing" it asserted in its complaint. The District made a similar argument in its brief opposing appellees' motion to dismiss, arguing that "the appropriateness of the District seeking relief as *parens patriae* is strengthened by the RSSA's explicit recognition of the public interest in enhancing honest competition in D.C.'s gasoline supply"16 That argument by the District accords with the Supreme Court's statement, quoted *supra*, that "when a State is a party to a suit involving a matter of sovereign interest, it is *parens patriae* and must be deemed to represent all of its citizens" *South Carolina v. North Carolina*, 558 U.S. at 266 (brackets and internal quotation marks omitted).

In short, the District did not need to allege (in addition) a "quasi-sovereign interest" within the meaning of *Snapp* and its progeny in order to sue in the Superior Court as *parens patriae* to enforce District of Columbia law. The trial court erred in dismissing the complaint for what the court found was its failure to establish *parens patriae* standing by alleging facts necessary to show a quasi- sovereign interest under *Snapp*.

2. The District Sufficiently Alleged Standing By Asserting That It Was Suing to Enforce Certain D.C. Statutory Prohibitions, Which Defendants (Allegedly) Are Violating Through Their Marketing Agreements.

In addition to arguing that the District failed to allege facts sufficient to show injury to a substantial segment of its population and thus injury to a quasi- sovereign interest, appellees advance a more general argument that the District failed to establish Article III-type standing. Appellees assert that the District's complaint "alleges no real and concrete injury to any citizen of the District" and, more specifically, no injury to competition, retail dealers, suppliers, or consumers.

However, to repeat, the District's complaint alleges and seeks to enjoin violations of *District of Columbia* law, specifically, violations of certain marketing-agreement prohibitions set out in the RSSA ("No marketing agreement shall . . . "). Case law establishes that a government is injured when its laws are violated. *See*, *e.g., Vermont Agency of Natural Res. v. United States ex rel. Stevens*, 529 U.S. 765, 771 (2000) ("It is beyond doubt that the complaint asserts an injury to the United States[,]" i.e., an "injury to its sovereignty arising from violation of its laws"). The District's argument in its brief to this court that it satisfied Article III standing

requirements because "[g]overnmental entities have a concrete stake in the proper application of the laws of their jurisdiction, giving them a sufficient basis for Article III standing in *parens patriae* cases," is consistent with that case law. (This is an argument the District undeniably advanced, though, as our dissenting colleague emphasizes, it was overshadowed by the District's effort to show that it sufficiently asserted a quasi-sovereign interest as articulated in *Snapp*.) Here, as in *Stauffer,* the parties have not cited — and our own research has not uncovered — "any case in which the government has been denied standing to enforce its own law" 619 F.3d at 1325. Indeed, when a jurisdiction seeks to enforce its own laws, courts have treated the question of standing as subsumed under the question of whether the entity or agency suing has statutory enforcement authority — a matter that the Superior Court recognized as the primary question before it, and which we address *infra*.

Our dissenting colleague faults us for looking to the District's complaint and not stopping with rejection of the District's quasi-sovereign-interest theory of standing. But, '"[f]or purposes [of our review of the Superior Court's] ruling on a motion to dismiss for want of standing,"' we, like the trial court, '"must accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party"' *Grayson,* 15 A.3d at 232 (quoting *Warth,* 422 U.S. at 501); *see also id.* at 247-48 (analyzing whether Grayson had standing by reviewing his allegations in the various paragraphs of his complaint). The District's complaint alleges on its face that appellees have in place marketing agreements that violate District of Columbia law, specifically, prohibitions set out in the RSSA. Those allegations by the District were sufficient to satisfy the injury- in-fact element of Article III-type standing on the District.

Appellees suggested at oral argument that an additional reason why the District's complaint on its face does not establish Article III-type standing is that the RSSA already provides that marketing agreements that violate § 36-303.01 are unenforceable. Therefore, appellees implied, the court can provide no additional redress. We reject this argument. To be sure, to have Article III-type standing, a plaintiff must assert an injury "that is likely to be redressed by a favorable judicial decision" *Spokeo,* 136 S. Ct. at 1547. Here, the parties vigorously disagree about whether § 36-303.01 (a)(6), correctly interpreted, actually prohibits the marketing- agreement provisions the District claims are unlawful: appellees contend, and the District disputes, that the second proviso of § 36-303.01 (a)(6) ("provided further that the retail dealer shall neither represent such motor fuels or products as having been procured from the distributor nor sell such motor fuels or products under the distributor's trademark") permits them to require the franchisee retail service stations to purchase all their Exxon-branded gasoline from Anacostia or Springfield. The dispute is a live one — appellees themselves acknowledge that this case represents a continued effort by the Attorney General to address alleged injury to competition in the gasoline market in the District — and the declaratory relief the District seeks would resolve the dispute. Thus, contrary to appellees' argument, a ruling by the court on this issue would not be a mere advisory opinion about the lawfulness of possible future circumstances. Similarly, the injunctive relief the District seeks would not merely preclude appellees from enforcing the challenged marketing agreements in the courts, but presumably could require affirmative rewriting of the marketing agreements and perhaps restructuring of the parties' relationships.

For the foregoing reasons, we conclude that the Superior Court erred in dismissing the complaint for lack of standing.

B. *Whether the District, Through Its Attorney General, Has Authority to Sue to Enforce Marketing Agreement Prohibitions Set Out in the RSSA*

We next address whether the District, through its Attorney General, has authority under District of Columbia law to seek judicial relief for (alleged) violations of D.C. Code § 36-303.01 (a)(6) and (11). Our analysis focuses on whether the Council expressly or by clear implication has authorized the Attorney General to maintain an action such as this to enforce D.C. Code § 36-303.01 (a)(6) and (11) (or whether instead the language and legislative history of the RSSA by implication preclude the Attorney General from maintaining this action).

Appellees argue, and the trial court ruled, that the RSSA must be interpreted as affording retail service stations an exclusive right to enforce the RSSA marketing-agreement provisions involved in this suit. Appellees asserted in the trial court that "[n]o statutory authority exists for the Mayor, the District, or the Attorney General to enforce any provision of Subchapter III of the RSSA" There are several reasons why we reject these arguments and the trial court's conclusion.

1. The Statutory Authority of the District's Independent Attorney General

We begin by describing the general statutory authority of the Attorney General and contrasting that authority to the authority formerly conferred on the District's chief legal officer. Prior to 2010, the "conduct of all law business of the . . . District" was the responsibility of a chief legal officer — originally called the "Corporation Counsel" but renamed the "Attorney General" in 2004 pursuant to a Mayor's Order — who was "under the direction of the Mayor" *E.g.,* D.C. Code § 1-301.111 (2009); D.C. Code § 1-361 (2000); D.C. Code § 1-301 (1973). In 2010, the Council passed D.C. Law 18-160, reforming the power of the Attorney General for the District of Columbia. As of the effective date of the 2010 legislation, the authority and duties of the Attorney General for the District of Columbia are as follows:

> (a)(1) The Attorney General for the District of Columbia . . . shall have charge and conduct of all law business of the said District and all suits instituted by and against the government thereof, and shall possess all powers afforded the Attorney General by the common and statutory law of the District *and shall be responsible for upholding the public interest.* The Attorney General shall have the power to control litigation and appeals, as well as the power to intervene in legal proceedings on behalf of this public interest.
>
> ...
>
> (b) The authority provided under this section shall not be construed to deny or limit the duty and authority of the Attorney General as heretofore authorized, either by statute or under common law.

D.C. Code § 1-301.81 (a)(1), (b) (emphasis added). The Committee Report to the legislation cited with approval case law explaining that:

> [The] duties and powers [of the Attorney General] typically are not exhaustively defined by either constitution or statute but include all those exercised at common law. There is and has been no doubt that the legislature may deprive the attorney general of specific powers; but in the absence of such legislative action, [the Attorney General] typically *may exercise all such authority as the public interest requires. And the attorney general has wide discretion in making the determination as to the public interest.*

2009 Report at 4 (quoting *Florida ex rel. Shevin v. Exxon Corp.,* 526 F.2d 266, 268-69 (5th Cir. 1976) (emphasis added); *see also id.* at 4 n.13 (endorsing a statement by the National Association of Attorneys General that "the common law, if not expressly limited by constitution, statute, or judicial decision,

provides power crucial to the fulfillment of an Attorney General's responsibility"). The Report states that the common-law powers of the Attorney General, "including the right to act on behalf of the public interest, indisputably flow with the position . . . absent specific constitutional or statutory guidance to the contrary" *Id.* at 4. Further, noting that a September 2008 memorandum prepared by D.C. Appleseed "helped to shape the current Committee Print," *id.* at 2, the Report explains (with approval) that according to D.C. Appleseed's research:

> [T]he common law powers of the Attorney General for the District of Columbia stem from Maryland common law as the District is derived from land ceded by that jurisdiction in 1801. As such, the law in existence in Maryland – including the common law – at that time became the law of the District. These common law powers . . . have since been specifically modified for the Maryland Attorney General through the acts of the state's General Assembly. However, no such deprivation of common law authority has been achieved through the District's Charter or through statute.
>
> While common law powers, once assumed, could be abrogated by statute doing so would need to be explicit. A careful review of the District's Charter, and relevant statutory provisions pertaining to the Attorney General's authority, clearly reveal that no such deprivation has been achieved or attempted.

Id. at 5 (internal footnotes, quotation marks, and alteration omitted). The Council believed that the legislation would allow the Attorney General "to proceed with confidence by making clear in the law that he or she is the lawyer for the District of Columbia and is thus to act as the public interest requires" *Id.* at 2.

In sum, the legislative history of the current District of Columbia statute describing the powers of the Attorney General expresses in unequivocal terms the intent of the Council and the District of Columbia electorate that the District's Attorney General would be independent, and the intent of the Council that the Attorney General, no longer limited to being "under the direction of the Mayor," would have broad power to "exercise all such authority as the public interest requires" and "wide discretion" in determining what litigation to pursue to "uphold[] the public interest," "absent specific constitutional or statutory guidance to the contrary" *Id.* at 4. As the District put it in its brief opposing appellees' motion to dismiss, and as its counsel re-asserted at oral argument, under § 1-301.81 (a), the "Attorney General thus has the responsibility, and the authority, to 'uphold the public interest' in D.C. by litigating on behalf of the public" (The District "is responsible for upholding the public interest" under "D.C. Code § 1-301-81 (a)") The Council understood that the Attorney General's powers in this regard could be curtailed legislatively only by statutes expressly abrogating his or her authority in specific contexts, and directed that (whatever limitations on the power of the Attorney General had previously been understood to exist) the revised statement of his authority was not to be "construed to deny or limit [his] duty and authority" as established under statute or common law. At least two conclusions flow from this and from the Attorney General's legislative mandate to "uphold[] the public interest" and to "act as the public interest requires"

First, the independence of the Attorney General from the Mayor and the Attorney General's Council-recognized authority to "exercise all such authority as the public interest requires," 2009 Report at 4, mean that the individual holding that office has enforcement authority that may go beyond that conferred by statute on the Mayor. To put a finer point on it, the independence of the Attorney General and his authority and responsibility to control or intervene in litigation as the public interest requires mean that even if the Council, in passing the RSSA in 1977, intended to limit the enforcement authority of the *Mayor* — and thereby the enforcement authority of the Corporation Counsel or the pre-2010 Attorney General, who served "under the direction of the Mayor" — to Subchapters II and IV of the RSSA, and intended not to authorize those public officials to enforce Subchapter III, it does not follow that the enforcement authority of the now- independent Attorney General is so limited.

Second, the Council's statement that any abrogation or curtailment of the Attorney General's common-law powers "would need to be explicit" means that it was a misstep for the trial court to give the great weight it gave to the facts that the RSSA contains no explicit affirmative statutory authority for the Attorney General to enforce D.C. Code § 36-303.01 (a)(6) and (11) and likewise does not grant enforcement rights to "any person" aggrieved by a violation of the statute. As the District argues, "[t]hat [approach] gets the analysis backwards with regard to injunctive [and declaratory] relief, for which the question should be whether the legislature has affirmatively *precluded* a *parens patriae* suit" by the Attorney General. The fact that the RSSA does not create an express right of action (and may not include an implied right of action) for the Attorney General to enforce § 36-303.01 (a) does not answer the question of whether the Attorney General may do so pursuant to his statutory power and duty to uphold the public interest, as recognized (or established or reinstated) by D.C. Code § 1-301.81 (a)(1) and (b). In its opposition to appellees' motion to dismiss, the District made a similar point, arguing that its "enforcement authority is implied [even] in the absence of express authority [in the RSSA] to sue"

2. The RSSA

In this section, we address appellees' argument that there is an affirmative statutory preclusion of enforcement action by the Attorney General because, under the RSSA, authority to enforce Subchapter III purportedly "is vested *exclusively* in service station dealers" D.C. Code § 36-303.06 (a) provides in relevant part:

> (a) (1) In addition to any and all other remedies available to the retail dealer under this subchapter, the marketing agreement, any other statute or act, or law or equity, a retail dealer may maintain a civil action against a distributor for:
>
> (A) Failure to make such disclosures as are required by § 36-303.02;
>
> (B) Failure to repurchase as required by § 36-303.04 (b);
>
> (C) Failure to pay the full value of any business goodwill as required by § 36-303.04 (d);
>
> (D) Wrongful or illegal cancellation of, termination of, or failure to renew a marketing agreement with the retail dealer under § 36-303.03;
>
> (E) Unreasonably withholding approval of a proposed sale, assignment, or other transfer of the marketing agreement.
>
> (2) The court may award actual damages, including ascertainable loss of goodwill as provided for in § 36-303.04 (d), sustained by the retail dealer as a result of the distributor's violation of this subchapter and may also grant such other legal or equitable relief as may be appropriate, including, but not limited to, declaratory judgment, specific performance, and injunctive relief.

D.C. Code § 36-303.06 (a)(1)-(2).

We take appellees' point that, as originally codified, § 36-303.06, now entitled "Civil actions," was entitled "Retail Dealer's Cause of Action Against Distributor," and that the provision now codified as subparagraph (a)(2)

was an unnumbered part of subsection (a) — a history that indicates that § 36-303.06 describes remedies available to retail dealers, not remedies more generally available. However, as the District emphasizes, the RSSA provides no express authority for *anyone* – retailers or anyone else – to enforce the marketing-agreement restrictions of § 36-303.01 (a). Nevertheless, in *Davis v. Gulf Oil Corp.,* 485 A.2d 160 (D.C. 1984), this court expressed "certain[ty]" that the Council "intended to permit franchisees to seek relief from franchisors' violations of [the provision now codified as § 36-303.01 (a)(10) (prohibiting marketing agreements that are for a term of "less than 1 year")]," even though neither § 36- 303.06 (a) nor any other section of the RSSA "expressly provide[s] any remedy for a violation of" the provision. 485 A.2d at 171 n.12. We did so notwithstanding the statement in the 1976 Report that the legislation would give retail dealers "a civil cause of action against the distributor *in certain circumstances*" 1976 Report at 59 (emphasis added). Thus, this court has already construed the RSSA as implying a cause of action to enforce one of the § 36-303.01 (a) marketing- agreement prohibitions despite the lack of express authority for anyone to enforce those provisions. Construing the RSSA to permit the District, through its Attorney General, to enforce § 36-303.01 (a)(6) and (11) can hardly be the unwarranted leap the trial court, appellees, and our dissenting colleague insist it would be. This is especially so given that, according to the District's complaint, the alleged exclusive-dealing arrangements are the product of multiple agreements (between Exxon and the distributors/franchisors, and between distributors and retail service station franchisees). Section § 36-303.06 (a), which expressly authorizes certain civil suits by retailers against their distributors suggests nothing about who should have authority to sue distributors *and* their suppliers to enjoin exclusive-dealing arrangements that allegedly violate § 36-303.01 (a)(6) and (11). Moreover, any suggestion that the Council intended to authorize only retailers to bring such suits is undermined by the Council's express recognition, in enacting the RSSA, that a retail dealer "because of his limited resources" may be "ill equipped to sue . . . a financially powerful petroleum company" 1976 Report at 27.34

Appellees argue, however, that § 36-302.05 cabins the authority of the District to sue to enforce the RSSA by describing the Mayor's enforcement authority as to Subchapters II and IV while omitting mention of Subchapter III. Section 36-302.05 (a) provides that:

> The Mayor shall . . . cause a written order to be served upon such person [who "violat[es] any provision of subchapter II or IV of this chapter"] directing such person to immediately cease and desist from continuing such violation. If the person so ordered refuses or fails to comply with such order, the Mayor shall be authorized to apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or permanent injunction restraining such person from continuing such violation.

For the reasons already discussed in section B.1 above (relating to the independence of the Attorney General), we conclude that the RSSA provision describing the authority of the Mayor to sue does not address, and *a fortiori* does not limit, the authority of the Attorney General. We note in addition that the context of § 36-302.05 (a) is provisions in Subchapters II and IV that call for filings with or notice to the Mayor (*see* § 36-302.01 (a)-(b) (2012 Repl.) and § 36- 302.04 (d) (2012 Repl.)), and establish the Mayor's power to adopt regulations to implement Subchapters II and IV (*see* § 36-302.04 (c)) and to grant (and, by implication, to withhold) exemptions from prohibitions established by the two Subchapters (*see* § 36-302.04 (a)-(b) and § 36-304.01 (2012 Repl.)). These provisions that establish an RSSA-implementation role for the Mayor are a logical explanation for the specification of the Mayor's authority to seek enforcement of Subchapters II and IV. A logical explanation for the absence of a provision authorizing the Mayor to seek enforcement of Subchapter III is that there are no comparable provisions specifying an RSSA-implementation role for the Mayor in Subchapter III. That implies nothing about whether there is a role for the independent Attorney General in suing to remedy what are alleged to be "widespread and systematic" violations of Subchapter III.

We conclude that the RSSA is not crafted in such a way as to compel a conclusion that the District's independent Attorney General is affirmatively precluded from seeking enforcement of § 36-303.01 (a)(6) and (11) in order to eliminate what the District alleges are widespread and systematic violations of those provisions of Subchapter III of the RSSA. And, more important (and perhaps dispositive) in light of the discussion in section B.1 above, the statute does not contain the clear expression of a legislative intent to curtail the Attorney General's enforcement powers. Such a clear expression would be necessary for us to conclude that the independent Attorney General is foreclosed by the RSSA from exercising his statutorily recognized common-law power to sue, in pursuit of what he believes the public interest requires, to enforce the RSSA marketing-agreement provisions that the Council determined were both necessary to foster a competitive gasoline market for the benefit of consumers and "in the interests of the public health, safety, and welfare"

Nor can we agree with the trial court that the Council "deliberately" and "consciously chose" to withhold from the Attorney General the authority to enforce Subchapter III of the RSSA when it declined or failed to adopt the 2011 and 2014 proposed amendments that would have given the Attorney General not merely express authority to sue to enforce the RSSA, but also, *inter alia*, pre- complaint investigatory subpoena authority and authority to recover civil penalties. With the exception of one member, the Council that failed to pass Bill 19-299 in 2011 was identical to the Council that passed the 2010 legislation that recognized the broad powers of the Attorney General. For that reason, the Councilmembers' failure to pass Bill 19-299 is just as consistent with an explanation that they understood that the Attorney General already possessed power to sue for declaratory and injunctive relief to enforce all of the provisions of the RSSA in pursuit of the public interest as it is with the inference (i.e., that the Council "did not intend to confer authority on the District to enforce" Subchapter III of the RSSA) that appellees draw from the failed 2011 legislation. Moreover — and this applies with respect to both the failed 2011 legislation and the similar 2014 legislation on which the Council took no action — as the Supreme Court has admonished, "[f]ailed legislative proposals are a particularly dangerous ground on which to rest an interpretation of a prior statute," because "[a] bill can be proposed for any number of reasons, and it can be rejected for just as many others" *Solid Waste Agency of N. Cook Cty. v. United States Army Corps of Eng'rs,* 531 U.S. 159, 169-70 (2001) (internal quotation marks omitted); *see also In re McBride*, 602 A.2d 626, 637 (D.C. 1992) ("Various considerations of parliamentary tactics and strategy might be suggested as reasons for the inaction of . . . Congress, but they would only be sufficient to indicate that we walk on quicksand when we try to find in the absence of corrective legislation a controlling legal principle" (quoting *Helvering v. Hallock*, 309 U.S. 106, 121 (1940))).

Finally, appellees emphasize legislative-history language stating that RSSA Subchapter III (contained in Title II of the Act) "deals exclusively with private rights" 1976 Report at 64. This language appears in a section of the 1976 Report that addresses the Title's expected "budgetary impacts" on the District

and follows a discussion of the budgetary impact of Titles I and III, which impose regular duties and responsibilities on the District of Columbia government to process informational statements, process exemption requests, promulgate rules and regulations, and perform other enforcement actions. *Id.* at 63-64 (stating that Title II, by contrast, "should have negligible budgetary impacts on the District" since it pertains to "private rights"). Elsewhere, however, in a non-"Fiscal Impact" section of the 1976 Report, the Council stated that the provisions of Title II of the RSSA are designed in part "to protect the general public" *Id.* at 29. Moreover, the Council found that non-competitive practices, including the "functional exclusive dealing arrangement[s]" prohibited by Title II, *id.* at 53, would "continue to have severe detrimental impacts on consumers in the District of Columbia," *id.* at 19, and that the new legislation would "enhance competition" to the benefit of consumers, *id.* at 22. In addition, as already noted, the Council decreed that the provisions of the RSSA "constitute a statement of the public policy of the District of Columbia" and are "in the interests of the public health, safety, and welfare" D.C. Code § 36-305.01. These expressions of legislative intent persuade us that dismissal of the District's suit cannot be justified on the ground that the RSSA provisions appellees allegedly violated pertain exclusively to retail dealers' and franchisors' "private rights" (so as to preclude the claimed cause of action).

For all the foregoing reasons, we conclude that the language and legislative history of the RSSA neither require nor support a conclusion that the Council meant to deny the Attorney General the authority to enforce D.C. Code § 36- 303.01 (a)(6) and (11).

***

The trial court erred in dismissing the complaint for (1) the District's purported lack of standing and (2) the Attorney General's lack of express statutory authority to enforce D.C. Code § 36-303.01 (a). Wherefore, the judgment of the Superior Court is reversed, and the matter is remanded for further proceedings.

So ordered.

EASTERLY, *Associate Judge*, dissenting: The District sued the defendants in this case alleging a theory of standing that this division rejects: relying on *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592 (1982), the District asserted it had "*parens patriae* standing based on its quasi-sovereign interest in the economic well-being of D.C.'s gasoline consumers and the gasoline market" Although the burden to establish standing to sue is on the plaintiff, and injury to a quasi-sovereign interest under *Snapp* is the only theory of standing that the District ever advanced in the trial court or this court, the majority opinion holds that the trial court "erred" when it gr*ante*d the defendants' motion under Superior Court Civil Rule 12 (b)(1) to dismiss the District's complaint for lack of standing. *Ante* Part III.A. The majority opinion reaches this conclusion because it identifies a new *sovereign* interest theory of standing for the District—new not merely to this case, but to the law.

Under the majority opinion's new theory, the District has standing to sue whenever there is a D.C. Code provision the District believes is being violated. Relying on an array of inapposite cases, the majority opinion reasons that the District has a sovereign interest in the enforcement of every D.C. Code provision. *Ante* note 17. Under this logic, no statutory analysis or particularized inquiry into the District's injury is necessary: it is immaterial that the statutory provision at issue in this case only modifies common law contract rules between private parties. (In a footnote, the majority opinion indicates that there may be limits on permitting the District to act on every statutory violation, but whatever those limits are, in the view of the majority opinion, they do not matter in this case. *See infra* note 22.)

Procedurally and substantively, the majority opinion's analysis is problematic. First, because the plaintiff has the burden to show standing, this court should not articulate for the District government a sovereign interest theory of standing that it has never pursued. Second, in light of our adoption of the Article III standing requirement that parties show concrete and particularized injury, this court should not adopt a sovereign interest theory of standing that so abstracts the Article III interest as to make the jurisdictional requirement of standing ineffectual when the District government, represented by the Attorney General, is the plaintiff, and that allows this court to disregard the prerogative of the legislature to statutorily define government interests.

The majority opinion also concludes that the trial court erred when it gr*ante*d the defendants' motion to dismiss under Superior Court Civil Rule 12 (b)(6) because the District failed to identify a cause of action, either express or implied, in Subchapter III of the RSSA. Again, the majority opinion raises an argument that the District has never made and inverts the legal analysis for the government: although we have always required plaintiffs to show they have an express or an implied cause of action to survive a 12 (b)(6) challenge, and although the District has failed to show that it has either under Subchapter III of the RSSA, the majority opinion concludes that the District—when represented by the Attorney General— presumptively has a right to sue in the public interest unless the statute under which the District seeks to sue expressly denies that authority to the Attorney General.

To support this proposition, the majority opinion looks to the 2010 Attorney General for the District of Columbia Clarification and Elected Term Amendment Act, D.C. Act 18-351 ("2010 Attorney General Act") (codified, as modified, at D.C. Code § 1-301.81 *et seq.* (2013 Repl.)), and concludes that, when the Council of the District of Columbia ("Council") "clarified" that the mayorally-appointed Attorney General had an independent obligation to act in the public's interest—not merely in the interest of the Mayor who had appointed him—it also gave the Attorney General powers that he previously did not possess to sue in the public interest. The majority opinion engages in a statutory analysis that is supported neither by the text nor the historical record. Thus, even if I agreed that we should look to the 2010 Attorney General Act instead of Subchapter III of the RSSA to identify the District's cause of action, I see nothing in that statute indicating that the District, via its Attorney General, has a broad right to sue to enforce any statute (and hence Subchapter III of the RSSA) in the public interest.

Because the trial court did not err in dismissing the District's case either for lack of standing or for failure to identify a cause of action, I respectfully dissent.

I. Standing: The 12 (b)(1) Ruling

A. *The Plaintiff's Burden To Establish Standing*

The majority opinion correctly acknowledges that standing is a threshold jurisdictional question, *see Grayson v. AT & T Corp.*, 15 A.3d 219, 229 (D.C. 2011) (en banc), and that, although this court was created by Congress under Article I of the Constitution, we have adopted the three-part test for standing used in Article III courts: injury-in-fact, causation, and redressability. *UMC Development, LLC v. District of Columbia*, 120 A.3d 37, 42–43 (D.C. 2015). But the majority opinion nowhere acknowledges that the plaintiff, whether a private individual or a government entity, bears the burden to establish that these three criteria are satisfied. *Id.* ("The plaintiff bears the burden to establish standing" (citing *Grayson,* 15 A.3d at 246)); *accord Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) ("The plaintiff, as the party invoking federal jurisdiction, bears the

burden of establishing [the three] elements [of standing]"); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992) ("The party invoking federal jurisdiction bears the burden of establishing the [Article III] elements [of standing] . . . [which] are not mere pleading requirements but rather an indispensable part of the plaintiff's case"); *United States v. San Jacinto Tin Co*., 125 U.S. 273, 285 (1888) ("[T]he right of the government . . . to institute . . . a suit depends upon the same general principles which would authorize a private citizen to apply to a court of justice for relief . . . "). A court may raise questions at any time about a plaintiff's standing and the court's subject matter jurisdiction, *Riverside Hosp. v. District of Columbia Dep't of Health*, 944 A.2d 1098, 1103 (D.C. 2008), but where, as here, the defendants successfully challenged the plaintiff's standing to sue in the trial court, it is not our place to supply the plaintiff with a new legal theory of standing on appeal. Instead, when we agree with the trial court that the legal theory of standing the plaintiff raised is not viable, we must affirm the trial court's ruling dismissing the plaintiff's suit for lack of standing.

The only theory of standing that the District ever advanced in this case is a theory that has been rightly rejected—first by the trial court and now by the majority opinion, *see ante* Part III.A.1. The District argued in the trial court and in this court that a significant segment of its population was harmed by defendants' marketing agreements with gasoline retailers, and the District claimed a quasi- sovereign interest to sue on their behalf under *Snapp*. As the majority explains, *see ante* pp. 15–17, quasi-sovereign interests are so called because they are the interests a state has in the health and well-being of a substantial segment of its population under the law of a *different* sovereign, that of the federal government. *Snapp,* 458 U.S. at 602, 607. It is the cognizable harm to this substantial segment of the population under federal law that allows a state, as *parens patriae*, to evade prudential standing limitations on raising the rights of third parties in federal court. *Id.* The state still must satisfy all three Article III requirements; in particular, it must show a concrete injury to its interests under federal law: "more must be alleged than injury to an identifiable group of individual residents," *Snapp,* 458 U.S. at 607, and the state must be more than a "nominal party," *id.* at 602 (explaining that "[i]nterests of private parties are obviously not in themselves sovereign interests, and they do not become such simply by virtue of the State's aiding in their achievement"); *see also id.* at 608 ("caution[ing] that the State must be more than a nominal party").

Here, the District sought to claim, under *Snapp,* that it had standing to sue based on an unquantified injury to an undefined segment of the population due to appellees' alleged violation of a provision of the District's law, Subchapter III of the RSSA, that governs private contractual agreements between distributors and retailers of gasoline. Arguably, the District never satisfied Article III requirements to show that the distributors' alleged violations of Subchapter III injured the District's interests in the well-being of its populace as a whole, or even a substantial segment thereof. In any event, the majority opinion agrees that *Snapp* has no application to the District's asserted right to act as *parens patriae* to pursue a claim under its *own* law in its *own* courts.

The majority opinion reasons, however, that "[t]he District was not required to assert injury to a quasi-sovereign interest to establish standing to sue" *Ante* p. 14. I agree that the District was free to make any standing argument it desired, but the record is clear that it opted to pursue only one (misguided) standing argument, namely that it had an injury to its quasi-sovereign interests under *Snapp*. In its complaint, the District asserted that it had authority to "bring[] this action as *parens patriae* on behalf of the residents, general welfare, and economy of D.C" In its Opposition to the Defendants' Motions to Dismiss, the District elaborated and made its sole standing argument clear: citing to or quoting from *Snapp* on almost every page of its eight-page standing analysis, the District argued that, as required by *Snapp,* it had alleged injury to "a sufficiently substantial portion of the population," and, as authorized by *Snapp,* it was "bring[ing] this action to protect its quasi-sovereign interest in the well-being of its local economy," which it linked to the "economic health of 'the consuming public.'" The District reiterated these arguments at the hearing on the defendants' motions to dismiss, citing *Snapp* and asserting that the District was "suing as an injured quasi-sovereign to [redress] injuries to the D.C.'s economy" After the hearing on the motion, the trial court gave counsel another opportunity to submit "a short, no more than five pages, clarification of arguments or a correction of misstatements by yourself or by the other side" In its responsive filing, the District reiterated that the foundation for its standing argument was "the Supreme Court's holding in the seminal case of *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592 (1982)"

Thus, at the District's direction, the trial court analyzed the District's standing under *Snapp*. Notably, the District has never argued that the trial court had too narrowly construed its standing argument. Instead, on appeal, the District has renewed its argument that it has a quasi-sovereign interest under *Snapp*. In its Summary of Argument, it explains that, "[i] n order to sue as *parens patriae*, the District must allege injury to a quasi-sovereign interest that affects a substantial segment of the District's residents" In the body of its brief, it then exclusively argues that under *Snapp* and its progeny it "has adequately—at minimum *plausibly*—alleged injury to a quasi-sovereign interest here, and should be allowed to proceed with its complaint"

Although the majority opinion rejects the District's only standing argument, based on *Snapp,* it does not hold as it should that the trial court was correct to dismiss the District's complaint for lack of standing. Instead, the majority opinion supplies a new theory of "sovereign" interests to satisfy the standing requirement for the District. I disagree substantively with this new theory. *See infra* note 11. But foundationally, I think it is procedurally improper for this court to articulate for the District government a legal theory of standing that it has never pursued. Absent special circumstances (which no one has suggested exist in this case), we would not permit a plaintiff to raise a new legal theory of standing for the first time on appeal. *See*, *e.g., Huron v. Cobert*, 809 F.3d 1274, 1280 (D.C. Cir. 2016) (explaining that the rule that "legal theories not asserted at the District Court level ordinarily will not be heard on appeal . . . . applies to standing, as much as to merits[] arguments, because it is not the province of an appellate court to 'hypothesize or speculate about the existence of an injury [Plaintiff] did not assert' to the District Court"); *see also id.* at 1280 n.4 (citing cases). I fail to see why this court on appeal may raise a new theory of standing for a plaintiff sua sponte, thereby relieving the plaintiff of its burden to prove its standing to sue, and then grant the plaintiff relief on that basis.

B. *The Majority Opinion's Unfounded Theory that the District Has Suffered an Injury to its Sovereign Interest*

Even if this court may identify a new, "sovereign interest" theory of standing for the District, that theory would still have to satisfy the three "irreducible" requirements of Article III standing. *Grayson,* 15 A.3d at 234 n.26. But this endeavor fails at the first step; the District has no cognizable interest in the enforcement of Subchapter III of the RSSA—a provision that deals with private contractual agreements

between distributors and retailers of gasoline—such that it can claim the necessary "concrete and particularized" injury, *id.* at 246.

There are three types of interests that a government may assert have been injured to supply a foundation for Article III standing: sovereign, quasi-sovereign, and proprietary. *Snapp,* 458 U.S. at 601–02. The latter two patently have no application here, because the District is seeking neither to vindicate its interest in the well-being of its citizens under federal law in federal court nor to protect its own property interests. This leaves the District's sovereign interests.

The majority opinion discerns that the District has a sovereign interest in private, contractual agreements between distributors and retailers of gasoline, because these agreements are the subject of a statute, and a government always has a sovereign interest in enforcing its own statutes. I disagree with the majority opinion's broad declaration that "a government is injured when[ever] its laws are violated," *ante* p. 24. Instead, to determine whether there is a sovereign interest and thus sovereign injury, we must look to the statute under which the District claims standing to sue—here, Subchapter III of the RSSA. Based on my examination of the text of Subchapter III, the RSSA as a whole, and the legislative history of that Act, see *infra* Part I.B.2, I see no indication that Subchapter III is meant to protect anything other than private, proprietary interests.

1. Assessing Sovereign Interests

Preliminarily, it is important to acknowledge the origins of sovereign power and concede the fact that neither we, as a court, nor the Office of the Attorney General, as an agent of the executive, have the authority to create or define the sovereign interests of a state. This power was derived from the sovereignty of the king and was passed from the crown to the state legislatures upon our nation's independence, *Late Corp. of the Church of Jesus Christ of Latter-Day Saints v. United States* (Mormon Church), 136 U.S. 1, 56–58 (1890):

> When this country achieved its independence, the prerogatives of the crown devolved upon the people of the states. And this power still remains with them, except so far as they have delegated a portion of it to the federal government. The sovereign will is made known to us by legislative enactment.

Id. at 57.

A state legislature wields its sovereign power "to create and enforce a legal code, both civil and criminal" *Snapp,* 458 U.S. at 601. But in exercising this power, the legislature is not articulating sovereign interests in every law it passes. Instead, a state legislature may define and protect an array of interests. Looking at the D.C. Code, there are (1) civil statutes that protect the District's sovereign interests, both (a) statutes codifying common law *parens patriae* powers, *see supra* note 13, and (b) statutes expanding those *parens patriae* powers; (2) civil statutes that protect the District's proprietary interests; and (3) civil statutes that protect purely private interests. Criminal laws are different; they express only sovereign interests.

Thus, we cannot automatically conclude that the mere existence of a statute, no matter the content, signals the existence of a sovereign interest. We must look to the particulars of a civil statute to determine if a sovereign interest is being protected, such that the government can claim standing to sue. *See Spokeo,* 136 S. Ct. at 1549 ("Congress has the power to define injuries and articulate chains of causation that will give rise to a case or controversy where none existed before" (cleaned up)); *Vermont Agency of Nat. Res. v. United States ex rel. Stevens,* 529 U.S. 765, 773 (2000) (noting that Congress can "define new legal rights, which in turn will confer standing to vindicate an injury caused to the claimant"); *Sierra Club v. Morton*, 405 U.S. 727, 731–32 (1972) ("[T]he inquiry as to standing must begin with a determination of whether the statute in question authorizes review at the behest of the plaintiff"); *Warth v. Seldin*, 422 U.S. 490, 500 (1975) ("The actual or threatened injury required by Art. III may exist solely by virtue of 'statutes creating legal rights, the invasion of which creates standing.'"). And we apply established rules of statutory interpretation. *See United States v. James*, 478 U.S. 597, 604 (1986) ("The starting point in statutory interpretation is the language of the statute itself. We assume that the legislative purpose is expressed by the ordinary meaning of the words used" (cleaned up)); *see also District of Columbia v. Beretta, U.S.A., Corp.*, 872 A.2d 633, 651 (D.C. 2005) ("The text of an enactment is the primary source for determining its drafters' intent").

This is where the majority opinion, having sua sponte raised a "sovereign interest" theory of standing on behalf of the District, takes another wrong turn. The majority opinion does not apply tools of statutory interpretation to D.C. Code § 36-303.01 (a)—part of Subchapter III of the RSSA—to determine what interests the Council created therein. Indeed, in conducting its standing analysis, the majority opinion ignores the text of D.C. Code § 36-303.01 (a), the structure of the RSSA as a whole, and its legislative history. Instead, it rests its standing analysis on the broad, unsupported legal conclusion that the legislature always defines a sovereign interest when it passes a law, i.e., the act of legislating on any subject, in any manner, itself evinces a sovereign interest in the enforcement of that law.

The majority opinion presents its theory as a well-established proposition: "Case law establishes that a government is injured when its laws are violated" *Ante* p. 24. But this blanket assertion, without limitation or qualification, is not supported by a single appellate decision cited by the majority opinion. Instead, the opinion takes out-of-context statements from cases in which the statutes at issue explicitly define sovereign interests.

The majority opinion relies on three criminal cases (two of which are unpublished), *see ante* note 18, but, as explained above, criminal statutes define only sovereign interests. *See supra* note 19. Thus these cases cannot be relied upon to support a broader theory of "sovereign" injury that extends to any civil statutory violation. Furthermore, an examination of what these cases actually say reveals that they do not purport to do so. In *United States v. Yarbrough*, 452 F. App'x 186 (3d Cir. 2011), the Third Circuit stated only that "[t]he Government doubtlessly suffers an 'injury in fact' when a defendant violates its *criminal* laws" *Id.* at 189 (emphasis added). Thus its rejection in the next sentence to the defendant's standing challenge, "because the Government has standing to enforce its own laws," *id.*, is only reasonably interpreted as a recognition of the government's "standing to enforce its own [criminal] laws" Similarly, in *United States v. Daniels*, 48 Fed. App'x 409 (3d Cir. 2002), the Third Circuit stated only that, "[a]s sovereign, the United States has standing to prosecute violations of valid *criminal* statutes" *Id.* at 418 (emphasis added). And in this court's decision in *Crockett v. District of Columbia*, 95 A.3d 601 (D.C. 2014), we confirmed only that "the Attorney General has an interest, sufficient to confer standing, in the enforcement of the *criminal* laws of the District of Columbia" *Id.* at 605 (emphasis added).

The majority opinion also cites an array of civil cases that do not support its theory that the District has a sovereign interest in the enforcement of all District statutes. Many of these cases interpret distinctive *qui tam* statutes, which allow private parties to bring suit in the name of the government to vindicate the government's sovereign and proprietary interests. First among these is the Supreme Court's decision in *Vermont Agency*, which examines a private plaintiff's rights to sue

under the False Claims Act, a hybrid criminal/civil statute. The majority opinion incompletely quotes *Vermont Agency* as stating that "[i]t is beyond doubt that the complaint asserts an injury to the United States[,]" i.e., an "injury to its sovereignty arising from violation of its laws[.]" *Ante* p. 24 (quoting 529 U.S. at 771). But when the quoted sentence is read in full, it supports only the much more limited (and uncontroversial) proposition that the federal government has a sovereign interest in the enforcement of its criminal laws and a proprietary interest in challenging false claims for payment of government funds:

> It is beyond doubt that the complaint asserts an injury to the United States—both the injury to its sovereignty arising from violation of its laws (which suffices to support a *criminal lawsuit* by the Government) and the *proprietary injury* resulting from the alleged fraud.

529 U.S. at 771 (emphases added). The other *qui tam* cases cited by the majority, *ante* note 18, are derivative of *Vermont Agency*, and their statements about the government's standing to enforce its own laws reflect only the determination that the statutes at issue in those cases defined a sovereign injury.

In addition, the majority opinion cites a few non-*qui tam* civil cases. *Ante* notes 18 & 21. Some have no application to the question in this case. The remainder do not support the majority opinion's broad conception of a sovereign interest in the enforcement of all statutes; they refute it. As the majority itself acknowledges, *ante* p. 26, the courts in these cases analyze the *text* of the particular statute sought to be enforced to discern the sovereign interest.

2. Interests Defined in Subchapter III of the RSSA

The District alleged in its complaint that the defendants had entered into contracts for the distribution of gasoline that violated D.C. Code § 36-303.01 (a)(6) & (11), a provision in Subchapter III (governing Marketing Agreements) of the RSSA, which states:

> All marketing agreements shall be in writing and shall be subject to the nonwaiverable conditions set forth in this section, ... [and n]o marketing agreement shall: . . .
>
> (6) Prohibit a retail dealer from purchasing or accepting delivery of, on consignment or otherwise, any motor fuels, petroleum products, automotive products, or other products from any person who is not a party to the marketing agreement or prohibit a retail dealer from selling such motor fuels or products, provided that if the marketing agreement permits the retail dealer to use the distributor's trademark, the marketing agreement may require such motor fuels, petroleum products, and automotive products to be of a reasonably similar quality to those of the distributor, and provided further that the retail dealer shall neither represent such motor fuels or products as having been procured from the distributor nor sell such motor fuels or products under the distributor's trademark; [or] . . .
>
> (11) Contain any term or condition which, directly or indirectly, violates this subchapter.

Looking to the text of § 36-303.01, and examining it in the context of the RSSA as a whole and its legislative history, I discern no sovereign interests; I see only private, proprietary interests, which are insufficient to provide the District with standing to sue in this case. *Pennsylvania v. New Jersey,* 426 U.S. 660, 665 (1976) ("[A] State has standing to sue only when its sovereign or quasi-sovereign interests are implicated and it is not merely litigating as a volunteer the personal claims of its citizens").

Section 36-303.01 by its terms imposes limitations on "marketing agreements," which are defined in pertinent part as "any written agreement, or combination of agreements, including any contract, lease, franchise, or other agreement, *which is entered into between a distributor and a retail dealer* and pursuant to which" the parties contract for the sale of motor fuel. D.C. Code § 36- 301.01 (2013 Repl.) (emphasis added). Distributors and retail dealers are in turn defined as private "persons" Moreover, if a distributor violates the provisions of § 36-303.01, only retail dealers have a right of action to seek relief under Subchapter III. *See* D.C. Code § 36-303.04 (2001) (listing the remedies retail dealers may seek against distributors in specific scenarios "in addition to any and all other remedies available"); D.C. Code § 36-303.06 (2001) (specifying the types of civil actions retail dealers may bring against distributors in addition to the remedies available under § 36-303.04 and other statutes or laws). Just as important as what the statute

says is what it does not: nowhere in Subchapter III is the District mentioned, either as an interested party or an enforcer, nor is there any indication that regulating the terms of these contracts is in the broader public interest.

By contrast, Subchapters II and IV of the RSSA *expressly* call for the executive branch of the District to promulgate a regulatory scheme governing the operation and conversion of retail service stations, see D.C. Code § 36-302.04 (c) (2001) (directing the Mayor to "promulgate all other rules and regulations necessary for the proper implementation and enforcement of subchapters II and IV"), and authorize the District to enforce those statutory provisions and attendant regulations, see D.C. Code § 36-302.05 (a) (2013 Repl.) (authorizing the Mayor to order individuals believed to be violating these provisions to cease and desist and if they do not comply to seek injunctive relief); § 36-302.05 (b) (designating "[a]ny violation of any provision of subchapter II or IV of this chapter or the rules and regulations promulgated pursuant thereto" as "a misdemeanor"). Unlike Subchapter III, Subchapters II and IV clearly define sovereign interests enforceable by the sovereign through administrative oversight, affirmative civil litigation, or criminal prosecution.

The legislative history of the RSSA likewise reflects that Subchapter III was expressly designed by the Council to regulate private conduct, whereas Subchapters II and IV were designed for government enforcement. In the RSSA Committee Report, the Council explained that, in response to its various concerns regarding the distribution and sale of motor fuel in the District, it had drafted a statute with "three Titles, each involving a *different form* of regulation," and each with the purpose of protecting different interests. D.C. Council, Comm. on Transp. & Envtl. Affairs, Report on Bill Nos. 1-333 & 1-39 at 20 (Nov. 16, 1976) ("RSSA Committee Report") (emphasis added). The section of the Report addressing Subchapter III of the RSSA begins by explaining that its "primary purpose . . .is to afford independent motor fuel dealers operating under marketing agreements increased legal protection against arbitrary, unreasonable, and discriminatory terminations, cancellations, and non-renewals of their marketing agreements by distributors," *id.* at 25, through "preempt[ion]" of traditional contract law, *id.* at 26. The Report then explains that existing laws "afford inadequate protection to retail dealers" and expresses concern that because of the "significant disparity in bargaining power" between retailers and distributors when executing marketing agreements, "distributors are able to dictate the terms of a marketing agreement"— a form of contract—"to their own best advantage while taking unfair advantage of the prospective retail dealer" *Id.* The Report expressed particular concern about contract terms that permitted distributors to "reserve a unilateral contract right to terminate, cancel[], not renew, or modify a marketing agreement on short notice" *Id.* "As a result, retail dealers are generally denied the traditional prerogatives and protections afforded to independent businessmen" *Id.* Following this explanation of its impetus, the Report enumerates the five "purposes" Subchapter III will "serve":

> (1) to grant increased legal protection to retail dealers . . . ; (2) to clarify the contractual relationship between distributors and retail dealers...; (3) to insure that distributors will treat retail dealers in an equitable manner; (4) to end . . . the arbitrary, unreasonable, and discriminatory terminations, cancellations, and nonrenewals of marketing agreements and other abuses of retail dealers and unsavory practices by distributors; and (5) to enhance the independence of retail dealers in the operation of their retail services stations . . . and, thereby, enhance fair and honest competition and the ability of retail dealers to tailor their operations to the needs, preferences, and convenience of their local customers.

Id. at 28. The Report then explains how the RSSA will "achieve these purposes," including by prohibiting certain types of contractual provisions and "granting the retail dealer a legal cause of action for the distributor's violation" of Subchapter III. *Id.* at 28–29.

By contrast, the Report states that the "primary purpose" of Subchapters II and IV are, respectively and much more broadly, "to preserve and, to some extent, enhance competition in the retail marketing segment of the petroleum industry" through marketplace regulation, *id.* at 22; *see also id.* at 22–23 (discussing the four goals that "will be achieved" by Subchapter II and referencing increased competition and lower fuel prices), and to protect all "consumers" by "temporarily" limiting closures of full service retail service stations "pending a study of the existing facilities" by the Mayor, *id.* at 33–34.

That the Council intended to protect different interests with different enforcement mechanisms in the subchapters of the RSSA is also reflected in the Report's discussion of the "fiscal impact" of the legislation. The Council stated that Subchapter III of the RSSA "deals exclusively with private rights and, therefore, should have negligible budgetary impacts on the District of Columbia" RSSA Committee Report at 64. But the Council acknowledged that Subchapters II and IV would "impose . . . additional duties and responsibilities on the District of Columbia Government," including "enforcement of violations" of the provisions in these subchapters. *Id.* at 63.

In sum, the plain text, the structure, and the legislative history of the RSSA demonstrate that the Council clearly and explicitly assigned separate roles for public and private enforcement of the RSSA. As the RSSA Committee Report explains, Subchapter III "deals exclusively with private rights" and interests, not sovereign ones. *Id.* at 64. Therefore, even if it were permissible for this court to seek out a novel theory of standing not urged by the District, I could not agree the District can claim injury to a sovereign interest and thus standing to sue under Subchapter III of the RSSA.

II. Cause of Action: The 12 (b)(6) Ruling

As noted above, standing is jurisdictional. If the District lacks standing to sue under the Subchapter III of the RSSA, there is no need to review the trial court's additional ruling dismissing the District's complaint for failure to state a claim, i.e., for failure to identify a cause of action in the statute, Super. Ct. Civ. R. 12 (b)(6). But the majority opinion, having supplied the District with a theory of standing, reaches the trial court's 12 (b)(6) ruling and concludes that the trial court erred when it determined that the District possesses neither an express nor an implied cause of action under Subchapter III of the RSSA. The majority opinion eschews any analysis of an express or implied cause of action under Subchapter III of the RSSA, instead asserting that the District's designated agent, its Attorney General, derives its right to sue under the 2010 Attorney General Act, specifically, D.C. Code § 1-301.81 (a)(1). According to the majority opinion, § 1-301.81 (a)(1) gave the District's Attorney General a cause of action to sue in the public interest that is unbounded unless the particular statute under which the Attorney General seeks to sue expressly prohibits the Attorney General from suing thereunder. Just as with its standing analysis, the majority opinion confers on the District broad rights that are unfounded in the law, that exempt the government from established rules of litigation, and that raise separation of powers concerns. Once again, I cannot agree with the majority opinion's analysis.

A plaintiff may have a cognizable interest in a matter such that she has standing to sue, but nonetheless be without a cause of action to pursue her claims in court. To determine if

a litigant suing under a statute has an express or implied cause of action, courts look to the statute under which the suit has been filed:

> Like substantive federal law itself, private rights of action to enforce federal law must be created by Congress. The judicial task is to interpret the statute Congress has passed to determine whether it displays an intent to create not just a private right but also a private remedy. Statutory intent on this latter point is determinative. Without it, a cause of action does not exist and courts may not create one, no matter how desirable that might be as a policy matter, or how compatible with the statute.

Alexander v. Sandoval, 532 U.S. 275, 286–87 (2001) (cleaned up); *accord Touche Ross & Co. v. Redington*, 442 U.S. 560, 568 (1979) ("The question of the existence of a statutory cause of action is, of course, one of statutory construction"); *see also Gonzaga Univ. v. Doe,* 536 U.S. 273, 283–84, 286 (2002). This court conducts the same statutory analysis to determine if the District government has a cause of action. *See Beretta*, 872 A.2d at 651–52 (holding that the Assault Weapon Manufacturing Strict Liability Act of 1990, D.C. Code § 7-2551.01 *et seq.* (2001), "confers a right of action on individuals who are injured, but not the District of Columbia," looking to the text as "the primary source for determining its drafters' intent").

The District has conceded in its brief to this court, as it must, that Subchapter III of the RSSA, unlike other subchapters, "does not provide the District . . . with express authority to enforce § 36-303.01 (a)" And, by failing to make the argument, it implicitly concedes—again, correctly in my view—that the RSSA does not provide it with an implied cause of action either. There is no indication in the text, structure, or legislative history of the RSSA that the Council intended to give the District government a right to sue to enforce the private, proprietary interests protected by Subchapter III. *See supra* Part I.B.2. Instead, whereas the RSSA gives the Mayor enforcement powers under Subchapters II and IV, it does not give the Mayor (or any executive branch official) those powers under Subchapter III of the RSSA. *See supra* Part I.B.2. Finally, the Council's recent, repeated failures to pass bills attempting to give the Attorney General the enforcement power it lacks under Subchapter III indicates that the Council does not want to give the Attorney General this authority to sue.The Council has, at least for the time being, spoken; the Attorney General's recourse to obtain authority to sue is to the Council, not this court. *See Sandoval*, 532 U.S. at 286– 87.

Even so, the District argues that it has a right to sue because, "[i]n the absence of any express statutory enforcement mechanism, the District may act pursuant to its *parens patriae* authority to seek injunctive relieve against violations of" Subchapter III of the RSSA, "so long as it can satisfy the *Snapp* requirements for *parens patriae* standing" This inapposite and legally incorrect standing argument is the only argument the District made to this court in support of its authority to sue, and the majority opinion ignores it.

Instead, the majority independently concludes that the District has authority to sue under the 2010 Attorney General Act, which defines the "duties" of the Attorney General and provides that this executive officer

> shall have charge and conduct of all law business of the said District and all suits instituted by and against the government thereof, and shall possess all powers afforded the Attorney General by the common and statutory law of the District and shall be responsible for upholding the public interest. The Attorney General shall have the power to control litigation and appeals, as well as the power to intervene in legal proceedings on behalf of this public interest.

D.C. Code § 1-301.81 (a)(1). The majority opinion reasons (1) that the 2010 Attorney General Act removed the still-mayorally-appointed Attorney General from under the "direction of the mayor" and gave the Attorney General broad, "common law" powers to sue in the public interest, which he was previously unable to exercise, *ante* pp. 31–34; (2) that these powers are unfettered unless expressly limited by statute, *see ante* pp. 34–35; and (3) therefore, the limits in the RSSA that clearly indicate that the *Mayor* has no enforcement authority under Subchapter III of the RSSA, *see supra* Part I.B.2, do not limit the authority of the Attorney General in this suit, *see ante* Part III.B.2. The majority opinion's analysis is brand new to this case; it is also ahistorical and atextual.

First, we must return to the time of the Adrian Fenty administration, when a number of councilmembers were displeased with the mayorally-appointed Attorney General, Peter Nickles; they felt he was abrogating his duty to act as the District's lawyer and was too focused on serving the political interests of the Mayor. The Council developed an interest in making the Attorney General an elected position, independent from the Mayor, but it did not have the authority to unilaterally amend the District Charter to make this change. *See Zukerberg v. District of Columbia Bd. of Elections & Ethics*, 97 A.3d 1064, 1070 (D.C. 2014). Steps were taken to amend the District Charter, via Congressional action or public referendum, and, in the meantime, the Council passed the 2010 Attorney General for the District of Columbia Clarification and Elected Term Amendment Act.

As its full title indicates, the Council sought to "*clarify*" that the Attorney General was independent of the mayor and legally obligated to act in the public interest and—planning ahead for the day when the Attorney General was a fully independent, separately elected office—to address how those elections would be conducted. The object of this legislation was not to boost the power of an office the Council thought was too weak, but to redirect in furtherance of the public interest power that the Council understood the Attorney General already to possess. This is evident in both the text and legislative history of the Act.

The first section of the Act, § 101, defines the "duties" of the Attorney General and was modeled on the Corporation Counsel statute, *see ante* note 24 (quoting the text of the Corporation Counsel statute, D.C. Code § 1-301.111 (2009)). Section 101 (a)(1) omits the introductory language from the Corporation Counsel statute that the Corporation Counsel "shall be at the direction of the Mayor," and begins with the directive that appears in the second sentence of the Corporation Counsel statute, that the Attorney General "shall have charge and conduct all law business of the said District and all suits instituted by and against the government thereof" *Compare* D.C. Code § 1-301.111, *with* § 1-301.81 (a)(1). The Act then adds that the Attorney General "possess all powers afforded . . . by the common and statutory law of the District" and has the concomitant "responsib[ility] to uphold[] the public interest" The remainder of § 101 reverts to the language of the former Corporation Counsel statute, directing the Attorney General to "furnish opinions in writing to the Mayor," as well as the Council, "whenever requested to do so"; it also imposes a parallel duty to respond to similar requests from the Council and places the burden on the Attorney General to keep a record of these requests and responses.

The thrust of this text, as amended, is that the Attorney General is an independent decision-maker whose powers originate not from the Mayor but from common law and statute. But the amended language gives no indication that the Attorney General's powers are greater than they were under the Corporation Counsel statute. In particular, they give no indication the Attorney General has increased powers to sue to enforce any and all provisions of the

D.C. Code in furtherance of the public interest, whether or not the statute in question conferred an express or implied cause of action. Nor does any other provision of the Act give the Attorney General, in his "clarified" role as an independent lawyer for the District, such increased authority to sue. *See*, *e.g.*, 2010 Attorney General Act at § 102 (governing the appointment of the Attorney General by the Mayor, "[u]ntil such time as an Attorney General is elected"); *id.* at § 103 (governing the minimum qualifications and requirements for the Attorney General); *id.* at § 104 (governing forfeiture the position of Attorney General); *id.* at § 105 (governing the Attorney General salary).

The majority opinion looks beyond the text of the 2010 Attorney General Act to its legislative history to support its argument that the Council gave the Attorney General increased powers to sue in the public interest, *ante* pp. 34–36, but to no avail. The legislative history underscores that the intent of the 2010 Attorney General Act was to "clarify" that the Attorney General, however selected, was institutionally independent from the Mayor and had a *pre-existing* obligation to act in the public interest. The Committee Report expressly states that:

> [T]he Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2009, *makes clear in the law what is axiomatic*: that the responsibility of the Attorney General is to serve the citizens of the District. The legislation *codifies* the institutional independence and makes modifications to strengthen the position of Attorney General through the establishment of minimum qualifications and a term of service.

D.C. Council, Comm. on Pub. Safety & Judiciary, Report on Bill No. 18-65 at 1–2 (Dec. 16, 2009) ("2009 Committee Report") (emphases added); *id.* at 5 ("[T]he District's Attorney General *maintains* common law powers, including the position's duty to the public" (emphasis added)); *id.* (explaining that these common law powers were derived from Maryland common law, that they could be abrogated by statute, but that "[a] careful review of the District's Charter, and relevant statutory provisions pertaining to the Attorney General's authority, clearly reveal that *no such deprivation has been achieved or attempted*," but instead that "the responsibilities of the Attorney General have *consistently* aimed toward the execution of the District's law business in furtherance of the public interest" (emphasis added)).

The legislative history not only gives no indication that any change in the Attorney General's powers was contemplated—either generally or with respect to his power to sue—but also expressly states that the *only* "major substantive change to the Attorney General position under [the Act] is in the selection process" 2009 Committee Report at 2. The 2009 Committee Report explained that "[w]hile the Attorney General has *a long established obligation to represent and defend the legal interests of the public*, it is not the public but the Executive that appoints the individual to this position" *Id.* (emphasis added). The Act "would remedy this inequity by allowing for the direct election of the Attorney General" and "*making clear in the law* that he or she is the lawyer *for* the District of Columbia and is thus to act as the public interest requires" *Id.* (first emphasis added). But the report noted that the Act "will not prevent the current Attorney General from *continuing to serve* in that role" *Id.* (emphasis added).

The majority opinion, however, seems to think that the reference in § 1- 301.81 (a)(1) to "common law" powers to "uphold[] the public interest" gives the Attorney General new authority to bring lawsuits in the public interest, even without an express or implied right of action under the statute under which the Attorney General seeks relief. *Ante* pp. 33–35. Again, there is no indication in the text or the legislative history of the 2010 Attorney General Act that this was the Council's intent. But more fundamentally, the majority opinion never specifies what new "common law" powers it thinks were given—or restored—to the Attorney General by operation of the 2010 Attorney General Act. The majority does not identify the substance or scope of these common law powers, or explain why they authorize the Attorney General to sue even without an express or implied cause of action under a particular statute. It is not enough for the majority opinion to cite cases discussing the common law powers of Attorneys General from other states, or to allude generally to "the common law" There is no uniform, "common law" understanding of a state Attorney General's powers. If, as the majority opinion suggests, § 1-301.81 (a)(1) sought to confer enhanced powers on the Attorney General derived from "common law," we must, per the statute, examine what those powers were under "the common . . . law of the District"

As the legislative history of the 2010 Attorney General Act reflects, the District looks to Maryland common law "in force on February 27, 1801" D.C. Code § 45-401 (2013 Repl.) (explaining that the District's common law is derived from Maryland). But the majority does not cite to Maryland case law or treatises from 1801 (or prior) to establish the scope of the Maryland Attorney General's powers to sue at that time. Even so, it would be curious to discern that, by operation of the 2010 Attorney General Act, Maryland common law from 1801 gave the District's Attorney General power to sue in the public interest: even allowing for state-by-state differences, the role of a state Attorney General as it was understood two hundred years ago was to be "the appointed servant of the Sovereign and guardian of the Crown's interest"; the conception of the Attorney General as defender of the public interest is a construct of the Twentieth Century. National Assoc. of Attorneys General, *State Attorneys General* 31 (2013).

For these reasons, I disagree that the 2010 Attorney General Act fundamentally altered the authority of the District's Attorney General and gave him broad authority to sue in the public interest to enforce any statute unless expressly prohibited from doing so. Thus, I think the majority has the analysis backwards when it states that the inquiry is whether the Council has "affirmatively *precluded*" the Attorney General from suing under the RSSA, *ante* p. 40. Instead, as explained above, the trial court was correct to look to Subchapter III of the RSSA to see if the Council had given the District (represented by the Attorney General) an express or implied right of action thereunder, and was correct to determine that the Council had not.

III. Conclusion

With its decision in this case, the majority opinion relieves the District government of burdens all other plaintiffs must shoulder if they wish to seek judicial relief—burdens to show standing and a right to sue under a particular statute. As detailed above, I disagree with the particulars of the majority opinion's legal analysis. But more fundamentally, I question whether the judicial branch should provide such assistance to the executive branch to pursue a lawsuit, particularly when the effect is to countermand the legislature's decision as to who may enforce the law in question. I respectfully dissent.

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First Insertions

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 966
REGINALD BROWN, Deceased
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

JACQUELINE BROWN, whose address(es) is/are 6309 LONGFELLOW STREET, RIVERDALE, MD 20737, was/were appointed personal representative(s) of the estate of REGINALD BROWN, who died on JUL 24, 2014, WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before JUN 1, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before JUN 1, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: DEC 1, 2017. /s/ JACQUELINE BROWN. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN. Pub Dates: DEC 1, 8, 15, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 1303
ROBERT AUGUSTA GRAY, SR., Deceased
TINA SMITH NELSON, Attorney
LEGAL COUNSEL FOR THE ELDERLY 601 E STREET, NW, WASHINGTON, DC 20049
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

IRENE J. GRAY, whose address(es) is/are 3921 BLAINE STREET, NE, WASHINGTON, DC 20019, was/were appointed personal representative(s) of the estate of ROBERT AUGUSTA GRAY, SR., who died on JUL 7, 2017, WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before JUN 1, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before JUN 1, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: DEC 1, 2017. /s/ IRENE J. GRAY. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, THE AFRO AMERICAN. Pub Dates: DEC 1, 8, 15, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001285
PANSY A. JACKSON AKA PANSY ARLENE AVERY JACKSON, Deceased
JAMISON B. TAYLOR, Attorney
1218 11TH ST. NW, WASHINGTON, DC 20001
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

ROLAND J. JACKSON JR., whose address(es) is/are 14 SUTTON CT., KETTERING, MD 20774, was/were appointed personal representative(s) of the estate of PANSY A. JACKSON AKA PANSY ARLENE AVERY JACKSON, who died on APR 29, 2017, WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before JUN 1, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before JUN 1, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: DEC 1, 2017. /s/ ROLAND J. JACKSON JR. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO AMERICAN. Pub Dates: DEC 1, 8, 15, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 576
ANNA A. LEWIS, Deceased
DEBORAH K. HINES, Attorney
2101 L STREET, NW SUITE 800,
WASHINGTON, DC 20037
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

DEBORAH K. HINES, whose address(es) is/are 2101 L STREET, NW SUITE 800, WASHINGTON, DC 20037, was/were appointed personal representative(s) of the estate of ANNA A. LEWIS, who died on JAN 5, 2017, WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before JUN 1, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before JUN 1, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: DEC 1, 2017. /s/ DEBORAH K. HINES. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, WASHINGTON AFRO AMERICAN. Pub Dates: DEC 1, 8, 15, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001338
CLAUDETTE LEWIS, Deceased
THOMAS J. KOKOLIS, Petitioner/Attorney
110 N. WASHINGTON ST., SUITE 500
ROCKVILLE, MD 20850
Notice of Standard Probate
(For estates of decedents dying on or after July 1, 1995)

Notice is hereby given that a petition has been filed in this Court by BARKLEY SUTTON C/O RUSHMORE LOAN MANAGEMENT SERVICES for standard probate, including the appointment of one or more personal representatives. Unless a responsive pleading in the form of a complaint or an objection in accordance with Superior Court Probate Division Rule 407 is filed in this Court within 30 days from the date of first publication of this notice, the Court may take the action hereinafter set forth. In the absence of a will or proof satisfactory to the Court of due execution, enter an order determining that the decedent died intestate. Appoint a supervised personal representative. Date of First Publication: DEC 1, 2017. /s/ BARKLEY SUTTON. TRUE TEST COPY /s/ ANNE MEISTER, Register of Wills. Name of Newspapers: DWLR, WASHINGTON TIMES. Pub Dates: DEC 1, 8, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001302
CATHERINE S. MOTSI, Deceased
MICHAEL D. BREADS, Attorney
8737 COLESVILLE ROAD, LL-100A
SILVER SPRING, MD 20910
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

VIRGINIA A. WILDY, whose address(es) is/are 11590 NORTHUMBERLAND HWY, HEATHSVILLE, VA 22473, was/were appointed personal representative(s) of the estate of CATHERINE S. MOTSI, who died on NOV 26, 2016, WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before JUN 1, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before JUN 1, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: DEC 1, 2017. /s/ VIRGINIA A. WILDY. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN NEWSPAPER. Pub Dates: DEC 1, 8, 15, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 944
SABRINA RENEE TURNER A/K/A SABRINA R. TURNER, Deceased
WILLIAM A. BLAND, Attorney
80 M STREET SE #330 WASHINGTON, DC 20003
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

JASMINE N. TURNER, whose address(es) is/are 622 SOUTHERN AVENUE SE, WASHINGTON, DC 20032, was/were appointed personal representative(s) of the estate of SABRINA RENEE TURNER A/K/A SABRINA R. TURNER, who died on JUN 8, 2017, WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before JUN 1, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before JUN 1, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: DEC 1, 2017. /s/ JASMINE N. TURNER. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO AMERICAN NEWSPAPERS. Pub Dates: DEC 1, 8, 15, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION

2017 ADM 001211
CLARENCE WIMBUSH AKA CLARANCE WIMBUSH, Deceased
ANITRA ASH-SHAKOOR, Attorney
CAPITAL JUSTICE 1300 I STREET NW, SUITE 400E, WASHINGTON, DC 20005
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

BONNITA BRADLEY, whose address(es) is/are 4922 12TH STREET NE, WASHINGTON, DC 20017, was/were appointed personal representative(s) of the estate of CLARENCE WIMBUSH AKA CLARANCE WIMBUSH, who died on AUG 22, 2017, WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before JUN 1, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before JUN 1, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: DEC 1, 2017. /s/ BONNITA BRADLEY. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN NEWSPAPER. Pub Dates: DEC 1, 8, 15, 2017.

Second Insertions

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001287
WILLIAM E. GIPSON, SR., Deceased
ERICK R. TYRONE, Attorney
THE TYRONE LAW GROUP, LLC, 9701 APOLLO DRIVE, SUITE 100, LARGO, MD 20774
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

TYRONE GIPSON, whose address is 11104 PISCATAWAY ROAD, CLINTON, MD 20735, was appointed personal representative of the estate of WILLIAM E. GIPSON, SR., who died on JUL 29, 2013 WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 24, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 24, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 24, 2017. /s/ TYRONE GIPSON. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN. Pub Dates: NOV 24, DEC 1, 8, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001212
EDITH LOWERY LEWIS, Deceased
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

MELVIN DARRYL LEWIS, whose address is 13206 POPPY HILL COURT, BRANDYWINE, MD 20613, was appointed personal representative of the estate of EDITH LOWERY LEWIS, who died on SEP 16, 2013 WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 24, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 24, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 24, 2017. /s/ MELVIN DARRYL LEWIS. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN NEWS. Pub Dates: NOV 24, DEC 1, 8, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 918
EVA JEAN COOK MCCALL, Deceased
RACHELL LONG, Attorney
1404 HALF ST SW, WASHINGTON, DC 20024
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

SHIRLEY BETHEA, whose address is 2002 T STREET SE, WASHINGTON, DC 20020, was appointed personal representative of the estate of EVA JEAN COOK MCCALL, who died on MAY 26, 2017 WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 24, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 24, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 24, 2017. /s/ SHIRLEY BETHEA. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, WASHINGTON AFRO-AMERICAN. Pub Dates: NOV 24, DEC 1, 8, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001277
ANNE ELIZABETH SCHNEIDERS, Deceased
ERNEST C. RASKAUSKAS, Attorney
3109 SOUTH STREET, NW, WASHINGTON, DC 20007
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

GREGORY S. SCHNEIDERS, whose address is 6302 30TH ST NW WASHINGTON, DC 20015, was appointed personal representative of the estate of ANNE ELIZABETH SCHNEIDERS, who died on OCT 15, 2017 WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 24, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 24, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 24, 2017. /s/ GREGORY S. SCHNEIDERS. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, WASHINGTON BLADE. Pub Dates: NOV 24, DEC 1, 8, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 1301
ANTONIO J. WHITE AKA ANTONIO JEROME WHITE, Deceased
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

BRADLY KARL BURNEY, SR., whose address is 9105 SAFFRON LN, SILVER SPRING, MD 20901, was appointed personal representative of the estate of ANTONIO J. WHITE AKA ANTONIO JEROME WHITE, who died on OCT 13, 2017 WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 24, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 24, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 24, 2017. /s/ BRADLY KARL BURNEY SR. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, WASHINGTON AFRO AMERICAN. Pub Dates: NOV 24, DEC 1, 8, 2017.

Third Insertions

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 1268
MELVIN EDMONDS, JR., Deceased
JUDITH DEL CUADRO-ZIMMERMAN, Attorney
718 7TH STREET NW, 2ND FLOOR, WASHINGTON, DC 20001
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

ANDREA M. EDMONDS, whose address is 1029 31ST STREET, SE, WASHINGTON, DC 20019, was appointed personal representative of the estate of MELVIN EDMONDS, JR., who died on AUG 24, 2017 WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ ANDREA M. EDMONDS. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001281
ISABELLE R. ELIAS, Deceased
F. DOUGLAS YEATMAN, Attorney
YEATMAN & YEATMAN LLP, 8120 WOODMONT AVENUE, SUITE 650 BETHESDA, MD 20814
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

DANIEL J. ELIAS, whose address is 3145 ELLICOTT STREET, N.W., WASHINGTON D.C. 20008, was appointed personal representative of the estate of ISABELLE R. ELIAS, who died on JUL 6, 2017 WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's Will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ DANIEL J. ELIAS. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 1258
CAMILLA EARLENE GREEN, Deceased
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

AUDREY IDELL BERRY, whose address is 20990 FATHER HURLEY BLVD. #336 GERMANTOWN, MD 20874, was appointed personal representative of the estate of CAMILLA EARLENE GREEN, who died on JUL 18, 2017 WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ AUDREY IDELL BERRY. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 1207
LOUISE MORTON HANKINS, LOUISE MORTON HANKINS AKA LOUISE V. MORTON-HANKINS, Deceased
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

SILAS W. MORTON, whose address is 8334 FOUNDERS WOODS WAY FORT WASHINGTON, MD 20744, was appointed personal representative of the estate of LOUISE MORTON HANKINS AKA LOUISE V. MORTON-HANKINS, who died on JUN 2, 2017 WITH a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's Will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ SILAS W. MORTON. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, THE AFRO AMERICAN NEWSPAPER. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001227
BARBARA A. HILL, Deceased
OLIVIA R. HOLCOMBE-VOLKE, Attorney
ELVILLE AND ASSOCIATES, P.C., 9192 RED BRANCH ROAD, SUITE 300, COLUMBIA, MARYLAND 21045
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

VICKIE L. FADELEY, whose address(es) is/are 20308 SANDSFIELD TERRACE, GERMANTOWN, MD 20876, was/were appointed personal representative(s) of the estate of BARBARA A. HILL, who died on AUG 4, 2017 WITHOUT a Will, and will serve WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ VICKIE L. FADELEY. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN NEWSPAPER. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001234
CASSIDY KARAKORN, Deceased
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

KIMBERLY LYNN KARAKORN whose address is 46362 HOBBS SQUARE, POTOMAC FALLS, VA 20165, was appointed Personal Representative of the estate of CASSIDY KARAKORN, who died on AUG 27, 2017 WITHOUT a Will and will service WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ KIMBERLY LYNN KARAKORN. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspaper: DWLR, WASHINGTON AFRO-AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001257
VERLA MAE D GOFF KELLY AKA VERLA MAE GOFF KELLY, Deceased
SEBASTIAN KROP, ATTORNEY
1330 NEW HAMPSHIRE AVENUE, N.W. #111, WASHINGTON, D.C. 20036-6300
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

MAURICE KELLY whose address is 1423 CRITTENDEN STREET NW WASHINGTON DC 20011, was appointed Personal Representative of the estate of VERLA MAE D GOFF KELLY AKA VERLA MAE GOFF KELLY, who died on AUG 20, 2017 WITH a Will and will service WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's Will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/MAURICE KELLY. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspaper: DWLR, AFRO-AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 789
AMY D. MCCREARY, Deceased
VICKEY A. WRIGHT-SMITH, Attorney
1629 K STREET NW, #300, WASHINGTON, DC 20006
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

GEORGE G. ALLEN whose address is 6112 ALPINE STREET, DISTRICT HEIGHTS, MD 20474, was appointed Personal Representative of the estate of AMY D. MCCREARY, who died on JUN 12, 2016 WITHOUT a Will and will service WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ GEORGE G. ALLEN. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspaper: DWLR, AFRO-AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001282
MARY E. MOSELEY AKA MARY ELIZABETH MOSELEY, Deceased
Notice of Appointment, Notice to Creditors
And Notice to Unknown Heirs

BRENDA E. MOSELEY whose address is 4425 19TH PLACE NE, WASHINGTON, DC 20018, was appointed Personal Representative of the estate of MARY E. MOSELEY AKA MARY ELIZABETH MOSELEY, who died on SEP 8, 2017 WITH a Will and will service WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's Will) shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be

forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ BRENDA E. MOSELEY. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspaper: DWLR, AFRO-AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 FEP 000129
CLAYTON DRUMGOOLE SCOTT, *Deceased*
JUN 24, 2013, *Date of Death*
Notice of Appointment of Foreign Personal Representative And Notice to Creditors

HERBERT SCOTT, whose address(es) is/are 51 FARRAGUT PL. N.W. WASHINGTON, D.C. 20011, was/were appointed Personal Representative of the estate of CLAYTON DRUMGOOLE SCOTT, deceased, by the REGISTER OF WILLS Court for PRINCE GEORGES County, State of MARYLAND on NOV 25, 2015. Service of process may be made upon HERBERT SCOTT, 51 FARRAGUT PL. N.W. WASHINGTON, D.C. 20011, whose designation as District of Columbia agent has been filed with the Register of Wills, D.C. The decedent owned the following District of Columbia real property: 51 FARRAGUT PL. N.W. WASHINGTON, D.C. 20011. The decedent owned District of Columbia personal property. Claims against the decedent may be presented to the undersigned and filed with the Register of Wills for the District of Columbia, Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001 within six months from the date of first publication of this notice. Date of First Publication: NOV 17, 2017. /s/ HERBERT SCOTT. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO-AMERICAN. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 001269
WILLIAM CARDELL SHELTON, JR., Deceased
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

ANITA B. SHELTON whose address is 1937 LAMONT STREET, NW, WASHINGTON, DC 20010, was appointed Personal Representative of the estate of WILLIAM CARDELL SHELTON, JR., who died on JUL 24, 2017 WITHOUT a Will and will service WITHOUT Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ ANITA B. SHELTON. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspaper: DWLR, AFRO-AMERICAN NEWSPAPERS. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 1261
NORMA M. WELLS, Deceased
TINA SMITH NELSON, Attorney
LEGAL COUNSEL FOR THE ELDERLY, 601 E STREET, NW, WASHINGTON, DC 20049
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

SHARON E. WELLS, whose address(es) is/are 4617 JAY STREET, NE, WASHINGTON, DC 20019, was/were appointed personal representative(s) of the estate of NORMA M. WELLS, who died on MAY 1, 2011 WITHOUT a Will, and will serve WITH Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ SHARON E. WELLS. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, AFRO AMERICAN NEWSPAPERS. Pub Dates: NOV 17, 24, DEC 1, 2017.

Superior Court of the District of Columbia
PROBATE DIVISION
2017 ADM 1251
MELVIN JAMES YERBY, SR., Deceased
CHARLES E. WALTON, Attorney
10905 FORT WASHINGTON ROAD, #201, FORT WASHINGTON, MARYLAND 20744
Notice of Appointment, Notice to Creditors And Notice to Unknown Heirs

MELVIN JAMES YERBY, JR., whose address(es) is/are 3416 BROTHERS PLACE, S.E., WASHINGTON, D.C. 20032, was/were appointed personal representative(s) of the estate of MELVIN JAMES YERBY, SR., who died on JUN 25, 2007 WITHOUT a Will, and will serve WITH Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., Building A, 515 5th Street, N.W., 3rd Floor, Washington, D.C. 20001, on or before MAY 17, 2018. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before MAY 17, 2018, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship. Date of First Publication: NOV 17, 2017. /s/ MELVIN JAMES YERBY, JR. TRUE TEST COPY /s/ ANNE MEISTER Register of Wills. Name of Newspapers: DWLR, THE AFRO AMERICAN NEWSPAPER. Pub Dates: NOV 17, 24, DEC 1, 2017.

Fifth Insertions

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Probate Division
Administration No. 2004 ADM 000446
ESTATE OF MARGUERITE GODFREY BURDETTE
Deceased.
ORDER FOR ESCHEAT PUBLICATION

The District of Columbia seeks from this Court a finding that the above-named Decedent died intestate, without heirs-at-law or next-of-kin within the degree of relationship recognized by the laws of devolution and descent, and for a decree that said decedent's property escheat to the District of Columbia pursuant to applicable law.

ACCORDINGLY, is is this 4th day of October, 2017, hereby

ORDERED that the unknown heirs-at-law and next-of-kin of Marguerite Godfrey Burdette, if any, and all others interested, appear in Courtroom A-48 on January 26, 2018, at 11:00 a.m., before the undersigned judge and show cause, if any, why such application should not be granted; and it is further

ORDERED that the petitioner District of Columbia shall be responsible for arranging publication in the Daily Washington Law Reporter and the Washington Jewish Week Newspapers twice a month for three consecutive months prior to the aforesaid hearing date, and for filing proofs of publication prior to the aforesaid hearing date. /s/ Judge Alfred S. Irving, Jr. Pub Dates: Oct 13, 20, Nov 1, 8, Dec 1, 8, 2017.

DWLR Quick Reference November 2017

Opinions

Nov. 1 - Agrama v. IRS
Nov. 2 - US v. Dynamic Visions and Bongam
Nov. 3 - Consumers' Checkbook v. US Dep't of Health and Human Services
*** Nov. 6 - In the Matters of: JR, KT, AG**
Nov. 7 - Garza v. Hargan
Nov. 8 - Proctor v. US
Nov. 9 - In re Mance
Nov. 10 - In re Grand Jury Investigation
Nov. 13 - Kirwa v. US Dep't of Defense
Nov. 13 - Nio v. US Dep't of Homeland Security
Nov. 14 - Nichols v. Club for Growth Action
Nov. 14 - McLaughlin v. Hartford Life & Annuity Ins. Co.
Nov. 15 - Bloomgarden v. US Dep't of Justice
Nov. 15 - Jane Doe 1 v. Trump
Nov. 16 - Mehta v. Maddox
Nov. 17 - Jones v. US
Nov. 20 - Mayo and Nelson v. Reynolds
Nov. 20 - WIlson v. Nextell Communications
Nov. 21 - In re Prosecution of Perrow
Nov. 21 - Pyles v. HSBC Bank USA, N.A.
Nov. 22 - Sharp Corp. v. Hisense USA Corp.
Nov. 22 - Aguilar v. Michael & Son Services
Nov. 24 - Hudson v. American Federation of Gov't Employees
Nov. 27 - Wade v. US
Nov. 27 - Hudson v. American Federation of Gov't Employees
Nov. 28 - Gill v. US Dep't of Justice and FBI
Nov. 28 - Montgomery v. Risen
Nov. 29 - Detroit Int'l Bridge Co. v. Gov't of Canada
Nov. 30 - US Dep't of Justice, BOP v. Federal Labor Relations Authority

*** D.C. Superior Court opinion**

Orders

Nov. 6 - Rule Prom. Order 17-04
Nov. 7 - Rule Prom. Order 17-05
Nov. 17 - Admin. Order 17-18
Nov. 30 - Rule Prom. Order 17-06

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RULE PROMULGATION ORDER 17-07
(Amending Super. Ct. L&T R. 3)

WHEREAS, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved amendments to Superior Court Rule of Procedure for the Landlord and Tenant Branch 3; and

WHEREAS, this rule does not modify the Federal Rules of Civil or Criminal Procedure; it is

ORDERED, that Superior Court Rule of Procedure for the Landlord and Tenant Branch 3 is hereby amended as set forth below; and it is further

ORDERED, that the amendments shall take effect immediately, and shall govern all proceedings hereafter commenced and insofar is just and practicable all pending proceedings.

Rule 3. Commencement of aAction.

(a) IN GENERALn general.

(1) *Complaint for Possession of Real Property.* A Llandlord and Ttenant action isshall be commenced by delivering tofiling with the Cclerk a verified Complaint for Possession of Real Property completed on one of the following Llandlord and Ttenant forms:

(A) Form 1A (Nonpayment of Rent—Residential Property);,

(B) Form 1B (Violation of Obligations of Tenancy or Other Grounds for Eviction—Residential Property);,

(C) Form 1C (Nonpayment of Rent and Other Grounds for Eviction—Residential Property);, or

(D) Form 1D (Commercial Property).

(2) *Summons.* TogetherAlong with the complaint, the plaintiff must also shall deliver to the Cclerk a prepared Form 1S (Summons to Appear in Court and Notice of Hearing), which shall be accompanied by information for litigants, as determined required by administrative orders issued byof the Chief Judge.

(3) *Copies.* The plaintiff mustshall provide the Cclerk with the original complaint and summons and with a copy of the complaint and summons for each defendant named in the complaint.

(b) ADDITIONAL CLAIMSlaims.

(1) *Other Claims Allowed in a Landlord and Tenant Action.* In addition to a claim for possession of real property, an original or amended complaint in one of the forms set out in sectionRule 3(a) may include a claim for the following:

(A) the recovery of personal property located in the premises and belonging to the plaintiff;.

(B) The complaint also may include a claim for a money judgment based on rent in arrears and late fees as permitted by law;; or

(C) the relief listed in both Rule 3(b)(1)(A) and (B).

(2) *Requirements for a Money Judgment.* provided that noA money judgment mayshall be rendered against thea defendant only if the defendantunless he:

(A) has been personally served; or unless he

(B) asserts a counterclaim for a money judgmentor a defense of recoupment or setoff.

(c) JUDGMENT BY DEFAULT. If the defendant fails to appear, the verification set out in these Rules shall entitles the plaintiff to a judgment by default in accordance with Rule 14.

COMMENT TO 2017 AMENDMENT

This rule has been amended consistent with the stylistic changes to the civil rules. Subsection (b)(1)(B) was also modified in response to the Rental Housing Late Fee Fairness Amendment Act of 2016, D.C. Law No. 21-0172 (Dec. 8, 2016), which prohibits a landlord from evicting a tenant on the basis of nonpayment of a late fee. The rule now permits landlords to seek late fees as part of a money judgment.

COMMENT

D.C. Code § 16-1501 requires that a complaint for possession be made "under oath verified by the person aggrieved by the detention, or by his agent or attorney having knowledge of the facts." Therefore, although SCR-Civ. 9-I is incorporated into the Landlord and Tenant Rules, a
complaint for possession must be verified under oath before a notary public or other person authorized by law to administer an oath and may not be based on an unsworn declaration. See SCR-Civ. 9-I(e).

* * *

By the Court:
Date: November 20, 2017
/s/ Robert E. Morin, Chief Judge

The Daily Washington LAW Reporter

(USPS 146-840)

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Government Pro Bono Award
Deborah Birnbaum, U.S. Department of Labor

Legal Services Award
Tracy Goodman, Children's Law Center

Law Firm Award
Mayer Brown LLP

Above & Beyond Award
Jaya Saxena, The George Washington University Law School

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