

**ORAL ARGUMENT NOT YET SCHEDULED****No. 24-7005**

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**UNITED STATES COURT OF APPEALS  
FOR THE D.C. CIRCUIT**

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ERIC J. FLANNERY, and DRANE FLANNERY RESTAURANT, LLC, T/A  
THE BIG BOARD,

*Plaintiffs-Appellants,*

v.

DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH, and LAQUANDRA S.  
NESBITT, in her official capacity,

*Defendants-Appellees.*

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On Appeal from the U.S. District Court for the  
District of Columbia, No. 1:22-cv-3108-ABJ

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**APPELLANTS' RULE 34 STATEMENT  
REQUESTING ORAL ARGUMENT**

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## Statement

Appellants respectfully request this Court grant oral argument and submit this statement in support of that request under Federal Rule of Appellant Procedure 34(a)(1). This case raises issues of grave importance concerning the limits of D.C. government power that originate squarely in the U.S. Constitution. *See* Const. art. I, § 8, cl. 17. The delicate balance that the Home Rule Act sets between the D.C. Council, D.C. Mayor, and Congress’s reserved constitutional power is not often litigated, but has a significant effect on government actors, as well as on the due process and property rights of D.C. residents and local businesses like Appellants. *See* D.C. Home Rule Act, Pub. L. No. 93–198, 87 Stat. 774 (1973) (codified as amended at D.C. Code §§ 1–201-07). Accordingly, oral argument will aid the Court’s consideration of these significant legal issues and best serve the interests of justice in this case concerning constitutional constraints and civil rights. *See United States v. Baber*, 447 F.2d 1267, 1270 (D.C. Cir. 1971) (emphasizing “the importance that oral argument may have in many, perhaps most, cases”).

Respectfully submitted,

Dated: May 24, 2024

/s/ David L. Rosenthal

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## CERTIFICATE OF COMPLIANCE

This document complies with Federal Rule of Appellate Procedure 27(d)(2) because it contains 181 words, excluding the parts that can be excluded. This document also complies with Rule 32(a)(5)-(6) because it is prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

Date: May 24, 2024

/s/ David L. Rosenthal

**CERTIFICATE OF SERVICE**

I filed this brief with the Clerk via ECF, which will email everyone requiring service.

Date: May 24, 2024

/s/ David L. Rosenthal