

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-5176

September Term, 2019

1:19-cv-00969-TNM

Filed On: March 13, 2020

United States House of Representatives,

Appellant

v.

Steven T. Mnuchin, in his official capacity as
Secretary of the United States Department of
the Treasury, et al.,

Appellees

No. 19-5331

1:19-cv-02379-KBJ

Committee on the Judiciary of the United
States House of Representatives,

Appellee

v.

Donald F. McGahn, II,

Appellant

BEFORE: Srinivasan, Chief Judge, and Henderson, Rogers, Tatel, Garland,
Griffith, Millett, Pillard, Wilkins, Katsas*, and Rao*, Circuit Judges

ORDER

On March 6, 2020, the Committee on the Judiciary timely filed a petition for rehearing en banc in *Committee on the Judiciary of the U.S. House of Representatives v. McGahn*, No. 19-5331 (D.C. Cir. Feb. 28, 2020). In *U.S. House of Representatives v. Mnuchin*, No. 19-5176, the panel requested a vote of the en banc court to determine whether to rehear *Mnuchin* en banc in light of the common issue of Article III standing presented in that case and *McGahn*. See *D.C. Circuit Handbook of Practice and Internal Procedures* 60 (2019) (judge may suggest en banc consideration prior to panel decision); *Fields v. Office of Eddie Bernice Johnson*, No. 04-5315 (D.C. Cir. Apr. 29, 2005) (en banc) (en banc review granted in two cases presenting common issue); *United States v. Crowder*, No. 92-3133 (D.C. Cir. May 17, 1995) (en banc) (same).

* Circuit Judges Katsas and Rao did not participate in these matters.

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A vote was taken and a majority of the judges eligible to participate voted to rehear *McGahn* and *Mnuchin* en banc. Upon consideration of the foregoing, it is

ORDERED that the petition for rehearing en banc filed in *McGahn*, No. 19-5331, be granted and the judgment in that case filed February 28, 2020, be vacated. It is

FURTHER ORDERED that these cases be scheduled for oral argument before the en banc court on Tuesday, April 28, 2020. Senior Circuit Judge Sentelle, a member of the merits panel in *Mnuchin*, will sit on the en banc panel for that case only. It is

FURTHER ORDERED that the parties and amici curiae in *Mnuchin* provide 30 additional paper copies of their previously filed briefs and joint appendix to the court by 4:00 p.m. on March 26, 2020. It is

FURTHER ORDERED that the parties and amici curiae in *McGahn* provide 30 additional paper copies of their previously filed briefs, supplemental briefs, and joint appendix to the court by 4:00 p.m. on March 26, 2020. It is

FURTHER ORDERED that the parties file supplemental briefs in each case, not to exceed 6,500 words, addressing only Article III standing. The following supplemental briefing schedule will apply in these cases:

Appellant's Brief in *McGahn*, No. 19-5331 March 30, 2020, by 4:00 p.m.
Appellant's Brief in *Mnuchin*, No. 19-5176

Appellee's Brief in *McGahn*, No. 19-5331 April 16, 2020, by 4:00 p.m.
Appellee's Brief in *Mnuchin*, No. 19-5176

In addition to electronic filing, the parties are to submit 30 paper copies of their supplemental briefs to the court by the time and date due.

Because the briefing schedule is keyed to the date of argument, the court will grant requests for extension of time limits only for extraordinarily compelling reasons. All briefs and appendices must contain the date that the case is scheduled for oral argument at the top of the cover. See D.C. Cir. Rule 28(a)(8).

A separate order will issue regarding allocation of oral argument time.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Michael C. McGrail
Deputy Clerk