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SUMMARY OF *AMICUS CURIAE* BRIEF BY THE D.C. AFFAIRS COMMITTEE  
IN BANNER, ET AL. V. U.S., BEFORE THE U.S. COURT OF APPEALS FOR THE  
DISTRICT OF COLUMBIA CIRCUIT

The D.C. Affairs Section intends to join many former Bar presidents in a brief (and motion for leave to file the brief) as *amici curiae* in support of Appellants.<sup>1</sup> The brief is similar to the brief filed by the Section and former Bar presidents with the District Court, which was recognized by U.S. District Judge Ellen Segal Huvelle as compelling.

Appellants' lead counsel is former Bar president John W. Nields, Jr., and he is joined by Section steering committee member Walter Smith. The brief and motion were prepared by Joseph Rieser, Jr. and Joseph Price of Arent Fox. Section steering committee member Jon S. Bouker is of counsel. The D.C. Affairs Section is concerned with issues relating to the laws and government of the District of Columbia, has a longstanding interest in a strong, economically viable home rule in the District, and has filed *amicus curiae* briefs on other issues relating to home rule. The brief focuses on the fundamental principle of law that a jurisdiction has the legal authority to tax income earned within its borders. Denying only the District, alone among all U.S. jurisdictions, the benefit of taxing all income earned within its borders requires judicial scrutiny. Because the District is prohibited from taxing the income of non-residents, it must attempt to make up for this lost revenue by "over-taxing" D.C. residents in order to address what the General Accounting Office recently concluded was a "structural imbalance" in the District's fiscal system. The *amici curiae* support Appellants' challenge to the Prohibition and urge the appellate court to reverse the District Court's dismissal of the complaint and consider the merits of the claims.

The Section is requesting an expedited review because the brief is due at the printers on December 23 for filing on December 28. A majority of the steering committee has consented to filing the brief. Co-Chairs James S. Bubar and Bell Clement contributed to the brief.

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<sup>1</sup> The views expressed represent only those of the individual past presidents and the D.C. Affairs Section of the D.C. Bar and not those of the D.C. Bar or of its Board of Governors.