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Supreme Court Nominee Appears to Agree with Us About the SEC's Administrative Court

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We have long been publicly critical of the procedures in the SEC's administrative courts, which offer significantly fewer due process protections than afforded defendants in Article III courts. Most notably, there is no jury and the judge is employed by the SEC. (We say this even though we achieved one of the few defense victories ever obtained in that forum.)

D.C. Circuit Judge Kavanaugh, who has recently been nominated for the Supreme Court, last year dissented in a case called *SEC v. Lorenzo*. In so doing, he noted: "Administrative adjudication of individual disputes is usually accompanied by deferential review from the Article III judiciary. That agency-centric process is in some tension with Article III of the Constitution, the Due Process Clause of the Fifth Amendment, and the Seventh Amendment right to a jury trial in civil cases."

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