

Received(Date): 6 APR 2001 18:04:11
From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
To: Rachel L. Brand (CN=Rachel L. Brand/OU=WHO/O=EOP@EOP [WHO])
Subject: : Re: CA6

Begin Original ARMS Header #####
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-APR-2001 18:04:11.00
SUBJECT:: Re: CA6
TO: Rachel L. Brand (CN=Rachel L. Brand/OU=WHO/O=EOP@EOP [WHO])
READ: UNKNOWN
End Original ARMS Header

P6/b6

Rachel L. Brand
04/06/2001 02:10:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: CA6

P6/b6

Brett M. Kavanaugh
04/06/2001 01:55:32 PM
Record Type: Record

To: Rachel L. Brand/WHO/EOP@EOP
cc:
bcc:
Subject: Re: CA6

hmm. wonder how you know that.

Rachel L. Brand
04/06/2001 12:23:10 PM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: CA6

A cert petition has been filed in the University of Washington case. The response is due late April.

Bradford A. Berenson
04/06/2001 11:17:19 AM
Record Type: Record

To: Helgard C. Walker/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: CA6

There's also a case arising out of Washington state that holds out the potential for a split.

Helgard C. Walker
04/06/2001 11:10:45 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: CA6

Would that create the first Circuit split on this issue -- i.e., CA6 on one side of Bakke, CA5 in Hopwood on the other?

Brett M. Kavanaugh
04/06/2001 09:27:23 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: CA6

CA6 has stayed pending appeal the Michigan district court ruling striking down the Michigan Law School's race-based admissions program. The panel on the stay order consisted of 2 Clinton appointees (Daughtrey and Moore) and a Carter appointee, Boyce Martin. If this panel stays intact for the appeal itself, that almost certainly will mean the law school's race-based admissions program will be upheld by the CA6 panel, although there is the possibility of en banc review, especially given that there is another CA6 case pending on the college admissions program at Michigan.

The panel in its stay order specifically stated that the correctness of the district court's decision rests on the proper interpretation of the Supreme Court's decision in Bakke.

Message Sent

To:

Alberto R. Gonzales/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Courtney S. Elwood/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Rachel L. Brand/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP

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