



Battle lines forming already: Business groups, unions clash over Kavanaugh

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WASHINGTON – Business groups and labor unions have lined up on opposing sides of the pitched battle shaping up over President Donald Trump’s Supreme Court nominee, Brett Kavanaugh, whose approach to the law is widely seen as business-friendly.

Kavanaugh’s rulings and written dissents generally convey skepticism toward government regulatory and consumer protection efforts – positions that tend to enjoy broad support among business organizations. He has also usually sided with employers in labor law cases.

Locally, Lori Pelletier, president of the Connecticut AFL-CIO, said the nomination is “an attack on workers” by the Trump administration.

“We don’t think [Kavanaugh’s] right for the court,” she said. “We expect more tax on workers, so obviously we’re trying to get calls in to get the Senate to oppose his nomination.”

Tom Abbott, recently retired program chairman of business administration at Post University in Waterbury, said he understands labor’s reaction to the nomination.

Labor just got whacked,” he said. “They’ve just been dealt a bit of a blow, and they’re not reeling from just that, but they’re seeing it could be a trend that could continue.”

Labor already was reeling from a Supreme Court decision in June, when it ruled 4-3 in *Janus v. AFSCME* that public sector employees don’t have to pay union dues to benefit from the contract negotiations won by organized labor.

Abott, who used to consult for small companies, added that Kavanaugh’s business-friendly presence on the court could be good for small businesses that don’t have the resources to fight burdensome regulations.

“My clients always wished the government would stay out of our lives, so to speak,” he said.

PAST CASES ANALYZED “In employment discrimination claims, Judge Kavanaugh’s opinions over the years typically favored the employer,” Michael Lotito, a lawyer at Littler, an employer law firm, wrote Monday.

“I expect Kavanaugh will be very much in the mold of Chief Justice Roberts, who has generally been friendly to business,” Russell Wheeler, a visiting fellow at the Brookings Institution.

Still, if Kavanaugh is confirmed, he won't likely change the outcome of many business cases before the Supreme Court. That's because Justice Anthony Kennedy, whom Kavanaugh would succeed, typically voted in favor of business interests. So have several of the court's other justices, including some who are generally viewed as members of the court's liberal wing.

"Most of the court's business cases are not 5-4," said Ilya Shapiro, a senior fellow in constitutional studies at the libertarian Cato Institute, referring to the narrow votes that often emerge in contentious cases. "It's generally a pro-business court."

In January, Kavanaugh dissented from a ruling by a federal appeals court that upheld the structure of the Consumer Financial Protection Bureau, which was established in 2010 to protect Americans against abusive financial products and services. Kavanaugh argued that the agency's director effectively wielded too much power, making its structure unconstitutional. The issue may eventually come before the Supreme Court, where Kavanaugh's view of the CFPB could prevail.

Kavanaugh has been particularly skeptical of regulation that is only tenuously related to legislation passed by Congress, Shapiro said.

If he embraced that approach on the court, it could affect a broad range of rules in such areas as the environment, financial regulation and labor rights.

"A seat on the Supreme Court would let Kavanaugh and his allies expand attacks on the ability of government to regulate and enforce the rules on behalf of ordinary people," said Linda Jun, senior policy counsel at Americans for Financial Reform.

In 2016, Kavanaugh ruled in favor of a division of Verizon, which had ordered employees to stop displaying pro-union signs.

The union had agreed to waive its right to picket in a collective bargaining agreement.

"Judge Kavanaugh routinely rules against working families, regularly rejects employees' right to receive employer-provided health care, (and) too often sides with employers in denying employees relief from discrimination in the workplace," said Richard Trumka, president of the AFL-CIO. "Any senator who believes Supreme Court justices should protect the rights of all Americans should reject this nomination."