FROM: Ben Ginsburg, Senior Partner, Jones Day

TO: Junior Associate (your name)

DATE: June 9, 2016

RE: Request for a Legal Memorandum

In the 2016 election, Democratic nominee Hillary Clinton defeats Donald Trump by a wide margin, and Democrats win control of the U.S. House 225-210, and the Senate 56-44.

However, Sen. David Vitter (R-Louisiana) had changed course on retiring, and sought reelection successfully. Vitter had been involved in a prostitution scandal in 2008 involving the so-called “D.C. madam”. He was reelected anyway. However, before the new members took office in January, new documents were revealed that showed Vitter to have potentially committed several offenses, including paying off witnesses so they would not reveal unfavorable information about Vitter. The Justice Department began an investigation in December. Disgusted with his conduct, members called on him to resign, but he would not do so. In response, the new Democratic majority decided that they would not seat him, despite Vitter presenting documents that he was the duly elected member of the Senate. With the seat being vacant, Gov. John Bel Edwards (D-Louisiana) appointed a Democrat to fill Vitter’s seat until a special election would be held in November of 2018. This widened the Democratic majority to 57-43. Republicans, led by Sen. Mitch McConnell (R-Kentucky), as well as Vitter himself, were very upset and threatened to sue.

During her first 100 days in office, she pursues an aggressive agenda. However, within her first month in office, Republicans filibuster most of her items. In response, Senate Majority Leader Charles Schumer (D-New York) changes Senate rules to drop the number of votes to overcome a filibuster from 60 votes to 55 votes. Republicans, led by Sen. Mitch McConnell (R-Kentucky) complain vigorously, and threaten to take the issue to court to challenge this.

One policy enacted was restoral of the Voting Rights Act. After only a few hearings by the House and Senate Judiciary Committee, the Congress easily passes a bill with a new coverage formula for jurisdictions to be subject to preclearance under Section 5. The coverage formula would be the same as the one struck down in *Shelby County*, except that the State of Wisconsin and Miami-Dade County, Florida would be new jurisdictions subject to preclearance for any changes to elections and voting laws or procedures. Congress provided little in the record or in the way of testimony as to why the particular jurisdictions covered were either kept in place or added to the coverage formula. The law stated that the coverage formula would go into place within 30 days of President Clinton signing the law. The State of Wisconsin is very upset that it was included in the coverage formula. They think they may have a case in Court. Sen. Jefferson Beauregard Sessions III (R-Alabama) also wanted to see this law found unconstitutional as well.

Upon taking office, President Clinton also wanted to make her mark by appointments, including replacing Obama appointees. She asks for the resignations the three U.S. Attorneys in North Carolina, and fires any that do not comply. She also asks for the resignation of two Republican members of the Federal Communications Commission (FCC) and fires them when they do not comply. The dismissed U.S. Attorney’s and FCC members believe they were fired illegally.

Clinton is also frustrated with the slow pace of confirmation hearings on her choices for ambassadorships. The Senate goes on recess from March 3 to March 31. However, each Wednesday, a pro-forma session is held. On March 20, President Clinton appoints Binghamton Political Science Professor Greg Robinson as ambassador to Finland. Robinson had been voted down in the Foreign Relations Committee by one vote. Sen. Mitch McConnell (R-Kentucky), now the Minority Leader, and a longtime critic of Robinson for his critiques of McConnell’s use of the filibuster believes he may have a case against Clinton and wants to block Robinson from taking his post in Helsinki.

You are a junior associate at the Washington, D.C. law firm Jones Day, which is very well connected in Beltway circles. Several clients have retained the firm’s services- Sen. McConnell, Sen. Sessions, Sen. Vitter, the State of Wisconsin, the dismissed U.S. Attorneys and FCC members. Senior partner Ben Ginsburg (no relation to Ruth), a noted Republican super lawyer, wants to know the relevant law for these claims and wants you to evaluate the chances for each claim to be successful. Ginsburg has requested that you prepare a memorandum addressing each of the potential issues as stated in this fact pattern. He wants to know what law applies, as well as the cases, and wants you to apply that law to the facts given. He also wants a conclusion for each issue as to the likely outcome if these were taken to court. Ginsburg also wants you to note that in some of the fact patterns, there may be multiple parties, and what may be the correct conclusion and law for one potential client may not be the same as another one.

Ginsburg has requested that you complete this memorandum by June 18, 2016 by midnight, and submit it to him by turn it in. He further requests that your memorandum be 5-7 pages, double spaced, and that in addition to that, you also submit a table of cases with proper citations. He reminds you that a table of cases should be arranged alphabetically by the first party listed. He further reminds you that if you are citing material from the book, use the case, and a pinpoint citation to the part in the book- you do not have to go and get the actual spot in the case.