

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-5349

September Term, 2013

FILED ON: JANUARY 7, 2014

K-V PHARMACEUTICAL COMPANY AND THER-RX CORPORATION,
APPELLANTS

v.

UNITED STATES FOOD AND DRUG ADMINISTRATION, ET AL.,
APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:12-cv-01105)

Before: GRIFFITH and KAVANAUGH, *Circuit Judges*, and RANDOLPH, *Senior Circuit Judge*

J U D G M E N T

This appeal was considered on the record from the district court and on the briefs and the oral arguments of the parties. Although the issues presented occasion no need for a published opinion, they have been accorded full consideration by the Court. *See* Fed. R. App. P. 36; D.C. Cir. Rule 36(d). It is

ORDERED and **ADJUDGED** that the district court's September 6, 2012 order dismissing appellants' claims be vacated and that the case be remanded to the district court for reconsideration in light of *Cook v. FDA*, 733 F.3d 1 (D.C. Cir. 2013), and the Drug Quality and Security Act, Pub. L. No. 113-54, 127 Stat. 587 (2013).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk
BY: /s/
Jennifer M. Clark
Deputy Clerk