

Statement of KENNEDY, J. and THOMAS, J.

SUPREME COURT OF THE UNITED STATES

DEUTSCHE BANK TRUST COMPANY AMERICAS, ET AL.
v. ROBERT R. MCCORMICK FOUNDATION, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 16–317. Decided April 3, 2018

Statement of JUSTICE KENNEDY and JUSTICE THOMAS
respecting the petition for certiorari.

The parties are advised that consideration of the petition for certiorari will be deferred for an additional period of time. This will allow the Court of Appeals or the District Court to consider whether to recall the mandate, entertain a Federal Rule of Civil Procedure 60(b) motion to vacate the earlier judgment, or provide any other available relief in light of this Court’s decision in *Merit Management Group, LP v. FTI Consulting, Inc.*, 583 U. S. ____ (2018). The petition for certiorari in this case was pending when the Court decided *Merit Management*. The Court of Appeals or the District Court could decide whether relief from judgment is appropriate given the possibility that there might not be a quorum in this Court. See 28 U. S. C. §2109.