

**UNPUBLISHED ORDER**  
Not to be cited per Circuit Rule 53

**United States Court of Appeals**  
For the Seventh Circuit  
Chicago, Illinois 60604

Submitted April 18, 2006  
Decided May 19, 2006

Before

**Hon.** FRANK H. EASTERBROOK, Circuit Judge

**Hon.** KENNETH F. RIPPLE, Circuit Judge

**Hon.** DIANE P. WOOD, Circuit Judge

DONALD BRADFISCH,  
*Plaintiff-Appellant,*

**No.** 05-3390 **v.**

TEMPLETON FUNDS, INC. and TEMPLETON GLOBAL  
ADVISORS, LTD.,  
*Defendants-Appellees.*

} Appeal from the United States  
District Court for the Southern  
District of Illinois.

} No. 05 C 298  
Michael J. Reagan, *Judge.*

VINCE KWIATKOWSKI, EDMUND WOODBURY AND  
JOSEPH PARISE, JR.,  
*Plaintiffs-Appellants,*

**Nos.** 05-3558, 05-3559 & **v.**  
05-3586

TEMPLETON GROWTH FUND, INC., *et al.*,  
*Defendants-Appellees.*

} Appeals from the United States  
District Court for the Southern  
District of Illinois.

} Nos. 05 C 299  
05 C 301  
05 C 300  
G. Patrick Murphy, *Chief Judge.*

**Order**

These four appeals are governed by the Supreme Court's decision in *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Dabit*, 126 S. Ct. 1503 (2006). Although the plaintiffs maintain

that *Dabit* does not control because (in their view) the defendant funds have been negligently managed, they have not sought relief through derivative litigation and therefore cannot take advantage of the exception for that kind of suit in the Securities Litigation Uniform Standards Act of 1998. For direct litigation, labels are not material, as we explained in *Kircher v. Putnam Funds Trust*, 403 F.3d 478 (7th Cir. 2005), cert. granted on other grounds, 126 S. Ct. 969 (2006), a decision that the Supreme Court approved in *Dabit*.

These appeals are not affected by the grant of certiorari in *Kircher*. The Supreme Court limited the writ to a dispute about appellate jurisdiction of appeals by defendants from remand orders under the SLUSA. These defendants did not appeal from the district court's orders in 2004 remanding the suits. They removed again following the decision on the merits in *Kircher*, and the only appeals have been filed by the plaintiffs.

On the authority of *Dabit* and *Kircher*, the judgments are affirmed.