

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-2105 [Briefs](#) CIVIL PROCEDURE: Whether Warren's FDCA claims were rendered moot by Sessoms & Rogers's offer of judgment; other issues.
Margaret Warren v. Sessoms & Rogers, P.A.
(Boyle)
Associations: 10-2155

10-2404 [Briefs](#) INSURANCE: Whether the district court properly applied Virginia's "eight corners" rule in finding insurer had no duty to defend.
Minn. Lawyers Mut. Ins. v. Antonelli, Terry, et al
(O'Grady)

10-5007 [Briefs](#) CRIMINAL: Whether the residency requirements of the Sex Offender Registration and Notification Act are unconstitutionally
US v. Robert Bruffy
(Brinkema)
vague as applied to transient sex offenders; related issues.

10-2226 [Briefs](#) SOCIAL SECURITY: Whether substantial evidence supports the Commissioner's finding that Jackson is not disabled; whether
Sylvia Jackson v. Michael Astrue
(Conrad)
Jackson has new evidence entitling her to a remand to the Commissioner.

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

Tuesday, December 06, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

11-1049	Briefs	ENVIRONMENTAL LAW: Whether the Secretary of the Interior lawfully approved the amendments to the West Virginia Surface Coal Mining and Reclamation Act; other issues.
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11-1015	Briefs	CIVIL: Whether the district court erred in dismissing complaint without prejudice rather than with prejudice; other issues.
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10-2418	Briefs	BANKRUPTCY: Whether bankruptcy court erred in banning class claims and in finding putative class members received adequate notice; other issues.
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10-7510	Briefs	HABEAS CORPUS: Whether Appellant was prejudiced by trial counsel's failure to use records and expert testimony therefrom in attempting to establish reasonable doubt as to whether he was guilty of murder.

PANEL II
Butzner En Banc Courtroom (Room 201)
9:30 a.m.

Tuesday, December 06, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-6564	Briefs	ATTORNEYS' FEES: Whether district court erred in finding inmate was "prevailing party" in § 1983 action and in awarding fees and costs; other issues.
DNA Ex Post Facto Issues v. South Carolina (Harwell)		
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10-4515	Briefs	CRIMINAL: Whether the trial court erred in denying defendant's motion for a new trial.
US v. Donna George (Cacheris)		
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10-1258	Briefs	FAIR LABOR STANDARDS ACT: Whether FLSA anti-retaliation provision applies to intra-company complaints.
Kathy Minor v. Bostwick Laboratories, Inc (Hudson)		
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09-1004	Briefs	EMPLOYMENT: Whether internal complaints trigger protection under the Fair Labor Standards Act's anti-retaliation clause; other issues.
Emmett Jafari v. Old Dominion Transit (Spencer)		

PANEL III
Tan Courtroom (Room 223)
9:30 a.m.

Tuesday, December 06, 2011

REVD 11/9/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-5201	Briefs	CRIMINAL: Whether substantial evidence supported thermal imaging search warrant; whether district court properly precluded medical necessity defense; applicability of safety valve.
US v. Kimberley Henry (Keeley)		
Associations: 10-5219		
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10-4915	Briefs	CRIMINAL: Whether stipulation of facts from withdrawn plea agreement was properly admitted; denial of continuance; sufficiency of evidence; reasonableness of sentence; other issues.
US v. Eddie Jones (Chambers)		
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10-2286	Briefs	BLACK LUNG: Whether ALJ properly weighed medical evidence; whether award of benefits is supported by substantial evidence.
Southern App. Coal Co. v. Alan Adkins		
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10-5292	Briefs	SECOND AMENDMENT: Whether 18 U.S.C. Section 922(g)(8) (2006), which prohibits possession of a firearm by one subject to domestic violence protection order, is constitutional.
US v. Christopher Mahin (Trenga)		

PANEL IV
Tweed Courtroom (Room 414-D)
9:30 a.m.

Tuesday, December 06, 2011

REVD 11/9/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

11-1293 [Briefs](#)
T-Mobile Northeast LLC v. City Council of
(Smith)

TELECOMMUNICATIONS ACT: Was there substantial evidence in the record supporting city council's decision to deny conditional use permit; other issues.

10-4442 [Briefs](#)
US v. Rebecca Jones
(Reidinger)
Associations: 10-4698

CRIMINAL: Whether district court erred in denying motion to suppress evidence recovered in protective search of defendants' home when arrest occurred in front doorway; other issues.

PANEL V
Gold Courtroom (Room 348)
9:30 a.m.

Tuesday, December 06, 2011

REVD 12/6/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

11-1103	Briefs	FALSE CLAIMS ACT: Whether claims were properly dismissed for lack of jurisdiction under the Act's "public disclosure bar"; other issues.
US ex rel Lenora Jones v. Collegiate Funding (Hudson)		
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11-1050	Briefs	TRADEMARK: Did the district court err in granting summary judgment on the basis of laches; other issues.
Ray Communications, Inc. v. Clear Channel (Boyle)		
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11-1392	Briefs	CIVIL RIGHTS: Whether the district court erred in denying police officer's motion for summary judgment in section 1983 suit based on qualified immunity.
Rose Merchant v. Robert Bauer (Ellis)		
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11-1112	Briefs	CIVIL: Whether district court correctly found that warrantless inspections pursuant to Virginia Mineral Mine Safety Act did not violate Fourth Amendment; qualified immunity.
LeSueur-Rich. Slate Corp. v. Damien Fehrer (Moon)		

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

Wednesday, December 07, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

11-0001	Briefs	Habeas Corpus: Whether the district court erred in concluding that the state court's decision denying Richardson's claim of ineffective assistance of appellate counsel was contrary to, or an unreasonable application of, Strickland v. Washington, other issues in cross-appeal challenging capital conviction and sentence.
Timothy Richardson v. Gerald Branker (Boyle)		
Associations: 11-0002		
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10-4944	Briefs	CRIMINAL: Whether district court erred in refusing to dismiss indictment alleging the making of false statements in passport applications, 18 U.S.C. section 1542 (2006); sufficiency of the evidence; other issues.
US v. Ghulam Sarwari (Lee)		
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11-1421	Briefs	PRIVACY PROTECTION ACT: Whether the district court properly granted summary judgment in favor of the government on Privacy Protection Act claim.
Laura Sennett v. US (Ellis)		

PANEL II
Butzner En Banc Courtroom (Room 201)
9:30 a.m.

Wednesday, December 07, 2011

REVD 11/18/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-1827	Briefs	TITLE VII: Whether appellant's complaint was protected conduct; applicability of Jordan v. Alternative Res. Corp., 458 F.3d 332 (4th Cir. 2006).
Marilyn Session v. Montgomery County (Wilson)		
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10-2027	Briefs	BANKRUPTCY: Whether the bankruptcy court properly determined that under N.C. law a "reasonably careful and prudent" title search need only examine the land records in the Parcel Identification Number Index.
John McCormick v. John Northen (Schroeder)		
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11-4032	Briefs	CRIMINAL LAW: Whether the district court erred in granting defendant's suppression motion.
US v. Travis Gaines (Bennett)		
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10-2033	Briefs	IMMIGRATION: Whether the Board erred in determining that alien was statutorily ineligible to apply for a waiver of inadmissibility pursuant to section 212(h) of the Immigration and Nationality Act.
Adolfo Rendon Bracamontes v. Eric Holder, Jr. Associations: 10-2280		

PANEL III
Tan Courtroom (Room 223)
9:30 a.m.

Wednesday, December 07, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-1987 [Briefs](#) INSURANCE: Whether district court, in declaratory judgment action, properly apportioned insurer's obligation to pay judgment
Penn. National Mutual v. Lokia Roberts in lead paint case; whether amount calculated properly.
(Motz)
Associations: 10-1988

11-6329 [Briefs](#) CIVIL RIGHTS: Did the complaint sufficiently allege a violation of the prisoner's Eighth Amendment rights.
Michael Williams v. G. Branker
(Dever)

10-2044 [Briefs](#) GOVERNMENT CONTRACTS: Whether district court erred in denying motion for preliminary injunction/temporary restraining
Morris-Griffin Corporation v. C & L Service order; whether court possessed jurisdiction to consider enforceability of primary contract and subcontract.
(Doumar)

PANEL IV
Tweed Courtroom (Room 414-D)
9:30 a.m.

Wednesday, December 07, 2011

REVD 12/2/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-2271 Tire Eng. and Dist. v. Shandong Linglong (Ellis) Associations: 10-2273, 10-2321	Briefs	INTELLECTUAL PROPERTY LAW: Numerous issues with respect to applicability of Copyright and Lanham Acts, state law claims, and damages award.
10-4850 US v. Shawn Engle (Doumar)	Briefs	CRIMINAL: Whether venue over prosecution for sexual exploitation of a minor for the purpose of producing pornography, 18 U.S.C. Section 2251(a), was proper in the Eastern District of Virginia; other issues.
10-2149 Nicholas Ignacio v. US (O'Grady)	Briefs	FTCA: Whether actions of officer fell within law enforcement officer proviso of Act; waiver of sovereign immunity.
09-5018 US v. Oscar Lobo-Lopez (Ellis)	Briefs	PRETRIAL DISCLOSURE: Whether court erred in failing to order disclosure of identifying information as to witnesses, including eyewitnesses. Other issues.

PANEL V
Gold Courtroom (Room 348)
9:30 a.m.

Wednesday, December 07, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-4738 US v. Darrell Holmes (Davis)	Briefs	CRIMINAL: Whether district court erred in denying motion to suppress and granting government motion to exclude defense expert, jurisdiction over offense committed on overseas military base, whether venue was proper.
10-1396 Sharon Williams v. CDP, Incorporated (Jackson)	Briefs	CIVIL: Propriety of district court's interpretation of a deferred compensation agreement.
10-2081 Denise Burgess v. Stuart Bowen, Jr. (Cacheris)	Briefs	TITLE VII: Whether district court effectively required plaintiff to meet pretext plus standard on summary judgment.
10-1200 Barbara Murchison v. Michael Astrue (Motz)	Briefs	CIVIL: Whether prerequisites to enforcement of the decision by the EEOC's Office of Federal Operations were met; propriety of court's ruling on Rule 60(b) motion; other issues.

Associations: 11-1462

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

Thursday, December 08, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-1954	Briefs	ENVIRONMENTAL: Whether district court correctly concluded that Federal Highway Administration properly invoked 180-day statute of limitations for challenges to Tier 1 record of decision under National Environmental Policy Act; other issues.
Shenandoah Valley Network v. J. Capka (Moon)		
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10-1933	Briefs	CIVIL: Whether credit card debt was "consumer debt" under Fair Debt Collection Practices Act; other issues.
Harold Boosahda v. Providence Dane LLC (Davis)		
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10-1304	Briefs	CIVIL: Whether action was properly removed to district court; jurisdiction; other issues.
Michael Wein v. Defense Finance and (Messitte)		
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10-1384	Briefs	CIVIL: Whether the district court erred in granting summary judgment against appellant on breach of contract claim; other issues.
Helmut Porkert v. Chevron Corporation (Blatt)		

PANEL II
Butzner En Banc Courtroom (Room 201)
9:30 a.m.

Thursday, December 08, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-1961	Briefs	INSURANCE: Whether liquidated damages and attorney's fees for claims of failure to pay under the Fair Labor Standards Act are covered losses under insurance policy; related issues.
Republic Franklin Insurance Co v. Albemarle (Moon)		
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10-2162	Briefs	CIVIL: Whether district court properly granted summary judgment on Halpern's disability discrimination complaint finding defendant acted lawfully in dismissing Halpern from medical school for failure to meet program's professionalism standards.
Ronen Halpern v. Wake Forest University (Tilley)		
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10-2148	Briefs	CIVIL: Whether replevin action against non-debtor for the return of lender's property is covered by the Fair Debt Collection Practices Act.
Geraldine Rawlinson v. Law Off of Wm. Rudow (Messitte)		
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10-2100	Briefs	EMPLOYMENT LAW: Whether employee may state a wrongful termination claim under Virginia law against supervisor/owner of limited liability company; other issues.
Angela Vanburen v. Stephen Grubb (Turk)		

Associations: 10-2161

PANEL III
Tan Courtroom (Room 223)
9:30 a.m.

Thursday, December 08, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-1769	Briefs	EMPLOYMENT DISCRIMINATION: Whether the claimant was disabled under ADA; reasonable accommodation.
Michael Boitnott v. Corning Incorporated (Turk)		
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10-1869	Briefs	CIVIL: Whether the court erred in granting defendant's summary judgment motion on plaintiff's unfair competition, breach of contract and intentional interference with economic opportunity claims.
Infection Control Consultation v. Smithkline (Titus)		
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10-2198	Briefs	INTERSTATE LAND SALES FULL DISCLOSURE ACT: Whether district court properly granted buyers' request for rescission of real estate contract.
Keith Nahigian v. Juno-Loudoun, LLC (Cacharis) Associations: 10-2231, 10-2373		
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10-2172	Briefs	CIVIL: Whether district court erred in granting summary judgment against appellants on 42 U.S.C. Section 1983 (2006) claims and related state law claims.
Natalie Hayes v. City of Seat Pleasant, MD (Chasanow)		

PANEL IV
Tweed Courtroom (Room 414-D)
9:30 a.m.

Thursday, December 08, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-2021	Briefs	CIVIL: Whether district court properly granted summary judgment on claims that defendants-appellees improperly obtained, used, and disclosed information protected by the Driver's Privacy Protection Act, 18 U.S.C. sections 2721-2725 (2006).
Edward Maracich v. Michael Spears (Herlong)		
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10-2245	Briefs	CIVIL: Whether the district court's grant of summary judgment on liability and damages was premised on an incorrect interpretation of various contractual provisions; other issues.
Doral Bank PR v. Federal Home Loan (Trenga)		
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10-2111	Briefs	CIVIL: Whether district court erred in declining to vacate arbitration award of attorneys' fees and costs to defendants pursuant to South Carolina Frivolous Civil Proceedings Act, S.C. Code Section 15-36-10.
Wachovia Securities, LLC v. Frank Brand, II (Wooten)		
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10-2154	Briefs	FORFEITURE LAW: Issues regarding escrow agreement created pursuant to master settlement agreement in tobacco litigation and to states' interest in the accounts.
US v. State of Oregon (Jones)		

PANEL V
Gold Courtroom (Room 348)
9:30 a.m.

Thursday, December 08, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-4619 US v. Roland McClain (Quarles)	Briefs	SENTENCING: Whether McClain is bound by plea agreement stipulation to career offender status in light of Johnson v. United States, 130 S. Ct. 1265 (2010), which issued between plea and sentencing.
10-5054 US v. Rashad King (Norton)	Briefs	CRIMINAL: Whether the South Carolina felony of pointing and presenting a firearm is a "crime of violence" for the purposes of a sentencing enhancement; other issues.
09-4890 US v. Earl Davis (Titus)	Briefs	CRIMINAL: Whether district court properly denied motion to suppress DNA evidence; whether court properly excluded defense expert testimony on eyewitness identification.
09-5096 US v. David Hagen (Britt)	Briefs	CRIMINAL: Whether the district court abused its discretion in denying defendant's request to discharge his privately retained attorney and substitute court-appointed counsel; other issues.

PANEL I
Red Courtroom (Room 412)
8:30 a.m.

Friday, December 09, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

09-5130 [Briefs](#)
US v. William Jefferson
(Ellis)

CRIMINAL: Whether the district court gave erroneous jury instructions.

10-5239 [Briefs](#)
US v. Oceanpro Industries, Ltd.
(Messitte)
Associations: 10-5284, 10-5285

CRIMINAL: Whether venue for making a false statement lay in the District of Maryland; whether the district court had the authority to impose restitution.

11-4216 [Briefs](#)
US v. James Venable
(Payne)

CRIMINAL: Whether Venable produced sufficient evidence of discriminatory effect and discriminatory intent to warrant discovery on his selective prosecution claim.

11-4193 [Briefs](#)
US v. Lenny Ortiz
(Motz)

CRIMINAL: Whether district court correctly granted defendant's motion to suppress.

PANEL II
Butzner En Banc Courtroom (Room 201)
8:30 a.m.

Friday, December 09, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-4133 US v. Sean Sowards (Voorhees)	Briefs	CRIMINAL: Whether initial traffic stop violated the Fourth Amendment where the stop was based solely on officer's observation of defendant allegedly exceeding speed limit by five miles per hour.
10-1776 James McDaniel, Jr. v. John Blust (Beaty)	Briefs	CIVIL: Whether the district court properly relied on Barton v. Barbour, 104 U.S. 126 (1881), to dismiss the appellants' complaint against the bankruptcy Trustee's lawyers; other issues.
09-7554 US v. Temitope Akinsade (Williams)	Briefs	CORAM NOBIS: Whether district court's explanation of possible deportation consequences of guilty plea can overcome counsel's definitive, yet erroneous, representation as to deportation consequences.
09-4724 US v. Ernest Pitt (Howard)	Briefs	CRIMINAL: Propriety of Pitt's convictions in light of Skilling v. United States, 130 S. Ct. 2896 (2010); other issues.

PANEL III
Tan Courtroom (Room 223)
8:30 a.m.

Friday, December 09, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/06/2011 - 12/09/2011 Session)

10-1227 [Briefs](#) INSURANCE LAW: Whether, under Virginia law, property damage resulted from the ownership or use of an insured vehicle.
State Farm Mutual Automobile v. Virginia
(Morgan)

11-4566 [Briefs](#) CRIMINAL LAW: Whether trial court abused its discretion in denying defendant opportunity to refer to memorandum while
US v. Danine Rydland
(Bailey)
testifying; other issues.

10-5169 [Briefs](#) CRIMINAL: Constitutionality of 18 U.S.C. section 2261A(2); sufficiency of evidence on interstate stalking and firearm possession
US v. Thomas Shrader
(Berger)
counts; multiplicity of indictment; denial of suppression motion; jury instructions; armed career criminal designation.

11-4065 [Briefs](#) CRIMINAL: Whether indictment was multiplicitous or constructively amended; propriety of hearsay rulings, sentencing
US v. Aaron Thomas
(Keeley)
enhancement; proper review standard.

PANEL IV
Tweed Courtroom (Room 414-D)
8:30 a.m.

Friday, December 09, 2011