

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/10/2013 - 12/12/2013 Session)

12-2273	Briefs	CIVIL: Whether district court correctly concluded that appellant had not proven that he had an ownership interest in certain mining lease partnerships.
Clifton Valentine v. Sugar Rock, Inc. (Keeley)		
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13-1517	Briefs	CIVIL: Whether insured was entitled to damages for aggravation and inconvenience and to prejudgment interest.
Robert Graham v. National Union Fire (Faber)		
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13-1215	Briefs	IMMUNITY: Whether district court erred by applying legislative immunity when plaintiff alleged that state officials executed a reduction in force based on impermissible discriminatory considerations.
Marie M. McCray v. Maryland Dept of Trans (Hollander)		
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13-1438	Briefs	NEGLIGENCE: Whether a road worker using a bucket truck was contributorily negligent, or assumed the risk of injury, when his bucket was struck by a tractor trailer.
Jamie Meyers v. Michael Lamer (Gallagher)		

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

Tuesday, December 10, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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12-2431 [Briefs](#) FALSE CLAIMS ACT: Whether claim that repackaged drugs of unacceptable safety were illegally billed to Medicaid and
US ex rel. Barry Rostholder v. Omnicare Medicare alleged the requisite fraudulent conduct; related issues.
(Blake)

13-1369 [Briefs](#) CIVIL: Did the district court rule correctly on issue regarding lost profit damages; other issues.
VCA Cenvet Incorporated v. Chadwell Animal
(Bredar)

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

Tuesday, December 10, 2013

REVD 12/9/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (12/10/2013 - 12/12/2013 Session)

12-6756	Briefs	SECTION 2255: Whether, in advising appellant regarding the admissibility of evidence of his voluntary intoxication, counsel's performance was constitutionally deficient.
US v. Ralph Jackson (Wilson)		
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12-7954	Briefs	HABEAS: Whether appellant's counsel was constitutionally ineffective in failing to consistently object to the improper admission of hearsay during appellant's trial.
Henh Chu Ngo v. Gregory Holloway (Brinkema)		
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13-1259	Briefs	PRODUCTS LIABILITY: Whether the district court properly construed West Virginia products liability law or erred by disqualifying the testimony of plaintiff's proposed expert.
Jordan Eskridge v. Pacific Cycle, Inc. (Goodwin)		
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13-6594	Briefs	SECTION 2255: Propriety of district court's denial of appellant's ineffective assistance of counsel claim, predicated on counsel's failure to investigate impeachment evidence.
US v. Matthew Mason (Bailey)		

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

Tuesday, December 10, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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12-1881 [Briefs](#) ENERGY LAW: Whether FERC erred in granting VEPCO's application for rate incentives for five transmission projects; other
North Carolina Utilities Comm v. FERC issues.

12-4636 [Briefs](#) RESTITUTION: Whether the district court erred by ordering restitution; whether restitution was proper under supervised
US v. Robert Freeman release statute; other issues.
(Titus)

13-1445 [Briefs](#) BANKRUPTCY: Whether "applicable commitment period" as defined in section 1325(b) of Bankruptcy Code requires
Joe Pliler v. Richard Stearns mandatory five year plan for above-median debtors; other issues.
(Doub)

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

Tuesday, December 10, 2013

REVD 12/6/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (12/10/2013 - 12/12/2013 Session)

12-7472	Briefs	CIVIL COMMITMENT: Whether district court erred or abused discretion in summarily denying consecutive sign language interpreting and in committing deaf individual with cognitive and linguistic impairments as sexually dangerous.
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13-1645	Briefs	EMPLOYMENT LAW: Whether plaintiff sufficiently pled that he was "disabled" under the Americans with Disabilities Act; other issues.
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13-1084	Briefs	IMMIGRATION: Whether an invalid notice to appear stops the accrual of time for purposes of cancellation of removal.
Gustavo Urbina v. Eric Holder, Jr.		
Associations:	13-1465	

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

Tuesday, December 10, 2013

REVD 12/6/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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12-2400	Briefs	CIVIL COMMITMENT: Whether, in the absence of a finding of paraphilia, district court erred in concluding appellant should be classified as a sexually dangerous person; other issues.
US v. Byron Antone (Flanagan)		
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13-4093	Briefs	CRIMINAL: Whether district court committed reversible error by admitting Fed. R. Evid. 404(b) evidence; whether sentence was procedurally infirm because it miscalculated defendant's Guidelines range.
US v. Philip Sebolt (Gibney)		
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12-4487	Briefs	CRIMINAL: Sufficiency of evidence when only a single, partial fingerprint on duct tape linked appellant to the crime; other issues.
US v. Janson Strayhorn (Eagles)		
Associations: 12-4495		
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13-6355	Briefs	CIVIL RIGHTS: Whether plaintiff's section 1983 claims under the Religious Land Use and Institutionalized Persons Act are moot; whether defendants are entitled to qualified immunity.
Gary Wall v. James Wade (Kiser)		

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

Wednesday, December 11, 2013

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12-4462 [Briefs](#)
US v. Samuel Ocasio
(Blake)

CRIMINAL: Whether the party extorted in a Hobbs Act conspiracy to commit extortion prosecution must be a person or entity outside the conspiracy; related issues.

12-2465 [Briefs](#)
Robert Anderson v. Architectural Glass Const.
(Burris)

BANKRUPTCY: Whether the district court erred in holding that debtor held bare legal title to one-half interest in the subject property; other issues.

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

Wednesday, December 11, 2013

REVD 12/6/13

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13-1570 Tom Price v. City of Fayetteville (Flanagan)	Briefs	CIVIL RIGHTS. Whether city's ban on distribution of literature on public streets during festival event violates plaintiffs' First Amendment rights.
13-4067 US v. William Bridges (Jones)	Briefs	CRIMINAL: Whether appellant's nolo contendere plea, for which adjudication of guilt was withheld, qualifies as a "conviction" under the Sex Offender Registration and Notification Act.
13-4066 US v. Harvey Cox (Norton)	Briefs	SENTENCING: Whether the district court erred in calculating Guidelines range by applying USSG section 2G2.1 pursuant to cross reference in USSG section 2G2.2(c)(1).
13-4356 US v. Brian Bishop (Hilton)	Briefs	CRIMINAL: Whether evidence was sufficient to sustain conviction under Arms Export Control Act.

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

Wednesday, December 11, 2013

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13-1691	Briefs	PREEMPTION: Constitutional challenge to preemption of state real estate transfer taxes.
Montgomery County, Maryland v. Federal (Chasanow)		
Associations: 13-1752		

13-1374	Briefs	ADMINISTRATIVE LAW: Whether citation against coal mine owner/operator for failure to report injury was proper.
Dickenson-Russell Coal Company v. Secretary		

13-1076	Briefs	CONSTITUTIONAL LAW: Whether toll collected by MWAA for use of Dulles Toll Road is an illegal tax.
John Corr v. Metropolitan Washington (Trenga)		

12-4545	Briefs	CRIMINAL: Limitation of pro se defendant's access to discovery; sufficiency of affidavit supporting wire tap; admission of expert testimony regarding coded language; other issues.
US v. Charles Galloway (Bennett)		

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

Wednesday, December 11, 2013

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13-4252	Briefs	CRIMINAL: Exclusion of "gray market" evidence where knowledge of counterfeit drug was element of offense; sufficiency of evidence; other issues.
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13-1788	Briefs	CHOICE OF LAW: Whether the district court erred in choice of law analysis regarding claim under the West Virginia Unfair Trade Practices Act.
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13-1143	Briefs	CIVIL RIGHTS: Did the district court err in holding that defendant could not be liable under Title VI and section 1981; other issues.
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12-2489	Briefs	CIVIL: Did district court err in granting Rule 50 motion on fraud, negligent misrepresentation, and unfair competition claims and denying Rule 50 motion on copyright and trade secret counterclaims; other issues.

Associations: 13-1229, 13-1239

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

Wednesday, December 11, 2013

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12-4603 [Briefs](#)
US v. Marcel Aparicio-Soria.
(Chasanow)

REHEARING EN BANC.

Butzner En Banc Courtroom 201
8:30 a.m.

Thursday, December 12, 2013

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13-4118	Briefs	SENTENCING: Whether revocation sentence procedurally unreasonable because no record consideration of Sentencing Guidelines range.
US v. Tashell Waller (Spencer)		
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12-1259	Briefs	CIVIL: Whether district court erred in finding appellant's claims precluded pursuant to PLIVA, Inc. v. Mensing, 131 S. Ct. 2567 (2011); preemption.
Arthur Drager v. PLIVA USA (Williams)		
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12-4962	Briefs	CRIMINAL: Whether Government must prove that defendant knew firearm was machinegun to obtain conviction under 18 U.S.C. section 924(c)(1)(B)(ii); other issues.
US v. Carlos Ruiz (Titus)		

PANEL I
Red Courtroom (Room 412)
After the en banc session

Thursday, December 12, 2013

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12-1866 [Briefs](#)
Westmoreland Coal Company, Inc v. Edward

BLACK LUNG: Whether ALJ correctly found that employer failed to rebut presumption of total disability due to pneumoconiosis, pursuant to 30 U.S.C. section 921(c)(4) and 20 C.F.R. section 718.305; other issues.

12-2396 [Briefs](#)
T-Mobile Northeast LLC v. The Loudoun
(Lee)

TELECOMMUNICATIONS: Whether district court erred in upholding appellant's denial of application to install personal wireless services facilities; other issues.

Associations: 12-2397

13-1194 [Briefs](#)
Millennium Inorganic Chemicals v. National
(Hollander)

INSURANCE LAW: Whether district court properly interpreted insurance policies regarding business interruption loss.

PANEL II
Butzner En Banc Courtroom 201
After the en banc session

Thursday, December 12, 2013

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12-2553	Briefs	CIVIL: Jurisdiction; whether appellee was a bona fide purchaser; other issues.
Trans Energy, Inc. v. EQT Production Company (Stamp)		
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12-2572	Briefs	CONTRACT LAW: Whether the district court erred in ruling that appellant is entitled only to nominal damages for breach of interconnection contract and in dismissing tort claims.
Core Communications, Inc. v. Verizon (Motz)		
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12-5006	Briefs	CRIMINAL: Whether district court erred by restricting the cross-examination of cooperating witnesses or by admitting Fed. R. Evid. 404(b) evidence; other issues.
US v. Juan Calderon (Childs)		

PANEL III
Tan Courtroom (Room 223)
After the en banc session

Thursday, December 12, 2013

REVD 12/9/13

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13-4132 [Briefs](#)
US v. Dwane Washington
(Gibney)

CRIMINAL: Whether district court erred in instructing jury on elements of 18 U.S.C. section 2423(a), in light of Flores-Figueroa v. United States, 556 U.S. 646 (2009); upward variance issue.

13-4083 [Briefs](#)
US v. Youssef Abdelbary
(Wilson)

RESTITUTION: Whether the district court properly awarded attorney's fees to creditor as restitution for fees incurred in connection with fraudulent bankruptcy proceedings.

12-4896 [Briefs](#)
US v. Brandon Ingram
(Britt)

CRIMINAL: Whether the evidence was sufficient to support conspiracy conviction; other issues.

PANEL IV
Tweed Courtroom (Room 414-D)
After the en banc session

Thursday, December 12, 2013

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12-4937 [Briefs](#)
US v. Donavon Crawford
(Osteen)

CRIMINAL: Whether arrest for misdemeanor constitutes intervening arrest for career offender purposes when defendant subsequently was charged with qualifying felony for same conduct; suppression issue.

13-4037 [Briefs](#)
US v. Reggie Beckton
(Britt)

CRIMINAL: Whether court impermissibly required defendant to choose between right to testify and right to self-represent.

12-4434 [Briefs](#)
US v. Megan Mosteller
(Wooten)

CRIMINAL: Propriety of requiring, as condition of granting mistrial, that defendant waive rights under Speedy Trial Act and whether defendant may raise STA violation for first time on appeal.

PANEL V
Gold Courtroom (Room 348)
After the en banc session

Thursday, December 12, 2013