

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/25/2011 - 01/28/2011 Session)

10-1166 [Briefs](#) TORTS: Whether Defendant's release of perfluorooctanoic acid into drinking water gave rise to various tortious injury claims.
William Rhodes v. E I du Pont de Nemours and Co
(Goodwin)

09-2117 [Briefs](#) LOCAL GOVERNMENT: Whether district court erred in abstaining under Burford, whether plaintiffs lacked standing to challenge
Paul Kendall v. Howard County, Maryland
(Motz)
Associations: 09-2210

10-1016 [Briefs](#) LOCAL GOVERNMENT: Whether any plaintiffs lacked standing to file suit; and whether certain plaintiffs improperly split their
Phillip Rousseau v. Howard County, Maryland
(Motz)
claims between two concurrent actions involving overlapping parties

10-1333 [Briefs](#) INCOME TAX: Whether partnership allocation of Virginia tax credits should be recharacterized as a disguised sale under 26 U.S.C.
Virginia Historic Tax Credit v. Commissioner of IRS § 707.
Associations: 10-1334, 10-1336

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

Tuesday, January 25, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-4916 US v. Antonio Lee (Schroeder)	Briefs	CRIMINAL: Whether, in aggravated identity theft trial, evidence was sufficient to show defendant knew means of identification belonged to another person; relevant conduct determination in amount of loss.
09-4760 US v. Allen Smith (Quarles)	Briefs	CRIMINAL: Whether denial of substitution of counsel was abuse of discretion and affected voluntariness of plea.
08-8374 William Cousins v. Kathleen Green (Blake)	Briefs	HABEAS PETITION. Whether the state court's factual conclusions regarding the effectiveness of trial counsel's assistance were reasonable in light of the evidence presented.
10-1433 R.J. Investments, L.L.C. v. The Board of County (Bennett)	Briefs	FAIR HOUSING ACT: Challenge to district court's determination that County's denial of water and sewage designation amendment did not violate Fair Housing Act.

PANEL II
Room 201 (Green Carpet)
9:30 a.m.

Tuesday, January 25, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-1439	Briefs	INSURANCE LAW: Coverage issues relating to insurance policy issued to accounting firm.
Bryan Brothers Incorporated v. Continental (Hudson)		
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10-1406	Briefs	CONTRACT: Challenge to entry of judgment in favor of salesperson on claim for unpaid commissions.
April Dodge v. CDW Government, Incorporated (Trenga)		
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09-1646	Briefs	BANKRUPTCY: Whether the bankruptcy court erred in dismissing debtors' Chapter 7 proceeding pursuant to 11 U.S.C. § 707(b)(3)(B).
John Calhoun v. United States Trustee (Currie)		
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09-4648	Briefs	CRIMINAL: Whether the district court erred in admitting Rule 404(b) evidence, whether prior fleeing to elude convictions qualify as predicate ACCA offenses, other issues
US v. Michael Trent (Reidinger)		

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

Tuesday, January 25, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-2280 [Briefs](#) FALSE CLAIMS ACT: Whether the district court erred by failing to enforce a purported settlement agreement; other issues.
Thomas Ubl v. IIF Data Solutions
(O'Grady)

10-1300 [Briefs](#) ATTORNEYS: Challenge to district court's refusal to vacate revocation of pro hoc vice status.
Ansel Belue v. Markham Leventhal
(Anderson)
Associations: 10-1438

10-1235 [Briefs](#) CIVIL: Whether the district court erred in granting Appellees' motion to dismiss on remand;other issues.
Richard Gitter v. Cardiac & Thoracic Surgical As
(Williams)

09-1981 [Briefs](#) IMMIGRATION: Applicability of res judicata and collateral estoppel in removal proceedings; whether alien qualifies for derivative citizenship under 8 U.S.C. § 1432.
David Johnson v. J.D. Whitehead
(Messitte)
Associations: 10-1488

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

Tuesday, January 25, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (01/25/2011 - 01/28/2011 Session)

10-0001	Briefs	HABEAS CORPUS: State appeal from grant of habeas relief vacating sentence based on instructional error and ineffective assistance of counsel.
Jerry Jackson v. Loretta Kelly (Brinkema)		
Associations: 10-0003		
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10-1486	Briefs	CIVIL: Whether district court correctly applied Hertz Corp. v. Friend, 130 S. Ct. 1181 (2010) in determining diversity jurisdiction.
Central West Virginia Energy v. Mountain State (Johnston)		
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09-2024	Briefs	CIVIL: Whether the court erred by granting defendant summary judgment on plaintiff's Title VII harassment, discrimination and retaliation claims; other issues.
Kimberly Hoyle v. Freightliner, LLC (Mullen)		
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10-6403	Briefs	CIVIL RIGHTS: Propriety of summary judgment on claims of excessive force during arrest; qualified immunity.
Rodney Wolfe v. Joel Footen (Messitte)		

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

Wednesday, January 26, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-4611 [Briefs](#) CRIMINAL. Whether the district court erred in admitting evidence; propriety of jury instruction; other issues.
US v. Eduardo Puentes
(Williams)

10-1019 [Briefs](#) CIVIL: Whether genuine issue of material fact existed regarding cause of death in medical malpractice/products liability action;
James Mack v. Amerisourcebergen Drug Corp. other issues.
(Bennett)

10-1476 [Briefs](#) EMPLOYMENT LAW: Whether hostile work environment claim was actionable; whether retaliation claim was actionable
EEOC v. Cromer Food Services attorney's fees issue.
(Herlong)
Associations: 10-1552

Wednesday, January 26, 2011

REVD 1/26/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-2184 [Briefs](#) ERISA: Proper standard of review based on conflict of interest; propriety of disability determination and administrative record.
Georgia Frankton v. Metropolitan Life Insurance
(Motz)

10-1344 [Briefs](#) CIVIL: Propriety of district court's rulings with respect to Plaintiff's claims of express and prescriptive easement
Sun Lee v. Zom Clarendon, L.P.
(Ellis)

09-1917 [Briefs](#) LABOR LAW: Issues relating to employee compensation for doffing, donning, washing and walking.
Luisa Perez v. Mountaire Farms, Incorporated
(Davis)
Associations: 09-1966

10-1365 [Briefs](#) TAX LAW: Whether district court properly interpreted credit limitations in IRC §§ 904(a) and 38(c) in finding plaintiff not entitled to refund.
R.H. Donnelley Corporation v. US
(Boyle)

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Wednesday, January 26, 2011

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10-1413 [Briefs](#) CIVIL RIGHTS: Whether district court properly entered summary judgment for University on associate professor's claims that he Michael Adams v. The Trustees of the University was denied promotion based upon his speech or his religion.
(Howard)

10-1211 [Briefs](#) IMMIGRATION: Whether, in light of Imelda v. U.S. Attorney Gen., 611 F.3d 724 (11th Cir. 2010), substantial evidence supports Evelyne v. Eric Holder, Jr. the Board's conclusion that conditions in Indonesia have fundamentally changed.

10-1158 [Briefs](#) CIVIL: Interpretation and applicability of revised regulation in implementation of Family Medical Leave Act.
Joann Whiting v. The Johns Hopkins Hospital
(Quarles)

04-2135 [Briefs](#) ERISA. Challenge to denial of benefits; challenge to civil sanctions for failing to timely provide Summary Plan Description.
Mullins v. AT&T Corporation
(Lee)

Associations: 04-2136, 07-1717, 10-2010

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

Wednesday, January 26, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-1323 [Briefs](#) REHABILITATION ACT: Propriety of summary judgment in favor of employer on alleged violations of Rehabilitation Act.
Safia Cobey v. Pete Geren
(O'Grady)

09-2030 [Briefs](#) CIVIL: Whether district court erred in granting summary judgment in action seeking future damages following termination of
Meineke Car Care Centers, Inc. v. RLB Holdings, franchise agreement; other issues.
(Conrad)

10-1508 [Briefs](#) MEDICAID LAW: Whether ambulance authority is a "provider of emergency services" within meaning of amendment;
Healthkeepers, Inc. v. Richmond Ambulance other issues.
(Spencer)

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

Thursday, January 27, 2011

REVD 1/26/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/25/2011 - 01/28/2011 Session)

10-0002 [Briefs](#)
US v. Aquilia Barnette
(Voorhees)

CRIMINAL: Appeal from capital conviction and sentence on Batson grounds.

10-1375 [Briefs](#)
Aarow Equipment & Services v. Travelers
(Trenga)

CIVIL: Whether subcontractor abandoned project and defaulted on contract and whether prevention doctrine claim is waived.

10-1421 [Briefs](#)
PBM Products, LLC v. Mead Johnson & Company
(Spencer)

LANHAM ACT: Numerous issues regarding false advertising claims and counterclaims

10-1136 [Briefs](#)
Kim Tomblin v. WCHS-TV8
(Chambers)

CIVIL: Propriety of summary judgment entered in favor of defendant TV station in action for defamation, false light invasion of privacy, and emotional distress.

PANEL II
Room 201 (Green Carpet)
9:30 a.m.

Thursday, January 27, 2011

REVD 1/14/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-1947 [Briefs](#) CIVIL. Whether district court erred in granting summary judgment on cybersquatting claim, refusing to allow counterclaims, awarding statutory damages and fees; recusal issue.
Newport News Holdings Corp v. Virtual City
(Stillman)

10-1087 [Briefs](#) INSURANCE: Whether insurer liable for fraudulent acts of settlement agents.
Wells Fargo Bank NA v. Old Republic Title
(Hilton)

10-1702 [Briefs](#) ERISA: Whether Kennedy v. Plan Administrator, 129 S.Ct. 865 (2009) bars plaintiffs claim to life insurance benefits
Mary Boyd v. Metropolitan Life Insurance Co
(Houck)

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

Thursday, January 27, 2011

REVD 1/26/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/25/2011 - 01/28/2011 Session)

10-1074 [Briefs](#) ERISA: Whether equitable relief is available under theory of surcharge or equitable estoppel to allow remedy in addition to return
Debbie McCravy v. Metropolitan Life Insurance of paid premiums.
(Duffy)
Associations: 10-1131

10-1291 [Briefs](#) FORFEITURE LAW: Inter alia, whether forfeiture sought in civil action was an excessive fine.
US v. \$79,650.00 Seized from BOA
(Davis)
Associations: 10-1294

10-1083 [Briefs](#) BANKRUPTCY LAW: Should state taxes in issue have been discharged in bankruptcy under 11 U.S.C. § 523(a)(1)(B); other issues.
State of Maryland v. Denise Ciotti
(Motz)

10-4083 [Briefs](#) CRIMINAL LAW: Evidentiary issues arising during supervised release revocation proceeding.
US v. Royce Mitchell
(Conrad)

PANEL IV
Room 339 (Spencer)
9:30 a.m.

Thursday, January 27, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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08-4798	Briefs	CRIMINAL: Whether defendants' convictions under 18 U.S.C. § 844(h) and 18 U.S.C. § 924(c) violate double jeopardy.
US v. Steven Eddington (Currie)		
Associations: 08-4799		
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10-1500	Briefs	SOCIAL SECURITY ACT: Whether posthumously conceived child is eligible to receive child survivor benefits; equal protection challenge.
Janice Schafer v. Michael Astrue (Mullen)		
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09-4811	Briefs	CRIMINAL: Whether the district court erred in denying motion to suppress wiretap evidence; other issues.
US v. Yvonne Fountain (Thornburg)		
Associations: 09-4835		
		PANEL I Room 412 (Red Carpet) 8:30 a.m.
Friday, January 28, 2011		

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Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-4439	Briefs	CRIMINAL: Admission of evidence of prior shooting under Fed. R. Evid. 404(b) & 403; admission of testimony and rebuttal witness; voluntariness of confession.
US v. Patrick Byers, Jr. (Bennett)		
Associations: 09-4677		
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09-2300	Briefs	CIVIL: Whether the district court erred in granting summary judgment to Appellees on their trade secret, breach of contract, and other claims.
Decision Insights, Inc. v. Sentia Group, Inc. (Hilton)		
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09-1973	Briefs	CIVIL PROCEDURE. Collateral appeal from district court's order substituting Federal Housing Finance Agency as conservator for Freddie Mac with exclusive authority to pursue derivative claims on behalf of Freddie Mac
Louisiana Municipal Police ERS v. Richard Syron (Brinkema)		
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09-5041	Briefs	CRIMINAL HISTORY: Whether the district court erred in counting prior state convictions towards criminal history rather than relevant conduct.
US v. Bryant Bethea (Harwell)		

PANEL II
Room 201 (Green Carpet)
8:30 a.m.

Friday, January 28, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-4321 [Briefs](#) CRIMINAL: Whether convictions of unauthorized access to protected computer and unlawful access to stored communications
US v. Elaine Cioni violated double jeopardy; denial of suppression motion; waiver of sentencing counsel; other issues
(Lee)

08-4949 [Briefs](#) CRIMINAL LAW: Numerous pre-trial, trial, and sentencing issues regarding wire fraud and related convictions.
US v. Somsak Saeku
(Boyle)

09-4653 [Briefs](#) CRIMINAL: Whether speedy trial rights were violated when court denied motion for severance; other issues
US v. Donald Shealey
(Fox)

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

Friday, January 28, 2011

REVD 1/21/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/25/2011 - 01/28/2011 Session)

09-2202	Briefs	CIVIL RIGHTS: Whether district court erred in denying motion for judgment as a matter of law in § 1983 action based on arrest for fighting words; adequacy of instructions.
Robert Harrison v. Charlie Deane (Cacheris)		
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09-1697	Briefs	CIVIL. Whether district court erred in granting the appellees summary judgment on appellants' indemnification and declaratory judgment claims; other issues.
Red Roof Inns, Incorporated v. Scottsdale (Connelly) Associations: 09-1760		
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09-4603	Briefs	CRIMINAL: Whether district court erred in denying motion to suppress evidence under the Leon good faith exception.
US v. Robert Doyle, Jr. (Jones)		
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10-1177	Briefs	APPELLATE PROCEDURE: Whether district court abused its discretion in denying extension of time to appeal.
In Re: Peter AT Sartin		

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

Friday, January 28, 2011