

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/27/2015 - 01/29/2015 Session)

12-1503	Briefs	CIVIL RIGHTS: Whether district court erred in denying police officer's qualified immunity defense for Eighth Amendment excessive force claim.
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14-6851	Briefs	HABEAS CORPUS: Whether petitioner is entitled to sentencing relief under 28 U.S.C. section 2241 in light of the Simmons decision.
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14-4078	Briefs	CRIMINAL: Whether, in light of U.S. v. Castleman, 134 S. Ct. 1405 (2014), conviction was misdemeanor crime of domestic violence under 18 U.S.C. section 922(g)(9).
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13-7279	Briefs	CIVIL RIGHTS: Whether district court abused its discretion in denying motion to strike belatedly-asserted affirmative defense of failure to exhaust administrative remedies; other issues.

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

Tuesday, January 27, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (01/27/2015 - 01/29/2015 Session)

14-4239	Briefs	CRIMINAL: Whether district court erred in denying motion to suppress evidence seized during search of trunk of defendant's vehicle.
US v. Anthony T. Champion (Spencer)		
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14-1244	Briefs	CIVIL: Whether trial court erred in granting directed verdict in products liability action by requiring expert testimony of specific causation; other issues.
Carolyn Lewis v. Johnson & Johnson (Goodwin)		
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13-2467	Briefs	CIVIL: Multiple issues arising out of action based on loan guarantees.
CresCom Bank v. Edward L. Terry (Duffy) Associations: 13-2549		
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13-2403	Briefs	ERISA: Propriety of summary judgment in Multiemployer Pension Plan Amendments Act withdrawal liability case; jurisdiction; venue; other issues.
Trustees of the Plumbers v. Plumbing (Ellis)		

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

Tuesday, January 27, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-2189	Briefs	CONTRACT: Whether district court violated mandate rule by defining contractual obligations; whether court erred in allocating burden of proof and precluding defense evidence.
David Schwartz v. Rent A Wreck of America Inc (Messitte)		
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13-2320	Briefs	EMPLOYMENT: Whether district court erred when it determined plaintiff did not establish prima facie case of discriminatory discharge; other issues.
Kirby McZeke v. Horry County (Harwell)		
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14-1141	Briefs	CIVIL: Whether district court erred in dismissing claims related to force placed insurance for failure to state a claim under Maryland law.
Richard Castle v. Capital One, National (Nickerson)		
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14-4249	Briefs	SENTENCING: Whether N.C. Gen. Stat. section 14-39(a) meets generic definition of kidnapping and categorically qualifies as crime of violence; other issues.
US v. Marlon Flores-Granados (Morgan)		

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

Tuesday, January 27, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-1073	Briefs	EMPLOYMENT: Title VII plaintiff's burden on summary judgment under University of Texas Southwestern Medical Center v. Nassar, 133 S. Ct. 2517 (2013); other issues.
Iris Foster v. University of Maryland Eastern (Sullivan)		
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14-1011	Briefs	ERISA: Class action involving interest on 401(k) assets commingled with other pension plan funds.
Willam L. Pender v. Bank of America (Mullen)		
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13-4765	Briefs	CRIMINAL: Standard of review for unpreserved Alleyne error; whether error should be noticed.
US v. Aaron Monroe (Dever)		
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13-2117	Briefs	CIVIL: Whether district court erred in dismissing Title VII discrimination claims and granting defendants' motion for summary judgment.
Jose Ramos v. Molina Healthcare, Inc. (Lee)		

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

Tuesday, January 27, 2015

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14-1464	Briefs	ERISA: Whether under 29 U.S.C. section 1401(b)(2) party contesting arbitration proceeding must bring action in district court by motion rather than complaint.
Local Union 557 Pension Fund v. Penske (Hollander)		
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14-1290	Briefs	CIVIL: Various issues arising under Fair Debt Collection Practices Act; other issues.
Mounia Elyazidi v. SunTrust Bank (Chasanow)		
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14-4515	Briefs	CRIMINAL: Whether district court erred by granting defendant's motion to suppress on ground that officer lacked reasonable suspicion to stop vehicle and by denying reconsideration.
US v. Skyler Holley (Britt)		

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

Tuesday, January 27, 2015

REVD 1/26/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-6878	Briefs	HABEAS: Whether this appeal of the construction of a Rule 60(b) motion as an unauthorized successive section 2255 motion is subject to the COA requirement.
US v. Madison McRae (Conrad)		
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13-2176	Briefs	CIVIL: Multiple issues arising out of termination of lease agreement.
Elderberry of Weber City, LLC v. Living Centers (Moon)		
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13-2342	Briefs	CIVIL: Whether the district court erred in dismissing False Claims Act complaint alleging retaliation in violation of 31 U.S.C. section 3730(h).
Ronald P. Young v. CHS Middle East, LLC (Lee)		
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14-1122	Briefs	ABSTENTION: Whether district court properly abstained from asserting jurisdiction over Appellant's claim for false advertising under Lanham Act; other issues.
Charles vonRosenberg v. Mark Lawrence (Houck)		

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

Wednesday, January 28, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-2500 [Briefs](#) CIVIL: Whether contract subject to Virginia Statute of Frauds; spoliation of evidence sanction.
Blue Sky Travel and Tours, LLC v. Nasser Al
(Trenga)

14-1320 [Briefs](#) CIVIL RIGHTS: Whether district court properly granted summary judgment to officer on false arrest claim based on qualified
Sloan Pleasants v. Robert Rigsby
(Moon) immunity.

14-1454 [Briefs](#) CONTRACT: Whether district court erred in concluding that leasing agent did not hold required license and denying claim for
Jones Lang LaSalle Americas, I v. The Hoffman
(Trenga) \$6.62 million commission, citing public policy.

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

Wednesday, January 28, 2015

REVD 1/15/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-1086 [Briefs](#)
Professional Massage Training v.
(O'Grady)
Associations: 14-1136

CIVIL: Whether district court erred in holding accreditation agency wrongfully denied career school reaccreditation; breach of contract and damages issues.

13-2451 [Briefs](#)
Liberty Mutual Fire Insurance v. JM Smith
(Cain)

CIVIL: Whether under state law underlying complaint alleged "occurrence" within the meaning of that term in the insurer's policies; other issues.

14-1434 [Briefs](#)
World Fuel Services Trading v. Hebei Prince
(Davis)

ADMIRALTY: Numerous issues arising from maritime lien imposed against vessel.

13-2548 [Briefs](#)
Lord & Taylor, LLC v. White Flint, L.P.
(Titus)

CIVIL: Propriety of denial of permanent injunctive relief under Maryland law in action for enforcement of restrictive covenants.

PANEL III
Tan Courtroom (Room223)
9:30 a.m.

Wednesday, January 28, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-4225	Briefs	CRIMINAL: Whether failure to explain, on-the-record, reasons for rejecting defendant's arguments for a below-Guidelines sentence, or for imposing selected sentence, amounts to harmless error.
US v. Lee Edward Phillips (Fox)		
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14-1277	Briefs	CONSTITUTIONAL LAW: Whether summary judgment was properly granted in favor of mental health professional on alleged violations of Fourth and Fifth Amendment rights; other issues.
Brandon Raub v. Michael Campbell (Hudson)		
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14-1299	Briefs	EMPLOYMENT: Propriety of summary judgment in favor of county on claim that county violated the ADA by installing call center software that could not be used by a blind employee.
Yasmin Reyazuddin v. Montgomery County, (Chasanow)		
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14-1245	Briefs	CONTRACT: Whether district court erred in finding implied contract superseded purchase order, and awarding consequential damages, admission of expert testimony on damages.
RG Steel Sparrows Point, LLC v. Kinder Morgan (Nickerson)		

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

Wednesday, January 28, 2015

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13-4965	Briefs	CRIMINAL: Whether district court abused its discretion in denying motion to withdraw plea based on claim that plea was induced by promise of third-party immunity.
US v. Antoine Lundy (Doumar)		
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13-1721	Briefs	CIVIL: Propriety of declaratory judgment; construction of medical malpractice insurance policy under South Carolina law; other issues.
The Medical Protective Company v. Kyrsten (Gergel)		
Associations: 13-1722		
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14-1395	Briefs	CIVIL: Whether defendant was obligated to lower water level and provide plaintiff access to coal fines in impoundment under parties' contracts and defendant's mine plan.
Covol Fuels No. 4, LLC v. Pinnacle Mining (Berger)		

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

Wednesday, January 28, 2015

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14-6513	Briefs	HABEAS: Propriety of district court's vacatur of conviction based on conclusion that state court unreasonably applied Brady v. Maryland to facts.
Steven Watkins v. Jim Rubenstein (Goodwin)		
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14-1148	Briefs	IMMIGRATION: Whether the agency erred in finding petitioner statutorily ineligible for cancellation of removal.
Marina Hernandez v. Eric Holder, Jr.		
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14-1332	Briefs	CIVIL: Whether district court properly enforced arbitration awards in light of Maryland Police Training Commission's refusal to certify officers; other issues.
Fraternal Order of Police v. WMATA (Brinkema)		

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

Thursday, January 29, 2015

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13-4630 [Briefs](#)
US v. Jorge P. Cornell
(Beaty)

Associations: 13-4877, 13-4644

CRIMINAL: Interpretation of RICO's interstate commerce and predicate act requirements, evidentiary rulings, sufficiency of evidence, propriety of second Allen charge.

13-4360 [Briefs](#)
US v. John Adams

SENTENCING: Whether district court committed reversible error in failing to correctly calculate Adams' Guidelines range after granting downward departure.

PANEL II
Butzner Courtroom 201
8:30 a.m.

Thursday, January 29, 2015

REVD 1/26/15

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14-1239	Briefs	INSURANCE: Whether failure of underlying suit to state vicarious liability claim rendered inapplicable duty to defend third-party insured.
Capital City Real Estate, LLC v. Certain (Garbis)		
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14-6590	Briefs	HABEAS CORPUS: Whether the district court erred in vacating Virginia convictions based upon alleged ineffective representation of counsel.
Rashaad Jones v. Harold Clarke (Jackson)		
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13-4895	Briefs	CRIMINAL: Whether district court correctly determined that challenged offenses did not take place in Somalia's territorial sea; other issues.
US v. Abukar Beyle (Smith)		
Associations: 13-4897		

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

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13-4504 [Briefs](#)
US v. Jose Bercian-Flores
(Whitney)

CRIMINAL: Whether prior conviction sentenced under the mandatory Guidelines qualifies as a "felony".

14-4160 [Briefs](#)
US v. Ronnie Belt
(Bailey)

FOURTH AMENDMENT: Whether eleven-year-old can consent to police entry into home to speak with his father; other issues.

13-4924 [Briefs](#)
US v. Daren Gadsden
(Quarles)

CRIMINAL: Standard of review; sufficiency of the evidence; impact of *Loughrin v. United States*, 134 S. Ct. 2384 (2014); other issues.

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Tweed Courtroom (Room 414-D)
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14-1348	Briefs	EMPLOYMENT: Whether magistrate judge correctly determined that appellant did not qualify as joint employer under Title VII; other issues.
Brenda Butler v. Drive Automotive Industries (Austin)		
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13-1738	Briefs	BLACK LUNG: Whether ALJ properly discredited employer's physicians; standard applicable to employers to rebut 30 U.S.C. section 921(c)(4) (2012) presumption; applicability of rule out standard.
Hobet Mining, LLC v. Carl Epling, Jr.		
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12-2034	Briefs	BLACK LUNG: Whether ALJ properly restricted coal mine operator to same rebuttal options as Secretary; whether finding of causation was supported by substantial evidence.
West Virginia CWP Fund v. Page Bender, Jr.		

PANEL V
Gold Courtroom (Room 348)
8:30 a.m.

Thursday, January 29, 2015