

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (01/28/2013 - 02/01/2013 Session)

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12-0007 [Briefs](#)  
Justin Wolfe v. Harold Clarke  
( Jackson )

HABEAS CORPUS: Challenge to district court's order directing petitioner's release and barring his retrial based on Commonwealth's failure to retry or release petitioner within 120 days, as directed by prior order vacating petitioner's capital murder conviction.

PANEL I  
Red Courtroom (Room 412)  
2:00 p.m.

Monday, January 28, 2013

REVD 1/8/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (01/28/2013 - 02/01/2013 Session)

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11-4870	<a href="#">Briefs</a>	CRIMINAL: Whether defendant's prior Virginia assault and battery of a law enforcement officer conviction qualifies as a crime of violence.
US v. Jolon Carthorne, Sr. ( Osteen )		
<hr/>		
11-2200	<a href="#">Briefs</a>	COPYRIGHT: Whether the district court erred in granting summary judgment for defendants on plaintiff's claims of architectural copyright infringement.
Building Graphics, Inc. v. Lennar Corp. ( Voorhees )		
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11-1445	<a href="#">Briefs</a>	CIVIL: Whether "prohibitive arbitration costs" is valid defense to arbitration agreement, in light of AT&T Mobility LLC v. Concepcion, 131 S. Ct. 1740, 1746 (2011).
Samuel Muriithi v. Shuttle Express, Inc. ( Williams )		
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11-2344	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether the district court erred in ruling against the various defendants on defenses of qualified immunity, public officer immunity, and governmental immunity; other issues.
Jerry Anderson v. Caldwell County ( Reidinger )		

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

Tuesday, January 29, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-1357	<a href="#">Briefs</a>	CIVIL: Numerous issues arising from district court's dismissal of civil rights and state tort and contract claims.
Painters Mill Grille, LLC v. Howard Brown ( Bennett )		
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12-1119	<a href="#">Briefs</a>	CIVIL: Whether the district court abused its discretion in denying the appellant's post-judgment motion to amend its complaint.
Calvary Christian Ctr. v. City of Fredericksburg ( Gibney )		
<hr/>		
12-1322	<a href="#">Briefs</a>	TELECOMMUNICATIONS LAW: Whether district court erred in construing the parties' interconnection agreements; recusal and other issues.
Central Telephone Co. v. Sprint Comm. ( Payne )		
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12-1019	<a href="#">Briefs</a>	IMMIGRATION: Whether substantial evidence supports the Board's decision that petitioner was not eligible for relief; related issues.
Dario Suarez-Valenzuela v. Eric Holder, Jr.		

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

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11-2157	<a href="#">Briefs</a>	CORPORATE LAW: Whether the district court properly entered summary judgment on shareholder derivative claims; other issues.
Office of Strategic Services v. Steven Sadeghian ( Hilton )		
Associations: 12-1082, 11-2160		
<hr/>		
12-1500	<a href="#">Briefs</a>	PRODUCTS LIABILITY: Did the district court abuse its discretion regarding evidentiary rulings related to Federal Motor Vehicle Safety Standard 213; other issues.
S. M. v. Dorel Juvenile Group Inc. ( Jones )		
<hr/>		
12-1518	<a href="#">Briefs</a>	BANKRUPTCY LAW: Whether brokers were "initial transferees" of assets; whether broker stock trading commissions were "reasonable and customary;" other issues.
Grayson Consulting, Inc. v. Wachovia ( Bertelsman )		
<hr/>		
11-1929	<a href="#">Briefs</a>	IMMIGRATION/CRIMINAL: Whether the Board properly determined that Karimi's 2008 assault conviction in Maryland qualifies as a crime of violence, and thus as an aggravated felony.
Ali Karimi v. Eric Holder, Jr.		
Associations: 12-1076		

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

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12-1331	<a href="#">Briefs</a>	FEDERAL PROCEDURE: Challenges to rulings on standing, lack of "case or controversy," construction of FCC exclusivity order; other issues.
Southern Walk at Broadlands v. Openband at ( Lee )		
Associations: 12-2083		
<hr/>		
12-1925	<a href="#">Briefs</a>	TELECOMMUNICATIONS LAW: Whether dispute was ripe; does private right of action exist; was issuance of injunction proper; other issues.
Lansdowne on the Potomac v. Openband at ( Trenga )		
<hr/>		
11-1599	<a href="#">Briefs</a>	SECTION 1983: Whether a former state prisoner who was previously unsuccessful in seeking habeas relief may pursue a Section 1983 claim for damages arising from the traffic stop that led to his conviction.
Stanley Ballenger v. J. Dale Owens ( Childs )		
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12-6316	<a href="#">Briefs</a>	CIVIL: Whether district court erred in concluding appellant continues to pose substantial risk of harm, 18 U.S.C. section 4246, precluding his release.
US v. Cornell M. Taylor ( Britt )		

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

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11-5093 [Briefs](#)  
US v. Adley Abdulwahab  
( Payne )

CRIMINAL: Whether money laundering charges merged with mail and securities fraud charges; sentencing issue.

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12-6172 [Briefs](#)  
Luther Ford v. Robert Stevenson, III  
( Norton )

CRIMINAL: Whether Ford's guilty plea resulted from ineffective assistance of counsel.

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12-4037 [Briefs](#)  
US v. Nicole Grant  
( Allen )

CRIMINAL LAW: Whether the district court was authorized to modify the judgment to include the condition that income tax refunds, lottery winnings and other financial gains be applied to restitution judgment.

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

Tuesday, January 29, 2013

REVD 1/25/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-1053	<a href="#">Briefs</a>	ARBITRATION: Whether appellant investors were "customers" of financial services company; whether permanent injunction was proper; other issues.
Raymond James Financial v. Peter Cary ( Lee )		
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12-1125	<a href="#">Briefs</a>	CIVIL: Whether state law claims are preempted by Home Owners Loan Act; other issues.
Herbert McFadden v. Federal National ( Turk )		
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12-7687	<a href="#">Briefs</a>	CIVIL COMMITMENT: Government appeal from order of release entered after district court determined that appellee did not meet criteria for civil commitment under Adam Walsh Act.
US v. Frederick Springer ( Boyle )		
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12-1321	<a href="#">Briefs</a>	CIVIL FORFEITURE: Whether Government filed action within statute of limitations; denial of contemporaneous remote testimony; evidentiary issues; sufficiency of evidence.
US v. 4219 University Drive, Fairfax ( O'Grady )		

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

Wednesday, January 30, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-1445	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether student's constitutional rights were violated by school ban on clothing bearing image of Confederate flag or on protest clothing.
C. H. v. Martha Heyward ( Wooten )		
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12-1132	<a href="#">Briefs</a>	CIVIL: Whether district court erred in denying Fed. R. Civ. P. 60(b)(5), (6) motion seeking satisfaction of judgment based upon defendants' settlement with plaintiff's judgment creditor.
United Marketing Solutions v. Angie Fowler ( Lee )		
<hr/>		
11-2195	<a href="#">Briefs</a>	CIVIL: Whether the district court properly granted summary judgment to Anderson's former employer on her multiple claims, including failure to provide a reasonable accommodation, violation of FMLA, and retaliatory discharge.
Victoria Anderson v. Discovery Comm. ( Williams )		
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11-2406	<a href="#">Briefs</a>	CIVIL: Whether district court has personal jurisdiction over Defendants.
Project Honey Pot v. Andrey Chernuk ( Brinkema )		

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

Wednesday, January 30, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-1728 [Briefs](#)  
Scott Andochick v. Ronald Byrd  
( O'Grady )  
ERISA: Whether ERISA preempts provision in marital separation agreement, incorporated into divorce decree, waiving ex-husband's right to deceased ex-wife's 401(k) savings.

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11-5181 [Briefs](#)  
US v. Michael White  
( Bennett )  
Associations: 12-4158  
CRIMINAL LAW: Challenges to convictions based upon sufficiency of the evidence, evidentiary rulings, and jury instruction issue.

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11-1879 [Briefs](#)  
Arthur Galloway v. Horne Concrete  
( Schulze )  
Associations: 11-1898  
CIVIL: Whether district court properly excluded expert testimony for failure to causally link treatment to accident; other issues.

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

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12-1304	<a href="#">Briefs</a>	JURISDICTION: Whether district court properly dismissed petition to compel arbitration in dispute concerning propriety of interest rate on payday loans; preemption.
Community State Bank v. Tommy Knox ( Beaty )		
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11-4649	<a href="#">Briefs</a>	CRIMINAL: Whether guilty plea was knowing, intelligent, and voluntary, and whether waiver of appeal was valid.
US v. Derrick McCaskey		
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12-1189	<a href="#">Briefs</a>	CIVIL: Whether auto insurance policy precludes stacking of UIM coverage and permits insurer to pay nothing under Virginia Law.
Shirley Westveer v. Garrison Property ( Doumar )		
<hr/>		
12-1103	<a href="#">Briefs</a>	FEDERAL PROCEDURE: Whether 28 U.S.C. section 1446(d) prohibits state court proceedings involving parties to the removed action; whether the district court abused its discretion by abstaining.
Kenneth Ackerman v. ExxonMobil Corporation ( Quarles )		

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

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12-6274 [Briefs](#) CRIMINAL LAW: Whether the district court erred in ordering that Sanderson be medicated against his will in an effort to restore  
US v. Michael Sanderson his competency to stand trial.  
( Anderson )

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12-1730 [Briefs](#) CIVIL PROCEDURE: Whether there was a genuine dispute regarding a material fact concerning "haulroads," related issues.  
EQT Gathering Equity, LLC v. Fountain Place,  
( Copenhaver )

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12-1563 [Briefs](#) CIVIL: Whether district court had subject matter jurisdiction; whether Defendant had duty to defend; other issues.  
Thomas Francis v. Allstate Insurance Company  
( Quarles )

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12-1290 [Briefs](#) CERCLA: Whether discovery rule in section 9658 applies to claims that would be barred by state statutes of repose.  
Peter Waldburger v. CTS Corporation  
( Mullen )

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

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11-1816	<a href="#">Briefs</a>	CIVIL: Whether the district court properly found Appellants claims barred by limitations period and for failure to exhaust administrative remedies; other issues.
Larry Mayo v. Board of Education ( Motz )		
Associations:	11-2037	

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11-1124	<a href="#">Briefs</a>	CIVIL: Whether district court's denial of qualified immunity is reviewable; whether court erred in denying qualified immunity to police officer.
Tenisha Jiggets v. Christopher Long ( Williams )		

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11-2220	<a href="#">Briefs</a>	FEDERAL PROCEDURE: Whether National Flood Insurance Act preempts municipal business license tax on flood insurance premiums; necessary party and sovereign immunity issues.
Municipal Association of SC v. USAA General ( Seymour )		
Associations:	11-2221, 11-2222, 11-2223	

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12-1022	<a href="#">Briefs</a>	LABOR LAW: Whether company was entitled to correct an administrative error in wages; other issues.
NLRB v. Daycon Products Company, Inc.		

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

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11-4817 [Briefs](#) CRIMINAL: Whether the district court improperly limited pro se criminal defendant's right to testify in his own defense; other  
US v. Michael Woods issues.  
( Fox )

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11-5061 [Briefs](#) CRIMINAL LAW: Various issues relating to rejection of plea agreement and denial of continuance.  
US v. Jose Juarez-Santamaria  
( O'Grady )

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12-1195 [Briefs](#) TORTS: Whether trial court erred by finding Defendant hospital a joint tortfeasor in medical negligence action.  
Mary LaClair v. Suburban Hospital, Incorporate  
( Messitte )

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

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12-1632 [Briefs](#)  
Melissa H. Trail v. Local 2850 UAW  
( Jones )

LABOR LAW: Whether "free-standing" retaliation claim exists under section 101 of the Labor Management Reporting and Disclosure Act; other issues.

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11-2386 [Briefs](#)  
Anne Collins v. Baltimore City Board of School  
( Garbis )

EMPLOYMENT DISCRIMINATION: Whether summary judgment was properly entered in favor of school system on claims of race and age discrimination brought by former head of high school language department.

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

Thursday, January 31, 2013

REVD 1/25/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-6590	<a href="#">Briefs</a>	SENTENCING: Whether district court erred by granting section 3582(c) motion based on findings inconsistent with findings at original sentencing.
US v. Robert Mann ( Jackson )		
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12-1346	<a href="#">Briefs</a>	CONTRACT LAW: Numerous issues related to district court's finding of breach of contract and award of damages.
2300 Pennsylvania Avenue, LLC v. Harkins ( O'Grady )		
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12-1078	<a href="#">Briefs</a>	PREEMPTION LAW: Is North Carolina's Ethanol Blending Statute pre-empted by the Lanham Act, the Petroleum Marketing Practices Act, and/or the EPA's Renewable Fuels Standard.
American Petroleum Institute v. Roy Cooper, ( Flanagan )		
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12-6650	<a href="#">Briefs</a>	CRIMINAL: Whether the district court erred in denying motion to reduce sentence under 18 U.S.C. section 3582(c)(2) (2006).
US v. Gary Gaynor ( Howard )		

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

Thursday, January 31, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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08-0004	<a href="#">Briefs</a>	CRIMINAL: Multiple conviction and sentencing issues on direct appeal from federal capital conviction and sentence.
US v. Thomas Hager ( Ellis )		
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12-1201	<a href="#">Briefs</a>	CIVIL: Whether district court erred in finding that Virginia public policy exception to employment at will did not apply; whether court correctly granted summary judgment on wrongful discharge claim; other issues.
Karen Balas v. Huntington Ingalls Industries ( Allen )		
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12-4547	<a href="#">Briefs</a>	CRIMINAL LAW: Whether evidence was sufficient to convict defendant of disorderly conduct under 36 C.F.R. section 2.34(a)(2); whether regulation is unconstitutionally vague.
US v. Joe Lanning ( Reidinger )		
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12-1181	<a href="#">Briefs</a>	HOME OWNERS' LOAN ACT: Whether state law claims were preempted by HOLA, 12 U.S.C. section 1464, and implementing regulations.
Charlotte McCauley v. Home Loan Investment ( Bailey )		

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

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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09-5067 [Briefs](#)  
US v. William Graham  
( Quarles )

CRIMINAL: Trial and sentencing challenges to conviction and life sentence imposed on charges of conspiracy to distribute cocaine.

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12-4108 [Briefs](#)  
US v. Arturo Castellanos  
( Tilley )

FOURTH AMENDMENT: Whether car owner retained legitimate expectation of privacy in vehicle after turning it over to common carrier for interstate shipment.

PANEL I  
Red Courtroom (Room 412)  
2:30 p.m.

Thursday, January 31, 2013

REVD 1/29/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Richmond, VA (01/28/2013 - 02/01/2013 Session)

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12-1334	<a href="#">Briefs</a>	CIVIL: Whether district court properly dismissed civil complaint under Fed. R. Civ. P. 12(b)(6) based on statute of limitations.
Frederick Aikens v. William Ingram, Jr. ( Boyle )		
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11-5191	<a href="#">Briefs</a>	CRIMINAL: Whether plain procedural error in imposing sentence above Guidelines range without detailed reasoning.
US v. Javaad Fisher ( Spencer )		
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12-4248	<a href="#">Briefs</a>	CRIMINAL: Sufficiency of the evidence; multiple issues arising from admission of evidence; denial of mistrial based on prosecutor's comment in rebuttal closing argument, denial of motion for new trial.
US v. Joseph Hall ( Stamp )		

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

Friday, February 01, 2013

REVD 1/31/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Richmond, VA (01/28/2013 - 02/01/2013 Session)

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12-1128	<a href="#">Briefs</a>	CIVIL: Whether the district court erred by vacating, rather than confirming, an arbitration award, upon a finding that an arbitration requirement was not incorporated into the contract between the parties.
Logan & Kanawha Coal Co. v. Detherage Coal ( Goodwin )		
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12-4081	<a href="#">Briefs</a>	CRIMINAL: Whether appellant established prosecutorial vindictiveness; Batson claim; other issues
US v. Christopher Bell ( Seymour )		
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12-4118	<a href="#">Briefs</a>	CRIMINAL: Sufficiency of evidence to support convictions for conspiracy to commit health care fraud and wire fraud and aiding and abetting aggravated identity theft; propriety of jury instructions; other issues.
US v. Sargis Tadevosyan ( Copenhaver )		
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12-4396	<a href="#">Briefs</a>	CRIMINAL LAW: Challenge to conviction based upon sufficiency of the evidence, evidentiary rulings, and other issues; challenge to sentence and forfeiture order.
US v. Theophilus Akwei ( Cacheris )		

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

Friday, February 01, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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11-4676	<a href="#">Briefs</a>	CRIMINAL: Whether inmate in possession of a cellular telephone had fair and sufficient notice that he was subject to federal criminal prosecution.
US v. Johnny Beason ( Keeley )		
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12-4047	<a href="#">Briefs</a>	CRIMINAL: Whether district court abused discretion in denying motion to sever trial; double jeopardy; motion to suppress.
US v. Winston Oliver, II ( Spencer )		
Associations: 12-4052		
<hr/>		
12-4408	<a href="#">Briefs</a>	CRIMINAL LAW: Whether the district court erred in applying the section 2L1.2 "crime of violence" sentencing enhancement; other issues.
US v. Eduardo Rangel-Castaneda ( Reidinger )		
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12-1458	<a href="#">Briefs</a>	CIVIL: Appropriate statute of limitations applicable in action seeking specific performance of agreement for sale of land.
Clifton LLC v. Dewey Tadlock ( Harwell )		

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

Friday, February 01, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-1444	<a href="#">Briefs</a>	FEDERAL PROCEDURE: Whether the district court erred in vacating jury verdict based on claim and issue preclusion; other issues.
Georgia Pacific Consumer v. Von Drehle ( Boyle )		
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11-5130	<a href="#">Briefs</a>	CRIMINAL LAW: Whether the health care fraud statute is void for vagueness as applied to criminalize procedures performed by physician defendant; other issues.
US v. John McLean ( Quarles )		
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12-4062	<a href="#">Briefs</a>	SENTENCING: Whether there was sufficient indication by court that it was imposing a variance or departure sentence; whether sentence was substantively reasonable. 15 mins. per side.
US v. James Whitley ( Flanagan )		
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12-4010	<a href="#">Briefs</a>	SENTENCING GUIDELINES: Whether offense involved more than 600 images of child pornography. 15 mins. per side.
US v. Sean Price ( Stamp )		

PANEL V  
Gold Courtroom (Room 348)  
12:30 p.m.

Friday, February 01, 2013