

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (03/22/2011 - 03/25/2011 Session)

10-1483 [Briefs](#) BANKRUPTCY LAW: Whether bankruptcy court had jurisdiction over property following foreclosure sale and ratification; other issues.
Dennis Scott, Jr. v. Howard Bierman
(Catliota)

10-1528 [Briefs](#) CIVIL: Whether this court has jurisdiction to consider claims adjudicated by district court following subsequent voluntary dismissal of the remaining unadjudicated claims without prejudice; other issues.
John Horvath v. Bank of New York, N.A.
(Trenga)

10-1803 [Briefs](#) Contracts: Whether the district court erred in dismissing declaratory action and quiet title claims.
Nicholas Bernardo v. National City Real Estate
(Brinkema)

10-1656 [Briefs](#) CIVIL: Whether district court properly granted summary judgment on claims of negligent misrepresentation, fraud, unfair trade practices, and breach of contract arising from failed real estate transaction
Geo Plastics et al v. Beacon Development Co.
(Anderson)

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

Tuesday, March 22, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (03/22/2011 - 03/25/2011 Session)

09-4098 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether, under Second Amendment, 18 U.S.C. Section 922(d)(3), (g)(3) are lawful exercises of
US v. Cory Chafin Congressional authority to prohibit firearm possession by unlawful drug users; other issues.
(Copenhagen)

10-1482 [Briefs](#) ANTITRUST LAW: Whether assignment contained in asset purchase agreement precludes plaintiff from asserting antitrust claims;
Novell, Incorporated v. Microsoft Corporation other issues.
(Motz)

10-1613 [Briefs](#) CIVIL: Whether district court erred in granting summary judgment on action involving refusal to honor performance bonds for
County of Brunswick v. Lexon Insurance Co. infrastructure improvements; other issues
(Boyle)

09-6996 [Briefs](#) § 1983: Propriety of dismissal under 28 U.S.C. § 1915A(b)(1) for failure to state a claim of claim of deliberate indifference to a
Troy Goodman, Sr. v. Wexford Health Sources serious medical need.

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

Tuesday, March 22, 2011

REVD 2/11/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (03/22/2011 - 03/25/2011 Session)

10-1487 [Briefs](#) PRODUCT LIABILITY: Whether district court properly dismissed action under doctrine of forum non conveniens.
Jiali Tang v. Synutra International, Inc.
(Chasanow)

10-7611 [Briefs](#) ADAM WALSH ACT: Whether civil commitment proceedings under 18 U.S.C. § 4248 can be initiated against federal prisoners
US v. Donald Broncheau
(Boyle)
Associations: 10-7616, 10-7617, 10-7618, 10-7619, 10-7620, 10-7621, 10-7622, 10-7623

08-2198 [Briefs](#) Employment Discrimination. Whether summary judgment for employer was proper on employee's claims of a hostile work
Katrina Okoli v. City of Baltimore
(Nickerson)

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

Tuesday, March 22, 2011

REVD 3/21/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (03/22/2011 - 03/25/2011 Session)

10-0267 [Briefs](#) CLASS ACTION: Petition for permission to appeal district court's remand of class action to state court.
CVS Pharmacy, Incorporated v. State of WV
(Copenhaver)

10-1687 [Briefs](#) ERISA: Does the fiduciary exception to attorney-client privilege apply to compliance audits by Secretary of Labor; other issues.
Hilda Solis v. The Food Employers Labor
(Motz)

10-4815 [Briefs](#) CRIMINAL: Propriety of grand jury subpoena in action involving misappropriation of trade secrets.
US v. Under Seal
(Payne)

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

Tuesday, March 22, 2011

REVD 3/21/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-1306	Briefs	BANKING LAW: Issues relating to proximate causation, affirmative defenses, settlement credit and prejudgment interest in FDIC suit against bank auditors.
Grant Thornton, LLP v. FDIC (Faber)		
Associations: 10-1379		

10-1042	Briefs	CONTRACTS: Whether court's factual findings were clearly erroneous; related issues.
Symbionics Inc. v. Christopher Ortlieb (Trenga)		
Associations: 10-1289		

09-7701	Briefs	CIVIL: Whether trial counsel had a duty to consult with Appellant about pursuing an appeal; and, if so, whether counsel breached that duty.
Arthur Singleton v. Willie Eagleton (Harwell)		

10-4039	Briefs	CRIMINAL: Whether categorical or modified categorical approach of Taylor v. United States, 495 U.S. 575 (1990), is applicable in assessing predicate offense for sentence enhancement pursuant to 18 U.S.C.A. § 2252A(b) (West Supp. 2010); other issues.
US v. Gary Gilbert (Berger)		

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

Tuesday, March 22, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-1435 Hill Holliday Connors v. Jeffrey Greenfield (Anderson)	Briefs	CIVIL: Propriety of summary judgment on trade secret, quantum meruit, and related claims arising out of implementation of branded entertainment marketing plan
10-1644 Oscar Tenorio v. Eric Holder, Jr.	Briefs	IMMIGRATION: Whether the agency erred in concluding that petitioner is ineligible to adjust his status.
10-4320 US v. Torrance Hill (Trenga)	Briefs	FOURTH AMENDMENT: Whether police entry into Defendant's residence was unconstitutional; whether third-party's subsequent consent to search residence was valid; other issues.
08-8572 Anthony Marlar v. Warden, Tyger River Corr. (Harwell)	Briefs	HABEAS: Whether trial counsel was ineffective for failing to call state investigator to testify about potentially exculpatory crime scene hair evidence.

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

Wednesday, March 23, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-1116 [Briefs](#) EQUAL ACCESS TO JUSTICE ACT: Was the government's position in social security disability case substantially justified; other issues
Thomas Mortensen v. Michael Astrue
(Anderson)

10-1113 [Briefs](#) EQUAL ACCESS TO JUSTICE ACT: Did the district court abuse its discretion in denying attorney's fees for work performed on brief by non-admitted attorney
Andria Priestley v. Michael Astrue
(Anderson)
Associations: 10-1160, 10-1176

10-1205 [Briefs](#) ATTORNEYS FEES: Whether the district court abused its discretion regarding award of attorney fees.
Employers Council on Flex. v. Kenneth Feltman
(Cacheris)
Associations: 10-1206

10-1539 [Briefs](#) AMERICANS WITH DISABILITIES ACT: Whether the district court erred in granting summary judgment on plaintiff's discrimination and reasonable accommodation claims; other issues
Paula Crabill v. Charlotte Mecklenburg Board
(Reidinger)
Associations: 10-1553

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

Wednesday, March 23, 2011

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10-1437	Briefs	CIVIL RIGHTS: Whether FHA and ADA claims are time barred; whether other claims were adequately pled.
ASWAN v. Commonwealth of Virginia (Payne)		
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10-1431	Briefs	IMMIGRATION: Whether 8 U.S.C. § 1252(b)(2) (2006) is a venue provision or a jurisdictional mandate.
Reynaldo Sorcia v. Eric Holder, Jr.		
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09-4768	Briefs	CRIMINAL LAW & PROCEDURE: Should mistrial have been granted when prosecutor elicited testimony that Defendant was in jail; whether factual findings at sentencing amounted to procedural error.
US v. Abdallah Fakhri (Voorhees)		
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09-2344	Briefs	BANKRUPTCY: Whether the bankruptcy court erred in finding that Debtor's remainder interest in two trusts were property of the bankruptcy estate.
Peggy Levin v. Wachovia Bank (Boyle)		

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

Wednesday, March 23, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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09-4012	Briefs	CRIMINAL: Whether the holding of Crawford v. Washington, 541 U.S. 36 (2004) applies to evidence introduced at sentencing; other issues.
US v. Solomon Powell (Spencer)		
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10-1511	Briefs	CIVIL: Whether district court correctly found Tsoras should be collaterally estopped from asserting his due process and equal protection claims against Defendants; other issues.
Theodore Tsoras v. Joseph Manchin, III (Stamp)		
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10-1514	Briefs	CIVIL: Whether district court properly granted summary judgment on claims of fraud in the inducement and false advertising; denial of punitive damages and attorney fees
Persaud Companies, Inc. v. The IBCS Grp., Inc. (Lee)		
Associations: 10-1518		
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10-1041	Briefs	ADMIRALTY: Whether the district court properly apportioned liability for damages caused by collision of vessels on navigable waters; whether district court lacked jurisdiction over third party contribution claim; other issues.
In the Matter of the Complaint of Vulcan Mat. (Morgan)		

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

Wednesday, March 23, 2011

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10-1078 [Briefs](#)
Jad Salem v. Eric Holder, Jr.

IMMIGRATION: Whether the Board of Immigration Appeals properly determined that Petitioner failed to establish eligibility for cancellation of removal.

10-4368 [Briefs](#)
US v. Maurice Williams
(Davis)

SENTENCING: Whether district court erred in imposing mandatory minimum term on crack cocaine count in light of Fair Sentencing Act and 5-year consecutive term on § 924(c) count.

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

Wednesday, March 23, 2011

REVD 3/22/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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08-7433 [Briefs](#)
Frederick Henry v. Robert Purnell
(Motz)

REHEARING EN BANC.

08-2278 [Briefs](#)
Frederick Aikens v. William Ingram, Jr.
(Dever)

REHEARING EN BANC.

En Banc Courtroom (Green)
9:00 a.m.

Thursday, March 24, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (03/22/2011 - 03/25/2011 Session)

09-5070	Briefs	CRIMINAL: Whether the district court erred by granting the defendants' post-verdict judgment of acquittal based on the sufficiency of evidence
US v. William Souder , Jr. (Beaty)		
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10-0005	Briefs	HABEAS CORPUS: Challenge to rejection of ineffective assistance and due process claims in habeas challenge to state capital conviction and sentence.
Eugene DeCastro v. Gerald Branker (Dever)		
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09-1562	Briefs	CIVIL: Whether the district court erred in declining Plaintiffs' proposed jury instructions; other issues.
Charles Noel v. Carlos Artson (Nickerson)		
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10-4478	Briefs	CRIMINAL: Whether evidence was sufficient to support money laundering and obstruction of justice convictions; other issues
US v. Walter Blair (Messitte)		

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

Friday, March 25, 2011

REVD 3/21/11

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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10-4970 US v. Mohamed Said et al (Jackson)	Briefs	CRIMINAL: Did the district court err in granting the defendants' motion to dismiss the charge of "piracy as defined by the law of nations."
10-4080 US v. Earnest Baxter (Wilson)	Briefs	SENTENCING: Whether Appellant's prior Virginia burglary conviction for breaking and entering into a "shop" qualifies as a predicate offense under 18 U.S.C. § 924(e) (2006)
09-5128 US v. Joseph Poole (Bennett)	Briefs	CRIMINAL LAW: Whether the court relied upon unadmitted evidence in finding Appellant guilty.
10-1175 Madison Capital Co. LLC v. Joseph Miller, IV (Duffy)	Briefs	Contracts: Whether choice of law provision precludes simultaneous actions for breach of loan and guaranty agreements; breach of loan by lender; equitable defenses; other issues.

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

Friday, March 25, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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09-1499	Briefs	CIVIL: Whether, under Virginia law, the agreement between the parties is an installment contract or an indivisible contract.
Allen F. Johnson & Associates v. Port Security (Ellis)		
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09-1125	Briefs	Employment Discrimination. Whether plaintiffs were proper parties to a franchise agreement enabling them to allege discrimination claims under 42 U.S.C. Section 1981.
Marcus Beasley v. Arcapita Incorporated (Bennett)		
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09-4967	Briefs	SENTENCING: Whether district court erred in refusing to order Government to move for the third point for acceptance of responsibility pursuant to U.S. Sentencing Guidelines Manual ("USSG") 3E1.1(b) (2008).
US v. Lashawn Divens (Goodwin)		

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

Friday, March 25, 2011

REVD 3/24/11