

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

07-1908 [Briefs](#) MARITIME LAW: Whether a maritime lien against vessel arose in favor of fuel supplier; other
Triton Marine Fuels v. M/V Pacific Chukotka issues.
(Motz)

07-1957 [Briefs](#) MARITIME LAW: Whether choice of law provision in contract between fuel supplier and vessel
Bunker Holdings v. Green Pacific A/S charterer controls in personam claim against vessel owner.
(Motz)

08-1334 [Briefs](#) SECTION 1983. Whether defendants employed race-based classification in obtaining DNA
Larry Monroe v. The City of Charlottesville evidence; other issues.
(Moon)

Tuesday, May 12, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

REVD 5/7/09

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-0013 [Briefs](#) HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.
John Muhammad v. Loretta Kelly
(O'Grady)

08-1973 [Briefs](#) LABOR LAW. What is the appropriate standard for a Section 10(j) injunction; whether Board may
Gary Muffley v. Spartan Mining Company delegate authority to file petition for injunction to general counsel; other issues.
(Goodwin)

08-1356 [Briefs](#) IMMIGRATION. Whether the Board properly dismissed appeal from Immigration Judge's order
Abdulateef Shogunle v. Eric Holder, Jr. denying reconsideration of in absentia order of removal; related issues.

08-1277 [Briefs](#) ENVIRONMENTAL LAW. Whether Environmental Protection Agency erred in approving Virginia's
Mirant Potomac River, LLC v. EPA Clean Air Act state implementation plan.

Tuesday, May 12, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

07-1665 [Briefs](#) CONSTITUTIONAL LAW: Numerous issues relating to grant of summary judgment in First
William Steiner v. County Comm Caroline Amendment challenge to zoning ordinance.
(Quarles)

08-1683 [Briefs](#) IMMIGRATION. Whether petitioner is subject to removal as an aggravated felon; other issues.
Juan Rivera-Rondon v. Eric Holder, Jr.

08-2202 [Briefs](#) BANKRUPTCY LAW. Whether the exemptions established in West Virginia Code Section 38-10-4
Martin Sheehan v. George Peveich violate the Supremacy Clause.
(Flatley)

Tuesday, May 12, 2009

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

REVD 4/27/09

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-1727 Thomas Arthur, Jr. v. Ticor Title Insurance (Davis)	Briefs	INSURANCE. Whether Maryland Insurance Code required appellant to exhaust administrative remedies; other issues.
08-1921 George & Company, LLC v. Imagination (Brinkema)	Briefs	TRADEMARK INFRINGEMENT. Whether district court erred in holding that there was not a likelihood of confusion between the two names used for similar dice games and that the plaintiff did not own a common law trademark in the name used by defendant.
08-1646 ColomboBank v. Peter Sharp (Chasanow)	Briefs	BANKRUPTCY. Whether bank's reliance on debtor's misrepresentations was neither reasonable nor material, making loan to debtor dischargeable in bankruptcy.
08-1450 Donald Shonk v. Fountain Power Boats (Quarles)	Briefs	CONTRACTS: Whether breach of warranty claims should have survived motion to dismiss for failure to state a claim or motion for summary judgment.

Tuesday, May 12, 2009

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

07-1932 [Briefs](#) EMPLOYMENT. Issues arising from jury verdict in favor of plaintiff on claims of civil conspiracy to
Anthony v. Ward cause wrongful termination of employment.
(Seymour)

06-5066 [Briefs](#) SENTENCING. Whether district court erroneously found it lacked authority to impose sentence
US v. Bernard E. Raby below guideline range.
(Goodwin)

08-1414 [Briefs](#) CIVIL RIGHTS. Whether FBI agent is entitled to qualified immunity in this Bivens action.
Kenzi Snider v. Seung Lee
(Chambers)

08-1748 [Briefs](#) TITLE VII. Propriety of grant of summary judgment to defendant in correctional officer's action
Jonathan Booth v. State of Maryland alleging disparate treatment based on religious beliefs.
(Bennett)

Tuesday, May 12, 2009

PANEL V
Courtroom 5
Courtroom of Judge Spencer
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-1791 [Briefs](#) CIVIL RIGHTS. Propriety of summary judgment in favor of defendants in Section 1983 action
Danny Rowell v. City of Hickory alleging unconstitutional arrest.
(Howell)

08-1409 [Briefs](#) LAND USE. Whether special use permit gave appellants vested right to construct an industrial
Richard Griffin v. Town of Unionville, NC landfill.
(Conrad)

08-1977 [Briefs](#) FIRST AMENDMENT: Appeal from denial of preliminary injunction challenging Federal Election
The Real Truth About Obama v. FEC Campaign Act regulations as overbroad and vague.
(Spencer)

Wednesday, May 13, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-2148 [Briefs](#) ADMIRALTY LAW. Whether issuance of stability certificate by Coast Guard involved discretionary
Indemnity Insurance Company of v. US function abrogating waiver of sovereign immunity.
(Quarles)

07-2108 [Briefs](#) ANTITRUST LAW: Whether Maryland laws regulating the distribution of alcoholic beverages were
TFWS, Incorporated v. Peter Franchot properly invalidated under federal antitrust law.
(Quarles)

07-1361 [Briefs](#) CIVIL. Propriety of district court's dismissal of retaliation and qui tam claims under the False
Elms v. Accenture LLP Claims Act.
(Titus)

Wednesday, May 13, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

REVD 5/7/09

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

07-1840 [Briefs](#) CIVIL. Whether plaintiffs had standing to challenge process for amending the North Carolina
Bishop v. Bartlett Constitution.
(Flanagan)

08-4721 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether the district court properly applied good-faith exception to warrant
US v. Raymond Andrews requirement in denying motion to suppress based upon omitted address information in controlled delivery
(Flanagan) case.

07-4906 [Briefs](#) EQUAL ACCESS TO JUSTICE ACT: Whether the district court erred in awarding attorney fees to third-party
US v. Carol Ann Cox petitioner in forfeiture proceeding.
(Mullen)

Wednesday, May 13, 2009

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

REVD 5/7/09

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-1447 [Briefs](#) ADMINISTRATIVE LAW: Challenge to imposition of civil monetary penalty levied against
Beverly Healthcare Lumberton v. Michael Leavitt healthcare facility.

08-1778 [Briefs](#) LABOR. Whether Union's grievances were arbitrable and filed within six-month limitations period.
United Steel, Paper v. Continental Tire
(Keesler)

08-1743 [Briefs](#) CIVIL. Whether appellant's procedural due process rights were violated following termination
David Sarkissian v. West Virginia University from medical residency program; whether appellant was disabled under Americans with
(Stamp) Disabilities Act and suffered retaliation due to assertion of rights under the Act.

Wednesday, May 13, 2009

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

REVD 5/7/09

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-0014 [Briefs](#)
Davy Stephens v. Gerald Branker
(Boyle)

HABEAS CORPUS. Whether counsel's undisclosed conflict of interest denied petitioner right to effective assistance of counsel in capital murder conviction and sentencing.

08-1449 [Briefs](#)
Fred Ladd v. Research Triangle Institute
(Boyle)

CIVIL. Whether district court properly determined plaintiff was "borrowed servant" of defendant, thus limiting plaintiff's remedy for personal injuries.

Wednesday, May 13, 2009

PANEL V
Courtroom 5
Courtroom of Judge Spencer
9:30 a.m.

REVD 5/7/09

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-1244	Briefs	CIVIL. Whether a written settlement offer referencing confidential mediation discussions and documents constitutes an "offer of settlement" under the IDEA, thereby limiting the recovery of attorneys' fees; other issues.
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08-1077	Briefs	EMPLOYMENT DISCRIMINATION. Propriety of grant of summary judgment on age and gender discrimination claims; other issues
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08-1462	Briefs	CIVIL RIGHTS. Challenge to grant of summary judgment in 42 U.S.C. Section 1983 suit against county officials involving alleged illegal seizure of wolf-hybrid; qualified immunity; other issues.

Thursday, May 14, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

07-4773 US v. Henry Zelaya (Chasanow)	Briefs	CRIMINAL LAW & PROCEDURE. Whether the district court erred in preventing appellants from learning identities of witnesses; related issues.
08-1534 Quantum Systems Integrators, I v. Sprint Nextel (O'Grady)	Briefs	COPYRIGHT INFRINGEMENT. Challenge to denial of motion for judgment as a matter of law, jury instruction regarding "volitional conduct," and attorney fees award.
08-1307 Lake Ridge Apartments, LLC v. BIR Lakeridge, LLC (Jackson)	Briefs	CONSTRUCTION CONTRACTS. Whether district court erred by finding anticipatory breach of contract; other issues.
08-1472 GMO Forestry Fund 3, L.P. v. Jeffrey Ellis (Faber)	Briefs	PROPERTY. Various issues arising from action to quiet title to piece of West Virginia real estate.

Thursday, May 14, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-4475
US v. Jason Simmons
(Thornburg)

[Briefs](#)

CIVIL. Whether the district court erred in failing to conduct a hearing under 21 U.S.C. Section 851(c) and in enhancing sentence based on prior conviction; other issues.

08-4437
US v. Kenneth Porter
(Boyle)

[Briefs](#)

CRIMINAL LAW & PROCEDURE. Whether the district court erred in denying motion to suppress one-suspect show-up identifications and subsequent in-court identifications.

08-4112
US v. Andre McRae
(Whitney)

[Briefs](#)

EVIDENCE. Whether the district court erred in allowing dual-role fact and expert testimony without separation; other issues.

Thursday, May 14, 2009

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
** 9:00 a.m. **

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-1178 Deborah Pueschel v. Mary Peters (Lee)	Briefs	CIVIL RIGHTS: Whether district court properly granted summary judgment based upon failure to exhaust administrative remedies and lack of sufficient evidence of retaliation.
08-1351 Deborah Pueschel v. Mary Peters (Ellis)	Briefs	EMPLOYMENT. Whether summary judgment was properly entered in favor of FAA on claims that agency interfered with application for benefits from DOWCP and allowed hostile work environment.
08-2031 Tammy Calef v. FedEx Ground Packaging System, (Keeley)	Briefs	EMPLOYMENT DISCRIMINATION. Challenges to trial rulings and damages award in disability discrimination claim under West Virginia Human Rights Act.
07-6558 Kevin Smith v. Lester Hinson, Jr. (Duffy)	Briefs	CIVIL. Whether the South Carolina Department of Corrections' forcible grooming policy is in violation of the Religious Land Use and Institutionalized Persons Act; other issues.

Thursday, May 14, 2009

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-0015 [Briefs](#) HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.
Terry Hyatt v. Gerald Branker
(Thornburg)

08-1488 [Briefs](#) CIVIL. Issues concerning obligation to pay settlement amount in class action lawsuit.
Russell Huttenstine v. Dennis Mast
(Fox)

07-2019 [Briefs](#) CIVIL. Whether false imprisonment claim covered in insurance policy; propriety of late notice
defense.
Cornett Management v. Lexington Ins Co
(Stamp)

08-1385 [Briefs](#) CONTRACT. Whether forum selection clause in sports endorsement contract between shoe
company and tennis player was enforceable.
Ally Baker v. adidas America, Incorporated
(Flanagan)

Thursday, May 14, 2009

PANEL V
Courtroom 5
Courtroom of Judge Spencer
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-1782 [Briefs](#)
Mark Hunsberger v. J. Wood
(Wilson)

CIVIL RIGHTS. Whether deputy sheriff established entitlement to qualified immunity for warrantless entry into home based on reasonable belief that community caretaker and emergency exceptions justified warrantless entry.

07-4619 [Briefs](#)
US v. Leeander J. Blake
(Nickerson)

CRIMINAL LAW & PROCEDURE. Numerous challenges to conviction and sentence.

Friday, May 15, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
8:30 a.m.

REVD 5/11/09

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

08-4562 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether defendant's immunized statement was improperly used;
US v. Paul Guild other issues.
(Cacheris)

08-4277 [Briefs](#) CRIMINAL. Whether evidence of counterfeit production was sufficient; whether four-level role in
US v. Kenny Cameron the offense enhancement properly applied; reasonable doubt instruction.
(Goodwin)

08-2059 [Briefs](#) SECURITIES LAW. Whether district court erred in unsealing information sealed by another district
Roy Lefkoe v. Jos. A. Bank Clothiers, Incorp court; whether unsealing violates appellant's First Amendment rights or the public policy behind
(Nickerson) SOX Act.

08-4844 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether appellant's arrest was supported by probable cause; other
US v. Anthony Horne issues.
(Friedman)

Friday, May 15, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
8:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(05/12/2009 - 05/15/2009 Session)

07-1436 [Briefs](#) IMMIGRATION. Whether negative credibility finding is supported by substantial evidence; other
Ahmed Majid v. Eric Holder, Jr. issues.

07-5055 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether evidence was sufficient to prove materiality of
US v. Vince Akins misrepresentations supporting bank fraud convictions.
(Motz)

08-6366 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether Sixth Amendment right to confront witnesses violated by
Donald Blount, Jr. v. James Hardy admission of out-of-court statements by child witness to therapists.
(Howard)

08-4180 [Briefs](#) CRIMINAL LAW & PROCEDURE. Multiple issues in appeal of conviction on drug charges of former
US v. Robert Adams sheriff's deputy.
(Turk)

Friday, May 15, 2009

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
8:30 a.m.

