

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-10
Richmond v. Polk
(Howard)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

03-6763
Brown v. Braxton
(Turk)

HABEAS CORPUS. Whether inmate's due process rights were violated by hearing officer's refusal to allow a witness to testify because testimony was cumulative.

02-1590
Newport News Shipbld v. S. Harris-Smallwood

LONGSHORE BENEFITS. Whether the ALJ correctly determined that Harris-Smallwood's claim was timely; whether award of benefits was supported by substantial evidence.

03-6815
Brooks v. Smith
(Dixon)

HABEAS CORPUS. Whether Brooks received ineffective assistance of counsel in relation to plea offer.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

02-2387

Murray v. United Food
(Motz)

TITLE VII. Whether the plaintiff established he was
subjected to employment discrimination and defamation.

03-1779 (L), 03-1962

Hadeed v. Abraham
(Morgan)

FAIR HOUSING ACT. Whether district court erred in granting
summary judgment on claim of sex discrimination and in
imposing fees and costs under the Act, Fed. R. Civ. P. 11,
and Fed. R. Civ. P. 37; other issues.

03-2105 (L), 03-2435

Smith v. Continental Casualty
(Quarles)

ERISA. Whether the district court improperly modified the
standard of review; attorney's fees and costs.

03-6932

Manokey v. Waters
(Blake)

HABEAS CORPUS. Whether petitioner's conviction for first
degree assault was precluded on double jeopardy grounds due
to acquittal on charge of reckless endangerment.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4473 US v. Habegger (Bullock)	CRIMINAL. Did the government provide sufficient evidence of "trafficking", an essential element of U.S.C. Section 2320; sentencing.
03-4253 US v. Mohamad Y. Hammoud (Mullen)	CRIMINAL LAW & PROCEDURE. Constitutional challenge to AEDPA on the ground that it is overly broad and violates freedom of association; challenge to wiretap evidence; sentencing issue
03-2062 Martin v. Dishong (Bertelsman)	CIVIL RIGHTS. Challenge to denial of qualified immunity to police officer in shooting death of motorist.
03-2108 Edens v. Kennedy (Haden)	SEARCH & SEIZURE. Whether police conducted illegal search of Section 1983 claimant's residence; other issues.
03-1860 General Technology v. EXRO Ltda (Hilton)	CONTRACTS. Whether defendant breached operating agreement by depriving alleged patent license a share of litigation proceeds.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
8:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1659
Bonolis v. Metropolitan Life
(Garbis)

ERISA. Challenge to denial of disability benefits under
employer-sponsored disability plan.

03-1555 (L), 03-1796
Estrin v. Natural Answers
(Legg)

CONTRACTS. Challenge to summary judgment in action alleging
breach of stock and consulting agreement.

03-2113
Hall v. Commonwealth of VA
(Morgan)

VOTING RIGHTS ACT. Challenge to configuration of
congressional district under reapportionment plan.

03-1556
Andrews v. Primus Telecom Group
(Brinkema)

SECURITIES. Challenge to judgment as a matter of law in
action seeking damages for the alleged fraudulent sale of
securities.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2159

Hegna v. Islamic Republic
(Motz)

TERRORISM RISK INSURANCE ACT. Challenge to district court's order quashing plaintiffs' writs of attachment against Iranian property seized by the United States.

03-1600

Meyer v. Berkshire Life Ins
(Blake)

ERISA. Whether fiduciary breached its duties; statute of limitations; calculation of damages and prejudgment interest.

03-2070

Yamaha Motor Corp US v. Jim's Motorcycle Inc
(Payne)

CONSTITUTIONAL LAW. Whether state statute requiring notice to existing motorcycle dealerships of any proposed new dealership of the same make is invalid under the Commerce Clause.

00-6650

Olatunji v. Ashcroft
(Davis)

IMMIGRATION/SECTION 2241. Whether the IIRIRA was retroactively applied to petitioner when he was classified as an arriving alien seeking readmission to the United States.

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-15 (L), 04-7 04-8
US v. Lentz
(Lee)

CRIMINAL. In a federal capital murder case, did the district court, finding intentional prosecutorial misconduct, err in entering a judgment of acquittal and dismissing the indictment after the jury returned a guilty verdict.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2274 (L), 03-2432
NLRB v. CSX Hotels, Inc

LABOR. Whether substantial evidence supports the Board's decision that employer engaged in unlawful labor practice by contacting police to remove or arrest picketers.

03-2288
Williams Mountain v. Lucas

BLACK LUNG BENEFITS. Whether ALJ properly weighed medical evidence; whether award of benefits is supported by substantial evidence.

03-1948
Information Systems v. Principal Life
(Messitte)

ERISA. Whether breach of contract claim and professional negligence claim brought by a pension plan sponsor against a non-fiduciary third party administrator are preempted by the Act.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2184
Price v. Thompson, Sec
(Garbis)

TITLE VII. Challenge to summary judgment in action alleging retaliation for filing a previous EEOC complaint.

03-2161
SER Solutions Inc v. Masco Corporation
(Cacheris)

CONTRACTS. Challenge to summary judgment in actions alleging breach of contract and copyright infringement arising out of software licensing agreement; attorney fees.

03-2127
Keeney v. Larkin
(Davis)

SECURITIES. Challenge to dismissal of action alleging corporate officers fraudulently misrepresented corporation's integration of acquired subsidiaries.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

WEDNESDAY, MAY 5, 2004

REVD 4/28/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2249
Stancill v. Harford Sands Inc
(Motz)

BANKRUPTCY. Whether claim against Chapter 11 Debtor was speculative when it was acknowledged in Debtor's financial records.

03-2305
Hanson v. US Agency Intl Dev
(Hilton)

FREEDOM OF INFORMATION ACT. Whether agency properly withheld a report under the attorney work exemption.

03-2310
Scholastic Inc v. Escolastica.com
(Hilton)

TRADEMARK. Whether there is a likelihood of confusion between English and Spanish domain names.

03-4637
US v. Jimmie J. Pittman
(Williams)

CRIMINAL LAW & PROCEDURE. Whether district court erred in finding that police officer's "hunch, gut feeling, or sixth sense" amounted to reasonable articulable suspicion justifying a stop-and-frisk.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4815
US v. Florence Lockhart
(Williams)

CRIMINAL. Propriety of conviction of threatening the
President under 18 U.S.C. Section 871(a).

03-6620
Johnson v. Harkleroad
(Sharp)

HABEAS. Whether petitioner's confession was
unconstitutionally obtained.

03-2064
Roche v. Lincoln Property Co
(Lee)

TORTS. Whether there is an implied warranty of habitability
under state law; challenge to dismissal of conversion claim
and exclusion of medical testimony on causation.

03-4618
US v. Amy Tucker
(Chambers)

CRIMINAL. Propriety of conviction of conspiracy to
manufacture destructive device.

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-13 (L), 03-25
US v. James Roane
(Spencer)

HABEAS CORPUS. In a federal capital murder case, did the district court err in finding that trial counsel provided ineffectiveness of counsel by failing to investigate or present evidence of the defendant's alibi; other issues.

03-26 (L), 03-27
US v. Cory Johnson
(Spencer)

HABEAS CORPUS. Numerous issues arising from a federal capital murder conviction and sentencing.

03-1093
Griffin v. Poston
(Horn)

ATTORNEY'S FEES. Whether defendant was a prevailing party entitled to fees; whether fee provision in promissory note preempts the fee provision in stock purchase agreement.

03-4427
US v. Christopher Wood
(Michael)

CRIMINAL. Enforceability of plea agreement and waiver of appellate rights; other issues.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:30 a.m.

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1480
Newport News Shipbld v. Brown

ATTORNEY'S FEES. Is the recovery of a Section 14 penalty considered "compensation" thereby permitting the claimant to an award of attorney's fees under the Longshore and Harbor Worker's Compensation Act.

03-1911
Costar Group Inc v. Loopnet Inc
(Chasanow)

COPYRIGHT INFRINGEMENT. Challenge to summary judgment based on defendant's immunity as a "passive" provider of Internet access and hosting services.

03-187
Schnare v. Ziessow
(Brinkema)

DEFAMATION. Challenge to dismissal of action alleging libel and intentional infliction of emotional distress in publication of article on breed standards for Labrador Retrievers.

02-7206 (L), 02-7207 02-7208 02-7209
US v. David J. Merritt
(Jackson)

INEFFECTIVE ASSISTANCE. Whether a certificate of appealability should issue on Merritt's claim that his attorney provided erroneous advice regarding his sentencing exposure at trial. If so, whether Section 2255 relief should be granted.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1588
Brown v. Thompson
(Ellis)

CIVIL. Whether plaintiff's medical malpractice settlement entitles Medicare to reimbursement pursuant to 42 U.S.C. Section 1395y(b) (2) (2000) .

03-1975
Durney v. Doss
(Moon)

CIVIL RIGHTS. Whether search and arrest violated constitutional rights; qualified immunity.

03-2054
Nicholas v. Wyndham Intl Inc
(Ellis)

JURISDICTION. Whether appeal of a discovery order with respect to a non-party to proceeding in another circuit is interlocutory.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2011
SC Troopers Fed v. State of SC
(Anderson)

CONSTITUTIONAL LAW. Challenge to summary judgment in action by state troopers union alleging that the state violated the right to equal protection and freedom of speech and association.

03-1811
Columbia Casualty Co v. Westfield Insurance
(Keeley)

INSURANCE. Whether accidental bodily injury coverage applies to county's alleged liability for jail inmate suicides.

03-1840
Lanham Ford v. Ford Motor Company
(Messitte)

FEDERAL JURISDICTION. Whether the amount in controversy exceeded the statutory minimum dollar amount for diversity jurisdiction; challenge to dismissal of breach of contract and state law claims.

03-1761
T.G. Slater & Son v. Donald and Patricia
(Brinkema)

CONTRACTS. Challenge to dismissal of action seeking real estate commission.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1102
Kebede v. Ashcroft

IMMIGRATION. Whether the Board erred in streamlining case for summary affirmance in light of errors by Immigration Judge; other issues.

03-1995
Bryant Real Estate v. Toll Brothers Inc
(Wexler)

CONTRACTS. Whether "fee agreement" was a brokerage agreement that expired under state law prior to the purchase of the property; whether plaintiffs are barred from recovery by "unjust conduct."

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
8:30 a.m.

THURSDAY, MAY 6, 2004

REVD 5/4/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-6642
Bilal v. Currie
(Howard)

SECTION 1983. Whether the PLRA's exhaustion requirement imposes a pleading requirement on the plaintiff or creates an affirmative defense that must be raised and proved by the defendant.

03-4257 (L), 03-4258 03-4318
US v. John M. Collins
(Howard)

CRIMINAL LAW & PROCEDURE. Sufficiency of evidence to support money laundering conviction; denial of severance; computation of the amount of loss for sentencing purposes.

03-4574
US v. Robert Wayne Boggs
(Osteen)

CRIMINAL LAW & PROCEDURE. Whether the district court erred in not ordering a pretrial competency examination.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
8:30 a.m.

FRIDAY, MAY 7, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-4081
US v. Abdorasool Janati
(Hilton)

CRIMINAL. In a complex health care fraud prosecution, did the trial court err in suppressing the government's "pattern and practice" evidence of a defendant's false claims submissions.

02-4502
US v. Kelon Renardo Hardin
(Norton)

CRIMINAL. Whether imposition of life sentence under 18 U.S.C. Section 3559(c)(1)(2000) was plain error when government did not provide notice of predicate felonies; sufficiency of the evidence.

03-1912
US ex rel Gilliam v. General Dynamics
(Houck)

FALSE CLAIMS ACT. Challenge to summary judgment in action alleging false statements to Congress to obtain submarine construction contract.

03-6650 (L), 03-206
Moody v. Maynard
(Currie)

HABEAS CORPUS. Whether the denial of Moody's 28 U.S.C. Section 2254 (2000) petition was preserved for appeal; whether Moody should be granted authorization to file a successive Section 2254 petition.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
8:30 a.m.

FRIDAY, MAY 7, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4672
US v. Mark Kevin Mayes
(Kiser)

CRIMINAL. Whether the stop of the vehicle was authorized by the residential search warrant; other issues.

02-4871
US v. Benjamin Holmes
(Houck)

CRIMINAL. Whether district court erred in denying motion to suppress gun recovered pursuant to protective sweep of vehicle after defendant was handcuffed and placed in police custody; other issues.

03-1991 (L), 03-2012
Eastern Assoc Coal v. Massey
(Goodwin)

WORKERS' COMPENSATION. Whether collective bargaining agreement constituted a waiver of right to litigate disability discrimination claims.

03-2232
Nat'l Taxpayers Union v. US Social Security
(Nickerson)

CONSTITUTIONAL LAW. Whether the district court lacked jurisdiction over a pre-enforcement challenge to statute prohibiting private use of the term "Social Security" in advertising or other solicitations.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
8:30 a.m.

FRIDAY, MAY 7, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4784 US v. John Bayne, Jr. (Ellis)	SENTENCING GUIDELINES. Challenge to downward departure pursuant to the "lesser harms" provision of U.S.S.G. Section 5K2.11. 15 mins. per side
03-2257 Crutchfield v. US Army Corps (Payne)	EQUAL ACCESS TO JUSTICE ACT. Challenge to denial of attorney's fees.
03-2181 Simms v. Bruce (Davis)	PRISONER RIGHTS. Challenge to denial of qualified immunity to correctional officers on excessive force claim.
03-4927 US v. Roseline Kalili (Jackson)	SENTENCING GUIDELINES. Challenge to downward departure based on "aberrant behavior" and loss calculation in bank fraud case. 15 mins. per side

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
8:30 a.m.

FRIDAY, MAY 7, 2004