

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/27/2009 - 10/30/2009 Session)

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09-0196	<a href="#">Briefs</a>	CAFA. Is citizenship for purposes of removal determined by precedent regarding limited liability companies or by 28 U.S.C. Section 1332(d)(10); other issues.
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08-6519	<a href="#">Briefs</a>	CRIMINAL LAW & PROCEDURE. Whether district court abused its discretion by denying motion for new trial based upon newly discovered evidence.
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08-1659	<a href="#">Briefs</a>	IMMIGRATION. Whether district court had jurisdiction under the Administrative Procedures Act to review a challenge to an agency denial of adjustment of status as ultra vires.
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07-7613	<a href="#">Briefs</a>	HABEAS. Whether guilty plea was knowing and voluntary, in light of question whether sentence of life imprisonment was direct or collateral consequence of guilty plea.

Tuesday, October 27, 2009

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

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/27/2009 - 10/30/2009 Session)

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09-1038 [Briefs](#) ARBITRATION LAW. Whether the district court erred in vacating arbitration award.  
Raymond James Financial Servs. v. Thomas Bishop  
( Payne )

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08-2272 [Briefs](#) CONTRACT LAW. Whether plaintiff forfeited action for breach of ground lease; whether defendant repudiated lease and waived  
Homeland Training Center, LLC v. Summit Point any claim for breach damages; attorneys fees issues.  
( Bailey )  
Associations: 08-2273

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09-1010 [Briefs](#) CONSTITUTIONAL LAW. Challenge to constitutionality of ban on news racks at public airport; attorneys fees issue.  
The News and Observer v. Raleigh-Durham Airport  
( Boyle )  
Associations: 09-1231

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05-2213 [Briefs](#) COPYRIGHT. Challenge to grant of summary judgment in favor of plaintiff on copyright infringement claim arising out of use of  
Virginia J. Geddings v. Video Group, LLC exercise video production set and murals.  
( Seymour )

Tuesday, October 27, 2009

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

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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07-1792	<a href="#">Briefs</a>	IMMIGRATION. Whether the Immigration Judge reasonably determined corroborating evidence was necessary to support petitioner's claim.
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08-7139	<a href="#">Briefs</a>	EIGHTH AMENDMENT. Whether the district court correctly concluded that Smith's complaint failed to state a claim of deliberate indifference to a serious medical need.
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08-8501	<a href="#">Briefs</a>	CIVIL RIGHTS. Whether district court properly dismissed claims that guards violated prisoner's constitutional rights in failing to prevent or respond appropriately to an attack on him pursuant to 28 U.S.C. Section 1915A.

Tuesday, October 27, 2009

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

REVD 10/27/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Richmond, VA (10/27/2009 - 10/30/2009 Session)

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08-1318

[Briefs](#)

Columbia Venture LLC v. Dewberry & Davis LLC  
( Seymour )

PREEMPTION: Challenge to district court's determination that National Flood Insurance Act preempted state law conspiracy, malpractice and unfair trade practice claims against engineering firm.

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

Tuesday, October 27, 2009

REVD 10/26/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/27/2009 - 10/30/2009 Session)

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08-1937	<a href="#">Briefs</a>	SECTION 1983. Propriety of summary judgment where defendants failed to provide pre-collapse medical treatment to juvenile pretrial detainee who died from cocaine intoxication; other issues.
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08-4000	<a href="#">Briefs</a>	CRIMINAL LAW & PROCEDURE. Whether sentencing argument sufficiently preserved for appellate review failure to apply USSG Section 3B1.2(b); government's breach of plea agreement; other issues.
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08-4343	<a href="#">Briefs</a>	CRIMINAL LAW & PROCEDURE. Whether the district court violated Myers' constitutional rights or the rules of evidence in refusing to admit extrinsic evidence of government witness' prior bad acts; other issues.

Tuesday, October 27, 2009

PANEL V  
Courtroom 5  
Room 339 (Spencer)  
9:30 a.m.

REVD 10/23/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/27/2009 - 10/30/2009 Session)

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09-1047 [Briefs](#) CIVIL LAW. Whether the district court erred in dismissing plaintiff's complaint alleging discrimination and retaliation; other issues.  
Miriam Grice v. Baltimore County, Maryland  
( Motz )

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09-1148 [Briefs](#) LABOR LAW. Whether substantial evidence supports the Board's finding that the company violated the National Labor Relations  
Act; other issues.  
Alton H. Piester, LLC v. NLRB  
Associations: 09-1255

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09-4005 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether district court erred in denying motion to suppress evidence found in closed container  
US v. Kendall Matthews  
( Spencer )

Wednesday, October 28, 2009

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

REVD 10/27/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/27/2009 - 10/30/2009 Session)

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08-6256	<a href="#">Briefs</a>	CIVIL RIGHTS. Whether there was a genuine issue of material fact as to whether the use of deadly force was warranted when affidavits provided differing versions of the same event; related issues.
James Jones v. Mullins Police Department ( Anderson )		
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08-2400	<a href="#">Briefs</a>	LABOR LAW. Did the district court err in vacating arbitrator's award.
Verizon v. Communications Workers ( Messitte )		
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08-2256	<a href="#">Briefs</a>	FAIR LABOR STANDARDS ACT. Issues relating to compensability for time spent donning and doffing personal protective equipment.
Sanjuanita Sepulveda v. Allen Family Foods ( Garbis )		
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08-2023	<a href="#">Briefs</a>	TITLE VII. Whether genuine issue of material fact existed concerning hostile work environment claim; other issues.
Samir Latif v. Community College of Baltimore ( Bennett )		

Wednesday, October 28, 2009

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

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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08-1250 [Briefs](#)  
Geoffrey Garcia v. US  
( Hilton )

LAND USE. Review of Board's ruling that appellant's mining claim is invalid.

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09-1093 [Briefs](#)  
Universal Healthcare/King v. HHS

MEDICARE & MEDICAID LAW. Whether the record supports assessment of civil monetary penalty by HHS against health care facility; standard of review issues.

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09-1049 [Briefs](#)  
Minnesota Lawyers Mutual Insur v. Antonelli,  
( O'Grady )

DECLARATORY JUDGMENT ACT. Whether the district court abused its discretion in refusing to determine whether legal professional liability insurer has a duty to defend.

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08-4287 [Briefs](#)  
US v. Antonio Craig  
( Whitney )

CRIMINAL LAW & PROCEDURE. Sufficiency of evidence; propriety of jury instructions; other issues.

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Wednesday, October 28, 2009

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

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/27/2009 - 10/30/2009 Session)

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08-2259	<a href="#">Briefs</a>	TAX. Whether the district court was correct that federal tax liens attached to real property and were entitled to priority over bank's claims.
Deutsche Bank National Trust v. IRS ( Cacheris )		
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08-1152	<a href="#">Briefs</a>	TORT LAW. Numerous issues relating to grant of summary judgment; whether district court abused its discretion in denying motion for sanctions.
Mark Baker v. Booz Allen Hamilton, Inc. ( Titus ) Associations: 08-2321		
<hr/>		
07-4993	<a href="#">Briefs</a>	CRIMINAL. Whether district court erred in denying motion to suppress as untimely when motion would not have delayed trial or prejudiced the government; other issues.
US v. Deontrayvia Adams ( Flanagan )		
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08-2103	<a href="#">Briefs</a>	COPYRIGHT & TRADEMARK INFRINGEMENT LAW. Was there evidence of an intent to grant a nonexclusive license to use architectural plans; are fair use and copyright misuse defenses applicable; other issues.
Thomas M. Gilbert Architects, v. Accent Builders ( Spencer )		

Wednesday, October 28, 2009

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

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08-4752	<a href="#">Briefs</a>	CRIMINAL. Whether the district court erred in denying counsel's motion to withdraw; whether the district court provided an adequate statement of reasons for sentence; motion to dismiss.
US v. Jose Quintero-Acosta ( Williams )		
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09-1042	<a href="#">Briefs</a>	CONSTITUTIONAL LAW. Whether complaint sufficiently stated a claim that police officers violated decedent's constitutional rights by utilizing SWAT team for the arrest; qualified immunity defense; other issues.
Salvatore Culosi v. Deval Bullock ( Brinkema ) Associations: 09-1104		
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08-1914	<a href="#">Briefs</a>	CIVIL. Whether district court erred by granting summary judgment to McDonald's, finding no agency relationship with franchisee; other issues.
Frank Sutton v. Roth, L.L.C. ( Hilton )		
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08-5231	<a href="#">Briefs</a>	CRIMINAL LAW & PROCEDURE. Is a private security guard a state actor under the Fourth and Fifth Amendments; other issues.
US v. Mario Day ( Williams )		

Wednesday, October 28, 2009

PANEL V  
Courtroom 5  
Room 339 (Spencer)  
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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08-1423	<a href="#">Briefs</a>	FALSE CLAIMS ACT: Challenge to dismissal of claims under the whistleblower provisions of the FCA.
US ex rel. Godfrey v. KBR, Incorporated ( Lee )		
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09-1069	<a href="#">Briefs</a>	FEDERAL PROCEDURE. Whether complaint was properly dismissed on grounds of forum non conveniens in favor of Iraqi forum; other issues.
Richard Galustian v. Lawrence Peter ( Smith )		
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08-4088	<a href="#">Briefs</a>	CRIMINAL LAW & PROCEDURE. Sufficiency of evidence; suppression motion; venue; jury instructions; improper closing remarks; other issues.
US v. Phillip Green ( Kelley )		
Associations: 08-4090		
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08-4237	<a href="#">Briefs</a>	CRIMINAL. Whether government is bound by agreement with extraditing country that appellant would not get a life sentence; whether sentence far exceeding appellant's life expectancy violated extradition agreement; other issues.
US v. Giuseppe Pileggi ( Whitney )		

Thursday, October 29, 2009

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

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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08-0010	<a href="#">Briefs</a>	HABEAS CORPUS. Multiple issues arising out of state capital murder conviction and sentencing.
Henry Wallace v. Gerald Branker ( Conrad )		
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08-2367	<a href="#">Briefs</a>	FEDERAL PROCEDURE. Does 28 U.S.C. Section 1447(c) permit a federal court to impose costs including attorneys fees, upon the removing party's attorney.
Crescent City Estates, LLC v. Giannasca Crescent ( Garbis )		
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08-2393	<a href="#">Briefs</a>	CONSTITUTIONAL LAW. Whether officer who utilized a "find and bite" dog to locate teenager violated his constitutional rights; qualified immunity issue.
Jose Melgar v. John Greene ( Messitte )		
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08-4640	<a href="#">Briefs</a>	CRIMINAL LAW & PROCEDURE. Whether upward variance resulted in unreasonable sentence.
US v. Charles Strickland ( Boyle )		

Thursday, October 29, 2009

PANEL II  
Courtroom 2  
Room 201 (Green Carpet)  
9:00 a.m.

REVD 10/20/09

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08-2275	<a href="#">Briefs</a>	CIVIL/DIVERSITY. Whether district court erred in granting summary judgment on claims arising out of sale of oil and gas wells.
Hinkle Oil & Gas, Incorporated v. Bowles Rice ( Wilson )		
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08-2391	<a href="#">Briefs</a>	CIVIL: Whether plaintiff lacked the requisite property or liberty interest in his appointment to be entitled to due process protection; other issues.
Fabio Cominelli v. Rector and Bd. of Visitors ( Moon )		
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08-2373	<a href="#">Briefs</a>	TRUTH IN LENDING ACT. Whether defendant's refusal to refund deposit in connection with refinancing of home invokes civil liability under the Act.
Rita Weintraub v. Quicken Loans Incorporated ( Hilton )		
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08-1567	<a href="#">Briefs</a>	CIVIL. Whether district court erred in dismissing fraud claims for failure to show reasonable reliance on oral statements.
Patricia Ostolaza-Diaz v. Countrywide, N.A. ( Hilton )		

REVD 10/20/09

Thursday, October 29, 2009

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

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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09-4018	<a href="#">Briefs</a>	CRIMINAL LAW & PROCEDURE. Whether the district court committed significant procedural error in calculating the government's loss; whether the court abused its discretion in failing to award restitution.
US v. Paul Wilkinson ( Nickerson )		
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08-1301	<a href="#">Briefs</a>	INSURANCE. Whether out-of-state insurance provision in motor vehicle insurance contract increases policy limits over stated amount and whether contract may be reformed to increase policy limits.
Canal Insurance Company v. James Barker, III ( Spencer )		
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08-1798	<a href="#">Briefs</a>	CONSTITUTIONAL LAW. Whether state regulation prohibiting alcoholic beverage advertising in college student publications violates the First Amendment; other issues.
Educational Media Company v. Susan Swecker ( Lauck )		

Thursday, October 29, 2009

PANEL IV  
Courtroom 4  
Room 414-D (Tweed Carpet)  
9:00 a.m.

REVD 10/28/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/27/2009 - 10/30/2009 Session)

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08-4372 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether the district court erred in rulings regarding admission of evidence; other issues.  
US v. Anthony Wilkins  
( Floyd )  
Associations: 08-4633, 08-4635

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08-1485 [Briefs](#) IDEA. Whether a residential placement is required for educational reasons.  
Richard Shaw v. Jerry Weast  
( Messitte )

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08-2162 [Briefs](#) NATIONAL BANK ACT. Does the National Bank Act preempt state regulation of the practices of a non-bank that acts as the  
H&R Block Eastern Enterprises v. Raskin  
( Garbis )  
Associations: 08-2163

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08-5269 [Briefs](#) CRIMINAL: Whether, in light of Arizona v. Gant, 129 S. Ct. 1710 (2009), the district court erred in denying Rumley's motion to  
US v. Clinton Rumley  
( Kiser )

Thursday, October 29, 2009

PANEL V  
Courtroom 5  
Room 339 (Spencer)  
9:30 a.m.

REVD 10/23/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
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08-1667	<a href="#">Briefs</a>	CIVIL RIGHTS. Numerous issues relating to judgment against former and successor sheriffs based on claims of sexual harassment and battery.
Lespia King v. George McMillan ( Wilson )		
Associations: 08-1713, 08-1974		
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08-4292	<a href="#">Briefs</a>	CRIMINAL. Whether the district court erred in imposing an offense level enhancement for possession of a firearm; whether any error was ultimately harmless.
US v. Kenneth Manigan ( Herlong )		
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08-4584	<a href="#">Briefs</a>	SENTENCING GUIDELINES. Whether incremental approach is required for departure above criminal history category VI under USSG Section 4A1.3 post-Gall.
US v. Anthony Dillon ( Quarles )		

Friday, October 30, 2009

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

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07-0005 [Briefs](#)  
US v. Carlos Caro  
( Jones )

CRIMINAL LAW & PROCEDURE. Numerous challenges to federal capital conviction and sentence of death.

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08-6331 [Briefs](#)  
Roger Bostick v. FNU Stevenson  
( Anderson )

HABEAS CORPUS. Whether district court properly found procedurally barred claim that counsel was ineffective for failing to consult about an appeal.

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08-4489 [Briefs](#)  
US v. Jiten Mehta  
( Chasanow )

CRIMINAL. Whether the district court erred in calculating the tax loss amount attributable to appellant for an incorrect calculation of appellant's base offense level under the guidelines; other issues.

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REVD 10/20/09

Friday, October 30, 2009

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