

Tuesday, October 29, 2024

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22-4331 [Briefs](#) CRIMINAL: Whether competency determination may be delegated to magistrate judge under 28 U.S.C. section  
US v. Cristian Cabrera-Rivas 636(b)(1)(A); whether challenge to competency determination may be waived by failure to object.  
(Conrad)

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24-1043 [Briefs](#) CLASS ACTION: Whether district court correctly dismissed Plaintiffs' civil RICO claims and related causes of action for  
MSP Recovery Claims, Series LLC v. Lundbeck LLC failure to adequately plead proximate cause; other issues.  
(Hudson)

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23-1131 [Briefs](#) CONTRACT: Whether bankruptcy court correctly interpreted law firm's operating agreement to find that Appellant was  
Gary LeClair v. Lynn Tavenner properly included on equity security holder list; other issues.  
(Novak)  
Associations: 23-1133, 23-1134

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24-1187 [Briefs](#) CIVIL: Whether Plaintiff lacked standing to challenge the Small Business Administration's Section 8(a) Business  
Marty Hierholzer v. Isabel Guzman Development Program as racially discriminatory; other issues.  
(Jackson)

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

Tuesday, October 29, 2024

Tuesday, October 29, 2024

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23-0004	<a href="#">Briefs</a>	CAPITAL CASE: Multi-issue challenge to district court's denial of habeas relief in capital case, including whether appellant's FASD is functionally equivalent to an intellectual disability, precluding execution.
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23-4409	<a href="#">Briefs</a>	SENTENCING: Whether district court procedurally erred in failing to address nonfrivolous arguments for a more lenient sentence.
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22-7385	<a href="#">Briefs</a>	POSTCONVICTION: Whether the district court erred in dismissing White's Rule 60(b) motion as an unauthorized successive 28 U.S.C. section 2255 motion; other issues.
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24-4102	<a href="#">Briefs</a>	SENTENCING: Whether district court abused its discretion in imposing a 17-day time-served sentence for possession of child pornography and other cybercrimes.

PANEL II  
Butzner Courtroom 201  
9:30 a.m.

Tuesday, October 29, 2024

Tuesday, October 29, 2024

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23-2027 [Briefs](#)  
Reddy Annappareddy v. US  
(Anderson)

CIVIL RIGHTS: Whether the district court erred in concluding appellant failed to prove his claims of malicious prosecution.

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21-7220 [Briefs](#)  
Brian Farabee v. Robert Gardella  
(Urbanski)

CIVIL: Whether district court erred in granting summary judgment against pro se plaintiff by weighing evidence, not allowing discovery, or providing inadequate Roseboro notice.

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22-4652 [Briefs](#)  
US v. David Cheatwood  
(Dillon)

SENTENCING: Whether acceptance of responsibility reduction is permitted where defendant proceeded to trial to preserve right to appeal denial of suppression motion. 15 mins.

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23-1839 [Briefs](#)  
Brandon Williams v. M. Mitchell  
(Davis)

CIVIL RIGHTS: Whether retaliatory false police report constitutes material adverse act and would deter person of ordinary firmness from exercising constitutional rights.

PANEL III  
Blue Courtroom (Room 339)  
9:30 a.m.

Tuesday, October 29, 2024

Tuesday, October 29, 2024

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24-1335 [Briefs](#) BANKRUPTCY: Whether \$31 million default judgment imposed as a discovery sanction was "unduly severe. "  
Matthew Smith v. Ronald Devine  
(Whitney)

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23-1018 [Briefs](#) IMMIGRATION: In denying motion to reopen, whether Board applied an improperly heightened standard in evaluating  
Blanca Cabrera-Suchite v. Merrick Garland  
Petitioner's prima facie eligibility for cancellation of removal; other issues.

Associations: 23-2250

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23-1651 [Briefs](#) IMMIGRATION: Whether death threats sufficed for past persecution; whether denial of reconsideration constituted  
Vilma Mejia-Garcia v. Merrick Garland  
abuse of discretion; other issues.

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23-2194 [Briefs](#) CIVIL: Whether West Virginia's restrictions on access to mifepristone are preempted by the Food and Drug  
GenBioPro, Inc. v. Kristina Raynes  
(Chambers)  
Administration Amendments Act of 2007; related issues.

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

Tuesday, October 29, 2024

Tuesday, October 29, 2024

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20-4133 [Briefs](#) CRIMINAL. Whether 21 U.S.C. section 841 prosecution requires both that defendant-physician's actions served no  
US v. George Naum, III legitimate medical purpose and that actions were beyond professional bounds.  
(Keeley)

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23-2109 [Briefs](#) CIVIL: Challenge to grant of judgment as a matter of law finding that Plaintiff's conduct violated the TCPA and defendant  
Navient Solutions, LLC v. Jeffrey Lohman had not engaged in shame litigation.  
(Brinkema)  
Associations: 23-2163

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23-2293 [Briefs](#) CONSTITUTIONAL LAW: Challenge to district court's dismissal of First Amendment claims related to city's allegedly  
Open Justice Baltimore v. Baltimore City Law deficient responses to public records requests.  
Department  
(Hollander)

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

Tuesday, October 29, 2024

Tuesday, October 29, 2024

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24-1158 [Briefs](#)  
Lynne Kritter v. Brent Mooring  
(Myers) CIVIL: Whether district court erred granting summary judgment for defendants who failed to warn cropduster pilot of cable suspended above field, resulting in crash and death.

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23-2200 [Briefs](#)  
In re: Banco Mercantil Del Norte, S.A v.  
Cartograf USA  
(Novak) CIVIL: Challenge to district court's denial of party-in-interest-appellant's motion to quash subpoena issued pursuant to 28 U.S.C. section 1782.

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24-1203 [Briefs](#)  
Timothy Baxter v. Xavier Becerra  
(Young) CIVIL: Challenge to HHS decision to exclude doctor from participation in federal healthcare programs following his conviction for misbranding prescription drugs.

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23-1782 [Briefs](#)  
Christopher Holmes v. Elephant Insurance  
Company  
(Gibney) CIVIL: Dismissal of consolidated class action under Driver's Privacy Protection Act for failure to establish Article III standing; sufficiency of injury-in-fact allegation.

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

Tuesday, October 29, 2024

Wednesday, October 30, 2024

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23-6932 [Briefs](#)  
Robert Valladares v. Heather Ray  
(Bailey) POSTCONVICTION: Whether BOP may base eligibility determinations under 18 U.S.C. section 3632(d)(4)(D) on presentence report rather than relying solely on offense of conviction.

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21-2183 [Briefs](#)  
David Gunter v. Southern Health Partners  
(Osteen) CIVIL RIGHTS: Whether court improperly shifted burden of proof to plaintiff; whether contracting out detainees' medical care absolves county of liability for substandard treatment.

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23-1850 [Briefs](#)  
Honeywell International, Inc. v. OPTO  
Electronics Co.  
(Bell) JURISDICTION: Whether the Federal Circuit has jurisdiction under 28 U.S.C. section 1295(a)(1) or this Court has jurisdiction under 28 U.S.C. section 1291; other issues.  
Associations: 23-2038

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23-6621 [Briefs](#)  
US v. Telly Armstrong  
(Whitney) JURISDICTION: Whether district court had jurisdiction over motion for reconsideration in postconviction relief proceeding while appeal of underlying order was pending.

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

Wednesday, October 30, 2024

Wednesday, October 30, 2024

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23-1991 [Briefs](#)  
Amazon.com, Inc. v. WDC Holdings LLC  
(Alston)  
CIVIL: Challenge to grant of summary judgment in favor of defendants in case alleging multi-million-dollar kickback scheme.

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23-2234 [Briefs](#)  
Hanan Khashoggi v. NSO Group  
Technologies Limited  
(Brinkema)  
Associations: 23-2241  
JURISDICTION: Whether personal jurisdiction existed over Israeli company that conducted covert surveillance of appellant's smartphone while appellant lived in Virginia.

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24-4202 [Briefs](#)  
US v. Jerry Edwards  
(Bell)  
CRIMINAL: Challenge to district court's calculation of criminal history points related to North Carolina conviction resulting in "split sentence" or "special probation".

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24-1218 [Briefs](#)  
State of Maryland v. 3M Company  
(Bennett)  
Associations: 24-1270  
CIVIL: Whether district court erred in remanding case to state court where defendant asserts federal government-contractor defense.

PANEL II  
Butzner Courtroom 201  
9:30 a.m.

Wednesday, October 30, 2024



Wednesday, October 30, 2024

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24-1059 [Briefs](#) CONSTITUTIONAL LAW: Challenge to district court's dismissal of student's claims under the Takings Clause against school  
Eileen Chollet v. Scott Brabrand district related to special education during COVID-19 pandemic.  
(Trenga)

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22-4525 [Briefs](#) CRIMINAL: Whether 18 U.S.C. section 922(g)(1) as applied to the defendant violates the Second Amendment; whether  
US v. Matthew Hunt that issue is subject to plain-error review.  
(Berger)

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23-1013 [Briefs](#) INSURANCE: Whether district court correctly granted Plaintiff summary judgment on breach of indemnity agreement  
Liberty Mutual Insurance Company v. Atain claim; other issues.  
Specialty  
(Bailey)

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22-4436 [Briefs](#) CRIMINAL: Whether dismissal of indictment for violation of Speedy Trial Act should have been with prejudice; other  
US v. Raymond Jennings issues.  
(Osteen)

Associations: 23-4259

PANEL III  
Blue Courtroom (Room 339)  
9:30 a.m.

Wednesday, October 30, 2024

Wednesday, October 30, 2024

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23-1418 [Briefs](#) CIVIL: Challenge to EPA's disapproval of West Virginia's "good neighbor" state implementation plan under the Clean Air Act.  
State of West Virginia v. EPA

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23-1863 [Briefs](#) CIVIL: Whether the district court improperly resolved material issues of fact in granting summary judgment for the city  
D.A. Realestate Investment, LLC v. in this inverse condemnation action; other issues.  
City of Norfolk  
(Davis)

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23-2046 [Briefs](#) CIVIL RIGHTS: Whether district court erred in denying qualified immunity to officer who shot another officer while they  
Clarence Belton, Jr. v. Heather Loveridge were attempting to execute a search warrant.  
(Cogburn)

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23-1566 [Briefs](#) CIVIL: Challenge to grant of summary judgment on sec. 1983 claims related to wrongful conviction involving allegations  
Gary Washington v. Thomas Pelligrini of fabricated evidence and coerced testimony.  
(Gallagher)

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

Wednesday, October 30, 2024

Wednesday, October 30, 2024

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23-4625	<a href="#">Briefs</a>	SENTENCING: Whether federal or state law should provide basis for Guidelines attempted murder cross reference and whether intoxication defense was available; other issues.
US v. Sammy Ellis, Jr. (Cain)		
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22-2015	<a href="#">Briefs</a>	LABOR: Whether district court properly dismissed UPS drivers' FLSA unpaid overtime and retaliation claims related to alleged nonpayment for start and finish work
Jimmie Lucas v. UPS (Lydon)		
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23-2287	<a href="#">Briefs</a>	CIVIL: Challenge to district court's grant of plaintiffs' motion for class certification in action alleging violations of Fair Labor Standards Act.
Robert Stafford, Jr. v. Bojangles' Restaurants (Cogburn)		

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

Wednesday, October 30, 2024

Wednesday, October 30, 2024

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22-4658 [Briefs](#) SENTENCING: Whether Virginia distribution of schedule I or II controlled substance is controlled substance offense under  
US v. Alante Nelson Guidelines; whether 21 U.S.C. section 841(a)(1), (b)(1)(C) is divisible.  
(Kleeh)

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24-1230 [Briefs](#) CIVIL: Challenge to OIG's advisory opinion finding that plan to help financially needy cancer patients afford oncological  
Pharmaceutical Coalition for Patient Access drugs would violate anti-kickback statute.  
v. US  
(Young)

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23-1672 [Briefs](#) CIVIL: Whether district court erred in granting summary judgment on negligent hiring claim and in excluding expert  
Andre Le Doux, V v. Western Express, Inc. testimony.  
(Moon)

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23-6942 [Briefs](#) POST CONVICTION: Whether district court abused its discretion in denying request for compassionate release based on  
US v. Antonio Wallace reported symptoms of long COVID; other issues.  
(Jackson)

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

Wednesday, October 30, 2024

Thursday, October 31, 2024

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23-1742 [Briefs](#) CIVIL: Whether district court erred in refusing to lift asset freeze securing equitable monetary relief held to be unlawful  
FTC v. Andris Pukke by this court; related issues.  
(Messitte)

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23-6510 [Briefs](#) POSTCONVICTION: Whether counsel was constitutionally deficient for failing to advise that guilty plea to aggravated  
US v. Sergio Murillo felony invoked mandatory deportation; mandate rule application.  
(Trenga)

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24-1008 [Briefs](#) CIVIL: Whether mandate rule barred filing of second amended complaint and, if not, whether that complaint alleged  
R.A. v. Rhonda McClenahan sufficient facts to pierce public official immunity.  
(Bell)  
Associations: 24-1009

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24-4027 [Briefs](#) CRIMINAL: Whether the district court imposed an unreasonable sentence by denying the defendant an adequate  
US v. Chad Jennings opportunity to exercise his allocution rights.  
(Osteen)

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

Thursday, October 31, 2024

Thursday, October 31, 2024

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23-1348 [Briefs](#)  
Mountain Valley Pipeline, LLC v.  
0.19 Acres of Land  
(Dillon)

CIVIL: Whether district court properly excluded Appellant's expert's appraisal in condemnation proceeding; other issues.

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23-1935 [Briefs](#)  
Mountain Valley Pipeline, LLC v.  
0.32 Acres of Land  
(Dillon)

CIVIL: Whether district court properly excluded Appellant's expert's appraisal in condemnation proceeding; other issues.

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23-2129 [Briefs](#)  
Mountain Valley Pipeline, LLC v.  
9.89 Acres of Land  
(Dillon)

CIVIL: Whether district court properly rejected as speculative Appellant's assessment of highest and best use of condemned property; other issues.

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23-4207 [Briefs](#)  
US v. Tyzheem Nixon  
(Dever)

SENTENCING: Whether upward departure sentence based on under-represented seriousness of criminal history is procedurally reasonable; substantive reasonableness. 15 Mins.

PANEL II  
Butzner Courtroom 201  
9:30 a.m.

Thursday, October 31, 2024

Thursday, October 31, 2024

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23-4242 [Briefs](#) CRIMINAL: Whether the district court abused its discretion in admitting video evidence of Smith possessing a firearm;  
US v. Allen Smith other issues.  
(Dever)

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23-6211 [Briefs](#) CIVIL: Whether federal inmate established entitlement to relief under FTCA and Rehabilitation Act related to BOP's  
Burl Washington v. Federal Bureau of Prisons failure to provide medical assistance for glaucoma.  
(Hendricks)

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24-1288 [Briefs](#) CONSTITUTIONAL LAW: Fourth and Fifth Amendment challenges to school administrators' investigatory techniques  
O.W. v. Marie Carr producing evidence used in criminal prosecution of student.  
(Hanes)

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24-1128 [Briefs](#) CIVIL: Challenge to district court's dismissal of claims for race and disability discrimination and retaliation by  
Nia Lucas v. VHC Health healthcare provider.  
(Giles)

PANEL III  
Blue Courtroom (Room 339)  
9:30 a.m.

Thursday, October 31, 2024

Thursday, October 31, 2024

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23-2204 [Briefs](#)  
William Glover v. EQT Corporation  
(Bailey)

CLASS ACTION: Whether the district court erred in granting class certification on breach of contract and fraudulent concealment claims; other issues.

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23-2248 [Briefs](#)  
Westmont Living, Inc. v. Retirement  
Unlimited, Inc.  
(Young)

TRADEMARK: Whether district court erred in concluding that no trademark infringement occurred where parties operate in distinct geographic markets, thus foreclosing a finding of consumer confusion.

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22-6380 [Briefs](#)  
Jason Gowen v. Gerald Winfield  
(Cullen)

CIVIL RIGHTS: Whether district court properly granted summary judgment to prison officials on ground that prisoner failed to exhaust his administrative remedies.

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

Thursday, October 31, 2024



Thursday, October 31, 2024

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23-1379 [Briefs](#) IMMIGRATION: Whether Va. Code Ann. section 18.2-96 qualifies as a crime involving moral turpitude (CIMT); whether Eugenia Chavez v. Merrick Garland Board member had authority to adjudicate after appointment expired.

Associations: 23-2059

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23-1426 [Briefs](#) EMPLOYMENT: Whether district court correctly found that complained of conduct was not sufficiently severe or Mamie Hansley v. Louis DeJoy pervasive to state hostile work environment harassment claim; other issues. (Flanagan)

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24-1293 [Briefs](#) CONSTITUTIONAL LAW: Whether city ordinance restricting vulgar speech is protected by the First Amendment. Michael Moshoures v. City of North Myrtle Beach (Dawson)

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23-4347 [Briefs](#) CRIMINAL: Whether district court erred in admitting entire forensic interview of minor victim as prior consistent US v. Donald Ferguson, II statement rather than specific portions; whether error was harmless. (Davis)

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

Thursday, October 31, 2024

Friday, November 1, 2024

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23-4286 [Briefs](#) SENTENCING: Whether the leadership enhancement under USSG section 3B1.1 was clearly erroneous. 15 mins.  
US v. Oscar Pliego-Pineda  
(Eagles)

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22-2173 [Briefs](#) ERISA: Whether plan administrator adequately explained basis for disagreeing with plaintiff's evidence of disability in  
Jeremy Smith v. Cox Enterprises, Inc. Welfare decision terminating long-term disability benefits.  
Benefits Plan  
(Giles)

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23-1142 [Briefs](#) ARBITRATION: Whether the district court erred in declining to enforce arbitration agreement in adhesion contracts;  
Benjamin Meadows v. Cebridge Acquisition,LLC other issues.  
(Johnston)

Associations: 23-1145, 23-1146

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

Friday, November 1, 2024

Friday, November 1, 2024

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23-4467 [Briefs](#)  
US v. Anita Jackson  
(Dever)  
Associations: 23-4587  
CRIMINAL: Whether physician's reuse of single-use medical device violated FFDCRA; whether aggravated identity theft charges survive *Dubin v. United States*; other issues.

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24-1054 [Briefs](#)  
3074 Centreville LLC v. M.A. Cohen & Co., Inc.  
(Nachmanoff)  
CIVIL: Propriety of summary judgment finding no genuine issue of material fact regarding whether parties entered into binding agreement; breach of contract counterclaim.

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23-6890 [Briefs](#)  
Manuel Moreno v. Carol Bosholm  
(Biggs)  
Associations: 23-6950  
CIVIL: Challenge to application of North Carolina Rule of Civil Procedure 9(j) to medical negligence claim raised by prisoner; other issues.

PANEL II  
Butzner Courtroom 201  
8:30 a.m.

Friday, November 1, 2024

Friday, November 1, 2024

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23-4054 [Briefs](#) CRIMINAL: Whether federal forced labor statute, 18 U.S.C. section 1589, prohibits forcing family member to perform  
US v. Mohammad Chaudhri domestic labor; Batson challenge; other issues.  
(Gibney)  
Associations: 23-4077, 23-4078

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24-1271 [Briefs](#) CIVIL: Challenge to dismissal of religious accommodation and disparate treatment claims related to conflict between  
Kristen Barnett v. INOVA Health Care Services religious belief and COVID-19 vaccination requirement  
(Nachmanoff)

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23-2121 [Briefs](#) CIVIL: Whether time to file motion to vacate under Federal Arbitration Act runs from tribunal's original award or from  
First Kuwaiti General Trading & Contracting later decision modifying award; other issues.  
W.L.L. v. Kellogg Brown & Root International, Inc.  
(Trenga)

PANEL III  
Blue Courtroom (Room 339)  
8:30 a.m.

Friday, November 1, 2024

Friday, November 1, 2024

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23-2221 <a href="#">Briefs</a> Penny Barnett v. US (Norton)	CIVIL: Whether district court erred in applying Discretionary Function Exception to immunize government for failure to maintain navigational aid lighting system warning boaters of dike.
24-1080 <a href="#">Briefs</a> Rohan Dhruva v. CuriosityStream, Inc. (Gallagher)	ARBITRATION: Whether appellants "clickwrap agreement" gave clear notice to appellees that they had agreed to the company's terms of use.
23-4190 <a href="#">Briefs</a> US v. Stanley Lubkin (Lewis)	SENTENCING: Whether Lubkin's prior convictions for manufacturing methamphetamine under S.C. Code section 44-53-375 qualify as serious drug offenses under the Armed Career Criminal Act. No published authority on whether section 44-53-375(B) is divisible as to drug type and whether South Carolina's definition of "methamphetamine" is broader than the federal definition.

PANEL IV  
Gold Courtroom (Room 348)  
8:30 a.m.

Friday, November 1, 2024

Friday, November 1, 2024

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24-1064 [Briefs](#) CLASS ACTION: Challenge to district court's certification of class in large data security breach case.  
Peter Maldini v. Marriott International, Inc.  
(Bailey)  
Associations: 24-1065

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23-4319 [Briefs](#) CRIMINAL: Whether evidence was sufficient to show agents were in reasonable apprehension of immediate bodily  
US v. Ikeviaun Johnson harm; other issues.  
(Boyle)

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22-1709 [Briefs](#) CIVIL: Whether plaintiffs failed to exhaust required administrative remedies regarding claims that COVID-related school  
Jennifer Bills v. VA Department of Education closures deprived students of rights under IDEA; other issues.  
(Moon)

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

Friday, November 1, 2024