

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (05/13/2014 - 05/15/2014 Session)

14-1167 [Briefs](#) CONSTITUTIONAL LAW: Constitutionality of state laws defining marriage as being only between a man and a woman.
Timothy Bostic v. George Schaefer, III
(Allen)
Associations: 14-1169, 14-1173

13-1459 [Briefs](#) CIVIL: Whether, on remand, the district court properly applied the West Virginia Uniform Fraudulent Transfer Act.
Joseph Larosa v. Virgil Larosa
(Stamp)

13-1265 [Briefs](#) CIVIL: Whether summary judgment was properly granted against the plaintiff in a legal malpractice action arising from
Paul Sartin v. McNair Law Firm PA
(Anderson)
defendant's failure to note a timely appeal.

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

Tuesday, May 13, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (05/13/2014 - 05/15/2014 Session)

13-2011 [Briefs](#) BIVENS: Whether district court was divested of subject matter jurisdiction by section 7 of the Military Commissions Act; other
Mammar Ameer v. Robert Gates issues.
(Lee)

13-1888 [Briefs](#) ERISA: Whether district court erred in dismissing claims and denying amendment because defendants were not plan
Judy Moon v. BWX Technologies, Incorporated fiduciaries; other issues.
(Moon)

13-1597 [Briefs](#) IMMIGRATION: Whether substantial evidence supports conclusion that past persecution/fear of future persecution were not
Wildon Cordova v. Eric Holder, Jr. "on account of" a protected ground.

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

Tuesday, May 13, 2014

REVD 5/8/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (05/13/2014 - 05/15/2014 Session)

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| 13-4378 | Briefs | CRIMINAL: Did interlocutory appeal on collateral estoppel ground divest district court of jurisdiction; other issues. |
| US v. Nader Modanlo (Messitte) | | |
| Associations: 13-4414 | | |
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| 13-2096 | Briefs | FAIR LABOR STANDARDS ACT: Whether insurance fraud investigators are "administrative employees" exempt from overtime; remedy and other issues. |
| Samuel Calderon v. GEICO General Insurance (Titus) | | |
| Associations: 13-2149 | | |
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| 13-2200 | Briefs | CIVIL: Whether district court erred in denying intervention as of right and by permission in Clean Water Act case. |
| Lois Alt v. Chesapeake Bay Foundation (Bailey) | | |
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| 13-6446 | Briefs | CIVIL RIGHTS: Whether material issues of fact precluded summary judgment on prisoner claims of excessive use of force by prison guards; other issues. |
| Anthony Mann v. C Failey (Gergel) | | |

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

Tuesday, May 13, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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| 13-2037 | Briefs | EMPLOYMENT LAW: Whether the district court lacked subject matter jurisdiction over plaintiff's retaliation claim when underlying discrimination claims were dismissed. |
| Patricia Hentosh v. Old Dominion University (Doumar) | | |
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| 13-2215 | Briefs | ENVIRONMENTAL LAW: Whether defendants violated National Environmental Policy Act by impermissibly segmenting the NC 12 Bonner Bridge Replacement Project. |
| Defenders of Wildlife v. NC Dept of (Flanagan) | | |
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| 13-1389 | Briefs | CIVIL RIGHTS: Whether recent Supreme Court case entitles defendant to a new trial based upon alleged erroneous jury instruction; other issues. |
| EEOC v. A.C. Widenhouse, Incorporated (Schroeder) Associations: 13-1683 | | |
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| 13-2044 | Briefs | TRADEMARK LAW: Whether district court erred in granting summary judgment in trade dress infringement and unfair competition action. |
| McAirlaids, Inc. v. Kimberly-Clark Corporation (Wilson) | | |

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

Tuesday, May 13, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (05/13/2014 - 05/15/2014 Session)

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| 13-2419 | Briefs | CIVIL: Whether state's procurement of new power plant through contract providing developer with guaranteed price violated the Supremacy Clause. |
| PPL EnergyPlus, LLC v. Douglas Nazarian (Garbis) | | |
| Associations: 13-2424 | | |
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| 13-1828 | Briefs | CIVIL RIGHTS: Whether the district court erred in denying qualified immunity to prison officers in Eighth Amendment failure to protect case. |
| David Danser v. Patricia Stansberry (Boyle) | | |
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| 13-0414 | Briefs | CLASS CERTIFICATION: Whether the district court erred in certifying these class actions. |
| EQT Production Company v. Robert Adair (Jones) | | |
| Associations: 13-0415, 13-0419, 13-0422, 13-0421, 13-2376, 13-2378, 13-0418, 13-2381, 13-2382, 13-2383, 13-2384 | | |
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| 13-1495 | Briefs | MARINE INSURANCE: Whether district court erred in holding contract's choice of law provision governed statute of limitations question. |
| American Steamship Owners v. Dann Ocean (Blake) | | |

PANEL VI
Blue Courtroom (Room 339)
9:00 a.m.

Tuesday, May 13, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (05/13/2014 - 05/15/2014 Session)

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| 13-1700 | Briefs | ATTORNEY'S FEES: Whether district court abused its discretion in denying attorney's fees under Equal Access to Justice Act. |
| Maurice Meyer, III v. Carolyn Colvin (Anderson) | | |
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| 13-1900 | Briefs | CIVIL: Propriety of dismissal order; application of Maryland's Quiet Title Statute, Md. Code Ann., Real Prop. section 14108; other issues. |
| Chandra Anand v. Ocwen Loan Servicing, LLC (Titus) | | |
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| 13-1651 | Briefs | IMMIGRATION: Whether DeLeon met his burden of establishing that he was not apprehended at the time of entry in order to qualify for relief under NACARA. |
| Oscar De Leon v. Eric Holder, Jr. | | |
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| 12-2329 | Briefs | IMMIGRATION: Jurisdiction over factual claims; whether the Board used correct standard in applying persecutor bar to special rule cancellation of removal. |
| Tobia Quitanilla v. Eric Holder, Jr. | | |

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

Wednesday, May 14, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (05/13/2014 - 05/15/2014 Session)

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| 13-6407 | Briefs | CRIMINAL: Whether Goins received ineffective assistance of counsel based on his claim that his trial attorney failed to adequately investigate or present evidence regarding Goins' mental health issues. |
| Edmund Goins v. Warden, Perry Correctional (Childs) | | |
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| 13-1553 | Briefs | ADMINISTRATIVE LAW: Whether 20 C.F.R. section 725.465(d) impermissibly interferes with ALJ's independent decision-making authority under APA. |
| Eastern Associated Coal Co. v. DOWCP | | |
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| 14-1158 | Briefs | AFFORDABLE CARE ACT: Challenge to IRS regulation extending premium assistance subsidies to purchasers from federally facilitated exchanges. |
| David King v. Kathleen Sebelius (Spencer) | | |
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| 12-8096 | Briefs | POST-CONVICTION: Whether numerically second 28 U.S.C. section 2255 motion is "second or successive" under section 2255(h) where basis for claim arose after district court denied first section 2255 motion. |
| US v. Robert Hairston (Voorhees) | | |

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

Wednesday, May 14, 2014

REVD 5/8/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-1491 [Briefs](#) IMMIGRATION: Whether petitioners' proposed social groups are sufficiently particular so as to be cognizable under the INA.
Jorge Solomon-Membreno v. Eric Holder, Jr.

13-1869 [Briefs](#) CIVIL: Issues relating to Maryland Finder's Fee Act, common law conspiracy and aiding and abetting liability; certification question.
Bradley Petry v. Prosperity Mortgage Company
(Nickerson)
Associations: 13-1924

13-1940 [Briefs](#) CIVIL: Issues related to civil conspiracy liability under Maryland law and the state Finder's Fee Act; certification issue.
William Marshall v. James B. Nutter &
(Bennett)

13-2131 [Briefs](#) CIVIL: Numerous issues arising from judgment in favor of defendants on claims under Real Estate Settlement Procedures Act.
Denise Minter v. Wells Fargo Bank, N.A.
(Nickerson)

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

Wednesday, May 14, 2014

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| 13-4210 | Briefs | CRIMINAL: Whether the district court erred by denying motion to dismiss bank fraud counts as multiplicitous; other issues. |
| US v. Bolarinwa Adeyale (Chasanow) | | |
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| 13-1608 | Briefs | BANKRUPTCY: Whether the district court erred in finding the Releases were not enforceable; other issues. |
| National Heritage Foundation v. Highbourne (Trenga) | | |
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| 13-2050 | Briefs | ENVIRONMENTAL LAW: Does the Clean Water Act's "permit shield" apply to appellant's discharge of selenium; other issues. |
| Southern Appalachian Mountain v. A & G Coal (Jones) | | |
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| 14-1189 | Briefs | ADMIRALTY LAW: Whether district court erred in determining that it had admiralty jurisdiction or in issuing Rule B attachment order. |
| FLAME S.A. v. Freight Bulk Pte. Ltd. (Doumar) | | |

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

Wednesday, May 14, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (05/13/2014 - 05/15/2014 Session)

13-4663 [Briefs](#)
US v. Joseph Catone, Jr.
(Voorhees)

CRIMINAL: Whether amount of benefits falsely obtained is element of making false statement to obtain workers compensation benefits; other issues.

13-1007 [Briefs](#)
Robert Cherry, Jr. v. Mayor and City Council
(Garbis)
Associations: 13-1115, 13-1116

CONSTITUTIONAL LAW: Whether city violated the Contract Clause or the Takings Clause by effecting certain changes to the Fire and Police Employees' Retirement System; other issues.

12-4560 [Briefs](#)
US v. Victor Martinez-Rivera
(Titus)

CRIMINAL PROCEDURE: Whether the district court erred under Rule 32 in failing to resolve disputed issue of fact.

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

Wednesday, May 14, 2014

REVD 5/1/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-4768 [Briefs](#)
US v. Jose Valdovinos
(Whitney)

CRIMINAL: Does a plea agreement as to sentence establish maximum punishment for prior North Carolina conviction under U.S. v. Simmons.

13-4280 [Briefs](#)
US v. Christopher Jamie Davis
(Harwell)

CRIMINAL: Whether the district court erred in denying motion to suppress a closed container found outside the vehicle.

PANEL I
Red Courtroom (Room 412)
9:00 a.m.

Thursday, May 15, 2014

REVD 5/13/14

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13-4933 [Briefs](#)
In re: Grand Jury Subpoena
(Motz)

CRIMINAL: Whether the district court erred in quashing subpoena based upon adult child/parent privilege.

12-4886 [Briefs](#)
US v. David Parker
(Motz)

CRIMINAL: Whether defendant's waiver of right to counsel and invocation of right to self-representation was valid; standard of review.

12-4621 [Briefs](#)
US v. Ehizele Seignious
(Legg)

CRIMINAL: Whether the district court committed reversible error when imposing restitution under 18 U.S.C. section 3663A (2012).

13-4316 [Briefs](#)
US v. David Anthony Taylor
(Conrad)

HOBBS ACT: Whether sufficient evidence supported interstate commerce connection.

PANEL II
Butzner En Banc Courtroom (Room 201)
8:30 a.m.

Thursday, May 15, 2014

REVD 4/21/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-2112 [Briefs](#)
In re: Norfolk Southern

CIVIL: Whether the district court erred in remanding action to state court.

Associations: 13-2127

13-1480 [Briefs](#)
Brian Edward Reid v. Commissioner of Soc Sec
(Cain)

SOCIAL SECURITY: Whether Commissioner demonstrated sufficient consideration of record, and whether any error was harmless; whether Commissioner adequately articulated combined effects analysis.

13-4503 [Briefs](#)
US v. Harvey Mungro, Jr.
(Whitney)

CRIMINAL: Whether the NC Gen. Stat. section 14-54(a), for breaking or entering, is a violent felony under the Armed Career Criminal enhancement.

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

Thursday, May 15, 2014

REVD 4/21/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-1696 [Briefs](#) CIVIL: Whether a prospective buyer of an auto dealership has standing to contest its rejection as a franchisee; other issues.
Priority Auto Group, Inc. v. Ford Motor
(Smith)

13-4177 [Briefs](#) SENTENCING: Whether, in light of Descamps and Hemingway, a conviction for criminal domestic violence of a high and
US v. Troy Chisolm
(Blatt) aggravated nature is a crime of violence for purposes of a sentencing enhancement.

13-4417 [Briefs](#) CRIMINAL: Whether district court's restitution and forfeiture orders were proper; other issues.
US v. Alan Butler
(Hudson)

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

Thursday, May 15, 2014

REVD 5/8/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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12-5032 [Briefs](#) CRIMINAL: Whether district court erred under *Alleyne v. United States*, 133 S Ct. 2151 (2013), in finding mandatory minimum
US v. Raynauld Bradley, Jr. on count one; standard of review; other issues.
(Titus)

13-1033 [Briefs](#) INSURANCE LAW: Whether the fire loss policy was void ab initio; whether insurance company was entitled to rescind; other
Colony Insurance Company v. Charles issues.
(Osteen)

13-4335 [Briefs](#) CRIMINAL: Whether officers possessed probable cause to arrest the defendant; whether evidence of prior criminal conduct
US v. Randal McLean was properly admitted.
(Russell)

13-4249 [Briefs](#) CRIMINAL: Whether structural error occurred when judge left courtroom while 30-minute recording of defendant's statement
US v. Jean Brown was played for jury.
(Quarles)

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

Thursday, May 15, 2014