

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Monday, September 15, 2008

403 - 4th Floor Courtroom, 12:00 P.M.

Before: **Martin, Rogers, Sutton**

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**07-1237 McGuire, et al. v. Warner, et al.**

Eastern District of Michigan at Detroit      S. Cox

The individual defendants appeal the denial of summary judgment on grounds of qualified immunity on plaintiff's claim of malicious prosecution.

(15 Minutes Per Side)

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**08-3014 Debra Brock v. Honda of America Mfg., Inc.**

Southern District of Ohio at Columbus      E. Sargus

Plaintiff appeals the summary judgment for defendant in this action under the FMLA claiming an unlawful termination of employment.

(15 Minutes Per Side)

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**07-2462 Rene Davey, et al. v. St. John Health, et al.**

Eastern District of Michigan at Detroit      P. Duggan

In this action alleging claims for medical malpractice, plaintiff appeals the order substituting the U.S. as a defendant and the dismissal of her action for failure to exhaust administrative remedies.

(15 Minutes for Plaintiff; 15 Minutes to be shared by Defendants)

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**07-5572 USA v. Osborne**

Western District of Kentucky at Bowling Green      T. Russell

Defendant appeals his jury conviction and sentence for conspiracy to defraud the United States.

(15 Minutes Per Side)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Monday, September 15, 2008

607 - 6th Floor West Courtroom, 1:30 P.M.

Before: **Gilman, Kethledge, Alarcon**

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**07-6414 Jo Ann Allen, et al. v. Highlands Hospital Corporation**

Eastern District of Kentucky at Pikeville      G. Van Tatenhove

Plaintiffs appeal the summary judgment for defendant in this action for age discrimination in employment.

(15 Minutes Per Side)

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**07-2106 USA v. Zachariah Polihonki**

Western District of Michigan at Grand Rapids      R. Bell

Defendant appeals the criminal judgment entered following his plea of guilty to violation of conditions of his supervised release.

(To Be Submitted On Briefs)

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**07-2083 Fednav, Limited v. Steven Chester**

Eastern District of Michigan at Detroit      J. Feikens

Plaintiffs appeal the dismissal of their action regarding the state's ballast water statute.

(15 Minutes for Plaintiff; 15 Minutes to be shared by Defendants)

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**07-1115 Mendoza v. Berghuis**

Eastern District of Michigan at Detroit      D. Lawson

Petitioner appeals judgment dismissing his petition for a writ of habeas corpus filed under 28 USC Section 2254.

(15 Minutes per side)

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**07-4252 Sanderson Farms, Inc. v. Roch Gasbarro**

Southern District of Ohio at Columbus      G. Smith

Plaintiff appeals a district court decision, entered in its bankruptcy appellate capacity, that affirms the discharge of the debtor's obligation to the plaintiff.

(15 Minutes Per Side)

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**06-1738 Booth v. Henson, et al.**

Western District of Michigan at Marquette      R. Bell

Appellant appeals a district court judgment dismissing his "criminal complaint" construed to have been filed pursuant to 42 USC section 1983.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Monday, September 15, 2008

636 - 6th Floor East Courtroom, 1:30 P.M.

Before: **Guy, Ryan, McKeague**

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**07-6330 S.E., et al. v. Grant County Board of Educatio, et al.**

Eastern District of Kentucky at Covington      W. Bertelsman

Plaintiffs appeal the summary judgment for defendants in this civil rights and disability discrimination action.

(15 Minutes Per Side)

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**07-5994 USA v. Jones**

Western District of Kentucky at Louisville      C. Simpson

**08-5771 USA v. Tobias Jones**

Western District of Kentucky at Louisville      C. Simpson

The government appeals the order denying its motion for reconsideration of the order granting defendant's motion to suppress.

(15 Minutes Per Side)

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**07-2509 Grace Community Church v. Lenox Township**

Eastern District of Michigan at Detroit      P. Borman

In this action under the Religious Freedom Restoration Act, the Religious Land Use and Institutionalized Persons Act, and the Equal Protection Clause, plaintiff appeals the judgment dismissing the case and the denial of reconsideration.

(15 Minutes Per Side)

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**06-2255 Moore v. Palus**

Eastern District of Michigan at Detroit      M. Battani

Plaintiff appeals a district court order dismissing his civil rights action. 42 USC ^ 1983.

(15 Minutes for Plaintiff)

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**06-5427 USA v. Mendez**

Middle District of Tennessee at Nashville      W. Haynes

**06-5432 USA v. Borrego**

Middle District of Tennessee at Nashville      W. Haynes

**06-5433 USA v. Bencomo-Castillo**

Middle District of Tennessee at Nashville      W. Haynes

**06-5480 USA v. Hernandez**

Middle District of Tennessee at Nashville      W. Haynes

**06-5483 USA v. Perez**

Middle District of Tennessee at Nashville      W. Haynes

Defendants appeal their jury convictions and sentences for conspiracy to kidnap, kidnapping, kidnapping a minor and brandishing a firearm during a crime of violence.

(06-5480 15 Minutes Per Side;

06-5427, 06-5432, 06-5433, 06-5483, To Be Submitted On Briefs)

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**07-6415 Cindy Turnmire v. Commissioner of Social Securit**

Western District of Tennessee at Memphis S. Mays

Plaintiff appeals the judgment affirming the denial of her application for Social Security disability benefits.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Tuesday, September 16, 2008

403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Martin, Rogers, Sutton**

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**07-3969 Berger v. Medina Cnty Ohio Bd, et al.**

Northern District of Ohio at Cleveland L. Wells

Plaintiff appeals the dismissal of this employment discrimination action for failure to timely file a charge with the EEOC.

(15 Minutes Per Side)

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**07-6186 Elam & Miller, P.S.C. v. National City Bank of Kentucky, et al.**

Eastern District of Kentucky at Lexington J. Coffman

Defendant Consolidated Mortgage appeals the summary judgment for plaintiff in this diversity action for conversion, negligence, and breach of fiduciary duties.

(15 Minutes Per Side)

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**07-3586 Banks v. Alexander**

Southern District of Ohio at Dayton W. Rice

**07-3587 Scrivens v. Alexander**

Southern District of Ohio at Dayton W. Rice

In these consolidated actions removed to federal court on grounds of complete preemption, the plaintiffs appeal the dismissal of their complaints alleging misrepresentation and other claims with respect to an employee suggestion program.

(15 Minutes Per Side)

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**07-1368 USA v. Mitchell**

Western District of Michigan at Grand Rapids G. Quist

**07-1672 USA v. Lofton**

Western District of Michigan at Grand Rapids G. Quist

Defendants appeal their convictions and sentences following guilty pleas to conspiracy to possess with intent to distribute cocaine, cocaine base, and marijuana (both) and conspiracy to manufacture cocaine base (Lofton).

(10 Minutes for each Defendant; 20 Minutes for Plaintiff)

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**07-6502 Kathy Hill v. Bradley County Board of Educat, et al.**

Eastern District of Tennessee of Chattanooga W. Carter

Plaintiff appeals the summary judgment for defendants in this civil rights action under 42 U.S.C. Section 1983 and the Rehabilitation Act of 1973.

(15 Minutes Per Side)

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**06-4438 Bird v. Brigano**

Southern District of Ohio at Cincinnati S. Beckwith

Petitioner appeals a district court judgment that denied his petition for a writ of habeas corpus filed under 28 USC § 2254.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Tuesday, September 16, 2008

607 - 6th Floor West Courtroom, 9:00 A.M.

Before: **Daughtrey, Gilman, Alarcon**

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**07-1730 Lerner v. Continental Casul, et al.**

Eastern District of Michigan at Detroit J. Feikens

In this ERISA action, plaintiff appeals the dismissal of his claims against his employer.

(15 Minutes Per Side)

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**07-1758 USA v. Alexander**

Western District of Michigan at Grand Rapids G. Quist

Defendant appeals the judgment entered following his plea of guilty of possession with intent to distribute cocaine base.

(15 Minutes Per Side)

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**07-4514 Earl Burkholder, Jr. v. International Union United Aut, et al.**

Northern District of Ohio at Toledo J. Carr

Plaintiffs appeal the summary judgment for defendant in this action claiming the union gave preferential treatment to other skilled workers employed at an auto plant.

(15 Minutes for Plaintiff; 15 Minutes to be shared by Defendants)

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**05-4170 USA v. Jackson**

Southern District of Ohio at Columbus J. Graham

Defendant appeals his conviction and sentence for conspiracy, violation of the Hobbs Act, carrying and brandishing a firearm during a crime of violence, and knowingly possessing a firearm following conviction for a felony.

(15 Minutes Per Side)

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**07-5855 One Beacon Ins Co v. Chiusolo, et al.**

Eastern District of Kentucky at Lexington J. Hood

Defendants appeal the summary judgment for plaintiff in this declaratory action to determine obligations under an insurance policy.

(15 Minutes Per Side)

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**07-3979 Ndoci v. Mukasey**

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that denies asylum, withholding of removal, and protection under the Convention Against Torture.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Tuesday, September 16, 2008

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Guy, Ryan, McKeague**

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**08-5017 Jack Tyler Engineering Company v. SPX Corporation, et al.**

Western District of Tennessee at Memphis      B. Donald

Plaintiff appeals the summary judgment for defendant SPX Corp. in this diversity action for breach of a distributorship agreement.

(15 Minutes Per Side)

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**07-3497 Franklin v. Bradshaw**

Southern District of Ohio at Cincinnati      S. Spiegel

Petitioner appeals from a district court judgment denying his petition for a writ of habeas corpus. 28 USC § 2254.

(15 Minutes Per Side)

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**07-6095 USA v. Michael Springer**

Western District of Tennessee at Memphis      B. Donald

Defendant appeals his conviction and sentence following his guilty plea to coercion of a minor to engage in sexually explicit conduct for the purpose of producing visual depictions and transportation in interstate commerce visual depictions of a minor engaged in sexually explicit conduct.

(15 Minutes Per Side)

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**07-2052 Andrew Grosjean, et al. v. Sharon Bommarito, et al.**

Eastern District of Michigan at Detroit      A. Tarnow

**07-2102 Andrew Grosjean, et al. v. Sharon Bommarito, et al.**

Eastern District of Michigan at Detroit      A. Tarnow

Plaintiffs appeal and defendants cross-appeal the summary judgment for defendants in this civil rights action alleging that defendants illegally censored their profiles in the state's UIA Advocacy Program to exclude all Biblical references.

(15 Minutes Per Side)

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**07-3319 Brennan v. Slone**

Southern District of Ohio at Dayton      T. Rose

**07-3320 Brennan v. Slone**

Southern District of Ohio at Dayton      T. Rose

In this bankruptcy adversary proceeding, defendants appeal and the debtor's trustee cross-appeals the district court's decision affirming the bankruptcy court's judgment with respect to multiple cash transfers by the debtor.

(15 Minutes Per Side)

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**07-3948 Rodriguez v. Mukasey**

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that upholds the denial of an adjustment of status and cancellation of removal.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Tuesday, September 16, 2008

403 - 4th Floor Courtroom, 1:30 P.M.

Before: **Moore, Cole, Graham**

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**07-2431 Robert Golden, et al. v. CIR**

Commissioner of Internal Revenue

The petitioners appeal from the Tax Court's order denying their petition for review.26 USC Section 6501, 6502 and 6015(b).

(15 Minutes Per Side)

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**07-5696 USA v. Jordan**

Middle District of Tennessee at Nashville

A. Trauger

Defendant appeals his jury conviction and sentence for mail fraud and aggravated identity theft.

(15 Minutes Per Side)

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**07-2215 Jean Calderon v. Ford Motor Company**

Eastern District of Michigan at Detroit

A. Tarnow

Plaintiff appeals the summary judgment for defendant in this employment discrimination action.

(15 Minutes Per Side)

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**07-6329 Hanger Prosthetics & Orthotics v. Richard Henson, et al.**

Eastern District of Tennessee at Knoxville

T. Phillips

Plaintiff appeals the order dismissing, on estoppel grounds, this diversity action for breach of a non-compete agreement.

(15 Minutes Per Side)

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**07-1886 USA v. Taylor**

Western District of Michigan at Grand Rapids

R. Bell

**07-1888 USA v. Taylor**

Western District of Michigan at Grand Rapids

R. Bell

Parties appeal the final judgment entered in this criminal action following the defendant's plea of guilty of possession of a firearm by a felon.

(15 Minutes Per Side)

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**07-3629 Sin v. Mukasey**

Board of Immigration Appeals

Petitioners seek review of a decision of the BIA that denies asylum, withholding of removal and protection under the Convention Against Torture.

(To Be Submitted On Briefs)



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607 - 6th Floor West Courtroom, 1:30 P.M.

Before: **Clay, Kethledge, Oliver**

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**08-5136 Christina Howington v. Quality Restaurant Concepts, L, et al.**

Eastern District of Tennessee at Greeneville R. Jordan

Plaintiff appeals the summary judgment for defendant in this Title VII action for sexual harassment and retaliatory discharge.

(15 Minutes Per Side)

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**07-5178 USA v. Smith**

Western District of Tennessee at Memphis J. Breen

Defendant appeals his conviction and sentence following his guilty plea to possession of a firearm by a convicted felon and possession with intent to distribute a controlled substance.

(15 Minutes Per Side)

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**07-5869 Sanford v. Main St Baptist, et al.**

Eastern District of Kentucky at Lexington K. Forester

**07-5905 Sanford v. Main St Baptist, et al.**

Eastern District of Kentucky at Lexington K. Forester

Plaintiff appeals the summary judgment for defendant in this Title VII action for sexual harassment and discrimination. Defendant cross-appeals the denial of its motion to dismiss based upon the number of its employees.

(To Be Submitted On Briefs)

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**07-5466 USA v. Kellogg**

Eastern District of Tennessee of Chattanooga R. Edgar

Defendant appeals his jury conviction and sentence for being a felon in possession of a firearm, possession of cocaine hydrochloride with intent to distribute and possession of a firearm in furtherance of a drug trafficking crime.

(15 Minutes Per Side)

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**07-1417 Thomas v. Detroit, et al.**

Eastern District of Michigan at Detroit M. Battani

Plaintiff appeals the summary judgment or dismissal of his constitutional and state law claims arising from the demolition by the city of a building on his property.

(15 Minutes Per Side)

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**07-3974 McCarthy v. Place**

Southern District of Ohio at Columbus J. Holschuh

Plaintiff appeals a district court judgment dismissing his civil rights action filed under 42 USC Section 1983.

(To Be Submitted On Briefs)

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## United States Court of Appeals for the Sixth Circuit

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Tuesday, September 16, 2008

636 - 6th Floor East Courtroom, 1:30 P.M.

Before: **Guy, Batchelder, McKeague**

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**06-4454 Shollenbarger, et al. v. Planes Moving & Stor**

Southern District of Ohio at Cincinnati T. Hogan

Plaintiffs appeal the directed verdict and dismissal of their claims for disparate impact gender discrimination in employment and the denial of their motion for a new trial.

(15 Minutes Per Side)

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**07-4074 Richard Whitescarver v. Sabin Robbins Paper Co, et al.**

Southern District of Ohio at Cincinnati S. Dlott

Plaintiff appeals judgment in favor of the defendant in this ERISA action to determine entitlement to supplemental retirement benefits.

(15 Minutes Per Side)

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**07-1526 USA v. Metcalf**

Eastern District of Michigan at Detroit J. Cook

Defendant appeals the judgment imposed for violations of conditions of his supervised release.

(To Be Submitted On Briefs)

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**07-6348 James Whitehead v. Neil Bowen**

Western District of Kentucky at Louisville J. Moyer

Plaintiff appeals the order in this civil rights excessive force case denying plaintiff's motion to vacate the summary judgment for defendant.

(15 Minutes Per Side)

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**07-5864 USA v. Shrout**

Eastern District of Kentucky at Lexington J. Hood

Defendant appeals his jury conviction and sentence for conspiracy to buy votes, making a false statement to a federal agent, and obstruction of justice.

(15 Minutes Per Side)

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**07-3632 Andrews, et al. v. Columbia Gas**

Southern District of Ohio at Columbus M. Abel

Plaintiffs appeal a judgment in favor of defendant with respect to a gas pipeline easement held by defendant. Defendant removed the case to federal court.

(To Be Submitted On Briefs)

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## United States Court of Appeals for the Sixth Circuit

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Wednesday, September 17, 2008

403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Daughtrey, Moore, Graham**

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**07-4354 Eugene Wrinn, Jr. v. Daren Johnson, et al.**

Northern District of Ohio at Toledo                      D. Katz

Plaintiff appeals the dismissal of two defendants, certified as final under Fed. R. Civ. P. 54(b), in this civil rights action alleging excessive force.

(15 Minutes Per Side)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Wednesday, September 17, 2008

403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Moore, Cole, Graham**

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**07-5831 USA v. Mason**

Western District of Tennessee at Memphis      J. McCalla

Defendant appeals his jury conviction and sentence for false statements to obtain federal employees' compensation and bankruptcy fraud.

(To Be Submitted On Briefs)

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**07-1973 Walbridge Aldinger, et al. v. Detroit Cty**

Eastern District of Michigan at Detroit      J. Feikens

Plaintiffs appeal the summary judgment for defendant in this action challenging the bidding process to build a control facility and pump station.

(15 Minutes Per Side)

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**07-5775 USA v. Stapleton**

Eastern District of Kentucky at Pikeville      G. Van Tatenhove

Defendant appeals his jury conviction and sentence for conspiracy to provide inmates with prohibited objects, three counts of conspiracy to distribute controlled substances, possession with intent to distribute heroin, and conspiracy to distribute marijuana.

(15 Minutes Per Side)

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**07-2360 Amanda Landis v. Greg Galarneau**

Eastern District of Michigan at Detroit      J. Feikens

**07-2361 Amanda Landis v. Jason Baker, et al.**

Eastern District of Michigan at Detroit      J. Feikens

Defendants appeal the denial of qualified immunity in this civil rights excessive force action.

(15 Minutes for Plaintiff; 15 Minutes to be shared by Defendants)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Wednesday, September 17, 2008  
Before: **Cole, Gilman, Mills**

607 - 6th Floor West Courtroom, 9:00 A.M.

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**07-4186 Tommy Morgan v. New York Life Insurance Compan**

Northern District of Ohio at Cleveland J. Gwin

Defendants appeal the jury verdict for plaintiff and the denial of post-judgment motions in this action for age, gender and race discrimination and for defamation.

(15 Minutes Per Side)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Wednesday, September 17, 2008

607 - 6th Floor West Courtroom, 9:00 A.M.

Before: **Daughtrey, Gilman, Mills**

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**06-2580 Dearborn Ave Bistro v. City of Dearborn**

Eastern District of Michigan at Detroit L. Zatkoff

**07-2448 MDM Restaurants, Incorporated v. City of Dearborn**

Eastern District of Michigan at Detroit L. Zatkoff

Defendant appeals the summary judgments for plaintiffs in these actions challenging the constitutionality of liquor license ordinances.

(15 Minutes to be shared by Plaintiffs; 15 Minutes for Defendant)

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**05-2084 USA v. Henry**

Eastern District of Michigan at Detroit D. Hood

**05-2282 USA v. Henry**

Eastern District of Michigan at Detroit D. Hood

Defendant appeals and the government cross-appeals from the judgment of conviction and sentence for conspiracy to possess with intent to distribute and to distribute cocaine.

(15 Minutes Per Side)

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**07-6443 Old Republic Insurance Company v. Underwriters Safety and Claims**

Western District of Kentucky at Louisville C. Simpson

Defendant appeals the summary judgment for plaintiff in this declaratory judgment action pertaining to insurance coverage.

(15 Minutes Per Side)

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**06-4464 USA v. Smith**

Northern District of Ohio at Akron J. Gwin

Defendant appeals his conviction and sentence for unlawful possession of a firearm by a felon.

(15 Minutes Per Side)

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**07-4442 Abdulelah Alshareqi, et al. v. Michael Mukasey**

Board of Immigration Appeals

Petitioners seek review of a decision of the BIA that affirmed the denial of a cancellation of removal.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Wednesday, September 17, 2008

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Guy, Batchelder, McKeague**

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**07-5236 Barber, et al. v. Louisville Jefferson**

Western District of Kentucky at Louisville

T. Russell

**07-5288 Barber, et al. v. Louisville Jefferson**

Western District of Kentucky at Louisville

T. Russell

**07-5411 Barber, et al. v. Louisville Jefferson**

Western District of Kentucky at Louisville

T. Russell

Defendant appeals the jury verdict for plaintiffs and the post-judgment award of attorney fees in the removed action under the Kentucky Whistleblower Act. Plaintiff Baxter cross-appeals the jury's award and the order granting summary judgment to defendant on his First Amendment claim.

(15 Minutes Per Side)

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**07-5474 USA v. Robinson**

Eastern District of Tennessee at Winchester

C. Collier

Defendant appeals his jury conviction and sentence for conspiracy to distribute cocaine hydrochloride and two counts of use of a communication device.

(15 Minutes Per Side)

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**07-4415 Chavtz Seals v. GMC**

Northern District of Ohio at Cleveland

D. Nugent

Plaintiff appeals the summary judgment for defendant in this action removed from state court alleging a workplace intentional tort.

(15 Minutes Per Side)

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**07-2505 Jeffrey Reed v. International Union, et al.**

Eastern District of Michigan at Detroit

S. Cox

Plaintiff appeals the summary judgment for the Union in this civil rights action alleging the failure to provide a reasonable accommodation for his religious conflict with paying union dues.

(15 Minutes Per Side)

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**07-5880 USA v. Boyett**

Western District of Tennessee at Memphis

B. Donald

Defendant appeals his conviction and sentence following his guilty plea to being a felon in possession of a firearm.

(15 Minutes Per Side)

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**07-3988 Lin v. Mukasey**

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that denies asylum, withholding of removal, and protection under the Convention Against Torture.

(To Be Submitted On Briefs)

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## United States Court of Appeals for the Sixth Circuit

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Wednesday, September 17, 2008

607 - 6th Floor West Courtroom, 1:30 P.M.

Before: **Clay, Cook, Oliver**

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**07-3589 Lorillard Tobacco Co v. Chester Willcox, et al.**

Southern District of Ohio at Columbus E. Sargus

In this action to determine the extent to which attorneys were entitled to shares in fees, a group of attorneys appeal the denial of the motion for a preliminary injunction against distribution of payments.  
(15 Minutes Per Side)

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**07-1520 USA v. Gignac**

Eastern District of Michigan at Detroit G. Steeh

Defendant appeals his conviction and sentence following a guilty plea to impersonating a foreign diplomat and attempted bank fraud.  
(15 Minutes Per Side)

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**07-6447 Cit Group/Consumer Finance, In v. Beverly Burden, Trustee**

Eastern District of Kentucky at Ashland

Creditor appeals a decision of the Bankruptcy Appellate Panel affirming the bankruptcy court's holding that its mortgage to the debtor was avoidable.  
(15 Minutes Per Side)

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**07-5640 USA v. Niece**

Eastern District of Kentucky at Lexington J. Hood

Defendant appeals his jury conviction and sentence for various drug charges.  
(15 Minutes Per Side)

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**07-2314 Eleanor Lafata v. Church of Christ Home for the**

Eastern District of Michigan at Detroit P. Komives

Plaintiff appeals the summary judgment for defendants in this action claiming violations of the ADA and the FMLA.  
(15 Minutes Per Side)

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**07-3581 Antar v. Mukasey**

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that denies asylum, withholding of removal, and relief under the Convention Against Torture.  
(To Be Submitted On Briefs)



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403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Moore, Cook, Hood**

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**07-1630 Anderson v. Postmaster Gen U.S.**

Eastern District of Michigan at Detroit S. Cox

Plaintiff appeals the summary judgment for the government in this employment discrimination and retaliation action.

(15 Minutes Per Side)

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**07-5561 USA v. Sims**

Eastern District of Tennessee of Chattanooga R. Edgar

Defendant appeals the sentence imposed following his guilty plea to possession and distribution of crack cocaine.

(To Be Submitted On Briefs)

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**07-4033 Mullins v. US Bank, et al.**

Southern District of Ohio at Columbus E. Sargus

Plaintiff appeals the summary judgment for defendant and denial of her motion for relief from judgment in this action for employment discrimination based on race and pregnancy.

(15 Minutes Per Side)

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**07-6211 LPP Mortgage, Ltd., et al. v. Frederick Radcliffe, Jr., et al.**

Western District of Kentucky at Louisville J. Heyburn

Debtors appeal the decision affirming a bankruptcy court order granting creditor's motion to reopen a bankruptcy proceeding.

(15 Minutes Per Side)

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**07-4158 Herbert Derickson, et al. v. AGRI, et al.**

Department of Agriculture

Petitioners seek review of a decision of the Animal and Plant Health Inspection Service determining they were in violation of the Horse Protection Act and imposing a civil penalty.

(15 Minutes Per Side)

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**06-1869 USA v. Tarpley**

Western District of Michigan at Grand Rapids D. McKeague

Defendant appeals his conviction on a plea of guilty to conspiracy to distribute and possession with intent to distribute heroin and cocaine.

(To Be Submitted On Briefs)

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Thursday, September 18, 2008

607 - 6th Floor West Courtroom, 9:00 A.M.

Before: **Daughtrey, Gilman, Mills**

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**07-3997 Shaw v. Pfeiffer, et al.**

Southern District of Ohio at Columbus G. Smith

Plaintiff appeals the dismissal of this employment discrimination action and the denial of his motion to file an amended complaint.

(15 Minutes Per Side)

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**06-3949 Klein v. Leis**

Southern District of Ohio at Cincinnati S. Dlott

**06-3950 Klein v. Leis**

Southern District of Ohio at Cincinnati S. Dlott

**06-4039 Klein v. Leis**

Southern District of Ohio at Cincinnati S. Dlott

Petitioner appeals the district court's denial of his petition for a writ of habeas corpus which would have his retrial in state court on double jeopardy grounds.

(15 Minutes Per Side)

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**07-4234 Timothy Ledford v. Commissioner of Social Security**

Southern District of Ohio at Cincinnati H. Weber

Plaintiff appeals the judgment affirming a decision of the Commissioner denying Social Security benefits.

(15 Minutes Per Side)

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**07-6379 Indiana State District Counsel, et al. v. Omnicare, Inc., et al.**

Eastern District of Kentucky at Covington W. Bertelsman

Plaintiffs appeal the judgment entered for defendants in this securities fraud action.

(15 Minutes Per Side)

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**07-2531 USA v. Zakir Hakim**

Eastern District of Michigan at Detroit S. Cox

Defendant appeals the criminal judgment entered following his plea of guilty of bank theft.

(To Be Submitted On Briefs)

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Thursday, September 18, 2008

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Clay, Griffin, Stafford**

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**07-4477 Desalegn Sisay, et al. v. Ricky Smith, et al.**

Northern District of Ohio at Cleveland P. Economus

Defendants appeal a preliminary injunction enjoining interference with the plaintiff's right to provide airport taxi cab service in this challenge to licensing regulations.

(15 Minutes Per Side)

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**07-5634 USA v. Williams**

Eastern District of Kentucky at Covington D. Bunning

Defendant appeals his conviction and sentence following his guilty plea to distribution of crack cocaine heroin and possession with intent to distribute crack cocaine.

(15 Minutes Per Side)

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**07-6404 Edmundo Romberio, et al. v. UnumProvident Corporation**

Eastern District of Tennessee of Chattanooga C. Collier

Pursuant to Rule 23(f), FRCP, defendants appeal the order certifying this ERISA action as a class action.

(15 Minutes Per Side)

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**07-5128 Huber Winery, et al. v. Wilcher, et al.**

Western District of Kentucky at Louisville C. Simpson

Intervening Defendant appeals an order granting in part and denying in part plaintiff's motion for summary judgment in this action challenging the constitutionality of state statutes regulating the sale of wine by small state wineries to instate customers.

(15 Minutes Per Side)

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**06-3658 Rogers v. City of Warren**

Northern District of Ohio at Youngstown P. Economus

Plaintiff appeals the dismissal for failure to prosecute of this civil rights action challenging alleged police misconduct.

(15 Minutes Per Side)

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**06-4506 USA v. Parker**

Southern District of Ohio at Dayton T. Rose

Defendant appeals the judgment of sentence, as reduced on the government's motion, imposed on his guilty plea to conspiracy to distribute cocaine and conspiracy to launder money.

(To Be Submitted On Briefs)

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Thursday, September 18, 2008

403 - 4th Floor Courtroom, 1:30 P.M.

Before: **Cole, Gibbons, Forester**

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**07-3535 Brown v. Cleveland**

Northern District of Ohio at Cleveland P. Gaughan

Plaintiff appeals the summary judgment for defendant in an action alleging employment discrimination on the basis of race, sex and age.

(15 Minutes Per Side)

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**07-4355 Rebecca McGlothin v. Commissioner of Social Security**

Southern District of Ohio at Cincinnati T. Black

Plaintiff appeals the judgment affirming the administrative denial of disability insurance benefits and supplemental security income.

(15 Minutes Per Side)

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**07-3135 USA v. Matthews**

Northern District of Ohio at Cleveland P. Economus

Defendant appeals his conviction by a jury and resulting sentence for possession of marijuana with intent to distribute.

(15 Minutes Per Side)

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**07-1795 Poindexter v. Booker**

Eastern District of Michigan at Detroit A. Cohn

Respondent appeals the district court's grant of a writ of habeas corpus filed under 28 USC § 2254.

(15 Minutes Per Side)

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**07-3976 Lam v. Mukasey**

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that holds his asylum application is barred and denying withholding of removal and protection under the Convention Against Torture.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Friday, September 19, 2008

403 - 4th Floor Courtroom, 8:30 A.M.

Before: **Moore, Cook, Hood**

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**07-4139 Michael Graham v. Best Buy Stores, L.P., et al.**

Northern District of Ohio at Cleveland S. Lioi

Plaintiff appeals the summary judgment for defendant in this action against his former employer for defamation and other claims.

(15 Minutes Per Side)

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**07-4303 Jay Gunasekera v. Dennis Irwin**

Southern District of Ohio at Columbus A. Marbley

Plaintiff appeals dismissal of this civil rights action challenging the suspension of certain university faculty privileges.

(15 Minutes Per Side)

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**07-5361 USA v. Davis**

Eastern District of Tennessee at Greeneville J. Greer

Defendant appeals his jury conviction and sentence for conspiracy to distribute and possession with intent to distribute cocaine, attempt to possess with intent to distribute cocaine and possession of a firearm by a convicted felon.

(15 Minutes Per Side)

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**07-4333 Transpro, Inc. v. Leggett & Platt, Inc.**

Northern District of Ohio at Cleveland S. Oliver

Plaintiff appeals and the defendant cross-appeals the final judgment in this action for breach of an asset purchase agreement with respect to asset valuation.

(15 Minutes Per Side)

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**07-1932 USA v. Rhodes**

Eastern District of Michigan at Flint P. Gadola

In this criminal action tried to a jury, defendant appeals his conviction for being a felon in possession of a firearm and ammunition.

(15 Minutes Per Side)

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**07-2325 Roszetta McNeil v. Wayne, County of, et al.**

Eastern District of Michigan at Detroit G. Rosen

In this action alleging claims under the ADA, plaintiff appeals the summary judgment for defendants.  
(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Friday, September 19, 2008

607 - 6th Floor West Courtroom, 9:00 A.M.

Before: **Cole, Gibbons, Forester**

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**07-4263 Monroe Retail, Inc., et al. v. RBS Citizens, N.A., et al.**

Northern District of Ohio at Toledo                      D. Katz

Plaintiffs appeal the dismissal of this action brought to challenge the fees imposed by several banks on garnishors of accounts under Ohio statute.

(15 Minutes for Plaintiff; 15 Minutes to Be Shared by Defendants)

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**07-2174 Reginald Lett v. Paul Renico**

Eastern District of Michigan at Detroit                      D. Lawson

The respondent appeals from a district court judgment granting a writ of habeas corpus. 28 USC Â§ 2254.

(15 Minutes Per Side)

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**07-3917 Ridgley v. Dept of Labor**

Department of Labor (except OSHA)

Petitioner seeks review of a decision of the Administrative Review Board that concludes his termination from employment was not in violation of the Surface Transportation Assistance Act.

(15 Minutes Per Side)

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**08-5121 Doris Redmon v. Sud-Chemie Inc. Retirement Pla, et al.**

Western District of Kentucky at Louisville                      J. Heyburn

Plaintiff appeals the judgment for defendant in this ERISA action for survivor benefits and statutory penalties.

(15 Minutes Per Side)

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**07-3174 USA v. Nelson**

Southern District of Ohio at Columbus                      E. Sargus

Defendant appeals his conviction and sentence following his guilty plea to making a false statement in the acquisition of a firearm.

(15 Minutes Per Side)

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**07-3476 Farah v. Wellington, et al.**

Northern District of Ohio at Youngstown                      P. Economus

**07-3477 Farah v. Wellington, et al.**

Northern District of Ohio at Youngstown                      P. Economus

Plaintiff appeals the district court's grant of summary judgment in favor of Defendants in this civil rights action filed under 42 USC Section 1983.

(To Be Submitted On Briefs)

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

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Friday, September 19, 2008

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Clay, Griffin, Stafford**

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**07-6084 NEFT, LLC v. Border States Energy, LLC, et al.**

Eastern District of Tennessee at Knoxville      T. Phillips

Plaintiff appeals the amount of damages and attorney fees awarded in this action for securities fraud.  
(15 Minutes for Plaintiff; 15 Minutes to be Shared by Defendants)

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**06-4201 Waver v. Gansheimer**

Northern District of Ohio at Cleveland      D. Nugent

Petitioner appeals a district court judgment dismissing his petition for a writ of habeas corpus filed under 28 USC § 2254.  
(15 Minutes Per Side)

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**08-5344 David Cox v. Commissioner of Social Security**

Eastern District of Kentucky at Lexington      J. Hood

Plaintiff appeals the summary judgment affirming the denial of his application for Social Security disability benefits.  
(15 Minutes Per Side)

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**07-3786 Herrera Flores v. Mukasey**

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that denies asylum and withholding of removal.  
(To Be Submitted On Briefs)

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**07-3593 USA v. Harper**

Southern District of Ohio at Columbus      G. Frost

Defendant appeals his conviction on a jury trial and the judgment of sentence for embezzlement of labor union funds.  
(15 Minutes Per Side)

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**07-4419 Sonjia Lindsey v. Whirlpool Corporation**

Northern District of Ohio at Toledo      J. Zouhary

Plaintiff appeals the summary judgment for defendant in this Title VII action alleging a racially hostile work environment, disparate treatment, retaliation, and constructive discharge.  
(To Be Submitted On Briefs)