

(ORDER LIST: 542 U.S.)

FRIDAY, SEPTEMBER 24, 2004

ORDER IN PENDING CASE

02-1028 NORFOLK SOUTHERN RWY. CO. V. JAMES N. KIRBY PTY, ET AL.

The parties are directed to file supplemental briefs addressing the following question: "Does federal or state substantive law govern the questions presented?" The Acting Solicitor General is invited to file an *amicus* brief on the same question.

Briefs are to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Monday, October 4, 2004. Twenty copies of the briefs prepared under Rule 33.2 may be filed initially in order to meet the October 4 filing date. Forty copies of the briefs prepared under Rule 33.1 are to be filed as soon as possible thereafter.