

Goldstein & Howe, P.C.
Circuit Court Scorecard
October Term 2004

Circuit Court Scorecard:

CA1: 0-3 (0%-100%)
CA2: 0-2 (0%-100%)
CA3: 1-3 (25%-75%)
CA4: 1-2 (33%-67%)
CA5: 2-6 (25%-75%)
CA6: 4-7 (36%-64%)
CA7: 1-1 (50%-50%)
CA8: 1-3 (25%-75%)
CA9: 3-16 (16%-84%)
CA10: 0-3 (0%-100%)
CA11: 5-5 (50%-50%)
CAFC: 1-1 (50%-50%)

Circuits, in order of highest to lowest affirmation rate:

CA7/CA11/CAFC (tied at 50%), CA6 (36%), CA4 (33%), CA3/CA5/CA8 (tied at 25%), CA9 (16%), CA1/CA2/CA10 (tied at 0%)

Total affirmation rate for the circuits: 26.8%

CA1

(3) Reversed: [*Stewart v. Dutra Const. Co.*](#); [*Shepard v. United States*](#); *Ortega v. Star-Kist Foods* (consolidated with [*Exxon Corp. v. Allapattah Services*](#), CA11)

CA2

(2) Reversed: [*City of Sherrill v. Oneida Indian Nation of New York*](#); *Swedenburg v. Kelly* (consolidated with [*Granholtz v. Heald*](#), CA6, and *MI Beer & Wine Wholesalers v. Heald* (CA6))

CA3

(1) Affirmed: [*Pace v. DiGuglielmo*](#)
(3) Reversed: [*Small v. United States*](#); [*Rompilla v. Beard*](#); [*Exxon Mobil v. Saudi Basic Industries Corp.*](#)

CA4

(1) Affirmed: [*Pasquantino v. United States*](#)
(2) Reversed: [*Koons Buick Pontiac GMC v. Nigh*](#); [*Graham County Soil & Water Conservation District v. U.S., ex rel. Wilson*](#)

CA5

(2) Affirmed: [*Smith v. City of Jackson*](#); *Van Orden v. Perry*

(4) Reversed: [*Cooper Indus. V. Aviall Serv.*](#); [*Miller-El v. Dretke*](#); [*Spector v. Norwegian Cruise Line*](#); [*Arthur Andersen LLP v. U.S.*](#)

(1) Vacated: [*Bates v. Dow AgroSciences LLC*](#)

(1) Dismissed: [*Medellin v. Dretke*](#)

CA6

(4) Affirmed: [*Wilkinson v. Dotson*](#); [*Granholm v. Heald*](#) (consolidated with *MI Beer & Wine Wholesalers v. Heald*, CA6, and *Swedenburg v. Kelly*, CA2); [*Grable & Sons Metal Products, Inc. v. Darue Engineering & Mnfg.*](#); *McCreary County v. ACLU of Kentucky*

(6) Reversed: [*Kowalski v. Tesmer*](#); [*Commissioner v. Banks*](#) (consolidated with *Commissioner v. Banaitis*, CA9); [*Bradshaw v. Stumpf*](#); *Bell v. Thompson*; *Bell v. Cone*; *MI Beer & Wine Wholesalers v. Heald* (consolidated with [*Granholm v. Heald*](#), CA6, and *Swedenburg v. Kelly*, CA2)

(1) Affirmed in part, reversed in part: [*Wilkinson v. Austin*](#)

CA7

(1) Affirmed: [*United States v. Booker*](#) (consolidated with *United States v. Fanfan*, Dist. Ct., Maine)

(1) Reversed: *Estate of Kanter v. Commissioner* (consolidated with [*Ballard v. Commissioner*](#), CA11)

CA8

(1) Affirmed: [*Jama v. Immigration and Customs Enforcement*](#);

(1) Reversed: [*Rousey v. Jacoway*](#)

(2) Vacated: [*Johanns v. Livestock Marketing*](#); [*Rhines v. Weber*](#)

CA9

(3) Affirmed: [*Clark v. Martinez*](#) (consolidated with *Benitez v. Wallis, Dist. Dir. Ins.*, CA11); [*Orff v. United States*](#); [*San Remo Hotel v. San Francisco, CA*](#)

(13) Reversed: [*Johnson v. California*](#); [*Devenpeck v. Alford*](#); [*Brown v. Payton*](#); [*Tenet v. Doe*](#); [*Dura Pharmaceuticals, Inc. v. Broudo*](#); [*Rancho Palos Verdes v. Abrams*](#); [*Lingle v. Chevron*](#); [*Mayle v. Felix*](#); *San Diego v. Roe*; *Nat'l Cable & Telecomm. Assn v. Brand X Internet and FCC v. Brand X Internet Services*; *MGM Studios Inc. v. Grokster*; *Brosseau v. Haugen*; *Commissioner v. Banaitis* (consolidated with [*Commissioner v. Banks*](#), CA6)

(3) Vacated: [*KP Permanent Make-Up v. Lasting Impressions*](#); *Gonzales v. Raich*; [*Muehler v. Mena*](#)

CA10

(3) Reversed: [*Cherokee Nation of Oklahoma v. Leavitt*](#) (consolidated with *Thompson v. Cherokee Nation of Oklahoma*, CAFC); [*Clingman v. Beaver*](#); *Castle Rock v. Gonzales*

CA11

(5) Affirmed: [*Whitfield v. United States*](#); [*Johnson v. United States*](#); [*Exxon Corp. v. Allapattah Services*](#) (consolidated with *Ortega v. Star-Kist Foods*, CA1); [*Dodd v. United States*](#); [*Gonzalez v. Crosby*](#)

(5) Reversed: [*Norfolk Southern Rwy. Co. v. James N. Kirby*](#); [*Leocal v. Ashcroft*](#); [*Jackson v. Birmingham Bd. of Educ.*](#); [*Ballard v. Commissioner*](#) (consolidated with *Estate of Kanter v. Commissioner*, CA7); *Benitez v. Wallis, Dist. Dir. Ins* (consolidated with [*Clark v. Martinez*](#), CA9)

CAFC

(1) Affirmed: *Thompson v. Cherokee Nation of Oklahoma* (consolidated with [*Cherokee Nation of Oklahoma v. Leavitt*](#), CA10)

(1) Vacated: *Merck KGaA v. Integra Lifesciences I, Ltd.*

State cases (in alphabetical order by state)

(1) CA (2d): Vacated: [*Tory v. Cochran*](#)

(1) CA (1st): Reversed: [*Johnson v. California*](#)

(1) SC CT: Affirmed: [*Kelo v. New London*](#)

(1) SC FL: Reversed: [*Florida v. Nixon*](#)

(1) SC IL: Vacated and remanded: [*Illinois v. Caballes*](#)

(1) CA MA: Reversed: [*Smith v. Massachusetts*](#)

(3) CA MI: Affirmed: [*Mid-Con Freight Systems, Inc. v. Michigan PSC*](#); [*American Trucking v. Michigan PSC*](#); Vacated: [*Halbert v. Michigan*](#)

(1) SC MO: Affirmed: [*Roper v. Simmons*](#)

(1) CA MO: Reversed: [*Deck v. Missouri*](#)

(1) SC MS: Dismissed: [*Howell v. Mississippi*](#)

District Court Cases

(1) Dist. Ct. of Maine: Affirmed: *United States v. Fanfan* (consolidated with [*United States v. Booker*](#), CA7)

Other:

(2) Original jx [*Kansas v. Colorado*](#); [*Alaska v. United States*](#)