AKIN GUMP STRAUSS HAUER & FELD LLP
Attorneys at Law

## October Term 2007 - Merits Cases

*Logan* v. *US* 06-6911 CA7

**Categories:** Criminal Non-Business Statutory Armed Career Criminal

**Timeline:** Pet: 9/29/2006 Grant: 2/20/2007 Top: 5/25/2007 Bot: Arg:

**Whether the "civil rights restored" provision of 18 U.S.C. §921(a)(20) applies to a conviction for which a defendant was not deprived of his civil rights thereby precluding such a conviction as a predicate offense under the Armed Career Criminal Act, 18 U.S.C. §924(e)(1)?**

*NY Bd. of Election* v. *Lopez-Torres* 06-766 CA2

**Categories:** Civil Rights Non-Business Constitutional Election Law

**Timeline:** Pet: 11/28/2007 Grant: 2/20/2007 Top: 5/7/2007 Bot: Arg:

**1. In *American Party of Texas v. White*, 415 U.S. 767 (1974), this Court held that it is "too plain for argument" that a State may require intraparty competition to be resolved either by convention or primary. Did the Second Circuit run afoul of *White* by mandating a primary in lieu of a party convention for the nomination of candidates for New York State trial judge?**

**2. What is the appropriate scope of First Amendment rights of voters and candidates within the arena of intraparty competition, and particularly where the State has chosen a party convention instead of a primary as the nominating process?**

**(a) Did the Second Circuit err, as a threshold matter, in applying this Court's decision in *Storer v. Brown*, 415 U.S. 724 (1974) and related ballot access cases, which were concerned with the dangers of "freezing out" minor party and non-party candidates, to internal party contests?**

*Watson* v. *US* 06-571 CA5

**Categories:** Criminal Non-Business Statutory Drug Trafficking

**Timeline:** Pet: 10/23/2006 Grant: 2/26/2007 Top: 5/4/2007 Bot: Arg:

**18 U.S.C. § 924(c)(1)(A) criminalizes the "use" of a firearm during and in relation to a drug trafficking offense and imposes a mandatory consecutive sentence of at least five years' imprisonment. In *Bailey v. United States*, 516 U.S. 137 (1995), this Court held that "use" of a firearm under § 924(c) means "active employment." Id. at 144. The question presented in this case is:**

**Whether mere receipt of an unloaded firearm as payment for drugs constitutes "use" of the firearm during and in relation to a drug trafficking offense within the meaning of 18 U.S.C. § 924(c)(l)(A) and this Court's decision in Bailey.**

*NY Sch. Bd.* v. *Tom F.* 06-637 CA2

**Categories:** Civil Rights Non-Business Statutory IDEA

**Timeline:** Pet: 11/3/2006 Grant: 2/26/2007 Top: 5/14/2007 Bot: Arg:

**Does the holding of the United States Court of Appeals for the Second Circuit, stating that the Individuals with Disabilities Education Act permits tuition reimbursement where a child has not previously received special education from a public agency, stand in direct contradiction to the plain language of 20 U.S.C. § 1412(a)(10)(C)(ii) which authorizes tuition reimbursement to the parents of a disabled child "who previously received special education and related services under the authority of a public agency"?**

*Wash.* v. *Wash. St. Rep.* 06-730 CA9 *Consol. with 06-713*

**Categories:** Civil Rights Non-Business Constitutional Election Law

**Timeline:** Pet: 11/20/2007 Grant: 2/26/2007 Top: 5/14/2007 Bot: Arg:

**In *California Democratic Party v. Jones*, 530 U.S. 567, 585-586 (2000), this Court specified how States could structure a top-two primary system that does not violate the associational rights of a political party. Pursuant to the Initiative power which the People of the State of Washington reserved to themselves in their State Constitution, the voters of the State of Washington enacted a top-two primary law that the Washington State Grange had drafted to comply with Jones. That law makes the State primary a contest to select the two most popular candidates for the November ballot - regardless of party nominations or party selection. That law also allows candidates for certain offices to disclose on the ballot the name of the party (if any) which that candidate personally prefers.**

**Does the First Amendment prohibit top-two election systems that allow a candidate to disclose on the ballot the name of the party he or she personally prefers?**

*Wash. St. Grange* v. *Wash. St. Rep.* 06-713 CA9 *Consol. with 06-730*

**Categories:** Civil Rights Non-Business Constitutional Election Law

**Timeline:** Pet: 11/20/2007 Grant: 2/26/2007 Top: 5/14/2007 Bot: Arg:

**In *California Democratic Party v. Jones*, 530 U.S. 567, 585-586 (2000), this Court specified how States could structure a top-two primary system that does not violate the associational rights of a political party. Pursuant to the Initiative power which the People of the State of Washington reserved to themselves in their State Constitution, the voters of the State of Washington enacted a top-two primary law that the Washington State Grange had drafted to comply with Jones. That law makes the State primary a contest to select the two most popular candidates for the November ballot - regardless of party nominations or party selection. That law also allows candidates for certain offices to disclose on the ballot the name of the party (if any) which that candidate personally prefers.**

**Does the First Amendment prohibit top-two election systems that allow a candidate to disclose on the ballot the name of the party he or she personally prefers?**

AKIN GUMP STRAUSS HAUER & FELD LLP Attorneys at Law

## October Term 2007 - Merits Cases

*Stoneridge* v. *Scientific-Atlanta* 06-43 CA8

**Categories:** General Civil Business Statutory Securities

**Timeline:** Pet: 7/26/2006 Grant: 3/26/2007 Top: 6/11/2007 Bot: Arg:

**Whether this Court's decision in Central Bank, *N.A. v. First Interstate Bank*, *N.A.*, 511 U.S. 164 (1994), forecloses claims for deceptive conduct under § 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5 (a) and (c), 17 C.F.R. 240.l0b-5(a) and (c), where Respondents engaged in transactions with a public corporation with no legitimate business or economic purpose except to inflate artificially the public corporation's financial statements, but where respondents themselves made no public statements concerning those transactions.**

*US* v. *Williams* 06-694 CA11

**Categories:** Criminal Non-Business Constitutional Child Pornography

**Timeline:** Pet: 11/17/2006 Grant: 3/26/2007 Top: 6/11/2007 Bot: Arg:

**Section 2252A(a)(3)(B) of Title 18 (Supp. IV 2004) prohibits "knowingly * * * advertis[ing], promot[ing], present[ing], distribut[ing], or solicit[ing] * * * any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material" is illegal child pornography.**

**The question presented is whether Section 2252A(a)(3)(B) is overly broad and impermissibly vague, and thus facially unconstitutional.**

*US* v. *Santos* 06-1005 CA7

**Categories:** Criminal Non-Business Statutory Money Laundering

**Timeline:** Pet: 1/22/2007 Grant: 4/23/2007 Top: Bot: Arg:

**The principal federal money laundering statute, 18 U.S.C. 1956(a)(1), makes it a crime to engage in a financial transaction using the "proceeds" of certain specified unlawful activities with the intent to promote those activities or to conceal the proceeds. The question presented is whether "proceeds" means the gross receipts from the unlawful activities or only the profits, i.e., gross receipts less expenses.**

## October Term 2007 - Merits Cases

*Medellin* v. *Texas* 06-984 Tx. Ct. of Cr.

**Categories:** Criminal Non-Business Constitutional ICJ

**Timeline:** Pet: 1/16/2007 Grant: 4/30/2007 Top: Bot: Arg:

**1. Did the President of the United States act within his constitutional and statutory foreign affairs authority when he determined that the states must comply with the United States' treaty obligation to give effect to the Avena judgment in the cases of the 51 Mexican nationals named in the judgment?**

**2. Are state courts bound by the Constitution to honor the undisputed international obligation of the United States, under treaties duly ratified by the President with the advice and consent of the Senate, to give effect to the Avena judgment in the cases that the judgment addressed?**

*Danforth* v. *Minnesota* 06-8273 S. Ct. of Minn.

**Categories:** Criminal Non-Business Constitutional Retroactivity

**Timeline:** Pet: 12/6/2006 Grant: 5/21/2007 Top: Bot: Arg:

**1. Are state supreme courts required to use the standard announced in *Teague v. Lane*, 489 U.S. 288 (1989), to determine whether United States Supreme Court decisions apply retroactively to state-court criminal cases, or may a state court apply state-law- or state-constitution-based retroactivity tests that afford application of Supreme Court decisions to a broader class of criminal defendants than the class defined by *Teague*?**

*Klein & Co.* v. *Bd. of Trade of NY* 06-1265 CA2

**Categories:** General Civil Business Statutory Commodities Futures

**Timeline:** Pet: 3/14/2007 Grant: 5/21/2007 Top: Bot: Arg:

**Whether the court of appeals erred in concluding that futures commission merchants lack statutory standing to invoke that right of action because, in the court's view, they do not engage in such transactions, despite the statutory requirement that the merchants enter into and execute their transactions on, and subject to the rules of, a board of trade and the fact of the merchants' financial liability for the transactions.**

*Kentucky* v. *Davis* 06-666 KY Ct. of App.

**Categories:** General Civil | Business | Constitutional | Municipal Bonds

**Timeline:** Pet: 11/9/2006 Grant: 5/21/2007 Top: Bot: Arg:

**Whether a state violates the dormant Commerce Clause by providing an exemption from its income tax for interest income derived from bonds issued by the state and its political subdivisions, while treating interest income realized from bonds issued by other states and their political subdivisions as taxable to the same extent, and in the same manner, as interest earned on bonds issued by commercial entities, whether domestic or foreign.**

*Hall Street* v. *Mattel* 06-989 CA9

**Categories:** General Civil | Business | Statutory | Arbitration

**Timeline:** Pet: 1/12/2007 Grant: 5/29/2007 Top: Bot: Arg:

**Did the Ninth Circuit Court of Appeals err when it held, in conflict with several other federal Courts of Appeals, that the Federal Arbitration Act ("FAA") precludes a federal court from enforcing the parties' clearly expressed agreement providing for more expansive judicial review of an arbitration award than the narrow standard of review otherwise provided for in the FAA?**

*John R. Sand &* v. *US* 06-1164 CAFed

**Categories:** General Civil | Business | Statutory | Jurisdiction

**Timeline:** Pet: 2/26/2007 Grant: 5/29/2007 Top: Bot: Arg:

**Whether the court of appeals erred by addressing the timeliness of petitioner's complaint even though the government did not argue on appeal that the suit was barred by the six-year limitations period contained in 28 U.S.C. 2501.**

AKIN GUMP STRAUSS HAUER & FELD LLP
Attorneys at Law

**October Term 2007 - Merits Cases**

*CSX* v. *Georgia Bd. of* 06-1287 CA11

**Categories:** General Civil Business Statutory Tax

**Timeline:** Pet: 3/23/2007 Grant: 5/29/2007 Top: Bot: Arg:

**Whether, under the federal statute prohibiting state tax discrimination against railroads, 49 U.S.C. § 11501(b)(1), a federal district court determining the "true market value" of railroad property must accept the valuation method chosen by the State.**

*Ali* v. *BOP* 06-9130 CA11

**Categories:** General Civil Non-Business Statutory Sovereign Immunity

**Timeline:** Pet: 1/25/2007 Grant: 5/29/2007 Top: Bot: Arg:

**Under 28 U.S.C. 2680(c), the Federal Tort Claims Act's waiver of sovereign immunity does not extend to "[a]ny claim arising in respect of * * * the detention of any goods, merchandise, or other property by any officer of customs or excise or any other law enforcement officer." The question presented, over which ten circuits are divided six-to-four is: Whether the term "other law enforcement officer" is limited to officers acting in a tax, excise, or customs capacity.**

*FedEx* v. *Holowecki* 06-1322 CA2

**Categories:** General Civil Business Statutory Employment

**Timeline:** Pet: 3/30/2007 Grant: 6/4/2007 Top: Bot: Arg:

**Whether the Second Circuit erred in concluding, contrary to the law of several other circuits and implicating an issue this Court has examined but not yet decided, that an "intake questionnaire" submitted to the Equal Employment Opportunity Commission ("EEOC") may suffice for the charge of discrimination that must be submitted pursuant to the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. ("ADEA"), even in the absence of evidence that the EEOC treated the form as a charge or the employee submitting the questionnaire reasonably believed it constituted a charge.**