

# SCOTUS**blog** StatPack – OT07, Edition 4

## Included in this StatPack:

1. Grant Rates by Conference
2. Circuit Scorecard
3. Case List for OT07

## Key Upcoming Dates:

*Dec. 4*

- **Opinions**
- 06-179: [Riegel v. Medtronic](#)
- 06-10119: [Snyder v. Louisiana](#)

*Dec. 5*

- 06-1195/1196: [Boumediene/Al-Odah v. Bush](#)

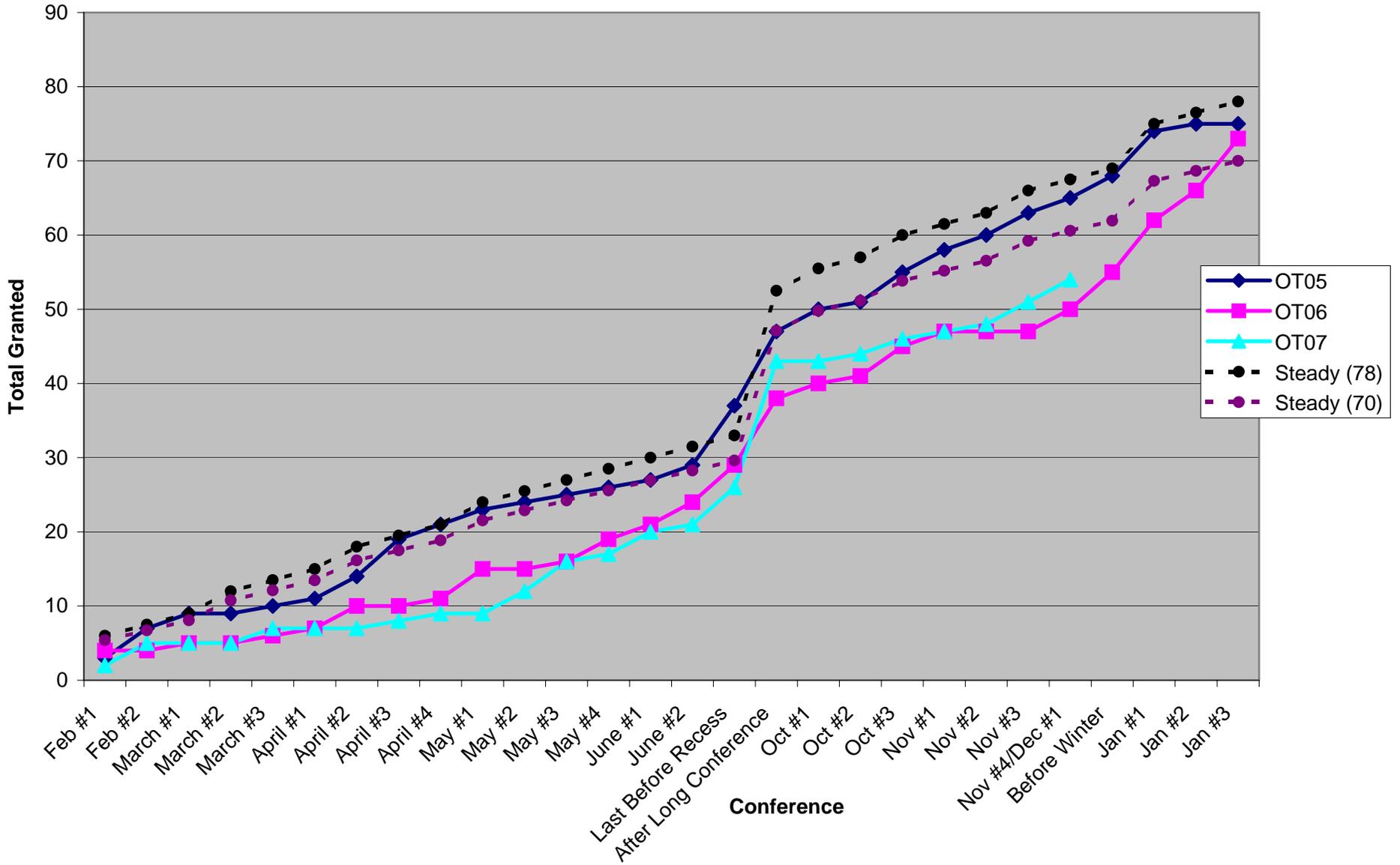
*Dec. 7*

- Conference

*Dec. 10*

- Final Orders before Recess

### Granted Cases by Conference



*Note: In OT04, the Court added an additional Conference at the end of June, on the last Monday of the Term, to consider relists. Thus, the jump of 8 cases reflects the grant of 5 cases in Conference on June 23, 2005 and an additional 3 on June 27, 2005.*

## Circuit Scorecard - OT07

Court	Decided	Outstanding	# Aff'd	% Aff'd	# Rev'd	% Rev'd	# Aff'd in Part	% Aff'd in Part	% of SCOTUS Caseload
CA1	0	2	0	0.0%	0	0.0%	0	0.0%	3.4%
CA2*	1	6	1	100.0%	0	0.0%	0	0.0%	11.9%
CA3	0	0	0	0.0%	0	0.0%	0	0.0%	0.0%
CA4	0	2	0	0.0%	0	0.0%	0	0.0%	3.4%
CA5	0	5	0	0.0%	0	0.0%	0	0.0%	8.5%
CA6	0	2	0	0.0%	0	0.0%	0	0.0%	3.4%
CA7	0	6	0	0.0%	0	0.0%	0	0.0%	10.2%
CA8	0	2	0	0.0%	0	0.0%	0	0.0%	3.4%
CA9	0	11	0	0.0%	0	0.0%	0	0.0%	18.6%
CA10	0	2	0	0.0%	0	0.0%	0	0.0%	3.4%
CA11	0	3	0	0.0%	0	0.0%	0	0.0%	5.1%
CADC	0	3	0	0.0%	0	0.0%	0	0.0%	5.1%
CAFC	0	4	0	0.0%	0	0.0%	0	0.0%	6.8%
<i>Dist. Courts</i>	0	1	0	0.0%	0	0.0%	0	0.0%	1.7%
<i>State Courts</i>	0	8	0	0.0%	0	0.0%	0	0.0%	13.6%
<i>Original</i>	0	1	N/A	N/A	N/A	N/A	N/A	N/A	1.7%
<b>Total</b>	<b>1</b>	<b>58</b>	<b>1</b>	<b>100.0%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>	

Consolidated cases are here counted individually (51 total hours of argument docketed thus far).

\*The Court affirmed the Second Circuit in *NY Bd. Of Education v. Tom F.* by a vote of 4-4, and wrote no opinion.

## October Term 2007 - Merits Cases

*NY Sch. Bd. v. Tom F.*

06-637

CA2

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

**Timeline:** Pet: 11/3/2006 Grant: 2/26/2007 Top: 5/11/2007 Bot: 7/18/2007 Arg: 10/1/2007

- Parents' right to tuition reimbursement for their disabled child's schooling.

**AFFIRMED** by equally divided Court.

*Wash./Wash. St. v. Wash. St. Rep. Party*

06-713

CA9/CA9

*Consol. with 06-730*

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

**Timeline:** Pet: 11/20/2007 Grant: 2/26/2007 Top: 5/21/2007 Bot: 8/6/2007 Arg: 10/1/2007

- Constitutionality of limits on party identification on primary election ballots.

*Kimbrough v. US*

06-6330

CA4

**Categories:** Criminal Non-Biz Constitutional Sentencing

**Timeline:** Pet: 9/5/2006 Grant: 6/11/2007 Top: 7/24/2007 Bot: 8/30/2007 Arg: 10/2/2007

- Reasonableness of the heavier sentences imposed for crack vs. powder cocaine crimes.

*Gall v. US*

06-7949

CA8

**Categories:** Criminal Non-Biz Constitutional Sentencing

**Timeline:** Pet: 11/22/2006 Grant: 6/11/2007 Top: 7/18/2007 Bot: 8/22/2007 Arg: 10/2/2007

- Reasonableness of a federal sentence that is below the Sentencing Guidelines' range.

*NY Bd. of Election v. Torres*

06-766

CA2

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

**Timeline:** Pet: 11/28/2007 Grant: 2/20/2007 Top: 5/7/2007 Bot: 7/13/2007 Arg: 10/3/2007

- Validity of selection of state judicial candidates by party convention instead of by election.

## October Term 2007 - Merits Cases

*US v. Santos*

06-1005

CA7

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

**Timeline:** Pet: 1/22/2007 Grant: 4/23/2007 Top: 6/7/2007 Bot: 8/20/2007 Arg: 10/3/2007

- Definition of "proceeds" under federal money-laundering law.

*Watson v. US*

06-571

CA5

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

**Timeline:** Pet: 10/23/2006 Grant: 2/26/2007 Top: 5/4/2007 Bot: 6/28/2007 Arg: 10/9/2007

- Definition of "use" of firearm for enhanced sentence.

*Stoneridge v. Scientific-Atlanta*

06-43

CA8

**Categories:** General Civil Business Statutory Securities

**Timeline:** Pet: 7/7/2006 Grant: 3/26/2007 Top: 6/11/2007 Bot: 8/15/2007 Arg: 10/9/2007

- Liability of third-party entities for securities fraud scheme.

*Medellin v. Texas*

06-984

Tx. Ct. of Cr.

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

**Timeline:** Pet: 1/16/2007 Grant: 4/30/2007 Top: 6/28/2007 Bot: 8/23/2007 Arg: 10/10/2007

- President's power to require U.S. states, under the Vienna consular convention, to allow foreign nationals to contest their convictions and sentences in state court, to satisfy World Court decisions.

*Klein & Co. Futures 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: 7/19/2007 Bot: Arg: 10/29/2007

- Commodity commission merchants' right to sue for losses in trading.

## October Term 2007 - Merits Cases

*Ali v. BOP* 06-9130 CA11

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

**Timeline:** Pet: 1/25/2007 Grant: 5/29/2007 Top: 7/31/2007 Bot: Arg: 10/29/2007

- Right to sue for loss of inmate's personal property.

*Logan v. US* 06-6911 CA7

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

**Timeline:** Pet: 9/29/2006 Grant: 2/20/2007 Top: 5/25/2007 Bot: 7/30/2007 Arg: 10/30/2007

- Definition of predicate offenses for sentencing of "armed career criminal."

*US v. Williams* 06-694 CA11

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

**Timeline:** Pet: 11/17/2006 Grant: 3/26/2007 Top: 6/11/2007 Bot: 8/20/2007 Arg: 10/30/2007

- Constitutionality of federal law against Internet-based child pornography.

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

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

**Timeline:** Pet: 12/6/2006 Grant: 5/21/2007 Top: 7/19/2007 Bot: 8/23/2007 Arg: 10/31/2007

- Limits on state courts' authority to expand retroactivity of Supreme Court criminal procedure rulings.

*Ky. Dept. of Rev. 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: 7/19/2007 Bot: Arg: 11/5/2007

- State power to tax residents' interest income on other states' bonds, if home-state bond interest is exempt.

## October Term 2007 - Merits Cases

*CSX v. Ga. Bd. of Equal.* 06-1287 CA11

**Categories:** General Civil Business Statutory Tax

**Timeline:** Pet: 3/23/2007 Grant: 5/29/2007 Top: 7/30/2007 Bot: Arg: 11/5/2007

- Valuation of railroad property for state tax purposes.

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

**Categories:** General Civil Business Statutory Jurisdiction

**Timeline:** Pet: 2/26/2007 Grant: 5/29/2007 Top: 8/3/2007 Bot: Arg: 11/6/2007

- Time limits for filings claims against the U.S. government in the Court of Federal Claims.

*FedEx v. Holowecki* 06-1322 CA2

**Categories:** Civil Rights Business Statutory ADEA

**Timeline:** Pet: 3/30/2007 Grant: 6/4/2007 Top: 8/9/2007 Bot: Arg: 11/6/2007

- Scope of right to sue for age discrimination on the job; mode of filing initial discrimination charge.

*Hall Street v. Mattel* 06-989 CA9

**Categories:** General Civil Business Statutory Arbitration

**Timeline:** Pet: 1/12/2007 Grant: 5/29/2007 Top: 7/27/2007 Bot: Arg: 11/7/2007

- Contracting parties' right to expand scope of judicial review of arbitration awards.

*Larue v. DeWolff, Boberg &* 06-856 CA4

**Categories:** General Civil Business Statutory ERISA

**Timeline:** Pet: 11/6/2006 Grant: 6/18/2007 Top: 8/7/2007 Bot: Arg: 11/26/2007

- Whether a participant may bring an action to recover losses due to fiduciary breach.

## October Term 2007 - Merits Cases

*Knight v. CIR*

06-1286

CA2

**Categories:** General Civil Business Statutory Tax

**Timeline:** Pet: 3/23/2007 Grant: 6/25/2007 Top: 8/23/2007 Bot: Arg: 11/27/2007

- Whether investment management and advisory fees are fully-deductible administrative expenses for trusts and estates.

*Rowe, AG of ME v. NH Motor Trans.*

06-457

CA1

**Categories:** General Civil Business Statutory Shipping Regulations

**Timeline:** Pet: 8/16/2006 Grant: 6/25/2007 Top: 8/23/2007 Bot: Arg: 11/28/2007

- State power to regulate carriers of dangerous substances (for children).

*Sprint/United Mgmt. v. Mendelsohn*

06-1221

CA10

**Categories:** Civil Rights Business Statutory ADEA

**Timeline:** Pet: 3/5/2007 Grant: 6/11/2007 Top: 8/20/2007 Bot: Arg: 12/3/2007

- Admissibility of "me, too" testimony in age discrimination suits.

*Snyder v. Louisiana*

06-10119

S. Ct. of LA

**Categories:** Criminal Non-Biz Constitutional Discrimination

**Timeline:** Pet: 3/14/2007 Grant: 6/25/2007 Top: Bot: Arg: 12/4/2007

- Discriminatory jury selection and prosecutor's references to the O.J. Simpson case

*Riegel v. Medtronic, Inc.*

06-179

CA2

**Categories:** General Civil Business Statutory Medical Devices

**Timeline:** Pet: 8/3/2006 Grant: 6/25/2007 Top: 8/27/2007 Bot: Arg: 12/4/2007

- Whether federal preemption provision preempts state-law suit over FDA-approved medical devices.

## October Term 2007 - Merits Cases

*Boumediene/Al- v. Bush*06-1195 CADC/CADC *Consol. with 06-1196*

**Categories:** Criminal Non-Biz Constitutional Detainees

**Timeline:** Pet: 3/5/2007 Grant: 6/29/2007 Top: 8/24/2007 Bot: Arg: 12/5/2007

- Constitutional jurisdiction over habeas petitions from Guantanamo detainees.

*Dada v. Keisler*

06-1181 CA5

**Categories:** General Civil Non-Biz Statutory Immigration

**Timeline:** Pet: 2/26/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/7/2007

- Postponement of agreement for alien to voluntarily leave U.S.

*Baze v. Rees*

07-5439 S. Ct. of Ky.

**Categories:** Criminal Non-Biz Constitutional

**Timeline:** Pet: 7/11/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/7/2007

- Constitutionality of execution by lethal drugs when the chemical protocol poses a risk of pain and suffering.

*Gonzalez v. US*

06-11612 CA5

**Categories:** Criminal Non-Biz Statutory

**Timeline:** Pet: 5/24/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/8/2007

- Waiver of right to Art. III judge to preside over jury selection when counsel agreed to have a U.S. magistrate instead.

*Boulware v. US*

06-1509 CA9

**Categories:** General Civil Business Statutory Tax

**Timeline:** Pet: 5/11/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/8/2007

- Taxation on diversion of corporate funds to shareholder

## October Term 2007 - Merits Cases

*Ky. Retire. Sys.* v. *EEOC*

06-1037

CA6

**Categories:** Civil Rights Business Statutory Benefits

**Timeline:** Pet: 1/23/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/9/2007

- Age bias in disability benefits packages.

*Crawford et al.* v. *Marion Cty. Election*

07-21

CA7/CA7

*Consol. with 07-25*

**Categories:** Civil Rights Non-Biz Constitutional

**Timeline:** Pet: 7/2/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/9/2007

- Constitutionality of requiring voters to show a photo ID before they may vote.

*Virginia* v. *Moore*

06-1082

S. Ct. of Va.

**Categories:** Civil Rights Non-Biz Constitutional Fourth Amendment

**Timeline:** Pet: 2/1/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/14/2007

- Suppression of evidence obtained incident to an arrest that is based upon probable cause, where the arrest violates a provision of state law.

*Preston* v. *Ferrer*

06-1463

CA of Calif, 2d

**Categories:** General Civil Business Statutory Arbitration

**Timeline:** Pet: 5/4/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/14/2007

- Preemption of arbitration agreement.

*Begay* v. *US*

06-11543

CA10

**Categories:** Criminal Non-Biz Statutory Armed Career Crim.

**Timeline:** Pet: 5/22/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/15/2007

- Whether felony drunk driving is a violent felony for purposes of enhanced sentencing under armed career criminal law.

## October Term 2007 - Merits Cases

*US v. Rodriguez*

06-1646

CA9

**Categories:** Criminal Non-Biz Statutory Armed Career Crim.

**Timeline:** Pet: 6/11/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/15/2007

- Crimes that qualify for enhanced sentence under armed career criminal law.

*Meadwestvaco v. Ill. Dept. of Rev.*

06-1413

App. Ct. of Ill,

**Categories:** General Civil Business Statutory Tax

**Timeline:** Pet: 4/20/2007 Grant: 9/25/2007 Top: Bot: Arg: 1/16/2007

- Tax on sale of investment in LexisNexis.

*Quanta v. LG*

06-937

CAFed

**Categories:** General Civil Business Statutory Patent

**Timeline:** Pet: 11/30/2006 Grant: 9/25/2007 Top: Bot: Arg: 1/16/2007

- Whether a patentee's federal patent rights are exhausted by a licensee's authorized sale of an essential component.

*Gomez-Perez v. Potter*

06-1321

CA1

**Categories:** Civil Rights Business Statutory Age Bias

**Timeline:** Pet: 3/30/2007 Grant: 9/25/2007 Top: Bot: Arg:

- Federal employees' protection against retaliation for complaining about age bias in workplace.

*Ali v. Achim*

06-1346

CA7

**Categories:** Criminal Non-Biz Statutory Immigration

**Timeline:** Pet: 4/5/2007 Grant: 9/25/2007 Top: Bot: Arg:

- Definition of aggravated felony for deportation purposes.

## October Term 2007 - Merits Cases

*CBOCS West v. Humphries*

06-1431

CA7

**Categories:** Civil Rights Business Statutory Discrimination

**Timeline:** Pet: 4/25/2007 Grant: 9/25/2007 Top: Bot: Arg:

- Race retaliation claim under Sec. 1981 of civil rights law.

*Morgan Stanley v. Public Utility 1*

06-1457

CA9/CA9

*Consol. with 06-1462*

**Categories:** General Civil Business Statutory Energy

**Timeline:** Pet: 5/3/2007 Grant: 9/25/2007 Top: Bot: Arg:

- Federal regulators' power to take an energy crisis into account in reviewing electric power sale contracts.

*Warner-Lambert v. Kent*

06-1498

CA2

**Categories:** General Civil Business Statutory Preemption

**Timeline:** Pet: 5/10/2007 Grant: 9/25/2007 Top: Bot: Arg:

- Preemption of claim of fraud on a federal agency.

*Cuellar v. US*

06-1456

CA5

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

**Timeline:** Pet: 5/3/2007 Grant: 10/15/2007 Top: Bot: Arg:

- Whether the principal federal money laundering statute, 18 U.S.C. § 1956, requires a design to create the appearance of legitimate wealth.

*Allison Engine v. US*

07-214

CA6

**Categories:** General Civil Business Constitutional False Claims Act

**Timeline:** Pet: 8/17/2007 Grant: 10/29/2007 Top: Bot: Arg:

- Whether a plaintiff asserting a cause of action under the False Claims Act is required to prove that a false claim was submitted to the federal government.

## October Term 2007 - Merits Cases

*Exxon v. Baker*

07-219

CA9

**Categories:** General Civil Business Statutory Maritime Law

**Timeline:** Pet: 8/20/2007 Grant: 10/29/2007 Top: Bot: Arg:

- Whether a \$2.5 billion dollar judgment against Exxon stemming from the Exxon Valdez oil spill is allowed under Maritime Law.

*Arave v. Hoffman*

07-110

CA9

**Categories:** Criminal Non-Biz Statutory Plea Bargain

**Timeline:** Pet: 7/26/2007 Grant: 11/5/2007 Top: Bot: Arg:

- The remedy that may be available for ineffective defense lawyer's efforts during plea bargaining, if the individual was later convicted at a fair trial.

*Richlin Sec. Svc. v. Chertoff*

06-1717

CAFed

**Categories:** General Civil Business Statutory Paralegal Fees

**Timeline:** Pet: 6/25/2007 Grant: 11/13/2007 Top: Bot: Arg:

- Whether a prevailing party may be awarded attorney fees for paralegal services at the market rate or cost only.

*Chamber of Comm. v. Brown*

06-939

CA9

**Categories:** General Civil Business Statutory Unions

**Timeline:** Pet: 1/5/2007 Grant: 11/20/2007 Top: Bot: Arg:

- Whether federal labor law bars a state from forbidding a company that receives state funds from using any of those funds to speak out on issues in bargaining with a labor union.

*DC v. Heller*

07-290

CADC

**Categories:** Civil Rights Non-Biz Constitutional Gun Rights

**Timeline:** Pet: 9/4/2007 Grant: 11/20/2007 Top: Bot: Arg:

- Whether provisions of the D.C. Code violate the Second Amendment rights of individuals who wish to keep handguns and other firearms for private use in their homes.

## October Term 2007 - Merits Cases

*Riley v. Kennedy*

07-77 USDC MD Ala

**Categories:** Civil Rights Non-Biz Statutory Voting Rights

**Timeline:** Pet: 7/17/2007 Grant: 11/20/2007 Top: Bot: Arg:

- Whether state Supreme Court rulings on the meaning of state or local election law bring about the kind of changes in voting rights that must first get federal clearance before going into effect.

*Philippines v. Pimental*

06-1204 CA9

**Categories:** General Civil Business Statutory Civil Procedure

**Timeline:** Pet: 3/5/2007 Grant: 12/3/2007 Top: Bot: Arg:

- Whether, under Federal Rules of Civil Procedure 19(a) and (b), a court must dismiss an interpleader action involving a foreign country that has successfully claimed sovereign immunity.

*U.S. v. Clintwood Elkhorn*

07-308 CA Fed

**Categories:** General Civil Business Constitutional Tax

**Timeline:** Pet: 9/7/2007 Grant: 12/3/2007 Top: Bot: Arg:

- Whether, if a taxpayer could have sued for a federal tax refund in federal court, but failed to first pursue an administrative claim that was required before pursuing such a lawsuit, he may sue directly under the Constitution.

*Rothgery v. Gillespie County*

07-440 CA5

**Categories:** Criminal Non-Biz Constitutional Right to Counsel

**Timeline:** Pet: 9/27/2007 Grant: 12/3/2007 Top: Bot: Arg:

- Whether that right to counsel sets in when an individual has been taken before a magistrate, who finds reason to believe a crime has been committed and sends the individual to jail.