William & Mary Law School

William & Mary Law School Scholarship Repository

Supreme Court Preview

Conferences, Events, and Lectures

9-2013

2013-2014 Supreme Court Preview: Contents

Institute of Bill of Rights Law, William & Mary Law School

Follow this and additional works at: https://scholarship.law.wm.edu/preview

Repository Citation

Institute of Bill of Rights Law, William & Mary Law School, "2013-2014 Supreme Court Preview: Contents" (2013). *Supreme Court Preview*. 129. https://scholarship.law.wm.edu/preview/129

Copyright c 2013 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository. https://scholarship.law.wm.edu/preview

The Institute of Bill of Rights Law

THE INSTITUTE OF BILL OF RIGHTS LAW was established at William & Mary in 1982 to support research and education on the Constitution and the Bill of Rights. One of the principal missions of the Institute is to facilitate interaction between the professions of law and journalism. Through a discussion of key cases on the Supreme Court's docket at the start of each term, the annual SUPREME COURT PREVIEW provides in-depth education for journalists on the underlying issues to enhance press coverage of the decisions.

NEAL DEVINS Goodrich Professor of Law Director of the Institute of Bill of Rights Law

MELODY S. NICHOLS Assistant Director of the Institute of Bill of Rights Law

REBECCA GREEN Professor of Practice

> Student Editor VIOLET BOGGS



THE COLLEGE OF WILLIAM & MARY SCHOOL OF LAW WILLIAMSBURG, VIRGINIA 23187-8795 (757) 221-3810 • FAX (757) 221-3775 IBRL@wm.edu • http://www.IBRL.org

Table of Contents

Introduction

Schedule of Events	p. i
Panel Members	p. ii

I. Moot Court: Town of Greece v. Galloway

In This Section:

In This Section:

In This Section:

New Case: 12-696 Town of Greece v. Galloway	
Synopsis and Questions Presented	p. 2
"COURT TO RULE ON GOVERNMENT PRAYER" Lyle Denniston	p. 13
"COUNCIL PRAYERS GET TOP COURT REVIEW IN CHURCH-STATE CASE" Greg Stohr	p. 15
"THE SUPREME COURT TAKES THE CASE OF TOWN OF GREECE V. GALLOWAY, WHICH RAISES THE QUESTION WHETHER – AND IF SO, HOW – A TOWN BOARD MAY OPEN ITS MEETINGS WITH PRAYER" Marci A. Hamilton	p. 17
"2 ND CIRCUIT FINDS NY TOWN PRAYERS UNCONSTITUTIONAL" Terry Baynes	p. 22
"WHAT SHOULD THE SUPREME COURT DO WITH TOWN BOARD PRAYERS IN GALLOWAY V. TOWN OF GREECE" Vikram David Amar & Alan E. Brownstein	p. 24

II. Affordable Care Act

New Case and Topic: Contraceptive Mandate (looking ahead)	p. 30
Conestoga Wood Specialities Corp. v. Sebelius Hobby Lobby Stores, Inc. v. Sebelius	

"CONTRACEPTIVE MANDATE DIVIDES APPEALS COURTS" Robert Barnes	p. 65
"OBAMACARE BIRTH CONTROL MANDATE ON FAST TRACK TO SUPREME COURT" Sam Baker	p. 67
"HOBBY LOBBY WINS A STAY AGAINST BIRTH CONTROL MANDATE" Jonathan Stempel	p. 70
"OBAMA CONTRACEPTIVE MANDATE UPHELD BY U.S. APPEALS COURT" Tom Schoenberg	p. 72
New Case: Liberty University, Inc. v. Lew (looking ahead)	p. 74
"COURT REJECTS OBAMACARE CHALLENGE BY CHRISTIAN COLLEGE" Jonathan Stempel	p. 88
"Fourth Circuit's <i>Liberty</i> Ruling Deals a Hidden Blow to ObamaCare" Michael F. Cannon	p. 90

III. Civil Rights

In This Section:

New Case: 12-682 Schuette v. Coalition to Defend Affirmative Action	p. 95
Synopsis and Questions Presented	p. 95
"Supreme Court Takes New Case on Affirmative Action, From Michigan" Adam Liptak	p. 120
"AFFIRMATIVE ACTION IN TEXAS AND MICHIGAN" Stephen Wermiel	p. 122
"U.S. COURT TAKES SMALL STEP TO BRIDGE IDEOLOGICAL DIVIDE" Joan Biskupic	p. 125
"6 TH CIRCUIT: PROPOSAL 2 UNCONSTITUTIONAL" Rayza Goldsmith	p. 127
"Supreme Court is Urged to Reject Michigan Affirmative Action Ban" David Savage	p. 129

"WHAT'S YOUR HURRY" Linda Greenhouse	p. 131
New Case: 12-872 Madigan v. Levin	p. 134
Synopsis and Questions Presented	p. 134
"U.S. SUPREME COURT TO CONSIDER APPLICATION OF ADEA TO STAT AND LOCAL WORKERS" Jennifer Cerven	е р. 147
"Supreme Court to Take on Age Discrimination: Madigan v. Le Donald Scarinci	vin" p. 149
"Harvey Levin v. Lisa Madigan, Seventh Circuit Court of Appe Decision" Edward Theobald	EALS p. 151
"HIGH COURT TO MULL CIRCUIT SPLIT ON GOV'T WORKER ADEA CLAIMS" Bill Donahue	p. 152
New Topic: Voting Rights after Shelby County	p. 154
"SUPREME COURT STOPS USE OF KEY PART OF VOTING RIGHTS ACT" Robert Barnes	p. 154
"U.S. CHIEF JUSTICE REALIZES LONGSTANDING VISION IN VOTING-RIG CASE" Joan Biskupic	внтя р. 158
"U.S. SUES TO BLOCK TEXAS LAW ON VOTER ID" Jess Bravin	p. 160
"U.S. ASKS COURT TO LIMIT TEXAS ON BALLOT RULES" Adam Liptak & Charlie Savage	p. 162

IV. Business

In This Section:

New Case: 12-1182 Environmental Protection Agency v. EME Homer City	p. 168
Generation	

Synopsis and Questions Presented p. 168

"SUPREME COURT TO REVIEW EPA RULE ON AIR POLLUTION ACROSS STATE LINES EPA" Brent Kendall & Ryan Tracy	p. 191
"OBAMA'S EPA GETS SUPREME COURT HEARING ON COAL POLLUTION" Greg Stohr	p. 193
"D.C. CIRCUIT UPHOLDS EPA RULES ON LIMITING GREENHOUSE GAS EMISSIONS" Jessica K. Karmasek	p. 195
"SUPREME COURT SHOULD BLOCK EPA'S ATTEMPT TO REGULATE GREENHOUSE GASES" Karen Harned	p. 197
"SUPREME COURT TO REVIEW DECISION CRITICAL TO CLEANING UP America's Air" Graham McCahan	p. 199
New Case: 12-462 <i>Northwest, Inc. v. Ginsberg</i> Synopsis and Ouestions Presented	
Synopsis and Questions Presented	p. 201
"SUPREME COURT TO HEAR CASE OF DISGRUNTLED FREQUENT FLYER" Lawrence Hurley	p. 209
"Supreme Court to Hear Case of Frequent Flier Dropped for Complaining too Much" Mark Johanson	p. 210
"SUPREME COURT TO HEAR CASE OF FREQUENT-FLIER COMPLAINT" Bill Mears	p. 212
New Case: 12-79 Chadbourne & Parke LLP v. Troice (consolidated cases)	p. 214
Synopsis and Questions Presented	p. 214
"U.S. SUPREME COURT TO REVIEW FIFTH CIRCUIT'S SLUSA DECISION IN STANFORD PONZI SCHEME CASE" Shawn Hough & Frank Oliva	p. 232
"PONZI SCHEME VICTIMS AND SLUSA: THE SUPREME COURT TO DECIDE WHAT CLAIMS CAN PROCEED" Kathy Bazoian Phelps	p. 234

"FIFTH CIRCUIT FINDS SLUSA DOES NOT PRECLUDE STANFORD INVESTOR'S STATE CLAIMS" <i>Securities Law Professor Blog</i>	p. 238
"SUPREME COURT TO DECIDE SCOPE OF PREEMPTION OF STATE-LAW SECURITIES CLASS ACTIONS BY SLUSA" Joshua D. Yount	p. 240
New Case: 12-99 Unite HERE Local 355 v. Mulhall	p. 241
Synopsis and Questions Presented	p. 241
"U.S. Supreme Court will Review Neutrality Agreements and Promises Between Employers and Unions" Tracy Scott Pyles	p. 247
"HIGH COURT TO REVIEW SWEETHEART DEALS BETWEEN UNIONS, MANAGEMENT" Sean Higgins	p. 249
"Supreme Court Scrutiny of 'Neutrality' Pacts Could be Another Blow to Unions" Bruce Vail	p. 251
"SUPREME COURT TO DECIDE LEGALITY OF NEUTRALITY AGREEMENTS, DYNAMICS OF UNION ORGANIZING HANG IN THE BALANCE" Brennan W. Bolt	p. 253
New Case: 11-965 DaimlerChrysler AG v. Bauman	p. 255
Synopsis and Questions Presented	p. 255
"SUPREME COURT TO REVIEW BAUMAN V. DAIMLERCHRYSLER" Kenneth Anderson	p. 270
"SUPREME COURT COULD REDRAW THE REACH OF AMERICA'S COURTS" Michael Bobelian	p. 273
"DAIMLER MUST FACE ARGENTINA ABUSE LAWSUIT IN U.S." Jonathan Stempel	p. 275
"SUPREME COURT REVISITS (AND MAY REIN IN) PERSONAL JURISDICTION" Grant J. Esposito & Brian R. Matsui	p. 277

V. First Amendment & Separation of Powers

In This Section:

New Case: 12-536 McCutcheon v. Federal Election Commission	p. 284
Synopsis and Questions Presented	p. 284
"JUSTICES TAKE CASE ON OVERALL LIMIT TO POLITICAL DONATIONS" Adam Liptak	p. 292
"IS MCCUTCHEON V. FEC THE NEXT CITIZENS UNITED" Alex Gauthier	p. 294
"COURT UPHOLDS AGGREGATE FEDERAL CONTRIBUTION LIMIT" Matthew Connolly	p. 297
"SUPREME COURT COULD CREATE SYSTEM OF LEGALIZED BRIBERY IN WASHINGTON DEPENDING ON ITS DECISION IN MCCUTCHEON CASE" Fred Wertheimer	p. 298
New Case: 12-1038 United States v. Apel	p. 301
Synopsis and Questions Presented	p. 301
"SUPREME COURT AGREES TO HEAR MILITARY PROTESTER CASE" Lawrence Hurley	p. 303
New Case: 12-1281 National Labor Relations Board v. Noel Canning	
Synopsis and Questions Presented	p. 304
"SUPREME COURT TO WEIGH IN ON OBAMA'S RECESS APPOINTMENTS" Robert Barnes	p. 322
"U.S.: LIMIT APPOINTMENT POWER REVIEW" Lyle Denniston	p. 324
"Court Ruling Upsets Conventional Wisdom on Recess Appointments" Carrie Johnson	p. 326
"EMPLOYERS EMBRACE NOEL CANNING ON NLRB RECESS APPOINTMENTS" Frederick L. Warren	p. 329
"A JUDICIAL ATROCITY" Jeffrey Toobin	p. 333
New Topic: Passport Law after Zivotofsky (looking ahead)	p. 336

"PASSPORT LAW ON JERUSALEM UNCONSTITUTIONAL, FEDERAL APPEALS COURT SAYS " Fox News	p. 336
"WILL 'ISRAEL' PASSPORT CASE RETURN TO THE SUPREME COURT?" Washington Jewish News	p. 338
"JERUSALEM PASSPORT CASE – SEPARATION OF POWERS AND STANDING" Eugene Kontorovich	p. 340

VI. Criminal

In This Section:	
New Case: 12-158 Bond v. United States	p. 344
Synopsis and Questions Presented	p. 344
"CHEMICAL WEAPON OR JUST POISON? SUPREME COURT TAKES CASE" Jonathan Stempel & Terry Baynes	p. 357
"JILTED SUBURBANITE TO FIGHT TERRORISM CONVICTION IN THE SUPREME Court" Erin Fuchs	p. 359
"Once More Unto the Treaty-Power Breach" Ilya Shapiro & Trevor Burrus	p. 361
New Case: United States v. Wurie (looking ahead)	p. 363
"U.S. APPEALS ON CELL PHONE PRIVACY" Lyle Denniston	p. 376
"WHAT SEIZED CELLPHONES AND LEFTOVERS HAVE IN COMMON" Jacon Gershman	p. 378
"Can Police Search a Seized Cell Phone Without a Warrant?" Kelly Cheung	p. 379
New Case: 12-8561 Paroline v. United States	p. 381
Synopsis and Questions Presented	p. 381
"SUPREME COURT TAKES UP CASE ON CHILD PORN VICTIM RESTITUTION" Mark Sherman	p. 401
"High Court to Decide Who Owes Restitution to Child Porn Victims – Woman Filing Against Men who Viewed Images Years Later"	p. 402

Paula Reed Ward

"D.C. CIRCUIT WEIGHS CHILD PORNOGRAPHY RESTITUTION CASE" Blog of Legal Times	p. 405
"SHOULD CHILD PORN 'CONSUMERS' PAY VICTIM MILLIONS? SUPREME COURT TO DECIDE." Warren Richey	p. 407
New Case: 12-609 Kansas v. Cheever	
Synopsis and Questions Presented	p. 410
"U.S. JUSTICES AGREE TO WEIGHT DEFENDANT'S SELF-INCRIMINATION CLAIM" Lawrence Hurley	p. 428
"KANSAS SUPREME COURT OVERTURNS CONVICTION OF DEATH-ROW INMATE IN SHERIFF'S KILLING" Hurst Laviana	p. 429
New Case: 12-7822 Fernandez v. California	
Synopsis and Questions Presented	p. 431
"SCOTUS to Hear Fernandez, a Calif. 'Warrantless Search' Case" William Peacock	p. 444
"SEARCH ALLOWED BY ROOMMATE TO HIGH COURT" Bob Egelko	p. 446
"Can Police Search the Home of a Defendant by Getting Consent to Enter from his Co-Tenant?" Aaron J. Sussman	p. 448
"CALIFORNIA ROBBERY CASE LEADS SUPREME COURT TO RECONSIDER POLICE SEARCH LAWS" Michael Doyle	p. 450

VII. Abortion

In This Section:	
New Case: 12-1168 McCullen v. Coakley	p. 454
Synopsis and Questions Presented	p. 454

	"ABORTION CLINIC BUFFER ZONE GETS U.S. HIGH COURT REVIEW" Greg Stohr	p. 468
	"MCCULLEN V. COAKLEY: ABORTION IS HEADING TO THE SUPREME COURT AGAIN" Alexandra Ma	p. 469
	"COURT UPHOLDS MASS. ABORTION CLINIC BUFFER LAW" Martin Finucane	p. 471
	"Abortion Opponents: 'Buffer Zones' at Abortion Clinics Violate Free Speech" Elizabeth Flock	p. 473
New Case: 12-1094 <i>Cline v. Oklahoma Coalition for Reproductive Justice (looking ahead)</i>		p. 475
	Synopsis and Questions Presented	p. 475
	"SUPREME COURT TELLS OKLAHOMA TO REVIEW ABORTION PILL LAW" David G. Savage	p. 477
	"ABORTION-DRUG CASE ON DOCKET FOR NOW" Louise Radnofsky & Brent Kendall	p. 478
	"THE NEXT ABORTION CASE IS HERE" Linda Greenhouse	p. 480
	"OKLAHOMA ABORTION LAWS UNCONSTITUTIONAL, STATE SUPREME COURT RULES" Tim Talley	p. 485
	"SUPREME COURT AGREES TO REVIEW OKLAHOMA ABORTION PILL CASE" Warren Richey	p. 487
New T	Copic: Abortion-Restricting Laws (looking ahead)	p. 489
	"State Laws Limiting Abortion May Face Challenges on 20-Week Limit" Julie Rovner	p. 489
	"ABORTION RESTRICTIONS BECOME LAW IN TEXAS, BUT OPPONENTS WILL PRESS FIGHT" Manny Fernandez	p. 491
	"CALIFORNIA ABORTION BILL SHOWS GULF WITH OTHER STATES" Michael B. Marois & Esme E. Deprex	p. 494

"ANTI-ABORTION LAWS TAKE DRAMATIC TOLL ON CLINICS NATIONWIDE" p. 496 Laura Bassett