

**SUPREME COURT CASES PENDING DURING OCTOBER TERM 2011 WORKED ON BY
ROBBINS, RUSSELL, ENGLERT, ORSECK, UNTEREINER & SAUBER LLP**

November 14, 2011

Granted Cases

No.	Caption and Status	Attorneys	Description
11-161	<p><i>Armour v. City of Indianapolis</i></p> <p>Cert. granted November 14, 2011</p> <p>Opening brief due December 29, 2011</p>	<p>R. Englert M. Stancil D. Lerman</p>	<p>We represent petitioners, who seek reversal of a 3-2 decision of the Supreme Court of Indiana holding that a municipal tax scheme did not violate the Equal Protection Clause. Mark Stancil will argue this case.</p>
10-844	<p><i>Caraco Pharmaceutical Laboratories, Ltd. v. Novo Nordisk A/S, et al.</i></p> <p>Cert. granted June 27, 2011</p> <p>Amicus brief filed September 6, 2011</p> <p>To be argued December 5, 2011</p>	<p>R. Englert M. Stancil J. Windom</p>	<p>We represent the Generic Pharmaceutical Association as amicus curiae in support of petitioner Caraco. We argue that a decision of the Federal Circuit improperly allows manufacturers of brand-name drugs to block entry of generic drugs that do not infringe any of their patents.</p>

No.	Caption and Status	Attorneys	Description
09-958, 09-1158, and 10- 283	<p><i>Douglas v. Independent Living Center of Southern California, Inc.</i></p> <p><i>Douglas v. California Pharmacists Association</i></p> <p><i>Douglas v. Santa Rosa Memorial Hospital</i></p> <p>Cert. granted January 18, 2011</p> <p>Amicus brief filed August 5, 2011</p> <p>Argued October 3, 2011</p>	A. Untereiner M. Stancil A. Potapov	On behalf of the Chamber of Commerce of the United States of America, we have filed an amicus brief supporting respondents in these consolidated cases. We argue that an action may be brought directly under the Supremacy Clause to assert that state law is preempted by a federal statute.
10-708	<p><i>First American Financial Corp., et al. v. Edwards</i></p> <p>Cert. granted June 20, 2011</p> <p>Amicus brief filed August 29, 2011</p> <p>To be argued November 28, 2011</p>	R. Englert A. Lavinbuk	On behalf of the American Land Title Association, we have filed an amicus brief supporting petitioners. We argue that a plaintiff who suffers no economic injury from alleged improprieties in the referral of consumers to a particular title insurance company lacks the injury-in-fact necessary to have Article III standing to sue in federal court, and that the Real Estate Settlement Procedures Act of 1974 (RESPA), to the extent that it purports to confer standing on such a consumer, is unconstitutional.

No.	Caption and Status	Attorneys	Description
10-1062	<p><i>Sackett v. EPA</i></p> <p>Cert. granted June 28, 2011</p> <p>Amicus brief filed September 30, 2011</p>	M. Stancil	<p>We represent the American Farm Bureau Federation, the National Council of Farmer Cooperatives, and the National Cattlemen's Beef Association as amici curiae supporting petitioners. When the Environmental Protection Agency believes that a landowner is engaged in a violation of environmental laws, it may issue an administrative compliance order requiring the landowner to take certain actions and seek judicial enforcement of the order if the landowner does not comply. The question presented is whether the landowner may challenge the administrative compliance order in court before the EPA seeks judicial enforcement.</p>
10-1472	<p><i>Taniguchi v. Kan Pacific Saipan, Ltd.</i></p> <p>Cert. granted September 27, 2011</p> <p>Amicus brief due December 5, 2011</p>	M. Stancil	<p>In conjunction with the University of Virginia Supreme Court Litigation Clinic, we will represent the National Ass'n of Judiciary Interpreters and Translators as <i>amicus curiae</i>. The question presented is whether 28 U.S.C. § 1920, which awards the prevailing party costs for "compensation of interpreters," applies only to real-time oral interpreting or also to document translation services.</p>

Cert. Petitions, Appeals, And Miscellaneous Matters

No.	Caption and Status	Attorneys	Description
	<p><i>American Trucking Associations, Inc. v. City of Los Angeles, et al.</i></p> <p>Cert. petition due, without extension, December 26, 2011</p>	<p>R. Englert A. Untereiner L. Overvold</p>	<p>We represent petitioner, which seeks to overturn a 2-1 decision of the Ninth Circuit. According to the Ninth Circuit, the Federal Aviation Administration Authorization Act does not preempt most provisions of a “concession agreement” imposed by the Port of Los Angeles on motor carriers as a condition of allowing them to operate drayage trucks on Port property.</p>
11A451	<p><i>Apotex Inc. v. Allergan, Inc.</i></p> <p>Cert. petition due, with extension, December 21, 2011</p>	<p>R. Englert A. Untereiner M. Stancil D. Lerman</p>	<p>We will file a petition for a writ of certiorari challenging the Federal Circuit’s holding that Allergan’s asserted patents – which combine two previously used solutions to treat glaucoma – were not obvious.</p>
11A461	<p><i>Apotex Inc. v. Unigene Laboratories, Inc.</i></p> <p>Cert. petition due, with extension, December 23, 2011</p>	<p>R. Englert A. Untereiner M. Stancil D. Lerman</p>	<p>We will file a petition for a writ of certiorari challenging the Federal Circuit’s holding that a patent on a nasal spray was not obvious.</p>

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11-161	<p><i>Armour v. City of Indianapolis</i></p> <p>Cert. petition filed August 8, 2011, docketed August 9, 2011</p> <p>Reply brief filed October 25, 2011</p> <p>Cert. granted November 14, 2011</p>	<p>R. Englert M. Stancil D. Lerman W. Baude</p>	<p>We represent petitioners, who seek review of a 3-2 decision of the Supreme Court of Indiana holding that a municipal tax scheme did not violate the Equal Protection Clause.</p>
11-502	<p><i>Blue Mountain School District v. Snyder, et al.</i></p> <p><i>Hermitage School District v. Layshock, et al.</i></p> <p>Cert. petition filed October 18, 2011, docketed October 20, 2011</p>	<p>M. Stancil</p>	<p>In conjunction with the University of Virginia Supreme Court Litigation Clinic, we have filed a cert. petition challenging a pair of Third Circuit decisions restricting school officials' ability to regulate student speech that is uttered outside the school but directed at the school community (via the Internet).</p>

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10-844	<p><i>Caraco Pharmaceutical Laboratories, Ltd. v. Novo Nordisk A/S, et al.</i></p> <p>Cert. petition filed December 23, 2010, docketed December 28, 2010</p> <p>Amicus brief filed January 27, 2011</p> <p>Views of Acting Solicitor General invited March 28, 2011</p> <p>Acting SG brief recommending grant filed May 26, 2011</p> <p>Cert. granted June 27, 2011</p>	<p>R. Englert M. Stancil D. Burke</p>	<p>We represent the Generic Pharmaceutical Association as amicus curiae in support of this cert. petition. Our brief argues that a decision of the Federal Circuit improperly allows manufacturers of brand-name drugs to block entry of generic drugs that do not infringe any of their patents.</p>
	<p><i>City of Arlington v. Frame</i></p> <p>Cert. petition due December 14, 2011</p>	<p>A. Untereiner</p>	<p>Our cert. petition will seek Supreme Court review of an 8-7 Fifth Circuit decision holding that public sidewalks are a “service, program, or activity” under the Americans with Disabilities Act and the Rehabilitation Act.</p>

No.	Caption and Status	Attorneys	Description
11-555	<p data-bbox="275 326 884 391"><i>City of Oakland v. Desert Outdoor Advertising, Inc.</i></p> <p data-bbox="275 440 873 505">Cert. petition filed October 31, 2011, docketed November 2, 2011</p>	M. Stancil	<p data-bbox="1304 326 1986 618">In conjunction with the University of Virginia Supreme Court Litigation Clinic, we have filed a petition for a writ of certiorari on behalf of the City of Oakland, California. We challenge a decision of the Supreme Court of Nevada holding that state courts are not required to give full faith and credit to a judgment of a sister State if it rests on a penal cause of action.</p>

No.	Caption and Status	Attorneys	Description
11-336	<p><i>Corboy v. Louie</i></p> <p>Cert. petition filed September 15, 2011, docketed September 16, 2011</p>	<p>R. Englert M. Stancil A. Potapov S. Ribstein</p>	<p>Our clients are Hawaii residents who, because of their race, are not considered “native Hawaiian” under certain racial classifications the State of Hawaii has adopted in implementing the Hawaiian Homes Commission Act of 1920 (passed by Congress) and the Constitution of the State of Hawaii. Because of their race, they are ineligible to participate in the “homestead” program administered by the State. Participants in the program receive tax breaks. Our clients challenged those tax breaks on equal protection grounds. The Supreme Court of Hawaii held that our clients lack standing because they had expressed no desire to participate in the program for which they are racially ineligible. A concurring justice rejected that analysis but concluded that the lawsuit should be dismissed because our clients had not sued the United States, which he considered an indispensable party. Our cert. petition challenges those holdings.</p>
11-510	<p><i>Deloitte & Touche LLP v. RGH Liquidating Trust</i></p> <p>Cert. petition filed October 20, 2011, docketed October 24, 2011</p>	<p>L. Robbins A. Untereiner</p>	<p>We are co-counsel with Kramer Levin in representing Deloitte in filing a cert. petition from a decision of the New York Court of Appeals holding that the Securities Litigation Uniform Standards Act does not foreclose a state-court action brought against Deloitte by a liquidating trust.</p>

No.	Caption and Status	Attorneys	Description
	<p><i>McCall v. United States</i></p> <p>Cert. petition due, without extension, January 18, 2012</p>	<p>L. Robbins M. Madden</p>	<p>We will petition for a writ of certiorari in this criminal case. Among other things, the petition will raise the questions whether someone can “willfully” commit criminal securities fraud by recklessly making a material false statement, and, if so, whether such a defendant is entitled to the instruction, common to civil securities fraud cases, that his conduct must have been “an extreme departure from the standards of ordinary care that presents a danger of misleading buyers and sellers that is either known to the defendant or so obvious that the defendant must have been aware of it.”</p>
<p>11-434</p>	<p><i>Mortensen v. Brown</i></p> <p>Cert. petition filed October 4, 2011, docketed October 7, 2011</p> <p>Amicus brief filed November 7, 2011</p>	<p>A. Untereiner</p>	<p>We represent ACA International, The Association of Credit and Collection Professionals. We argue that the Supreme Court of California erred by applying a “presumption against preemption” as a reason to give a narrow construction to an express preemption clause in the Fair Credit Reporting Act, which occupies the field of any “subject matter regulated under . . . section 1681s-2 of this title.”</p>

No.	Caption and Status	Attorneys	Description
10-1341	<p><i>UPMC v. West Penn Allegheny Health System, Inc.</i></p> <p>Cert. petition filed April 28, 2011, docketed May 2, 2011</p> <p>Reply brief filed July 12, 2011</p> <p>Cert. denied October 3, 2011</p>	R. Englert	<p>Together with lead counsel at Wilson Sonsini and Schnader Harrison, we have filed a cert. petition on behalf of UPMC, the leading hospital in Pittsburgh, in this antitrust case. Among other things, the Third Circuit reversed the dismissal of a claim of “predatory hiring,” even though the complaint did not allege that the salaries UPMC paid to doctors resulted in losses or that UPMC had any prospect of recouping losses by driving a competitor out of the market.</p>
11-397	<p><i>York v. Texas</i></p> <p>Cert. petition filed September 26, 2011, docketed September 28, 2011</p>	M. Stancil	<p>In conjunction with the University of Virginia Supreme Court Litigation Clinic, we are co-counsel on a cert. petition on behalf of Mr. York. The question presented is whether the doctrine of collateral estoppel, embodied in the Double Jeopardy Clause of the Fifth Amendment and made applicable to the States through the Fourteenth Amendment, bars re-litigation of a fact necessarily decided in the defendant’s favor in an initial prosecution, when that fact is evidentiary in nature in a subsequent prosecution.</p>