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Quick Release

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Probable Cause

- **On remand from the Supreme Court, the Ninth Circuit reverses the civil forfeitures in *$405,089.23* for lack of probable cause to believe the property was the proceeds of illegal drug activity.**

- **A drug dealer's possession of a large amount of cash in dirty paper bags is not, by itself, sufficient to establish the necessary link between the cash and drug trafficking; the Government's burden is to show the money came from drug trafficking and not from some other illegal activity.**

- **In the Ninth Circuit, evidence obtained after the institution of a civil forfeiture proceeding, including evidence of criminal convictions, cannot be used to establish probable cause if the Government did not have probable cause at the time the complaint was filed.**

In *United States v. $405,089.23 U.S. Currency*, 33 F.3d 1210 (9th Cir. 1994), the **Ninth Circuit** held that the defendants' double jeopardy rights were violated when they were convicted of drug trafficking and their drug proceeds were forfeited in separate criminal and civil proceedings. The Supreme Court reversed that decision two years later in *United States v. Ursery*, 116 S. Ct. 2135 (1996), and remanded the civil forfeiture case to the Court of Appeals to address the defendants' remaining contentions.

On remand, defendants Arlt and Wren argued that the Government lacked probable cause to believe that the property in question—$405,089 in a bank account that was derived from cash deposits; $123,000 in currency; 138 silver bars; and various aircraft, vehicles and vessels purchased with cash—constituted the proceeds of drug trafficking. The **Ninth Circuit** (the same panel that issued the original decision in *$405,089.23*) agreed, and reversed and remanded the forfeiture judgment.

Under Ninth Circuit law, the Government must have probable cause to believe that the property is subject to forfeiture at the time it files its civil forfeiture complaint. *United States v. $191,910 in U.S. Currency*, 16 F.3d 1051 (9th Cir. 1994). In this case

the civil complaint was filed in 1992, several days after Arlt and Wren were indicted, and a year before they were convicted and sentenced to life in prison on methamphetamine charges. Therefore, the Government could not rely on the defendants' convictions or any evidence adduced at trial to establish probable cause. Instead, it was limited to the evidence set forth in the affidavit filed with the civil complaint.

For each asset, the Court concluded that the affidavit demonstrated only that the property was derived from ongoing illegal activity of some kind, but failed to establish the necessary "substantial connection" to the defendants' drug activity. "The evidence demonstrates a transfer of a large sum of money with original ties to cash, but there is no evidence of a connection between this particular money and drug activity," the court said. The existence of a large amount of cash is not enough, the court said, to establish the necessary connection; there must be "other persuasive circumstantial evidence."

The Government noted that in addition to the quantity of cash, there was evidence that the money was carried in dirty paper bags. But this, the court said, "only raises the suspicion that the cash had its origin in illegal activity" of some kind; it does not establish a connection between the money and the drug activity described in the affidavit.

In reversing and remanding the forfeiture judgment, the court noted that *191,910 in U.S. Currency*, the case holding that probable cause must be established at the time the complaint is filed, was not decided until long after the judgment was entered in the district court. Accordingly, the court held that the Government, on remand, should have an opportunity to show that it had additional information, not reflected in the original affidavit, that could establish the necessary connection as of the time the complaint was filed. *—WJS*

United States v. $405,089.23 in U.S. Currency, ___F.3d ___, 1997 WL 561540 (9th Cir. Sept. 11, 1997). Contact: AUSA Janet C. Hudson, ACAC15(jhudson).

Comment: There is much to criticize about this opinion. How a drug dealer's possession of nearly a million dollars in cash and items traceable to cash, much of it kept in dirty paper bags, would not be sufficient to establish a "substantial connection" between the property and drug trafficking is baffling, even to those used to reading baffling forfeiture decisions from the Ninth Circuit. The best that can be said is that this case merely applies the holding in *United States v. $30,060*, 39 F.3d 1039 (9th Cir. 1994), to another set of facts. That case, of course, was the one in which the court found the combination of a large quantity of cash wrapped in bundles and placed under the seat of a car, a positive dog sniff, and demonstrably false explanation for the source of the currency to be insufficient to establish probable cause. The money, the court said, was probably the proceeds of some criminal activity, but it was no more likely to be drug proceeds than to be the proceeds of some other offense, like embezzlement, theft of jewelry, or election day "street money." (To which the dissent replied, in essence, "get real.")

For another case illustrating the Ninth Circuit's strict reading of the probable cause requirement *see United States v. $49,576.00 in U.S. Currency*, 116 F.3d 425 (9th Cir. 1997) (seizure of cash at airport lacked probable cause despite dog sniff, evasive answers, fake identification, courier profile, and prior drug arrest). *See also* the Seventh Circuit's recent decision in *United States v. $506,231 In United States Currency*, *infra*. In contrast, *see United States v. One Lot of U.S. Currency ($36,674)*, 103 F.3d 1048 (1st Cir. 1997) (dog sniff, defendant's connection to known criminals, quantity of cash, itinerary of air travel, and evasive answers to questions all add up to probable cause); *United States v. Carr*, 25 F.3d 1194 (3rd Cir. 1994) (dog sniff supports finding that laundered cash is drug proceeds); *United States v.*

$39,873.00, 80 F.3d 317 (8th Cir. 1996) (dog sniff, packaging of currency, and proximity to drug paraphernalia provided sufficient probable cause for seizure of currency during highway stop); *see also United States v. Check No. 25128, infra.*

The silver lining, if any, in the new *$405,089.23* decision is that the court suggests that the Government can meet the probable cause burden with circumstantial evidence, such as a showing that Arlt and Wren "purchased or sold a large quantity of derivative chemicals around the same time as the [cash] transfers." In other words, while strictly construing the requirement of a substantial connection between cash and drug activity, as opposed to some other form of illegal activity, the court has not rejected the long-standing rule that civil forfeitures do not require a strict tracing of the subject property to a particular drug transaction. To the contrary, it would appear to remain possible for the Government to meet its probable cause burden by showing that the defendants, at the time they acquired the currency in question, were engaged in lucrative drug trafficking activities and had no other legitimate source of income. *See United States v. Parcels of Land*, 903 F.2d 36, 42 (1st Cir. 1990) (accepting circumstantial evidence and rejecting requirement that Government must link seized properties with particular drug transactions); *United States v. Parcels of Real Property*, 913 F.2d 1, 3 (1st Cir. 1990) (same); *United States v. Daccarett*, 6 F.3d 37 (2d Cir. 1993) (same); *United States v. All Funds on Deposit in Any Accounts*, 801 F. Supp. 984, 990 (E.D.N.Y. 1992) (same). —*SDC*

Summary Judgment / Adoptive Forfeiture / Proceeds

- **Drug dealer's assertion that cash found in proximity to drugs and paraphernalia is not drug proceeds is "unworthy of belief" and insufficient to create a triable issue of fact when the Government moves for summary judgment.**

- **There is no need for state authorities to comply with state law regarding adoptive forfeitures when the Drug Enforcement Administration (DEA) simply seizes the property from the State with a federal seizure warrant, requiring no action by the State itself.**

- **Federal forfeiture law allows the Government to forfeit the same money more than once if, through the laundering process, the amount subject to forfeiture has multiplied.**

State police found drugs, cash and drug paraphernalia in Claimant's home. State authorities pursued the criminal charges while DEA adopted the forfeiture of the cash (approximately $44,000). No one filed a claim and the cash was forfeited administratively.

Claimant then succeeded in getting the state court to grant a motion to suppress the evidence seized from his home. The criminal charges were dropped, and Claimant sued the State to recover the seized cash under a conversion theory. A state court ruled in Claimant's favor and the State issued Claimant a check for the amount seized plus accrued interest. Whereupon DEA, acting pursuant to a section 881 seizure warrant, seized the check and instituted forfeiture proceedings against it.

This time Claimant filed a claim and argued that the check should not be forfeited because it was the

proceeds of his conversion suit, not the proceeds of drug trafficking. But the **Ninth Circuit** disagreed. "The fact is that the check is both the proceeds of the suit and the proceeds of drug transactions," the court said. Section 881(a)(6) authorizes the forfeiture of the proceeds of drug transactions and property "traceable" thereto. "Tracing of money does not require that the identical money be traced." It can change in form. "Just as a credit in a bank account may be found to represent the cash proceeds from a sale of drugs," the check Claimant received when he won his conversion action is nothing more than his drug proceeds in another form.

Claimant complained that forfeiture of the check would allow the Government to "magically multiply" his original drug proceeds and recover the same amount twice. But the court was untroubled. It is true, the court said, that the Government, having already forfeited Claimant's original cash hoard, now will recover the same amount a second time, plus interest. But this is the purpose of the civil forfeiture statute. "The aim of the law is to make sure that no proceeds from the sale of a controlled substance are safe from seizure. The law's aim is realized in the Government's action here."

The court summarily rejected Claimant's two remaining arguments. In response to the complaint that the state authorities had turned the check over to DEA without complying with state forfeiture law, the court held that state law was irrelevant where DEA seized the check on its own with a federal seizure warrant. No action by state authorities was involved.

Finally, the court rejected Claimant's assertion that summary judgment was inappropriate on his affirmative defense that the original $44,000 in cash had a legitimate source. The court found Claimant's assertion that cash found together with drugs, scales and other paraphernalia had a legitimate source to be "on its face unworthy of belief" and insufficient to create a triable issue of fact. Thus, summary judgment in favor of the Government was affirmed.

—*SDC*

United States v. Check No. 25128 in the Amount of $58,654.11, ___ F.3d ___, 1997 WL 525515 (9th Cir. Aug. 27, 1997). Contact: AUSA Betsy O'Leary, AAK01(boleary).

Comment: Yes, this case and *$405,089.23* were decided by the same Ninth Circuit. Slightly different panels, though. —*SDC*

Concurrent Jurisdiction / Probable Cause

- **In the Seventh Circuit, the Government may not file a civil forfeiture action in federal court against property held by a state court, even though state authorities have expressed the intent to release the property.**

- **Government lacked probable cause to forfeit half a million dollars in cash found in a barrel in a pizzeria, because despite the presence of guns and a positive dog sniff, there was insufficient evidence of a nexus to drug trafficking.**

A confidential informant told Chicago police that he had "fenced" stolen goods at Claimant's pizzeria. The police obtained a search warrant, and in the course of searching the pizzeria for the stolen items (which they did not find), they found three unregistered guns and $506,076 in United States

currency. The currency was in small bills, rapped in bundles, and hidden in a barrel. A drug dog alerted to one of the bundles of currency. When asked to explain where the currency came from, Claimant asserted his rights under the Fifth Amendment.

Claimant filed a Motion for Return of the Seized Property in state court. That court not only ordered the currency returned to Claimant, but ordered the property custodian "not to transfer the property to any other persons or the United States." A check was issued to Claimant.

Meanwhile, several days before the State issued the check, the United States applied for a seizure warrant for the currency, and filed a verified complaint for forfeiture pursuant to 21 U.S.C. § 881(a)(6). The seizure warrant was never executed, but before the State released the money to Claimant, the district court issued an order directing Claimant to deliver the money to the U.S. marshal as soon as he received it.

When Claimant received the check from the state court, he surrendered it to the U.S. Marshals Service and filed a claim in the forfeiture proceeding. The Government then filed a motion for summary judgment, arguing that there was probable cause to believe the currency was subject to forfeiture. The district court granted summary judgment in favor of the Government and ordered the defendant *res* to be forfeited to the United States.

The **Seventh Circuit** reversed, holding (1) the district court never properly acquired jurisdiction over the defendant *res* because the *res* was under the control of the state court when the court issued its order attempting to take control of the property, and (2) the Government failed to establish probable cause.

Under the Seventh Circuit's precedents, a federal court may not exercise *in rem* jurisdiction over property that is in the possession and control of a state court. Here, the state court had possession and control over the *res* until it ordered the *res* returned to the Claimants, and made it clear that it did not want the property turned over to the United States. Therefore, any attempt by the federal court to exercise jurisdiction over the money *before it was released to the Claimant* was void. It made no difference that the federal order was conditional, taking effect only once the money was returned to Claimant. Nor did it matter that the state prosecutor had told the state court that the State had no interest in the property and intended to release it. "No order in an *in rem* proceeding will have any force whatsoever if the court entering it does not have jurisdiction over the *res*" at the time it issues the order.

The court continued, "federal authorities 'muscled in' on state court proceedings in an attempt to improperly and prematurely get their hands on the money. This kind of strong-arming is hardly permitted, not by common law, federal statutory authority or by our case law." Instead, the Government should have sought a turn-over order in the state court.

The **Seventh Circuit** also held that the district court erred in granting summary judgment because the Government failed to satisfy its initial burden of

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establishing probable cause. The existence of a large sum of money, even $500,000, does not by itself establish a nexus to drug trafficking. Nor does the proximity of weapons (which might have been intended only to protect a small business). The court totally discounted the dog sniff ("the probative value of dog sniffs is, at most, minimal") and found that there was no other connection between the money and drug trafficking whatsoever. Finally, the court declined to consider Claimant's failure to offer an explanation for his possession of such a large amount of currency and for storing it in such an unusual manner. Citizens are not required to provide any explanation for the possession of legal property until the Government establishes probable cause to believe the property is connected to illegal activity, the court held.

Accordingly, for both reasons, the court reversed the forfeiture judgment and remanded the case to the district court with instructions to return the property to Claimant. *—MML*

United States v. $506,231 In United States Currency, ___ F.3d ___, 1997 WL 549537 (7th Cir. Sept. 3, 1997). Contact: Jonathan Haile, (AILN02(jhaile).

Comment: The panel's treatment of the "concurrent jurisdiction doctrine" appears to be in conflict with the Supreme Court's seminal holding in *Penn General Casualty Co.* v. *Pennsylvania*, 294 U.S. 189 (1935). In that case, the Supreme Court adopted and applied the doctrine, but it noted that the jurisdiction of the first-in-time court was exclusive "only so far as its exercise is necessary for the appropriate control and disposition of the property" and that the "other court does not thereby lose its power to make orders which do not conflict with the authority of the court having jurisdiction over the control and disposition of the property."

Because the federal court order in this case took effect only after the state court relinquished control over the property to the claimant, it did not "conflict with the authority" of the state court. Accordingly, the fact that the district court entered these orders *before* the state court had relinquished its jurisdiction should be of no consequence. The federal court, although without perfected *in rem* jurisdiction, certainly had authority to issue orders in aid of acquiring such jurisdiction after the state court proceeding had run its course. This should be no more surprising than the fact that a court may issue an arrest warrant without having perfected *in personam* jurisdiction over a criminal defendant or that a civil court may issue process to be served upon the filing of a civil complaint. Neither court would have "perfected" jurisdiction over the action; but both would have jurisdiction to issue orders in aid of its anticipated jurisdiction.

Other courts have endorsed the exercise of federal jurisdiction in similar circumstances. We have just seen, in the previous case, how the Ninth Circuit had no problem whatsoever with a federal court's issuance of a seizure warrant for a check representing drug proceeds that was issued by, and in the custody of, state authorities. *United States v. Check No. 25128 in the Amount of $58,654.11, supra.*

Similarly, a district court in New York held recently that the Government may obtain an "anticipatory seizure warrant" to allow the U.S. marshal to seize the property once it is released by a state court. *United States* v. *$490,920 in United States Currency*, 937 F. Supp. 249, 252-53 (S.D.N.Y. 1996). Another court held that the federal court, although "second in time," may proceed to judgment, assert a lien that will result in seizure of the asset only upon release of the asset from state jurisdiction, but stay execution of the judgment until such time as federal jurisdiction has been perfected. *United States* v. *$3,000,000 Obligation of Qatar National Bank*, 810 F. Supp. 116, 117-19 (S.D.N.Y. 1993).

Of course, the Government can always seek a "turn-over" order from the state court relinquishing the

property to federal court jurisdiction, *see One 1987 Mercedes Benz Roadster 560 SEC*, 2 F.3d 241, 243-45 (7th Cir. 1993); *One 1979 Chevrolet C-20 Van*, 924 F.2d 120, 123 (7th Cir. 1991); *$79,123.49 in Cash and Currency*, 830 F.2d 94, 98-99 (7th Cir. 1987); *One 1985 Porsche 944*, 775 F. Supp. 1573, 1573 (N.D. Ill. 1991), or for an order dismissing the state forfeiture proceeding in favor of a federal proceeding, *see One Parcel Property Located at Lot 85*, 100 F.3d 740, 742-43 (10th Cir. 1996). Finally, the federal authorities can simply wait until after the property has been returned by the state court to the person from whom it was seized and then seize it anew pursuant to federal process. *See United States (Drug Enforcement Administration)* v. *In re One 1987 Jeep Wrangler*, 972 F.2d 472, 477-78 (2d Cir. 1992); *$79,123.49 in United States Cash and Currency*, 830 F.2d at 99 (noting that nothing prevents reinstitution of federal forfeiture proceedings once the state action involving the same *res* has terminated).

These issues are discussed in greater detail in Harry Harbin's recent article on concurrent jurisdiction in the *Asset Forfeiture News* (May/June 1997): 1.

—HSH

Particularity / Probable Cause / Verification

- **A civil complaint for forfeiture meets the particularity requirement of Supplemental Rule E(2)(a) if the allegations contained therein establish a reasonable belief that the Government can demonstrate probable cause at, not before, trial.**

- **Allegations that drugs, guns and money were discovered on the defendant property satisfies the particularity requirement of Supplemental Rule E(2)(a).**

- **A verification of the pleadings, as required by Supplemental Rule C(2), is sufficient regardless of the fact that the verification occurred before the complaint was served with the summons.**

For more than a year, officers of the New York City Police Department, the Drug Enforcement Administration, and the Queens District Attorney's Office investigated an alleged family-operated drug ring in Queens by employing court-authorized wiretaps and surveillance. As a result of the investigation, seizure warrants were executed at the two residences of the suspected drug traffickers, and the guns, ammunition, cocaine, marijuana, and beepers found on the premises were seized. In addition, $24,000 in cash was found stashed in one of the residences. The targets and their confederates were arrested and later pleaded guilty to narcotics distribution charges.

Based upon these events, the United States filed an action against the defendant properties pursuant to 21 U.S.C. § 881(a)(7). The claimants, wives of the convicted narcotics distributors, filed a motion to dismiss the complaint on the grounds that it failed to demonstrate probable cause with specificity, and that it was improperly verified.

Addressing the sufficiency of the specificity of the allegations in the complaint to establish probable cause, the court held that the recovery from the premises of drugs, drug distribution records, guns (which are generally accepted as "tools of the drug trade") and a large amount of cash, together established an inference that the property was

connected to illegal narcotics activity, and was sufficient to demonstrate that probable cause could be proven at trial. The court noted that allegations detailing the conversations that occurred in the second residence, which were recorded as a result of the wiretap, considered together with the confiscation of electronic beepers, guns and drugs, were sufficiently specific so as to allow the claimant to formulate a responsive pleading, and that allegations as to specific dates, dollar amounts and quantities of particular transactions were not required.

The claimants challenged the propriety of the complaint's verification, because the date of the agent/affiant's signature preceded the date of the filing of the complaint by two months. The court held that nowhere in the language of the Supplemental Rules did there appear to be any requirement beyond the affiant verifying his or her belief in the truth of the facts as stated in the complaint. Consequently, all grounds for dismissal were denied by the court. —*WJS*

United States v. 201-03 28th Avenue, No. 97-CV-0472 (ILG) (E.D.N.Y. July 7, 1997) (unpublished). Contact: AUSA Susan Riley, ANYE12(sriley).

Comment: Note the contrast between Second Circuit law, as applied in this case, with Ninth Circuit law as applied in *$405,089.23, supra.* The Ninth Circuit held that the Government could not rely upon evidence it obtained after the institution of forfeiture proceedings, holding that the Government must be able to demonstrate probable cause for forfeiture at the time the complaint is filed with the court. By contrast, in the instant case, the Second Circuit requires that at the time a complaint is filed, the Government need establish only a reasonable belief that it can demonstrate probable cause for forfeiture at trial. —*WJS*

Probable Cause / Confidential Informants

- **If the Government relies on hearsay from confidential informants to establish probable cause for civil forfeiture, it must reveal the identities of the informants to the claimant who is required to rely on admissible evidence to rebut the Government's probable cause showing.**

The Government filed suit to forfeit real properties allegedly purchased with narcotics proceeds. The primary basis for forfeiture was an affidavit recounting the cooperation provided by confidential informants. Besides alleging that the defendant was a major narcotics distributor with no legitimate income, the affidavit also alleged that drug monies were used to purchase real properties. The third-party claimant, the defendant's wife, in filing her motion to compel discovery, argued that in order to support her innocent owner defense, she required access to the witnesses referred to by the affidavit. In response, the Government contended that the witnesses were "mere tipsters" whose identities may be withheld under the confidential informant privilege.

The district court concluded that when the Government relies on an affidavit, in which the conclusions are drawn directly from confidential informants, it is required to disclose the identities of its confidential sources. The court reasoned that the confidential informant privilege is qualified, rather than

absolute, in nature, and when the disclosure of an informant's identity is essential to a fair determination of a case, the privilege must give way. However, the court noted that Claimant's argument that the informants' identities are essential to her innocent owner defense is without merit because the informants cannot testify as to what Claimant did or did not know. Rather, the disclosure is necessary for the claimant to meet her burden of proof by preponderance of the evidence to rebut the Government's probable cause showing.

Despite its conclusion, the court stayed the motion to compel pending the resolution of defendant's criminal homicide trial where the Government indicated that the identities of some of its confidential informants might be revealed. In balancing the claimant's and Government's interests, the court recognized that the public has a strong interest in maintaining the flow of confidential information about illegal drug transactions and the personal safety of confidential informants. —*HSL*

United States v. Property Identified As: Lot Numbered 718, ___ F. Supp. ___, 1997 WL 420331 (D.D.C. July 24, 1997). Contact: AUSA William Cowden, ADC12(wcowden).

Criminal Forfeiture / Appointment of Trustee

- **Court may appoint a trustee to liquidate the assets of a corporation where such liquidation is necessary to allow the Government to realize the defendant's forfeitable interest in the corporation.**

- **Where there are competing third-party claims to the nonforfeitable portion of liquidated assets, the court may order the assets held in escrow to preserve the *status quo* until the competing claims are resolved in another forum.**

Defendant owned approximately 61 percent of a corporation. Other innocent parties owned the other 39 percent, but they disagreed among themselves as to how much each actually controlled.

When Defendant pled guilty, the court entered an order forfeiting the 61 percent interest to the United States. In addition, at the request of the United States (as majority shareholder), and with the consent of all but 1 percent of the remaining shareholders, the court appointed a trustee to liquidate the assets of the corporation, pay off its liabilities, and distribute the remainder to the shareholders as dividends.

The trustee liquidated the corporation and paid the United States its 61 percent share. Because the remaining shareholders continued to disagree as to their respective shares of the remaining 39 percent, however, the trustee did not pay the balance as a dividend, but instead sought the approval of the court to place the money in escrow pending the resolution of various civil lawsuits among the shareholders.

Two of the shareholders objected to this procedure and demanded that they be paid their dividends without delay. First, they argued that because neither they nor the corporation itself were defendants in the criminal case, the court never had the authority to appoint a trustee to liquidate the corporation's assets. Second, to the extent the court did have such authority, it was limited to what was necessary to allow the Government to realize its interest, and it did not extend to exercising any control of the nonforfeitable assets once the Government received its share and the forfeiture case was over.

On the first point, the court acknowledged that the Government is limited to forfeiting the defendant's

interest in the corporation; but it held that it had the power to liquidate the corporation in order to permit the Government to realize that interest. 18 U.S.C. § 1963(e), the court said, gives the court broad statutory authority "to take any action necessary to protect the interest of the United States in the property ordered forfeited," including action that affects the nonforfeitable interest of third parties. In particular, the appointment of the trustee and the liquidation of the corporate assets, the court held, was necessary to protect the United States' interest because "the United States simply could not realize its interest until those assets were liquidated."

On the second point, the court again acknowledged that the United States had no legal interest in the nonforfeitable 39 percent of the liquidated assets; but the Government does have an interest in ensuring "that the nonforfeitable property is distributed to the rightful owner without adding additional and unnecessary administrative burdens." Having appointed the trustee and liquidated the assets of the corporation, the court has the same responsibility to protect innocent third parties and ensure that the nonforfeitable assets are distributed properly. Accordingly, the court held that its powers under section 1963(e) included the power to retain control over the nonforfeitable assets until such time as owner of those funds was determined in the proper forum. Thus, the court ordered the trustee to place the nonforfeited assets in escrow to maintain the *status quo* until the pending litigation among the shareholders was resolved. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Application of Clifford and Altman), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Michele Crawford, CRM20(mcrawfor).

Comment: This decision contains the most expansive and thorough analysis to date of the court's powers to issue restraining orders and take other actions affecting the interests of third parties when necessary to protect the Government's forfeiture interest in a criminal case. Other courts have generally held that property in which third parties have interests may be restrained pretrial to protect the Government's forfeiture interest. See *United States v. Jenkins*, 974 F.2d 32 (5th Cir. 1992); *In re In Re Billman*, 915 F.2d 916 (4th Cir. 1990); *United States v. Regan*, 858 F.2d 115 (2d Cir. 1988). But the Eighth Circuit has specifically held that the court may not appoint a receiver to run a corporation where the Government's only interest lies in forfeiting the defendant's shares in the corporation. *See United States v. Riley*, 78 F.3d 367 (8th Cir. 1996). —*SDC*

Criminal Forfeiture / Restraining Order / Third-party Rights / Court of Claims

- **The district court may use its restraining order authority under section 853(e) to permit the Government to manage the affairs of a non-defendant corporation, or to allow third parties to run the business under the supervision of a court-appointed conservator.**

- **Third-party claims to a distribution of the proceeds generated by a restrained business must await the ancillary proceeding; proceeds should be held in escrow until an order of forfeiture is issued.**

- **Third party's claim for damages resulting from the Government's alleged mismanagement of a restrained business must be filed in the Court of Federal Claims.**

After the defendant was indicted, the court issued a restraining order pursuant to 21 U.S.C. § 853(e) permitting the Government to take control of a non-defendant corporation and manage its various businesses. When third parties asserted an interest in the corporation and its assets, the Government negotiated a deal whereby the third parties were allowed to manage the corporate assets subject to the monitoring of a court-appointed conservator.

When the corporation generated income, the third parties filed petitions seeking a distribution of the money. They also filed a claim for damages resulting from the Government's alleged mismanagement of the corporation. All of this took place pretrial.

The court denied the request for distribution of the corporate assets as premature. Any determination of the interests of third parties in the corporate assets *vis a vis* the defendant must await the ancillary proceeding. Therefore, the court held, any corporate proceeds would remain in escrow, pursuant to the restraining order, pending the entry of an order of forfeiture.

To the extent the third parties sought damages against the United States, the court held that it lacked jurisdiction to entertain the claim. Claims for damages, the court held, must be filed in the Court of Federal Claims under the Tucker Act, 28 U.S.C. § 1346. —*SDC*

United States v. Brandino, No. 95-626-CR-RYSKAMP (S.D. Fla. Jun. 27, 1997). Contact: AUSA James H. Swain, AFLS02(jswain).

Court of Claims

- **Suit in the Court of Federal Claims does not lie for allegedly illegal judicial or administrative forfeitures, or where plaintiff asserts that his attorney failed to respond to the forfeiture notices, unless another court has already ruled the forfeitures illegal.**

Plaintiff sued the United States to recover property, some of which had been judicially forfeited by a default judgment and some administratively forfeited. Plaintiff argued that he was deprived of an opportunity to litigate the forfeitures because his attorney did not respond to the forfeiture notices. He also asserted that the property was illegally seized and forfeited. Finding that it lacked jurisdiction over any of the claims asserted by plaintiff, the U.S. Court of Federal Claims dismissed the suit.

The court held that the Tucker Act would not give it jurisdiction over this claim because that Act does not create a right to sue the United States for money damages. It explained:

> To establish a right to recovery, a plaintiff must demonstrate that it either: (1) has a contractual relationship with the Government; (2) seeks a refund of money which it paid to the Government; or (3) that a provision of the Constitution, a statute, an Executive Order, or a regulation upon which plaintiff relies, mandates payment of money that the Government has unlawfully declined to pay.

It also held that the Fifth Amendment Takings Clause of the Constitution did not afford plaintiff a right or recovery because (1) it does not apply to forfeitures and (2) it applies only to legal takings, whereas plaintiff was alleging an illegal taking. Redress for illegal takings must be obtained pursuant to the Federal Tort Claims Act.

The court held that plaintiff would have had a right to recover the forfeited property under an illegal exaction theory if another court had first ruled that it had been improperly forfeited, which had simply not happened.

It held that plaintiff's claim under the Double Jeopardy Clause failed for two reasons. One was the decision in *United States v. Ursery*, ___ U.S. ___, 116 S. Ct. 2135 (1996). The other was that the Double Jeopardy Clause has no money mandating language.

It went on to rule that plaintiff's argument that the forfeitures violated the Excessive Fines Clause fell because this clause does not create a claim for money damages against the United States.

Finally, the court ruled that plaintiff's failure to file a claim in either forfeiture proceeding, and a remission petition in the administrative forfeiture proceeding, were res judicata, barring all the aforesaid claims.

—BB

Bernaugh v. United States, ___ F. Cl. ___, 1997 WL 447013 (Fed. Cl. July 31, 1997). Contact: Civil Division Trial Attorney Lawrence N. Minch, CIV01(lminch).

Summary Judgment / Money Laundering

- **Summary judgment is not appropriate in a forfeiture case based on structuring, if the claimant raises a material issue of fact by asserting that he was unaware of the CTR requirement and offers an explanation for his behavior.**

- **In determining whether to grant summary judgment for the Government on an affirmative defense, the court may consider only admissible evidence, since only such evidence would be admissible at trial.**

The Government brought a civil forfeiture action against real property under 18 U.S.C. § 981(a)(1)(A), alleging that the claimants committed structuring violations and used the structured funds to pay off the mortgage on their home. The district court granted summary judgment for the Government, finding that the Government had established probable cause to believe the claimants committed the structuring offense with the requisite mental intent. Claimants asserted that they were unaware of the CTR requirement and appealed. The **Fourth Circuit** reversed.

The court held that the district court erred in granting the Government's summary judgment motion solely on the basis of the Government's showing of probable cause. The panel held that the trial judge confused what was necessary to demonstrate probable cause with the standard that governs the entry of summary judgment.

The facts of the case—structured transactions and certain conversations between one claimant and a bank teller—were ample to establish probable cause to believe that the claimants committed the structuring offense with the intent to evade the currency reporting requirements. If the Government had sought partial summary judgment only on the probable cause issue, there would have been no problem. But the claimants asserted as an affirmative defense that they were unaware of the CTR requirement and thus did not commit a structuring offense in violation of 31 U.S.C. § 5324(a)(3).

To grant summary judgment for the Government on an affirmative defense, the court must find that there is no material issue of fact that must be resolved by a jury. Whether the claimants knew of the CTR requirement when they structured their funds is certainly a material issue, because if they did not, there was no structuring violation and thus no basis for the forfeiture. Unfortunately for the Government, such issues of mental state can seldom be resolved on summary judgment because they turn on the credibility of the witnesses. In this case, the claimants did not simply rest on a general denial regarding the reporting requirements, but offered an explanation for their behavior that a jury would have to evaluate. Thus there was a material issue of fact regarding the affirmative defense.

In passing, the court noted that when the Government seeks summary judgment solely on the issue of probable cause, it is entitled to rely on hearsay; but when it seeks summary judgment against a claimant who has raised an affirmative defense, it must support its motion with admissible evidence. That follows from the rule, at trial, that once the Government has established probable cause and the burden shifts to the claimant, both parties are limited to admissible evidence in attempting to establish, and rebut, any affirmative defense. —*SDC*

United States v. Leak, ___ F.3d ___, 1997 WL _____ (4th Cir. Aug. 26, 1997) (unpublished).
Contact: AUSA Frank Whitney, ANCW01(fwhitney).

Comment: In any civil forfeiture case, once probable cause is shown and the burden shifts to the claimant, the claimant has the right to put on an affirmative defense. Most commonly, the affirmative defense is the "legitimate source" defense ("a crime may have been committed, but this money came from somewhere else") or the innocent owner defense ("I had no idea a crime was being committed"). Both of these involve an implicit concession that the crime alleged by the Government did in fact occur.

But the claimant may also, as an affirmative defense, attempt to rebut the Government's probable cause showing by attempting to establish that the crime did not occur at all. That is not a defense that often works, but it can succeed where the crime requires a particular mental intent that the claimant denies having possessed. In structuring cases, for example, the claimant attempts to show, based on the admissible evidence, that he did not know about the CTR requirement, and the Government attempts to rebut that, also based on admissible evidence, by showing that he did.

In such cases, it is very difficult for the Government to show that there is no material fact at issue that must be resolved by a jury. Thus, such cases are seldom good candidates for summary judgment. Indeed, this case is quite similar to two others in which the Government had little difficulty establishing probable cause for forfeiture, but nevertheless was denied summary judgment. See *United States v. Dollar Bank Money Market Account*, 980 F.2d 233 (3rd Cir. 1992) (trial ordered on issue whether perpetrator had requisite mental state to satisfy *mens rea* element of structuring offense, *i.e.*, whether he knew that bank was required by law to file CTRs); *United States v. $200,000*, 805 F. Supp. 585, 589 (N.D. Ill. 1992) (same) (Government's showing of probable cause with respect to mental state doesn't mean claimant may not be able to establish absence of mental state by preponderance of evidence at trial). —*SDC*

Ancillary Proceeding / Standing / Pleading Requirements

- **Petition in the ancillary proceeding must be filed "under penalty of perjury," and must be filed by a "person"; whether a committee of "victims" is a "person" is unclear.**

- **Victims of a defendant's criminal acts have at most a cause of action against the defendant; they have no legal interest in any assets the defendant is required to forfeit.**

Claimant was an entity calling itself a "victims committee" representing the employees who were victimized by Defendant's alleged fraud against their pension fund. When Defendant was convicted of RICO violations and ordered to forfeit all of its assets, Claimant filed a petition in the ancillary proceeding seeking to recover the misappropriated funds.

The district court dismissed the petition on two grounds. First, because the petition was not signed "under penalty of perjury," it did not comply with the requirements of 18 U.S.C. § 1963(l)(3). Moreover, the court noted that a petition must be filed by a "person" which might exclude a victims committee from filing a claim in a representational capacity.

Second, assuming the victims committee was able to file a claim on behalf of the employee-victims, it still lacked standing to contest the forfeiture because the

employees had nothing more than a cause of action against the defendant for allegedly stealing money from the pension fund. A cause of action—whether in tort or contract—is not the same as a legal interest in the property subject to forfeiture. Accordingly, the victims committee lacked standing under section 1963(l)(2). —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of BCCI Campaign Committee), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Stefan D. Cassella, CRM20(scassell).

Ancillary Proceeding / Pleading Requirements / Community Property

- **A petition for an ancillary hearing filed "under oath" meets the statutory requirement of a petition filed "under penalty of perjury."**
- **A third-party petition asserting an interest in forfeited vehicles is not required to contain the vehicle titles.**
- **State law determines a wife's marital interest in real property.**

Defendants were convicted of various narcotics offenses and forfeiture was ordered. Thereafter, two claimants filed petitions for hearings to contest the forfeiture. One claimant alleged that two forfeited cars were actually his, and not the property of a defendant. The second claimant, without title, alleged that she had a marital interest in real property that was sold as a substitute asset to satisfy a $200,000 forfeiture money judgment.

The Government attacked the claim to the cars by arguing that the petition was not filed in compliance with 18 U.S.C. § 853(n)(3) which requires that the claim be filed under penalty of perjury. Second, the Government argued that the allegation of ownership was insufficient because no vehicle titles were attached to the claim as evidence of claimants' ownership.

The district court disagreed with the Government and held that the petition to the vehicles was sufficient. Although the petition was sworn under oath, and did not specifically state that it was under penalty of perjury, the court said that pursuant to the perjury statute, 18 U.S.C. § 1621, the oath was equivalent to such a statement. Further, the court held that section 853 does not require that the vehicle titles be attached to a petition for a hearing contesting forfeiture. The court held that current case law does not read such a requirement into the claim filing process, although one case, *United States v. Nunez*, 932 F. Supp. 628, 630 (D. Vt. 1996), held that the failure to produce vehicle titles at the ancillary hearing was decisive.

As to the claim to the real property proceeds, the Government argued that the claimant's marital interest in the real property, if any, had not vested in the claimant under the controlling state statute. The state statute provided that marital interests in property vest at the time dissolution proceedings are commenced. The claimant was married to the defendant at the time the real property was sold and the proceeds forfeited, and no divorce proceedings were alleged. Thus, the

court ruled that the claimant, without title, had no interest in the property.

The court distinguished the marital interest at issue here, defined under Illinois law, from that defined under California law. In a community property state such as California, the court observed, the law provides that a spouse has a vested interest in marital property throughout the course of the marriage.

In sum, the vehicle claimant was granted an ancillary hearing; the claimant to the proceeds of the sale of real property, was not. —*MLC*

United States v. Toma, 1997 WL 467280 (N.D. Ill. August 6, 1997) (unpublished). Contact: AUSA R. May, AILN02(rmay).

Ancillary Proceeding / Victims

- **A bank has no right to take a set-off against the defendant's bank account to satisfy a debt if the account is subject to forfeiture; the bank is just an unsecured creditor.**

- **The Government is not "unjustly enriched" at the expense of the victims when it forfeits the defendant's property; it is up to the Attorney General to decide whether to distribute the forfeited funds to the victims.**

Claimant was a bank that claimed a right of set-off against the defendant's forfeited bank account. Claimant asserted that it was entitled, under state law, to take the set-off before turning over the forfeited funds to the Government because the defendant owed Claimant a debt.

Claimant also asserted, more generally, that the court should not countenance the Government's effort to forfeit a defendant's property as long as the defendant's victims remained uncompensated.

The court rejected the set-off claim, citing its earlier decision on this issue. In short, a bank that has exercised a right of set-off against a defendant's property has standing to contest the forfeiture, but a bank that has an unexercised, inchoate right of set-off is only a general creditor of the defendant, and thus lacks standing. *See United States v. BCCI Holdings (Luxembourg) S.A. (Petition of American Express Bank I)*, 941 F. Supp. 180, 186 (D.D.C. 1996). Moreover, even though a bank has standing, if it exercises its right of set-off after the commission of the criminal offense, its claim must fail because the exercise of a set-off is not a "purchase" within the meaning of 18 U.S.C. § 1963(l)(6)(B). *United States v. BCCI Holdings (Luxembourg) S.A. (Petition of American Express Bank II)*, 961 F. Supp. 287 (D.D.C. 1997).

On the more general point, the court emphasized that an ancillary proceeding is intended only "to ensure that the property forfeited to the United States was that of the defendant." It is not a liquidation proceeding in which the defendant's estate is divided among competing claimants, no matter how deserving they may be. If a victim or other creditor is not the "owner" of the forfeited property, within the meaning of section 1963(l), he must seek relief elsewhere, not in the ancillary proceeding.

Moreover, the court rejected the notion that the issuance of a forfeiture order in a case involving victims gives the Government a "windfall recovery" at the expense of innocent third parties. It is an "unfortunate fact of life," the court said, that persons

who do business with criminals will suffer economic injury. But "the Government is not the source of an innocent third party's problems"—the defendant is. What's more, the forfeiture statute gives the Attorney General the authority to remit forfeited funds to victims to mitigate their losses. In this case, the court observed, the Attorney General has already agreed to turn the forfeited property over to a liquidator to distribute ratably to all victims, thus "undercutting the suggestion that the United States has been unjustly enriched." But even if the victims are unable to persuade the Attorney General to take such action, the forfeiture statute affords them no grounds for relief. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Capital Bank), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Stefan D. Cassella, CRM20(scassell).

Ancillary Proceeding / Choice of Law

- **An option to buy is an inchoate right that gives the holder no legal interest in another's property until it is exercised. Accordingly, a claimant who had an option to buy a defendant's property, but who did not exercise that right, was not entitled to recover the property in the ancillary proceeding.**

- **The nature and extent of a third party's interest in forfeited property is determined as a matter of state law, or if the parties are doing business with each other in a foreign country, as a matter of foreign law.**

Defendant was a corporation doing business in Bangladesh and maintaining bank accounts in U.S. dollars in New York. When Defendant was convicted of a criminal offense, its New York bank accounts were forfeited.

The Central Bank of Bangladesh filed a claim in the ancillary proceeding. It asserted that under Bangladesh law, corporations operating in Bangladesh may not own U.S. dollars and are in fact obligated to sell any U.S. dollars obtained in the course of business to the Central Bank in exchange for Bangladeshi Taka. Accordingly, the Central Bank asserted that it, not Defendant, was the true owner of the funds in the forfeited bank account.

In an earlier order, the district court ruled that the Central Bank had standing to file a petition in the ancillary proceeding because its allegations, if true, meant that its interest in the forfeited property was superior to Defendant's, and that it therefore would be entitled to recover under 18 U.S.C. § 1963(l)(6)(A). In the same order, the court ruled that the Central Bank's interest in the forfeited property would be determined under Bangladeshi law. (*See* comment, *infra.*)

The parties then filed cross motions for summary judgment, setting forth the elements of Bangladeshi currency law in affidavits. ("Since the interpretation of foreign law is a question of law, not fact, matters involving such interpretations may be resolved by summary judgment.") In its motion, the Government conceded that under Bangladeshi law, the Central Bank had an option to buy Defendant's U.S. currency; but it argued that the Bank never exercised that option, and thus never became the owner of the money. The Central Bank asserted that its title to

foreign currency vests automatically by operation of law.

The court agreed with the Government and granted the Government's motion for summary judgment. Under Bangladeshi law, the court held, the Central Bank had, at most, an option to buy Defendant's U.S. currency; it did not acquire title to the currency automatically by operation of law. Moreover, the court held, as a matter of federal forfeiture law, that an option to buy, like a right of set-off (see previous case summary), is an inchoate right that conveys no legal interest in property until it is exercised. Accordingly, because the Central Bank never exercised its option to buy Defendant's currency, it lacked a cognizable legal right, title or interest in the property sufficient to entitle it to relief under section 1963(l)(6)(A). —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petitions of People's Republic of Bangladesh and Bangladesh Bank), ___ F. Supp. ___, 1997 WL 580384 (D.D.C. Aug. 26, 1997). Contact: Civil Division Attorney Lloyd Randolph, CIV01(lrandolp).

Comment: It is well-established that the nature and extent of a third party's alleged legal interest in forfeited property must be determined as matter of state law. Once the court determines what interest a third party has in the property, as a matter of state law, it proceeds to determine whether that interest is sufficient to permit the third party to recover the property under federal forfeiture law. *See United States v. Lester*, 85 F.3d 1409 (9th Cir. 1996); *United States v. BCCI Holdings (Luxembourg) S.A. (Petition of American Express Bank II)*, 961 F. Supp. 287 (D.D.C. 1997)

The court in this case followed the same analytical process, with one twist. Because the Defendant and the Claimant were operating in a foreign country, their respective legal interests in the forfeited property were determined as a matter of foreign law, instead of state law. (In its earlier decision, the court specifically rejected the Government's suggestion that New York law should control. The property was located in New York, but the relationship between the defendant and the claimant existed in Bangladesh.)

In any case, we note that this is the first case to apply Bangladeshi law to a federal forfeiture case, and will therefore become the seminal case on this fascinating and recurring issue. —*SDC*

Ancillary Proceeding / Timeliness / Subject Matter Jurisdiction

- **Each time the court amends a preliminary order of forfeiture to include additional property, it must conduct another ancillary proceeding to give third parties an opportunity to challenge the forfeiture of the additional assets.**

- **A third-party petition must assert an interest in a specific asset forfeited by the defendant; it may not assert an interest in the defendant's property generally.**

- **The claimant must file his claim within 30 days of receipt of notice that the preliminary order has been amended to include the specific asset in which he asserts an interest.**

Defendant pled guilty to criminal charges and agreed to forfeit all of its corporate assets. Upon accepting the guilty plea, the court issued a preliminary order of forfeiture which it amended on five occasions as the Government discovered the existence of additional property and moved to have it included in the order. Each time the court amended the preliminary order, it conducted another ancillary proceeding so that third parties who asserted an interest in the newly discovered property could file claims.

Claimant filed a claim in the second ancillary proceeding, asserting an interest in a particular asset forfeited by the Defendant. But the Claimant then withdrew its claim voluntarily before any hearing was held. Years later, Claimant filed the identical claim in the fourth ancillary proceeding. The new claim asserted an interest in the same asset, even though the asset was named only in the second amendment to the preliminary order and was not named in the fourth amendment.

In response to the Government's motion, the court dismissed the claim on two grounds. First, if the petition was considered a "second round" claim to an asset named in the second amendment to the preliminary order, it was not timely. Under section 1963(l)(2), a third party has 30 days from the receipt of notice of the entry of an order of forfeiture to file a petition in the ancillary proceeding. That means that the claimant must file his petition within 30 days of the notice of the order *listing the property in which he asserts an interest*. The claimant cannot let the 30-day period go by and then file his claim when the court later amends the order of forfeiture to add other, unrelated property.

The fact that Claimant first filed and then withdrew a timely claim in the "second round" did not change anything. The filing and withdrawal of a timely claim does not toll the 30-day limitations period such that the claimant can later renew the claim whenever he sees fit. There are circumstances that will permit the court to "equitably toll" the 30-day period to give a third party additional time to file a claim, but Claimant did not offer any reasons why it should be entitled to that relief in this case, and the court found none.

Second, to the extent the petition was considered a timely claim in the "fourth round," it was dismissed for lack of subject matter jurisdiction. Under section 1963(l)(2), the claimant must assert an interest in a specific asset; he may not assert an interest in the defendant's property generally. Claimant complied with this rule by asserting an interest in a particular asset, but that asset was not named in the fourth amendment to the preliminary order. It was named only in the second amendment. Accordingly, as far as the fourth amendment was concerned, the asset in

which Claimant asserted an interest was not before the court, and the court had no jurisdiction to consider the claim. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Bank of California International), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Stefan D. Cassella, CRM20(scassell).

Ancillary Proceeding / Subject Matter Jurisdiction / Standing

- **To the extent that a third-party claim exceeds the value of the only forfeited asset in which the third party could claim an interest, the court lacks jurisdiction to consider it; the fact that the defendant has forfeited other assets is irrelevant.**

- **Bank depositors are general creditors of the bank and lack standing to contest the forfeiture of the bank's assets, unless the deposit was a "special deposit" that the bank, acting as a bailee, segregated from its other assets.**

Claimant was a depositor/customer of the defendant bank. When the bank was convicted of a criminal offense, and all of its assets were forfeited, Claimant filed a petition in the ancillary proceeding, attempting to recover the amount of its deposit. The district court dismissed the claim on two grounds.

First, a third party in a criminal case cannot assert a claim against the defendant or his property generally; the petitioner must assert an interest in a particular asset. *See* 18 U.S.C. § 1963(l)(2). The defendant had numerous assets, all of which were forfeited, but the only asset in which Claimant had even a colorable interest was a particular bank account that the defendant allegedly used to handle Claimant's funds. The amount Claimant sought to recover, however, exceeded the balance in that account by almost half a million dollars.

The court held that because the third party's interest was limited to the particular bank account, the court lacked subject matter jurisdiction to consider any claim to an amount in excess of the balance in that account. Such excess constituted property that was simply not before the court, even though the defendant forfeited numerous other assets.

Second, as to the funds in the particular bank account, the court dismissed the claim for lack of standing. Claimant, as a bank depositor, was merely an unsecured creditor of the defendant bank, and unsecured creditors lack standing to contest the forfeiture of the defendant's assets. That the deposit was a "time deposit" maturing on a particular date made no difference. Nor did it matter that Claimant ordered the defendant to transfer the balance to another bank when the deposit matured. Neither fact converted the deposit from a "general deposit" to a "special deposit" that the defendant held as a bailee. To the contrary, the defendant remained the owner of the subject funds, and Claimant was without standing to contest their forfeiture. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Hubei Provincial), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Stefan D. Cassella, CRM20(scassell).

Comment: The preceding case, *Bank of California*, and the first issue in this case illustrate the rule that third parties filing petitions in criminal forfeiture cases must identify the specific asset in which they have a legal interest. If the value of that particular asset is insufficient to satisfy a third party's claim, the claimant cannot look to the defendant's other assets to recover. If the claimant is the true owner of the particular asset, he is entitled to recover it; but as far as the other assets are concerned, the third party is simply a general, unsecured creditor. The value of the particular asset claimed by the third party doesn't matter. If he asserts that the defendant dissipated the value of that asset, he has a cause of action against the defendant, but the dissipated property is not before the court, and the court therefore lacks jurisdiction to entertain a claim for its recovery in the ancillary proceeding.

In a related case, the court reinforced its holding on the second issue regarding standing. In that case, the claimant was another bank that maintained a "nostro" account at the defendant bank. (A "nostro" account is the account that one bank maintains at another bank for the purpose of facilitating currency transactions.) A "nostro" account, the court held, is just another type of general deposit, and the depositor is just another general creditor without standing to contest the forfeiture of the defendant's assets. ***United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Banca Nazionale Del Lavoro)***, ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). —*SDC*

Ancillary Proceeding / Standing

- **The intended beneficiary of a wire transfer that is never completed is only a general creditor of the sender, and thus lacks standing to contest the forfeiture of the sender's assets.**

Defendant attempted to make a wire transfer payment to Claimant by instructing its bank to debit its account and to transfer the funds through an intermediary bank to Claimant's bank. Defendant's bank did as it was instructed, but the intermediary bank never executed the payment order in favor of Claimant's bank. Instead, the intermediary bank returned the funds to Defendant's bank where they remained in Defendant's account.

When Defendant was convicted of a RICO offense, the funds in its bank account, including the funds it attempted to send to Claimant, were forfeited. Claimant then filed a petition in the ancillary proceeding which the Government moved to dismiss for lack of standing.

The court agreed with the Government and dismissed the petition. What interest, if any, the intended beneficiary of an incomplete wire transfer has in forfeited funds turns on state law. Applying New York law under Article 4A of the U.C.C., the court held that when the intermediary bank failed to execute the payment order, title to the subject funds remained with the sender to whom the intermediary bank was obligated to return the money. Accordingly, the money belonged to Defendant and not to Claimant, who, as the intended beneficiary of the incomplete transfer, had nothing more than a cause of action against Defendant for its money.

Because an entity holding a cause of action is nothing more than an unsecured creditor, and because unsecured creditors lack standing to contest a criminal forfeiture action as a matter of federal law, the petition was dismissed. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Banca Monte dei Paschi di Siena), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Stefan D. Cassella, CRM20(scassell).

Comment: In a set of related cases, the court applied the same rules of New York law to wire transfers in which the money was transferred to the defendant with instructions to pass it on to the intended beneficiary. In each case, the defendant kept the money instead of forwarding it as requested. Applying New York law, the court held that the defendant acquired title to the funds when it accepted the wire transfer. Accordingly, the originators and intended beneficiaries were only unsecured creditors with a cause of action against the defendant for the return of the money. As such, they lacked standing to contest the forfeiture. ***United States v. BCCI Holdings (Luxembourg) S.A. (Petitions of Bank Austria, et al.)***, ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997); ***id. (Petitions of Zaman and Bhandari)***, ___ F. Supp. ___, 1997 WL 580482 (D.D.C. Aug. 26, 1997).

It's worth noting that in *Bank Austria*, the money was received by the defendant after its bank account was restrained pretrial. The court held that made no difference, since in a RICO case all of the defendant's assets are subject to forfeiture, whether they are proceeds of the offense or not.

In one instance, however, the court denied the motion to dismiss because the money was received after the entry of the preliminary order of forfeiture. In that case, the court said, the Government had no right to forfeit the money, because the forfeiture order applied only to property owned by the defendant at the time it was convicted, and not to any property it might thereafter acquire. That may be correct, but the court left unclear whether the remedy in that instance is to return the property to the defendant, or to give it to the claimant who otherwise had no standing to contest the forfeiture. —*SDC*

Ancillary Proceeding / State Court Order

- **District court declines to grant collateral review to a state court order that vested title to forfeited property in the defendant and terminated the rights of the claimant.**

At one time, Defendant held the mortgage on a parcel of real property owned by Claimant. When Claimant defaulted on the mortgage, Defendant foreclosed pursuant to state law. At the conclusion of the foreclosure proceedings, the state court entered an order transferring title to the property to Defendant.

Later, Defendant was convicted in a criminal case and its interest in the real property was forfeited. Claimant then filed a petition in the ancillary proceeding, asserting that the State foreclosure action was defective and that she was therefore still the owner of the property and was entitled to relief under 18 U.S.C. § 1963(l)(6)(A). The Government moved to dismiss the petition for lack of standing.

The district court granted the Government's motion and dismissed the petition. Whether or not a third party has any legal interest property forfeited in a criminal case is a question of state law. Under the relevant state law, Claimant lost all rights to the

property at the conclusion of the foreclosure action—an action which the federal court refused to grant collateral review. Accordingly, all that Claimant could assert, as a matter of state law, was a possible cause of action against Defendant for fraud perpetrated against her in the foreclosure proceeding.

A cause of action against the defendant, of course, is an insufficient basis, as a matter of federal forfeiture law, for standing in the ancillary proceeding. Therefore, the petition was dismissed. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Madero), ___ F. Supp. ___, 1997 WL 580488 (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Stefan D. Cassella, CRM20(scassell).

Ancillary Proceeding / Choice of Law / State Court Order

- **Once a federal forfeiture proceeding has begun, and the federal court has jurisdiction over the forfeited property, the federal court is the sole arbiter of the claimant's property interests under state law.**

- **A state court may not preempt a federal court's authority under federal forfeiture law by issuing an order releasing the forfeited property to a third-party claimant.**

Defendant's bank account was restrained by a state court in a state proceeding. When Defendant was indicted on federal criminal charges, the restraining order remained in effect to preserve the property for federal forfeiture.

While the restraining order was in effect, Claimant sent money by wire transfer to the restrained bank account. This was a mistake; Claimant intended to send the money to someone else, but the bank accepted the payment, credited Defendant's account, and refused to return the money to the Claimant because of the restraining order.

Claimant then sought to recover its money by asking the state authorities to release it. The state authorities informed the state court that they had no objection to the release of the money, and accordingly, a state court issued an order allowing the bank to release the funds. By that time, however, the federal court had issued a preliminary order of forfeiture forfeiting all funds in the Defendant's account to the United States.

Faced with a conflict between the state and federal court orders, the bank transferred the money to the Marshals Service and did not return it to the Claimant. Claimant then filed a petition in the ancillary proceeding which the Government opposed.

Claimant's first argument was that it retained ownership of the funds in question because its transfer to Defendant's bank account was a mistake. But the court held that under state law, a wire transfer is complete when the funds are accepted. Thus, notwithstanding Claimant's mistake, its property interest under state law was merely a cause of action against Defendant for the return of its money. And under federal law, a cause of action is not sufficient to give Claimant standing to contest an order of forfeiture.

Claimant responded that if its property interest in the federal forfeiture action was determined by state law, the federal court should be bound by the state court order releasing the property to the Claimant. But the court was not persuaded. The state court may have agreed to release the funds from the state restraining order, the court said, but whatever the

reasons for that order, it did not change the fact that under state law, title to the funds had passed to the Defendant. Moreover, to the extent that the state court had acted in derogation of the federal court's forfeiture authority, it was without power to do so. "The state court's order did not, nor could it, preempt or limit a forfeiture order entered by this Court pursuant to federal forfeiture law."

Thus, Claimant's petition was dismissed for lack of standing. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Bank of New York), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997). Contact: AFMLS Attorney Stefan D. Cassella, CRM20(scassell).

Comment: As the foregoing cases make clear, New York law provides that title to electronic funds passes in accordance with Article 4-A of the U.C.C. In this case, like the others, the court applied that law and found that title had passed to the defendant, and that the claimants were general creditors without standing to contest the forfeiture of the funds under section 1963(l)(2). For a full discussion of this issue in the context of mistaken wire transfers, *see United States v. BCCI Holdings (Luxembourg) S.A. (In re Mistaken Wire Transfer Petitioners)*, 1994 WL 914460 *5 (D.D.C. 1994).

The interesting aspect of this case is the effect of the state court order. In the case discussed immediately above, *Petition of Madero*, the court treated a state court order in a foreclosure proceeding as dispositive on the issue of ownership as a matter of state law. Because that order vested title to the forfeited property in the defendant, it was subject to forfeiture under federal law. In *Petition of Bank of New York*, in contrast, the court paid no heed to the state court order, made its own finding regarding the application of state law, and held that any effort by a state court to preempt a federal court's forfeiture authority under federal law is void.

As these cases consistent with each other? Yes, they are. In *Madero*, the state court issued an order that applied state law and determined that title to the property was held by the defendant. In *Bank of New York*, the state court was not asked to resolve a question of state law; it merely acquiesced in the uncontested request for the release of restrained property. If the question of state law had actually been litigated in the state proceeding, the federal court might have been more inclined to treat the state court order as dispositive.

Even so, in *Bank of New York*, the state court entered the fray only after the property in question was named in a forfeiture order entered by a federal court. In contrast, in *Madero*, the state foreclosure action preceded the federal forfeiture by months or years. *Bank of New York* thus stands for the proposition that once a federal forfeiture proceeding has begun, and the federal court has jurisdiction over the property, a claimant cannot go to state court seeking a favorable ruling on a question of state property law. His only avenue of relief is the ancillary proceeding, and in that proceeding the federal court is the sole arbiter of questions of state law. —*SDC*

Ancillary Proceeding / Rule 11 Sanctions

- **Attorney who repeatedly files meritless petitions in an ancillary proceeding may be subject to Rule 11 sanctions, either at the Government's request or on the court's own motion.**

- **Before moving for Rule 11 sanctions, the Government must give opposing counsel an explicit warning and an opportunity to withdraw the offending pleading voluntarily.**

Upon receiving notice of a criminal order of forfeiture, Claimant filed a petition in the ancillary proceeding asserting an interest in the forfeited property. The claim was based on Claimant's assertion that the defendant had breached a contract and therefore owed Claimant a sum of money. After full briefing and a hearing, the court denied the claim for lack of standing. *See United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Scarfone)*, 841 F. Supp. 1 (D.D.C. 1993) (person asserting claim based on breach of contract is an unsecured creditor who lacks a legal interest in the property subject to forfeiture). Claimant, who was at all times represented by counsel, did not appeal.

Subsequently, the court amended the order of forfeiture a number of times to include additional assets. Each time, the Government sent Claimant notice of the forfeiture of the additional assets, and each time Claimant filed the identical petition asserting the same breach of contract basis for his claim. After full briefing, the district court dismissed each claim on the same grounds as the first. *See id.* 919 F. Supp. 31 (D.D.C. 1996); 956 F. Supp. 1 (D.D.C. 1996). Claimant never appealed.

Finally, when Claimant submitted the same petition for the fifth time, the prosecutor sent Claimant's counsel a letter stating that the repeated filing of a meritless claim might subject counsel to Rule 11 sanctions, and inviting counsel voluntarily to withdraw the latest petition. After citing cases interpreting Rule 11, the letter said the following:

> I wanted to bring this information to your attention so you might consider whether to withdraw the latest claim voluntarily. If I could have the favor of your response [within two weeks], I would be grateful.

After waiting a total of 8 weeks for counsel to respond to the letter, the Government filed a motion for Rule 11 sanctions. But the court nevertheless denied the motion because the Government failed to comply with the "warning" requirement of Rule 11(c)(1)(A). That provision states that counsel must give an opposing party a warning that it is planning to file a request for sanctions and give that party an opportunity to withdraw the offending pleading voluntarily. The court acknowledged that the Government had attempted to comply with the requirement by sending the quoted letter, but it found that the letter was inadequate.

The Government's letter, the court held, merely mentioned the possibility of Rule 11 sanctions and suggested that counsel withdraw the petition. It did not explicitly warn counsel that if he did not withdraw the petition, the Government would request sanctions. "Although the Court is reluctant to say anything that could be taken as criticizing counsel for being too polite, the Government's letter to petitioner's counsel is too tentative" to satisfy the warning requirement.

The court held, however, that the warning requirement does not apply to sanctions imposed by the court on its own initiative under Rule 11(c)(1)(B). Accordingly, after noting that the Government "appears to have stated a strong case for sanctions on

the merits," the court directed counsel to show cause why it should not impose sanctions on its own motion. —*SDC*

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Scarfone), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997).
Contact: AFMLS Attorney Stefan D. Cassella, CRM20 (scassell).

Comment: As the saying goes, "nice guys finish last." The lesson for the future is that any warning to counsel regarding Rule 11 sanctions must be explicit, "If you do not withdraw this pleading by this date, I will move for sanctions." There is no room for being subtle or diplomatic, even if, as in this case, opposing counsel is a former U.S. Attorney. —*SDC*

Timeliness of Claim / Excusable Neglect

- **Court accepts claim filed seven years late where case was still pending and there was no showing of prejudice to the Government.**

In 1990, the United States filed a civil judicial forfeiture action against several parcels of real property, alleging that they were purchased by Brian Degen, a fugitive living in Switzerland, with the proceeds of his large-scale marijuana trafficking operation. Degen titled some of the properties in his name and some of the properties in the names of nominees. Only Brian and his wife Karyn Degen filed claims to the property.

After the Supreme Court rejected the application of the fugitive disentitlement doctrine in this case and remanded the case to the lower courts, *Degen v. United States*, 116 S. Ct. 1777 (1996), the district court awarded Brian Degen the net rents that had accrued from the date of seizure because the properties were seized without prior notice and an opportunity to be heard in violation of the Supreme Court's ruling in *United States v. James Daniel Good Real Property*, 510 U.S. 43 (1993), which was applied retroactively to this case. One of the properties was titled in the names of Brian Degen and Violet Degen, Brian's mother, as joint tenants. Notwithstanding the record title, Brian Degen argued that he should receive all of the rents because his mother had subsequently conveyed her entire interest to him. The district court was not persuaded and awarded Degen only 50 percent of the rents.

After the court's ruling, and seven years after the case was initiated, Violet Degen filed a claim to the property. The Government opposed, arguing that the claim was untimely since it was not filed within ten days of service of process (when the properties were seized) as required by Rule C(6) of the Supplemental Rules for Certain Admiralty and Maritime Claims. In her motion for leave to file her claim out of time, Violet Degen alleged that her untimeliness should be excused because she did not believe that she possessed an ownership interest in the property at the time the forfeiture action was filed. She explained that she had intended to convey the entire property to her son, and believed that she had done so up until the court's recent ruling on the return of rents.

In granting Violet Degen's motion, the court relied primarily on *United States v. Borrowed*, 945 F.2d

750 (4th Cir. 1991), which applied the "excusable neglect" standard of Fed. R. Civ. P. 6(b)(2) to untimely claims in a civil *in rem* forfeiture action. In *Borrowed*, the Fourth Circuit identified several factors to be considered in evaluating whether the delay was excusable: (1) the time the late claimant became aware of the seizure; (2) the propriety of the process employed by the Government; (3) the likelihood of prejudice to the Government by permitting the untimely claimant to proceed; (4) conduct by the Government tending to delay or mislead the claimant; (5) whether the claimant at least informed the Government of her intent to file a claim prior to the expiration of the ten-day time limit; (6) the *bona fides* of the claimant; (7) her health; (8) whether the claimant was appearing *pro se*; and (9) whether the Government had complied with the applicable rules of procedure.

The court considered these factors and found that Violet Degen's explanation for the delay was not incredible and that, while most of the factors weighed in the Government's favor, the Government could not demonstrate that it would be prejudiced by the untimely claim. The court explained that there was no prejudice to the Government because the case was essentially at square one—much of the seven years was spent litigating the issue of the Fugitive Disentitlement Doctrine in the court of appeals and the Supreme Court, and there has been no discovery on the merits of the case with claimant Brian Degen. As a result, the court found that Violet Degen's claim would be in the same procedural posture as Brian Degen's claim, and that the equities weighed in favor of allowing Violet Degen to proceed with her claim.

—MDR

United States v. Real Property Located at Incline Village, ___ F. Supp. ___, 1997 WL 431781 (D. Nev. July 2, 1997). Contact: AFMLS Attorneys Harry Harbin, CRM20(hharbin), and Mark Rubino, CRM20(mrubino).

EAJA Fees

- **Plaintiff is not entitled to attorneys' fees and costs under the Equal Access to Justice Act (EAJA) where Government's detention of plaintiff's bank account for 113 days before its return was substantially justified by the need to prevent movement of funds while the Government determined extent of illegal activity at the bank.**

- **The Government's diligent response to plaintiff's innocent ownership representations militates against the award of EAJA fees.**

Plaintiff's corporate bank account was frozen pursuant to a temporary restraining order and then seized for forfeiture pursuant to a seizure warrant. Hundreds of other accounts were seized as part of a yearlong investigation of narcotic money laundering activities involving accounts at the same bank.

The Government promptly advised the corporation that the account was frozen and that an administrative forfeiture proceeding was being commenced. When the corporation asserted that the account was an innocent operating account without which it would go out of business, the Government instructed the corporation to file a claim and cost bond with the Drug Enforcement Administration (DEA) in the administrative forfeiture process before it would discuss whether the funds should be released.

Disregarding these instructions, the corporation sent the Government a demand letter, and filed a lawsuit demanding release of the account or an emergency probable cause hearing. When the Government again advised the corporation that it could not act until a claim and cost bond were filed, the corporation contacted DEA and arranged to do so.

At this point, six weeks after the account was frozen, the Government worked out an oral agreement with the corporation whereby the Government would inspect the corporation's records and, within ten days, either file a complaint for forfeiture or agree to return the funds. In return, the corporation agreed to withdraw its motion for an emergency hearing.

After review of the corporate records, the Government agreed to return the cost bond and the seized funds, but the corporation refused to resolve the matter without addressing its attorneys' fees. The Government nevertheless declined to initiate a judicial forfeiture, and DEA had to return the seized money. Ultimately, the Government agreed to settle the lawsuit and return the seized funds and the cost bond in return for a request for dismissal that would not affect the corporation's right to seek attorneys' fees under EAJA.

In its motion for EAJA fees, the corporation alleged that there was no basis for the detention and seizure of its bank account and that the Government had failed to conduct a proper investigation. The Magistrate Judge ruled that the Government had satisfactorily established that its position was "substantially justified."

The Magistrate Judge ruled that the TRO against all the accounts, including those belonging to the plaintiff's corporation, was substantially justified by the Government's need to prevent removal of the funds in those accounts after the execution of the search warrants while the Government determined which accounts were involved in the illegal activity. The court also pointed out that 18 U.S.C. § 1345(a)(1)(B) and 31 U.S.C. § 5320 specifically authorized the TRO. The court also found that the Government's subsequent seizure of plaintiff's account for forfeiture was substantially justified because it was supported by ample probable cause given: the investigators' initial inability to locate the account's bank file during the initial search; the file's subsequent discovery in a back room at the bank among other files known to the DEA as accounts created for international drug traffickers; and the account's connections with nominee account deliveries from Colombia. Additionally, one of plaintiff's corporate officers, who had previously been the subject of several other DEA investigations, was associated with three other nominee accounts at the bank, and 44 kilograms of cocaine from Colombia seized in 1991 had been addressed to either the plaintiff corporation or its associated company.

In conclusion, the Magistrate Judge ruled that the Government had acted diligently and reasonably at every stage of the 113-day detention of the plaintiff's bank account. The court stressed that the Government had advised the plaintiff corporation at the outset that it would meet to resolve the case as soon as plaintiff filed a claim and bond; hence the initial delay was due to the corporation's insistence on filing a lawsuit instead. Additionally, the court pointed out that when the Government met with the plaintiff, it established process for prompt consideration of the innocent owner claim. It was plaintiff's insistence on attorneys' fees rather than Government procrastination that further delayed the return of plaintiff's funds. —*JHP*

Importex International, Inc. v. Unites States and DEA, No.96-2134-CIV-Moreno (S.D. Fla. July 18, 1997) (unpublished). Contact: AUSA Robert Knabe, AFLS02(rknabe).

Standing

- **Claimant must demonstrate standing before court will consider claim of inadequate notice.**

The Government provided notice of the forfeiture action to the record owner of real property by personally serving him with the complaint for forfeiture. However, the record owner filed no claim, and an order of forfeiture was entered. More than a year later, the record owner sent a letter to the court identifying himself as the owner of the property and requesting the court to stay its sale. The court treated the letter as a motion to set aside the default judgment. After the parties briefed the issue, the court denied the record owner's motion. Subsequently, the record owner's son-in-law (a convicted drug-dealer) moved for relief from final judgment asserting that he was the true owner and had not been properly notified of the forfeiture action.

The court ruled that a person claiming inadequate notice must first demonstrate an interest in the seized property sufficient to satisfy the court of his standing as a claimant, *see, e.g., United States v. $500,00*, 730 F.2d 1437, 1439 (11th Cir. 1984), and must do so by some evidence beyond the mere allegation that he has an interest in the property, *Torres v. $36,256.00 in U.S. Currency*, 25 F.3d 1154,1160 (11th Cir. 1994). The court pointed out that the son-in-law had not provided any evidence of his ownership or interest in the property and that at the time the Government filed its forfeiture complaint, there was a warranty deed in the official records of the county that listed the father-in-law as the owner. In addition, the father-in-law stated in his pleadings that the son-in-law had given him the property as a gift. Consequently, inasmuch as the son-in-law failed to establish an interest in the property sufficient to entitle him to notice, no notice to him was required.

—*JHP*

United States v. One Parcel of Real Estate at 3850 S.W. 126th Court, No. 91-0096-CIV-DAVIS (S.D. Fla. Aug. 18, 1997) (unpublished). Contact: AUSA Arimentha Walkins, AFLS02(awalkins).

Administrative Forfeiture / Rule 41(e) / Notice / Delay

- **After conviction and sentencing, Rule 41(e) motion does not apply to challenge to the validity of a civil administrative forfeiture.**
- **Due process does not require that claimant actually receive notice.**
- **Eight-month delay in commencing administrative forfeiture proceedings until evidentiary use of seized property in criminal case was completed did not violate due process.**

Customs agents seized computer equipment from Defendant's residence. Defendant was indicted in the same month, entered a guilty plea two months later, and was sentenced seven months after that. A month before the sentencing (eight months after the seizure) the U.S. Customs Service initiated administrative

forfeiture proceedings against the computer equipment. Customs sent a certified letter to Defendant's residence notifying him of the forfeiture proceeding but it was returned as "unclaimed." Customs also published notice. When Defendant's attorney conferred with the prosecutor concerning return of Defendant's property, the prosecutor referred counsel to the U.S. Customs Service.

A month after the U.S. Customs Service completed the administrative forfeiture of the computer equipment, Defendant's counsel sent letters to the prosecutor advising that her calls to Customs had not been returned and repeating Defendant's request for return of his property. The prosecutor informed counsel that he would contact the U.S. Customs Service and subsequently asked counsel to contact Customs again. When the U.S. Customs Service finally informed counsel that the computer equipment had been forfeited, Defendant moved for return of the equipment pursuant to Rule 41(e) asserting that he had not received adequate notice and that the eight-month delay in initiation of the forfeiture proceeding violated his due process rights.

Relying on *United States v. Watkins*, 120 F.3d 254 (11th Cir. 1997), the court ruled that Rule 41(e) does not apply in actions challenging the validity of the forfeiture of property in a civil administrative proceeding. The court recognized that federal courts may exercise equitable jurisdiction over agency forfeiture decisions under limited circumstances. *See In the Matter of $67,470*, 901 F.2d 1540 (11th Cir. 1990); *United States v. Castro*, 883 F.2d 1018 (11th Cir. 1989). However, the court held that Defendant's claims failed to touch on either of the purposes for which equitable jurisdiction in a criminal case may be invoked (*i.e.*, suppression of evidence pre-indictment and discouraging unlawful police conduct through suppression of illegally obtained evidence). The court held that the exercise of equitable jurisdiction in a criminal case, after the conviction and sentencing, concerning what is, as a result, exclusively a civil administrative matter would be inappropriate and that Defendant's avenue of relief, if relief is warranted, would be in a separate civil action.

The court added that, even if it assumed equitable jurisdiction, the Defendant's claim would fail because the applicable statute (19 U.S.C. § 1607) and due process, *see Mullane v. Central Hanover Bank and Trust* Co., 339 U.S. 306, 314 (1950), do not require that notice actually be received, but only that it be sent, published, and be reasonably calculated under the circumstances to afford an opportunity to be heard. The court ruled that the certified mail notice sent to Defendant's correct address and the publication notice met these statutory and constitutional requirements even though Defendant did not receive actual notice and had to contact Customs to discover what had happened to his property.

The court also ruled that the eight-month delay between the seizure and initiation of the forfeiture action did not violate Defendant's due process rights under the four-part balancing test of *United States v. $8,850*, 461 U.S. 555 (1983) (length of delay; justification for delay; claimant's assertion of right to hearing; and prejudice to claimant resulting from delay). The court ruled that the Government's use of the seized property as evidence in a criminal investigation justified the eight-month delay and pointed out that defendant had not demonstrated that he had sought a hearing or that the delay had prejudiced his ability to defend against the forfeiture.

—JHP

United States v. Randall, Crim. No. 96-T-052N (M.D. Ala. Sept. 15, 1997). Contact: AUSA John Harmon, AALM01(jharmon).

Notice / Attorney-Client Privilege

- **Fifth Circuit affirms perjury conviction of defendant who falsely claimed that he did not receive notice of administrative forfeiture.**

- **Evidence that defendant contacted lawyers to obtain representation in a forfeiture case may be used to show defendant had notice of the forfeiture.**

Plaintiff sued to recover money that had been administratively forfeited, on the ground that he was not given notice of the forfeiture. In rebuttal, the Government introduced documentary and oral testimony of lawyers whom plaintiff had unsuccessfully solicited to handle his forfeiture case. This evidence established conclusively that plaintiff had received notice of the forfeiture. He lost his suit to recover the money.

Then, based on his false testimony that he had not received notice, he was convicted of perjury. The **Fifth Circuit** affirmed the conviction and also the admission of the evidence obtained from the lawyers. It held that appellant bore the burden of proving that the lawyer-client privilege applied to his contacts with those lawyers. However, he could not satisfy this burden because of a rebuttable presumption that a person asking an attorney for representation is not making a confidential communication. And, in any event, a violation of the privilege in this case would have been harmless error. *—BB*

United States v. Robinson, ___ F.3d ___, 1997 WL 534150 (5th Cir. Aug. 29, 1997).
Contact: AUSA Joe Lockhart, ATXN01(jlockhar).

Section 1983 / Prosecutor's Immunity

- **Third Circuit holds that county governmental entities are not liable for failure to return seized property promptly pursuant to court order, but that the prosecutors would be if their office had a policy of indifference to such court orders.**

Plaintiffs are a large family who sued state offices and prosecutors under 42 U.S.C. § 1983 for delaying the return of seized property. State officers raided a marijuana farm operated by the family and seized the farm and personalty. The family obtained a court order for the return of the property. The Government returned it piecemeal, and only after further orders were issued by the court. Plaintiffs sued for violations of the U.S. Constitution and for state tort and contract claims. The district court entered summary judgment for the defendants.

The **Third Circuit** reversed the summary judgment as to the prosecutors, and remanded. It held that a prosecutor is only entitled to qualified immunity for his conduct with respect to the management and retention of seized property if his conduct did not violate clearly established statutory or constitutional rights of which a reasonable person

would have known. It found that a material issue of fact existed; the prosecutors stated that they didn't return the property because the family members were arguing among themselves over ownership, an assertion which the family members denied.

As for the defendant state offices, the court held that a political entity is not liable on a simple theory of *respondeat superior*. It is liable on a claim such as the instant one only if it had an actionable policy or custom. In this case, an actionable policy or custom would exist only if the county and the district attorney's office were deliberately indifferent as to a need to train the prosecutors. Since it found that the record does not contain evidence of deliberate indifference, it upheld the summary judgment with respect to these defendants. —*BB*

Reitz v. County of Bucks, ___ F.3d ___, 1997 WL 547942 (3d Cir. Sept. 8, 1997).

Quick Notes

■ Money Laundering

The defendant in a money laundering case is required to forfeit the property that was the subject of the financial transaction, including the criminal proceeds being laundered. The forfeiture is mandatory, and the Government is entitled to a money judgment for the amount subject to forfeiture. Where the same amount is already subject to criminal forfeiture under other counts in the same indictment, the court will reduce the amount of the judgment to eliminate "double counting."

United States v. Cleveland, 1997 WL 537707 (E.D. La. 1997). Contact: AUSA Lymon Thornton, ALAM01(lthornto).

AFMLS New E-mail Address

The Department of Justice is switching computer systems—replacing the old Eagle system with JCON. The Asset Forfeiture and Money Laundering Section (AFMLS) is the first section in the Criminal Division to switch over.

Any e-mail messages that you send to AFMLS attorneys should be addressed to **CRM20**, not CRM07. Also, attorney names follow the format used by the U.S. Attorneys—*i.e.*, first initial of the first name followed by the first seven letters of the surname. For example, the e-mail addresses for Stefan Cassella and Harry Harbin is CRM20(scassell) and CRM20(hharbin), respectively.

The new JCON system also gives us the capability to send documents in WordPerfect 5.0, 6.0, and 7.0. Please notify us in advance if you will need a document in WordPerfect 5.0.

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United States v. BCCI Holdings (Luxembourg) S.A. (Petition of American Express Bank II), 961 F. Supp. 287 (D.D.C. 1997) — May 1997

United States v. Ribadeneira, 105 F.3d 833 (2d Cir. 1997) — Mar 1997

United States v. BCCI Holdings (Luxembourg) S.A.(Petition of Pacific Bank), 961 F. Supp. 287 (D.D.C. 1997) — Mar 1997

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Security Pacific International Bank), ___ F. Supp. ___, 1997 WL _____ (D.D.C. Jan. 17, 1997) — Feb 1997

Appointment of Counsel

United States v. U.S. Currency ($883,506), No. 96-CV-1004 (CBA) (E.D.N.Y. July 23, 1997) (unpublished) — Sept 1997

Appointment of Trustee

- ***United States v. BCCI Holdings (Luxembourg) S.A. (Application of Clifford and Altman)***, ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997) — Oct 1997

Attorney-Client Privilege

- ***United States v. Robinson***, ___ F.3d ___, 1997 WL 534150 (5th Cir. Aug. 29, 1997) — Oct 1997

Attorney's Lien

United States v. Murray, 963 F. Supp. 52 (D. Mass. 1997) (unpublished) — May 1997

Bankruptcy

In re: Brewer, 209 B.R. 575 (Bankr. S.D. Fla. 1996) — July 1997

United States v. Ken International Co., Ltd.,113 F.3d 1243 (9th Cir. 1997) — June 1997

Bifurcated Proceedings

United States v. Ruedlinger, No. 96-40045, 1997 WL 161960 (D. Kan. Mar. 7, 1997) (unpublished) — May 1997

Bill of Particulars

United States v. Bellomo, 954 F. Supp. 630 (S.D.N.Y. 1997) — Feb 1997

Bona Fide Purchaser

United States v. Toyfoya, No. CR-93-0505-EFL (N.D. Cal. Mar. 27, 1997) (unpublished) — June 1997

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of American Express Bank II), 961 F. Supp. 287 (D.D.C. 1997) — May 1997

Burden of Proof

United States v. $49,576.00 U.S. Currency, 116 F.3d 425, (9th Cir. 1997) — July 1997

United States v. One Beechcraft King Air 300 Aircraft, 107 F. 3d 829 (11th Cir. 1997) — Apr 1997

United States v. Rogers, 102 F.3d 641 1996 (1st Cir. Dec. 23, 1996) — Jan 1997

Choice of Law

- *United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Bank of New York)*, ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997) — Oct 1997
- *United States v. BCCI Holdings (Luxembourg) S.A. (Petitions of People's Republic of Bangladesh and Bangladesh Bank)*, ___ F. Supp. ___, 1997 WL 580384 (D.D.C. Aug. 26, 1997) — Oct 1997

Civil Rights Violation

Hines v. LeStrange, No. C-96-4433, 1997 WL 37543 (N.D. Cal. Jan. 27, 1997) — Mar 1997

CMIR Forfeiture

United States v. U.S. Currency ($883,506), No. 96-CV-1004 (CBA) (E.D.N.Y. July 23, 1997) (unpublished) — Sept 1997

United States v. Delgado, 956 F. Supp. 1523 (S.D. Fla. 1997) — Mar 1997

United States v. $46,588.00 in United States Currency, 103 F.3d 902 (9th Cir. 1996) — Jan 1997

Collateral Estoppel

Scott v. United States, 950 F. Supp. 381 (D.D.C. 1996) — Feb 1997

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United States v. Bongiorno, 106 F.3d 1027 (1st Cir. 1997) — Mar 1997

Confidential Informants

- ***United States v. Property Identified as: Lot Numbered 718***, ___ F. Supp. ___, No. 96-2100, 1997 WL 420331 (D.D.C. July 24, 1997) — Oct 1997

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- ***United States v. $506,231 in United States Currency***, ___F.3d ___, 1997 WL 549537 (7th Cir. Sept. 3, 1997) — Oct 1997

Constructive Trust

United States v. Herbawi, No. 95-CR-06040, 1997 WL 416897 (W.D.N.Y. July 16, 1997) (unpublished) — Sept 1997

United States v. Ribadeneira, 105 F.3d 833 (2d Cir. 1997) — Mar 1997

Cost Bond

Arango v. U.S. Dept. of the Treasury, 115 F. 3d 922 (11th Cir. 1997) — July 1997

Court of Claims

- ***Bernaugh v. United States***, ___ F. Cl. ___, 1997 WL 447013 (Fed. Cl. Ct. July 31, 1997) — Oct 1997
- ***United States v. Brandino***, No. 95-626-CR-RYSKAMP (S.D. Fla Jun. 27, 1997) — Oct 1997

Criminal Forfeiture

- ***United States v. BCCI Holdings (Luxembourg) S.A. (Application of Clifford and Altman)***, ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997) — Oct 1997
- ***United States v. Brandino***, No. 95-626-CR-RYSKAMP (S.D. Fla Jun. 27, 1997) — Oct 1997

Aronson v. City of Akron, 116 F.3d 804 (6th Cir. 1997) — Sept 1997

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Banco Central Del Uruguay), ___F. Supp. ___, 1997 WL 580485 (D.D.C. Aug. 26, 1997) — Sept 1997

United States v. Zizzo, ___F.3d.___, 1997 WL 422786 (7th Cir. July 29, 1997) — Sept 1997

United States v. Gaviria, 116 F.3d 1498 (D.C. Cir. 1997) — Aug 1997

United States v. Siegal, Crim. No. 97-10002 (PBS) (D. Mass. June 25, 1997) — Aug 1997

United States v. White, 116 F.3d 948 (1st Cir. 1997) — July 1997

United States v. Rosario, 110 F.3d 293 (2d Cir. 1997) — May 1997

United States v. Ruedlinger, No. 96-40045, 1997 WL 161960 (D. Kan. Mar. 7, 1997) (unpublished) — May 1997

United States v. Ramsey, No. 95-2854, 1997 U.S. App. Lexis 565 (7th Cir. Jan. 9, 1997) (unpublished) — Mar 1997

United States v. McHan, 101 F.3d 1027 (4th Cir. 1996) — Jan 1997

United States v. Rogers, 102 F.3d 641 (1st Cir. 1996) — Jan 1997

Cross Claims

United States v. All Right...in the Contents of ...Accounts at Morgan Guaranty Trust Co., No. 95-CIV-10929, 1996 WL 695671 (S.D.N.Y. Dec. 5, 1996) — Jan 1997

Damages

Aronson v. City of Akron, 116 F.3d 804 (6th Cir. 1997) — Sept 1997

Default Judgment

United States v. Property Identified as 25 Pieces of Assorted Jewelry, Civ. A. No. 95-1803, 1996 WL 724938 (D.D.C. Dec. 4, 1996) — Feb 1997

Delay

- ***United States v. Randall***, Crim. No. 96-T-052N, 1997 WL 583243 (M.D. Ala. Sept. 15, 1997) — Oct 1997

Delay in Filing Complaint

United States v. U.S. Currency ($883,506), No. 96-CV-1004 (CBA) (E.D.N.Y. July 23, 1997) (unpublished) — Sept 1997

United States v. $274,481, Civ. No. 94-2128CCC (D.P.R. May 29, 1997) — July 1997

United States v. Computer Equipment Valued at $819,026 Seized from Susco International, No. 95-CV-0492, 1996 WL 684431 (E.D.N.Y. Nov. 20, 1996) — Jan 1997

Discovery

United States v. Funds On Deposit in Account No. 143000680 At Sterling Bank, No. H-97-1537 (S. D. Tex. Aug. 14, 1997) — Sept 1997

United States v. Property Identified as: Lot Numbered 718, No. 96-2100, 1997 WL 280603 (D.D.C. May 16, 1997) — Aug 1997

United States v. Seven Pieces of Assorted Jewelry, No. 96-6628-Civ-Ryskamp (S.D. Fla. Apr. 10, 1997) (unpublished) — June 1997

United States v. BCCI Holdings (Luxembourg) S.A. (Petition of Banque Indosuez), 961 F. Supp. 282 (D.D.C. 1997) — May 1997

United States v. One Tract of Real Property . . . Little River Township, 107 F.3d 868 (4th Cir. 1997) (unpublished) — Apr 1997

Disposition of Property

United States v. Kramer, 957 F. Supp. 223 (S.D. Fla. 1997) — May 1997

Double Jeopardy

United States v. U.S. Currency ($883,506), No. 96-CV-1004 (CBA) (E.D.N.Y. July 23, 1997) (unpublished) — Sept 1997

United States v. Amlani, 111 F.3d 705 (9th Cir. 1997) — May 1997

United States v. Jones, 111 F.3d 597 (8th Cir. 1997) — May 1997

United States v. Perez, 110 F.3d 265 (5th Cir. 1997) — May 1997

United States v. Vaughn, 111 F.3d 610 (8th Cir. 1997) — May 1997

United States v. Emmons, 107 F.3d 762 (10th Cir. 1997) — Mar 1997

Due Process

Gete v. Immigration and Naturalization Service, ___F.3d___, 1997 WL 431837 (9th Cir. Aug. 4, 1997) — Sept 1997

United States v. $274,481, Civ. No. 94-2128CCC (D.P.R. May 29, 1997) — July 1997

United States v. $49,576.00 U.S. Currency, 116 F.3d 425 (9th Cir. 1997) — July 1997

United States v. One Samsung Computer, No. 94-1615, 1997 WL 104974 (E.D. La. March 7, 1997) (unpublished) — Apr 1997

Scott v. United States, 950 F. Supp. 381 (D.D.C. 1996) — Feb 1997

United States v. Computer Equipment Valued at $819,026 Seized from Susco International, No. 95-CV-0492, 1996 WL 684431 (E.D.N.Y. Nov. 20, 1996) — Jan 1997

EAJA Fees

- *Importex International, Inc. v. United States and DEA*, No. 96-2134-CIV-Moreno (S.D. Fla. July 18, 1997) (unpublished) — Oct 1997

United States v. Eleven Vehicles, 966 F. Supp. 361 (E.D. Pa. 1997) — July 1997

Town of Sanford v. United States, 961 F. Supp. 16 (D. Me. 1997) — June 1997

Creative Electric, Inc, v. United States, No. 95-CV-302, 1997 WL 151779 (N.D.N.Y. Mar. 28, 1997) (unpublished) — May 1997

United States v. $5,000 in U.S. Currency, 107 F. 3d 871 (6th Cir. 1997) (unpublished) — Mar 1997

Excessive Fines

United States v. Premises Known as 6040 Wentworth Avenue South, ___F.3d___, 1997 WL 488923 (8th Cir. Aug. 25, 1997) — Sept 1997

United States v. Hosep Krikor Bajakajian, No. 96-1487, Government's brief filed July 14, 1997. — Aug 1997

United States v. Real Property Titled in the Names of Kang and Lee, 120 F.3d 947 (9th Cir. 1997) — Aug 1997

United States v. Bajakajian, 117 S. Ct. 1841, (1997) (granting certiorari) — June 1997

United States v. Toyfoya, No. CR-93-0505-EFL (N.D. Cal. Mar. 27, 1997) (unpublished) — June 1997

United States v. One Parcel of Real Estate at 10380 S. W. 28th Street, (S.D. Fla. 1997) (unpublished) — May 1997

Ezennwa v. United States, No. 93-CV-2789, 1997 WL 63318 (E.D.N.Y. Feb. 12, 1997) — Apr 1997

United States v. Alexander, 100 F.3d 853 (8th Cir. 1997) — Apr 1997

United States v. Property Identified as 1813 15th Street, N.W., 956 F. Supp. 1029 (D.D.C. 1997) — Apr 1997

United States v. Tencer, 107 F.3d 1120 (5th Cir. 1997) — Apr 1997

United States v. Delgado, 956 F. Supp. 1523 (S.D. Fla. 1997) — Mar 1997

United States v. One Parcel of Property (Edmonson),106 F.3d 336 (10th Cir. 1997) — Mar 1997

United States v. One 1988 Prevost Liberty Motor Home, 952 F. Supp. 1180 (S.D. Tex. 1996) — Mar 1997

United States v. Property Identified as 25 Pieces of Assorted Jewelry, Civ. A. No. 95-1803, 1996 WL 724938 (D.D.C. Dec. 4, 1996) — Feb 1997

King v. United States, 949 F. Supp. 787 (E.D. Wash. 1996) — Jan 1997

United States v. Deninno, 103 F.3d 1027 (10th Cir. 1996) — Jan 1997

United States v. 5307 West 90th Street, 955 F. Supp. 881 (N.D. Ill. 1996) — Jan 1997

United States v. $350,000, No. 92-CV-4011, 1996 WL 706821 (E.D.N.Y. Dec. 6, 1996) — Jan 1997

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- ***United States v. Real Property Located at Incline Village,*** ___ F. Supp. ___, 1997 WL 431781 (D. Nev. July 2, 1997) — Oct 1997

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United States v. Tencer, 107 F.3d 1120 (5th Cir. 1997) — Apr 1997

United States v. Rogers, 102 F.3d 641 (1st Cir. 1996) — Jan 1997

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United States v. One Parcel Property Located at 414 Kings Highway, No. 5:91-CV-158 (D. Conn. July 3, 1996) — Jan 1997

False Statements

United States v. Tracy, 108 F.3d (2d Cir. 1997) — Apr 1997

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United States v. Murray, 963 F. Supp. 52 (D. Mass. 1997) — May 1997

Firearms

United States v. Indelicato, 964 F. Supp. 555 (D. Mass. 1997) — July 1997

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United States v. Real Property Titled in the Names of Kang and Lee, 120 F.3d 947 (9th Cir. 1997) — Aug 1997

Good Hearing

United States v. One 1988 Prevost Liberty Motor Home, 952 F. Supp. 1180 (S.D. Tex. 1996) — Mar 1997

Good Violation

United States v. All Assets and Equipment of West Side Building Corp., No. 89-C2736, 1997 WL 187319 (N.D. Ill. Apr. 10, 1997) (unpublished) — June 1997

United States v. 408 Peyton Road, S.W., 112 F.3d 1106 (11th Cir. 1997) — June 1997

Cameron v. Drug Enforcement Administration, 995 F. Supp. 92 (D.P.R. 1997) — Apr 1997

United States v. All Assets and Epuipment of West Side Building Corp., 1997 U.S. Dist. LEXIS 150 (N.D. Ill. Jan. 9, 1997) — Mar 1997

United States v. Marsh, 105 F.3d 927 (4th Cir. 1997) — Mar 1997

United States v. Real Property Located at Incline Village, 958 F. Supp. 482 (D. Nev. Jan. 30, 1997) — Mar 1997

Habeas Corpus

Hines v. LeStrange, No. C-96-4433, 1997 WL 37543 (N.D. Cal. Jan. 27, 1997) — Mar 1997

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United States v. $271,070.00 in United States Currency, No. 96-C-239, 1997 WL 106307 (N.D. Ill. Feb. 12, 1997) — Apr 1997

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United States v. Rogers, 102 F.3d 641 (1st Cir. 1996) — Jan 1997

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Conrod v. Davis, 120 F.3d 92 (8th Cir. 1997) — Aug 1997

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Town of Sanford v. United States, 961 F. Supp. 16 (D. Me. 1997) — June 1997

United States v. One Tract of Real Property . . . Little River Township, 107 F.3d 868 (4th Cir. 1997) (unpublished) — Apr 1997

United States v. Property Identified as 1813 15th Street, N.W., 956 F. Supp. 1029 (D.D.C. 1997) — Apr 1997

United States v. One 1988 Prevost Liberty Motor Home, 952 F. Supp. 1180 (S.D. Tex. 1996) — Mar 1997

United States v. One Parcel Property at Lot 22, No. 94-1264, 1996 WL 695404 (D. Kan. Nov. 14, 1996) — Jan 1997

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United States v. $133,735.30, Civ. No. 93-1423-JO (D. Or. Jan 13, 1997) — Feb 1997

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United States v. $46,588.00 in United States Currency, 103 F.3d 902 (9th Cir. 1996) — Jan 1997

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United States v. One Parcel Property Located at 414 Kings Highway, No. 5:91-CV-158 (D. Conn. July 3, 1996) — Jan 1997

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United States v. Gaviria, 116 F.3d 1498 (D.C. Cir. 1997) — Aug 1997

United States v. McHan, 101 F.3d 1027 (4th Cir. 1996) — Jan 1997

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- *United States v. Messino*, ___ F.3d___, 1997 WL 473280 (7th Cir. Aug 20, 1997) Sept 1997

Laches

United States v. Marolf, ___F. Supp. ___, 1997 WL 400804 (C.D. Cal. July 11, 1997) Aug 1997

Vance v. United States, 965 F. Supp. 944 (E.D. Mich. 1997) May 1997

Ikelionwu v. United States, No. 96-CV-519, 1997 WL 36989 (E.D.N.Y. Jan. 7, 1997) Feb 1997

Legitimate Source Defense

United States v. $15,200 in United States Currency, No. EV 96-60-C R\H (S.D. Ind. Dec. 31, 1996) (unpublished) Mar 1997

Lis Pendens

Aronson v. City of Akron, 116 F.3d 804 (6th Cir. 1997) Sept 1997

United States v. Scardino, 956 F. Supp. 774 (N.D. Ill. 1997) Feb 1997

United States v. St. Pierre, 950 F. Supp. 334 (M.D. Fla. 1996) Feb 1997

Marshals Service

United States v. Matthews, 106 F.3d 1092 (2d Cir. 1997) Mar 1997

Marital Privilege

United States v. Yerardi, Crim. No. 93-10278 (REK) (D. Mass. May 5, 1997) (unpublished) June 1997

Money Laundering

- *United States v. Cleveland*, No. Crim. A. 96-207, 1997 WL 537707 (E.D. La. 1997) Oct 1997
- *United States v. Leak*, ___ F.3d ___, 1997 WL _____ (4th Cir. Aug 26, 1997) Oct 1997

United States v. All Funds on Deposit...Perusa, Inc., No. CV-96-3081 (E.D.N.Y. June 18, 1997) Aug 1997

United States v. Tencer, 107 F.3d 1120 (5th Cir. 1997) Apr 1997

United States v. One 1988 Prevost Liberty Motor Home, 952 F. Supp. 1180 (S.D. Tex. 1996) — Mar 1997

Motion for Return of Property

Stasio v. United States, No. 96-CV 1734, 1997 WL 36981 (E.D.N.Y. Jan. 17, 1997) — Mar 1997

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United States v. U.S. Currency in the Amount of $146,800, No. 96-CV-4882, 1997 WL 269583 (E.D.N.Y. Apr. 28, 1997) — July 1997

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- ***United States v. Randall***, Crim. No. 96-T-052N, 1997 WL 583243 (M.D. Ala. Sept. 15, 1997) — Oct 1997
- ***United States v. Robinson***, ___ F.3d ___, 1997 WL 534150 (5th Cir. Aug. 29, 1997) — Oct 1997

Gete v. Immigration and Naturalization Service, ___F.3d___, 1997 WL 431837 (9th Cir. Aug. 4, 1997) — Sept 1997

U.S. v. One 1990 GMC Jimmy, VIN: 1GKEV18K4LF504365, ___F. Supp. ___, 1997 WL 450665 (E.D. Mich. Aug. 6, 1997) — Sept 1997

United States v. Marolf, ___F. Supp. ___, 1997 WL 400804 (C.D. Cal. July 11, 1997) — Aug 1997

Gonzalez v. United States, Nos. 92-CR-101, 97-Civ-3665, 97-3666 1997 WL 278123 (S.D.N.Y. May 23, 1997) (unpublished) — July1997

Quinones v. U.S. Dept. of Justice, DEA, No. 95-C-6347, 1997 WL 337242 (N.D. Ill. Jun. 17, 1997) — July 1997

Owens v. United States, No. 96-CV-5928, 1997 WL 177863 (E.D.N.Y. Apr. 3, 1997) (unpublished) — June 1997

Town of Sanford v. United States, 961 F. Supp. 16 (D. Me. 1997) — June 1997

Boero v. Drug Enforcement Administration, 111 F.3d 301 (2d Cir. 1997) — May 1997

Powell v. DEA, No. 95-CIV-3214, 1997 WL 160683 (S.D.N.Y. Apr. 7, 1996) (unpublished) — May 1997

United States v. Cupples, 112 F.3d 318 (8th Cir. 1997) — May 1997

United States v. One Samsung Computer, No. 94-1615, 1997 WL 104974 (E.D. La. March 7, 1997) (unpublished) — Apr 1997

United States v. Rodgers, 108 F.3d 1247 (10th Cir. 1997) — Apr 1997

Bye v. United States, 105 F.3d 856 (2d Cir. 1997) — Mar 1997

Olivo v. United States, No. 96-CIV-2620, 1997 WL 23181 (S.D.N.Y. Jan. 22, 1997) (unpublished) — Mar 1997

Scott v. United States, 950 F. Supp. 381 (D.D.C. 1996) — Feb 1997

Vasquez v. United States, No. 94-CIV-7580, 1996 WL 692001 (S.D.N.Y. Dec. 3, 1996) — Jan 1997

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- *United States v. 201-03 28th Avenue*, No. 97-CV-0472 (ILG) (E.D.N.Y. July 17, 1997) (unpublished) — Oct 1997

United States v. $59,074.00 in U.S. Currency, 959 F. Supp. 243 (D.N.J. 1997) — May 1997

Parallel Civil Forfeiture

United States v. DeCato, No. 93-10047, 1997 WL 136339 (D. Mass. Feb. 20, 1997) (unpublished) — May 1997

United States v. Jones, 111 F.3d 597 (8th Cir. 1997) — May 1997

Personal Jurisdiction

United States v. All Right...in the Contents of ...Accounts at Morgan Guaranty Trust Co., No. 95-CIV-10929, 1997 WL 220309 (S.D.N.Y. May 1, 1997) (unpublished) — June 1997

Petition for Remission or Mitigation

Gete v. Immigration and Naturalization Service, ___F.3d___, 1997 WL 431837 (9th Cir. Aug. 4, 1997) — Sept 1997

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United States v. Walker, 112 F.3d 163 (4th Cir. 1997) — June 1997

Pleading Requirements

- ***United States v. BCCI Holdings (Luxembourg) S.A.(Petition of BCCI Campaign Committee)***, ___ F. Supp. ___, 1997 WL _____ (D.D.C. Aug. 26, 1997) — Oct 1997

United States v. BCCI Holdings (Luxembourg) S.A. (Fifth Round Petition of Liquidation Comm'n for BCCI (Overseas) Macau), ___F. Supp.___, 1997 WL _____ (D.D.C. Aug. 26, 1997) — Sept 1997

Post-conviction Discovery

United States v. Yerardi, Crim. No. 93-10278 (REK) (D. Mass. May 5, 1997) (unpublished) — June 1997

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United States v. 408 Peyton Road, S.W., 112 F.3d 1106 (11th Cir. 1997) — June 1997

United States v. Real Property at 286 New Mexico Lane, No. 95-1088-CIV-ORL-19, 1996 WL 732561 (M.D. Fla. Dec. 19, 1996) — Jan 1997

Pre-Trial Restraint

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United States v. St. Pierre, 950 F. Supp. 334 (M.D. Fla. 1996) — Feb 1997

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- ***United States v. Property Identified as: Lot Numbered 718***, ___ F. Supp. ___, No. 96-2100, 1997 WL 420331 (D.D.C. July 24, 1997) — Oct 1997
- ***United States v. 201-03 28th Avenue***, No. 97-CV-0472 (ILG) (E.D.N.Y. July 17, 1997) (unpublished) — Oct 1997
- ***United States v. $405.089.23 in U.S. Currency***, ___ F.3d ___, 1997 WL 561540 (9th Cir. Sept. 11, 1997) — Oct 1997
- ***United States v. $506,231 in United States Currency***, ___F.3d ___, 1997 WL 549537 (7th Cir. Sept. 3, 1997) — Oct 1997

United States v. $88,654.00 in U.S. Currency, 116 F.3d 486 (9th Cir. 1997) — July 1997

United States v. $49,576.00 U.S. Currency, 116 F.3d 425 (9th Cir. 1997) — July 1997

United States v. U.S. Currency in the Amount of $146,800, No. 96-CV-4882, 1997 WL 269583 (E.D.N.Y. Apr. 28, 1997)

United States v. Washington, No. Crim. A-96-10060, 1997 WL 198046 (D. Kan. Jan. 17, 1997) (unpublished) — July 1997

United States v. Property Identified as 1813 15th Street, N.W., 956 F. Supp. 1029 (D.D.C. 1997) — June 1997

United States v. $271,070.00 in United States Currency, No. 96-C-239, 1997 WL 106307 (N.D. Ill. Feb. 12, 1997) — Apr 1997

United States v. One Lot of U.S. Currency ($36,634), 103 F.3d 1048 (1st Cir. 1997) — Apr 1997

United States v. Funds in the Amount of $9800, 952 F. Supp. 1254 (N.D. Ill. Dec. 23, 1996) — Feb 1997

United States v. Property Identified as 25 Pieces of Assorted Jewelry, Civ. A. No. 95-1803, 1996 WL 724938 (D.D.C. Dec. 4, 1996) — Feb 1997

United States v. Funds in the Amount of Twelve Thousand Dollars ($12,000.00) et al., No. 94-C-6397, 1996 WL 717454 (N.D. Ill. Dec. 9, 1996) — Jan 1997

United States v. $8,800 in U.S. Currency, 945 F. Supp. 521 (W.D.N.Y. 1996) — Jan 1997

Proceeds

- *United States v. Check No. 25128 in the Amount of $58,654.11*, ___ F.3d ___, 1997 WL 525515 (9th Cir. Aug. 27, 1997) — Oct 1997

United States v. McHan, 101 F.3d 1027 (4th Cir. 1996) — Jan 1997

Prosecutor's Immunity

- *Reitz v. County of Bucks*, ___ F.3d ___, 1997 WL 547942 (3d Cir. Sept. 8, 1997) — Oct 1997

Real Property

United States v. Real Property Described in Deeds, 962 F. Supp. 734 (W.D.N.C. 1997) — June 1997

Relation Back Doctrine

Town of Sanford v. United States, 961 F. Supp. 16 (D. Me. 1997) — June 1997

United State v. Scardino, 956 F. Supp. 774 (N.D. Ill. 1997) — Feb 1997

Remission Petitions

Burke v. United States Department of Justice, 968 F. Supp. 667 (M.D. Ala. 1997) (unpublished) — Aug 1997

Burke v. United States, 968 F. Supp. 672 (M.D. Ala. 1997) (unpublished) — May 1997

Res Judicata

United States v. DeCato, No. 93-10047, 1997 WL 136339 (D. Mass. Feb. 20, 1997) (unpublished) — May 1997

United States v. Murray, 963 F. Supp. 52 (D. Mass. 1997) (unpublished) — May 1997

Cameron v. Drug Enforcement Administration, 995 F. Supp. 92 (D.P.R. 1997) — Apr 1997

Restitution

United States v. Pelullo, 961 F. Supp. 736, (D.N.J. 1997) — Aug 1997

United States v. $350,000, No. 92-CV-4011, 1996 WL 706821 (E.D.N.Y. Dec. 6, 1996) — Jan 1997

Restraining Orders

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United States v. Randall, Crim. No. 96-T-052N (M.D. Ala. Sept. 15, 1997) — Oct 1997

United States v. Real Property Described in Deeds, 962 F. Supp. 734 (W.D.N.C. 1997) — June 1997

United States v. Real Property Located at Incline Village, 958 F. Supp. 482 (D. Nev. 1997) — Mar 1997

United States v. Real Property Located at Incline Village, ___ F. Supp. ___, 1997 WL 431781 (D. Nev. July 2, 1997) — Oct 1997

United States v. Real Property at 286 New Mexico Lane, No. 95-1088-CIV-ORL-19 1996 WL 732561 (M.D. Fla. Dec. 19, 1996) — Jan 1997

United States v. Real Property Title in the Names of Kang and Lee, 120 F.3d 947 (9th Cir.1997) — Aug 1997

United States v. Ribadeneira, 105 F.3d 833 (2d Cir. 1997) — Mar 1997

United States v. Robinson, ___ F.3d ___, 1997 WL 534150 (5th Cir. Aug. 29, 1997) — Oct 1997

United States v. Rodgers, 108 F.3d 1247 (10th Cir. 1997) — Apr 1997

United States v. Rogers, 102 F.3d 641 (1st Cir. 1996) — Jan 1997

United States v. Rosario, 111 F.3d 293 (2d Cir. 1997) — May 1997

United States v. Ruedlinger, No. 96-40045, 1997 WL 161960 (D. Kan. Mar. 7, 1997) (unpublished) — May 1997

United States v. Rutgard, 111 F.3d. 139 (9th Cir. 1997) (unpublished) — June 1997

United States v. Scardino, 956 F. Supp. 774 (N.D. Ill. 1997) — Feb 1997

United States v. Siegal, Crim No. 97-10002 (PBS) (D. Mass. June 24, 1997) — Aug 1997

United States v. Seven Pieces of Assorted Jewelry, No. 96-6628-Civ-Ryskamp (S.D. Fla. Apr. 10, 1997) (unpublished) — June 1997

United States v. Solis, 108 F.3d 722 (7th Cir. 1997) — Apr 1997

United States v. St. Pierre, 950 F. Supp. 334 (M.D. Fla. 1996) — Feb 1997

United States v. Tencer, 107 F.3d 1120 (5th Cir. 1997) — Apr 1997

United States v. Toma, No. 94-CR-333, 1997 WL 467280 (N.D. Ill. Aug. 6, 1997) (unpublished) — Oct 1997

United States v. Toyfoya, No. CR-93-0505-EFL (N.D. Cal. Mar. 27, 1997) (unpublished) — June 1997

United States v. Tracy, 108 F.3d 473 (2d Cir. 1997) — Apr 1997

United States v. U.S. Currency in the Amount of $146,800, No. 96-CV-4882 1997 WL 269583 (E.D.N.Y. Apr. 28, 1997) July 1997

United States v. U.S. Currency ($883,506), No. 96-CV-1004 (CBA) (E.D.N.Y. July 23, 1997) (unpublished) Sept 1997

United States v. Vaughn, 111 F.3d 610 (8th Cir. 1997) May 1997

United States v. Walker,112 F.3d 163 (4th Cir. 1997) June 1997

United States v. Washington, No. Crim. A-96-10060, 1997 WL 198046 (D. Kan. Jan. 17, 1997) (unpublished) June 1997

United States v. White, 116 F.3d 948 (1st Cir. 1997) July 1997

United States v. Yerardi, Crim. No. 93-10278 (REK) (D. Mass. May 5, 1997) (unpublished) June 1997

United States v. 47 West 644 Route 38, 962 F. Supp. 1081 (N.D. Ill. 1997) June 1997

United States v. 201-03 28th Avenue, No. 97-CV-0472 (ILG) (E.D.N.Y. July 17, 1997) (unpublished) Oct 1997

United States v. 408 Peyton Road, S.W., 112 F.3d 1106 (11th Cir. 1997) June 1997

United States v. 5307 West 90th Street, 955 F. Supp. 881 (N.D. Ill. 1996) Jan 1997

United States v. $5,000 in U.S. Currency, 1997 U.S. App. LEXIS 280 (6th Cir. Jan. 3, 1997) (unpublished) Mar 1997

United States v. $8,800 in U.S. Currency, 945 F. Supp. 521 (W.D.N.Y. 1996) Jan 1997

United States v. Funds in the Amount of $9,800, 952 F. Supp. 1254 (N.D. Ill. 1996) Feb 1997

United States v. $12,854.00 in U.S. Currency, No. Civ. A-97-0620, 1997 WL 335805 (D.D.C. Jun. 5, 1997) July 1997

United States v. $15,200 in United States Currency, No. CV-96-60-C R/H (S.D. Ind. Dec. 31, 1996) (unpublished) Mar 1997

United States v. $46,588.00 in United States Currency, 103 F.3d 902 (9th Cir. 1996) Jan 1997

United States v. $49,576.00 U.S. Currency, 116 F.3d 425 (9th Cir. June 25, 1997) July 1997

United States v. $59,074.00 in U.S. Currency, 959 F. Supp. 243 (D.N.J. 1997) May 1997

United States v. $88,654.00 in U.S. Currency, 116 F3d. 486 (9th Cir. 1997) July 1997

United States v. $133,735.30, Civ. No. 93-1423-JO (D. Or. Jan 13, 1997) Feb 1997

United States v. $146,800, No. 96-CV-4882 (E.D.N.Y. Apr. 28, 1997) (unpublished) June 1997

United States v. $271,070.00 in United States Currency, No. 96-C-239, 1997 WL 94722 (N.D. Ill. Mar. 3, 1997) (unpublished) — Apr 1997

United States v. $271,070.00 in United States Currency, No. 96-C-239, 1997 WL 106307 (N.D. Ill. Feb. 12, 1997) — Apr 1997

United States v. $274,481, Civ. No. 94-2128CCC (D.P.R. May 29, 1997) — July 1997

United States v. $350,000, No. 92-CV-4011, 1996 WL 706821 (E.D.N.Y. Dec. 6, 1996) — Jan 1997

United States v. $405.089.23 in U.S. Currency, ___ F.3d ___, 1997 WL 561540 (9th Cir. Sept. 11, 1997) — Oct 1997

United States v. $506,231 in United States Currency, __F.3d ___, 1997 WL 549537 (7th Cir. Sept. 3, 1997) — Oct 1997

Vance v. United States, 965 F. Supp. 944 (E.D. Mich. 1997) — May 1997

Vasquez v. United States, No. 94-CV-7580, 1996 WL 692001 (S.D.N.Y. Dec. 3, 1996) — Jan 1997