



# Supreme Court of Florida

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## Oral Argument Press Summaries For April 28 through April 30, 2014

*There are no arguments on May 1 or May 2.*

### Monday, April 28

Florida Virtual School etc. v K12, Inc., et al., [SC13-1934](#)  
Statewide Impact – Starts at 9:00 a.m.

The Florida Virtual School sued K12 in federal court accusing it of trademark infringement. K12 contended that the Florida Virtual School lacked standing to sue because the State of Florida owns the Florida Virtual School trademarks, and the Florida Department of State is authorized to enforce and protect state-owned trademarks. The trial court agreed and dismissed the suit. The Florida Virtual School appealed. The 11th U.S. Circuit Court of Appeals has asked this Court whether the statute creating the Florida Virtual School includes the right to file an action to protect the Florida Virtual School trademarks.

State v. Calvin Overholt Jr. & State v. Robert Oliver, [SC13-962 & SC13-1143](#)  
Okeechobee County – Starts about 9:40 a.m.

Mr. Overholt and Mr. Oliver were both convicted in separate cases of sexual battery and molestation of children. The trial court allowed the children to testify with a screen blocking their view of the defendants and the defendants' view of them. The Fourth District Court of Appeal overturned the convictions, ruling the use of the screen violated the defendants' Sixth Amendment right to confront their accusers. The State appealed each ruling to this Court, which consolidated the cases because they involved the same legal question.

John W. Campbell v. State, [SC13-716](#)  
Citrus County – Starts about 10:30 a.m.

Mr. Campbell was convicted of the first-degree murder of his father, John H. Campbell, who was fatally beaten with a hatchet in 2010. The jury voted 8-4 to recommend a death sentence and the trial court condemned Mr. Campbell to death. This is his direct appeal.

Alan Wade v. State, [SC13-1003](#)  
Duval County – Starts about 11:30 a.m.

Mr. Wade was convicted of the first-degree murders of Carol and Reggie Sumner, who were kidnapped and buried alive in 2005. The jury voted 11-1 to recommend the death penalty and the trial court condemned him for both murders. This Court upheld the death sentences on direct appeal and Mr. Wade filed a postconviction challenge in trial court. It was denied and this appeal followed.

## **Tuesday, April 29**

*Justices Pariente and Labarga are recused.*  
Inquiry Concerning A Judge Re: Barry Michael Cohen, [SC12-2244](#)  
Palm Beach County – Starts at 9:00 a.m.

Palm Beach County Judge Barry Cohen has been summoned before the Court to receive a public reprimand for ethical misconduct.

Lionel Miller v. State & Lionel Miller v. Michael Crews, etc., [SC13-516](#) & [SC13-1786](#)  
Orange County – Starts about 9:10 a.m.

Mr. Miller was convicted of the first-degree murder of Jerry Smith, who was fatally stabbed in 2006. The jury voted 11-1 to recommend a death sentence and the trial court condemned Mr. Miller. This Court upheld the death sentence on direct appeal and Mr. Miller filed a postconviction challenge in trial court. It was denied; this appeal followed.

Joseph Bearden v. State, [SC12-1314](#)  
Polk County – Starts about 9:50 a.m.

Mr. Bearden was convicted of the second-degree murder of Ryan Skipper, who was fatally stabbed in 2007. Mr. Bearden was sentenced to life in prison. On appeal he argued his trial judge erred by excluding testimony from a defense witness who would corroborate Mr. Bearden's claim that he was not present at the murder. The Second District Court of Appeal upheld his conviction. Mr. Bearden argues in this appeal that the 2nd DCA decision conflicts with a decision by the First District Court of Appeal in a separate but similar case.

**Wednesday, April 30**

Philip Morris USA Inc., et al., v. Tina Russo, et al., [SC12-1401](#)

Miami-Dade County – Starts at 9:00 a.m.

Smoker Phyllis Frazier sued Philip Morris and R.J. Reynolds, which argued her suit was filed too late and violated the four-year statute of limitations. The jury found for the tobacco companies. The Third District Court of Appeal agreed with Ms. Frazier that there wasn't enough evidence backing up the companies' argument. The 3rd DCA also ruled that the 12-year filing deadline in cases alleging fraud wasn't violated as long as the defendant has continued to commit fraud. After Ms. Frazier's death, her daughter and executor of her estate became the respondent.

Elaine Hess, et al., v. Philip Morris, USA, Inc., [SC12-2153](#)

Broward County – Starts about 9:40 a.m.

Stuart Hess died of lung cancer after 40 years of smoking. His widow sued Philip Morris and won a judgment of \$6.26 million. On appeal, the Fourth District Court of Appeal agreed with Philip Morris that Mrs. Hess had not met the 12-year filing deadline for claims based on an allegation of fraud.

Timothy Fletcher v. State, [SC12-2468](#)

Putnam County – Starts about 10:30 a.m.

Mr. Fletcher was convicted of the first-degree murder of Helen Googe, who was fatally strangled in 2009. The jury voted 8-4 to recommend a death sentence and the trial court condemned Mr. Fletcher to death. This is his direct appeal.

Alachua County, et al., v. Expedia, Inc., et al., [SC13-838](#)

Statewide Impact – Starts about 11:30 a.m.

Seventeen counties and four county tax collectors sued nine online travel companies, alleging the companies were not paying the full amount of a county tax on hotel occupancy. The companies argued they did not have to pay tax on the amount they kept as an intermediary in the reservation process because the tax was supposed to be levied on hotels rather than hotel guests. The trial court ruled for the online travel companies. So did the First District Court of Appeal, which also certified the legal question as one of great importance for this Court's review.

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