

SELECTED  
CASES VACATED IN 2003

1. *DP Solutions, Inc. v. Rollins, Inc.*, \_\_\_ F.3d\_\_\_, 2003 WL 22938477 (5th Cir. 2003 (reversed and to determine amount of attorneys fees)
2. *Will-Drill Resources, Inc. v. Samson Resources Co.*, 352 F.3d 211 (5th Cir. 2003) (Existence of arbitration agreement at issue - for arbitrator to decide)
3. *St. David's Health Care System v. U.S.*, 349 F.3d 232 (5th Cir. 2003) (partnership issues)
4. *Avondale Industries, Inc. v. Davis*, 348 F.3d 487 (5th Cir. 2003) (workers compensation issues; amount of fees awarded might be excessive; decision vacated and remanded)
5. *International Transactions, Ltd. v. Embotelladora Agral Regiomontana, SA de CV*, 347 F.3d 589 (5th Cir. 2003) (bankruptcy ex parte order; Smith dissenting)
6. *Samuels v. Hammond*, 2003 WL 22348914 (5th Cir. 2003) (unpublished) (complaint alleged sufficient chronology of events to state non-frivolous civil rights claim for retaliation)
7. *Cressman v. Ellis*, 2003 WL 22326602 (5th Cir. 2003) (unpublished) (plaintiffs stated cause of action for violations of 4<sup>th</sup> Amendment privacy rights), *on rehearing*, 2003 WL 22849802 (5<sup>th</sup> Cir. 2003)
8. *Osigwe v. Ashcroft*, 2003 WL 22287540 (5th Cir. 2003) (unpublished) (immigration issues)
9. *XL Specialty Ins. Co. v. Bollinger Shipyards Lockport LLC*, 2003 WL 22097501 (5th Cir. 2003) (unpublished) (insurance dispute and award of costs)
10. *Collins ex rel. Collins v. American Home Products Corp.*, 343 F.3d 765 (5th Cir. 2003) (district court impermissibly engaged in merits determination to be made in state court)
11. *Bridas S.A.P.I.C. v. Government of Turkmenistan*, 345 F.3d 347 (5th Cir. 2003) (arbitration issues)

12. *In re Coho Resources, Inc.*, 345 F.3d 338, 41 (5th Cir. 2003) (obligation of indemnitor with respect to underlying state court judgment was for Miss. state courts to resolve; remanded for transfer)
13. *Hunter v. Rodriguez*, 2003 WL 22070516 (5th Cir. 2003) (unpublished) (defendants were entitled to absolute immunity, and dismissal was required to be with prejudice)
14. *DeRouen v. Shoneys, Inc.*, 2003 WL 22070524 (5th Cir. 2003) (unpublished) (remanded to the district court on wage discrimination claim)
15. *In re Perry*, 345 F.3d 303, (5th Cir. 2003) (Remand required to permit bankruptcy court to determine if debtor's use of property was inconsistent with claimed exemption)
16. *Maritrans Operating Partners, LP v. Port of Pascagoula*, 2003 WL 22002597 (5th Cir. 2003) (unpublished) (admiralty issues)
17. *U.S. ex rel. Bowman v. Computer Learning Centers*, 2003 WL 22002638 (5th Cir. 2003) (unpublished) (vacating dismissal and remanding in bankruptcy case)
18. *Satellite Dealers Supply, Inc. v. Echostar Communications Corp.*, 2003 WL 22002572 (5th Cir. 2003) (unpublished) (vacated and remanded to provide explanation for denial of sanctions motion)
19. *Benchmark Electronics, Inc. v. J.M. Huber Corp.*, 343 F.3d 719 (5th Cir. 2003) (Breach of contract case; reassignment to another judge on remand not warranted) (*modified on denial of rehearing*, \_\_\_F.3d\_\_\_, 2003 WL 22977496 (5<sup>th</sup> Cir. 2003))
20. *Ferguson v. Petroleum Helicopters, Inc.*, 2003 WL 21961189 (5th Cir. 2003) (unpublished) (vacating summary judgment because fact issues remained as to whether platform operator reasonably ascertained the extent of the worker's injuries)

21. *Pedcor Management Co., Inc. Welfare Benefit Plan v. Nations Personnel of Texas, Inc.*, 343 F.3d 355, (5th Cir. 2003) (arbitrator, not court, was to decide whether class arbitration was available)
22. *White ex rel. White v. Ascension Parish School Bd.*, 343 F.3d 373, (5th Cir. 2003) (school district did not violate Louisiana law)
23. *Smallwood v. Illinois Central R. Co.*, 342 F.3d 400 (5th Cir. 2003) (Fraudulent joinder and removal issues)
24. *Religious Technology Center v. Liebreich*, 339 F.3d 369 (5th Cir. 2003) (jurisdictional issues), *cert. denied*, \_\_\_ S.Ct. \_\_\_, 2004 WL 46758 (Jan. 12, 2004)
25. *Cargill Ferrous Intern. v. HIGHGATE MV*, 2003 WL 21683528 (5th Cir. 2003) (unpublished) (maritime entities did not waive right to arbitration)
26. *Snow v. WRS Group, Inc.*, 2003 WL 21672844 ((5th Cir. 2003) (unpublished) (partially vacates; Anti-Injunction Act issue)
27. *American States Ins. Co. v Synod of the Russian Orthodox Church Outside of Russia*, 335 F.3d 493 (5th Cir. 2003) (insurer did not have duty to indemnify insured based solely on its duty to defend)
28. *Edmond v. Eaves*, 2003 WL 21554573 (5th Cir. 2003) (unpublished) (prisoner adequately stated state failure to protect claim under the Eighth Amendment)
29. *In re Horseshoe Entertainment*, 337 F.3d 429 (5th Cir. 2003) (transfer issues in employment discrimination case) (Benavides dissented), *cert. denied*, 124 S.Ct. 826 (2003)
30. *Murphy v. Fort Worth Independent School Dist.*, 334 F.3d 470, (5th Cir. 2003) (determination of mootness did not preclude attorney fee award)
31. *Musmeci v. Schwegmann Giant Super Markets, Inc.*, 332 F.3d 339, (5th Cir. 2003) (retirees claims; partially vacated)

32. *Ortco Contractors, Inc. v. Charpentier*, 332 F.3d 283, (5th Cir. 2003) (LHWCA case), *cert. denied*, 124 S.Ct. 825 (2003)
33. *Leasehold Expense Recovery, Inc. v. Mothers Work, Inc.*, 331 F.3d 452 (5th Cir. 2003) (Issues of fraud misrepresentation)
34. *Johnson v. Louisiana Dept. of Educ.*, 330 F.3d 362, (5th Cir. 2003) (§504 of Rehabilitation Act) (Weiner dissents or specially concurs), *en banc granted*, 343 F.3d 732 (5<sup>th</sup> Cir. 2003)
35. *Counts v. Guevara*, 328 F.3d 212, (5th Cir. 2003) (scope of employment; removal issues)
36. *Vasquez v. Bridgestone/Firestone, Inc.*, 325 F.3d 665, (5th Cir. 2003) (anti Injunction Act and choice of laws issues)
37. *Travis v. Irby*, 326 F.3d 644 (5th Cir. 2003) (Railroad failed to establish that engineer was fraudulently joined to defeat diversity) (*superseding prior opinion on denial of rehearing*)
38. *Pace v. Bogalusa City School Bd.*, 325 F.3d 609, (5th Cir. 2003) (school board provided reasonable accommodations for student), *en banc granted*, 339 F.3d 348 (5<sup>th</sup> Cir. 2003)
39. *Sandy Creek Investors, Ltd. v. City of Jonestown, Tex.*, 325 F.3d 623 (5th Cir. 2003) (District court did not have jurisdiction; owner failed to exhaust administrative remedies)
40. *Bridgmon v. Array Systems Corp.*, 325 F.3d 572, (5th Cir. 2003) (licensing dispute; licensee entitled to attorneys fees on appeal)
41. *Flock v. Scripto-Tokai Corp.*, 319 F.3d 231 (5th Cir. 2003) (affirmed in part)