

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

FILED

APR 14 2008

US Court of Appeals  
4th Circuit

DOCKETING STATEMENT  
ON APPEAL FROM DISTRICT COURT

Caption of Case Fourth Circuit Docket No. (if known) -08-4358

*UNITED STATES*

Type of Action

- Civil  
 Criminal/Prisoner  
 Cross Appeal

v.

*STEVEN J. ROSEN,  
KEITH WEISSMAN,  
DEFENDANTS*

District E.D.V.A Judge T.S. ELLIS, III

District Court Docket Number 1:05cr225

Statute or other authority establishing jurisdiction in the:

District Court 18 U.S.C. s. 3231

Court of Appeals 18 U.S.C. App. 3 s. 7, collateral order doctrine

A. Timeliness of Appeal

1. Date of entry of judgment or order appealed from 3/19/08
2. Date this notice of appeal filed 3/27/08  
If cross appeal, date first notice of appeal filed \_\_\_\_\_
3. Filing date of any post-judgment motion filed by any party which tolls time under FRAP 4(a)(4) or 4(b) \_\_\_\_\_
4. Date of entry of order deciding above post-judgment motion \_\_\_\_\_
5. Filing date of any motion to extend time under FRAP 4(a)(5), 4(a)(6) or 4(b) \_\_\_\_\_

Time extended to \_\_\_\_\_

B. Finality of Order or Judgment

1. Is the order or judgment appealed from a final decision on the merits?  
[ ] Yes [✓] No
2. If no,
  - a.) Did the district court order entry of judgment as to fewer than all claims or all parties pursuant to FRCP 54(b)? [ ] Yes [ ] No
  - b.) Is the order appealed from a collateral or interlocutory order reviewable under any exception to the finality rule? [✓] Yes [ ] No.  
If yes, explain below or on a separate page.

The Classified Information Procedures Act (CIPA), 18 U.S.C. App. 3, s. 7, permits interlocutory appeals by the United States where a court order authorizes disclosure of classified information or a motion for protective order is denied.

(Criminal only)

3. Has the defendant been convicted? [ ] Yes [✓] No  
4. Has a sentence been imposed? [ ] Yes [✓] No Term [ ]  
5. Is the defendant incarcerated? [ ] Yes [✓] No

- C. Has this case previously been appealed? [ ] Yes [✓] No  
If yes, give the case name, docket number and disposition of each prior appeal below or on a separate page.

- D. Based on your present knowledge:  
Will this appeal involve a question of first impression? [ ] Yes [✓] No

If yes, please explain below or on a separate page.

- E. Are any related cases or cases raising related issues pending in this Court, any district court of this circuit, or the Supreme Court? [ ] Yes [✓] No  
If yes, cite the case and the manner in which it is related on a separate page. If abeyance, consolidation, or in seriatim argument is warranted, counsel must file a separate motion seeking such relief.

If a related case is pending in this Court, has it been accepted for mediation by the Office of the Circuit Mediator? [ ] Yes [ ] No

- F. State the nature of the suit, the relief sought, and the outcome below. Attach additional page if necessary.

In a criminal case in which the defendants have been charged with violations of 18 U.S.C. s. 793 (g), pursuant to CIPA, 18 U.S.C. s. 6, the United States moved to preclude the disclosure of certain classified information at trial. The District Court denied the United States' motion with regard to certain classified information.

- G. Issues to be raised on appeal. Attach additional page if necessary.

The issues to be raised on appeal are whether the District Court's denial of the government's motion to preclude the disclosure of certain classified information was in error on the grounds that, inter alia, the District Court erroneously interpreted 18 U.S.C. s. 793 and erroneously held that the government's classified information privilege had been overcome.

H. Does this appeal challenge the constitutionality of a federal or state statute in a case to which the United States or the affected state is not a party?         Yes     No

If yes, you must give written notice to the circuit clerk for certification of that fact to the United States Attorney General or the state attorney general.

I. Is settlement being discussed?     Yes     No

J. Is expedited disposition of this case necessary?     Yes     No  
If yes, you must file an appropriate motion.

Is oral argument necessary?     Yes     No

K. Were there any in-court proceedings below?     Yes     No  
Is a transcript necessary for this appeal?         Yes     No

If yes, is transcript already on file with district court?  
 Yes         No

If transcript is not already on file, attach copy of transcript order.

L. List each adverse party to the appeal. If no attorney, give address and telephone number of the adverse party. Attach additional page if necessary.

1. Adverse party Steven J. Rosen  
Attorney Erica E. Paulson, Esq.  
Address McDermott Will and Emery  
600 13th Street, N.W. Washington, DC 20005  
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2. Adverse party Keith Weissman  
Attorney John N. Nassikas, III, Esq.  
Address Arent Fox LLP  
1050 Connecticut Avenue, Washington, DC 20036  
Telephone (202) 857-6000  
E-mail nassikas.john@arentfox.com

M. If this case arises out of a bankruptcy proceeding, attach a copy of the caption of the case in the bankruptcy court showing the parties' status as debtor, creditor, trustee, plaintiff, defendant, etc.

N. List name(s) and address(es) of appellant(s) who filed this notice of appeal and appellant's counsel. Attach additional page if necessary.

Appellant(s) name United States  
Address United States Attorney's Office  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
Telephone (703) 299-3700  
E-mail \_\_\_\_\_

Attorney's name Chuck Rosenberg; W. Neil Hammerstrom Jr; James L. Trump; Thomas Reilly; Michael Martin  
Firm United States Attorney's Office for the Eastern District of Virginia  
Address 2100 Jamieson Avenue  
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Will you be handling the appeal? (In criminal cases counsel below will handle the appeal unless relieved by this court.)

Yes     No

FRAP 12(b) provides that each attorney who files a notice of appeal must file with the clerk of the court of appeals a statement naming each party represented on appeal by that attorney. Any counsel, other than the attorney filing this form, who filed a notice of appeal must provide the requisite statement to be attached to this form.

Signature 

Date April 11, 2008

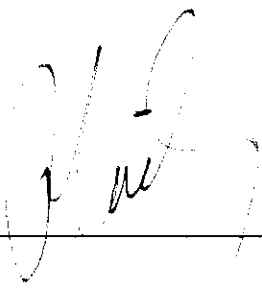
ATTACH:    Any additional pages containing extended answers to questions on this form  
              Any transcript order with attachments  
              Certificate of service for this docketing statement

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing "Docketing Statement on Appeal from District Court" was sent by facsimile transmission this 1 day of April 2008 to:

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