citba.org
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Upcoming Programs

Information about CITBA's upcoming Fall Meeting on November 9 and other events will be shared by email and posted at www.citba.org/events.

In addition, CITBA members will receive a 10% discount on registration for the following American Conference Institute (ACI) events:

- ACI's Forum on Customs and Trade Enforcement, September 25 - 27 in Washington, DC - https://www.americanconference.com/customs-trade-enforcement/;
- U.S. Customs Compliance Boot Camp, November 29-30, 2017 in Washington, DC - https://www.americanconference.com/american-conference-institutes-4th-u-s-customs-compliance-boot-camp/
- ACI's 7th Forum on US EXPORT & RE-EXPORT Compliance for Canadian operations, January 29-30, 2018 in Toronto, Canada

Past CITBA Events

June 27, 2017: CITBA Annual Luncheon - "Navigating International Trade in 2017"
CITBA hosted its Annual Luncheon at the Willard Hotel, welcoming luncheon speaker Kenneth Smith Ramos, Director of Trade and the NAFTA Office, Embassy of Mexico.

The speaker was followed by panel of Chief Counsels from the U.S. International Trade Commission, U.S. Customs and Border Protection, and U.S. Department of Commerce, and will discuss international trade developments for 2017.

In This Issue:

Links of Interest:

CITBA Homepage
US CIT Homepage
US Court of Appeals for the Federal Circuit Homepage
US Customs and Border Protection
Bureau of Industry and Security
Office of Foreign Assets Control
International Trade Administration
US International Trade Commission

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May 22, 2017: CLE Event & CITBA Annual Meeting
Materials for the upcoming Annual Meeting and CLE conference have been posted for download prior to the event. CLE conference materials are available here.

View our profile on LinkedIn

CITBA's Export Control and Sanctions Committee Membership

CITBA's Export Control and Sanctions Committee is looking for members. If you are interested in developing programs and expanding the visibility of Export Control and Sanctions issues within CITBA, please contact Robert Shapiro at rshapiro@thompsoncoburn.com.

CITBA's Young Lawyer Committee Membership

Interested in becoming more engaged with international trade?! Are you under 40 years old, feel young, or know someone that fits the bill? If so, please join or nominate someone to join the CITBA Young Lawyers Committee! We are especially looking to expand our membership outside of the DC/NY area. The Committee meets by phone once a month and seeks to create opportunities for young lawyers to create and participate in events and publications. If you or anyone you know is interested in contributing to the committee, please contact Alex Hess (alexandra.hess@hugheshubbard.com) or Shama Patari (spatari@lenovo.com).

Announcements

NEWS FROM THE CLERK OF THE COURT OF INTERNATIONAL TRADE

By Stephen Swindell & Scott Warner*

The Rules They Are A Changing

Ever spend time on the Reserve, Suspension or Suspension Disposition Calendar? Ever ask for an injunction? Ever wish you could view protests and entries on CM/ECF? Ever file a Form 9 Stipulated Judgment on Agreed Statement of Facts? If so or if you just want to be in the know about the latest goings-on with the Rules of the Court, be sure to check out the latest proposed amendments on the main page of the Court's website.

The Sounds They Are A Changing

To improve sound quality in the courtrooms, the Court has been spending part of the summer upgrading its audio hardware. Not only will you see...um, scratch that!...hear an improvement, but we will also have wireless handheld and lapel microphones available for use during your courtroom proceedings. Please, no

courtroom karaoke!

The Clerks They Are A Changing

Last, but not even in the same time zone of least, we have a changing of the guard to report as our fearless leader, Tina Potuto Kimble, is leaving the Court for an adventure in the private sector. Beginning on July 17th and until a new Clerk is selected, Mario Toscano will be Acting Clerk of the Court, so please be sure to update all of your correspondence and filings accordingly. We at the Court salute Tina's many accomplishments and wish her all the best. Thanks for everything, Tina!

**Stephen Swindell is the Supervisor and Scott Warner is the Operations Manager for Case Management at the Court of International Trade.*

Feature Article

Have You Tried Filing Customs Protests Through ACE?

By Robert Shapiro*

U.S. Customs and Border Protection has now developed and implemented a system for filing protests through the Automated Commercial Environment (ACE), facilitating the ability of attorneys to file and monitor the filing of protests. Use of the ACE e-Protest module allows:

- A single protest filing point - CBP routes the protest to the relevant port of Center of Excellence and Expertise ("Center").
- An automatic date stamp for protest filing - protests are received at the date and time of the e-protest filing. A protest filed before midnight Eastern Standard Time, are received on the date of filing.
- Visibility into the routing of the protest -- filers can see whether CBP has routed the protest to a Center and to which Center (and which team) the protest has been routed.
- Visibility as to the status of any Application for Further Review - the referral of a protest to headquarters is noted in the ACE portal.

Background

CBP regulations require that the protest be filed with the port director whose decision is being protested. Delegation Order Number 14-004 delegates concurrent authority over protests to the relevant Center and to the port director whose decision is being protested. This has caused some confusion for protest filers, as it is difficult to determine where CBP has sent the protest for processing.

Pursuant to the National Customs Automation Program (NCAP) Test Concerning Electronic Filing of Protests in the Automated Commercial Environment (ACE), 81 Fed. Reg. 53497 (August 12, 2016) ("e-protest notice"), the filing of the electronic protest in the ACE portal satisfies the requirement for filing the protest with the

Center or the port director whose decision is being challenged. CBP is responsible for routing the protest to the port or Center or other office responsible for the decision that is the subject of the protest. The date of filing of the protest will be determined based on midnight Eastern Standard Time (EST). This means that, to be considered timely, an electronic filing in the ACE Protest Module must be received by 11:59 p.m. (EST) on the final day of the filing period. The protest filer and any other designated parties will receive an electronic message confirming receipt of a protest filing in ACE.

ACE Account Required

Attorneys must set up an ACE account to take advantage of the e-protest module. Procedures for setting up an ACE account and for filing e-protests were referenced in the last CITBA newsletter. *See* News that You Can Use, CITBA Newsletter, Spring 2017.

In addition to the filing of electronic protests, an ACE portal account provides a number of benefits to the Customs practitioner. Protests can be tracked. The filer can determine whether the protest has be routed to a Center, to which Center it was routed, and which team in the Center is responsible for processing the protest. ACE reports will indicate whether an application for further review has been granted and whether the protest has been routed to the Office of Regulations and Rulings for review.

The filing of a protest is simple and will be familiar to anyone who has submitted electronic filings to the ITC, the Court of International Trade, or other entity. Basic identifying information is completed through the ACE Portal and supporting documentation can then be uploaded into ACE.

The protest portal is the first ACE module that can be directly used by customs lawyer is the submission of information to the agency. ACE continues to develop, and CITBA is advocating for the development of a portal account that will permit attorneys to have a single window into their clients' ACE data, but the protest module is an important first step, and is the likely model upon which other attorney flings with CBP - ruling requests, petitions for relief, and perhaps, prior disclosures will be filed.

Additional information regarding the e-protest module is available here.

** Robert Shapiro is a partner in Thompson Coburn's Washington, D.C. office. He counsels clients in all aspects of international transactions with a focus on the trade and shipment of goods.*

The Lost History of U.S. Customs Bond Litigation Before the 1830s: Correcting a Recurring Mistake and Highlighting an Experiment in Predeprivation Judicial Review

By Patrick C. Reed*

This short article seeks to correct a recurring mistake about the history of early U.S. customs litigation ("early" meaning before the 1830s). The recurring mistake is that early U.S. customs statutes did not include a statutory procedure for judicial review of duty assessment and, therefore, importers contested duty assessments during this period by bringing a common law (non-statutory) lawsuit for a refund after paying the disputed duty. The issue has continuing importance today because courts and litigants sometimes refer to customs history in support of current decisions. For example, in its 2015 decision in *International Customs Products, Inc. v. United States,*[1] the Federal Circuit recited the mistaken understanding of customs history in support of its decision sustaining the constitutionality of the modern rule that payment of duty is a prerequisite to judicial review.[2] This article ultimately suggests, however, that the Federal Circuit's misstatement of the history represents a harmless error that by itself does not undermine the holding in *International Customs Products.*

The correct history is that early U.S. customs statutes[3] lacked a statutory mechanism for a *duty refund lawsuit after payment*, but included instead a statutory procedure for judicial review of duty assessment *before payment of duty*. Using modern terminology, the statutes created a process for predeprivation judicial review instead of postdeprivation judicial review.[4] The postdeprivation remedy identified in the mistaken history - paying the duty and suing for a refund under the common law - did not become the main procedure for challenging customs duty assessments until the 1830s, as a result of limitations and restrictions on the original statutory predeprivation remedy.

The statutory procedure for predeprivation judicial review used customs bonds to secure duty liability and government-initiated lawsuits to collect on the bonds. If the duty exceeded fifty dollars, the importer was allowed to post a bond to secure the liability instead of immediately paying in cash.[5] If the importer failed or chose not to pay when the bond became due, the government was constrained to bring a lawsuit on the bond.[6] Before the 1830s, bond litigation "served as the main vehicle to secure judicial resolution of disputes ... over the proper amount of duties owed"[7] and afforded the procedural setting for a number of Supreme Court customs law decisions.[8]

Nevertheless, the law limited the usefulness of customs bond as vehicles for litigation. In particular, an importer with an unpaid matured bond was not allowed to post bonds on new shipments.[9] This requirement made it difficult or impossible for merchants engaged in a series of import transactions to use bonds on a continuing basis.[10] Then, by the 1830s, Congress reached the conclusion that allowing importers to post bonds for duty liability and wait to be sued represented unwise government fiscal policy. As the Supreme Court has observed much more recently, predeprivation procedures for contesting taxes "might threaten a government's financial security, both by creating unpredictable interim revenue shortfalls against which the State cannot easily prepare, and by making the ultimate collection of validly imposed taxes more difficult."[11] In 1832, Congress limited the use of bonds to duty liability in excess of $200 and reduced the term of bonds.[12] In a statute enacted in 1833 but not taking effect until 1842,

the ability to post bonds to secure duty liability was abolished entirely.[13]

In the environment of new restrictions on customs bonds in the 1830s, importers began to use an alternative procedure for litigating duty assessments. This was the now well-known postdeprivation remedy of paying the duty and bringing a common law action for a refund, the procedure that the Supreme Court validated in 1836 in *Elliott v. Swartwout*[14] and Congress codified in 1845.[15] Congress completely closed the door on any remaining potential alternative remedies in an 1864 statute that made the customs collector's decision on the rate and amount of duties "final and conclusive against all persons" unless the importer made a written objection within ten days and then appealed to the Secretary of the Treasury.[16] Since then, postdeprivation judicial review in an action for a refund has been the exclusive remedy for contesting customs duty assessments.

As for the mistaken account overlooking predeprivation customs bond litigation before the 1830s, the mistake apparently originated in Professor Ernst Freund's 1928 treatise, *Administrative Powers Over Persons and Property*.[17] Without citing any supporting authority, Freund erroneously wrote that "[t]he early tariff statutes provided no system of judicial review."[18] Then he jumped ahead more than 45 years to 1836 in stating that the common law action for a refund "became the recognized remedy to test the government's construction of the tariff laws."[19] A logical flaw in the erroneous history is that, if the early tariff statues provided no system of judicial review and common law action for a refund began to be used when the federal government was established in 1789, why did it take until 1836 for a case testing the validity of the remedy to reach the Supreme Court?

Since Freund, unfortunately the mistake has become entrenched in conventional wisdom. In a 1954 law review article, one Customs Court judge overlooked pre-1830s predeprivation bond litigation when he wrote that "[f]rom Y 1789 for a period of more than half a century, the recovery of excess duties paid by the importer was by common-law action brought against the collector personally by the importer."[20] In a 1974 law review article, another Customs Court judge made the same error in writing that "[f]or a period of about fifty years after ... 1789, recovery of payments of excess duties was obtained through common law actions brought against the collector of customs."[21] And then he wrote that "one such action [sic] was brought Y on a customs-house bond given for the payment of duties claimed by the Government,"[22] a statement that seemingly conflates importer-initiated postdeprivation refund actions with government-initiated predeprivation bond litigation. More recently, a judge of the Court of International Trade recited the mistaken understanding of customs history in a 1987 opinion.[23] The Federal Circuit recited the same mistaken understanding in 1997 in *Cherry Hill Textiles, Inc. v. United States*[24]before repeating it in 2015 in *International Custom Products.*[25]

Ultimately, the Federal Circuit's mistaken understanding of customs history in *International Customs Products* surely represents harmless error, at least in itself. The Federal Circuit reasoned, in essence, that the historical use of postdeprivation judicial review in customs law going back to 1789 tends to

support the constitutionality of that procedure. The correct historical understanding - that postdeprivation judicial review based on refund actions appeared in U.S. customs law in the 1830s after predeprivation judicial review had been tried and found unsatisfactory - appears to offer an equal if not better historical explanation for the modern rule that postdeprivation judicial review represents the exclusive remedy for contesting customs duty assessments.[26]

Endnotes

1. 791 F.3d 1329, 1336 (Fed. Cir. 2015) ("The first tariff statutes lacked any mechanism for importers to directly challenge a duty rate. ... Thus, an importer wanting to challenge a rate had to pay the duty and then sue the customs collector for a refund in a common law court." [citations omitted]), *cert. denied*, ___ U.S. ___, 136 S. Ct. 2408 (2016); *see also infra* notes 17-25 (other examples of the same error).

2. 28 U.S.C. § 2637(a).

3. The most important statute in question is the customs administrative act of 1799. Act of Mar. 2, 1799, ch. 22, 5th Cong., 3d Sess., 1 Stat. 627. It remained the core customs administrative statute throughout the nineteenth century. *See* John Dean Goss, The History of Tariff Administration in the United States From Colonial Times to the McKinley Administrative Bill 29 (2d ed. 1897) ("the act passed in 1799 has remained the trunk upon which all subsequent enactments have been grafted"). The 1799 governs all reported customs bond litigation, since the Supreme Court did not decide its first customs case until 1807. *See* United States v. Kid & Watson, 8 U.S. (4 Cranch) 1 (1807). Before the 1799 act, Congress had enacted earlier customs administrative acts in 1789 and 1790. Act of July 31, 1789, ch. 5, 1st. Cong., 1st Sess., 1 Stat. 145; Act of Aug. 4, 1790, ch. 35, 1st. Cong., 2d Sess., 1 Stat. 627.

4. *See, e.g.*, McKesson Corp. v. Florida, 496 U.S. 18, 36-37 & 38-39 (1990) (distinguishing "predeprivation process" in which taxpayers litigate liability before payment from "a post deprivation refund action").

5. Act of Mar. 2, 1799, § 62, 1 Stat. at 673 ("where the amount such duty on [imported] goods ... shall not exceed fifty dollars, the same shall be immediately paid, and if it exceed that sum, shall, at the option of the importer or importers, be paid or secured to be paid by bond ...."); *see also* Act of Aug. 4, 1790, ch. 35, ' 41, 1 Stat. at 168 (same provision); Act of July 31, 1789, ch. 5, ' 21, 1 Stat. at 42 (same provision).

6. Act of Mar. 2, 1799, ch. 22, ' 65, 1 Stat. at 676 ("where any bond for the payment of duties shall not be satisfied on the day it may become due, the collector shall, forthwith and without delay, cause a prosecution to be commenced for the recovery of the money thereon by action or suit at law, in the proper court having cognizance thereof; ...."); *see also* Act of Aug. 4, 1790, ch. 35, ' 45, 1 Stat. at 169 (same provision); Act of July 31, 1789, ch. 5, ' 23, 1 Stat. at 42 (same provision).

7. Patrick C. Reed, The Role of Federal Courts in U.S. Customs and International Trade Law 46 (1997).

8. *See, e.g.*, United States v. Kid & Watson, 8 U.S. (4 Cranch) 1 (1807); United States v. Willing & Francis, 8 U.S. (4 Cranch) 48 (1807); United States v. Potts, 9 U.S. (5 Cranch) 284 (1809); United States v. Vowell, 9 U.S. (5 Cranch) 368 (1810); Arnold v. United States, 13 U.S. (9 Cranch) 104 (1815); United States v. Rice, 17 U.S. (4 Wheat.) 246 (1819); Ex parte Davenport, 31 U.S. (6 Pet.) 661 (1832); Ex parte United States, in matter of United States v. Phelps, 33 U.S. (8 Pet.) 700 (1834); Meredith v. United States, 38 U.S. (13 Pet.) 486 (1839).

9. Act of Mar. 2, 1799, ch. 22, ' 62 ("no person whose bond has been received, ... and which bond may be due and unsatisfied, shall be allowed a future credit for duties until such bond be fully paid or discharged"); *see* Bent v. Hoyt, 38 U.S. (13 Pet.) 263, 269 (1839) (the "consequences of not paying a duty bond" are that "it withdraws from the party all future credit at the customhouse while it continues").

10. Reed, *supra* note 7, at 48 n.45.

11. McKesson Corp. v. Florida, 496 U.S. 18, 37 (1990) (citing earlier Supreme Court decisions making the same observations); *cf.* George Stewart Brown, *Judicial Review in Customs Taxation*, 26 Law. & Banker & Cent. L.J. 263, 264 (1933) (describing predeprivation bond litigation as "an impossible attempt" that "was very early found to be impracticable for obvious reasons" and was replaced by "the present system [of] compelling the importer to pay the demanded duty upon [importation] ... and to sue for the return of any duty illegally taken ...."); Goss, *supra* note 3, at 48 (stating that the use of customs bonds "endangered the revenue by compelling the government to accept inadequate security ....").

12. Act of July 14, 1832, ch. 227, § 5 (taking effect March 3, 1833).

13. Act of March 2, 1833, ch. 55, § 3 (with a delayed effective date of June 30, 1842); Act of Aug. 20, 1842, ch. 270, § 12.

14. 35 U.S. (10 Pet.) 137 (1836); *accord* Bent v. Hoyt, 38 U.S. (13 Pet.) 263, 267 (1839) ("there is no doubt that the collector is generally liable in an action to recover back an excess of duties paid to him ..., where the duties have been illegally demanded, and a protest of the illegality has been made at the time of the payment ...."). *See generally, e.g.*, Reed *supra* note 7, at 52-55. The common law recognized actions for refunds of customs duties in England before U.S. independence. *E.g.*, Campbell v. Hall, 98 Eng. Rep. 1045 (King=s Bench 1774) (per Lord Mansfield, C.J.). But the existence of the common law remedy does not mean that early U.S. customs statutes did not include a statutory mechanism for predeprivation judicial review as an alternative.

15. Act of Feb. 26, 1845, ch. 22, 5 Stat. 727 (reinstating the importer's action for a refund after Cary v. Curtis, 44 U.S. (3 How.) 236 (1845), in which the majority held that an 1839 statute had extinguished the importer's common law action for a refund). *See generally, e.g.*, Reed, *supra* note 7, at 55-59. In a further contradiction to the mistaken understanding that the United States has always used postdeprivation judicial review in customs cases, the *Cary v. Curtis* majority had urged that importers could still bring predeprivation common law actions to

contest duty assessments. *See* 44 U.S. at 250 (suggesting the availability of predeprivation actions in replevin, detinue, or possibly trover instead of a postdeprivation action in assumpsit).

16. Act of June 30, 1864, ch. 171, § 14, 38th Cong., 1st Sess. 202, 214-15; *see also* Arson v. Murphy, 109 U.S. 579 (1883) (holding that the 1864 statute replaced the common law remedy with a statutory remedy).

17. Ernst Freund, Administrative Power Over Persons and Property: A Comparative Survey (1928).

18. *Id*. at 242 (citing no authority).

19. *Id*. at 243 (citing Elliot v. Swartwout, 35 U.S. (10 Pet.) 137 (1836)) (also discussing the common law action in trover illustrated in Tracy v. Swartwout, 35 U.S. (10 Pet.) 80 (1836)).

20. Jed Johnson, *The United States Customs Court-Its History, Jurisdiction, and Procedure*, 7 Okla. L. Rev. 393 (1954). Judge Johnson did avoid the error of saying that early customs statutes did not include any statutory system for judicial review.

21. Paul P. Rao, *A Primer on Customs Court Practice*, 40 Brook. L. Rev. 581, 584 (1973-74). Like Judge Johnson, Judge Rao avoided the error of saying that early customs statutes did not contain a statutory system for judicial review.

22. *Id*. (citing United States v. Levitt, 26 F. Cas. 919 (No. 15,594) (D. Mass. 1842)).

23. Washington Int'l Ins. Co. v. United States, 678 F. Supp. 902, 919 (Ct. Int'l Trade 1988) (Re, C.J., dissenting) (overlooking pre-1830s customs bond litigation in stating that: "The early tariff laws provided no statutory system for judicial review of determinations of collectors of customs. .... [Instead,] common law actions, preferably brought in assumpsit, were the only remedies available to a person who sought to challenge administrative interpretations and applications of the tariff laws."), *rev'd*, 863 F.2d 877 (Fed. Cir 1988) (sustaining Chief Judge Re's dissenting position against jury trials without repeating the erroneous history).

24. 112 F.3d 1550, 1552 (Fed. Cir. 1997) (overlooking pre-1830s bond litigation in stating that: "The first tariff statutes contained no mechanism for importers to challenge excessive duty assessments. For years, therefore, an importer who objected to a duty as as excessive had to pay the duty and then sue the collector for a refund in a common law court.") In support of this erroneous history, *Cherry Hill* actually cited the customs administrative acts of 1789, 1790, and 1799, but obviously did not consider the bond and bond litigations sections of those acts discussed in notes 5 and 6, *supra*.

25. 791 F.3d at 1336 ("The first tariff statutes lacked any mechanism for importers to directly challenge a duty rate. ... Thus, an importer wanting to challenge a rate had to pay the duty and then sue the customs collector for a refund in a common law court." [citing *Cherry Hill*]), *cert. denied*, ___ U.S. ___, 136

S. Ct. 2408 (2016). It bears mentioning that although the lower court's decision in *International Custom Products* did not discuss early customs bond litigation, the opinion was accurate in stating merely that "[p]rior to the [Act of February 26, 1845], the ... principle of prepayment as the basis for suit against a collector of customs duties was a fixture of common law since at least 1774." Int'l Custom Products, Inc. v. United States, 931 F. Supp.2d 1338, 1343 (Ct. Int'l Trade 2013) (per Carman, J.), *reh'g denied*, 991 F. Supp.2d (2014), *aff'd*, 791 F.3d 1329 (Fed. Cir. 2015), *cert. denied*, __ U.S. ___, 136 S. Ct. 2408 (2016). Judge Carman thus avoided the two errors that early customs statutes lacked a statutory mechanism for judicial review and that importers used the common law remedy in the United States starting in 1789.

26. At the same time, this short article's correction of the early history of customs litigation does not evaluate other issues in *International Customs Products*. Whether the decision was correct in sustaining the constitutionality of modern postdeprivation judicial review is a topic for a separate article. For example, the Federal Circuit did not consider the Supreme Court's ruling in *McKesson Corp. v. Florida* that "[b]ecause exaction of a tax constitutes a deprivation of property, the State must provide procedural safeguards against unlawful exactions in order to satisfy the commands of the Due Process Clause." 496 U.S. 18, 36 (1990); *but cf.* International Customs Products, Inc. v. United States, 791 F.3d 1329, 1337 (Fed. Cir. 2015) ("We further conclude that ICP cannot allege a genuine due process claim, for it lacks a constitutionally protected property interest.").

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In Memoriam

CITBA recognizes the loss of a number of remarkable practitioners this year, including:

Michael Bradfield (1934-2017), who passed August 2nd, deserves recognition by the customs and international trade bar for his creative and successful legal advocacy in support of President Nixon's 10% import surcharge imposed in August 1971. *See* Yoshida International, Inc. v. United States, 526 F.2d 560 (CCPA 1975); *accord* Alcan Sales v. United States, 534 F.2d 920 (CCPA 1976) (following *Yoshida*), *cert. denied*, 429 U.S. 986 (1976). President Nixon imposed the surcharge to address an international emergency in the U.S. balance of payments. One cannot overstate the significance of the surcharge in the customs and international trade bar of the mid-1970s, as thousands of cases were filed challenging its legality (comparable to the Harbor Maintenance Tax cases of the late 1990s).

Mr. Bradfield, who at the time served as assistant general counsel for international affairs in the Treasury Department, developed the government's theory that the Trading With the Enemy Act (TWEA) provided legal authority for the Nixon surcharge. Since the TWEA authorized the president to "regulate"

imports, the legal creativity was that authority to "regulate" included the authority to tax imports through the 10% surcharge. The Court of Customs and Patent Appeals accepted the government's theory, as well as ruling that the TWEA did not represent an unconstitutional delegation of legislative power to the president.

Velta Anita Melnbrencis (November 7, 1929 - July 17, 2017). The Bar lost a legend with the passing of Velta Anita Melnbrencis last month (1929-2017). Anita's unique and singular voice graced the halls of the U.S. Department of Justice for three and a half decades. First in its New York office (1968-1979) and later in the District of Columbia (1979-2002) where she retired as an Assistant Director for International Trade. She advocated tirelessly on behalf of the United States with purpose and dedication and - as all who worked with her will recall - a No. 2 pencil.

Anita received her law degree from The Ohio State University in 1967 - at a time when a school paper explains that only a "handful of women" attended its professional schools. Decades later she remembered how exciting it was as a woman attorney to receive a job offer from Justice. That excitement never waned. Her name appears on hundreds of opinions by the Court of International Trade and the Court of Appeals for the Federal Circuit and on various petitions filed at the Supreme Court. Her professionalism and persistence earned her the respect not only of her colleagues but of opposing counsel and the many judges before whom she argued.

In retirement, Anita served with distinction on a Mexican NAFTA panel - which she enjoyed tremendously because it allowed her to combine her legal knowledge with the Spanish that she learned while auditing classes at UDC. She generously donated her time to serve on various Boards that involved her passions for gardening and exercise. She also enjoyed long lunches with friends and the ballet.

CITBA ONLINE

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Are you already a member, but late in paying your dues? Need to update your contact information? Get current today and enjoy the benefits of membership. Contact William J. Maloney at wmaloney@rode-qualey.com for details.