Pathfinder:

1. Nabisco, Inc. v. PF Brands, Inc. ,--- F.3d ----, 1999 WL 672575 (2nd Cir., Aug 31, 1999) (NO. 99-7149L)
Relevace: This is the best case for a direct conflict with the 2nd Cir.!! 2nd Cir. stubbornly applies mead factors despite heavy criticism (from both sides), and also rejects the 4th cir's analysis requiring proof of actual harm, and that there be actual harm (rather than likelihood) – calling it a "unnecessarily literal construction." Hmmm.. plenty of stuff to criticize here! E.g. use of "confusion" factor court seems to say a consumer can be confused and diluted at the same time – impossible according to McCarthy. Court's papering over of the obvious lack of "likelihood" language in the statute by saying too "literal" interpretation and not what congress meant – (congressional record virtually empty – ha! Even when intent is used, only used where persuasive – not void!)

Case:

1. American Cyanamid Co. v. Nutraceutical Corp. ,--- F.Supp.2d ----, 1999 WL 397723 (D.N.J., May 28, 1999) (NO. CIV. A. 97-2018)
Relevance: *** This case evaluates and directly adopts the 4th Cir.'s analysis in Ringling. (Gives a pretty good summary analysis as well). Posture: Summary judgement motion. H: Court granted summary judgement for defendant on both infringement and dilution claims.
I/F: Trademark infringement/dilution claim. American Cyanamid registered a "spectrum color" trademark, and brought suit against Centrum (vitamins) claiming its use of a similar color spectrum was infringement and dilution. Provides good example of just how hard it's going to be to prove dilution.

Case: Mead Data Central, Inc. v. Toyota Motor Sales, U.S.A., Inc., 875 F.2d 1026 (2d Cir. 1989).
Relevance: Source of so called "Mead Factors" or "Sweet Factors" – a test proposed in concurring opinion by Sweet to evaluate dilution claim (there under NY law). It has been adopted by some courts, was argued for by Ringling, and heavily criticized by both proponents (McCarthy) and opponents (Port, 4th Cir. Etc).

Case (Court Order):
National Football League Properties, Inc. v. ProStyle, Inc. ,--- F.Supp.2d ----, 1999 WL 521616 (E.D.Wis., Apr 28, 1999) (NO. 96-C-1404)

Relevance: Very recent holding adopting the 4th Circuit's view in Ringing requiring more than a mere mental association. Goes to show continuing judicial aversion to dilution, and the likelihood the 4th Cir. view will be widely adopted.
F/I: This was only on order pusuant to a motion in limmine (to limit evidence). T-shirt maker sold shirts with slogans like "Green Bay Football", NFL/Greenbay sued claiming trademark infringement and dilution. The court disallowed survey evidence which, like in Ringling, only showed a mental association.

Case: 1. Nabisco, Inc. v. PF Brands, Inc. ,50 F.Supp.2d 188 (S.D.N.Y., Feb 03, 1999) (NO. 99 CIV. 0008 (SAS))

Relevance: This is a very recent 2nd Cir. Case that recognizes the criticism of the Mead factors, but applies them anyway (says Mead is still 2nd Cir. Law). Interestingly, the court conflates the NY statute and the federal statute and basically runs through one analysis as if they were identical. Applying the mead factors AND the famousness factors, the court found "likely dilution."
I/F: Trade-dress dilution. Pepperidge farms, maker of goldfish crackers, sought to enjoin Nabisco from making goldfish shaped crackers.