

UPDATED: 4/29/2014

APRIL 2014

ORAL ARGUMENT

CALENDAR

Report Updated On: 4/29/2014

Updated 04/29/2014

APRIL, 2014

APRIL 8, 2014

11:00 A.M. - COURT MEETING

APRIL 10, 2014

10:45 A.M. - MOTION PANEL, JUDGE CAPERTON, PRES.,
JUDGE COMBS AND JUDGE VANMETER, ASSOC.

**PHONE NUMBERS WHERE PANEL MEMBERS CAN BE REACHED WHEN ORAL
ARGUMENTS SCHEDULED:**

BENTON – Contact Carla Marshall – (270) 527-3883

FRANKFORT – Contact Patricia Brauer – (502) 573-7920

HENDERSON – Contact Marilyn – (270) 827-1295

STANTON – Contact Darlene Drake – (606) 663-4141

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Tuesday, April 8, 2014

12:30 PM PJ: LAMBERT, HON. JAMES H.

COMBS, HON. SARA W.

THOMPSON, HON. KELLY

2011CA002044

B.B., A CHILD UNDER EIGHTEEN v COMMONWEALTH OF KENTUCKY

Appeal from conviction of manslaughter. Arguments include that the defendant was not acting with depraved mental state required for manslaughter.

JEFFERSON COUNTY

HON A. C. MCKAY CHAUVIN

Appellant Atty:

Appellant Name:

SCHMIDT, KATHLEEN
VANDENWALLBAKE, RENEE

B.B., A CHILD UNDER EIGHTEEN

Appellee Atty:

Appellee Name:

CONWAY, JACK
RICHWALSKY, PAUL JR

COMMONWEALTH OF KENTUCKY

**** NOTE: ** PREVIOUSLY ON DECEMBER 10, 2013 AT 1:45 PM**

**LOCATION: HENDERSON COUNTY JUDICIAL CENTER, CIRCUIT COURTROOM
300, 5 NORTH MAIN STREET, HENDERSON, KENTUCKY**

DATE: Thursday, April 17, 2014

01:30 PM PJ: CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

THOMPSON, HON. KELLY

2012CA001190

A. K. M. v COMMONWEALTH OF KENTUCKY

Appeal of decision of circuit court on issue involving interrogation by school principal and lack of notification of Miranda rights.

POWELL COUNTY

HON FRANK ALLEN FLETCHER

Appellant Atty:

Appellant Name:

SCHMIDT, KATHLEEN
VANDENWALLBAKE, RENEE

M., A.

Appellee Atty:

Appellee Name:

FAIN, RICHARD
HIGHTOWER, COURTNEY
KING, ROBERT

COMMONWEALTH OF KENTUCKY

**** NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Tuesday, April 22, 2014

02:15 PM PJ: LAMBERT, HON. JAMES H. CAPERTON, HON. MICHAEL O. MAZE, HON. IRV

2012CA000440 DUGAN & MEYERS CONSTRUCTION COMPANY v SUPERIOR STEEL, INC.

2012CA000441
2012CA000494
2012CA000495

This is a construction case. The trial court awarded damages to Superior Steel and Ben Hur for extra work they performed and attorney's fees against several defendants, granted indemnification, and rejected claims against Dugan and Meyers. Dugan and Meyers appeals from the trial court's failure to apply a binding pay if paid clause in its contract with Superior Steel. Superior Steel and Ben Hur cross appeal, contesting the amount of attorney's fees awarded by the trial court.

CIVIL	KENTON COUNTY	HON GREGORY M BARTLETT
	<u>Appellant Atty:</u>	<u>Appellant Name:</u>
	DUSING, GERALD HAWKINS, HEATHER KIRKWOOD, THOMAS	DUGAN & MEYERS CONSTRUCTION COMPANY
	<u>Appellee Atty:</u>	<u>Appellee Name:</u>
	DUTTON, CHRISTOPHER GURNEY, D. SUMNER, GRIFFIN	SUPERIOR STEEL, INC.

** NOTE: **40 MINUTE ORAL

03:10 PM PJ: MOORE, HON. JOY A. LAMBERT, HON. JAMES H. MAZE, HON. IRV

2012CA001367 BOARD OF REGENTS OF KCTCS v "RENEE FARRELL PLAINTIFFS"

2012CA001480

Declaratory Judgment Case: These consolidated appeals are from a summary judgment the trial court entered regarding the constitutionality of the furlough plan under Executive Branch Budget Bills (House Bill 1).

CIVIL	FRANKLIN COUNTY	HON PHILLIP J. SHEPHERD
	<u>Appellant Atty:</u>	<u>Appellant Name:</u>
	AMATO, STEPHEN KOCH, BRITTANY	BOARD OF REGENTS OF KCTCS
	<u>Appellee Atty:</u>	<u>Appellee Name:</u>
	MCCOMB, JOELLEN BEVINGTON, DINAH	"RENEE FARRELL PLAINTIFFS" BESEHEAR, IN HIS OFFICIAL CAPACITY, STEVEN

** NOTE: 40 MINUTE ORAL

**LOCATION: MARSHALL COUNTY JUDICIAL BUILDING, DISTRICT COURTROOM,
80 JUDICIAL DRIVE, UNIT 101, BENTON, KENTUCKY**

DATE: Tuesday, April 22, 2014

10:00 AM PJ: TAYLOR, HON. JEFF S. DIXON, HON. DONNA L. STUMBO, HON. JANET L.

2013CA000742 JOANN NOLES, AS EXECUTRIX v CONSOLIDATED RESOURCES HEALTH CARE FUND
I, L.P.

Whether circuit court properly dismissed appellant's action as time-barred.

CIVIL MCCRACKEN COUNTY HON CRAIG Z CLYMER

Appellant Atty:

ACERRA, CAREY
JEHL, CAMERON
SALYER, ROBERT
WILANDER, CARL

Appellant Name:

NOLES, AS EXECUTRIX, JOANN

Appellee Atty:

BURGESS, JOHN
KEEN, LORI

Appellee Name:

CONSOLIDATED RESOURCES HEALTH CARE
FUND I, L.P.

** NOTE:

10:45 AM PJ: TAYLOR, HON. JEFF S. DIXON, HON. DONNA L. NICKELL, HON. C. SHEA

2013CA000760 BARREN RIVER AREA SAFE SPACE, INC. v CITY COMMISSION OF BOWLING GREEN,
KENTUCKY

Whether the planning commission properly rezoned certain real property.

CIVIL WARREN COUNTY HON JOHN R. GRISE

Appellant Atty:

DAVENPORT, CHRISTOPHER

Appellant Name:

BARREN RIVER AREA SAFE SPACE, INC.

Appellee Atty:

HARMON, H.

Appellee Name:

CITY COMMISSION OF BOWLING GREEN,
KENTUCKY

COOK, MATTHEW

CITY-COUNTY PLANNING COMMISSION OF
WARREN COUNTY, KENTUCKY

MOORE, FRANK JR.

CARWELL, KEITH

FARMERS INVESTMENT COMPANY, INC.

VICKERY, DAVID

WABUCK DEVELOPMENT COMPANY, INC.

** NOTE:

**LOCATION: MARSHALL COUNTY JUDICIAL BUILDING, DISTRICT COURTROOM,
80 JUDICIAL DRIVE, UNIT 101, BENTON, KENTUCKY**

DATE: Tuesday, April 22, 2014

11:30 AM PJ: TAYLOR, HON. JEFF S.

DIXON, HON. DONNA L.

NICKELL, HON. C. SHEA

2013CA001004

EXTENDICARE, INC. v BONNIE SANDAGE, AS NEXT FRIEND

Whether circuit court properly denied appellants' motion to compel arbitration in action against nursing home where arbitration agreement was executed under a power of attorney.

CIVIL

MEADE COUNTY

HON BRUCE T. BUTLER, JUDGE

Appellant Atty:

Appellant Name:

AHRENS, JAN
LOMOND, KRISTIN
MILLER, DONALD II

EXTENDICARE, INC.

Appellee Atty:

Appellee Name:

JASPER, BRIAN
MANN, ROSCOE II
SALYER, ROBERT

SANDAGE, AS NEXT FRIEND, BONNIE

** NOTE:

01:30 PM PJ: NICKELL, HON. C. SHEA

DIXON, HON. DONNA L.

TAYLOR, HON. JEFF S.

2013CA000895

KINDRED HEALTHCARE, INC. v RICK HENSON, AS NEXT FRIEND

Whether trial court erred in applying Ping v. Beverly Enterprises and refusing to compel arbitration where agreement was signed by principal's agent at principal's direction and in principal's presence and agent acted merely as scrivener. Appellee contends the appeal is frivolous and requests dismissal and costs.

CIVIL

WARREN COUNTY

HON JOHN R. GRISE

Appellant Atty:

Appellant Name:

AHRENS, JAN
LOMOND, KRISTIN
MILLER, DONALD II

KINDRED HEALTHCARE, INC.

Appellee Atty:

Appellee Name:

FANNIN, COREY
JASPER, BRIAN
SALYER, ROBERT

HENSON, AS NEXT FRIEND, RICK

** NOTE:

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Thursday, April 24, 2014

02:10 PM PJ: MAZE, HON. IRV

LAMBERT, HON. JAMES H.

MOORE, HON. JOY A.

2013CA000698

JAMISON ELENDDT v GREEN TREE SERVICING, LLC

Appeal from sj dismissing fraud and KCPA claims. Whether "as is" and warranty disclaimer clauses in sale contract of mobile home precluded claims; Existence of genuine issues of material fact.

CIVIL

KENTON COUNTY

HON PATRICIA M SUMME

Appellant Atty:

BLANKENSHIP, RANDY

Appellant Name:

ELENDDT, JAMISON

Appellee Atty:

**EVERSOLE, AMY
HEYMAN, JACQUELINE**

Appellee Name:

GREEN TREE SERVICING, LLC

SONDGERATH, VAN

HOLT, PATRICIA

**** NOTE: 40 MINUTE ORAL**

**LOCATION: POWELL COUNTY COURTHOUSE, CIRCUIT COURTROOM, 525
WASHINGTON STREET, STANTON, KENTUCKY**

DATE: Tuesday, April 29, 2014

01:00 PM PJ: STUMBO, HON. JANET L.

CLAYTON, HON. DENISE G.

COMBS, HON. SARA W.

2013CA000293

PATRICIA BLEVINS v COMMONWEALTH OF KENTUCKY

Discretionary review of affirmation of conditional guilty plea and order of restitution in animal abuse case. Issues are whether ASPCA is a victim within the meaning of the restitution statute, whether the county kennel ordinance was unconstitutional and whether the trial court erred in overruling Appellant's motion to suppress evidence.

ROWAN COUNTY

HON WILLIAM EVANS LANE

Appellant Atty:

Appellant Name:

MCGUFFIN, CLAY

BLEVINS, PATRICIA

SCHMIDT, KATHLEEN

Appellee Atty:

Appellee Name:

CONWAY, JACK

COMMONWEALTH OF KENTUCKY

GEURIN, STEVE

WATKINS, CECIL

**** NOTE:**

01:45 PM PJ: COMBS, HON. SARA W.

CLAYTON, HON. DENISE G.

STUMBO, HON. JANET L.

2013CA000702

STEVE JONES v MARQUIS TERMINAL, INC.

Suit involving rental of heavy industrial equipment allegedly implicating the tort of conversion. Appellant seeks enhancement of damages and award of pre-judgment interest.

CIVIL

BOYD COUNTY

HON C DAVID HAGERMAN

Appellant Atty:

Appellant Name:

LYON, JAMES JR

JONES, STEVE

Appellee Atty:

Appellee Name:

BROWN, REBECCA

MARQUIS TERMINAL, INC.

**** NOTE:**

**LOCATION: POWELL COUNTY COURTHOUSE, CIRCUIT COURTROOM, 525
WASHINGTON STREET, STANTON, KENTUCKY**

DATE: Tuesday, April 29, 2014

02:30 PM PJ: COMBS, HON. SARA W.

CLAYTON, HON. DENISE G.

STUMBO, HON. JANET L.

2013CA000984 CITY OF CORBIN v KNOX COUNTY

2013CA001090

Appeal and cross-appeal in which a declaratory judgment was sought to challenge constitutionality of KRS 568.197(8), allegedly passed to prevent the collection of a tax credit on an occupational license fee by the City of Corbin from the County of Knox.

CIVIL

KNOX COUNTY

HON GREGORY A. LAY

Appellant Atty:

Appellant Name:

BIRKENHAUER, NICHOLAS
HUGHES, PATRICK

CITY OF CORBIN

Appellee Atty:

Appellee Name:

MCSWAIN, DOUGLAS
O'CARRA, LEILA

KNOX COUNTY

**** NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Wednesday, April 30, 2014

01:00 PM PJ: CAPERTON, HON. MICHAEL O. ACREE, HON. GLENN E. VANMETER, HON. LAURANCE B.

2013CA000830 LOUISE SLATTERY, IN HER INDIVIDUAL CAPACITY AS AN EMPLOYEE v JOY FURMAN

Denial of summary judgment-appealing issue of immunity regarding student supervision and bullying.

CIVIL JEFFERSON COUNTY HON JAMES M SHAKE

Appellant Atty:

GORMAN, CHRISTOPHER

LAMB, EMILY

Appellant Name:

**SLATTERY, IN HER INDIVIDUAL CAPACITY AS AN
EMPLOYEE, LOUISE**

Appellee Atty:

GORDON, TEDDY

MIZE, ANDREW

SIMON, LARRY

Appellee Name:

FURMAN, JOY

**** NOTE:**PREVIOUSLY ON APRIL 10, 2014 @ 9:00 AM**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Wednesday, April 30, 2014

01:45 PM PJ: ACREE, HON. GLENN E. CAPERTON, HON. MICHAEL O. VANMETER, HON. LAURANCE B.

2012CA002057 ANGEL RIVERA v CHRISTOPHER D. LANKFORD

2012CA002058
2012CA002059
2012CA002097
2012CA002123
2012CA002162
2012CA002216
2012CA002217

Civil; Summary Judgment: Whether the trial court properly granted summary judgment regarding issues of defendant's immunity.

CIVIL JEFFERSON COUNTY HON FREDERIC COWAN

Appellant Atty:

MOSLEY, EUGENE
UNDERWOOD, MICHAEL

Appellant Name:

RIVERA, ANGEL

Appellee Atty:

DIXON, DODD
BYRNE, JEREMIAH
ROBINSON, DARRELL
SUMNER, GRIFFIN

Appellee Name:

ANTHEM HEALTH PLANS OF KENTUCKY
CHANCE RIDES MANUFACTURING, INC.

STRITE, DAVID

COFFEY, MARY

DEGOLIAN, ROBERT

ESTATE OF CARROLL BARRETT

SULLIVAN, RICHARD

GILMORE, NELSON

SCHWEICKART, LISA

GOODWIN, STEVE

BECK, GREG

HUMANA HEALTH PLAN, INC.

CONWAY, F
GARDNER, CHADWICK

LANKFORD, CHRISTOPHER

WALKER, KRISTIE

PRAY, MARTY

** NOTE: **40 MINUTE ORAL - PREVIOUSLY ON APRIL 10, 2014 @ 9:45 AM