

UPDATED: 08/19/2010

**AUGUST 2010**

**ORAL ARGUMENT**

**CALENDAR**

Updated 08/19/2010

**AUGUST, 2010**

**August 10, 2010**

**10:00 A.M. COURT MEETING**

**1:30 – 2:00 P.M., ORAL ARGUMENT, 2009-CA-000793  
AND 2009-CA-000794, BARBARA SCHAMBON V.  
COMMONWEALTH OF KENTUCKY,  
JUDGE KELLER, PRES., JUDGE MOORE AND  
SR. JUDGE HARRIS, ASSOC.**

**2:15 – 2:45 P.M., ORAL ARGUMENT, 2009-CA-001710,  
COUNTY FISCAL COURTS V. COMMONWEALTH OF  
KENTUCKY, ET AL., SR. JUDGE HENRY, PRES., JUDGE  
CLAYTON, AND JUDGE LAMBERT (JAMES), ASSOC.**

**2:30 P.M., MOTION PANEL, JUDGE KELLER, PRES.,  
CHIEF JUDGE TAYLOR, AND JUDGE ACREE, ASSOC.**

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

**FRANKFORT – Contact Mary Zagale - (502) 573-7920**

**LOUISVILLE – Contact Marti Dodd - (502) 595-3440**

**TAYLORSVILLE – Contact Becky Robinson – (502) 477-3220**

**HOPKINSVILLE – Contact Paige Parker – (270) 889-6544**

**LOCATION: SPENCER COUNTY COURTHOUSE, SECOND FLOOR COURTROOM, 2  
WEST MAIN STREET, TAYLORSVILLE, KENTUCKY**

**DATE: Wednesday, August 4, 2010**

**01:30 PM PJ: KELLER, HON. MICHELLE M. COMBS, HON. SARA W. LAMBERT, HON. JAMES H.**  
**2009CA000589 DAVID SCOTT CHISM v COMMONWEALTH OF KENTUCKY**

Chism appeals the trial court's denial of his RCr 11.42 motion. In that motion, Chism argued counsel: failed to investigate and present evidence of his extreme emotional distress; failed to challenge his competency; and failed to advise him that, if he stood trial, a jury might convict him of a lesser included offense.

**JEFFERSON COUNTY**

**HON IRV MAZE**

Appellant Atty:

Appellant Name:

**PARTIN, C**

**CHISM, DAVID**

Appellee Atty:

Appellee Name:

**ABNER, DAVID**

**COMMONWEALTH OF KENTUCKY**

**\*\* NOTE:PREVIOUSLY ON 7/28/10 AT 2:15 PM**

**02:15 PM PJ: KELLER, HON. MICHELLE M. COMBS, HON. SARA W. LAMBERT, HON. JAMES H.**  
**2009CA001428 CADLEWAY PROPERTIES, INC. v BAYVIEW LOAN SERVICING, LLC.**

The issue on appeal is whether Cadleway Properties or Bayview loan Servicing had the superior mortgage on a parcel of real property.

**CIVIL**

**JEFFERSON COUNTY**

**HON CHARLES L. CUNNINGHAM**

Appellant Atty:

Appellant Name:

**MESSER, WILLIAM  
MILLER, MASON**

**CADLEWAY PROPERTIES, INC.**

Appellee Atty:

Appellee Name:

**HILL, CHRISTOPHER  
MCTIGHE, CHADWICK  
WARD, T. JR.**

**BAYVIEW LOAN SERVICING, LLC.**

**CHERRY, RUSSELL**

**DEHONEY TRAVEL, INC.**

**FORE, F.**

**K.B. BUILDING, LLC.**

**\*\* NOTE:PREVIOUSLY ON 7/28/10 AT 3:00 PM**

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

**DATE: Monday, August 9, 2010**

02:30 PM PJ: THOMPSON, HON. KELLY

KELLER, HON. MICHELLE M.

HARRIS, HON. WILLIAM R.

2009CA002020

**BEVERAGE WAREHOUSE, INC. v COMMONWEALTH OF KENTUCKY DEPARTMENT OF  
ALCOHOLIC**

Appellant appeals the denial of a hearing in the Franklin Circuit Court and argues the denial of due process prior to the issuance of a liquor license directly across the street from the appellant's premises.

CIVIL

FRANKLIN COUNTY

HON THOMAS D. WINGATE

Appellant Atty:

Appellant Name:

FORE, F.  
WHITTLE, SARAH

BEVERAGE WAREHOUSE, INC.

Appellee Atty:

Appellee Name:

HAUNZ, FOSTER

CITY OF ST. MATTHEWS

ERVIN, PETER

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF ALCOHOLIC

HANDMAKER, KENNETH

LIQUOR BARN #5, LLC.

\*\* NOTE:PREVIOUSLY AT 1:00 PM

03:15 PM PJ: HARRIS, HON. WILLIAM R.

KELLER, HON. MICHELLE M.

THOMPSON, HON. KELLY

2009CA001598

**ELIZABETH CAROL AUBREY v JOEL WALTER AUBREY**

Wife appeals from Fayette Family Court's determination that post-nuptial agreement was invalid, its determination that wife failed to sufficiently trace non-marital property, and its failure to require husband to help pay for children's educational needs.

FAYETTE COUNTY

HON JOHN P. SCHRADER

Appellant Atty:

Appellant Name:

WOHLANDER, MARK

AUBREY, ELIZABETH

Appellee Atty:

Appellee Name:

O'BRIEN, EILEEN

AUBREY, JOEL

\*\* NOTE:

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

**DATE: Tuesday, August 10, 2010**

**01:30 PM PJ: KELLER, HON. MICHELLE M.**

**MOORE, HON. JOY A.**

**HARRIS, HON. WILLIAM R.**

**2009CA000793 BARBARA SCHAMBON v COMMONWEALTH OF KENTUCKY**

**2009CA000794**

Appellants appeal from trial court's denial of their 60.02 motion based on a claim of actual innocence. Appellants also argue that the trial court erred in failing to conduct a hearing regarding their 60.02 motion.

**WARREN COUNTY**

**HON JOHN R. GRISE**

Appellant Atty:

**RUFF, BRIAN  
SCHMIDT, KATHLEEN  
THOMAS, MARGUERITE**

Appellant Name:

**SCHAMBON, BARBARA**

Appellee Atty:

**HARNED, MICHAEL**

Appellee Name:

**COMMONWEALTH OF KENTUCKY**

**\*\* NOTE:**

**02:15 PM PJ: HENRY, HON. MICHAEL L.**

**CLAYTON, HON. DENISE G.**

**LAMBERT, HON. JAMES H.**

**2009CA001710 COUNTY FISCAL COURTS v COMMONWEALTH OF KENTUCKY, JUSTICE AND PUBLIC SAFETY CABINET,**

Appeal from dismissal of declaratory judgment action concerning a dispute of statutory and constitutional provisions addressing the financial responsibility for prisoners for time spent in county jails pending trial and awaiting sentencing. Principal issue raised addresses phrase "for all purposes" in KRS 532.120(3) governing the calculation of terms of imprisonment.

**CIVIL**

**FRANKLIN COUNTY**

**HON PHILLIP J. SHEPHERD**

Appellant Atty:

**CALDWELL, BRENT**

Appellant Name:

**COUNTY FISCAL COURTS**

Appellee Atty:

**HAMILTON, TAYLOR  
HENDRIX, LAURA  
WHITE, SCOTT**

Appellee Name:

**COMMONWEALTH OF KENTUCKY, JUSTICE  
AND PUBLIC SAFETY CABINET,**

**\*\* NOTE:PREVIOUSLY AT 3:00 PM**

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

**DATE: Wednesday, August 18, 2010**

**01:00 PM PJ: ACREE, HON. GLENN E.**

**DIXON, HON. DONNA L.**

**STUMBO, HON. JANET L.**

**2009CA001259 KNOX COUNTY KENTUCKY v CITY OF CORBIN KENTUCKY**

**2009CA001308**

Civil; Summary Judgment: Whether the circuit court properly denied summary judgment on various grounds. Whether the circuit court properly concluded Knox Co. must provide a credit for occupational license fees which Corbin taxpayers pay to the county.

**CIVIL KNOX COUNTY**

**HON RODERICK MESSER**

Appellant Atty:

Appellant Name:

**MCSWAIN, DOUGLAS**

**KNOX COUNTY KENTUCKY**

**WINFREY, MERRIE**

**WRIGHT, DERRICK**

Appellee Atty:

Appellee Name:

**BIRKENHAUER, NICHOLAS**

**CITY OF CORBIN KENTUCKY**

**GUILFOYLE, MARK**

**HUGHES, PATRICK**

**MCMURTRY, TODD**

**\*\* NOTE:**

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,****DATE: Thursday, August 19, 2010****11:30 AM PJ: LAMBERT, HON. JOSEPH E.****CAPERTON, HON. MICHAEL O.****WINE, HON. THOMAS B.****2009CA001813 JEFFERY TODD PEARCE v UNIVERSITY OF LOUISVILLE**

Appeal from a judgment affirming an administrative decision terminating Appellant's employment in a police discipline case. Among the issues presented is whether KRS 15.520 applies in police discipline cases not initiated by a citizen complaint.

**CIVIL JEFFERSON COUNTY****HON IRV MAZE**Appellant Atty:**LEIGHTTY, DAVID**Appellant Name:**PEARCE, JEFFERY**Appellee Atty:**FULLER, DAVID****SHARP, MARY****DILGER, CRAIG**Appellee Name:**THE KENTUCKY STATE LODGE FRATERNAL ORDER OF POLICE INC.****UNIVERSITY OF LOUISVILLE****\*\* NOTE:****01:15 PM PJ: LAMBERT, HON. JOSEPH E.****CAPERTON, HON. MICHAEL O.****WINE, HON. THOMAS B.****2009CA001802 PATRICIA FAULKNER v SCOTT GREENWALD**

Appeal from entry of summary judgment in favor of Appellee in a negligence action. At issue is whether Appellee was entitled to qualified official immunity from suit as a matter of law and whether Appellants injuries were foreseeable.

**CIVIL JEFFERSON COUNTY****HON SUSAN SCHULTZ GIBSON**Appellant Atty:**CLARE, BRIAN**Appellant Name:**FAULKNER, PATRICIA**Appellee Atty:**BASHA, RANIA**Appellee Name:**GREENWALD, SCOTT****\*\* NOTE:PREVIOUSLY AT 10:45 AM**

**LOCATION: CHRISTIAN COUNTY COURTHOUSE, COURTROOM 1, FIRST FLOOR,  
100 JUSTICE WAY, HOPKINSVILLE, KENTUCKY**

**DATE: Wednesday, August 25, 2010**

**10:15 AM** PJ: TAYLOR, HON. JEFF S. DIXON, HON. DONNA L. HENRY, HON. MICHAEL L.  
**2009CA001419** ROBERT W. MILLER v JANE DEFREES MILLER

Whether circuit court properly dismissed action for lack of personal jurisdiction over a nonresident defendant.

<b>CIVIL</b>	<b>FAYETTE COUNTY</b>	<b>HON THOMAS L CLARK</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
HOLLADAY, DAVID		MILLER, ROBERT
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
KONWICZKA, TIFFANY		MILLER, JANE
.....		

**\*\* NOTE:PREVIOUSLY ON 7/20/10 AT 11:00 AM IN FRANKFORT, KY**

**11:00 AM** PJ: TAYLOR, HON. JEFF S. DIXON, HON. DONNA L. HENRY, HON. MICHAEL L.  
**2009CA002165** JOHNNELL DENTON v ABBEY MULLIGAN

Whether family court erred by finding appellee de facto custodian; whether family court properly awarded joint custody.

	<b>CAMPBELL COUNTY</b>	<b>HON D. MICHAEL FOELLGER</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
MILLAY, CYNTHIA		DENTON, JOHNNELL
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
KLOEKER, CYNTHIA		CABINET FOR HEALTH AND FAMILY SERVICES
BLOEMER, DONNA		D., J.
.....		
HEINRICH, RENE		MULLIGAN, ABBEY
.....		
BONECUTTER, BRENDA		MULLIGAN, MEGGI
.....		

**\*\* NOTE:PREVIOUSLY ON 7/20/10 AT 11:30 IN FRANKFORT, KY**

**LOCATION: CHRISTIAN COUNTY COURTHOUSE, COURTROOM 1, FIRST FLOOR,  
100 JUSTICE WAY, HOPKINSVILLE, KENTUCKY**

**DATE: Wednesday, August 25, 2010**

**01:30 PM PJ: TAYLOR, HON. JEFF S. COMBS, HON. SARA W. THOMPSON, HON. KELLY**  
**2009CA001631 RODGER W. LOFTON v FAIRMONT SPECIALTY INSURANCE MANAGERS, INC. D/B/A**

Whether circuit court properly determined that appellant was not entitled to an attorney fee lien under KRS 376.460.

**CIVIL MCCRACKEN COUNTY HON R JEFFREY HINES**

Appellant Atty:

LOFTON, RODGER

Appellant Name:

LOFTON, RODGER

Appellee Atty:

WALTER, CHARLES

SCHROCK, W

PRUITT, DELBERT

Appellee Name:

FAIRMONT SPECIALTY INSURANCE  
MANAGERS, INC. D/B/A

MAXEY, DENISE

PRUITT, DELBERT

**\*\* NOTE:**

**02:15 PM PJ: TAYLOR, HON. JEFF S. COMBS, HON. SARA W. NICKELL, HON. C. SHEA**  
**2009CA000686 LEE T. SPARKS v WAL-MART STORES, INC.**  
**2009CA000821**

2009-CA-000686 – Whether trial court properly denied Spark’s motion for directed verdict; whether trial court erroneously excluded certain evidence; whether trial court properly dismissed retaliation claim.  
2009-CA-000821 – Whether Sparks is an exempt employee under KRS 337.385

**CIVIL SIMPSON COUNTY HON JANET J. CROCKER**

Appellant Atty:

SPARKS, DAVID

Appellant Name:

SPARKS, LEE

Appellee Atty:

HYLAND, WENDY  
QUESENBERRY, KATHRYN

Appellee Name:

WAL-MART STORES, INC.

**\*\* NOTE:**