

August 2024 ORAL ARGUMENT CALENDAR

Motion Panel

Judge Allison E. Jones, Presiding Judge
Judge Annette C. Karem and
Judge Audra J. Eckerle,
Associate Judges

Kentucky Court of Appeals

Oral Argument Calendar

Monday, August 05, 2024

Location: SARA WALTER COMBS COURTROOM, KENTUCKY COURT OF APPEALS, 669 CHAMBERLIN AVENUE, SUITE B, FRANKFORT, KY

**1:00PM
(EST)**

SAM EDELEN v. DONNA DUTTON, JUDGE, ANDERSON DISTRICT COURT, ET AL.

[2023-CA-0834](#)

Presiding Judge: HON. GLENN E. ACREE

Associate Judges: LISA P. JONES and HON. LARRY E. THOMPSON

CRIMINAL; DOUBLE JEOPARDY; SUPRISE WITNESS:
WHETHER THE DOUBLE JEOPARDY CLAUSES OF THE KENTUCKY AND THE UNITED STATES CONSTITUTIONS PROHIBIT CONTINUED PROSECUTION OF CRIMINAL DEFENDANT AFTER A JURY IS SWORN, AND AFTER THE COURT, SUA SPONTE, DECLARED A MISTRIAL BECAUSE THE PARTIES LEARNED OF A SUPRISE WITNESS.

ANDERSON County, Hon. MELANIE BRUMMER

Attorney for Appellant: Philip Clyde Kimball

Attorneys for Appellee: Stephanie Lynne McKeehan and Robert Edward Wiedo

**1:45PM
(EST)**

KESHA DEADWYLER, ET AL. v. THE GRANGE PROPERTY AND CASUALTY INSURANCE COMPANY

[2023-CA-1011](#)

Presiding Judge: HON. GLENN E. ACREE

Associate Judges: LISA P. JONES and HON. LARRY E. THOMPSON

INSURANCE; EXAMINATIONS UNDER OATH;
QUESTIONS PRESENTED: WHETHER CIRCUIT COURT ABUSED ITS DISCRETION BY FINDING "GOOD CAUSE" UNDER KRS 304.39-280(3) TO ORDER APPELLANT'S EXAMINATION UNDER OATH; WHETHER CIRCUIT COURT EXPANDED THE SCOPE OF INQUIRY PERMITTED BY STATE FARM MUTUAL INSURANCE COMPANY V. ADAMS, 526 S.W.3RD 63 (KY. 2017).

JEFFERSON County, HON. ERIC JOSEPH HANER

Attorney for Appellants: John Patrick Ward, Jr.

Attorneys for Appellee: Eric Shawn Rice and Robert Christian Garrison

Wednesday, August 07, 2024

Location: FAYETTE COUNTY CIRCUIT COURTHOUSE, 120 N, LIMESTONE, COURTROOM I, 4TH FLOOR, LEXINGTON, KENTUCKY 40507

1:30 PM (ET) SUPERASH REMAINDERMAN, LP v. ASHLAND, LLCK 2023-CA-0427
SUPERASH REMAINDERMAN, LP v. ASHLAND, LLC, 2023-CA-0566
SUPERASH REMAINDERMAN, LP v. ASHLAND, LLC, ET AL. 2023-CA-0578

[2023-CA-0427](#), [2023-CA-0566](#), [2023-CA-0578](#)

Presiding Judge: HON. AUDRA J. ECKERLE

Associate Judges: HON. KELLY MARK EASTON and HON. JAMES H. LAMBERT

DR GRANT FROM 3 CIRCUIT COURT OPINIONS AFFIRMING DISTRICT COURT DENIALS IN FORCIBLE DETAINER CASES.

ASHLAND LEASED 24 PROPERTIES FROM SUPERASH AT RATES WELL BELOW MARKET RATE. THOSE LEASES CONTAINED RENEWAL PROVISIONS THAT REQUIRED NOTICE OF INTENT TO RENEW 120 DAYS BEFORE THE LEASES ENDED. ASHLAND FAILED TO FILE THE REQUIRED NOTICES. SUPERASH DESIRED LEASES AT MARKET RATE, AND THE PARTIES UNSUCCESSFULLY ATTEMPTED TO NEGOTIATE LEASE EXTENSIONS. SUPERASH THEN FILED FORCIBLE DETAINER ACTIONS. SIMILIAR ACTIONS WERE HELD IN OHIO PRIOR TO THE INSTANT CASES, AND OHIO APPLIED AN "HONEST MISTAKE" RULE GRANTING ASHLAND EQUITABLE RELIEF.

FAYETTE DISTRICT COURT GRANTED SJ TO ASHLAND FOLLOWING THE OHIO "HONEST MISTAKE" RULE, AND JEFFERSON AND HARRISON COURTS FOLLOWED SUIT.

FAYETTE CIRCUIT AFFIRMED ON EQUITABLE RELIEF GROUNDS. JEFFERSON STAYED ITS PROCEEDINGS WAITING ON FAYETTE, THEN ENTERED AN ORDER FOLLOWING FAYETTE BASED ON CLAIM AND ISSUE PRECLUSION THAT IT RAISED SUA SPONTE. HARRISON INVOKED THE HONEST-MISTAKE DOCTRINE AND FAYETTE'S "SPECIAL CIRCUMSTANCES" CLAIM.

SUPERASH SAYS STRICT COMPLIANCE WITH CONTRACTS IS REQUIRED, SO NO EQUITABLE RELIEF. AND IF EQUITABLE RELIEF IS AVAILABLE, A DISTRICT COURT CANNOT GRANT THAT IN A FORCIBLE-DETAINER PROCEEDING DUE TO ITS LIMITING JURISDICTION PROHIBITING THEM FROM BEING COURTS OF EQUITY, AND ASHLAND NEVER FILED A SEPERATE ACTION IN CIRCUIT COURT TO PURSUE EQUITABLE RELIEF.

ASHLAND AND SPEEDWAY DISAGREE AND RAISE VARIOUS ADDITIONAL DEFENSES TO SUBSTANTIVE CLAIM.

FAYETTE County, HON. LUCY ANNE VANMETER

Attorneys for Appellant: Burt Anthony Stinson, Clark Cunningham Johnson, and Michael Timothy Leigh

Attorneys for Appellees: Jeremy S. Young, Robert William Schrimpf, Tyler Martin Jolley, Jason Patrick Renzelmann, Justin Soper Fowles, Kevin Nathaniel Troy Fowler, and Michelle Cecelia Marie Fox

Wednesday, August 21, 2024

Location: SARA WALTER COMBS COURTROOM, KENTUCKY COURT OF APPEALS, 669 CHAMBERLIN AVENUE, SUITE B, FRANKFORT, KY

2:00PM (EST) THOMAS J. YOUNG v. D.E.P.E., L.L.C. D/B/A PELLA WINDOWS AND DOORS, ET AL.

[2023-CA-0888](#)

Presiding Judge: HON. JEFF S. TAYLOR

Associate Judges: HON. JACQUELINE M. CALDWELL and J. CHRISTOPHER McNEILL

WHETHER CIRCUIT COURT ERRED BY GRANTING SUMMARY JUDGMENT IN FAVOR OF APPELLANT.

FAYETTE County, HON. KIMBERLY N. BUNNELL

Attorneys for Appellant: John Nathanael Billings, Richard Jacob Dieffenbach, Zachary Green Cato, Medrith Lee Norman, and Nolan Miller Jackson

Attorneys for Appellee: Brady Edward Moore, Diane Rose Conley, and Barry Alan Rudell, II
