

UPDATED: 02/10/2010

FEBRUARY 2010

ORAL ARGUMENT

CALENDAR

2/10/2010

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February 2, 2010

9:00 – 9:40 A.M., ORAL ARGUMENT, #2009-CA-000404, DANIELLE JOHNSON V. UNITED PARCEL SERVICE, JUDGE WINE, PRES., JUDGE MOORE, AND JUDGE C. SHEA NICKELL.

10:00 A.M., FULL COURT MEETING

1:30 P.M. MOTION PANEL, JUDGE WINE, PRES., JUDGE ACREE, AND JUDGE JAMES LAMBERT, ASSOC.

1:30 – 2:00 P.M., ORAL ARGUMENT, #2009-CA-000474, JIM BURNHAM V. RADIOLOGY GROUP OF PADUCAH, JUDGE STUMBO, PRES., CHIEF JUDGE COMBS AND JUDGE CLAYTON, ASSOC.

2:15 – 2:45 P.M., ORAL ARGUMENT, #2009-CA-000888, MARK LINEBAUGH V. ROBERT CARROLL, CHIEF JUDGE COMBS, JUDGE CLAYTON AND JUDGE STUMBO, ASSOC.

3:00 – 3:30 P.M., ORAL ARGUMENT, #2008-CA-001568, PATRICIA MCGEHEE V. TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS, JUDGE CLAYTON, PRES., CHIEF JUDGE COMBS AND JUDGE STUMBO, ASSOC.

3:45 – 4:15 P.M., ORAL ARGUMENT, #2009-CA-000091, J. A. STREET & ASSOCIATES, INC. V. BUD RIFE CONSTRUCTION COMPANY, INC., ET AL., JUDGE KELLER, PRES., JUDGE VANMETER AND SR. JUDGE GRAVES, ASSOC.

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

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

DATE: Tuesday, February 2, 2010

09:00 AM PJ: WINE, HON. THOMAS B.

MOORE, HON. JOY A.

NICKELL, HON. C. SHEA

2009CA000404 DANIELLE JOHNSON v UNITED PARCEL SERVICE, INC.

Wells & Johnson appeal from dismissal of their negligent referral claims against UPS. Whether an employer has a duty to disclose former employee's misconduct to subsequent prospective employer; assumption of duty by providing reference information; foreseeability.

CIVIL JEFFERSON COUNTY

HON MITCHELL PERRY

Appellant Atty:

**COOK, BRIAN
WILSON, ALEXANDER**

Appellant Name:

JOHNSON, DANIELLE

Appellee Atty:

**COLEMAN, TONY
STRANSKY, JOY**

Appellee Name:

UNITED PARCEL SERVICE, INC.

**** NOTE:40 MINUTE ORAL**

01:30 PM PJ: STUMBO, HON. JANET L.

COMBS, HON. SARA W.

CLAYTON, HON. DENISE G.

2009CA000474 JIM BURNHAM v RADIOLOGY GROUP OF PADUCAH, P.S.C.

MOR appeal from order granting motion to dismiss. Issue of first impression is whether death of a guardian's ward triggers the need to revive under KRS 395.278 and whether Appellee waived its right to seek dismissal.

CIVIL MCCracken County

HON R JEFFREY HINES

Appellant Atty:

**COINER, ANDREW
PADBERG, MATTHEW**

Appellant Name:

BURNHAM, JIM

Appellee Atty:

**PITCHFORD, JONATHAN
STRAUB, E. JR.**

Appellee Name:

RADIOLOGY GROUP OF PADUCAH, P.S.C.

**** NOTE:PREVIOUSLY AT 3:45 PM**

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

DATE: Tuesday, February 2, 2010

02:15 PM PJ: COMBS, HON. SARA W.

CLAYTON, HON. DENISE G.

STUMBO, HON. JANET L.

2009CA000888

MARK E. LINEBAUGH v ROBERT C. CARROLL

Action to quiet title. Circuit court held void appellant's attempted reservation of an easement in real estate and quieted title in the appellees.

CIVIL

EDMONSON COUNTY

HON RONNIE C DORTCH

Appellant Atty:

Appellant Name:

CARTER, GEORGE

LINEBAUGH, MARK

Appellee Atty:

Appellee Name:

RICHARDSON, BOBBY
SPRAWLS, DAVID

CARROLL, ROBERT

BOLOHAN, LORELEI

COUNTRYWIDE HOMES LOANS, INC.

BLAKEMAN, AMANDA

HOGAN, BRANDON

PRIEST, WHAYNE JR

NORENE, LUTHER

** NOTE:

03:00 PM PJ: CLAYTON, HON. DENISE G.

COMBS, HON. SARA W.

STUMBO, HON. JANET L.

2008CA001568

PATRICIA RAGLAND MCGEHEE v TRANSPORTATION CABINET, DEPARTMENT OF
HIGHWAYS

Appeal of Hardin Circuit Court order which condemned the property of the appellant at the request of the Transportation Depart. Appellant's argues that "public need" not shown and that a related case of 2009-CA-000611-MR should be considered as well.

CIVIL

HARDIN COUNTY

HON JANET P. COLEMAN

Appellant Atty:

Appellant Name:

GRADDY, W. IV

MCGEHEE, PATRICIA

Appellee Atty:

Appellee Name:

ESTILL, JOHN

TRANSPORTATION CABINET, DEPARTMENT
OF HIGHWAYS

** NOTE:

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

DATE: Tuesday, February 2, 2010

03:45 PM PJ: KELLER, HON. MICHELLE M. VANMETER, HON. LAURANCE B. GRAVES, HON. JOHN W.
2009CA000091 J. A. STREET & ASSOCIATES, INC. v BUD RIFE CONSTRUCTION COMPANY, INC.

This appeal involves disputes arising from construction contracts. Following a bench trial, the court ordered Appellant to pay Appellees additional money. Appellant argues that there were express contracts and the court ignored the terms of those contracts in making its findings of fact and in rendering its judgment.

CIVIL FLOYD COUNTY HON DANNY P CAUDILL

Appellant Atty:

COMBS, JAMES

Appellant Name:

J. A. STREET & ASSOCIATES, INC.

Appellee Atty:

**BALL, ALLISON
BARTLEY, KEITH
VANOVER, JIM**

Appellee Name:

BUD RIFE CONSTRUCTION COMPANY, INC.

STRATTON, DAVID

**RAMSEY PRESTONSBURG DEVELOPMENT,
LLC.**

**** NOTE:PREVIOUSLY ON 2/17/10 AT 2:15 PM.**

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

DATE: Wednesday, February 17, 2010

10:30 AM PJ: LAMBERT, HON. JOSEPH E.

KELLER, HON. MICHELLE M.

WINE, HON. THOMAS B.

2009CA000874 JESSE GARDNER v VISION MINING, INC.

Workers' Compensation appeal – issue is constitutionality of KRS 342.216 and whether that statute violates equal protection rights of coal miners (miners injured by exposure to coal dust versus workers exposed to other particulates).

WORKERS COMP

WORKERS' COMP COUNTY

HON JOHN A GARDNER

Appellant Atty:

SPRINGER, THOMAS III

Appellant Name:

GARDNER, JESSE

Appellee Atty:

GOTT, DOUGLAS

FINALDI, ANTHONY

LOVAN, DWIGHT

Appellee Name:

GOTT, DOUGLAS

VISION MINING, INC.

WORKERS' COMPENSATION BOARD

**** NOTE:PREVIOUSLY ON 1/25/10 AT 1:30 PM**

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

VANMETER, HON. LAURANCE B.

GRAVES, HON. JOHN W.

2008CA002246 LELA DANIEL v JEFFREY SCOTT DANIEL

In this custody case the Appellant argues that the trial court did not make findings of fact; should have appointed a guardian ad litem; abused its discretion in awarding custody to the Appellee; did not address issues related to property; and should have recused.

JOHNSON COUNTY

HON JANIE MCKENZIE-WELLS

Appellant Atty:

BURKE, KATHRYN

Appellant Name:

DANIEL, LELA

Appellee Atty:

FRAZIER, STEPHEN

Appellee Name:

DANIEL, JEFFREY

**** NOTE:**

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

DATE: Wednesday, February 17, 2010

02:15 PM PJ: VANMETER, HON. LAURANCE B.

KELLER, HON. MICHELLE M.

GRAVES, HON. JOHN W.

2009CA000257 GINA LYNNETT TRIPLETT v CHRIS JAMISON

2009CA000283

Civil procedure: propriety of summary judgment with respect to electrician; alleged breach of statutory duty.

CIVIL

BATH COUNTY

HON WILLIAM B MAINS

Appellant Atty:

TRAUTWEIN, TODD

Appellant Name:

TRIPLETT, GINA

Appellee Atty:

INGRAM, FARRAH

Appellee Name:

JAMISON, CHRIS

**** NOTE:ORIGINALLY AT 3:00 PM**

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

DATE: Thursday, February 18, 2010

02:00 PM PJ: TAYLOR, HON. JEFF S. ACREE, HON. GLENN E. BUCKINGHAM, HON. DAVID C.

**2009CA000848 JOSEPH GAINES, A MINOR BY AND THROUGH HIS PARENTS v DIAMOND POND
PRODUCTS, INC.**

Whether circuit court properly rendered directed verdict.

CIVIL FAYETTE COUNTY HON PAMELA R GOODWINE

Appellant Atty:

**BUTCHER, JULIE
EWING, ROSS**

Appellant Name:

**JOSEPH GAINES, A MINOR BY AND THROUGH HIS
PARENTS**

Appellee Atty:

**COLSON, GUY
WHITE, JANA**

Appellee Name:

DIAMOND POND PRODUCTS, INC.

**** NOTE:**

02:45 PM PJ: TAYLOR, HON. JEFF S. ACREE, HON. GLENN E. BUCKINGHAM, HON. DAVID C.

2009CA000643 TIMOTHY MOUTARDIER v KENTUCKY RETIREMENT SYSTEMS

Whether Retirement Systems properly discontinued appellant's retirement disability benefits.

CIVIL FRANKLIN COUNTY HON THOMAS D. WINGATE

Appellant Atty:

**DUFF, DONALD
REED, RYAN**

Appellant Name:

MOUTARDIER, TIMOTHY

Appellee Atty:

RUPINEN , KATHERINE

Appellee Name:

KENTUCKY RETIREMENT SYSTEMS

**** NOTE:**

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

DATE: Thursday, February 18, 2010

03:30 PM PJ: TAYLOR, HON. JEFF S.

ACREE, HON. GLENN E.

BUCKINGHAM, HON. DAVID C.

2009CA000611

**PATRICIA A. MCGEHEE v COMMONWEALTH OF KENTUCKY, TRANSPORTATION
CABINET**

Whether circuit court correctly determined that it lacked jurisdiction over real property dispute and that appellants lacked standing under Model Procurement Code.

CIVIL

FRANKLIN COUNTY

HON PHILLIP J. SHEPHERD

Appellant Atty:

**GRADDY, W. IV
STROBO, RANDAL**

Appellant Name:

MCGEHEE, PATRICIA

Appellee Atty:

**BURCH, STEWART

LOGAN, EDWIN
MOORE, P.**

Appellee Name:

**COMMONWEALTH OF KENTUCKY,
TRANSPORTATION CABINET**

**** NOTE:**

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

DATE: Friday, February 19, 2010

10:45 AM PJ: **BUCKINGHAM, HON. DAVID C.** **ACREE, HON. GLENN E.** **TAYLOR, HON. JEFF S.**
2009CA000358 **JOHN BACKER v CARL ROLLINS**

Denial of zoning change application.

CIVIL **WOODFORD COUNTY** **HON PAUL F ISAACS**

Appellant Atty:

MCKINSTRY, TAFT
WEST, TIMOTHY

Appellant Name:

BACKER, JOHN

Appellee Atty:

NOT REPRESENTED BY COUNSEL,
BUTLER, TIMOTHY

Appellee Name:

BACKER FARM

GORMLEY, JOE

GEORGE, ALAN
MANDO, JEFFREY

ROLLINS, CARL

GRADDY, W. IV

THE WOODFORD COALITION

**** NOTE:ORIGINALLY 11:30 AM**

11:30 AM PJ: **MOORE, HON. JOY A.** **ACREE, HON. GLENN E.** **BUCKINGHAM, HON. DAVID C.**
2009CA001269 **T. E. v COMMONWEALTH OF KENTUCKY, EX REL, T. L. W.**

In this paternity action, appellant argues that the circuit court erred in ruling that it did not have subject-matter jurisdiction to determine a paternity claim under J.N.R. v. O'Reilly, 264 S.W.3d 587 (Ky. 2008).

BUTLER COUNTY

HON MICHAEL L. MCKOWN

Appellant Atty:

KEOWN, JUSTIN

Appellant Name:

E., T.

Appellee Atty:

DEYE, RICHARD

Appellee Name:

**COMMONWEALTH OF KENTUCKY, EX REL, T.
L. W.**

HAWKINS, WALTER

W., T.

**** NOTE:**