

UPDATED 04/29/2008

MAY 2008

ORAL ARGUMENT

CALENDAR

04/29/2008

MAY, 2008

May 7, 2008

**9:00 – 9:15 A.M., SHOW CAUSE HEARING,
2006-CA-001682, MARK LIBRETTO V. KIM KINNAIRD,
JUDGE ACREE, PRES., JUDGE NICKELL AND
JUDGE VANMETER, ASSOC.**

10:00 A.M. COURT MEETING

**1:30 – 2:10 P.M., ORAL ARGUMENT, 2006-CA-001087,
PAUL ROGERS V. SCARLETT COUNTS, JUDGE WINE,
PRES., JUDGE KELLER AND JUDGE THOMPSON,
ASSOC.**

**2:15 – 2:45 P.M., ORAL ARGUMENT, 2007-CA-001042,
TONYA FARMER DEROSSETT V. GERTRUDE TYSON,
SR. JUDGE BUCKINGHAM, PRES., JUDGE LAMBERT
AND JUDGE TAYLOR, ASSOC.**

**2:30 P.M., MOTION PANEL, JUDGE THOMPSON, PRES.,
JUDGE CAPERTON, AND JUDGE KELLER, ASSOC.**

**3:00 – 3:30 P.M., ORAL ARGUMENT, 2006-CA-002119 &
2006-CA-002143, ROY HAMM V. DIANA HAMM,
JUDGE TAYLOR, PRES., JUDGE LAMBERT AND
SR. JUDGE BUCKINGHAM, ASSOC.**

**3:45 – 4:15 P.M., ORAL ARGUMENT, 2006-CA-002624 &
2007-CA-000444, VANDANA KUMAT V.
ASHUTOSH LOHE, JUDGE STUMBO, PRES.,
CHIEF JUDGE COMBS AND SR. JUDGE KNOPF, ASSOC.**

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

**FRANKFORT – Contact Mary Zagale - (502) 573-7920
CARROLLTON – Contact Susan Caldon – (502) 732-4305
PADUCAH – Contact Vicky Potts – (270) 575-7400
PRESTONSBURG – Contact Karen Caudill (606) 889-1900**

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

DATE: Monday, May 05, 2008

10:00 AM PJ: WINE CAPERTON KELLER
2007CA000136 DAVID TIDWELL, IV VS COMMONWEALTH OF KENTUCKY

Appeal from conviction for TBUT over \$300 and PFO II. Denial of motion for directed verdict; denial of lesser-included offense instruction; violation of separation of witness order; denial of motion to suppress evidence seized pursuant to search warrant; denial of motion to suppress photographs and witness identification as unduly suggestive; impeachment of defense witness on collateral matter; cumulative error.

CRIMINAL PIKE COUNTY EDDY COLEMAN

Appellant Atty:

Appellant Name:

.....
POTTER, SAMUEL N
SCHMIDT, KATHLEEN K.

.....
DAVID TIDWELL, IV
DAVID TIDWELL, IV

Appellee Atty:

Appellee Name:

.....
HARNED, MICHAEL L.
MOORE, JASON B.

.....
COMMONWEALTH OF KENTUCKY
COMMONWEALTH OF KENTUCKY

**NOTE:ORIGINALLY ON 4/25/08 AT 1:30 PM IN COVINGTON, KY

10:45 AM PJ: WINE CAPERTON KELLER
2007CA000301 GEORGE GLASS VS NANCY GLASS

2007CA000368 Appeal and cross-appeal from dissolution judgment. Direct appeal: Classification of non-marital property; burden of proof to show that increase in value of non-marital property remains non-marital; and division of marital property. Cross-appeal: classification of a ring which replaced a gifted ring as marital; sufficiency of evidence of value of another ring used to offset ring; existence of agreement regarding disposition of rings.

CIVIL FAYETTE COUNTY KIMBERLY N BUNNELL

Appellant Atty:

Appellant Name:

.....
DEVINE, CARL D.
SALSMAN, MICAH EDWARD

.....
GEORGE REID GLASS
GEORGE REID GLASS

Appellee Atty:

Appellee Name:

.....
OSBORNE, CRYSTAL L.

.....
NANCY ELLIS GLASS

**NOTE:ORIGINALLY ON 4/25/08 AT 2:15 PM IN COVINGTON, KY.

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

DATE: Monday, May 05, 2008

11:30 AM

PJ: WINE

CAPERTON

KELLER

2007CA001087

JAMES BROOKS ET AL. VS GRAMS, INC.

Appeal from summary judgment dismissing vicarious liability claim. Whether the spouse of an employee who is running a work-related errand for the employee has an agency relationship with employer. Existence of genuine issues of material fact.

CIVIL

LINCOLN COUNTY

JEFFREY T BURDETTE

Appellant Atty:

Appellant Name:

DEAN, JAMES HADDEN

JAMES BROOKS

ROBIN BROOKS

Appellee Atty:

Appellee Name:

GREENE, ANGELA LOU

GRAMS, INC.

**NOTE:40 MINUTE ORAL - ORIGINALLY ON 4/25/08 AT 3:00 PM

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

DATE: Tuesday, May 06, 2008

10:00 AM

PJ: KELLER

CAPERTON

WINE

2007CA001075

ZOEY YOUNG VS UNIVERSITY HOSPITAL OF THE ALBERT B. CHANDLER
MED. CTR. INC. ET AL.

In this medical negligence action, the circuit court dismissed defendant medical center on the basis of sovereign immunity.
Appellant alleges the defendants were not entitled to said immunity protection.

CIVIL

FAYETTE COUNTY

PAMELA R GOODWINE

Appellant Atty:

Appellant Name:

.....
SHEPHERD, LIZ J

.....
ZOEY MCKENZY YOUNG

SMITH II, DANIEL TYSEN

ZOEY MCKENZY YOUNG

THOMPSON, TYLER S

ZOEY MCKENZY YOUNG

Appellee Atty:

Appellee Name:

.....
KINKEL, STEVEN G

.....
UNIVERSITY HOSPITAL OF THE ALBERT B. CHANDLER MED. CTR. INC.

UNIVERSITY OF KENTUCKY MEDICAL CENTER

MARRS, MELANIE S.

UNIVERSITY HOSPITAL OF THE ALBERT B. CHANDLER MED. CTR. INC.

UNIVERSITY OF KENTUCKY MEDICAL CENTER

TREVEY, DAVID ANDREW

UNIVERSITY HOSPITAL OF THE ALBERT B. CHANDLER MED. CTR. INC.

UNIVERSITY OF KENTUCKY MEDICAL CENTER

**NOTE:ORIGINALLY ON 4/24/08 AT 4:00 PM IN COVINGTON, KY

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

DATE: Tuesday, May 06, 2008

10:45 AM

PJ: KELLER

CAPERTON

WINE

2007CA001353

S.M., A CHILD UNDER EIGHTEEN VS COMMONWEALTH OF KENTUCKY

This appeal involves the circuit court's opinion affirming the district court's ruling that the appellant, a juvenile, who was allegedly not eligible to be declared a juvenile sexual offender due to conviction for two counts of voyeurism was not entitled to an independent sexual assessment.

DR CRIMINAL

FAYETTE COUNTY

DAVID HAYSE

Appellant Atty:

Appellant Name:

ROBINSON, GAIL

S.M., A CHILD UNDER EIGHTEEN

SCHMIDT, KATHLEEN K.

S.M., A CHILD UNDER EIGHTEEN

Appellee Atty:

Appellee Name:

CONWAY, JACK

COMMONWEALTH OF KENTUCKY

MINNIFIELD, DIANE T

COMMONWEALTH OF KENTUCKY

**NOTE:ORIGINALLY ON 4/25/08 AT 11:00 AM IN COVINGTON, KY

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

DATE: Tuesday, May 06, 2008

11:30 AM

PJ: KELLER

CAPERTON

WINE

2007CA000203

DOUGLAS FULTZ VS COMMONWEALTH OF KENTUCKY

The appellant is alleging six points of error in this appeal from a Manslaughter in the Second Degree verdict. They include juror tainting as well as sufficiency of the evidence.

CRIMINAL

MCLEAN COUNTY

DAVID H JERNIGAN

Appellant Atty:

Appellant Name:

.....
PEARSON, JULIA K.

.....
DOUGLAS R. FULTZ

SCHMIDT, KATHLEEN K.

DOUGLAS R. FULTZ

Appellee Atty:

Appellee Name:

.....
CONWAY, JACK

.....
COMMONWEALTH OF KENTUCKY

RYAN, PERRY T

COMMONWEALTH OF KENTUCKY

**NOTE:ORIGINALLY ON 4/25/08 AT 10:15 AM IN COVINGTON, KY

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

DATE: Wednesday, May 07, 2008

9:00 AM PJ: ACREE NICKELL VANMETER
2006CA001682 MARK LIBRETTO VS KIM KINNAIRD

CIVIL BOONE COUNTY PAUL W. ROSENBLUM

Appellant Atty:

Appellant Name:

.....
HOUSE, JULIETTE STEWART

.....
MARK LIBRETTO

Appellee Atty:

Appellee Name:

.....
STEELE, DAVID R

.....
KIM KINNAIRD

****NOTE:SHOW CAUSE HEARING**

1:30 PM PJ: WINE KELLER THOMPSON
2006CA001087 PAUL ROGERS ET AL. VS SCARLETT COUNTS ET AL.

Rogers appeal from a jury verdict awarding them no damages for personal injuries in a motor vehicle accident. Sufficiency of evidence; denial of motion for new trial; exclusion of evidence involving insurer while allowing insurer to participate at trial as a party; trial court's denial of request for additional cross-examination of medical witness testimony admitted by video deposition; preservation issues.

CIVIL PIKE COUNTY STEVEN D. COMBS

Appellant Atty:

Appellant Name:

.....
HAMILTON, JAMES L

.....
BARBARA ROGERS

.....
STEVENS, JONAH LEE

.....
PAUL RODNEY ROGERS

.....
BARBARA ROGERS

.....
PAUL RODNEY ROGERS

Appellee Atty:

Appellee Name:

.....
SMITH, LEE A

.....
SCARLETT RAE COUNTS

.....
SPURGEON, SANDRA

.....
GEICO INSURANCE COMPANY

****NOTE:40 MINUTE ORAL**

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

DATE: Wednesday, May 07, 2008

2:15 PM PJ: BUCKINGHAM LAMBERT TAYLOR

2007CA001042 TONYA DEROSSETT VS GERTRUDE TYSON

Property damage.

CIVIL FLOYD COUNTY DANNY P CAUDILL

Appellant Atty:

Appellant Name:

.....
WEBSTER, LAWRENCE R.

.....
TONYA FARMER DEROSSETT

Appellee Atty:

Appellee Name:

.....
PATTON, JERRY A.

.....
GERTRUDE TYSON

****NOTE:ORIGINALLY 4/16/08 AT 1:30 PM**

3:00 PM PJ: TAYLOR LAMBERT BUCKINGHAM

2006CA002119 ROY HAMM VS DIANA HAMM

2006CA002143 2006-CA-002119 - Whether circuit court erred in its division of marital property; 2006-CA-002143 -Whether circuit court erred by not awarding permanent maintenance.

CIVIL PULASKI COUNTY JEFFREY T BURDETTE

Appellant Atty:

Appellant Name:

.....
MCENROE, CHARLES J.

.....
ROY G. HAMM

Appellee Atty:

Appellee Name:

.....
BAKER, ROBERT R

.....
DIANA E. HAMM

3:45 PM PJ: STUMBO COMBS KNOPF

2006CA002624 VANDANA KUMAT VS ASHUTOSH LOHE

2007CA000444 Appeals from dissolution of marriage; issues include division of marital property, maintenance, failure to award childcare expenses

CIVIL KNOX COUNTY GREGORY A. LAY

Appellant Atty:

Appellant Name:

.....
CHUN, SUSAN Y.W.

.....
VANDANA KUMAT

.....
DEVINE, CARL D.

.....
VANDANA KUMAT

Appellee Atty:

Appellee Name:

.....
DAWAHARE, SANDRA MENDEZ

.....
ASHUTOSH LOHE

****NOTE:ORIGINALLY ON 5/14/08 AT 1:00 PM IN PRESTONSBURG, KY**

LOCATION: CARROLL COUNTY COURTHOUSE, HALL OF JUSTICE, 802 CLAY STREET, CARROLLTON, KENTUCKY

DATE: Monday, May 12, 2008

1:00 PM PJ: KELLER THOMPSON GRAVES
2007CA000089 MITZI WYRICK VS DEPARTMENT OF REVENUE, FINANCE & ADMINISTRATION CABINET ET AL.

This case originated as an Open Records action in Franklin Circuit Court which upheld the appellees invocation of KRS 61.878(1) which addresses access to materials pertaining to civil litigation to deny appellant's Open Records request. The appellees alleged that this is actually a discovery dispute masquerading as an Open Records request case.

CIVIL FRANKLIN COUNTY SAM G. MCNAMARA

Appellant Atty:

Appellant Name:

.....
BASHA, RANIA MARIE
PATTERSON, DEBORAH H
RAINES, KATHRYNE B

.....
MITZI D. WYRICK
MITZI D. WYRICK
MITZI D. WYRICK

Appellee Atty:

Appellee Name:

.....
ADAMS, MICHAEL GENE

FERGUSON, LAURA M

TROWER, C. CHRISTOPHER

.....
DEPARTMENT OF REVENUE, FINANCE & ADMINISTRATION CABINET
MARIAN DAVIS
DEPARTMENT OF REVENUE, FINANCE & ADMINISTRATION CABINET
MARIAN DAVIS
DEPARTMENT OF REVENUE, FINANCE & ADMINISTRATION CABINET
MARIAN DAVIS

1:45 PM PJ: KELLER THOMPSON GRAVES
2007CA002609 CLARENCE HICKS VS R & J WELL SERVICE ET AL.

Petition for Review filed by Clarence Hicks who sustained an injury on August 18, 2006, when he was lifting a large well head weighing 150 pounds. The Workers' Compensation Board's opinion dated 11-30-07 affirmed the ALJ's opinion dated 7-20-07 dismissing the claims. The ALJ found no work-related injury; failed to apportion any active impairment; and denied requested surgery.

WORKERS COMP WORKERS' COMP COUNTY FRANKLIN STIVERS

Appellant Atty:

Appellant Name:

.....
MOAK, THOMAS W

.....
CLARENCE HICKS

Appellee Atty:

Appellee Name:

.....
DAVIS, MARC CHRISTOPHER
HERALD III, JAMES WILLIAM
LOVAN, DWIGHT T.

.....
CHRIS DAVIS
R & J WELL SERVICE
WORKERS' COMPENSATION BOARD

LOCATION: CARROLL COUNTY COURTHOUSE, HALL OF JUSTICE, 802 CLAY STREET, CARROLLTON, KENTUCKY

DATE: Tuesday, May 13, 2008

10:00 AM PJ: THOMPSON KELLER GRAVES
2007CA000455 GREGORY DILLMAN VS COMMONWEALTH OF KENTUCKY

Appellant was convicted in trial by jury of trafficking in a controlled substance. During cross examination, appellant alleges he was questioned about prior bad acts. Appellant asserted a fifth amendment right. Trial ct ordered appellant to answer question. Appellant complains prosecution did not give notice pursuant to KRE 404 © of intention to introduce evidence of other crimes, wrongs or acts, and of violation fifth amendment rights. Alleges trial ct. improperly instructed jury to law of case.

CRIMINAL PULASKI COUNTY DAVID A. TAPP

Appellant Atty:

Appellant Name:

.....
BUCK, STEVEN JARED

.....
GREGORY DILLMAN

SCHMIDT, KATHLEEN K.

GREGORY DILLMAN

Appellee Atty:

Appellee Name:

.....
CONWAY, JACK

.....
COMMONWEALTH OF KENTUCKY

MAXSON, JAMES CHESNUT

COMMONWEALTH OF KENTUCKY

10:45 AM PJ: THOMPSON KELLER GRAVES
2007CA001348 EDDIE ROTHWELL VS E. SINGLETON ET AL.

Appellant appeals a directed verdict during a jury trial of a will contest action. Appellant believes that sufficient evidence was introduced during its case in chief so as to compel that this litigation be decided by the jury.

CIVIL LINCOLN COUNTY DAVID A. TAPP

Appellant Atty:

Appellant Name:

.....
SHORT, FREDERICK

.....
EDDIE S. ROTHWELL SR

Appellee Atty:

Appellee Name:

.....
DAY, DARYL KEVIN

.....
E. ELOISE SINGLETON

HELTON, EPHRAIM WOODS

E. ELOISE SINGLETON

E. ELOISE SINGLETON

LOCATION: CARROLL COUNTY COURTHOUSE, HALL OF JUSTICE, 802 CLAY STREET, CARROLLTON, KENTUCKY

DATE: Tuesday, May 13, 2008

11:30 AM

PJ: THOMPSON

KELLER

GRAVES

2007CA001444

Z. T. VS M. T. ET AL.

Issues: Finding of dependency, neglect and abuse, and ordered that he have no contact with his children; When 6 yr old child was questioned by county atty, the judge ordered him to remain outside of room and view proceedings on closed circuit TV and communicate with his atty by way of microphone connected to earphones worn by his atty; Alleges Mother had affair with pastor for one yr and had sexual relations with him in her home and children were in the home.

KENTON COUNTY

CHRISTOPHER J. MEHLING

Appellant Atty:

Appellant Name:

.....
BATHALTER, ROBERT

.....
Z. T.

Appellee Atty:

Appellee Name:

.....
EASTERLING, KENNETH L
HAAS JR, MARTIN
MCCRACKEN, KAREN E
THOMPSON, GEORGE ANDREW
WILEY, KELLY SENSEL

.....
CABINET FOR HEALTH & FAMILY SERVICES
M. T.
A. T.
KENTUCKY COUNTY ATTORNEY
CABINET FOR HEALTH & FAMILY SERVICES

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

DATE: Tuesday, May 13, 2008

10:00 AM

PJ: WINE

ACREE

VANMETER

2007CA001174

PEOPLES BANK OF NORTHERN KENTUCKY, INC. ET AL. VS CROWE
CHIZEK AND COMPANY LLC ET AL.

Bank appeals from 6 orders entered by trial court without opinion or discussion, which had effect of granting summary judgment and dismissing each of bank's claims. Issues: Court ignored Steelvest standard, statute of limitations was tolled, claim for aiding and abetting, punitive damages, discovery, an alleged "release", jury instruction, waiver provision of audit engagement letter, and bank's check conversion losses.

CIVIL

BOONE COUNTY

CRAIG Z CLYMER

Appellant Atty:

Appellant Name:

.....
PARRY, RON

.....
PBNK, INC.
PEOPLES BANK OF NORTHERN KENTUCKY, INC.

Appellee Atty:

Appellee Name:

.....
KINSER, HENRY E.

.....
CROWE CHIZEK AND COMPANY LLC
WILLIAM, B. BRIZENDINE

KONIECZNY, DANIEL I

CROWE CHIZEK AND COMPANY LLC
WILLIAM, B. BRIZENDINE

PATTON, JON JEFFREY

CROWE CHIZEK AND COMPANY LLC
WILLIAM, B. BRIZENDINE

PRIOR, GARY L.

CROWE CHIZEK AND COMPANY LLC
WILLIAM, B. BRIZENDINE

WEBSTER, MICKEY TODD

CROWE CHIZEK AND COMPANY LLC
WILLIAM, B. BRIZENDINE

**NOTE:40 MINUTE ORAL ORIGINALLY ON 5/06/08 AT 1:30 PM

LOCATION: FLOYD COUNTY JUSTICE CENTER, CIRCUIT COURTROOM B, 127
SOUTH LAKE DRIVE, PRESTONSBURG, KENTUCKY

DATE: Wednesday, May 14, 2008

1:45 PM PJ: COMBS STUMBO KNOPF
2007CA000978 LORRAINE MAY VS JAY MOORE

Appellant challenges summary judgment against her in a case involving personal injury to her allegedly resulting from negligently made repairs to a house that she was leasing.

CIVIL ROWAN COUNTY WILLIAM B MAINS

Appellant Atty:

Appellant Name:

.....
MCDONNER, MICHAEL RAY
STRITE, DAVID S.

.....
LORRAINE MAY
LORRAINE MAY

Appellee Atty:

Appellee Name:

.....
ELLIS, JOHN J.
STOKES, PAUL R.

.....
JAY MOORE
JAY MOORE

2:30 PM PJ: COMBS STUMBO KNOPF
2007CA001728 AMBER EVANS VS VICKY EVANS ET AL.

Appellant, natural mother of three children at issue, challenges grant of custody to their paternal grandparents even though a judicial decree had previously found her to be a fit custodian.

CIVIL BELL COUNTY JAMES L BOWLING JR

Appellant Atty:

Appellant Name:

.....
TAYLOR, MICHAEL A

.....
AMBER NICOLE EVANS

Appellee Atty:

Appellee Name:

.....
WEBSTER, SCOTT M.

.....
MIKE R. EVANS
MIKE R. EVANS II
VICKY EVANS

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

DATE: Wednesday, May 21, 2008

10:30 AM PJ: KNOPF STUMBO TAYLOR
2008CA000046 COMMONWEALTH OF KENTUCKY VS GREGORY BARTLETT ET AL.

WRIT OF PROHIBITION COUNTY

Appellant Atty:

Appellant Name:

.....
ABDRABBO, SHARIF AHMED
CONWAY, JACK
CRAWFORD, RONALD W.

.....
COMMONWEALTH OF KENTUCKY
COMMONWEALTH OF KENTUCKY
COMMONWEALTH OF KENTUCKY

Appellee Atty:

Appellee Name:

.....
BARTLETT, GREGORY M.
DAVIDSON, DAVID E
HUMMEL, MICHAEL ANDREW
LOTZ JR, W ROBERT

.....
GREGORY M. BARTLETT
SANDRA D. YOUNG
JONATHAN COX
LARRY COLE

11:15 AM PJ: KNOPF STUMBO TAYLOR
2008CA000027 COMMONWEALTH OF KENTUCKY VS A.C. CHAUVIN ET AL.

WRIT OF PROHIBITION COUNTY

Appellant Atty:

Appellant Name:

.....
OVERCASH, WENDELL H.

.....
COMMONWEALTH OF KENTUCKY

Appellee Atty:

Appellee Name:

.....
CHAUVIN, A. C. MCKAY
KOEHLER III, WILLIAM PHILIP
LOGSDON, ERIN CATHERINE
O'BRIEN, KENNETH P.

.....
A.C. MCKAY CHAUVIN
MATTHEW BAUMLER
CHRISTOPHER WARNER
CHRISTOPHER WARNER

LOCATION: MCCRACKEN COUNTY COURTHOUSE, COURTROOM A, SECOND FLOOR, 301 SOUTH SIXTH STREET, PADUCAH, KENTUCKY

DATE: Thursday, May 29, 2008

1:30 PM

PJ: TAYLOR

CLAYTON

NICKELL

2007CA001732

DICKIE TODD VS CITY OF PADUCAH

Whether circuit court properly concluded City of Paducah's smoking ban ordinance did not constitute zoning ordinance under KRS 100.203.

CIVIL

MCCRACKEN COUNTY

ROBERT J. HINES

Appellant Atty:

Appellant Name:

LONG, KEVIN A.

DICKIE TODD

SMITH, JEREMY IAN

DICKIE TODD

Appellee Atty:

Appellee Name:

KELLY, DAVID L.

CITY OF PADUCAH

YATES, MELISSA KERLEY

CITY OF PADUCAH