

**UPDATED: 09/24/2009**

# **OCTOBER 2009**

# **ORAL ARGUMENT**

# **CALENDAR**

Report Updated On: 09/24/2009

Updated 09/24/2009

**OCTOBER, 2009**

**October 7, 2009**

**9:15 – 9:45 A.M. ORAL ARGUMENT,  
J.S. V. COMMONWEALTH OF KENTUCKY,  
2009-CA-000805, JUDGE ACREE, PRESIDING JUDGE,  
JUDGE CAPERTON AND JUDGE KELLER, ASSOC.**

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

**1:30 – 2:00 P.M. ORAL ARGUMENT,  
1400 WILLOW COUNCIL OF CO-OWNERS V.  
PATRICIA BALLARD, 2008-CA-001155 AND  
2008-CA-001345, JUDGE NICKELL,  
PRESIDING JUDGE, CHIEF JUDGE COMBS AND  
JUDGE TAYLOR, ASSOC.**

**October 15, 2009**

**1:00 P.M. MOTION PANEL, JUDGE TAYLOR, PRESIDING  
JUDGE, JUDGE MOORE AND JUDGE NICKELL.**

**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**

**VANCEBURG – Contact Cathy Hardy – (606) 796-3053**

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Monday, October 5, 2009**

01:00 PM PJ: HARRIS, HON. WILLIAM R. ACREE, HON. GLENN E. CLAYTON, HON. DENISE G.

2007CA001750 GARY EUGENE MONEY v RENEE MONEY

2007CA001810

This appeal arises from a Taylor Circuit Court dissolution of marriage. On appeal, the husband alleges that the trial court erred by assigning him a post-settlement undisclosed marital debt. On cross appeal, the wife argues that the settlement agreement was unconscionable.

CIVIL TAYLOR COUNTY HON DOUGLAS M GEORGE

Appellant Atty:

GEORGE, ELMER

Appellant Name:

MONEY, GARY

Appellee Atty:

MCCAIN, SUSAN

Appellee Name:

MONEY, RENEE

\*\* NOTE:

01:45 PM PJ: HARRIS, HON. WILLIAM R. ACREE, HON. GLENN E. CLAYTON, HON. DENISE G.

2007CA002568 AIMEE WILLIAMS v TIMOTHY BITTEL

2008CA001048

2008CA001140

Aimee and Matt Williams appeal from Daviess Circuit Court Judgment denying their request for a modification of custody following an adoption.

CIVIL DAVIESS COUNTY HON THOMAS O CASTLEN

Appellant Atty:

DEMOISEY, J  
ROBY, A.

Appellant Name:

WILLIAMS, AIMEE

Appellee Atty:

THOMPSON, ANGELA

Appellee Name:

BITTEL, TIMOTHY

\*\* NOTE:

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

**DATE: Wednesday, October 7, 2009**

09:15 AM PJ: ACREE, HON. GLENN E.

CAPERTON, HON. MICHAEL O.

KELLER, HON. MICHELLE M.

2009CA000805

J. S. v COMMONWEALTH OF KENTUCKY

Juvenile; Delinquency: Whether removing child from home was in accordance with Kentucky Juvenile Code.

FAYETTE COUNTY

HON JOHN P. SCHRADER

Appellant Atty:

Appellant Name:

ROBINSON, GAIL  
SCHMIDT, KATHLEEN

S., J.

Appellee Atty:

Appellee Name:

ALLEMAN, J  
VARO, JOHN

COMMONWEALTH OF KENTUCKY

\*\* NOTE:

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

COMBS, HON. SARA W.

TAYLOR, HON. JEFF S.

2008CA001155

1400 WILLOW COUNCIL OF CO-OWNERS, INC. v PATRICIA W. BALLARD

2008CA001345

Dispute between condo association and unit owner. Whether trial court should have granted summary judgment or directed verdict on slander of title claim. Whether trial court should have granted judgment as matter of law on "breach of fiduciary duty claim". Whether trial court properly allowed unit owner to recover attorney's fees.

CIVIL

JEFFERSON COUNTY

HON KATHLEEN VOOR MONTANO

Appellant Atty:

Appellant Name:

ADAMS, JAMES  
CASE, BRADLEY  
FLEISCHAKER, JON

1400 WILLOW COUNCIL OF CO-OWNERS, INC.

Appellee Atty:

Appellee Name:

DORAN, KEVAN  
SNYDER, SHERYL  
WILLIAMS, SUSAN

BALLARD, PATRICIA

\*\* NOTE:

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Thursday, October 8, 2009**

10:45 AM PJ: HENRY, HON. MICHAEL L.

CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

2008CA001595

**MICHAEL HUDSON v CSX TRANSPORTATION, INC.**

Appeal from a jury verdict and judgment of the Jefferson Circuit Court in favor of CSX in a lawsuit brought under the Federal Employer's Liability Act. Hudson argues that the court erred by excluding evidence relating to his exposure to the solvent trichloroethylene during his employment with CSX.

CIVIL

JEFFERSON COUNTY

HON JUDITH E MCDONALD-BURKMAN

Appellant Atty:

BRYANT, DAVID  
KELLEY, PAUL  
SALES, KENNETH  
SATTERLEY, JOSEPH

Appellant Name:

HUDSON, MICHAEL

Appellee Atty:

PAYNE, ROD  
RYAN, ROBERT  
TURNER, JAMES

Appellee Name:

CSX TRANSPORTATION, INC.

\*\* NOTE:

11:30 AM PJ: HENRY, HON. MICHAEL L.

CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

2008CA002266

**INTER-TEL, INC. v LINN STATION PROPERTIES, LLC**

Appeal from the Jefferson Circuit Court's entry of summary judgment in favor of Linn Station. The judgment allowed Linn Station to pierce Appellants' corporate veil and to establish their liability for payment of Linn Station's default judgment against another corporation.

CIVIL

JEFFERSON COUNTY

HON IRV MAZE

Appellant Atty:

MOONEY, WILLIAM  
SORRELS, JESSICA  
SPIEGEL, SCOTT

Appellant Name:

INTER-TEL, INC.

Appellee Atty:

GARDNER (CO-REP), JOHN

SANDIDGE, RIDLEY JR.

Appellee Name:

INTEGRATED TELECOM SERVICES CORPORATION

LINN STATION PROPERTIES, LLC

\*\* NOTE:

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

**DATE: Thursday, October 15, 2009**

10:45 AM PJ: WINE, HON. THOMAS B. STUMBO, HON. JANET L. THOMPSON, HON. KELLY  
2008CA001424 RANDY STONE v COMMONWEALTH OF KENTUCKY

Stone appeals from a conviction for 1st<sup>o</sup> unlawful transaction w/ a minor. Sufficiency of the evidence; denial of mistrial based on prosecutorial misconduct and errors in reading instructions; exclusion of impossibility as a defense; denial of instructions on lesser included offenses and entrapment; limitation on defense closing argument.

<b>CRIMINAL</b>	<b>CAMPBELL COUNTY</b>	<b>HON FRED A STINE</b>
Appellant Atty:		Appellant Name:
BOULDIN, MICHAEL		STONE, RANDY
Appellee Atty:		Appellee Name:
FERGUSON, TODD		COMMONWEALTH OF KENTUCKY

\*\* NOTE:

11:30 AM PJ: WINE, HON. THOMAS B. STUMBO, HON. JANET L. THOMPSON, HON. KELLY  
2007CA001422 ROSALENE BOBBITT v GWENDOLYN COLLINS

2008CA002109

Bobbitt appeals from s.j. dismissing claims against co-defendants based on "general release" language settlement agreement with one defendant. Whether general release language controls over contradictory language in agreed dismissal order reserving claims against other parties; denial of motion to rescind release based on mutual mistake, lack of meeting of minds or counsel's exceeding authority by entering into general release.

<b>CIVIL</b>	<b>FAYETTE COUNTY</b>	<b>HON KIMBERLY N BUNNELL</b>
Appellant Atty:		Appellant Name:
JOHNSON, VINCENT		BOBBITT, ROSALENE
Appellee Atty:		Appellee Name:
KELLEY, JOHN JR		ALLEN, SHEA
STEPHAN, E.		ANDERSON, NATHAN
GAINES, PAUL III		COLLINS, GWENDOLYN
SPURGEON, SANDRA		HOBBS, HEATHER
TINKER, WILLIAM III		
WOMACK, JAMES		
COLSON, GUY		JAMES, JENNY
STANSBURY, CASEY		
HOOTS, DOUGLAS		PEEL, MARK

\*\* NOTE:40 MINUTE ORAL

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

**DATE: Thursday, October 15, 2009**

<b>01:30 PM</b>	PJ: STUMBO, HON. JANET L.	THOMPSON, HON. KELLY	WINE, HON. THOMAS B.
<b>2008CA000540</b>	<b>JOHN D. KING v JOHN R. ALLEN</b>		

MOR appeal from defense verdict in medical malpractice trial. Issues include exclusion of expert testimony due to alleged CR 26.02 violation, application of the collateral source rule, admission of medical records without supporting testimony, and failure to disclose bias of witness.

<b>CIVIL</b>	<b>FAYETTE COUNTY</b>	<b>HON KIMBERLY N BUNNELL</b>
	<u>Appellant Atty:</u>	<u>Appellant Name:</u>
	<b>PETERS, FRED</b>	<b>KING, JOHN</b>
.....		
	<u>Appellee Atty:</u>	<u>Appellee Name:</u>
	<b>GROHMANN, JAMES</b>	<b>ALLEN, JOHN</b>
.....		

**\*\* NOTE:**

**LOCATION: LEWIS COUNTY JUSTICE CENTER, CIRCUIT COURTROOM, THIRD FLOOR, 94 SECOND STREET, VANCEBURG, KENTUCKY**

**DATE: Tuesday, October 20, 2009**

10:30 AM PJ: KELLER, HON. MICHELLE M. MOORE, HON. JOY A. TAYLOR, HON. JEFF S.

2008CA000374 CUMBERLAND RIVER REG.MENTAL HLTH.MENTAL RETARDATION BD.,INC. v  
MICHAEL SHELIGA

This case arises from conduct by Cumberland River's employees that led to Sheliga's involuntary admission to the mental ward at Appalachian Regional Hospital. Cumberland River appeals from a jury verdict and judgment in favor of Sheliga. Cumberland argues number errors occurred regarding the admission/exclusion of evidence; the court submitted faulty instructions to the jury; and the court erred when it denied Cumberland River's motions for summary judgment and a directed verdict.

<p>CIVIL</p> <p style="text-align: center;">LAUREL COUNTY</p> <p>Appellant Atty:</p> <hr/> <p>RIDINGS, JAMES</p> <p>Appellee Atty:</p> <hr/> <p>GILBERT, LEROY JR</p>	<p style="text-align: center;">HON ROGER L. CRITTENDEN</p> <p>Appellant Name:</p> <hr/> <p>CUMBERLAND RIVER REG.MENTAL HLTH.MENTAL RETARDATION BD.,INC.</p> <p>Appellee Name:</p> <hr/> <p>SHELIGA, MICHAEL</p>
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\*\* NOTE:

11:15 AM PJ: TAYLOR, HON. JEFF S. KELLER, HON. MICHELLE M. MOORE, HON. JOY A.

2008CA000089 MICHAEL WAYNE ASHLEY v COMMONWEALTH OF KENTUCKY

2008CA000327

2008-CA-000089 – Whether trial court improperly admitted certain evidence at trial; 2008-CA-000327 - Whether trial court improperly excluded certain evidence at trial.

<p>CRIMINAL</p> <p style="text-align: center;">HARLAN COUNTY</p> <p>Appellant Atty:</p> <hr/> <p>DOAN, OTIS JR JOHNSON, DAVID</p> <p>Appellee Atty:</p> <hr/> <p>JOHNSON, HENRY SHACKELFORD, JAMES</p>	<p style="text-align: center;">HON RUSSELL D. ALRED</p> <p>Appellant Name:</p> <hr/> <p>ASHLEY, MICHAEL</p> <p>Appellee Name:</p> <hr/> <p>COMMONWEALTH OF KENTUCKY</p>
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\*\* NOTE:



**LOCATION: LEWIS COUNTY JUSTICE CENTER, CIRCUIT COURTROOM, THIRD FLOOR, 94 SECOND STREET, VANCEBURG, KENTUCKY**

**DATE: Tuesday, October 20, 2009**

01:45 PM PJ: TAYLOR, HON. JEFF S.

KELLER, HON. MICHELLE M.

MOORE, HON. JOY A.

2008CA002285

APPALACHIAN REGIONAL HEALTHCARE, INC. v RAY TYLER VANHUSS

Whether circuit court erred by excluding evidence; whether damages were excessive.

CIVIL

BELL COUNTY

HON JAMES L BOWLING

Appellant Atty:

Appellant Name:

HUFF, WINTER  
PRATHER, JOHN JR

APPALACHIAN REGIONAL HEALTHCARE, INC.

Appellee Atty:

Appellee Name:

WILLARD, TODD

EVANS, MEREDITH

BATTEN, BRUCE II  
O'BRIEN, STEPHEN III

VANHUSS, RAY

\*\* NOTE:

02:30 PM PJ: TAYLOR, HON. JEFF S.

KELLER, HON. MICHELLE M.

MOORE, HON. JOY A.

2008CA001647

DEAN CVITKOVIC v Dr DANIEL FREEMAN

Whether circuit court erred by granting summary judgment and dismissing appellants' claims for violation of the Whistleblower Act, the Ky. Constitution and KRS 344.040.

CIVIL

MONTGOMERY COUNTY

HON WILLIAM B MAINS

Appellant Atty:

Appellant Name:

GOLDEN, J.  
MEADOWS, DREW  
THOMPSON, MELISSA

CVITKOVIC, DEAN

Appellee Atty:

Appellee Name:

MCNEILL, JOHN

FREEMAN, DANIEL

\*\* NOTE: