

**UPDATED: 9/9/2014**

# **SEPTEMBER 2014**

# **ORAL ARGUMENT**

# **CALENDAR**

Report Updated On: 9/9/2014

Updated 09/09/2014

**SEPTEMBER, 2014**

**THERE WILL BE NO COURT MEETING**

**SEPTEMBER 08, 2014**      **2:00 P.M. (EASTERN TIME), MOTION PANEL,  
JUDGE TAYLOR, PJ, JUDGE NICKELL AND  
JUDGE VANMETER, ASSOCIATE JUDGES.**

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

**ELIZABETHTOWN – Contact Belinda Peace – (270) 766-5039**

**FRANKFORT – Contact Patricia Brauer or Sam Givens - (502) 573-7920**

**LOCATION: HARDIN COUNTY JUSTICE CENTER, DISTRICT COURTROOM 1, 120 EAST DIXIE AVENUE, ELIZABETHTOWN, KENTUCKY**

**DATE: Tuesday, September 9, 2014**

02:15 PM PJ: MOORE, HON. JOY A.

DIXON, HON. DONNA L.

NICKELL, HON. C. SHEA

2013CA001192 THE HELM COMPANY, LLC v AL J. SCHNEIDER CO.

2013CA001385

2013CA001613

Civil case: Whether the trial court erred in awarding costs to the prevailing party in the underlying litigation.

CIVIL JEFFERSON COUNTY HON OLU A. STEVENS

Appellant Atty:

CROSBY, KATHERINE  
TACHAU, DAVID

Appellant Name:

THE HELM COMPANY, LLC

Appellee Atty:

COOGLE, MATTHEW  
COOPER, WILLIAM JR  
SOUZA, JOSEPH

Appellee Name:

AL J. SCHNEIDER CO.

WARD, T. JR.  
WIEMKEN, CASSANDRA

CASSIDY TURLEY OHIO, INC.

CAMPBELL, REVA  
MOORE, CHRISTIE

HUMANA INSURANCE COMPANY OF  
KENTUCKY, INC.

EDDINS, H  
FIET, KEVIN

SAFFRAN, WILLIAM

\*\* NOTE:\*\*50 MINUTE ORAL

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

**DATE: Tuesday, September 23, 2014**

01:00 PM PJ: MAZE, HON. IRV

MOORE, HON. JOY A.

VANMETER, HON. LAURANCE B.

2012CA002142

**CHARLES G. MIDDLETON III v PNC BANK, N.A., IN ITS INDIVIDUAL CAPACITY FOR ITS  
ACTIONS**

Appeal from summary judgment in favor of bank/trustee on claims of breach of fiduciary duty. Focus is on a 1980 Agreement discussing liabilities and discretion of bank/trustee(s). Also, trial court's failure to address KRS 286.3-277 Appellants seek further proof as well as damages for alleged damage to trust's value. Whether genuine issues of fact remain concerning breach and damages. Appellant requests oral argument.

CIVIL

JEFFERSON COUNTY

HON SUSAN SCHULTZ GIBSON

Appellant Atty:

GRAY, ELISABETH  
MIDDLETON, CHARLES III  
O'CONNELL, MICHAEL

Appellant Name:

MIDDLETON, CHARLES

Appellee Atty:

CLAY, RICHARD

BREETZ, BETHANY

GRIFFITH, ROBERT  
OWSLEY, DAVID II

Appellee Name:

PARTHENON LLC

PNC BANK, N.A., IN ITS INDIVIDUAL CAPACITY  
FOR ITS ACTIONS

\*\* NOTE: \*\*PREVIOUSLY ON 6/30/2014 AT 1:00 PM (ET) IN LOUISVILLE, KENTUCKY

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

**DATE: Wednesday, September 24, 2014**

**01:00 PM PJ: JONES, HON. ALLISON E.**

**ACREE, HON. GLENN E.**

**LAMBERT, HON. JAMES H.**

**2013CA001082**

**THE CITY OF HENDERSON UTILITY COMMISSION v MICHAEL C. DONTA, EXECUTIVE DIRECTOR**

Civil; Whether circuit court erred in finding that provision of KRS 337.010(3)(a) applies to single projects rather than single contracts and in finding that an outage constituted a single project and construction rather than maintenance.

**CIVIL**

**HENDERSON COUNTY**

**HON KAREN LYNN WILSON**

Appellant Atty:

Appellant Name:

**KELSEY, E  
REDDING, HERBERT**

**THE CITY OF HENDERSON UTILITY COMMISSION**

Appellee Atty:

Appellee Name:

**BIZZELL, MARK**

**DONTA, EXECUTIVE DIRECTOR, MICHAEL**

**PACE, PATRICK**

**KENTUCKY LEAGUE OF CITIES**

**CUTLER, IRWIN JR**

**OWENSBORO AREA BUILDING &  
CONSTRUCTION TRADES COUNCIL**

**\*\* NOTE:**

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

**DATE: Wednesday, September 24, 2014**

01:45 PM PJ: JONES, HON. ALLISON E.

ACREE, HON. GLENN E.

LAMBERT, HON. JAMES H.

2013CA001977

HD TAD HOLDINGS, LLC v FIRST FEDERAL SAVINGS BANK

Civil; Appeal from foreclosure action, whether trial court erred by failing to find that the Appellant had a claim or defense for unjust enrichment, whether the trial court erred by denying Appellants estoppel defense, and whether the trial court erred by denying Appellants an equitable lien against the proceeds of the sale of the property

CIVIL

HARDIN COUNTY

HON KELLY MARK EASTON

Appellant Atty:

BRYMER, LAURA  
MARTIN, PHILIP

Appellant Name:

HD TAD HOLDINGS, LLC

Appellee Atty:

QUIROS, CO-REP, MANFREDO

RISINGER, CO-REP, BARRY

LAWSON, VIRGINIA

MILLER, DOUGLAS

SHAW, DEBORAH

WILSON, DAVID II

FARMER, JEFFERY

HESS, MATTHEW

FULLERTON, CO-REP, DAVID

MOORE, PHILIP

GOFF, THOMAS

ROBINSON, BRYAN

FARMER, CO-REP, JEFFREY

MARSHALL, STEPHEN

Appellee Name:

AA PORTABLE SANITATION, LLC

AFFORDABLE HEATING AND COOLING, INC.

BLUEGRASS TL, LLC

CERTIFIED CONSTRUCTION CO. OF  
KENTUCKY, LLC

CITY OF ELIZABETHTOWN

ENGINEERING DESIGN GROUP, INC.

FARMER, JEFFREY

FIRST FEDERAL SAVINGS BANK

FULLERTON, DAVID

HARDIN COUNTY

JOHNSON CONCRETE

ROBINSON, BRYAN

ST. ANTHONY HOLDING COMPANY, LLC

TAX EASE LIEN INVESTMENTS 1, LLC

\*\* NOTE:

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

**DATE: Wednesday, September 24, 2014**

02:30 PM PJ: JONES, HON. ALLISON E.

ACREE, HON. GLENN E.

LAMBERT, HON. JAMES H.

2014CA000624

TERESA FINKE v COMAIR, INC.

WC; Appeal from WC Board affirming ALJ's decision, whether employees have an unrestricted right to have medical examination conducted in Kentucky workers' compensation cases, whether claimants may have a family member present during an IME, whether ALJ and Board committed reversible error by declaring the Appellant's benefit "forfeited," and by denying Appellant all compensation benefits.

**WORKERS COMP**

**WORKERS' COMP COUNTY**

**HON FRANKLIN STIVERS**

Appellant Atty:

JENNINGS, CHED

Appellant Name:

FINKE, TERESA

Appellee Atty:

COMPTON, JAMES  
HOWARD, MARK  
JONES, H.

Appellee Name:

COMAIR, INC.

LAMB, ERIC

KENTUCKY CHAPTER OF AMERICAN  
FEDERATION OF LABOR

ROARK, GRANT

ROARK, GRANT

LOVAN, DWIGHT

WORKERS' COMPENSATION BOARD

**\*\* NOTE:**

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

**DATE: Tuesday, September 30, 2014**

10:30 AM PJ: ACREE, HON. GLENN E.

JONES, HON. ALLISON E.

LAMBERT, HON. JAMES H.

2013CA001688

J. DAVID COLE v NORMAN JOHNSON

Civil; Real Property: Whether circuit court erred by finding putative adverse possessors of land had permission to possess the land and whether the finding should have applied to all putative adverse possessors; whether circuit court improperly failed to respond to attorney misconduct.

<p><b>CIVIL</b></p>	<p><b>WARREN COUNTY</b></p>	<p><b>HON STEVE ALAN WILSON</b></p>
<p><u>Appellant Atty:</u></p>		<p><u>Appellant Name:</u></p>
<p><b>BRODERICK, DAVID</b> <b>MURLEY, BRANDON</b></p>		<p><b>COLE, J.</b></p>
<p>.....</p>		<p>.....</p>
<p><u>Appellee Atty:</u></p>		<p><u>Appellee Name:</u></p>
<p><b>HARMON, H.</b></p>		<p><b>CITY OF BOWLING GREEN</b></p>
<p>.....</p>		<p>.....</p>
<p><b>DYER - CO REP, MICHAEL</b></p>		<p><b>DYER BROWN PROPERTIES, LLC</b></p>
<p>.....</p>		<p>.....</p>
<p><b>EVANS, EVAN</b></p>		<p><b>FIRST FREE METHODIST CHRUCH</b></p>
<p>.....</p>		<p>.....</p>
<p><b>LOWDER, THOMAS</b></p>		<p><b>JOHNSON, NORMAN</b></p>
<p>.....</p>		<p>.....</p>
<p><b>KAZIMUDDIN, CO-REP, MOHAMMED</b></p>		<p><b>KAZIMUDDIN PROPERTIES, LLC</b></p>
<p>.....</p>		<p>.....</p>
<p><b>SCHEIDLER, CO-REP, JACK</b></p>		<p><b>LEADER INVESTMENTS, LLC</b></p>
<p>.....</p>		<p>.....</p>
<p><b>BRATCHER, MICHAEL</b></p>		<p><b>SCHAMPMIRE PROPERTIES, LLC</b></p>

**\*\* NOTE:**



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

**DATE: Tuesday, September 30, 2014**

11:15 AM PJ: ACREE, HON. GLENN E.

JONES, HON. ALLISON E.

LAMBERT, HON. JAMES H.

2013CA001980

PADUCAH HEALTH FACILITIES L.P. v MARY NEWBERRY

Civil; Personal Injury: Whether the trial court properly denied arbitration.

CIVIL

MCCRACKEN COUNTY

HON TIMOTHY KALTENBACH

Appellant Atty:

Appellant Name:

BENSON, EDMUND  
MARTIN, KATHRYN

EXTENDICARE, INC.

AHRENS, JAN  
LOMOND, KRISTIN  
MILLER, DONALD II

PADUCAH HEALTH FACILITIES L.P.

Appellee Atty:

Appellee Name:

SALYER, ROBERT  
WILANDER, CARL

MARY NEWBERRY

\*\* NOTE: