

SUPREME COURT OF KENTUCKY

ORAL ARGUMENT CALENDAR

TO: Justices and Court Staff
FROM: Chief Justice John D. Minton, Jr.
DATE: November 9, 2011

WEDNESDAY, DECEMBER 14, 2011

- 9:00 a.m. CARTER V. SMITH, ET AL. (2010-SC-295-DG)**
"Open Meetings. Exceptions. Personnel and Litigation. Issues involve the applicability of the personnel and litigation open meetings exceptions to a closed school board meeting considering potential resignation of a school superintendent as well as his potential subsequent retention on a 12-month consulting contract."
Discretionary Review granted 3/16/2011
Bourbon Circuit Court, Judge Paul F. Isaacs
For Movant: Joe Francis Childers, Jr.
For Respondents: Neil Edward Duncliffe and Sam Preston Burchett
- 10:00 a.m. DRIVER V. COMMONWEALTH OF KENTUCKY (2009-SC-639-DG)**
"First degree assault – 15 years."
Discretionary Review granted 12/9/2010
Marshall Circuit Court, Judge Dennis Foust
For Movant: Samuel N. Potter
For Respondent: Joshua D. Farley
- 11:00 a.m. MITCHELL V. UNIVERSITY OF KENTUCKY, ET AL. (2010-SC-762-TG)**
"Termination of employee for violating university policies prohibiting anyone from bringing a deadly weapon on university property."
Fayette Circuit Court, Judge Pamela Goodwine
For Movant: Christopher Derek Hunt
For Respondents: Barbara Ann Kriz

SUPREME COURT OF KENTUCKY

ORAL ARGUMENT CALENDAR

TO: Justices and Court Staff
FROM: Chief Justice John D. Minton, Jr.
DATE: November 9, 2011

THURSDAY, DECEMBER 15, 2011

9:00 a.m. OSBORNE V. KEENEY, ET AL. (2010-SC-397-DG) AND KEENEY V. OSBORNE, ET AL. (2010-SC-430-DG)

"Legal Malpractice. Emotional Distress. Damages. Issues include: 1. Whether a physical touching is still required for a Plaintiff to recover emotional distress damages; 2. Whether a Plaintiff may recover "lost punitive" damages in a legal malpractice claim; 3. Whether CR 8.01 limits the damages a Plaintiff may recover; 4. Whether and how a Plaintiff may file an Amended Complaint to include the Defendant's insurance company; 5. Must the trial court instruct the jury on and must the jury make findings on the "case-within-a-case;" 6. Did the trial court err by using "should have realized" language in the fraud instruction, and 7. Did the Court of Appeals, by affirming in part and reversing in part, create an unconstitutional ratio between compensatory and punitive damages such that the punitive award is now excessive?"

Discretionary Review granted 5/11/2011

Jefferson Circuit Court, Judge Martin F. McDonald

For Osborne: LeRoy E. Sitlinger, Jr.

For Keeney: Sheryl G. Snyder, Matthew W. Breetz, Griffin Terry Sumner and Andrew Graham Beshear

For Carolina Casualty Insurance and Monitor Liability Managers: Douglas Cain Ballantine, Joseph Kent Durning and Amy Olive Wheeler

10:00 a.m. COMMONWEALTH OF KENTUCKY V. O'CONNER (2010-SC-343-DG)

"Criminal law. First-Degree Criminal Abuse. The issue is whether the Commonwealth presented sufficient evidence to support a verdict for intentional abuse where the defendant argued the acts toward the children were the result of poverty and poor parenting skills."

Discretionary Review granted 3/16/2011

Pulaski Circuit Court, Judge David A. Tapp

For Movant: David Wayne Barr

For Respondent: Kathleen Kallaher Schmidt

THURSDAY, DECEMBER 15, 2011 (Continued)

**11:00 a.m. MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. V. ROBERTS
(2010-SC-069-DG)**

"Mortgages. Judgment Liens. Equitable Subrogation. Issues include the prioritization of liens in a foreclosure action."

Discretionary Review granted 4/13/2011

Henderson Circuit Court, Judge Stephen Hayden

For Movant: Thomas Morgan Ward, Jr., Bethany A. Breetz and Chadwick

Aaron McTighe

For Respondent: Kenneth S. Kasacavage

FRIDAY, DECEMBER 16, 2011

NO ORAL ARGUMENTS