

**SUPREME COURT OF KENTUCKY**

**ORAL ARGUMENT CALENDAR**

**TO: Justices and Court Staff**  
**FROM: Chief Justice John D. Minton, Jr.**  
**DATE: December 7, 2011**

**WEDNESDAY, FEBRUARY 15, 2012**

- 9:00 a.m. BOLTON, ETC. V. IRVIN (2010-SC-520-DG)**  
"Criminal Law. Bond. The issues are: 1. whether a district court may increase a defendant's bond following a finding of probable cause particularly where the defendant has remained in custody because he cannot afford the initial bond and 2. whether the district court must hold an adversarial hearing prior to changing the defendant's bond."  
Discretionary Review granted 5/11/2011  
Jefferson Circuit Court, Judge A. C. McKay Chauvin  
For Movant: Samuel Joseph Floyd, Jr.  
For Respondent: James David Niehaus
- 10:00 a.m. PING, ETC. V. BEVERLY ENTERPRISES, INC., ET AL. (2010-SC-558-DG)**  
"Contracts. Arbitration. Issues involve the validity of an arbitration agreement signed pursuant to a general power of attorney for a relative contemporaneously with the relative's admission into a nursing home."  
Discretionary Review granted 6/8/2011  
Franklin Circuit Court, Judge Thomas D. Wingate  
For Movant: Stephen M. O'Brien III  
For Respondents: Sara Clark Davis and Marcia L. Pearson
- 11:00 a.m. SCHNUERLE, ET AL. V. INSIGHT COMMUNICATIONS COMPANY, L.P., ET AL. (2008-SC-789-DG) AND (CROSS-MOTION) INSIGHT COMMUNICATIONS COMPANY, L.P., ET AL. V. SCHNUERLE, ET AL. (2009-SC-390-DG)**  
"Contracts. Arbitration. Issues include the validity of mandatory dispute resolution contract clauses barring consumer class actions."  
Discretionary Review granted 6/17/2009 and 8/19/2009  
Jefferson Circuit Court, Judge A. C. McKay Chauvin  
For Movants/Cross-Respondents: H. Philip Grossman, Jennifer Ann Moore, Leslie A. Bailey, Frank Paul Bland, Jr., and Melanie Hirsch  
For Respondents/Cross-Movants: Laurence John Zielke, Nancy Jane Schook, Janice M. Theriot and David N. Hise  
**(Rescheduled from October 19, 2011)**

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**THURSDAY, FEBRUARY 16, 2012**

- 9:00 a.m. B. DAHLENBURG BONAR, PSC, ET AL. V. WAITE, SCHNEIDER, BAYLESS & CHESLEY CO., L.P.A., ET AL. (2010-SC-087-DG)**  
"Class Action Litigation. Attorneys' Fees. The issues include whether and to what extent a former class action co-counsel is entitled to recover fees following settlement of the class action lawsuit."  
Discretionary Review granted 1/14/2011  
Boone Circuit Court, Judge Robert McGinnis  
For Movants: William C. Rambicure, Stephen D. Wolnitzek and Christopher B. Rambicure  
For Respondents: James M. Gary, Sheryl G. Snyder, Griffin Terry Sumner and John Kendrick Wells IV  
**(Note: Justice Mary C. Noble and Justice Wil Schroder are recused -- Special Justices Roger L. Crittenden and Robert M. Coots sitting)**  
**(Rescheduled from September 14, 2011)**
- 10:00 a.m. ALLEN V. COMMONWEALTH OF KENTUCKY (2010-SC-353-DG)**  
"First degree perjury and theft by deception over \$300—three and one-half years imprisonment, probated for five years. Admissibility of prior convictions. Denial of motion for directed verdict and new trial"  
Discretionary Review granted 5/11/2011  
Jefferson Circuit Court, Judge Judith E. McDonald-Burkman  
For Movant: Daniel Jay Canon  
For Respondent: Courtney J. Hightower
- 11:00 a.m. KENTUCKY SOUTHERN COAL CORPORATION V. KENTUCKY ENERGY AND ENVIRONMENT CABINET, FORMERLY THE ENVIRONMENTAL AND PUBLIC PROTECTION CABINET (2010-SC-029-DG)**  
"Administrative Agency Law. Issues include whether the Cabinet acted arbitrarily in denying Kentucky Southern Coal Corporation's application to renew a mining permit for certain land."  
Discretionary Review granted 3/16/2011  
Franklin Circuit Court, Judge Phillip J. Shepherd  
For Movant: Sam Preston Burchett  
For Respondent: Tamara Janell Patrick

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**FRIDAY, FEBRUARY 17, 2012**

- 9:00 a.m. COMMONWEALTH OF KENTUCKY V. DERRINGER (2010-SC-685-CL)**  
"Certification of the Law. Whether a conviction for which a defendant is on diversion can be used to qualify for PFO status when he commits a subsequent offense."  
Fayette Circuit Court, Judge James D. Ishmael, Jr.  
For Movant: Jeanne Deborah Anderson  
For Respondent: J. Gregg Clendenin
- 10:00 a.m. SMITH, ET AL. V. WILLIAMS, ET AL. (2010-SC-332-DG)**  
"KRS 371.010—Statute of Frauds. Partition action for sale of real estate pursuant to KRS 389A.030."  
Discretionary Review granted 5/11/2011  
Meade Circuit Court, Judge Stephen P. Ryan  
For Movants: Jessica Brown Roberts  
For Respondents: J. Gregory Joyner
- 11:00 a.m. WILSON, V. CITY OF CENTRAL CITY, KENTUCKY (2010-SC-394-DG)**  
"Whistleblower Act, KRS 61.102. Issues include whether municipalities and their employees are subject to the provisions of the Whistleblower Act."  
Discretionary Review granted 5/11/2011  
Muhlenberg Circuit Court, Judge David H. Jernigan  
For Movant: Richard E. Peyton  
For Respondent: Randall Hardesty