

SUPREME COURT OF KENTUCKY

ORAL ARGUMENT CALENDAR

TO: Justices and Court Staff
FROM: Chief Justice John D. Minton, Jr.
DATE: April 13, 2012

WEDNESDAY, MAY 16, 2012

- 9:00 a.m. GRIFFIN, ETC., V. RICE (2011-SC-250-DG)**
"Summary judgment. Interpretation of KRS 392.090(2): Forfeiture of dower or curtesy rights by spouse who voluntarily leaves the other and "lives in adultery."
Discretionary Review granted 11/16/2011
Harlan Circuit Court, Judge Gary D. Payne
For Movant: Otis Doan, Jr.
For Respondent: Karen Sue Davenport
- 10:00 a.m. HARDIN, ET AL. V. COMMONWEALTH OF KENTUCKY (2011-SC-722-TG)**
"Post-conviction. DNA analysis of evidence."
Meade Circuit Court, Judge Sam Monarch
For Appellants: Larry David Simon, Linda A. Smith, Jason Kreag, Kathleen Kallaher Schmidt, Marguerite Neill Thomas and Theodore S. Shouse
For Appellee: Perry Thomas Ryan
- 11:00 a.m. SAVAGE, ET AL. V. THREE RIVERS MEDICAL CENTER (2010-SC-478-DG) AND (CROSS-MOTION) THREE RIVERS MEDICAL CENTER V. SAVAGE, ET AL. (2011-SC-348-DG)**
"Torts. Medical Malpractice. Issues include whether the evidence sufficed to create a jury question relating to a surgical sponge left in a patient's abdomen when the patient had undergone multiple previous surgeries in that area of the body."
Discretionary Review granted 6/8/2011 and 9/14/2011
Lawrence Circuit Court, Judge John David Preston
For Movants/Cross Respondents: Harry Truman Chafin, Michael Todd Hogan and Letitia Neese Chafin
For Respondent/Cross-Movant: William P. Swain and David Sean Ragland

THURSDAY, MAY 17, 2012

- 9:00 a.m. NEWTON V. UNIVERSITY OF LOUISVILLE (2010-SC-782-DG)**
"Sovereign Immunity. Breach of Contract. The issues include what type of contract, if any, U of L's personnel policies and employee handbook create between U of L and its employees. And, if these documents create a contract, is that contract sufficient under KRS 45A.245 so as to waive U of L's right to sovereign immunity."
Discretionary Review granted 11/16/2011
Jefferson Circuit Court, Judge Olu Alfredo Stevens
For Movant: Kenneth James Henry
For Respondent: Donna King Perry and Jeremy Stuart Rogers
(Justice Lisabeth Hughes Abramson is recused.)
- 10:00 a.m. FURTULA, ET AL. V. UNIVERSITY OF KENTUCKY, ET AL. (2011-SC-332-DG)**
"Sovereign Immunity. Breach of Contract. The issues include what type of contract, if any, UK's personnel policies and employee handbook create between UK and its employees. And, if these documents create a contract, is that contract sufficient under KRS 45A.245 so as to waive UK's right to sovereign immunity."
Discretionary Review granted 11/16/2011
Fayette Circuit Court, Judge Thomas L. Clark
Franklin Circuit Court, Judge Thomas D. Wingate
For Movants: Mendel Austin Mehr and Timothy E. Geertz
For Respondents: Stephen L. Barker, Joshua Michael Salsburey, Christopher S. Turner, Barbara Ann Kriz, Dustin Elizabeth Meek and Jonathan Todd Salomon.
(Justice Lisabeth Hughes Abramson is recused.)
- 11:00 a.m. NATIONAL UNION FIRE INSURANCE COMPANY, ET AL. V. PIKE COUNTY BOARD OF EDUCATION, ET AL. (2010-SC-827-DG)**
"Insurance. The issues involve interpretation of policy provisions regarding the effect of the delayed reporting of a claim under "claims based" policies with discrete coverage periods but when viewed together provide continuous coverage to the insured."
Discretionary Review granted 9/14/2011
Pike Circuit Court, Judge Eddy Coleman
For Movants: Robert S. Walker III and Kathryn Kendrick
For Respondents: Robert Lynn Chenoweth, Neal Smith and Lawrence R. Webster
(Rescheduled from April 19, 2012)

FRIDAY, MAY 18, 2012

- 9:00 a.m. LOFTON V. FAIRMONT SPECIALTY INSURANCE MANAGERS, INC., ETC., ET AL. (2010-SC-749-DG)**
"Attorney's Fees. At issue is attorney's entitlement to a fee under quantum meruit after withdrawing from a representation that involved a contingent fee contract."
Discretionary Review granted 10/19/2011
McCracken Circuit Court, Judge R. Jeffrey Hines
For Movant: Rodger Wayne Lofton
For Respondents: Charles David Walter, Samuel Scott Marcum, William. F. M. Schrock and Delbert K. Pruitt
- 10:00 a.m. KEELING V. COMMONWEALTH OF KENTUCKY (2010-SC-351-MR)**
"Guilty but Mentally Ill. Murder and First-Degree Assault. Life—20 years."
Graves Circuit Court, Judge Timothy C. Stark
For Appellant: Linda Roberts Horsman
For Appellee: Gregory C. Fuchs
- 11:00 a.m. CUNNINGHAM, ET AL., V. WHALEN, ET AL. (2010-SC-564-DG) AND (CROSS-MOTION) WHALEN, ET AL., V. CUNNINGHAM, ET AL. (2011-SC-174-DG)**
"Open Meetings Act. Litigation Exception. Issues include whether the litigation exception to the Open Meeting Act's requirements applies where a zoning decision is the focus of the litigation."
Discretionary Review granted 3/16/2011 and 5/11/2011
Boone Circuit Court, Judge Anthony Frohlich
For Movants/Cross-Respondents: Teresa Lyn Cunningham
For Respondents/Cross-Movants: Hugh O. Skees, Thomas Anthony Sweeney and Michael Taylor McKinney
(Rescheduled from April 20, 2012)