

**SUPREME COURT OF KENTUCKY**

**ORAL ARGUMENT CALENDAR**

**THURSDAY, OCTOBER 25, 2018**

- 9:00 a.m. COMMONWEALTH OF KENTUCKY V. MICHAEL PADGETT (2017-SC-000441-DG) AND MICHAEL PADGETT V. COMMONWEALTH OF KENTUCKY (2017-SC-000661-DG)**  
[APPELLANT BRIEF](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF](#)  
[REPLY BRIEF](#)  
"Criminal Law. Mistrial. Double Jeopardy. Issues involve a pretrial ruling and whether the trial court abused discretion in declaring a mistrial after defense counsel's perceived violation of that ruling."  
Discretionary Review granted 12/7/2017 and 2/7/2018  
Daviness Circuit Court, Judge Joseph W. Castlen, III  
Attorney for Appellant/Cross-Appellee: Thomas Allen Van De Rostyne  
Attorney for Appellee/Cross-Appellant: Emily Holt Rhorer and Shannon Dupree
- 10:00 a.m. LEE COMLEY V. AUTO-OWNERS INSURANCE COMPANY (2017-SC-000596-DG)**  
[APPELLANT BRIEF](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF](#)  
"Insurance Law. Homeowners Coverage. The issues, involving potential coverage for damage to a home resulting from a nearby water main break, concern the scope of the "water damage" exclusions as to "water below the surface of the ground . . . which . . . flows, seeps or leaks through any part of a building" and as to "regardless of the cause . . . flood."  
Discretionary Review granted 3/14/2018  
Fayette Circuit Court, Judge Thomas L. Clark  
Attorneys for Appellant: Stephen M. O'Brien, III, Bruce Clark Batten, II, and David Coomer  
Attorneys for Appellee: Luke Alan Wingfield and John Carter
- 11:00 a.m. LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT V. T+C CONTRACTING, INC. (2017-SC-000274-DG)**  
[APPELLANT BRIEF](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF](#)  
"Contract. Fairness in Construction Act. KRS 371.405. Issues include whether the dispute resolution provisions in the parties' contract, which deem the contractor's claim for additional compensation from MSD waived if certain procedural requirements are not met, violate the Fairness in Construction Act."  
Discretionary Review granted 3/14/2018  
Jefferson Circuit Court, Judge James M. Shake

10/9/2018

Attorneys for Appellant: Kenneth Allen Bohnert, Richard M. Sullivan and  
Jennifer Fust-Rutherford  
Attorney for Appellee: Gerald Lee Stovall

**SUPREME COURT OF KENTUCKY**

**ORAL ARGUMENT CALENDAR**

**FRIDAY, OCTOBER 26, 2018**

- 9:00 a.m. SHANNON JONES, ET AL. V. DAVID WAYNE BAILEY (2017-SC-000203-DG) AND DAVID WAYNE BAILEY V. SHANNON JONES, ET AL. (2017-SC-000604-DG)**  
[APPELLANT BRIEF](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF](#)  
[REPLY BRIEF](#)  
"Parole Board. Entitlement to Assistance of Counsel. The issues include whether the final post-incarceration sex offender supervision revocation hearing is a "critical stage" of the proceeding, triggering entitlement to assistance of counsel."  
Discretionary Review granted 10/25/2017 and 12/7/2017  
Franklin Circuit Court, Judge Thomas D. Wingate  
Attorney for Appellants/Cross-Appellees: Angela Turner Dunham  
Attorney for Appellee/Cross-Appellant: Timothy G. Arnold
- 10:00 a.m. BARBARA SMITH V. BONNIE SMITH (2017-SC-000348-DG)**  
[APPELLANT BRIEF](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF](#)  
"Torts. Personal Injury. Slip and Fall. Issues include whether the status of a visitor as an invitee or licensee or trespasser continues to define the scope of the property owner's duty to the visitor."  
Discretionary Review granted 3/14/2018  
Knox Circuit Court, Judge Gregory Allen Lay  
Attorneys for Appellant: Michael D. Risley, Darrell L. Saunders and Bethany A. Breetz  
Attorneys for Appellee: Brien Glenn Freeman, Todd Kevin Childers and Aaron Howard
- 11:00 a.m. RAYMOND HAYES, ET AL. V. D.C.I. PROPERTIES-D. KY, LLC, ET AL. (2017-SC-000340-DG)**  
[APPELLANT BRIEF](#)  
[APPELLEE BRIEF](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF](#)  
"Torts. Personal Injury. Trespasser. Attractive Nuisance. Issues include whether the 16-year-old plaintiff can recover for injuries sustained when he trespassed on the defendant's construction site."  
Discretionary Review granted 4/18/2018  
Campbell Circuit Court, Judge Fred A. Stine, V.  
Attorney for Appellants: Anthony McIntosh

10/9/2018

Attorney for D.C.I. Properties-D. KY, LLC: James Moberly West  
Attorney for The Nelson Stark Company: Mark MacDonald