

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

1. RAYMOND ANDERSON, JR. V. [2006-SC-000563-MR](#) HENDERSON
COMMONWEALTH OF KENTUCKY [2006-SC-000894-TG](#)
OPINION OF THE COURT BY **TO BE PUBLISHED**
CHIEF JUSTICE MINTON –
AFFIRMING
ABRAMSON, NOBLE, AND VENTERS,
JJ., CONCUR. CUNNINGHAM, J.,
CONCURS IN RESULT ONLY BY
SEPARATE OPINION IN WHICH
SCOTT, J., JOINS. SCHRODER, J.,
CONCURS IN RESULT ONLY BY
SEPARATE OPINION.

Questions Presented:

A defendant charged with being a felon in possession of a firearm may stipulate to having a prior felony conviction, even without the Commonwealth's consent.

2. CHARLES E. BREWSTER V. [2006-SC-000584-DG](#) JEFFERSON
COLGATE-PALMOLIVE COMPANY **TO BE PUBLISHED**
AND JEWISH HOSPITAL
HEALTHCARE SERVICES
AND
JEWISH HOSPITAL HEALTHCARE
SERVICES, INC. V. [2007-SC-000366-DG](#) JEFFERSON
CHARLES BREWSTER **TO BE PUBLISHED**
OPINION OF THE COURT BY
CHIEF JUSTICE MINTON –
AFFIRMING
CUNNINGHAM, NOBLE, AND
SCHRODER, JJ., CONCUR.
VENTERS, J., DISSENTS BY
SEPARATE OPINION IN WHICH
SCOTT, J., JOINS.
ABRAMSON, J., NOT SITTING.

Questions Presented:

Asbestos Exposure. Premises Liability. Summary Judgment. Issues include whether genuine issues of material fact exist; and whether premises owner may be found to have breached a duty of care owed to construction contractor's employee who alleged exposure to asbestos on premises.

SUPREME COURT OF KENTUCKY

MINUTES

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| 3. | MARK CUZICK V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE SCOTT – <u>AFFIRMING</u>
VENTERS, J., CONCURS.
CUNNINGHAM, J., CONCURS IN
RESULT ONLY BY SEPARATE
OPINION, WITH SCHRODER, J.,
JOINING THAT OPINION. NOBLE, J.,
CONCURS IN PART AND DISSENTS
IN PART BY SEPARATE OPINION,
WITH MINTON, C.J.; AND
ABRAMSON, J., JOINING THAT
OPINION. | 2007-SC-000466-MR
TO BE PUBLISHED | JESSAMINE |
| <p style="text-align: center;">Questions Presented:
First-degree fleeing and evading, resisting arrest, operating a motor vehicle under the influence, and persistent felony offender—20 year sentence. Testimony introduced during the sentencing phase of trial. Use of narrative testimony to accompany the videos of the police chase. Introduction of the two police chase videos. Definition of reasonable doubt during voir dire.</p> | | | |
| 4. | JEFFREY LEONARD V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE NOBLE – <u>AFFIRMING</u> | 2007-SC-000531-MR
TO BE PUBLISHED | JEFFERSON |
| <p style="text-align: center;">Questions Presented:
Death case. New rule of procedure in RCr 11.42 proceedings cannot be applied retroactively to collateral attacks that were final when it was decided.</p> | | | |
| 5. | RICKY KING, A/K/A RICKY NEAL V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE VENTERS – <u>AFFIRMING</u> | 2007-SC-000713-MR
TO BE PUBLISHED | MCCREARY |
| <p style="text-align: center;">Questions Presented:
Complicity to murder and first-degree robbery—35 year sentence. Denial of motion for separate trial. Limitation of impeachment of a witness. Introduction of other crimes evidence and co-defendant's guilty plea. Improper cross-examination of co-defendant. Jury challenges for cause.</p> | | | |

SUPREME COURT OF KENTUCKY

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6. WILLIAM ALEXANDER MAJOR V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY JUSTICE SCOTT – AFFIRMING
- [2007-SC-000734-MR](#) BOONE
TO BE PUBLISHED
- Questions Presented:**
Murder, life imprisonment and tampering with physical evidence, five year sentence. Introduction of weapon testimony. Taped phone conversation. Motion for mistrial. Role of appointed counsel. Sentencing issues.
7. SUSAN MITCHELL V. THE TFE GROUP, ET AL.
OPINION OF THE COURT – AFFIRMING
- [2008-SC-000148-WC](#) FROM COURT OF APPEALS
TO BE PUBLISHED
- Questions Presented:**
Workers' Compensation. Whether a worker's attorney may be awarded a fee in an unfair claims settlement practices proceeding.
8. ALCAN ALUMINUM CORPORATION V. JACKIE STONE, ET AL.
OPINION OF THE COURT – AFFIRMING
- [2008-SC-000179-WC](#) FROM COURT OF APPEALS
TO BE PUBLISHED
- Questions Presented:**
The extent to which KRS 342.730(6) requires disability retirement benefits to offset income benefits otherwise payable under Chapter 342.
9. STANLEY K. SPEES V. KENTUCKY LEGAL AID, ET AL.
OPINION OF THE COURT BY JUSTICE VENTERS – AFFIRMING IN PART AND REVERSING IN PART AND REMANDING
MINTON, C.J., NOT SITTING.
- [2006-SC-000506-DG](#) MCCracken
TO BE PUBLISHED
- Questions Presented:**
Constitutional Law. Takings. Issues include whether the failure to pay an appointed warning order attorney is an unconstitutional taking.

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

10. DEBRA GILBERT V. [2007-SC-000078-DG](#) JEFFERSON
NATIONWIDE MUTUAL INSURANCE **TO BE PUBLISHED**
COMPANY
**OPINION OF THE COURT BY
JUSTICE ABRAMSON –
REVERSING AND REMANDING**
- Questions Presented:**
Auto Insurance. Property Damage. Claim against the insured's own carrier. If suit has not been filed against an offending tort-feasor within two years of an accident, is an insured barred from making a claim against their own insurer for payment under collision coverage?
11. ALLY CAT, LLC (D/B/A KIDZLIFE PEDIATRICS) ET AL. V. [2008-SC-000377-MR](#) JEFFERSON
HON. A.C. MCKAY CHAUVIN **TO BE PUBLISHED**
(JUDGE, JEFFERSON CIRCUIT COURT, DIVISION 8), ET AL.
**OPINION OF THE COURT BY
JUSTICE VENTERS –
REVERSING AND REMANDING**
- Questions Presented:**
Order mandating entry into an arbitration proceeding. Lack of subject matter jurisdiction.
12. JP MORGAN CHASE BANK, N.A. V. [2005-SC-000313-DG](#) JEFFERSON
JOHN M. LONGMEYER (EXECUTOR **TO BE PUBLISHED**
AND TRUSTEE OF ESTATE OF
OLLIE W. SKONBERG)
**OPINION OF THE COURT BY
CHIEF JUSTICE MINTON –
REVERSING**
CUNNINGHAM AND NOBLE, JJ., AND
SPECIAL JUSTICES WHITTINGHILL
AND JOHNSON CONCUR. SCHRODER, J.,
DISSENTS BY SEPARATE OPINION.
ABRAMSON, SCOTT AND
VENTERS, JJ., NOT SITTING.
- Questions Presented:**
Trusts. Fiduciary Duty. Issues include whether a former trustee had a fiduciary duty to inform charities removed as beneficiaries of a trust that the trust had been revised under circumstances suggesting undue influence.

SUPREME COURT OF KENTUCKY

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13. EDDIE CARDINE; AND MICHAEL CURRY V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY JUSTICE NOBLE – REVERSING
CUNNINGHAM, J., DISSENTS BY SEPARATE OPINION WITH SCOTT, J., JOINING. ABRAMSON, J., NOT SITTING.
- [2006-SC-000677-MR](#) JEFFERSON
[2006-SC-000680-MR](#)
TO BE PUBLISHED
- Questions Presented:**
Murder, attempted murder, and assault in the second degree, 30 year sentence. Because the second jury trial in this case violated the Fifth Amendment's proscription against double jeopardy, convictions are reversed.
14. LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT V. CITY OF PROSPECT, KENTUCKY
OPINION OF THE COURT BY JUSTICE SCHRODER – REVERSING
- [2006-SC-000903-DG](#) JEFFERSON
TO BE PUBLISHED
- Questions Presented:**
Annexation. Issues include whether Louisville/Jefferson County Metro Government's delay in acting on a proposed annexation ordinance caused Louisville Metro to lose priority over the City of Prospect's ordinance annexing the same property.
15. METHODIST HOSPITAL OF KENTUCKY, INC. V. WESLEY GILLIAM
OPINION OF THE COURT BY JUSTICE SCHRODER – REVERSING
- [2007-SC-000817-DG](#) PIKE
TO BE PUBLISHED
- Questions Presented:**
Jurisdiction. Labor Law. Issues include whether a wrongful discharge claim based on alleged protected union activities is subject to the exclusive jurisdiction of the National Labor Relations Board.

SUPREME COURT OF KENTUCKY

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| 16. | DAVID WILKINS V.
KENTUCKY RETIREMENT SYSTEMS
BOARD OF TRUSTEES
OPINION OF THE COURT BY
JUSTICE SCHRODER –
<u>REVERSING</u> | 2007-SC-000950-DG
TO BE PUBLISHED | FRANKLIN |
| <p style="text-align: center;">Questions Presented:
Even when the courthouse remains open on a legal holiday, the petitioner receives an extra day to file.</p> | | | |
| 17. | JAMES ANTHONY LANE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2006-SC-000679-MR
NOT TO BE PUBLISHED | CHRISTIAN |
| 18. | RICHARD WELLS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, NOBLE, SCOTT,
AND VENTERS, JJ., CONCUR.
SCHRODER, J., CONCURS IN
RESULT ONLY, BELIEVING THAT
THE CUMULATIVENESS OF THE
HEARSAY DOES NOT ALLEVIATE,
BUT CONTRIBUTES TO, THE ERROR
(AS BOLSTERING), BUT THAT THE
ERROR WAS NOT PALPABLE BECAUSE
THE STATEMENTS WERE BRIEF, DID
NOT REPEAT THE ALLEGATIONS, AND
DID NOT INDICATE BELIEF IN THE
ALLEGATIONS, HENCE, THE
PREJUDICIAL EFFECT WAS MINIMAL. | 2007-SC-000090-MR
NOT TO BE PUBLISHED | JEFFERSON |
| 19. | TERRANCE MILES V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000298-MR
NOT TO BE PUBLISHED | JEFFERSON |

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

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| 20. | DANNY LEE CARVER V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ABRAMSON, SCHRODER, SCOTT,
AND VENTERS, JJ., CONCUR.
CUNNINGHAM, J., DISSENTS IN
SEPARATE OPINION IN WHICH
MINTON, C.J. AND NOBLE, J.,
JOINS DISSENT. | 2007-SC-000428-MR
NOT TO BE PUBLISHED | ALLEN |
| 21. | TIMMY G. CARROLL V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000613-TG
NOT TO BE PUBLISHED | MUHLENBERG |
| 22. | FRANCES D. ATKINS V.
SPECIALIZED ALTERNATIVES FOR
FAMILIES AND YOUTH, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2008-SC-000182-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 23. | KROGER COMPANY, #379 V.
CHARLES S. ROBINSON, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2008-SC-000219-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 24. | QUALITY DISTRIBUTION, INC. V.
JAMES R. HILL, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2008-SC-000279-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 25. | JESSIE FITTS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING IN PART
REVERSING IN PART</u> | 2007-SC-000666-MR
NOT TO BE PUBLISHED | FULTON |

SUPREME COURT OF KENTUCKY

MINUTES

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RELEASED: 10:00 A.M.

26. DAMON STUCKEY V. [2007-SC-000672-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING IN PART
AND REVERSING IN PART
27. JAMES MILLER V. [2007-SC-000656-MR](#) ADAIR
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING IN PART
REVERSING IN PART AND REMANDING
MINTON, C.J.; ABRAMSON, CUNNINGHAM,
NOBLE, SCHRODER, AND SCOTT, JJ.,
CONCUR. VENTERS, J., CONCURS IN
RESULT ONLY.
28. RANDALL TILFORD MILLER V. [2006-SC-000764-MR](#) WARREN
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING IN PART
AND REVERSING AND REMANDING
IN PART
MINTON, C.J.; ABRAMSON, CUNNINGHAM,
NOBLE, SCHRODER, AND SCOTT, JJ.,
CONCUR. VENTERS, J., CONCURS IN
RESULT ONLY AND WOULD CONCLUDE
THAT THE NIGHT VISION GOGGLES AND
THE DETECTIVE'S SUSPICION AS TO
THEIR USE WERE NOT ADMISSIBLE. THE
TESTIMONY LINKING THE GOGGLES TO
UNRELATED BURGLARIES WAS MERE
SPECULATION; BUT CONSIDERING
THE ENTIRE CASE, THE ERROR WAS
HARMLESS.

SUPREME COURT OF KENTUCKY

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JANUARY 22, 2009

RELEASED: 10:00 A.M.

29. DANA JACKSON V. [2007-SC-000224-MR](#) CAMPBELL
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
**MEMORANDUM OPINION OF
THE COURT – REVERSING**
MINTON, C.J.; ABRAMSON, NOBLE,
SCHRODER, SCOTT, AND VENTERS, JJ.,
CONCUR. CUNNINGHAM, J., ALSO
CONCURS, BUT STATES THAT IT IS
HIS SENTIMENT THAT GORDON
NEEDS RE-VISITING AS BEING TOO
RESTRICTIVE ON THE TESTIMONY
OF AN ACTUAL PARTICIPANT IN
TRANSCRIBED COMMUNICATIONS.
HERE, HOWEVER, THE ERROR IS
MUCH MORE PRONOUNCED
BECAUSE OFFICER BROWN WAS A
THIRD PARTY WHO WAS NOT EVEN
PRESENT DURING THE RECORDED
DRUG BUY AND WAS ONLY
INTERPRETING THE AUDIO TAPE.

OPINIONS AND ORDERS – JANUARY 22, 2009

- MITCHELL STEWARD, SR. AND
MARY C. STEWARD V. [2008-SC-000165-MR](#) HENDERSON
HONORABLE SHEILA FARRIS (JUDGE,
HENDERSON FAMILY CIRCUIT COURT);
LASHAWNA STEWARD
(REAL PARTY IN INTEREST), ET AL.
**ORDER AFFIRMED COURT OF APPEALS’
DENIAL OF WRIT AND DENIED PENDING
MOTIONS BEFORE THIS COURT.**

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – JANUARY 22, 2009

BOARD OF REGENTS OF WESTERN
KENTUCKY UNIVERSITY V.
RANDALL BENNETT CLARK, ET AL.
**ORDER DENIED INTERLOCUTORY
RELIEF.**
ABRAMSON, CUNNINGHAM, NOBLE,
SCHRODER, SCOTT, AND VENTERS,
JJ., CONCUR.
MINTON, C.J., NOT SITTING.

[2008-SC-000435-I](#)
TO BE PUBLISHED

WARREN

KENTUCKY BAR ASSOCIATION V.
ERIC LAMAR EMERSON
**ORDER SUSPENDED RESPONDENT
FROM THE PRACTICE OF LAW FOR
181 DAYS.**

[2008-SC-000487-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

JONATHAN L. OSBORNE V.
KENTUCKY BAR ASSOCIATION
**ORDER RESTORED MOVANT TO THE
PRACTICE OF LAW.**

2008-SC-000582-KB
NOT TO BE PUBLISHED

IN SUPREME
COURT

INSURANCE SERVICES & MANAGEMENT,
INC., ET AL. V.
MARILYN C. GREENE, ET AL.
**ORDER DENIED INTERLOCUTORY
RELIEF.**

2008-SC-000616-I
NOT TO BE PUBLISHED

BOURBON

MICHAEL L. JAMES V.
KENTUCKY BAR ASSOCIATION
**ORDER GRANTED REINSTATEMENT
AND RESTORED MOVANT TO THE
PRACTICE OF LAW.**

[2003-SC-000715-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

BURGESS L. DOAN V.
KENTUCKY BAR ASSOCIATION
**ORDER GRANTED MOVANT'S MOTION
TO WITHDRAW UNDER TERMS OF
PERMANENT DISBARMENT.**

[2008-SC-000930-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
JANUARY 14, 2009**

CSX TRANSPORTATION, INC. V. TROY MOODY	2007-SC-000548-DG	JEFFERSON
DONALD E. JAMES V. THOMAS L. JAMES	2008-SC-000163-DG	TAYLOR
DELORES MARIE KNIGHT V. LINDA YOUNG	2008-SC-000404-DG	LYON
ARMINTA JANE MULLINS V. PHYLLIS DIANNE PICKLESIMER	2008-SC-000484-DGE	GARRARD
FLUKE CORPORATION V. GARY LEMASTER AND LARRY LEMASTER	2008-SC-000530-DG	PERRY
GEORGE MAULDIN, ET AL. V. REBECCA BEARDEN	2008-SC-000557-DGE	JEFFERSON
DAVID LAKE V. COMMONWEALTH OF KENTUCKY	2008-SC-000876-DG	KNOX

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JANUARY 14, 2009**

MARK ANTHONY PRICE V. COMMONWEALTH OF KENTUCKY	2007-SC-000945-D	CAMPBELL
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT V. TOMMY PUCKETT, ET AL.	2008-SC-000146-D	FAYETTE
JERRY KEENE V. RAYMOND ANDERSON, ET AL.	2008-SC-000184-D	PIKE
CLINTON BREWER V. COMMONWEALTH OF KENTUCKY	2008-SC-000201-D	MCCRACKEN

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JANUARY 14, 2009**

THOMAS L. SKINNER, ET AL. V. HOPKINS COUNTY COAL, LLC	2008-SC-000225-D	WEBSTER
CRAIG ALLEN CAGLE V. COMMONWEALTH OF KENTUCKY	2008-SC-000240-D	CARLISLE
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, BY AND THROUGH CHIEF ROBERT WHITE, ON BEHALF OF THE LOUISVILLE METRO POLICE DEPARTMENT V. LOUISVILLE METRO POLICE MERIT BOARD AND MICHAEL JOE THOMPSON, OFFICER	2008-SC-000251-D	JEFFERSON
ROBERT A. DONALD, III V. CARRIE G. DONALD	2008-SC-000303-D	JEFFERSON
CHARLES K. MONIN, JR. V. WAL-MART REAL ESTATE TRUST, ET AL.	2008-SC-000304-D	NELSON
CSX TRANSPORTATION, INC. V. TROY MOODY	2008-SC-000311-D	JEFFERSON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JANUARY 14, 2009**

THERMOVIEV INDUSTRIES, INC. V. NELSON E. CLEMMENS COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000329-D	JEFFERSON
CSX TRANSPORTATION, INC. V. MICHAEL E. COOKE COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000331-D	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JANUARY 14, 2009**

JOHN JOHNSON V. COMMONWEALTH OF KENTUCKY	2008-SC-000390-D	LARUE
DAWN M. HIGGINS V. CHRISTOPHER RYAN ABELL	2008-SC-000393-DE	JESSAMINE
KENTUCKY RETIREMENT SYSTEMS V. BARBARA FOSTER	2008-SC-000416-D	FRANKLIN
EZRA C. ADAIR, ET AL. V. CYPRUS AMEX MINERALS COMPANY, ET AL.	2008-SC-000422-D	PERRY
DAVID NICHOLS V. COMMONWEALTH OF KENTUCKY	2008-SC-000434-D	MARION
LORRAINE MAY V. JAY MOORE, ADMINISTRATOR OF THE ESTATE OF DIXIE MOORE, DECEASED	2008-SC-000454-D	ROWAN
WOLHOY CONSTRUCTION, LLC V. CITY OF BELLEFONTE, KENTUCKY	2008-SC-000470-D	GREENUP
UNINSURED EMPLOYERS' FUND V. COUNTY OF HARDIN PLANNING AND DEVELOPMENT COMMISSION AND POPLAR BROOK DEVELOPMENT, LLC	2008-SC-000493-D	HARDIN
ROBERT F. EBERENZ V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000494-D	MEADE
RYAN M. DAVIS V. COMMONWEALTH OF KENTUCKY	2008-SC-000498-D	CASEY
FRANK BARONE, ET AL. V. GLEN PERKINS, ET AL.	2008-SC-000515-D	SCOTT

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JANUARY 14, 2009**

GARLAND RHODES V. COMMONWEALTH OF KENTUCKY	2008-SC-000534-D	WARREN
HERBERT BROOKS V. COMMONWEALTH OF KENTUCKY	2008-SC-000537-D	CAMPBELL
CASEY COUNTY EXTENSION DISTRICT BOARD V. JAN ATWOOD	2008-SC-000543-D	CASEY
CARL WELLS, D/B/A WELLS FUNERAL HOME V. MAXINE O'HAIR	2008-SC-000544-D	POWELL
STEVEN GARNER PHILLIPS V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000593-D	MASON
HAROLD BROOKS LEASURE, JR. V. COLEMAN AMERICAN COMPANIES, INC.	2008-SC-000601-D	CHRISTIAN
RYAN KEITH LUMPKIN V. COMMONWEALTH OF KENTUCKY	2008-SC-000611-D	JEFFERSON
CHARLES KIRKLAND V. COMMONWEALTH OF KENTUCKY	2008-SC-000628-D	FAYETTE
COMMONWEALTH OF KENTUCKY V. JASON RAY ISON	2008-SC-000729-D	LETCHER

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – JANUARY 20, 2009**

JEFFREY G. BRATCHER V. COMMONWEALTH OF KENTUCKY	2008-SC-000832-D	OHIO
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COURT ORDERS DENYING PETITION FOR REHEARING – JANUARY 22, 2009

WARREN KEMPER, M.D. V. BARRY GORDON (INDIVIDUALLY AND AS SURVIVING SPOUSE AND PERSONAL REPRESENTATIVE OF THE ESTATE OF LORI GORDON, DECEASED), ET AL.	2005-SC-000306-DG 2006-SC-000077-DG	JEFFERSON
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SIMON OLIVER V. COMMONWEALTH OF KENTUCKY	2005-SC-000864-MR	PERRY
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DANNY LITTLE V. COMMONWEALTH OF KENTUCKY ORDER MODIFIED OPINION RENDERED OCTOBER 23, 2008 AND MODIFIED NOVEMBER 12, 2008, BY SUBSTITUTION OF PAGES 1 AND 6.	2005-SC-000578-MR	PIKE
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JEFFREY ALLEN V. COMMONWEALTH OF KENTUCKY	2006-SC-000407-MR	LETCHER
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MELVIN LEE PARRISH V. COMMONWEALTH OF KENTUCKY	2006-SC-000592-MR	JEFFERSON
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BEVERLY MCCLENDON V. JERRY R. HODGES	2007-SC-000559-DGE	MONROE
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SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – JANUARY 22, 2009

ANTHONY DURHAM V. PEABODY COAL COMPANY, ET AL. AND GLENN LUTZ V. ENERGY CONVERSION CORPORATION, ET AL. AND GARY MIDDLETON V. CENTENNIAL RESOURCES, INC., ET AL.	2007-SC-000792-WC 2007-SC-000793-WC 2007-SC-000794-WC	FROM COURT OF APPEALS FROM COURT OF APPEALS FROM COURT OF APPEALS
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COURT ORDERS DISMISSING – DECEMBER 23, 2008

LARRY E. WATKINS V. HON. PHILLIP J. SHEPHERD, JUDGE, FRANKLIN CIRCUIT COURT, ET AL.	2008-SC-000726-OA	FROM COURT OF APPEALS
M.B., A CHILD UNDER EIGHTEEN V. HON. STEPHEN A. HAYDEN, JUDGE, HENDERSON CIRCUIT COURT, ET AL.	2008-SC-000802-OA	FROM COURT OF APPEALS

COURT ORDERS

DAVID RAY BURTON V. CSX TRANSPORTATION, INC. ORDER CORRECTED THE OPINION OF THE COURT BY CHIEF JUSTICE MINTON, RENDERED OCTOBER 23, 2008, BY SUBSTITUTION OF PAGES 1 AND 7. ENTERED: DECEMBER 17, 2008	2006-SC-000695-DG	JEFFERSON
JOHN WILLIAM HULSMAN V. COMMONWEALTH OF KENTUCKY ORDER DENIED MOTION FOR LEAVE TO FILE BELATED APPEAL. ENTERED: JANUARY 20, 2009	2008-SC-000714-MR	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

JANUARY 22, 2009

RELEASED: 10:00 A.M.

COURT ORDERS

SCOT E. GAITHER V.
COMMONWEALTH OF KENTUCKY
**ORDER DENIED MOTION FOR LEAVE
TO FILE SECOND BELATED APPEAL.**
ENTERED: JANUARY 20, 2009

2008-SC-000800-MR

DAVISS

KENTUCKY BAR ASSOCIATION,
CLE COMMISSION V.
PAUL TERRY BERKOWITZ
**RESPONDENT ORDERED TO PAY
\$75.00 TO THE KEA IN LIEU OF
SUSPENSION FOR NON COMPLIANCE
WITH CLE REQUIREMENTS.**
ENTERED: JANUARY 12, 2009

2008-SC-000939-KB
NOT TO BE PUBLISHED

IN SUPREME
COURT

KENTUCKY BAR ASSOCIATION,
CLE COMMISSION V.
JOHN WILLIAM SEANOR
**RESPONDENT ORDERED TO PAY
\$750.00 TO THE KBA IN LIEU OF
SUSPENSION FOR NON COMPLIANCE
WITH CLE REQUIREMENTS.**
ENTERED: JANUARY 12, 2009

2008-SC-000942-KB
NOT TO BE PUBLISHED

IN SUPREME
COURT

KENTUCKY BAR ASSOCIATION,
CLE COMMISSION V.
PETER LAWRENCE NEY
**RESPONDENT ORDERED TO PAY
\$50.00 TO THE KBA IN LIEU OF
SUSPENSION FOR NON COMPLIANCE
WITH CLE REQUIREMENTS.**
ENTERED: JANUARY 12, 2009

2008-SC-000961-KB
NOT TO BE PUBLISHED

IN SUPREME
COURT