

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

208. COMMONWEALTH OF KENTUCKY V. MICHAEL BAKER
OPINION OF THE COURT – CERTIFYING THE LAW
ABRAMSON, J., DISSENTS BY SEPARATE OPINION IN WHICH MINTON, C.J., JOINS.
- [2007-SC-000347-CL](#) KENTON
TO BE PUBLISHED
- Questions Presented:**
KRS 17.545, which restricts where registered sex offenders may live, may not be applied retroactively to offenses committed prior to July 12, 2006, the effective date of the statute.
209. COMAIR, INC.; AND COMAIR SERVICES, INC. V. LEXINGTON-FAYETTE URBAN COUNTY AIRPORT CORP., ET AL.
OPINION OF THE COURT BY JUSTICE NOBLE – AFFIRMING
ALL SITTING. ALL CONCUR.
- [2007-SC-000602-TG](#) FAYETTE
TO BE PUBLISHED
- Questions Presented:**
Airport Board and Airport Corporation are government agencies performing a governmental function and are therefore entitled to immunity from suit for negligence; board members are entitled to immunity from suit in their representative capacities.
210. TINA MARTIN, ADMINISTRATRIX OF THE ESTATE OF BILLIE CAROL SHREVE, DECEASED; AND DONALD RAY SHREVE, INDIVIDUALLY V. OHIO COUNTY HOSPITAL CORPORATION
OPINION OF THE COURT BY JUSTICE NOBLE – REVERSING
ALL SITTING. ALL CONCUR.
- [2008-SC-000211-DG](#) OHIO
TO BE PUBLISHED
- Questions Presented:**
Torts. Issues include the propriety of jury consideration of recovery for alleged violation of the federal Emergency Medical Treatment and Active Labor Act and for "post-death loss of consortium."
211. ERIC JEROME WHITE V. COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING
VENTERS, J., NOT SITTING.
- [2008-SC-000192-MR](#) MCCracken
NOT TO BE PUBLISHED

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

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| 212. | CALVIN D. MYERS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2008-SC-000548-MR
NOT TO BE PUBLISHED | MONROE |
| 213. | PAUL DUNN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
MINTON, C.J., AND ABRAMSON
AND NOBLE, JJ., CONCUR
IN RESULT ONLY. | 2008-SC-000579-MR
NOT TO BE PUBLISHED | FAYETTE |
| 214. | THOMAS O. GOINS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2008-SC-000718-MR
NOT TO BE PUBLISHED | MUHLENBERG |
| 215. | RAYMOND J. GARNER V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
SCHRODER, J., CONCURS IN
RESULT ONLY. VENTERS, J.,
NOT SITTING. | 2008-SC-000770-MR
NOT TO BE PUBLISHED | WHITLEY |
| 216. | JACK RANDALL KIRK V.
HONORABLE DAVID HAGERMAN,
JUDGE, BOYD CIRCUIT COURT
AND
COMMONWEALTH OF KENTUCKY,
REAL PARTY IN INTEREST
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
NOBLE AND ABRAMSON, JJ.,
CONCUR IN RESULT ONLY. | 2009-SC-000047-MR
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

217. STATE AUTO PROPERTY & [2009-SC-000144-MR](#) FROM COURT
CASUALTY INSURANCE COMPANY V. **NOT TO BE PUBLISHED** OF APPEALS
HONORABLE EDDIE C. LOVELACE,
JUDGE, CUMBERLAND CIRCUIT COURT
AND
KENTUCKY FARM BUREAU MUTUAL
INSURANCE COMPANY,
REAL PARTY IN INTEREST
AND
BOBBY SEVERE,
REAL PARTY IN INTEREST
**MEMORANDUM OPINION
OF THE COURT – AFFIRMING**
ALL SITTING. ALL CONCUR.

OPINIONS AND ORDERS – OCTOBER 1, 2009

KENTUCKY BAR ASSOCIATION V. [2009-SC-000270-KB](#) IN SUPREME
PATRICK EDWARD MOEVES **TO BE PUBLISHED** COURT
**ORDER SUSPENDED RESPONDENT FROM
THE PRACTICE OF LAW FOR 1 YEAR
WITH CONDITIONS.**
VENTERS, J., NOT SITTING.

BRUCE A. SMITH V. [2009-SC-000336-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT
**ORDER RESTORED MOVANT TO KBA
MEMBERSHIP AND THE PRACTICE
OF LAW IN THIS COMMONWEALTH.**
ALL SITTING. ALL CONCUR.

JULIA BELLE LANGERAK V. [2009-SC-000372-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT
**ORDER RESTORED MOVANT TO THE
THE PRACTICE OF LAW IN THIS
COMMONWEALTH.**
VENTERS, J., NOT SITTING.

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – OCTOBER 1, 2009

KENTUCKY BAR ASSOCIATION V.
JOSEPH A. YOCUM

[2009-SC-000403-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**ORDER PROHIBITED RESPONDENT FROM
REQUESTING PERMISSION TO PRACTICE
IN THIS COMMONWEALTH FOR 120 DAYS.**
SCHRODER, J., CONCURS IN RESULT ONLY
AND WOULD SUSPEND YOCUM FOR 1 YEAR.
VENTERS, J., NOT SITTING.

JACQUELINE L. CHAUVIN V.
KENTUCKY BAR ASSOCIATION
**ORDER SUSPENDED MOVANT FROM
THE PRACTICE OF LAW IN THIS
COMMONWEALTH FOR 5 YEARS TO
RUN FROM THE DATE OF THIS OPINION
AND ORDER.**
VENTERS, J., NOT SITTING.

[2009-SC-000404-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

COURT ORDERS DENYING PETITION FOR REHEARING – OCTOBER 1, 2009

TIMOTHY MORGAN V.
CANDRIA SCOTT AND
JAMES E. SCOTT, JR.

2006-SC-000693-DG

PIKE

AND
CANDRIA SCOTT AND
JAMES E. SCOTT, JR. V.
MOORE PONTIAC, BUICK, GMC, INC.

2006-SC-000701-DG

PIKE

AND
MOORE PONTIAC, BUICK,
GMC, INC. V.
CANDRIA SCOTT AND
JAMES E. SCOTT, JR.

2007-SC-000282-DG

PIKE

QUINCY BAILEY V.
COMMONWEALTH OF KENTUCKY

2006-SC-000785-MR

MCCRACKEN

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – OCTOBER 1, 2009

SHANNON GIBSON V. COMMONWEALTH OF KENTUCKY	2007-SC-000481-DG	GRAYSON
TYWAN BEAUMONT V. COMMONWEALTH OF KENTUCKY ORDER MODIFIED THE MEMORANDUM OPINION OF THE COURT RENDERED MAY 21, 2009 BY SUBSTITUTION OF NEW TO BE PUBLISHED OPINION OF THE COURT.	2007-SC-000486-MR	JEFFERSON
DAVID PAUL SANDERSON V. COMMONWEALTH OF KENTUCKY ORDER MODIFIED THE OPINION OF THE COURT BY JUSTICE NOBLE RENDERED MAY 21, 2009 BY SUBSTITUTION OF NEW OPINION.	2007-SC-000537-MR	GRAVES
BOB LAWSON V. KENTUCKY RETIREMENT SYSTEMS, ET AL.	2007-SC-000540-DG	FRANKLIN
VICTOR DEWAYNE TAYLOR V. COMMONWEALTH OF KENTUCKY	2008-SC-000273-MR	FAYETTE
KENTUCKY EMPLOYERS SAFETY ASSOCIATION V. LEXINGTON DIAGNOSTIC CENTER, ET AL.	2008-SC-000671-WC	FROM COURT OF APPEALS

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

COURT ORDERS

STEPHEN B. EARLY, ET AL. V.
OLDHAM COUNTY BOARD OF EDUCATION
ORDER AFFIRMING.
ENTERED: OCTOBER 1, 2009

2007-SC-000008-DG

OLDHAM

DIRECTV, INC., ET AL. V.
MARK TREESH, IN HIS OFFICIAL
CAPACITY AS COMMISSIONER
OF THE DEPARTMENT OF
REVENUE, ET AL.
**ORDER CORRECTED THE OPINION OF
THE COURT BY JUSTICE ABRAMSON
RENDERED JUNE 25, 2009, BY
SUBSTITUTION OF PAGES 1 AND 10.**
ENTERED: SEPTEMBER 14, 2009

[2007-SC-000714-DG](#)

FRANKLIN

COMMONWEALTH OF KENTUCKY V.
TOMMY LOPEZ
**ORDER MODIFIED THE OPINION
RENDERED AUGUST 27, 2009, BY
SUBSTITUTION OF PAGES 1 AND 8 OF
THE ORIGINAL OPINION.**
ENTERED: SEPTEMBER 17, 2009

[2008-SC-000308-DG](#)

HARDIN

DAYRON CASTELLANOS HIDALGO,
A/K/A DAYRON CASTELLANOS,
REAL PARTY IN INTEREST V.
COMMONWEALTH OF KENTUCKY, ET AL.
AND

[2008-SC-000429-MR](#)

JEFFERSON

HON. A.C. MCCAY CHAUVIN, JUDGE
JEFFERSON CIRCUIT COURT V.
COMMONWEALTH OF KENTUCKY, ET AL.
**ORDER MODIFIED THE OPINION OF
THE COURT BY JUSTICE CUNNINGHAM
RENDERED JUNE 25, 2009, BY
SUBSTITUTION OF PAGES 1 AND 3.**
ENTERED: SEPTEMBER 11, 2009

[2008-SC-000518-MR](#)

JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

COURT ORDERS

ERIC C. NORDSWORTHY, M.D. V. 2008-SC-000918-I JEFFERSON
KENTUCKY BOARD OF MEDICAL
LICENSURE (KBML)
**ORDER DENIED MOTION FOR
RECONSIDERATION.**
ENTERED: OCTOBER 1, 2009

GENEAL WARF, ET AL. V. 2009-SC-000191-CL U.S. DISTRICT
BOARD OF ELECTIONS OF
GREEN COUNTY, KENTUCKY
(BY AND THROUGH ITS
INDIVIDUAL MEMBERS), ET AL.
**ORDER DENIED PETITION FOR
CERTIFICATION OF LAW**
ENTERED: OCTOBER 1, 2009

KENTUCKY BAR ASSOCIATION V. [2009-SC-000266-KB](#) IN SUPREME
JAMES KEVIN MATHEWS COURT
**ORDER CORRECTED THE OPINION
AND ORDER ENTERED AUGUST
27, 2009, BY SUBSTITUTION OF
PAGES 1 THROUGH 5.**
ENTERED: SEPTEMBER 24, 2009

KENTUCKY BAR ASSOCIATION V. [2009-SC-000267-KB](#) IN SUPREME
LEO A. MARCUM COURT
**ORDER CORRECTED THE OPINION
AND ORDER ENTERED AUGUST
27, 2009, BY SUBSTITUTION OF
THE ORIGINAL OPINION AND ORDER.**
ENTERED: SEPTEMBER 16, 2009

BARRY RAYNER V. 2009-SC-000343-MR JEFFERSON
HON. BARRY WILLETT, JUDGE,
JEFFERSON CIRCUIT COURT, ET AL.
**ORDER GRANTED MOTION TO
DISMISS APPEAL.**
ENTERED: SEPTEMBER 24, 2009

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

COURT ORDERS

CURTIS L. BROWN V. 2009-SC-000411-D FRANKLIN
SHERYL GORDON, PAROLE OFFICER
AND KY DIVISION PROBATION & PAROLE
**ORDER DENIED MOTION FOR ENLARGEMENT
OF TIME IN WHICH TO FILE A MOTION TO
RECONSIDER THIS COURT'S ORDER
ENTERED JULY 21, 2009.**
ENTERED: SEPTEMBER 14, 2009

JOHN J. GENTRY V. 2009-SC-000413-D FRANKLIN
KENTUCKY RETIREMENT SYSTEMS,
BOARD OF TRUSTEES
**ORDER DENIED MOTION FOR
RECONSIDERATION.**
ENTERED: SEPTEMBER 23, 2009

ANDREW JONES, D/B/A WOODY'S V. 2009-SC-000482-D MADISON
JP MORGAN CHASE BANK, N.A.
**ORDER GRANTED MOTION TO
DISMISS MOTION FOR
DISCRETIONARY REVIEW.**
ENTERED: SEPTEMBER 24, 2009

GARY DILLARD V. 2009-SC-000548-D CHRISTIAN
COMMONWEALTH OF KENTUCKY
**ORDER DENIED MOTION TO PROCEED
IN FORMA PAUPERIS.**
ENTERED: SEPTEMBER 23, 2009

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 1, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE
KENTUCKY BAR ASSOCIATION –**

KATHLEEN CAMPBELL DESKINS V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 9, 2009	2009-SC-000555-KB	IN SUPREME COURT
PHILIP JOSEPH VASKE V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 9, 2009	2009-SC-000556-KB	IN SUPREME COURT
LEE OLIPHANT ARCHAMBEAULT V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 15, 2009	2009-SC-000569-KB	IN SUPREME COURT
JOHN MONTJOY V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 17, 2009	2009-SC-000579-KB	IN SUPREME COURT