

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

218. STEPHEN R. CHAPPELL, INDIVIDUALLY AND AS PARTNERS AND/OR EMPLOYEES OF LANDRUM & SHOUSE, A KENTUCKY GENERAL PARTNERSHIP, ET AL. **V.** KUHLMAN ELECTRIC CORPORATION **AND** KUHLMAN ELECTRIC CORPORATION **V.** STEPHEN R. CHAPPELL, INDIVIDUALLY AND AS PARTNERS AND/OR EMPLOYEES OF LANDRUM & SHOUSE, A KENTUCKY GENERAL PARTNERSHIP, ET AL. **OPINION OF THE COURT BY SPECIAL JUSTICE ROGER CRITTENDEN – AFFIRMING** VESPER, S.J., CONCURS IN PART AND DISSENTS IN PART BY SEPARATE OPINION IN WHICH SCOTT, J., JOINS. NOBLE AND SCHRODER, JJ., NOT SITTING.
- [2006-SC-000140-DG](#) **TO BE PUBLISHED** FAYETTE
- [2006-SC-000144-DG](#) **TO BE PUBLISHED** FAYETTE

Questions Presented:
Professional Negligence. Damages. In this legal malpractice action, issues include: (1) whether the fiduciary duties of an attorney retained by an insurer to represent an insured employer in the reopening of a prior workers' compensation proceeding also extend to the employer in its current capacity as self-insured ; and, if so, (2) whether the insured sustained damages as a result of the attorney's placing the interests of the insurer (or the employer as an insured) ahead of those of the employer in its capacity as self-insured.

219. ROY APPELLEGATE **V.** COMMONWEALTH OF KENTUCKY **OPINION OF THE COURT BY JUSTICE SCHRODER – AFFIRMING** CUNNINGHAM, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION.
- [2007-SC-000444-MR](#) **TO BE PUBLISHED** LEWIS

Questions Presented:
Convictions of first-degree rape, first-degree sodomy and incest and thirty year sentence affirmed. Indictment sufficiently stated an offense and did not violate double jeopardy. Determination of expert's status in the jury's presence was harmless error.

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

220. MARK E. BAUDER V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE CUNNINGHAM –
AFFIRMING**
VENTERS, J., DISSENTS BY
SEPARATE OPINION, IN WHICH
MINTON, C.J., AND NOBLE, J., JOIN.

[2008-SC-000056-DG](#)
TO BE PUBLISHED

BOYLE

Questions Presented:
Criminal Law. Sobriety Checkpoint. Investigative Traffic Stop. Primarily at issue is whether a driver's turn onto a public road within sight of a police roadblock provides police with reasonable suspicion of criminal activity justifying an investigative traffic stop.

221. BRIAN JAROSZEWSKI, ET AL. V.
CHARLES F. FLEGE, ET AL.
**OPINION OF THE COURT
BY CHIEF JUSTICE MINTON –
AFFIRMING**
VENTERS, J., CONCURS BY
SEPARATE OPINION.

[2008-SC-000112-DG](#)
TO BE PUBLISHED

GRANT

Questions Presented:
Civil Procedure. Failure to Prosecute. Dismissal of Complaint. Issues include whether trial court abused discretion by dismissing plaintiffs' complaint for failure to prosecute, on defendants' motions pursuant to CR 41.02.

222. STEVE BURTON V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT
BY JUSTICE SCOTT –
AFFIRMING IN PART AND
REVERSING IN PART**
MINTON, C.J.; CONCURS IN PART AND
DISSENTS IN PART BY SEPARATE
OPINION WITH ABRAMSON, J., AND
CUNNINGHAM, J., JOINING THAT
OPINION. ABRAMSON, J., CONCURS
IN PART AND DISSENTS IN PART BY
SEPARATE OPINION WITH
MINTON, C.J., AND CUNNINGHAM, J.,
JOINING THAT OPINION.

[2006-SC-000784-MR](#)
TO BE PUBLISHED

HICKMAN

Questions Presented:
Second-degree manslaughter and second-degree assault convictions reversed. Undue prejudice arose from the admission of urinalysis results which outweighed its probative value under KRE 403. Conviction for operating a motor vehicle with a suspended license affirmed.

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223. ANDRE FINNELL V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT
BY JUSTICE NOBLE –
AFFIRMING IN PART AND
REVERSING IN PART AND
REMANDING**
ALL SITTING. ALL CONCUR.

[2008-SC-000085-MR](#)
TO BE PUBLISHED

KENTON

Questions Presented:
Convictions of robbery and reckless homicide affirmed, but sentence is set aside and case remanded for a new penalty phase due to improper use of Courtnet rather than properly authenticated prior convictions.

224. MICHAEL CECIL V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT
BY JUSTICE CUNNINGHAM –
AFFIRMING IN PART AND
REMANDING IN PART**
SCHRODER, J., CONCURS IN
RESULT ONLY BY SEPARATE
OPINION, IN WHICH NOBLE, J.,
JOINS.

[2008-SC-000159-MR](#)
[2008-SC-000369-MR](#)
TO BE PUBLISHED

JEFFERSON

Questions Presented:
Judgment as to counts of first-degree rape and intimidating a participant in the legal process upheld. Judgment on guilty pleas to second rape charge reversed and remanded; application herein of KRS 532.110(1) (d) is prohibited by the ex post facto clause.

225. TOMMIE BROWN V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT
BY JUSTICE NOBLE –
AFFIRMING IN PART, REVERSING
AND VACATING IN PART**
ALL SITTING. ALL CONCUR.

[2008-SC-000281-MR](#)
TO BE PUBLISHED

FULTON

Questions Presented:
Convictions for first-degree fleeing or evading police and second-degree wanton endangerment constitute double jeopardy. The lesser offenses of second-degree wanton endangerment are reversed and vacated. All other convictions are affirmed.

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226. TIM EMBERTON V. [2007-SC-000443-DG](#) WARREN
GMRI, INC., F/K/A GENERAL MILLS [2008-SC-000109-DG](#)
RESTAURANTS, INC. (D/B/A RED **TO BE PUBLISHED**
LOBSTER RESTAURANT #349), ET AL.
OPINION OF THE COURT
BY JUSTICE SCOTT –
REVERSING
MINTON, C.J., AND ABRAMSON, J.,
CONCUR IN RESULT ONLY.
- Questions Presented:**
Trial court judgment reinstated. Statute of limitations did not run due to the defendant's active concealment of the plaintiff's probable cause of action.
227. RICHARD GABBARD V. [2008-SC-000062-MR](#) LEE
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT
BY JUSTICE NOBLE –
REVERSING
VENTERS, J., CONCURS EXCEPT
THAT HE WOULD HOLD THAT THE
TRIAL COURT ABUSED ITS
DISCRETION UNDER KRE 404(B) BY
ADMITTING INTO EVIDENCE
APPELLANT'S THREAT TO "SHOOT
THE HOUSE UP" SEVERAL YEARS
EARLIER AND HIS FLOURISHING OF
A GUN SEVERAL WEEKS EARLIER.
- Questions Presented:**
Trial court erred in failing to strike a juror for cause who had stated that she had made up her mind that the defendant was guilty. Error is reversible when, as here, defendant identifies on his strike sheet additional jurors he would have struck but for the erroneous ruling.
228. BETTY J. SWEASY V. [2009-SC-000219-WC](#) FROM COURT
WAL-MART STORES, INC. **TO BE PUBLISHED** OF APPEALS
#1269, ET AL.
OPINION OF THE COURT –
REVERSING
ALL SITTING. ALL CONCUR.
- Questions Presented:**
Workers' Compensation. The compensable period for partial disability commences on the date that impairment and disability arise, without regard to the date of MMI, the worker's disability rating, or the compensable period's duration.

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229. KENTUCKY ASSOCIATED GENERAL CONTRACTORS SELF-INSURANCE FUND (KAGC) V. MUSIC CONSTRUCTION, INC. [2008-SC-000795-DG](#) MONTGOMERY
TO BE PUBLISHED
- Questions Presented:**
Contracts. Workers Compensation Reimbursement. AIG/AIU Insurance Company v. South Akers Mining Company, 192 S.W.3d 687 (Ky. 2006), did not bar an insurer who paid an employee all benefits for a 2001 injury, including a 30% increase under KRS 342.165(1), from seeking reimbursement under the terms of its contract with the employer.
230. NOAH HICKS V. COMMONWEALTH OF KENTUCKY [2007-SC-000751-MR](#) BRECKINRIDGE
MEMORANDUM OPINION OF THE COURT – AFFIRMING
NOT TO BE PUBLISHED
NOBLE, J., DISSENTS IN PART BY SEPARATE OPINION.
231. JASON TODD V. COMMONWEALTH OF KENTUCKY [2008-SC-000410-MR](#) WOODFORD
MEMORANDUM OPINION OF THE COURT – AFFIRMING
NOT TO BE PUBLISHED
VENTERS, J., CONCURS EXCEPT THAT HE WOULD CONCLUDE THAT WHITNEY'S OUT-OF-COURT STATEMENT IS TESTIMONIAL HEARSAY IN VIOLATION OF CRAWFORD V. WASHINGTON, 541 U.S. 36 (2004), BUT ITS ADMISSION WAS HARMLESS ERROR.

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| 232. | CRAIG EDWARD BASSHAM V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
NOBLE, J., CONCURS EXCEPT AS
TO FOOTNOTE 4, AS IT IMPLIES
THAT HARMLESS ERROR CAN BE
DETERMINED BASED ON A
SUFFICIENCY OF THE EVIDENCE
TEST. | 2008-SC-000511-MR
NOT TO BE PUBLISHED | JEFFERSON |
| 233. | BLAKE HADDIX V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2008-SC-000842-MR
NOT TO BE PUBLISHED | BREATHITT |
| 234. | REBECCA DAWSON V.
CORNERSTONE CARE, LLC, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2008-SC-000960-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 235. | HEAVEN HILL DISTILLERIES, INC. V.
BONNIE LAWSON, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000004-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 236. | JAMES KELLY V.
RADAC CORP., ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000061-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

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| 237. | RICK D. RIDENER V.
SOUTH KY RURAL ELECTRIC
COOPERATIVE CORP., ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000062-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 238. | ROBERTA D. MCCAULEY V.
HUMANA SOUTHWEST
HOSPITAL, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000067-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 239. | ECKART ALUMINUM V.
DUSTIN CARKUFF, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000068-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 240. | JERRY MCGUIRE V.
COAL VENTURES HOLDING
COMPANY, INC., ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000114-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 241. | JOHN A. HUMPHRESS, JR. V.
HON. DOUGHLAS M. GEORGE,
JUDGE, TAYLOR CIRCUIT
COURT, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ABRAMSON, J., NOT SITTING | 2009-SC-000138-MR
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

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| 242. | TAMARA GORMLEY, JUDGE
WOODFORD CIRCUIT COURT V.
ROBERT DAMERON AND
VANESSA WADDLE, FORMERLY
VANESSA DAMERON, ET AL.,
REAL PARTIES IN INTEREST
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ABRAMSON, J., CONCURS IN
RESULT ONLY. NOBLE, J.,
NOT SITTING. | 2009-SC-000292-MR
NOT TO BE PUBLISHED | WOODFORD |
| 243. | BRUNSWICK BOWLING LEAGUE V.
JOHN SIMS, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000305-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 244. | OVERSON JACKSON V.
COMMONWEALTH OF KENTUCKY
AND
DESHAWN MOFFETT V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING IN
PART AND VACATING IN PART</u>
SCHRODER, J., CONCURS IN
PART AND DISSENTS IN PART BY
SEPARATE OPINION IN WHICH
NOBLE, J., JOINS. | 2008-SC-000216-MR
NOT TO BE PUBLISHED

2008-SC-000264-MR
NOT TO BE PUBLISHED | JEFFERSON

JEFFERSON |
| 245. | JOHN COLEMAN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>REVERSING</u>
CUNNINGHAM, J., DISSENTS BY
SEPARATE OPINION IN WHICH
VENTERS, J., JOINS. | 2008-SC-000072-MR
NOT TO BE PUBLISHED | KENTON |

SUPREME COURT OF KENTUCKY

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246. DANNY BURRESS V. [2007-SC-000948-MR](#) TAYLOR
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT –
REVERSING AND REMANDING
SCOTT, J., DISSENTS WITHOUT
OPINION.
247. SANDRA LYNN GREEN JACKSON V. [2008-SC-000063-MR](#) DAVIESS
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT –
REVERSING AND REMANDING
SCOTT, J., DISSENTS BY SEPARATE
OPINION IN WHICH MINTON, C.J.;
AND CUNNINGHAM, J., JOIN.
248. JEFFREY STEITZ V. [2008-SC-000108-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT –
REVERSING AND REMANDING
MINTON, C.J.; AND CUNNINGHAM, J.,
CONCUR IN RESULT ONLY. SCOTT, J.,
CONCURS IN PART AND DISSENTS IN
PART BY SEPARATE OPINION.

OPINIONS AND ORDERS – OCTOBER 21, 2009

WILLIAM E. SLATER V. 2009-SC-000410-D MASON
COMMONWEALTH OF KENTUCKY
ORDER GRANTED DISCRETIONARY REVIEW,
VACATED THE COURT OF APPEALS' OPINION
AND REMANDED TO THE COURT OF APPEALS
FOR FURTHER PROCEEDINGS.
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

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OPINIONS AND ORDERS – OCTOBER 29, 2009

KENTUCKY BAR ASSOCIATION V. DAVID R. STEELE ORDER PUBLICLY REPRIMANDED RESPONDENT. ALL SITTING. ALL CONCUR.	2009-SC-000246-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. LUANN C. GLIDEWELL ORDER SUSPENDED RESPONDENT FOR 181 DAYS. ALL SITTING. ALL CONCUR.	2009-SC-000462-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. GREGORY CURTIS MENELEE ORDER PERMANENTLY DISBARRED RESPONDENT. ALL SITTING. ALL CONCUR.	2009-SC-000467-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. ROGER P. ELLIOTT ORDER CONFIRMED AUTOMATIC TEMPORARY SUSPENSION PURSUANT TO SCR 3.166, EFFECTIVE JULY 29, 2009, UNTIL SUPERSEDED BY SUBSEQUENT ORDER. ALL SITTING. ALL CONCUR.	2009-SC-000549-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. BRUCE D. ATHERTON ORDER CONFIRMED AUTOMATIC SUSPENSION FROM THE PRACTICE OF LAW BEGINNING SEPTEMBER 3, 2009, EFFECTIVE UNTIL DISSOLVED OR SUPERSEDED BY SUBSEQUENT ORDER OF THIS COURT. ALL SITTING. ALL CONCUR.	2009-SC-000560-KB TO BE PUBLISHED	IN SUPREME COURT

SUPREME COURT OF KENTUCKY

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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 21, 2009**

HAZARD COAL CORP., ET AL. V. EILEEN KNIGHT, ET AL.	2008-SC-000735-DG	PERRY
KENTUCKY FARM BUREAU MUTUAL INSURANCE CO. V. SHELTER MUTUAL INSURANCE CO.	2008-SC-000781-DG	MONTGOMERY
U.S. BANK, N.A. V. AHMED "MIKE" ALI, ET AL.	2008-SC-000817-DG	FAYETTE
CERTAINTIED CORPORATION V. AVA NELL DEXTER, INDIVIDUALLY, ET AL.	2008-SC-000886-DG	MARSHALL
GARLOCK SEALING TECHNOLOGIES, LLC V. AVA NELL DEXTER, ET AL.	2008-SC-000890-DG	MARSHALL
BEN SPURLOCK V. TATE BEGLEY	2009-SC-000050-DG	LESLIE
JANET HAMMONS, ET AL. V. ROSA HAMMONS	2009-SC-000155-DG	FAYETTE
JOSEPH FISCHER, ET AL. V. JOHN FISCHER	2009-SC-000245-DG	JEFFERSON
LEVODIS ARTRIP V. JAMES STEPHEN NOE	2009-SC-000260-DGE	FAYETTE
CAMERON HUNT V. COMMONWEALTH OF KENTUCKY	2009-SC-000312-DG	HICKMAN
ROBIN KEN LEE V. COMMONWEALTH OF KENTUCKY	2009-SC-000371-DG	HARDIN

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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 21, 2009**

GERALD S. HINNERS V. BRAD ROBEY, D/B/A ROBEY'S PAWN WORLD	2009-SC-000389-DG	KENTON
JOHN MARRION TERRY V. COMMONWEALTH OF KENTUCKY	2009-SC-000497-DG	JEFFERSON
MITZI D. WYRICK V. DEPARTMENT OF REVENUE, FINANCE AND ADMINISTRATION CABINET; WILLIAM M. COX (IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE DEPARTMENT OF REVENUE)	2009-SC-000543-DG	FRANKLIN

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 21, 2009**

DAVID TOWERY V. COMMONWEALTH OF KENTUCKY	2008-SC-000397-D	GRAVES
KIT PRESCOTT V. COMMONWEALTH OF KENTUCKY	2008-SC-000563-D	HARDIN
MARCHEL QUISENBERRY V. COMMONWEALTH OF KENTUCKY	2008-SC-000575-D	JEFFERSON
C.Z.S., A CHILD UNDER EIGHTEEN V. COMMONWEALTH OF KENTUCKY	2008-SC-000650-D	SIMPSON
CECIL R. RODGERS V. EDWINA MAE RODGERS	2008-SC-000725-D	CASEY
ROCKY WAYNE MCGOWAN V. COMMONWEALTH OF KENTUCKY	2008-SC-000733-D	RUSSELL

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
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BRITTANY MCKINNEY V. COMMONWEALTH OF KENTUCKY	2008-SC-000736-D	FAYETTE
MONUMENTAL LIFE INSURANCE COMPANY, SUCCESSOR IN INTEREST TO COMMONWEALTH LIFE INSURANCE COMPANY V. THE DEPARTMENT OF REVENUE, FINANCE AND ADMINISTRATION CABINET, COMMONWEALTH OF KENTUCKY, ET AL.	2008-SC-000739-D	FRANKLIN
JOE K. MEADOR V. GLIDDIE SARVER	2008-SC-000765-D	ALLEN
DR. JOSEPH MURRAY HAYSE V. BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY, ET AL.	2008-SC-000808-D	FRANKLIN
VERNON MILLS V. WILLIAM SEXTON, ET AL.	2008-SC-000844-D	KNOX
W. E. WILLIAMS V. TEXAS GAS TRANSMISSION, LLC	2008-SC-000861-D	MUHLENBERG
TERENCE RICHARDS V. COMMONWEALTH OF KENTUCKY	2008-SC-000863-D	FAYETTE
ROBERT MCCOWN V. GRAY KENTUCKY TELEVISION, INC., D/B/A WYMT-TV	2008-SC-000872-D	PERRY
JAMES FRANCIS V. KENTUCKY RIVER COAL CORP.	2008-SC-000883-D	KNOTT

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
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KATHY JONES V. BOARD OF EDUCATION OF LAUREL COUNTY, KY., ET AL.	2008-SC-000884-D	LAUREL
JAMES NICK HARRISON V. LARRY CHANDLER, WARDEN, KENTUCKY STATE REFORMATORY	2008-SC-000900-D	OLDHAM
COMMONWEALTH OF KENTUCKY V. LAMONT DESHEA MOORE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED	2008-SC-000943-D	MCCRACKEN
FAYE MILLER V. VAUGHN MILLER	2008-SC-000948-D	HARDIN
MATTHEW ISERAL V. COMMONWEALTH OF KENTUCKY	2008-SC-000954-D	MCCREARY
JAMES D. CRIDER, SR., CO-EXECUTOR OF THE ESTATE OF JAMES D. CRIDER, JR., ET AL. V. CHARLES D. BURTON, ET AL.	2009-SC-000002-D	LINCOLN
ALEJANDRO GONZALEZ DE ALBA V. COMMONWEALTH OF KENTUCKY	2009-SC-000017-D	JEFFERSON
J. WILLIAM LUSTER, ET AL. V. STEVE C. SHIRLEY, ET AL.	2009-SC-000031-D	WARREN
COMMONWEALTH OF KENTUCKY, HON. SAMUEL T. WRIGHT, III, SPECIAL JUDGE, REAL PARTY IN INTEREST V. KENTUCKY RIVER COMMUNITY CARE, INC.	2009-SC-000034-D	BREATHITT

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
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MARTY J. PATTERSON V. COMMONWEALTH OF KENTUCKY	2009-SC-000055-D	HARDIN
COMMONWEALTH OF KENTUCKY V. SCOT EUGENE GAITHER	2009-SC-000059-D	DAVISS
JAMES BRASHEAR, JR. V. DONALD C. GRAVES, ET AL.	2009-SC-000065-D	PERRY
MARK T. MILLER V. GARY MARINELLI, ET AL.	2009-SC-000073-D	JESSAMINE
RICHARD WHITTAKER V. KENTUCKY RETIREMENT SYSTEMS, ET AL.	2009-SC-000089-D	FRANKLIN
MARK BAIZE V. COMMONWEALTH OF KENTUCKY	2009-SC-000091-D	OHIO
SHERRILL WAYNE WELLS V. DELOIS WELLS	2009-SC-000092-D	CASEY
ROBERT L. WHITTEN V. DAVID WHITTEN, EXECUTOR OF THE ESTATE OF HIS LATE MOTHER JUDY WHITTEN	2009-SC-000093-D	CALLOWAY
WILLIAM DURBIN V. COMMONWEALTH OF KENTUCKY	2009-SC-000098-D	HARDIN
JOHN T. GLOVER V. COMMONWEALTH OF KENTUCKY	2009-SC-000099-D	WHITLEY
JAMES FITZGERALD V. COMMONWEALTH OF KENTUCKY	2009-SC-000109-D	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 21, 2009**

T. S. K. V. CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	2009-SC-000113-DE	JEFFERSON
JOHN HUMPHRESS V. PATRICIA HUMPHRESS, ET AL.	2009-SC-000121-D	TAYLOR
TOMMY PERDUE V. COMMONWEALTH OF KENTUCKY	2009-SC-000130-D	RUSSELL
RALPH GENTRY V. STEVE HANEY	2009-SC-000133-D	BOYLE
IRVEL MCANALLY V. COMMONWEALTH OF KENTUCKY	2009-SC-000147-D	MONTGOMERY
AUTO-OWNERS INSURANCE CO. V. CRYSTAL GOODE	2009-SC-000154-D	ADAIR
MICHAEL LEE WELLS V. LADONNA THOMPSON, COMMISSIONER, KENTUCKY DEPARTMENT OF CORRECTIONS	2009-SC-000158-D	OLDHAM
MICHAEL ANTHONY HOLLOWAY V. COMMONWEALTH OF KENTUCKY	2009-SC-000163-D	JEFFERSON
SAMUEL LEE GRAVES V. COMMONWEALTH OF KENTUCKY	2009-SC-000168-D	MONROE
WILLIAM RICH V. COMMONWEALTH OF KENTUCKY	2009-SC-000173-D	CLINTON
CLARENCE J. CALLOWAY V. COMMONWEALTH OF KENTUCKY	2009-SC-000181-D	LAUREL

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SARAH TAYLOR V. COMMONWEALTH OF KENTUCKY	2009-SC-000190-D	FAYETTE
JOHN P. FIELDS, ET AL. V. DANA MULLINS, ET AL.	2009-SC-000196-D	LAWRENCE
DONNA VAN DYNE V. COMMONWEALTH OF KENTUCKY	2009-SC-000200-D	JEFFERSON
K.P. V. CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY	2009-SC-000203-DE	HARDIN
HAROLD W. GARDNER V. COMMONWEALTH OF KENTUCKY	2009-SC-000208-D	MUHLENBERG
COL. WILLIAM MERRELL V. DEER TRACE PARTNERS, LLC	2009-SC-000211-D	BOONE
COMMONWEALTH OF KENTUCKY V. ERIC LLOYD HERMANSEN	2009-SC-000217-D	GALLATIN
JOHN HUMPHRESS V. PATRICIA HUMPHRESS, ET AL.	2009-SC-000226-D	TAYLOR
RUDOLPH YEARBY, JR. V. COMMONWEALTH OF KENTUCKY	2009-SC-000227-D	JEFFERSON
RAY PENNINGTON V. WHEELER AND CLEVINGER OIL COMPANY	2009-SC-000240-D	JOHNSON
SHAMIL A. MUQUIT V. COMMONWEALTH OF KENTUCKY	2009-SC-000243-D	KENTON

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 21, 2009**

COMMONWEALTH OF KENTUCKY, REVENUE CABINET, N/K/A DEPARTMENT OF REVENUE, FINANCE AND ADMINISTRATION CABINET V. MARQUETTE TRANSPORTATION COMPANY, INC.	2009-SC-000261-D	MCCRACKEN
ROBERT FLANDERS V. COMMONWEALTH OF KENTUCKY	2009-SC-000262-D	LAUREL
KATHERINE CARIAS V. DESIDERIO PINA	2009-SC-000275-D	BOYD
ROBERT FRITZ SHEENE V. MELINDA ROSE SHEENE	2009-SC-000282-DE	CASEY
PAUL J. VESPER V. WILLIAM HUMPERT, MASTER COMMISSIONER KENTON CIRCUIT COURT	2009-SC-000291-D	KENTON
MANUEL E. ESPINOSA, DOING BUSINESS AS WELSH CAPITAL THOROUGHBREDS V. LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, ET AL.	2009-SC-000293-D	JEFFERSON
KANAWHA R. SLONE V. STEVE HANEY, WARDEN, NORTHPOINT TRAINING CENTER	2009-SC-000294-D	BOYLE
DAVID REIMER RYAN V. SUSAN MARIE RYAN (NOW BISIG)	2009-SC-000306-DE	OLDHAM
LENA PETROLEUM, INC., ET AL. V. JERE P. KENNEDY, ET AL.	2009-SC-000308-D	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 21, 2009**

ANDREW SIMON MICKLER V. TERRY J. MICKLER	2009-SC-000309-D	JEFFERSON
GEORGE EDWARD MALONE, JR. V. COMMONWEALTH OF KENTUCKY	2009-SC-000322-D	JEFFERSON
JAMES WILLIAMS, ET AL. V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH SERVICES, STATE GUARDIANSHIP SERVICES, BY AND THROUGH JENNIFER DURHAM, ET AL.	2009-SC-000323-D	ROWAN
MICHAEL L. TAYLOR V. COMMONWEALTH OF KENTUCKY	2009-SC-000326-D	ADAIR
LEON HARRIS V. LARRY CHANDLER, WARDEN, KENTUCKY STATE REFORMATORY	2009-SC-000330-D	OLDHAM
WILLIAM BLACKBURN V. COMMONWEALTH OF KENTUCKY	2009-SC-000334-D	BATH
COMMONWEALTH OF KENTUCKY V. TIMOTHY CORY LOOPER	2009-SC-000339-D	MCCRACKEN
R. B. J., A CHILD UNDER EIGHTEEN V. COMMONWEALTH OF KENTUCKY	2009-SC-000346-D	BULLITT
ALFORD LEE CISSELL V. COMMONWEALTH OF KENTUCKY	2009-SC-000347-D	JEFFERSON
ROGER CURTIS REEVES V. COMMONWEALTH OF KENTUCKY	2009-SC-000362-D	BELL

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 21, 2009**

AUSTIN COOPER JACKSON V. COMMONWEALTH OF KENTUCKY	2009-SC-000380-D	WARREN
DAVID W. MILLS V. COMMONWEALTH OF KENTUCKY	2009-SC-000387-D	MONROE
JAMES LEE FIELDS V. COMMONWEALTH OF KENTUCKY	2009-SC-000438-D	LETCHER
CHRISTOPHER PITCOCK V. COMMONWEALTH OF KENTUCKY	2009-SC-000441-D	BARREN

COURT ORDERS DENYING MOTION TO TRANSFER – OCTOBER 29, 2009

KENTUCKY OFFICE OF HOMELAND SECURITY, ET AL. V. MICHAEL G. CHRISTERSON, ET AL.	2009-SC-000567-T	FROM COURT OF APPEALS
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COURT ORDERS DENYING PETITION FOR REHEARING – OCTOBER 29, 2009

JONATHAN WAYNE GOFORTH V. COMMONWEALTH OF KENTUCKY	2006-SC-000456-MR	FAYETTE
VIRGINIA S. CAUDILL V. COMMONWEALTH OF KENTUCKY	2006-SC-000457-MR	FAYETTE
JOHN BRADFORD FREEMAN, (JESSAMINE COUNTY PROPERTY VALUATION ADMINISTRATOR), ET AL. V. ST. ANDREW ORTHODOX CHURCH, INC.	2007-SC-000640-DG	JESSAMINE

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – OCTOBER 29, 2009

DUBIN ORTHOPAEDIC CENTRE, PSC V. 2007-SC-000756-DG FRANKLIN
COMMONWEALTH OF KENTUCKY,
STATE BOARD OF PHYSICAL THERAPY

CHARLES ALLEN V. 2008-SC-000009-MR GREENUP
COMMONWEALTH OF KENTUCKY

TAMARA PURDIE MCVARISH V. 2008-SC-000428-MR WHITLEY
HON. PAUL E. BRADEN, JUDGE,
WHITLEY CIRCUIT COURT, AND
JAMES M. PURDIE,
REAL PARTY IN INTEREST

COURT ORDERS DISMISSING

CAROL BISHOP V. 2009-SC-000378-WC IN COURT
AMERICAN GREETINGS CORP., ET AL. OF APPEALS
ENTERED: OCTOBER 2, 2009

COURT ORDERS

BILLY BOWMAN V. 2008-SC-000945-DG CALLOWAY
COMMONWEALTH OF KENTUCKY
**ORDER GRANTED DISCRETIONARY REVIEW
AND REMANDED TO THE COURT OF APPEALS
FOR AN OPINION CONSISTENT WITH
LEONARD V. COMMONWEALTH,
279 S.W.3D 151 (KY. 2009)
ENTERED: OCTOBER 21, 2009**

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

COURT ORDERS

BINGO PALACE, ET AL. V.
HENRY G. LACKEY (COMMISSIONER
KENTUCKY DEPARTMENT OF
CHARITABLE GAMING)
**ORDER DENIED THE MOTION FOR
RECONSIDERATION AND MODIFIED
THE OPINION AND ORDER ENTERED
AUGUST 27, 2009, BY SUBSTITUTION
OF NEW OPINION AND ORDER.**

[2009-SC-000079-1](#)

FRANKLIN

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

KRISTI PRUTOW CIRIGNANO V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 28, 2009

2009-SC-000602-KB

IN SUPREME
COURT

PAM E. GOLDMAN V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 28, 2009

2009-SC-000603-KB

IN SUPREME
COURT

DEAN HILL RIVKIN V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 28, 2009

2009-SC-000604-KB

IN SUPREME
COURT

KERRY WALLACE BOWMAN V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 28, 2009

2009-SC-000606-KB

IN SUPREME
COURT

MARGARET L. EGGINTON V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 28, 2009

2009-SC-000607-KB

IN SUPREME
COURT

SEAN THOMAS GURGLE V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 28, 2009

2009-SC-000608-KB

IN SUPREME
COURT

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

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

SARAH BUZZEE FAIRWEATHER V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 28, 2009	2009-SC-000609-KB	IN SUPREME COURT
ROBERT HARRISON GREGORY V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 30, 2009	2009-SC-000612-KB	IN SUPREME COURT
RICHARD DARREN BISSELL V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 30, 2009	2009-SC-000613-KB	IN SUPREME COURT
ROBERT JOSEPH WALTER V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 30, 2009	2009-SC-000614-KB	IN SUPREME COURT
ROBERT SCOTT BOATWRIGHT V. KENTUCKY BAR ASSOCIATION ENTERED SEPTEMBER 30, 2009	2009-SC-000615-KB	IN SUPREME COURT
ROBERT LAWRENCE COHN V. KENTUCKY BAR ASSOCIATION ENTERED OCTOBER 14, 2009	2009-SC-000661-KB	IN SUPREME COURT
ABIGAIL CATHERINE WUEST V. KENTUCKY BAR ASSOCIATION ENTERED OCTOBER 14, 2009	2009-SC-000662-KB	IN SUPREME COURT
MICHELLE LOVE FORNEY V. KENTUCKY BAR ASSOCIATION ENTERED OCTOBER 14, 2009	2009-SC-000663-KB	IN SUPREME COURT
MICAH EDWARD SALSMAN V. KENTUCKY BAR ASSOCIATION ENTERED OCTOBER 14, 2009	2009-SC-000664-KB	IN SUPREME COURT

SUPREME COURT OF KENTUCKY

MINUTES

OCTOBER 29, 2009

RELEASED: 10:00 A.M.

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

**TAMMY H. MEADE V.
KENTUCKY BAR ASSOCIATION
ENTERED OCTOBER 14, 2009**

2009-SC-000665-KB

**IN SUPREME
COURT**

**MICHELE L. WESSEL V.
KENTUCKY BAR ASSOCIATION
ENTERED OCTOBER 14, 2009**

2009-SC-000666-KB

**IN SUPREME
COURT**