

SUPREME COURT OF KENTUCKY

MINUTES
NOVEMBER 25, 2009

RELEASED: 10:00 A.M.

249. COMMONWEALTH OF KENTUCKY [2009-SC-000107-TG](#) FRANKLIN
EX REL. ATTORNEY GENERAL **TO BE PUBLISHED**
JACK CONWAY V.

LADONNA H. THOMPSON (IN HER
OFFICIAL CAPACITY AS
COMMISSIONER OF KENTUCKY
DEPARTMENT OF CORRECTIONS)

AND

LADONNA H. THOMPSON (IN HER
OFFICIAL CAPACITY AS
COMMISSIONER OF KENTUCKY
DEPARTMENT OF CORRECTIONS) V.
HONORABLE DAVID A. TAPP (JUDGE
PULASKI CIRCUIT COURT) AND
COMMONWEALTH OF KENTUCKY,
EX REL. COMMONWEALTH'S
ATTORNEY EDDY F. MONTGOMERY
(REAL PARTY IN INTEREST)
OPINION AND ORDER BY
CHIEF JUSTICE MINTON –
ALL SITTING. SCOTT, J., CONCURS
IN RESULT ONLY.

[2009-SC-000252-TG](#)
TO BE PUBLISHED

PULASKI

Questions Presented:

Retroactive application of HB 406.
Counting time spent on parole toward a
prisoner's sentence.

250. JAMES HUNT V. [2006-SC-000634-MR](#) FLOYD
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE VENTERS –

AFFIRMING

ALL SITTING. ALL CONCUR.

Questions Presented:

Death sentence affirmed. Murder, first-
degree burglary and first-degree wanton
endangerment.

SUPREME COURT OF KENTUCKY

MINUTES
NOVEMBER 25, 2009

RELEASED: 10:00 A.M.

251. KAREN SALEBA, CT, AND THE GOOD SAMARITAN HOSPITAL OF CINCINNATI, OHIO, INC. V. HONORABLE JAMES R. SCHRAND, JUDGE, BOONE CIRCUIT COURT AND BARBARA YVETTE FISER, AS EXECUTRIX OF THE ESTATE OF NORMA LUANN SOARD AND JOSEPH SOARD; INDIVIDUALLY AND AS NEXT FRIEND AND GUARDIAN OF AMBER HATTER, AMANDA HATTER, AND AUSTIN HAMMONDS
OPINION OF THE COURT BY JUSTICE ABRAMSON – AFFIRMING
ALL SITTING. ALL CONCUR.
- [2009-SC-000096-MR](#) BOONE
TO BE PUBLISHED
- Questions Presented:**
Medical Malpractice. Discovery of Peer Review Documents.
252. COURIER-JOURNAL, INC. V. HONORABLE JUDITH MCDONALD-BURKMAN, JUDGE JEFFERSON CIRCUIT COURT, DIVISION NINE AND CECIL NEW (REAL PARTY IN INTEREST)
OPINION OF THE COURT BY JUSTICE CUNNINGHAM- AFFIRMING
ALL SITTING. ALL CONCUR.
- [2009-SC-000250-MR](#) JEFFERSON
TO BE PUBLISHED
- Questions Presented:**
Denial of press request for pre-trial access to discovery material in a criminal case.
253. BAPTIST HOSPITAL EAST V. AUGUST POSSANZA; HONORABLE GRANT S. ROARK, ADMINISTRATIVE LAW JUDGE; AND WORKERS' COMPENSATION BOARD
OPINION OF THE COURT- AFFIRMING
ALL SITTING. ALL CONCUR.
- [2009-SC-000563-WC](#) FROM COURT OF APPEALS
TO BE PUBLISHED
- Questions Presented:**
Workers' Compensation. KRS 342.165(2). Whether evidence that a worker would not have been hired had he disclosed a lumbar lifting restriction will prove a causal relationship between the non-disclosure and a neck injury incurred while exceeding the restriction.

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254. THOMAS C. BOWLING, RALPH BAZE AND BRIAN KEITH MOORE V. KENTUCKY DEPARTMENT OF CORRECTIONS [2007-SC-000021-MR](#) FRANKLIN
TO BE PUBLISHED

OPINION OF THE COURT BY JUSTICE ABRAMSON – AFFIRMING IN PART AND REVERSING IN PART
CUNNINGHAM, J., CONCURRING IN PART AND DISSENTING IN PART IN WHICH SCOTT, J., JOINS. SCOTT, J., CONCURRING IN PART AND DISSENTING IN PART BY SEPARATE OPINION IN WHICH CUNNINGHAM AND VENTERS, JJ., JOIN.

Questions Presented:
Criminal defendants must file all claims in one declaratory judgment action. Lethal injection protocol must be promulgated as an administrative regulation, pursuant to KRS 13A.

255. SAMUEL RAY PRATHER V. COMMONWEALTH OF KENTUCKY [2007-SC-000903-DG](#) MASON
TO BE PUBLISHED

OPINION OF THE COURT BY JUSTICE SCHRODER-REVERSING AND REMANDING
ALL SITTING. ALL CONCUR.

Questions Presented:
Defendant entitled to benefit of concurrent sentencing statute, KRS 532.110(1)(a); who pled guilty to misdemeanors and a felony, received diversion on the felony conviction, but was subsequently ordered to serve the sentence on the felony.

256. EVELYN DENTON V. CITY OF FLORENCE [2008-SC-000324-DG](#) BOONE
TO BE PUBLISHED

OPINION OF THE COURT BY JUSTICE SCOTT-REVERSING AND REMANDING
NOBLE, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION.

Questions Presented:
Personal Injury. Notice to City. At issue is whether the timely but partially inaccurate notice of injury complied with KRS 411 .110.

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

257. DAVID WEAVER V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
CHIEF JUSTICE MINTON –
REVERSING AND REMANDING**
SCOTT, J., DISSENTS BY
SEPARATE OPINION, IN WHICH
CUNNINGHAM, J., JOINS.

[2008-SC-000492-MR](#)
TO BE PUBLISHED

ROWAN

Questions Presented:

First-Degree Burglary and First-Degree Persistent Felony Offender. Defendant entitled to present expert testimony during the guilt phase of the trial that was relevant to his defense that voluntary intoxication rendered him unable to form the specific intent to commit burglary.

258. AUTO OWNERS INSURANCE
COMPANY V.
OMNI INDEMNITY CO.
**OPINION OF THE COURT BY
JUSTICE SCOTT-
REVERSING AND REMANDING**
ABRAMSON, J., NOT SITTING.

[2008-SC-000606-DG](#)
TO BE PUBLISHED

JEFFERSON

Questions Presented:

Insurance. Underinsured Motorist Benefits. Issues include whether the final resolution of a UIM claim due to the UIM carrier's own action of settling with the insured plaintiff prior to trial prevents the UIM carrier from compelling an adjudication of damages in order to recoup its Coats advance from the alleged tortfeasor's liability carrier.

259. RODNEY WATKINS V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT-
AFFIRMING**
SCHRODER, J., CONCURS IN
RESULT ONLY BY SEPARATE
OPINION.

[2008-SC-000177-MR](#)
NOT TO BE PUBLISHED

MAGOFFIN

260. ADRIAN L. CALDWELL V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT-
AFFIRMING**
ALL SITTING. ALL CONCUR.

[2008-SC-000262-MR](#)
NOT TO BE PUBLISHED

MCCRACKEN

SUPREME COURT OF KENTUCKY

MINUTES
NOVEMBER 25, 2009

RELEASED: 10:00 A.M.

- | | | | |
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| 261. | DAVID TOLLE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT-
AFFIRMING
NOBLE, J., CONCURS
IN RESULT ONLY BY SEPARATE
OPINION IN WHICH SCHRODER, J.,
JOINS. SCHRODER, J., ALSO
CONCURS IN RESULT ONLY BY
SEPARATE OPINION IN WHICH NOBLE,
J., JOINS. | 2008-SC-000345-MR
NOT TO BE PUBLISHED | BRACKEN |
| 262. | DAVID EUGENE HOUCHIN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT-
AFFIRMING
ALL SITTING. ALL CONCUR. | 2008-SC-000373-MR
NOT TO BE PUBLISHED | GRAYSON |
| 263. | ERIC ANTHONY DAVIS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT-
AFFIRMING
ALL SITTING. ALL CONCUR. | 2008-SC-000406-MR
NOT TO BE PUBLISHED | MCCRACKEN |
| 264. | QUNICY OMAR CROSS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT-
AFFIRMING
ALL SITTING. ALL CONCUR. | 2008-SC-000465-MR
NOT TO BE PUBLISHED | HICKMAN |
| 265. | JOHN SIZEMORE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT-
AFFIRMING
ALL SITTING. ALL CONCUR. | 2008-SC-000562-MR
NOT TO BE PUBLISHED | CLAY |

SUPREME COURT OF KENTUCKY

**MINUTES
NOVEMBER 25, 2009**

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- | | | | |
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| 266. | ANTHONY FINCH V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT-
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2008-SC-000633-MR
NOT TO BE PUBLISHED | GRAVES |
| 267. | ROBBIE LYNN SCOTT V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT-
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2008-SC-000814-MR
NOT TO BE PUBLISHED | BARREN |
| 268. | US AIRWAYS GROUP, INC. V.
MAIMOUNA BARRY,
HONORABLE MARCEL SMITH,
ADMINISTRATIVE LAW JUDGE;
AND WORKERS' COMPENSATION
BOARD
MEMORANDUM OPINION OF THE
COURT-
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000218-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 269. | KENTUCKY EMPLOYERS MUTUAL
INSURANCE AUTHORITY, ALSO
KNOWN AS KEMI, ALSO KNOWN AS
KENTUCKY EMPLOYERS MUTUAL
INSURANCE COMPANY V.
HON. GREGORY ALLEN LAY, JUDGE,
LAUREL CIRCUIT COURT AND CRAIG
GEORGE, INDIVIDUALLY, AND D/B/A
CRAIG GEORGE TRUCKING; ET AL.
MEMORANDUM OPINION OF THE
COURT-
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2009-SC-000328-MR
NOT TO BE PUBLISHED | LAUREL |

SUPREME COURT OF KENTUCKY

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270. ALFRED W. HAWKS V. [2009-SC-000405-MR](#) SHELBY
HONORABLE HAROLD Y. SAUNDERS **NOT TO BE PUBLISHED**
(JUDGE, SHELBY CIRCUIT COURT)
AND COMMONWEALTH OF KENTUCKY
(REAL PARTY IN INTEREST)
**MEMORANDUM OPINION OF THE
COURT-
AFFIRMING**
ALL SITTING. ALL CONCUR.
271. DEREK RENE EDMONDS V. [2007-SC-000350-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
AND
TYREESE HALL V. [2007-SC-000359-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
**MEMORANDUM OPINION OF THE
COURT-
AFFIRMING IN PART AND
REVERSING IN PART**
NOBLE, J., DISSENTS BY
SEPARATE OPINION, IN WHICH
MINTON, C.J., JOINS.
272. RANDY SPRINKLES V. [2008-SC-000301-MR](#) KNOX
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
**MEMORANDUM OPINION OF
THE COURT-
AFFIRMING IN PART AND
VACATING AND REMANDING IN
PART**
CUNNINGHAM, J., CONCURS IN
RESULT ONLY BY SEPARATE
OPINION.

SUPREME COURT OF KENTUCKY

MINUTES
NOVEMBER 25, 2009

RELEASED: 10:00 A.M.

273. MICKEY TOOLEY V. [2009-SC-000044-MR](#) MONROE
COMMONWEALTH OF KENTUCKY NOT TO BE PUBLISHED
**MEMORANDUM OPINION OF THE
COURT-
AFFIRMING IN PART AND VACATING
IN PART**
MINTON, C.J.; CUNNINGHAM, SCHRODER,
SCOTT AND VENTERS, JJ., CONCUR.
ABRAMSON AND NOBLE, JJ., CONCUR, BUT
WOULD EMPHASIZE THAT THERE WAS NO
UNANIMITY PROBLEM WITH THE
INSTRUCTIONS IN THIS CASE BECAUSE
AS GIVEN, “DISPENSE” CAN ONLY BE READ
TO MEAN ESSENTIALLY THE SAME THING
AS THE DEFINITION FOR “SELL” AND “DISTRIBUTE”.

OPINIONS AND ORDERS - NOVEMBER 18, 2009.

LEAMON LORNE OLIVER V. 2009-SC-000169-D JEFFERSON
SUN LIFE FINANCIAL
**ORDER GRANTED DISCRETIONARY REVIEW
AND REMANDED TO THE COURT OF APPEALS
WITH DIRECTIONS TO ADDRESS THE
REMAINING ARGUMENTS REGARDING STANDARD
OF REVIEW AND MOVANT’S ENTITLEMENT TO
BENEFITS.**
ALL SITTING. ALL CONCUR.

OPINIONS AND ORDERS – NOVEMBER 25, 2009

CURTIS DONALD BRITT V. 2008-SC-000971-KB IN SUPREME
KENTUCKY BAR ASSOCIATION NOT TO BE PUBLISHED COURT
**ORDER RESTORED MOVANT TO
MEMBERSHIP.**
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

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OPINIONS AND ORDERS – NOVEMBER 25, 2009

SHARON AVA EZEKIEL V. KENTUCKY BAR ASSOCIATION ORDER RESTORED MOVANT TO MEMBERSHIP. ALL SITTING. ALL CONCUR.	2009-SC-000348-KB NOT TO BE PUBLISHED	IN SUPREME COURT
IN RE: VICTOR YISA ORDER DENIED RELIEF. ALL SITTING. ALL CONCUR.	2009-SC-000470-CF TO BE PUBLISHED	IN SUPREME COURT
JIMMY CHARLES WEBB V. KENTUCKY BAR ASSOCIATION ORDER PUBLICLY REPRIMANDED MOVANT. ALL SITTING. ALL CONCUR.	2009-SC-000642-KB TO BE PUBLISHED	IN SUPREME COURT
MICAH G. GUILFOIL V. KENTUCKY BAR ASSOCIATION ORDER PUBLICLY REPRIMANDED MOVANT. ALL SITTING. ALL CONCUR.	2009-SC-000672-KB TO BE PUBLISHED	IN SUPREME COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
NOVEMBER 18, 2009**

COMMONWEALTH OF KENTUCKY V. DERAY FRYE	2008-SC-000956-DG	KENTON
MICHAEL SHAWN PAYTON V. COMMONWEALTH OF KENTUCKY	2008-SC-000965-DG	GRAYSON
RICHARD WINSTEAD V. COMMONWEALTH OF KENTUCKY	2009-SC-000019-DG	DAVISS
MARY JANE CALHOUN, ET AL. V. CSX TRANSPORTATION, INC. AND PAUL MCCLINTOCK, JR.	2009-SC-000100-DG	BULLITT

SUPREME COURT OF KENTUCKY

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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
NOVEMBER 18, 2009**

COMMONWEALTH OF KENTUCKY V. JARROD L. NICELY	2009-SC-000313-DG	MAGOFFIN
BRANDON JAMOR BALLARD V. COMMONWEALTH OF KENTUCKY	2009-SC-000314-DG	JEFFERSON
COMMONWEALTH OF KENTUCKY V. ANGELLA PRATER	2009-SC-000352-DG	BREATHITT
RACHEL JONES V. COMMONWEALTH OF KENTUCKY	2009-SC-000375-DG	LAUREL
ROY SHANE HOWARD V. SONDRA HOWARD	2009-SC-000442-DG	LAUREL

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
NOVEMBER 18, 2009**

BOURBON COUNTY BOARD OF EDUCATION V. M. K. J. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED	2008-SC-000849-D	BOURBON
EDDY DELOACH V. COMMONWEALTH OF KENTUCKY	2008-SC-000967-D	GRANT
KENDALL EUGENE COLLINS V. COMMONWEALTH OF KENTUCKY	2009-SC-000041-D	JEFFERSON
JAMES RICKY BORDERS V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED	2009-SC-000108-D	MARSHALL

SUPREME COURT OF KENTUCKY

**MINUTES
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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
NOVEMBER 18, 2009**

KERRY ROBINSON V. COMMONWEALTH OF KENTUCKY	2009-SC-000132-D	JEFFERSON
MELISSA NICHOLE JOHNSON V. JENNIFER MARIE DAVIS, A MINOR, ET AL.	2009-SC-000162-D	WHITLEY
BLUE GRASS COOPERAGE COMPANY V. ANTONIO NICHOLSON	2009-SC-000176-D	JEFFERSON
CITY OF PIKEVILLE; ET AL. V. PIKE COUNTY, KENTUCKY; ET AL.	2009-SC-000209-D	PIKE
CURTISS BREEDING V. J. DAVID DONAHUE, WARDEN, KENTUCKY STATE REFORMATORY	2009-SC-000212-D	OLDHAM
HIGHVIEW MANOR ASSOCIATES, LLC (D/B/A HI VIEW MANOR BINGO), ET AL. V. LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, ET AL.	2009-SC-000222-D	JEFFERSON
PATRICK A. PERKINS V. COMMONWEALTH OF KENTUCKY	2009-SC-000224-D	ADAIR
FRANK SHOOP, INC. (D/B/A FRANK SHOOP CHEVROLET-BUICK-PONTIAC- OLDSMOBILE) V. TIG INSURANCE COMPANY	2009-SC-000233-D	SCOTT
JESSE GARON (A/K/A JESSE PERKINS) V. LOUISVILLE AND JEFFERSON COUNTY HUMAN RELATIONS COMMISSION AND STEVEN REDMON	2009-SC-000238-D	JEFFERSON

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
NOVEMBER 18, 2009**

SHERRY WALLER FIELDS V. COMMONWEALTH OF KENTUCKY	2009-SC-000254-D	JESSAMINE
ALPHONZO R. MORTON, JR. V. COMMONWEALTH OF KENTUCKY	2009-SC-000255-D	FAYETTE
ROSA LEE BREWER V. COMMONWEALTH OF KENTUCKY	2009-SC-000256-D	OWEN
RONALD JARBOE V. SUZANNE HENDERSON, NOW CIOTTI	2009-SC-000274-D	JEFFERSON
JOSHUA CROMER V. JOHN MICHAEL MONTGOMERY	2009-SC-000281-D	FAYETTE
THOMAS C. MINA V. DENISE MARIE FOX	2009-SC-000298-DE	JEFFERSON
COMMONWEALTH OF KENTUCKY V. BRIDGET HARRIS	2009-SC-000299-D	MADISON
JESSE EDWARD CONN V. ERICA INGRAM	2009-SC-000311-D	MENIFEE
KARA SLUSHER V. DONALD WAYNE SWEET, ET AL.	2009-SC-000327-D	PULASKI
TRACY L. BOYD V. COMMONWEALTH OF KENTUCKY	2009-SC-000337-D	BOONE
COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS V. CRYSTAL MCFARLAND CALDWELL, AS ADMINISTRATRIX OF THE ESTATE OF BERTHA ROSEANN WILSON AND KENTUCKY BOARD OF CLAIMS	2009-SC-000350-D	ADAIR

SUPREME COURT OF KENTUCKY

**MINUTES
NOVEMBER 25, 2009**

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
NOVEMBER 18, 2009**

BEVERLY ENTERPRISES, INC., ET AL. V. BRENDA STIVERS, AS EXECUTRIX OF THE ESTATE OF BESSIE NOWLIN, DECEASED, ET AL.	2009-SC-000353-D	FRANKLIN
JORGE LUIS TAMAYO-MORA V. COMMONWEALTH OF KENTUCKY	2009-SC-000363-D	JEFFERSON
KENTUCKY UTILITIES COMPANY V. JAMES J. JENT, ET AL.	2009-SC-000379-D	HARDIN
KYLE DEAN SPEER V. COMMONWEALTH OF KENTUCKY	2009-SC-000393-D	GRAVES
KEVIN JOHNSON V. STEVE HANEY, WARDEN	2009-SC-000396-D	BOYLE
KENTUCKY SCHOOL BOARDS INSURANCE TRUST V. SAFETY NATIONAL CASUALTY CORPORATION	2009-SC-000414-D	FRANKLIN
NATALIE LIKENS V. TRINA SMITH, N/K/A TRINA MIDDLETON, ET AL.	2009-SC-000421-D	FRANKLIN
MARK STARR V. COMMONWEALTH OF KENTUCKY	2009-SC-000434-D	BOYLE
GERALD W. SHAW V. COUNTY OF FLEMING, C/O LARRY FOXWORTHY, JUDGE EXECUTIVE, ET AL.	2009-SC-000437-D	FLEMING
COMMONWEALTH OF KENTUCKY V. JEFF GORDON	2009-SC-000446-D	EDMONSON

SUPREME COURT OF KENTUCKY

**MINUTES
NOVEMBER 25, 2009**

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
NOVEMBER 18, 2009**

DEBORAH Y. PAYTON, R. N. V. NORTON HEALTHCARE, INC., D/B/A NORTON HOSPITAL, ET AL.	2009-SC-000458-D	JEFFERSON
JENNIFER WILLIAMS V. LINK A. KARLEN	2009-SC-000488-DE	HARDIN
ANCE NEACE V. COMMONWEALTH OF KENTUCKY	2009-SC-000500-D	PERRY
COMMONWEALTH OF KENTUCKY V. OTHELLO WASHINGTON THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED	2009-SC-000523-D	SCOTT
BRAD MALLORY V. COMMONWEALTH OF KENTUCKY	2009-SC-000524-D	LAUREL
MARTIN FISTER V. COMMONWEALTH OF KENTUCKY	2009-SC-000525-D	SCOTT
RANDALL HARPER V. NANCY DOOM, WARDEN, GREEN RIVER CORRECTIONAL COMPLEX	2009-SC-000580-D	MUHLENBERG
ROBERT L. DOBSON V. COMMONWEALTH OF KENTUCKY	2009-SC-000625-D	FAYETTE

SUPREME COURT OF KENTUCKY

**MINUTES
NOVEMBER 25, 2009**

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW**

THE DREAMERS, LLC, ET AL. V. 2009-SC-000627-MR HARDIN
HON. PAUL MUSSELWHITE, MASTER
COMMISSIONER, HARDIN CIRCUIT
COURT, ET AL.
ENTERED: OCTOBER 26, 2009

COURT ORDERS GRANTING MOTION TO TRANSFER

JEFFREY LEE BOYD V. 2009-SC-000732-TG CHRISTIAN
COMMONWEALTH OF KENTUCKY
ENTERED: NOVEMBER 16, 2009

MORGAN & POTTINGER, ATTORNEYS, 2009-SC-000515-TG MERCER
P.S.C. V.
NOEL MARK BOTTS
ENTERED: NOVEMBER 25, 2009

COURT ORDERS DENYING MOTION TO TRANSFER

KINDRED NURSING CENTERS LIMITED 2009-SC-000575-T MERCER
PARTNERSHIP, D/B/A HARRODSBURG
HEALTH CARE CENTER; ET AL. V.
LYNNE SLOAN, AS ANCILLARY
ADMINISTRATOR OF THE ESTATE OF
GLADYS B. REED, DECEASED
ENTERED: NOVEMBER 25, 2009

COURT ORDERS DENYING PETITION FOR REHEARING – NOVEMBER 25, 2009

JONATHAN MILLER, SECRETARY OF 2006-SC-000416-DG FRANKLIN
THE FINANCE AND ADMINISTRATION 2007-SC-000819-DG
CABINET OF THE COMMONWEALTH OF
KENTUCKY; ET AL. V.
JOHNSON CONTROLS, INC.; ET AL.

SUPREME COURT OF KENTUCKY

**MINUTES
NOVEMBER 25, 2009**

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – NOVEMBER 25, 2009

CHARLOTTE HALL V. COMMONWEALTH OF KENTUCKY	2007-SC-000194-MR	WOLFE
FRANKIE COVINGTON V. COMMONWEALTH OF KENTUCKY	2007-SC-000773-MR	BOURBON
COMMONWEALTH OF KENTUCKY V. LENNIE G. HOUSE	2008-SC-000114-DG	FAYETTE
JIMMY L. EPPS V. COMMONWEALTH OF KENTUCKY	2007-SC-000312-DG	MONTGOMERY

COURT ORDERS DISMISSING

BENJAMIN GRIFFITH, ET AL. V. KENTUCKY DEPARTMENT OF CORRECTIONS, ET AL. ENTERED: NOVEMBER 25, 2009	2008-SC-000858-TG	FRANKLIN
UNIFIRST CORPORATION V. OLIVIA ANNE STEWART ENTERED: OCTOBER 26, 2009	2009-SC-000279-DG	FROM COURT OF APPEALS
GALLATIN HEALTH CARE, LLC, ET AL. V. JULIE MCPEAK, ET AL. ENTERED: NOVEMBER 18, 2009	2008-SC-000381-TG	FRANKLIN
JESSE BRIAN CONNER V. COMMONWEALTH OF KENTUCKY ENTERED: NOVEMBER 19, 2009	2009-SC-000490-MR	MADISON
COMMONWEALTH OF KENTUCKY V. GREGORY HINES ENTERED: NOVEMBER 16, 2009	2009-SC-000675-D	CASEY

SUPREME COURT OF KENTUCKY

MINUTES
NOVEMBER 25, 2009

RELEASED: 10:00 A.M.

COURT ORDERS

STEVE BURTON V. COMMONWEALTH OF KENTUCKY ORDER CORRECTED OPINION OF THE COURT BY JUSTICE SCOTT RENDERED OCTOBER 29, 2009, BY SUBSTITUTION OF NEW OPINION. ENTERED: NOVEMBER 2, 2009	2006-SC-000784-MR	HICKMAN
BARBARA LUCINDA SAWYER V. MELBOURNE MILLS, JR. ORDER MODIFIED OPINION OF THE COURT BY JUSTICE NOBLE RENDERED AUGUST 27, 2009 BY SUBSTITUTION OF PAGE 20, LINE 8 OF OPINION AS ORIGINALLY RENDERED. ENTERED: NOVEMBER 2, 2009	2007-SC-000296-DG	FROM COURT OF APPEALS
DR. GHASSAN HAJ-HAMED V. OHIC INSURANCE COMPANY THE ORDER GRANTING DISCRETIONARY REVIEW IN THIS MATTER IS HEREBY VACATED HAVING DETERMINED DISCRETIONARY REVIEW WAS IMPROVIDENTLY GRANTED. THE COURT OF APPEALS OPINION IS ORDERED NOT TO BE PUBLISHED. ENTERED: NOVEMBER 25, 2009	2008-SC-000127-DG	CAMPBELL
CODY HEER V. CORA FRASER, ET AL. THE ORDER GRANTING DISCRETIONARY REVIEW IN THIS MATTER IS HEREBY VACATED HAVING DETERMINED DISCRETIONARY REVIEW WAS IMPROVIDENTLY GRANTED. THE COURT OF APPEALS OPINION IS ORDERED NOT TO BE PUBLISHED. ENTERED: NOVEMBER 25, 2009	2008-SC-000280-DG	METCALFE

SUPREME COURT OF KENTUCKY

MINUTES
NOVEMBER 25, 2009

RELEASED: 10:00 A.M.

COURT ORDERS

LARRY O'NEIL THOMAS, AS
ADMINISTRATOR OF THE ESTATE OF
JAMES "MILFORD" GRAY, DECEASED,
AND ALL LAWFUL SURVIVORS OF JAMES
"MILFORD" GRAY, DECEASED V.
ST. JOSEPH HEALTHCARE, INC., D/B/A ST.
JOSEPH HOSPITAL
**THE ORDER GRANTED DISCRETIONARY
REVIEW AND REMANDED TO COURT OF
APPEALS FOR RECONSIDERATION.**
ENTERED: NOVEMBER 18, 2009

2009-SC-000006-DG

FAYETTE

RICHARD ERPENBECK V.
KENTUCKY BAR ASSOCIATION
**ORDER CORRECTED THE OPINION AND
ORDER ENTERED AUGUST 27, 2009 BY
SUBSTITUTION OF PAGES 1 THROUGH 4.**
ENTERED: NOVEMBER 17, 2009

[2009-SC-000354-KB](#)

IN SUPREME
COURT

KENTUCKY BAR ASSOCIATION V.
PATRICK EDWARD MOEVES
**ORDER ALLOW RESPONDENT TO
PRACTICE IN KENTUCKY WOULD
BE A ONE YEAR SUSPENSION,
CONDITIONALLY SUSPENDED FOR
TWO YEARS. THE COURT'S OCTOBER
1, 2009 OPINION AND ORDER IS MODIFIED
SO PARAGRAPH NUMBER 2 ON PAGE 8,
WHICH ORDERS MOEVES TO
COMPLY WITH SCR 3.390 IS REMOVED.**
ENTERED: NOVEMBER 25, 2009

[2009-SC-000270-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

SUPREME COURT OF KENTUCKY

**MINUTES
NOVEMBER 25, 2009**

RELEASED: 10:00 A.M.

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

JEFFREY LEWIS DARSIE V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 2, 2009	2009-SC-000709-KB	IN SUPREME COURT
LIZBETH L. BAKER V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 2, 2009	2009-SC-000710-KB	IN SUPREME COURT
DEBORAH JEANETTE KIMBLE V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 2, 2009	2009-SC-000711-KB	IN SUPREME COURT
LESLEY CATHERINE GUNN V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 2, 2009	2009-SC-000712-KB	IN SUPREME COURT
JOSEPH LAFAYETTE ANDERSON V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 9, 2009	2009-SC-000724-KB	IN SUPREME COURT
DAVID WARREN HILLS V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 9, 2009	2009-SC-000725-KB	IN SUPREME COURT
JULIE PATRICIA RAINES V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 20, 2009	2009-SC-000764-KB	IN SUPREME COURT