

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

157. MATTHEW G. BEVIN, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE COMMONWEALTH OF KENTUCKY, ET AL. V. COMMONWEALTH OF KENTUCKY EX REL. ANDY BESHEAR, ATTORNEY GENERAL, ET AL. [2018-SC-000419-TGE](#) FRANKLIN  
[2018-SC-000421-TGE](#)  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY JUSTICE VENTERS—AFFIRMING**  
ALL SITTING. ALL CONCUR. VANMETER, J., ALSO CONCURS BY SEPARATE OPINION IN WHICH CUNNINGHAM AND WRIGHT, JJ., JOIN.

**Questions Presented:**  
Constitutionality of Senate Bill 151.

158. CLEOSEY DARNELL HENDERSON, II V. [2016-SC-000484-MR](#) JEFFERSON  
**TO BE PUBLISHED**

COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY JUSTICE KELLER –AFFIRMING**  
ALL SITTING. HUGHES, KELLER, VANMETER AND WRIGHT, JJ., CONCUR. VENTERS, J., DISSENTS BY SEPARATE OPINION IN WHICH MINTON, C.J., AND CUNNINGHAM, J., JOIN.

**Questions Presented:**  
First-degree assault, first degree sexual abuse, first degree unlawful imprisonment and PFO1-60 years. Speedy Trial rights not violated. Trial court did not abuse its discretion in denying substitute counsel or in its instructions regarding representation options. Testifying in Narrative Format.

159. RAYMOND HAYES AND DENA HAYES V. [2017-SC-000340-DG](#) CAMPBELL  
**TO BE PUBLISHED**

D.C.I. PROPERTIES-D KY, LLC AND THE NELSON STARK COMPANY  
**OPINION OF THE COURT BY JUSTICE VANMETER –AFFIRMING**  
ALL SITTING. CUNNINGHAM, HUGHES, KELLER, VANMETER, VENTERS AND WRIGHT, JJ., CONCUR. MINTON, C.J., CONCURRING IN RESULT ONLY.

**Questions Presented:**  
Torts. Personal Injury. Trespasser. Attractive Nuisance. 16 year old minor trespasser was not entitled to the presumption of the attractive nuisance doctrine.

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

160. COMMONWEALTH OF KENTUCKY V. [2017-SC-000441-DG](#) DAVIESS  
MICHAEL PADGETT [2017-SC-000661-DG](#)  
**OPINION OF THE COURT BY** **TO BE PUBLISHED**  
**JUSTICE KELLER –**  
**AFFIRMING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Criminal Law. Mistrial. Double Jeopardy. Trial court abused its discretion in declaring a mistrial after defense counsel's perceived violation of a pretrial ruling.

161. RICKY L. WELCH V. [2017-SC-000528-MR](#) CARROLL  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**  
**OPINION OF THE COURT BY**  
**JUSTICE VANMETER–**  
**AFFIRMING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
First-degree robbery, kidnapping, third-degree burglary, PFO1-50 years. Eyewitness identification expert testimony. Law enforcement officer's lay opinion testimony regarding boot prints and infrared cameras was permissible. Photo pack shown to the victim was not unduly suggestive.

162. MEREDITH L. LAWRENCE, ET AL. V. [2017-SC-000531-DG](#) GALLATIN  
BINGHAM, GREENEBAUM, DOLL, LLP., **TO BE PUBLISHED**  
ET AL.  
**OPINION OF THE COURT BY**  
**JUSTICE VENTERS –**  
**AFFIRMING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Legal Malpractice. Criminal Defense. "Exoneration Rule". Convicted criminal must prove judicial exoneration to succeed in his legal malpractice case against former defense counsel.

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

163. WILLIAM J. YUNG, ET AL. V. GRANT THORNTON, LLP  
**OPINION OF THE COURT BY JUSTICE HUGHES – AFFIRMING IN PART AND REVERSING IN PART**  
ALL SITTING. MINTON, C.J., CUNNINGHAM, KELLER, VANMETER, AND WRIGHT, JJ., CONCUR. VENTERS, J., CONCURS IN PART AND DISSENTS IN PART BY SEPARATE OPINION.
- [2016-SC-000571-DG](#) KENTON  
[2017-SC-000151-DG](#)  
**TO BE PUBLISHED**
- Questions Presented:**  
Torts. Taxes. Fraud by Misrepresentation and Omission. Client’s Justifiable Reliance. Punitive Damages. Taxes and I.R.S. interest are recoverable damages when they flow from fraudulent and negligent conduct. Award affirmed of \$80 million in punitive damages, in addition to compensatory damages of \$19.315 million for fraudulent and grossly negligent tax and accounting services.
164. LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT V. T+C CONTRACTING, INC.  
**OPINION OF THE COURT BY CHIEF JUSTICE MINTON – AFFIRMING IN PART, REVERSING IN PART AND REMANDING**  
ALL SITTING. ALL CONCUR.
- [2017-SC-000274-DG](#) JEFFERSON  
**TO BE PUBLISHED**
- Questions Presented:**  
Contract. Kentucky Fairness in Construction Act (KFCA). KRS 371.405. Discovery. The section of the parties’ contract containing dispute resolution provisions which deem the contractor’s claim for additional compensation from MSD waived if certain procedural requirements are not met, did not violate the (KFCA).
165. KENTUCKY STATE BOARD OF ELECTIONS, ET AL. V. KAREN E. FAULKNER, ET AL.  
**OPINION OF THE COURT BY JUSTICE VENTERS – REVERSING**  
ALL SITTING. MINTON, C.J., HUGHES, KELLER, AND VANMETER, JJ., CONCUR. CUNNINGHAM AND WRIGHT, JJ., DISSENT.
- [2018-SC-000351-TG](#) FRANKLIN  
**TO BE PUBLISHED**
- Questions Presented:**  
Candidates entitled to appear on the ballot of the general election for the District Court Judge of the 9<sup>th</sup> Division of the Jefferson District Court. Franklin Circuit Court had jurisdiction to issue its rulings against the Jefferson County Board and the other parties. KRS Chapter 118A does not provide that the third-place primary election candidate ascends to second place, and hence, to a place on the general election ballot, when either of the top two vote-getters dies after the primary election but before certification of the primary election results.

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

166. JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC., ETC. V. BARBARA HOUSE, ETC, ET AL. [2017-SC-000440-DG](#) BULLITT  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY JUSTICE KELLER – REVERSING AND REINSTATING**  
ALL SITTING. MINTON, C.J., CUNNINGHAM, HUGHES, KELLER, VANMETER AND VENTRS, JJ., CONCUR. WRIGHT, J., CONCURS IN RESULT ONLY.

**Questions Presented:**  
Evidence. Directed Verdict at Close of Plaintiff's Case-in-Chief. Empty Chair Defendant. Trial court properly granted a directed verdict against an empty-chair defendant at the close of the plaintiff's case-in-chief.

167. COMMONWEALTH OF KENTUCKY V. JAMES E. RIKER, JR. [2017-SC-000483-DG](#) FAYETTE  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY JUSTICE CUNNINGHAM – REVERSING AND REINSTATING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Criminal Law. DUI. Independent Blood Testing. Individual arrested for DUI is not deprived of due process by an independent blood testing facility's requirement of prepayment of a \$450 fee for such testing.

168. CABINET FOR HEALTH AND FAMILY SERVICES, ETC. V. R.S., AND A.S. [2017-SC-000587-DG](#) CLARK  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY CHIEF JUSTICE MINTON – REVERSING AND REINSTATING**  
ALL SITTING. MINTON, C.J., HUGHES, KELLER, AND VANMETER, JJ., CONCUR. WRIGHT, J., CONCURS BY SEPARATE OPINION IN WHICH VENTERS, J., JOINS. CUNNINGHAM, J., DISSENTS BY SEPARATE OPINION.

**Questions Presented:**  
Sex Offender's Unsupervised Custody and Visitation with Minor Children. Dependency, Neglect and Abuse. Registered sex offender prohibited from having custody of his own children without supervision.

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

169. BINGHAM GREENEBAUM DOLL, LLP V. [2017-SC-000105-DG](#) KENTON  
**TO BE PUBLISHED**

MEREDITH L. LAWRENCE  
**OPINION OF THE COURT BY  
JUSTICE VANMETER –  
REVERSING AND REMANDING**  
ALL SITTING. MINTON, C.J.,  
CUNNINGHAM, HUGHES,  
VANMETER, VENTERS, AND  
WRIGHT, JJ., CONCUR. KELLER, J.,  
DISSENTS BY SEPARATE OPINION.

**Questions Presented:**  
Jurisdiction. Ripeness. Justiciability. Circuit court had jurisdiction over a law firm’s counterclaim for fees due under a promissory note when the counterclaim was filed two month’s before the note’s maturity date.

170. AMERICAN GENERAL LIFE INSURANCE COMPANY, ET AL. V. DRB CAPITAL, LLC AND RAY THOMAS, JR. [2017-SC-000329-DG](#) BOYD  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE HUGHES –  
REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Anti-assignment Provisions in Settlement Agreements. KRS 454.430. Anti-assignment provision in a settlement agreement was enforceable to prohibit the assignment of annuity payments to a third party.

171. BARBARA SMITH V. BONNIE SMITH [2017-SC-000348-DG](#) KNOX  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE VANMETER –  
REVERSING AND REMANDING**  
ALL SITTING. CUNNINGHAM,  
HUGHES, KELLER, VANMETER,  
AND WRIGHT, JJ., CONCUR.  
MINTON, C.J., DISSENTS BY  
SEPARATE OPINION IN WHICH  
VENTERS, J., JOINS.

**Questions Presented:**  
Torts. Personal Injury. Slip and fall. Status of a visitor as an invitee, licensee or trespasser continues to define the scope of the property owner’s duty to the visitor.

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

172. LEE COMLEY V. AUTO-OWNERS INSURANCE COMPANY  
**OPINION OF THE COURT BY CHIEF JUSTICE MINTON – REVERSING AND REMANDING**  
ALL SITTING. MINTON, C.J., HUGHES, VANMETER, VENTERS, AND WRIGHT, JJ., CONCUR. CUNNINGHAM, J., DISSENTS BY SEPARATE OPINION IN WHICH KELLER, J., JOINS.
- [2017-SC-000596-DG](#) FAYETTE  
**TO BE PUBLISHED**
- Questions Presented:**  
Insurance Law. Homeowners Coverage. Damage to a home resulting from a nearby water main break. Scope of the “water damage” exclusions of the policy.
173. STEVE GREGORY V. BRANDON HARDGROVE AND CASEY HARDGROVE  
**OPINION OF THE COURT BY JUSTICE VANMETER – REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.
- [2017-SC-000669-DG](#) PULASKI  
**TO BE PUBLISHED**
- Questions Presented:**  
Probate. Real Estate. Creditor of Decedent’s Estate. Tort claimant, who filed a notice of claim in probate court to preserve a claim for damages against the estate, may assert such claim against real estate of the decedent which descended immediately, under the laws of intestacy, to the decedent’s children upon his death.
174. TIMOTHY NUTGRASS V. COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2016-SC-000647-MR](#) ANDERSON  
**NOT TO BE PUBLISHED**
175. DR. LARRY W. LYNN V. DOTTIE RAMEY, HON. STEVEN G. BOLTON, ADMINISTRATIVE LAW JUDGE, AND WORKERS’ COMPENSATION BOARD  
**MEMORANDUM OPINION OF THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2017-SC-000230-WC](#) FROM COURT OF APPEALS  
**NOT TO BE PUBLISHED**

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

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| 176. | COREY CHAPMAN V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.   | <a href="#">2017-SC-000238-MR</a><br><b>NOT TO BE PUBLISHED</b>  | JEFFERSON  |
| 177. | JOHN WILLIAM SMITH V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.  | <a href="#">2017-SC-000477-MR</a><br><b>NOT TO BE PUBLISHED</b>  | MONROE   |
| 178. | JESSE ALLEN STUMP V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.   | <a href="#">2017-SC-000557-MR</a><br><b>NOT TO BE PUBLISHED</b>  | SHELBY   |
| 179. | JERRY KEY AND MIRANDA KEY V.<br>HON. GEOFFREY P. MORRIS, JUDGE,<br>JEFFERSON CIRCUIT COURT, (OR HIS<br>SUCCESSOR), ET AL.<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.  | <a href="#">2017-SC-000642-MR</a><br><b>NOT TO BE PUBLISHED</b>  | FROM COURT<br>OF APPEALS                                 |
| 180. | TONY COUCH V.<br>JAMES RIVER COAL SERVICE CO.,<br>HON. GRANT S. ROARK,<br>ADMINISTRATIVE LAW JUDGE, AND<br>WORKERS' COMPENSATION BOARD<br><b>AND</b><br>LARRY HAMILTON V.<br>CONSOL OF KENTUCKY, INC., HON.<br>R. ROLAND CASE, ADMINISTRATIVE<br>LAW JUDGE, AND WORKERS'<br>COMPENSATION BOARD<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR. | <a href="#">2018-SC-000004-WC</a><br><b>NOT TO BE PUBLISHED</b><br><br><a href="#">2018-SC-000005-WC</a><br><b>NOT TO BE PUBLISHED</b> | FROM COURT<br>OF APPEALS<br><br>FROM COURT<br>OF APPEALS |

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

181. ANN TAYLOR, INC. V. [2018-SC-000091-WC](#) FROM COURT  
JAMES MCDOWELL, HON. STEVEN **NOT TO BE PUBLISHED** OF APPEALS  
G. BOLTON, ADMINISTRATIVE LAW  
JUDGE, AND WORKERS'  
COMPENSATION BOARD  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
182. AMAZON.COM V. [2018-SC-000123-WC](#) FROM COURT  
JEANNIE COLVIN; HON. WILLIAM J. **NOT TO BE PUBLISHED** OF APPEALS  
RUDLOFF, ADMINISTRATIVE LAW  
JUDGE, AND WORKERS'  
COMPENSATION BOARD  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
183. BENJAMIN ROCHAT V. [2017-SC-000344-MR](#) KENTON  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – REVERSING AND  
REMANDING**  
ALL SITTING. MINTON, C.J.;  
CUNNINGHAM, HUGHES, VANMETER,  
VENTERS, AND WRIGHT, JJ., CONCUR.  
KELLER, J., CONCURS IN RESULT ONLY.
184. MARLON WALLS V. [2018-SC-000146-MR](#) FRANKLIN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – REVERSING AND  
REMANDING**  
ALL SITTING. MINTON, C.J.; HUGHES,  
KELLER, VANMETER, VENTERS, AND  
WRIGHT, JJ., CONCUR. CUNNINGHAM,  
J., CONCURS IN RESULT ONLY.



**SUPREME COURT OF KENTUCKY**

**DECEMBER 13, 2018 MINUTES**

**RELEASED: 10:00 A.M.**

**OPINION AND ORDERS – DECEMBER 13, 2018**

KENTUCKY BAR ASSOCIATION V. [2018-SC-000081-KB](#) IN SUPREME  
MYRA DESHAWN CHENAULT **TO BE PUBLISHED** COURT  
**ORDER DENIED MOTION TO RECONSIDER.**  
MINTON, C.J.; HUGHES, KELLER,  
VANMETER, VENTERS, AND WRIGHT, JJ.,  
SITTING. ALL CONCUR. CUNNINGHAM J.,  
NOT SITTING.

KENTUCKY BAR ASSOCIATION V. [2018-SC-000377-KB](#) IN SUPREME  
STEVEN HARRIS KEENEY **TO BE PUBLISHED** COURT  
**ORDER OF SUSPENSION FROM THE**  
**PRACTICE OF LAW FOR 4 YEARS.**  
ALL SITTING. MINTON, C.J.; HUGHES, KELLER,  
VANMETER, AND VENTERS, JJ., CONCUR.  
CUNNINGHAM, J., DISSENTS BY SEPARATE  
OPINION IN WHICH WRIGHT, J., JOINS.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
DECEMBER 5, 2018**

DAVID MURPHY V. COMMONWEALTH OF KENTUCKY	2018-SC-000281-DG	PULASKI
TROY M. MARTIN V. COMMONWEALTH OF KENTUCKY	2018-SC-000317-DG	JEFFERSON
SUZANNE WAUGH V. CAROL PARKER, ET AL.	2018-SC-000405-DG	JEFFERSON
LARRY M. BOGGS V. CSX TRANSPORTATION, INC.	2018-SC-000440-DG	JEFFERSON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
DECEMBER 5, 2018**

GGNSC ADMINISTRATIVE SERVICES, LLC, D/B/A GOLDEN LIVING VENTURES, ET AL. V. OLIVIA COFFMAN, ETC., ET AL.	2017-SC-000435-D	LINCOLN
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SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
DECEMBER 5, 2018**

SHERRY C. HUMPHREY V. COMMONWEALTH BANK AND TRUST COMPANY	2018-SC-000226-D	JEFFERSON
DONALD RAY VIOLETT V. JOHN R. GRISE, JUDGE, ET AL. <b>AND DISMISSED PURSUANT TO ROBINSON V. KAREM, 675 S.W.2D 385 (KY. 1984).</b>	2018-SC-000233-D	WARREN
THE ESTATE OF JOSEPH GILLIAM, BY AND THROUGH ITS ADMINISTRATOR, DIANA GILLIAM V. CORRECTCARE-INTEGRATED HEALTH, INC.	2018-SC-000238-D	OLDHAM
NILES HEGGIE, JR. V. ELLEN L. HEGGIE	2018-SC-000245-D	BRECKINRIDGE
CLK MULTIFAMILY MANAGEMENT, LLC. V. GREENSCAPES LAWN & LANDSCAPING, INC., ET AL. <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED TO BE PUBLISHED.</b>	2018-SC-000255-D	JEFFERSON
FREDERICK L. MILLER V. RANDY WHITE, WARDEN	2018-SC-000261-D	LYON
LORNA CASSADY V. KENTUCKY RETIREMENT SYSTEMS	2018-SC-000262-D	FRANKLIN
JAMES GERALD EMBRY V. COMMONWEALTH OF KENTUCKY <b>KELLER, J., WOULD GRANT.</b>	2018-SC-000263-D	HARDIN
BOARD OF EDUCATION OF OHIO COUNTY, KENTUCKY V. KENNETH ALFORD, ET AL.	2018-SC-000272-D	OHIO
LARRY HART V.	2018-SC-000287-D	MCCRACKEN

**SUPREME COURT OF KENTUCKY**

**DECEMBER 13, 2018 MINUTES**

**RELEASED: 10:00 A.M.**

COMMONWEALTH OF KENTUCKY

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
DECEMBER 5, 2018**

JOHN ROTH, JR. V. COMMONWEALTH OF KENTUCKY	2018-SC-000289-D	CAMPBELL
ZACHARY MCKEE V. ELIZABETH MILLS	2018-SC-000295-D	JEFFERSON
BRIAN READENOUR V. COMMONWEALTH OF KENTUCKY	2018-SC-000303-D	GRAVES
ROY DAVID PROCTOR V. ESTATE OF ROY FLOYD PROCTOR, ET AL.	2018-SC-000310-D	HARDIN
JAMES GUY CARR V. COMMONWEALTH OF KENTUCKY	2018-SC-000312-D	FAYETTE
REBECCA KISSEL V. COMMONWEALTH OF KENTUCKY	2018-SC-000332-D	UNION
MICHAEL MCDERMOTT V. SIMON KENTON POST NO. 20, THE AMERICAN LEGION, ETC. <b>VANMETER AND VENTERS, JJ., WOULD GRANT.</b>	2018-SC-000339-D	KENTON
CEDRIC GRADY V. COMMONWEALTH OF KENTUCKY	2018-SC-000350-D	JEFFERSON
QUEEN DEBORAH CA'MEL V. LOUISVILLE/JEFFERSON COUNTY METROPOLITAN GOVERNMENT POLICE DEPARTMENT, ET AL. <b>VANMETER, J., NOT SITTING.</b>	2018-SC-000353-D	JEFFERSON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
DECEMBER 5, 2018**

RAY PINTER D/B/A RAY PINTER	2018-SC-000367-D	JEFFERSON
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**SUPREME COURT OF KENTUCKY**

**DECEMBER 13, 2018 MINUTES**

**RELEASED: 10:00 A.M.**

CONSTRUCTION V.  
AARON JONES

JONATHAN LEAP V.  
COMMONWEALTH OF KENTUCKY

2018-SC-000375-D

CAMPBELL

RICHARD HOSKINS V.  
AUTO-OWNERS INSURANCE COMPANY

2018-SC-000381-D

JEFFERSON

JASON LAMONT BROOKS V.  
COMMONWEALTH OF KENTUCKY

2018-SC-000389-D

MCCRACKEN

DR. RALPH ALVARADO V.  
R. J. PALMER, II, ET AL.  
**VANMETER, J., NOT SITTING.**

2018-SC-000395-D

CLARK

CHUCK BROWDER V.  
LASHONDA FENTRESS, ADMINISTRATRIX OF  
THE ESTATE OF JAMES E. FENTRESS, ET AL.  
**CUNNINGHAM, J., WOULD GRANT.**

2018-SC-000396-D

HARDIN

COMMONWEALTH OF KENTUCKY V.  
DARA J. WRIGHT

2018-SC-000420-D

BARREN

COMMONWEALTH OF KENTUCKY V.  
ELGIN MELSON

2018-SC-000423-D

CAMPBELL

HAROLD BARKER, ET AL. V.  
KENTUCKY PUBLIC SERVICE COMMISSION,  
ET AL.  
**VANMETER, J., WOULD GRANT.**

2018-SC-000427-D

FRANKLIN

KORY O. ALL-DARBY V.  
COMMONWEALTH OF KENTUCKY

2018-SC-000428-D

GREENUP

JANET H. SAMPLES V.  
WILLIAM F. NEWELL, ET AL.

2018-SC-000429-D

LAUREL

RICK ALLEN V.  
COMMONWEALTH OF KENTUCKY

2018-SC-000431-D

WASHINGTON

MOTORISTS MUTUAL INS.CO. V.  
WILSON EQUIPMENT CO., LLC

2018-SC-000449-D

FAYETTE

SUPREME COURT OF KENTUCKY

DECEMBER 13, 2018 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
DECEMBER 5, 2018**

JOHNNY STINSON BRYANT V. MARY LOU BRYANT	2018-SC-000450-D	FRANKLIN
KENNETH BROWN V. COMMONWEALTH OF KENTUCKY	2018-SC-000453-D	JEFFERSON
KEVIN SMOOT V. COMMONWEALTH OF KENTUCKY <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. WRIGHT, J., WOULD PUBLISH THE OPINION OF THE COURT OF APPEALS.</b>	2018-SC-000456-D	KENTON
MATTHEW DONAGHY V. COMMONWEALTH OF KENTUCKY	2018-SC-000467-D	FAYETTE
ERSTIL O'BRIEN SHECKLES V. COMMONWEALTH OF KENTUCKY	2018-SC-000470-D	BELL
JOSEPH ELMO CHOATE V. COMMONWEALTH OF KENTUCKY	2018-SC-000495-D	MASON
D.W. SR., FATHER V. COMMONWEALTH OF KENTUCKY, ET AL. <b>AND</b>	2018-SC-000524-DE	JEFFERSON
D.W. SR., FATHER V. COMMONWEALTH OF KENTUCKY, ET AL. <b>AND</b>	2018-SC-000525-DE	JEFFERSON
D.W. SR., FATHER V. COMMONWEALTH OF KENTUCKY, ET AL.	2018-SC-000526-DE	JEFFERSON
SHANE BRIGHT V. DEPARTMENT OF CORRECTIONS, ETC., ET AL.	2018-SC-000529-D	FRANKLIN
CHARLOTTE A. NEAL, ET AL. V. RICHARD D. FLOYD, M.D., ET AL.	2018-SC-000562-D	FAYETTE

**SUPREME COURT OF KENTUCKY**

**DECEMBER 13, 2018 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE  
MOTION FOR DISCRETIONARY REVIEW – DECEMBER 6, 2018**

CARLOS HARRIS V. 2018-SC-000546-D KENTON  
COMMONWEALTH OF KENTUCKY  
**VENTERS, WRIGHT, CUNNINGHAM AND  
HUGHES, JJ., SITTING. ALL CONCUR.**

**COURT ORDERS DENYING PETITION FOR REHEARING – DECEMBER 13, 2018**

WILLIAM TRUSS V. 2016-SC-000337-MR JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**ALL SITTING. ALL CONCUR.**

C.W. HOSKINS HEIRS, A GENERAL 2017-SC-000004-MR LESLIE  
PARTNERSHIP COMPRISED OF GREG  
HOSKINS, ET AL. V.  
RUTH FARMER WELLS, ET AL.  
**ALL SITTING. ALL CONCUR.**

ROBERT KEITH WOODALL V. [2017-SC-000171-MR](#) CALDWELL  
COMMONWEALTH OF KENTUCKY  
**TO BE PUBLISHED**  
**ORDER CORRECTED THE OPINION OF  
THE COURT RENDERED JUNE 14, 2018, BY  
SUBSTITUTION OF THIS OPINION IN LIEU OF  
THE ORIGINAL OPINION.**  
MINTON, C.J.; HUGHES, KELLER, VANMETER,  
VENTERS AND WRIGHT, JJ., SITTING. ALL  
CONCUR. CUNNINGHAM, J., NOT SITTING.

AMANDA BOWEN V. [2017-SC-000303-MR](#) JOHNSON  
COMMONWEALTH OF KENTUCKY  
**NOT TO BE PUBLISHED**  
**ORDER MODIFIED THE OPINION OF  
THE COURT RENDERED AUGUST 16, 2018, BY  
SUBSTITUTION OF THIS OPINION IN LIEU OF  
THE ORIGINAL OPINION.**  
ALL SITTING. ALL CONCUR.

**SUPREME COURT OF KENTUCKY**

**DECEMBER 13, 2018 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DENYING PETITION FOR REHEARING – DECEMBER 13, 2018**

KALIEF CUMMINGS V. 2017-SC-000448-MR JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**ALL SITTING. ALL CONCUR.**

**COURT ORDERS DISMISSING**

AMY JERRINE MISCHLER V. 2014-SC-000200-MR PIKE  
HON. ROBERT MCGINNIS, (SPECIAL JUDGE,  
PIKE COUNTY CIRCUIT COURT)  
**HUGHES, DCJ, CUNNINGHAM, VENTERS AND  
WRIGHT, JJ., AND PAUL W. BLAIR AND  
NORMAN E. HARNED, SJJ., SITTING. ALL  
CONCUR. MINTON, C.J, AND WRIGHT, J., NOT  
SITTING.**  
ENTERED: DECEMBER 7, 2018

AMY JERRINE MISCHLER V. 2014-SC-000201-MR PIKE  
HON. ROBERT MCGINNIS, (SPECIAL JUDGE,  
PIKE COUNTY CIRCUIT COURT)  
**HUGHES, DCJ, CUNNINGHAM, VENTERS AND  
WRIGHT, JJ., AND PAUL W. BLAIR AND  
NORMAN E. HARNED, SJJ., SITTING. ALL  
CONCUR. MINTON, C.J, AND WRIGHT, J., NOT  
SITTING.**  
ENTERED: DECEMBER 7, 2018

AMY JERRINE MISCHLER V. 2014-SC-000202-MR PIKE  
HON. ROBERT MCGINNIS, (SPECIAL JUDGE,  
PIKE COUNTY CIRCUIT COURT)  
**HUGHES, DCJ, CUNNINGHAM, VENTERS AND  
WRIGHT, JJ., AND PAUL W. BLAIR AND  
NORMAN E. HARNED, SJJ., SITTING. ALL  
CONCUR. MINTON, C.J, AND WRIGHT, J., NOT  
SITTING.**  
ENTERED: DECEMBER 7, 2018

**SUPREME COURT OF KENTUCKY**

**DECEMBER 13, 2018 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DISMISSING**

AMY JERRINE MISCHLER V. 2014-SC-000203-MR PIKE  
HON. ROBERT MCGINNIS, (SPECIAL JUDGE,  
PIKE COUNTY CIRCUIT COURT)  
**HUGHES, DCJ, CUNNINGHAM, VENTERS AND  
WRIGHT, JJ., AND PAUL W. BLAIR AND  
NORMAN E. HARNED, SJJ., SITTING. ALL  
CONCUR. MINTON, C.J, AND WRIGHT, J., NOT  
SITTING.**  
ENTERED: DECEMBER 7, 2018

DAVID L. FUGATE V. 2018-SC-000602-D WOLFE  
COMMONWEALTH OF KENTUCKY  
**ENTERED: NOVEMBER 28, 2018**

**COURT ORDERS – DECEMBER 10, 2018**

**IN RE: MARY THOMAS VINCENT** **TO BE PUBLISHED** SIMPSON  
SIMPSON COUNTY CIRCUIT COURT CLERK  
**ORDER OF PUBLIC REPRIMAND**  
ALL SITTING. MINTON, C.J.; HUGHES,  
VANMETER, VENTERS AND WRIGHT, JJ.,  
CONCUR. CUNNINGHAM AND KELLER, JJ.,  
DISSENT AND WOULD IMPOSE A PRIVATE  
REPRIMAND.

**COURT ORDERS – DECEMBER 13, 2018**

DANIEL KEITH ROBERTSON V. 2018-SC-000620-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ORDER TO GRANTED CONDITIONAL  
REINSTATEMENT.**  
ALL SITTING. ALL CONCUR

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

SERENA ELIZABETH HIRN V. 2018-SC-000624-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: NOVEMBER 26, 2018**



**SUPREME COURT OF KENTUCKY**

**DECEMBER 13, 2018 MINUTES**

**RELEASED: 10:00 A.M.**

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

JESSICA ANN NIELSEN V.  
KENTUCKY BAR ASSOCIATION  
**ENTERED: DECEMBER 5, 2018**

2018-SC-000646-KB

IN SUPREME  
COURT