

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 20, 2007

RELEASED: 10:00 A.M.

- | | | | |
|------|--|---|---------------------|
| 206. | KENTUCKY BAR ASSOCIATION V.
LUANN C. GLIDEWELL
OPINION –
ALL CONCUR EXCEPT
ABRAMSON AND MINTON, J.J. | 2007-SC-000527-KB
TO BE PUBLISHED | IN SUPREME
COURT |
| 207. | ASSET ACCEPTANCE, LLC V.
SONDRA MOBERLY
OPINION OF THE COURT BY
JUSTICE ABRAMSON –
<u>VACATING AND REMANDING</u> | 2006-SC-000617-DG
TO BE PUBLISHED | MADISON |
| 208. | JERMAINE A. CHATMAN V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE MINTON – <u>AFFIRMING</u> | 2005-SC-000953-MR
TO BE PUBLISHED | SIMPSON |
| 209. | JERRY L. FREDLINE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT - <u>AFFIRMING</u> | 2006-SC-000281-MR
TO BE PUBLISHED | FAYETTE |
| 210. | ROBERT (BOB) TERRY V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE MINTON –
<u>AFFIRMING IN PART AND VACATING</u>
<u>AND REMANDING IN PART</u>
LAMBERT, C.J., CONCURS IN PART
AND DISSENTS IN PART BY SEPARATE
OPINION IN WHICH SCHRODER, J., JOINS. | 2005-SC-000749-MR
TO BE PUBLISHED | OWSLEY |

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 20, 2007

RELEASED: 10:00 A.M.

211. TIMOTHY CARL SHANE V. [2006-SC-000096-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE NOBLE –
AFFIRMING IN PART AND
REVERSING IN PART
SCOTT, J., CONCURS IN PART
AND DISSENTS IN PART BY SEPARATE
OPINION.
212. MICHAEL BRADLEY SOWDERS, [2007-SC-000043-MR](#) WHITLEY
MICHAEL GLEN SOWDERS, AND **TO BE PUBLISHED**
PAMELA SOWDERS V.
HON. THOMAS R. LEWIS,
SPECIAL JUDGE,
WHITLEY CIRCUIT COURT
OPINION OF THE COURT BY
JUSTICE SCOTT –
AFFIRMING IN PART,
REVERSING IN PART
CUNNINGHAM, J., DISSENTS
BY SEPARATE OPINION.
213. DESHAWN PARKER V. [2005-SC-000343-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE NOBLE – REVERSING
SCOTT, J., CONCURS IN PART
AND DISSENTS IN PART BY SEPARATE
OPINION. ABRAMSON, J., NOT SITTING.

SUPREME COURT OF KENTUCKY

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214. C.W. HOSKINS HEIRS, [2005-SC-000618-DG](#) LESLIE
A NON-RESIDENT PARTNERSHIP **TO BE PUBLISHED**
CONSISTING OF C. BRUCE HOSKINS,
WALTER S. HOSKINS,
CONSTANCE D. WELLS AND
GARY C. HOSKINS V.
BEN BOGGS, JR. ET AL.
OPINION OF THE COURT BY
JUSTICE SCOTT – REVERSING
MINTON, J., NOT SITTING.
215. LOUISVILLE AND JEFFERSON [2006-SC-000058-DG](#) JEFFERSON
COUNTY METROPOLITAN **TO BE PUBLISHED**
SEWER DISTRICT V.
RAYMOND CHARLES BISCHOFF
OPINION OF THE COURT BY
JUSTICE MINTON – REVERSING
SCHRODER, J., NOT SITTING.
CUNNINGHAM, J., DISSENTS AND
WOULD BE INCLINED TO AFFIRM
THE WELL-WRITTEN OPINION OF
THE COURT OF APPEALS BECAUSE
OF THE CONSTITUTIONAL BIAS IN
FAVOR OF THE RIGHT TO A TRIAL
BY JURY. HE NOTES THAT THE
LANDOWNER ASKED FOR A JURY
TRIAL IN AUGUST OF 2003, SOME
FIFTEEN MONTHS BEFORE THE
BENCH TRIAL. IN SUCH A CASE,
HE DOES NOT BELIEVE THE FAILURE
TO COMPLY WITH CR 38.02 IS AN
AFFIRMATIVE WAIVER. THEREFORE,
HE RESPECTFULLY DISSENTS.

SUPREME COURT OF KENTUCKY

MINUTES

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216. COMMONWEALTH OF KENTUCKY V. [2007-SC-000025-DGE](#) JEFFERSON
B.J., A CHILD UNDER EIGHTEEN **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE CUNNINGHAM –
REVERSING
MINTON, J., DISSENTS BY
SEPARATE OPINION.
217. BARBARA CRAWFORD V. [2005-SC-000778-WC](#) FROM COURT
UNIVERSITY OF LOUISVILLE, ET AL. **NOT TO BE PUBLISHED** OF APPEALS
MEMORANDUM OPINION
OF THE COURT – AFFIRMING
ABRAMSON AND MINTON, J.J.,
NOT SITTING.
218. ROBERT YELL V. [2006-SC-000327-MR](#) LOGAN
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT – AFFIRMING
SCOTT, J., FILES A SEPARATE
OPINION CONCURRING IN PART
AND DISSENTING IN PART IN
WHICH NOBLE, J., JOINS.
219. DEREK EUGENE LEMON V. [2006-SC-000636-MR](#) CARTER
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT – AFFIRMING
220. GARY LEE BROOKS, JR. V. [2006-SC-000709-DG](#) HENDERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE CUNNINGHAM – AFFIRMING
ABRAMSON, J., NOT SITTING.

SUPREME COURT OF KENTUCKY

MINUTES

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- | | | | |
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| 221. | JASON RICHARDS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
NOBLE, J., CONCURS IN RESULT
ONLY BECAUSE APPELLANT'S
PRIOR STATEMENT, WHICH WAS
DISCLOSED LATE AND UNDER
COURT ORDER TO BE USED IN
REBUTTAL ONLY, WAS IMPROPERLY
ADMITTED IN THE COMMONWEALTH'S
CASE IN CHIEF; BUT IT IS HARMLESS
ERROR BECAUSE THERE WAS NO
REASONABLE PROBABILITY
THAT IT AFFECTED THE VERDICT. | 2006-SC-000733-MR
NOT TO BE PUBLISHED | FAYETTE |
| 222. | JOSEPH KOROLUK V.
UNITED PARCEL SERVICE, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2006-SC-000946-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 223. | KNOTT FLOYD LAND COMPANY V.
ANDREW FUGATE, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2007-SC-000235-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 224. | MICHAEL POINTS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2007-SC-000310-MR
NOT TO BE PUBLISHED | JEFFERSON |
| 225. | LEE ROY PARTIN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING IN
PART AND VACATING AND
REMANDING IN PART</u> | 2005-SC-000881-MR
NOT TO BE PUBLISHED | MCCRACKEN |

SUPREME COURT OF KENTUCKY

MINUTES

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226. ALGER FERGUSON V. [2006-SC-000156-MR](#) LAWRENCE
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT – AFFIRMING IN
PART AND VACATING AND
REMANDING IN PART
ABRAMSON, J., CONCURS
IN RESULT ONLY.
227. JOHNNIE DOUGLAS V. [2006-SC-000882-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT – AFFIRMING IN
PART, REVERSING IN PART, AND
REMANDING
CUNNINGHAM, J., CONCURS IN
RESULT ONLY BY SEPARATE
OPINION IN WHICH SCOTT, J., JOINS.
NOBLE, J., CONCURS IN PART AND
DISSENTS IN PART BY SEPARATE
OPINION. SCHRODER, J., CONCURS
IN PART AND DISSENTS IN PART BY
SEPARATE OPINION.
228. ROGER L. MCBEATH, JR. V. [2004-SC-001092-MR](#) SCOTT
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION
OF THE COURT – REVERSING AND
REMANDING

OPINIONS AND ORDERS – DECEMBER 20, 2007

- VANESSA MOST DURHAM V. [2005-SC-001006-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT
ORDER READMITTED MOVANT
TO THE PRACTICE OF LAW.

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 20, 2007

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – DECEMBER 20, 2007

**KENTUCKY BAR ASSOCIATION V.
MAXWELL LEE HAMMOND, II
ORDER SUSPENDED RESPONDENT
FROM THE PRACTICE OF LAW FOR
A PERIOD OF FIVE YEARS.**

[2007-SC-000627-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 12, 2007**

GREG BEAVER, D/B/A BEAVER
CONSTRUCTION COMPANY V.
KEVIN OAKLEY AND
CRAWFORD ELECTRIC, INC.

2006-SC-000813-DG

MCCRACKEN

RICHARD T. DAVIS, ET AL. V.
PEGGY HENSLEY,
CO-ADMINISTRATRIX OF THE
ESTATE OF RICHARD SWARTZ, ET AL.

2007-SC-000066-DG

BOONE

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES AND A.J.M., A CHILD V.
T.G., A MOTHER

2007-SC-000436-DGE

JEFFERSON

AND

T.G., A MOTHER V.
COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES AND A.J.M., A CHILD

2007-SC-000821-DGE

JEFFERSON

SHANNON GIBSON V.
COMMONWEALTH OF KENTUCKY

2007-SC-000481-DG

GRAYSON

DAVID MORROW V.
COMMONWEALTH OF KENTUCKY

2007-SC-000505-DG

MCCREARY

KENTUCKY RETIREMENT SYSTEMS V.
SANDRA BOWENS

2007-SC-000509-DG

FRANKLIN

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 20, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 12, 2007**

BOARD OF TRUSTEES OF KENTUCKY RETIREMENT SYSTEMS V. CAROLYN LEDFORD	2007-SC-000604-DG	FRANKLIN
ASHLAND, INC., ET AL. V. WOODIE CANTRELL, ET AL.	2007-SC-000818-DG	JOHNSON
JOHNSON CONTROLS, INC., ET AL. V. MIKE BURNSIDE, SECRETARY OF THE FINANCE AND ADMINISTRATION CABINET OF THE COMMONWEALTH OF KENTUCKY; COMMONWEALTH OF KENTUCKY, FINANCE AND ADMINISTRATION CABINET, DEPARTMENT OF REVENUE	2007-SC-000819-DG	FRANKLIN
DEBRA IRELAND V. JONATHAN E. HODES, M.D.	2007-SC-000823-DG	JEFFERSON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 12, 2007**

GABRIEL F. SPALDING V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2006-SC-000638-D	MARION
MICHAEL PENNINGTON V. JENKINS-ESSEX CONSTRUCTION, INC.	2006-SC-000893-D	HARDIN
MICHELLE THOMAS, ADMINISTRATRIX OF THE ESTATE OF MARK J. THOMAS, JR. V. GRANGE MUTUAL CASUALTY COMPANY	2007-SC-000003-D	JEFFERSON
WILLIAM A. SHECKLES, JR. V. COMMONWEALTH OF KENTUCKY	2007-SC-000243-D	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 20, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 12, 2007**

BULK TERMINALS, INC. V. ALUMINUM COMPANY OF AMERICA (ALCOA), ET AL. COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2007-SC-000254-D	JEFFERSON
THE WESSELS COMPANY, LLC, ET AL. V. THE SANITATION DISTRICT NO. 1 OF NORTHERN KENTUCKY, ET AL.	2007-SC-000255-D	BOONE
AARON SHANKS V. COMMONWEALTH OF KENTUCKY	2007-SC-000274-D	FAYETTE
CLASSIC TRUSS WOOD COMPONENTS, INC. V. LANDIS LAKES PATIO HOMES, LLC; STEPHEN T. COX, BUILDER, INC.	2007-SC-000283-D	JEFFERSON
MELIA FELEDY HORD V. QUEBECOR WORLD, INC.	2007-SC-000301-D	FAYETTE
GARRY BRENT BROCK V. COMMONWEALTH OF KENTUCKY	2007-SC-000325-D	JEFFERSON
ANTHONY L. ROBINSON, SR. V. COMMONWEALTH OF KENTUCKY	2007-SC-000398-D	JEFFERSON
GARY JACKSON, SR. V. COMMONWEALTH OF KENTUCKY	2007-SC-000400-D	MCCRACKEN
JAMES CLONTZ V. COMMONWEALTH OF KENTUCKY	2007-SC-000416-D	JEFFERSON
JIM HUFF REALTY, INC., ET AL. V. TOMLIN PROPERTIES, LTD, ET AL.	2007-SC-000440-D	BOONE

SUPREME COURT OF KENTUCKY

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DECEMBER 20, 2007

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 12, 2007**

UZELL MCFARLAND V. COMMONWEALTH OF KENTUCKY	2007-SC-000441-D	EDMONSON
RICKY KENTER V. COMMONWEALTH OF KENTUCKY	2007-SC-000452-D	BOONE
RICHARD D. MORRISON V. COMMONWEALTH OF KENTUCKY	2007-SC-000465-D	FAYETTE
ANDREI VOROBIEV, ET AL. V. ALAN HERSH	2007-SC-000472-D	FAYETTE
TERRY SMALLWOOD V. COMMONWEALTH OF KENTUCKY	2007-SC-000480-D	PIKE
GREEN TREE SERVICING, LLC, F/K/A CONSECO FINANCE SERVICING CORP. V. SCOTT PHELPS AND PAM PHELPS	2007-SC-000495-D	PULASKI
TIMOTHY WOODARD V. CAPTAIN CALLAHAN AND GARY BECKSTROM	2007-SC-000535-D	ELLIOTT
LORENZO BARNETT V. PATTI WEBB, WARDEN	2007-SC-000617-D	MUHLENBERG
FINANCE AND ADMINISTRATION CABINET, DEPARTMENT OF REVENUE V. DUPLICATOR SALES AND SERVICE, INC. COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2007-SC-000653-D	FRANKLIN
MICHAEL PENNINGTON V. MEADWESTVACO CORPORATION	2007-SC-000657-D	HARDIN

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 12, 2007**

LEIGHANNA CAUDILL LANE V. 2007-SC-000699-DE GREENUP
WILLIAM S. LANE, JR.
**COURT OF APPEALS' OPINION
ORDERED NOT TO BE PUBLISHED.**

MYREE MARSHALL V. 2007-SC-000757-D MCCRACKEN
COMMONWEALTH OF KENTUCKY

SHANTONIO TIJUAN SULLIVAN V. 2007-SC-000760-DE JEFFERSON
COMMONWEALTH OF KENTUCKY

RODNEY MCDANIEL, JR. V. 2007-SC-000787-D FAYETTE
COMMONWEALTH OF KENTUCKY
AND

ANDREA SHAREE STOKES V. 2007-SC-000788-D FAYETTE
COMMONWEALTH OF KENTUCKY

COURT ORDERS DENYING PETITION FOR REHEARING – DECEMBER 20, 2007

CUMBERLAND VALLEY 2000-SC-000951-DG BELL
CONTRACTORS, INC., AND 2004-SC-001121-DG
DEL RIO, INC. V.
BELL COUNTY COAL CORPORATION
AND DARRELL HUFF

REVENUE CABINET, 2004-SC-000519-DG FRANKLIN
COMMONWEALTH OF KENTUCKY V.
GTE SOUTH, INC., N/K/A
VERIZON SOUTH, INC.

AND
GTE SOUTH, INC., N/K/A 2005-SC-000223-DG FRANKLIN
VERIZON SOUTH, INC. V.
REVENUE CABINET,
COMMONWEALTH OF KENTUCKY

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 20, 2007

RELEASED: 10:00 A.M.

COURT ORDERS DISMISSING –

JAMES SENGER V. 2007-SC-000536-WC FROM COURT
UNITED PARCEL SERVICE, ET AL. OF APPEALS
ENTERED: DECEMBER 13, 2007

KENTUCKY ASSOCIATED GENERAL 2007-SC-000715-WC FROM COURT
CONTRACTORS SELF-INSURANCE OF APPEALS
FUND, ET AL. V.
TRI STATE CRANE RENTAL, INC., ET AL.
ENTERED: NOVEMBER 26, 2007

CALDWELL TANKS, INC. V. 2007-SC-000791-WC FROM COURT
MARCUS WETHINGTON, ET AL. OF APPEALS
ENTERED: DECEMBER 13, 2007

COURT ORDERS

MARK EDWARDS, ET AL. V. [2005-SC-001021-MR](#) SHELBY
HON. CHARLES R. HICKMAN, JUDGE,
SHELBY CIRCUIT COURT
AND
STEPHEN EDWARDS
(REAL PARTY IN INTEREST)
AND

STEPHEN EDWARDS, ET AL. V. [2006-SC-000012-MR](#) SHELBY
MARK EDWARDS, ET AL.
**ORDER CORRECTED OPINION
RENDERED NOVEMBER 1, 2007, BY
DELETING FOOTNOTE ON PAGE 4
AND BY SUBSTITUTION OF PAGES
1 AND 4.**
ENTERED: NOVEMBER 21, 2007

RAYMOND WALKER V. 2006-SC-000480-MR JEFFERSON
COMMONWEALTH OF KENTUCKY
**ORDER CORRECTED ORDER ENTERED
NOVEMBER 21, 2007 DENYING PETITION
FOR REHEARING.**
ENTERED: NOVEMBER 28, 2007

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 20, 2007

RELEASED: 10:00 A.M.

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

CHARLIE SANDERS V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 28, 2007	2007-SC-000876-KB	IN SUPREME COURT
MARK ANTHONY BOWLING V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 28, 2007	2007-SC-000877-KB	IN SUPREME COURT
JAMES E. GEORGE V. KENTUCKY BAR ASSOCIATION ENTERED: NOVEMBER 29, 2007	2007-SC-000892-KB	IN SUPREME COURT
JOHN T. MITCHELL V. KENTUCKY BAR ASSOCIATION ENTERED: DECEMBER 3, 2007	2007-SC-000898-KB	IN SUPREME COURT
JOHN DAVID VAN METER V. KENTUCKY BAR ASSOCIATION ENTERED: DECEMBER 18, 2007	2007-SC-000933-KB	IN SUPREME COURT