

**PUBLISHED OPINIONS  
KENTUCKY SUPREME COURT  
FEBRUARY 2018**

**I. BOARD OF CLAIMS:**

- A. Commonwealth of Kentucky, Justice and Public Safety Cabinet, et al. v. Virginia Gaither, et al.**  
**[2016-SC-000345-DG](#) February 15, 2018**

Opinion of the Court by Justice Hughes. All sitting; all concur. The Kentucky State Police, a department within the Commonwealth’s Justice and Public Safety Cabinet sought review of the decision of the Court of Appeals affirming the Board of Claims award of post-judgment interest on damages in a case involving the Estate of Lebron Gaither. The Court determined that the Court of Appeals properly understood the Board of Claims Act as affording circuit court judgments entered pursuant to the Act the same treatment under the post-judgment interest statute as ordinary civil judgments. Further, the Court explained that post-judgment interest accrues from a judgment that erroneously calculates or vacates a damage award, where an appellate court is able to correct the error without the need for additional proceedings. As such, the Court affirmed the decision of the Court of Appeals and remanded the matter to the circuit court for entry of an appropriate order.

**II. CERTIFICATION OF LAW:**

- A. In Re: Logan Hickey v. General Electric Company**  
**[2017-SC-000135-CL](#) February 15, 2018**

Opinion of the Court by Justice VanMeter. All sitting; all concur. This Court granted the United States District Court, Western District of Kentucky’s request for certification of law on the following issue: May a plaintiff bring a private right of action under KRS 446.070 against an employer for an alleged violation of KRS 341.990(6)(a), Kentucky’s criminal prohibition against making false statements during unemployment proceedings? KRS 446.070, commonly known as Kentucky’s negligence per se statute, provides: “A person injured by the violation of any statute may recover from the offender such damages as he sustained by reason of the violation, although a penalty or forfeiture is imposed for such violation.” After successive appeals, Plaintiff Logan Hickey ultimately received workers’ compensation benefits from his former employer, General Electric Company (“GE”), resulting from GE’s termination of his employment. Hickey then brought suit against GE in Jefferson Circuit Court, alleging a violation of KRS 446.070 and seeking redress for the harm he suffered due to being temporarily deprived of his unemployment benefits, as well as punitive damages. Hickey argued that due to GE’s false misrepresentation to Kentucky authorities

that he had voluntarily quit, his application for benefits initially was denied, and he was deprived of unemployment benefits for some period. GE's successor-in-interest, Haier U.S. Appliance Solutions, Inc. ("Haier"), the real party-in-interest, removed the case to federal court and moved to dismiss Hickey's KRS 446.070 claim for failure to state a cognizable legal claim. Finding this issue to be a novel one in Kentucky, the federal court denied Haier's motion to dismiss, with leave to re-file the motion depending on the outcome of the certified question. Upon review, the Kentucky Supreme Court recognized an independent cause of action under KRS 446.070 for an alleged violation of KRS 341.990(6)(a). Pursuant to the holding in *Vanhook v. Somerset Health Facilities, LP*, 67 F. Supp. 3d 810, 817 (E.D. Ky. 2014), KRS 446.070 creates a private right of action under which a damaged party may sue for a violation of a statutory standard of care, provided that three prerequisites are met: first, the statute in question must be penal in nature or provide no inclusive civil remedy; second, the party [must be] within the class of persons the statute is intended to protect; and third, the plaintiff's injury must be of the type that the statute was designed to prevent. The Court held that Hickey appeared to have met the prerequisites to bring a private right of action for Haier's alleged violation of KRS 341.990(6)(a). First, KRS 341.990(6)(a) is penal in nature and does not prescribe a civil remedy for an aggrieved party. Second, Hickey falls within the class of persons KRS 341.990(6)(a) was designed to protect: employees. Third, Hickey's alleged injury, deprivation of unemployment benefits to which he was entitled, is the type of harm that KRS 341.990(6)(a) was designed to prevent. Taking Hickey's allegations as true, which a court must do on a motion to dismiss, the Court concluded that Hickey had sufficiently pled tangible damages to survive Haier's motion to dismiss.

### **III. CRIMINAL LAW:**

#### **A. Michael Todd Hilton v. Commonwealth of Kentucky 2015-SC-000452-MR February 15, 2018**

Opinion of the Court by Justice Hughes. All sitting; all concur. Michael Hilton appealed as a matter of right from a circuit court judgment sentencing him to life imprisonment for murder, first-degree assault, second degree assault, operating a motor vehicle under the influence of alcohol which impairs driving ability, and for being a first-degree persistent felony offender. On review, the Court determined that the circuit court did not abuse its discretion in denying Hilton's motions for: 1) change of venue; 2) suppression of a witness's statement; 3) for a continuance; 4) to remove potential jurors for cause; and 5) for a mistrial. However, the Court determined that the trial court abused its discretion by permitting the Commonwealth to ask a victim and members of the victims' families what sentence they believed appropriate for Hilton's crimes. While this was error, the Court deemed it to be harmless, as a review of the circumstances of Hilton's case led the Court to conclude that this improper evidence did not substantially impact his sentence. Accordingly, the Court affirmed the judgment and sentence imposed by the circuit court.



amended KRS 532.055(3) to delete the language upon which the Francis and Perdue holdings were based. Without the express statutory prohibition that dictated the holdings Francis and Perdue, the truth-in-sentencing statute, KRS 532.055, on its face would apply to the trial of a capital murder charge. The Court overruled Perdue and held that “parole eligibility standards and other information admissible under KRS 532.055 and otherwise consistent with the Rules of Evidence are admissible in the death penalty proceeding.” (2) evidence of Huddleston’s prior bad acts against victim’s family was properly admitted for the purpose of refuting defendant’s claim that he was driven to violence by extreme emotional disturbance defense produced by the sudden realization that his ex-girlfriend had broken off their relationship; and (3) the trial court did not abuse its discretion by permitting six-year old eye-witness, who was three at the time of the crime, to testify on the basis that the trial court did not err in ruling the child competent to testify; the trial court’s failure to administer oath or otherwise obtain child’s commitment to testify truthfully as not palpable error.

**D. Richard Yates v. Commonwealth of Kentucky**  
**2015-SC-000504-MR February 15, 2018**

Opinion of the Court by Justice Wright. All sitting; all concur. A Fulton Circuit Court jury convicted Richard Yates of incest, first-degree unlawful transaction with a minor, use of a minor in a sexual performance, first-degree unlawful imprisonment, and first-degree sexual abuse. Yates was sentenced to seventy years’ imprisonment for these crimes and appealed to the Supreme Court of Kentucky as a matter of right. Kentucky Constitution § 110(2)(b). Yates argued the trial court erred by: (1) overruling his motion to dismiss his indictment due to prosecutorial vindictiveness; (2) overruling his motions for a directed verdict for insufficiency of evidence; (3) permitting various double jeopardy violations; and (4) permitting the victim’s mother to improperly vouch for the victim’s credibility.

The Supreme Court reversed some of Yates’s convictions, holding that portions of his indictment should have been dismissed due to prosecutorial vindictiveness. The Supreme Court had reversed Yates’s original conviction, and the Commonwealth had indicted him on several new charges (including one the Court had indicated would be improper in its first opinion). The Supreme Court reversed the new charges, as they were based on no new evidence or testimony, and the Commonwealth’s reasoning for adding the new charges was contradicted by its strategy during the first trial. The Court held that this these facts presented a reasonable likelihood of vindictiveness. The charges for which Yates was convicted that were also charged in the original indictment were not the result of prosecutorial vindictiveness, however, so those convictions stood.

Yates next asked for palpable error review, arguing the trial court should have directed a verdict as to the unlawful transaction with a minor charge. However, the Supreme Court held that, given the evidence at trial, a reasonable juror could convict Yates of the charge.

The Supreme Court held that Yates's retrial for unlawful transaction with a minor did not violate his right to be free from double jeopardy. In Yates's first trial, the jury instructions included unlawful transaction with a minor as an alternative to first-degree rape. In that trial, the jury convicted Yates of rape, and, therefore, did not complete the unlawful-transaction verdict form. The Supreme Court held that Yates's retrial on the charge was not barred by double jeopardy. The Court also held that sexual abuse and unlawful transaction with a minor each contained an element the other does not, and, therefore, Yates being charged with both crimes did not violate his right to be free from double jeopardy.

Finally, Yates asked the Court to review the victim's mother's statement that she believed her daughter for palpable error. While the Court agreed with Yates that this vouching testimony was error, it held that no manifest injustice resulted from said error. Therefore, the Court held it did not amount to palpable error.

**E. Anthony Brown v. Commonwealth of Kentucky  
2016-SC-000551-MR February 15, 2018**

Opinion of the Court by Chief Justice Minton. All sitting; all concur. the Court held that the trial court's imposition of criminal restitution on a criminal defendant without adherence to the procedural due process protections listed in *Jones v. Commonwealth*, 382 S.W.3d 22, 32 (Ky. 2011) was improper. The Court also held that the trial court did not err when it admitted evidence, during the sentencing phase of the trial, of the defendant having cut off his ankle monitor. Finally, the Court adopted the Court of Appeals' interpretation of KRS 532.080(8), as stated in *Boone v. Commonwealth*, 412 S.W.3d 883, 885 (Ky. App. 2013), which allows the Commonwealth to base a PFO charge on a prior felony possession conviction under KRS 218A.1415 when the indictment includes a felony charge other than a felony possession charge.

**F. Commonwealth of Kentucky v. Donna Marie Blake  
2016-SC-000346-DG February 15, 2018**

Opinion of the Court by Justice VanMeter. All sitting; all concur. The Court granted discretionary review to address the Court of Appeals' opinion reversing the Muhlenberg Circuit Court's denial of Blake's motion to suppress evidence seized from her vehicle during a traffic stop. Blake was suspected of participating in a drug ring that was under investigation by Kentucky State Police. After her vehicle was identified at the scene of a controlled buy drug transaction, KSP Detective Wade Shoemaker contacted Central City Police Sergeant James Jenkins, informed him of the drug investigation, and asked if he could find an independent reason to pull over Blake's vehicle. At the suppression hearing, Det. Shoemaker testified that he made such a request to protect the identity of his confidential informant who was assisting with the controlled buy. Sgt. Jenkins located Blake's vehicle, noticed the license plate was not illuminated, and he pulled her over for a traffic violation. He asked if he could search her car and Blake immediately consented. Sgt. Jenkins found approximately \$10,000 in cash

in Blake's purse and methamphetamine in the glove compartment. Det. Shoemaker joined him at the scene and identified a portion of the money as that used by his confidential informant in the controlled buy. Blake was arrested and subsequently entered a conditional guilty plea to two counts of first-degree trafficking in a controlled substance, and one count of being a persistent felony offender ("PFO-2"), conditioned on her right to appeal the trial court's denial of her motion to suppress.

The trial court denied Blake's motion to suppress the evidence seized from her vehicle, finding that even though Sgt. Jenkins testified that the reason he pulled Blake over was for an alleged traffic violation, and it turned out no traffic violation had in fact occurred, under the collective knowledge doctrine, Det. Shoemaker had reasonable suspicion to stop Blake's vehicle and that reasonable suspicion was imputed to Sgt. Jenkins. The Court of Appeals reversed, holding that while reasonable suspicion can be transferred between officers in appropriate circumstances, it did not justify Sgt. Jenkins' traffic stop where Sgt. Jenkins specifically testified that although he was told that Det. Shoemaker suspected Blake was involved with narcotics, he did not stop Blake for that reason. Because Sgt. Jenkins did not rely on Det. Shoemaker's information in deciding to pull over Blake, the Court of Appeals held that Det. Shoemaker's suspicions were irrelevant to its analysis.

The Kentucky Supreme Court reversed, relying on its holding in *Lamb v. Commonwealth*, 510 S.W.3d 316, 322 (Ky. 2017), that "[s]ubjective intentions do not play a role in either a probable cause or a reasonable suspicion analysis under the Fourth Amendment. The fact that the officer does not have the state of mind which is hypothecated by the reasons which provide the legal justification for the officer's action does not invalidate the action taken as long as the circumstances, viewed objectively, justify that action." The Court concluded that the record clearly reflected that the real reason Sgt. Jenkins pulled over Blake's vehicle was upon Det. Shoemaker's request and because Det. Shoemaker believed Blake was involved in the drug trafficking operation under investigation. Based upon the totality of the circumstances, Det. Shoemaker had reasonable suspicion to make the investigatory stop, that reasonable suspicion transferred to Sgt. Jenkins under the collective knowledge doctrine, and suppression of the evidence seized from Blake's vehicle was not required.

**G. Commonwealth of Kentucky v. Billy Reed Caudill**  
**2016-SC-000419-DG February 15, 2018**

Opinion of the Court by Justice Keller. All sitting; all concur. Billy Reed Caudill (Caudill) was charged and tried for murder and three counts of wanton endangerment, first degree, related to a shoot-out with his neighbor. His neighbor was killed and three other neighbors were forced to take cover from the gunfire. The jury found Caudill had acted in self-protection as to the murder charge but found him guilty of all three counts of wanton endangerment. Caudill was

sentenced to five years to serve on each count, to be served consecutively for a total fifteen-year sentence.

Upon appeal, the Court of Appeals sua sponte held that the jury instructions included an additional, unnecessary element for the wanton endangerment charges. The Court of Appeals held the error could not be harmless and vacated the conviction, remanding for further proceedings. This Court granted discretionary review and reversed the Court of Appeals, reinstating the trial court's judgment. The jury instructions did include an additional element; the instruction included language that Caudill was "not privileged to act in self-protection." Pursuant to KRS 503.120(2), justification is precluded as a defense to wanton or reckless crimes as to innocent victims, even if that defense is available to another victim. Thus, as to the three victims of wanton endangerment, first degree, Caudill was not entitled to self-protection as a defense. However, because this additional language actually heightened the Commonwealth's burden of proof, this error must be deemed harmless. Additionally, the defense did not object to the jury instructions so only palpable error would require reversal. The jury found Caudill guilty under a heightened level of proof and therefore the judgment must be reinstated.

**H. Commonwealth of Kentucky v. Samuel Patton**  
**2016-SC-000425-DG February 15, 2018**

Opinion of the Court by Justice Cunningham. Minton, C.J.; Cunningham, Hughes, Keller, Venters, and Wright, JJ., sitting. All concur. VanMeter, J., not sitting. Appellee, Samuel Patton, was convicted of first-degree rape and third-degree unlawful transaction with a minor. Soon thereafter, Patton entered a guilty plea in exchange for a seventeen-year prison sentence. In addition to engaging in a traditional plea colloquy, Patton accepted and signed a Motion to Enter Guilty Plea. Guilty Plea (form AOC-491). His plea agreement included a waiver of his right to appeal his conviction. Two months later, Patton retained new counsel and filed a "Motion to Withdraw Waiver of Right to Appeal." The trial court denied his request and sentenced him in accordance with his plea agreement. In a divided decision, the Court of Appeals reversed his sentence having determined that his guilty plea did not satisfy *Boykin v. Alabama*, 395 U.S. 238 (1969). The Supreme Court of Kentucky granted discretionary review. The Supreme Court held that, having reviewed the entire *Boykin* colloquy, it is clear that Appellee's plea was made knowingly, voluntarily, and intelligently. Therefore, the Court reversed the Court of Appeals and reinstated Patton's conviction and sentencing.

**IV. DUE PROCESS:**

**A. Marty Elliott, et al. v. Warren Lanham**  
**2017-SC-000052-DG February 15, 2018**

Opinion of the Court by Chief Justice Minton. Minton, C.J.; Cunningham, Hughes, Keller, Venters, and Wright, JJ., sitting. Minton, C.J.; Cunningham,

Hughes, and Venters, JJ., concur. Keller, J., concurs in result only. Wright, J., concurs in result only by separate opinion. VanMeter, J., not sitting. The Court held that a pre-amended version of KRS 15.520 did not afford due process rights to a deputy sheriff. The Court reconciled Kentucky's statutory scheme, affording due process rights to deputy sheriffs under KRS 70.260 through 70.273 and police officers under KRS 15.520, by holding that the pre-amended version of KRS 15.520 applicable to the case did not contemplate protecting deputy sheriffs, only police officers.

**V. TORTS:**

**A. Latasha Maupin v. Roland Tankersley**

**2016-SC-000572-DG**

**February 15, 2018**

Opinion of the Court by Justice Cunningham. All sitting. Minton, C.J.; Hughes, Keller, and Venters, JJ., concur. VanMeter, J., concurs in part and dissents in part by separate opinion in which Wright, J., joins. This is a dog bite liability case concerning dog owner liability under KRS 258.235(4). The plaintiff, Latasha Maupin, was attacked by dogs while crossing over a large plot of land owned by the defendant, Roland Tankersley. The trial court gave the jury instructions that the defendant was not liable if he either did not have reason to anticipate the plaintiff's presence or he exercised due care to protect the public from his dogs. The jury found that the defendant was the owner of the dogs, but, based upon the given jury instruction, did not find liability on his part. The plaintiff appealed. The Court of Appeals of Kentucky affirmed the trial court's ruling.

The Supreme Court of Kentucky granted discretionary review and held that a dog owner is strictly liable for injuries caused when his dog attacks a person. However, a comparative fault analysis of the damages in dog bite cases is mandated by KRS 411.182(2). Following the finding of liability on the part of the dog owner, a jury instruction shall be given such that any comparative fault of the dog bite victim may be considered in the calculation of damages. Accordingly, the Court reversed the Court of Appeals and remanded for a new trial in which jury instructions will be given consistent with this opinion.

**VI. WORKERS' COMPENSATION:**

**A. Jamie Groce v. VanMeter Contracting, Inc., et al.**

**2017-SC-000225-WC**

**February 15, 2018**

Opinion of the Court by Justice Venters. All sitting; all concur. Workers' Compensation. An injured worker alleged that her accident was due, in part, to his employer's violation of workplace safety regulations, which if true, entitled her a 30% increase in benefits pursuant to KRS 342.165(1). The ALJ rejected that allegation, but the Workers' Compensation Board reversed upon its conclusion that the employer's concurrent settlement of related KOSHA citations and the payment of fines thereon was, in effect, a judicial admission of the violations. The

Court of Appeals reversed. The Kentucky Supreme Court affirmed the Court of Appeals, reinstating the judgment of the ALJ. The Court held that the employer's settlement agreement with KOSHA included a prominent disclaimer that the settlement was not an admission of any safety violation or the violation of any allegations of the KOSHA complaint citation. "[A]n adjudicative determination by an administrative tribunal does not preclude relitigation in another tribunal of the same or a related claim based on the same transaction if the scheme of remedies permits assertion of the second claim notwithstanding the adjudication of the first claim." *Berrier v. Bizer*, 57 S.W.3d 271, 280 (Ky. 2001).

## **VII. ATTORNEY DISCIPLINE:**

### **A. Kentucky Bar Association v. William Lester Legg 2017-SC-000520-KB February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. The Inquiry Commission issued a three-count charge against Legg alleging violations of the Rules of Professional Conduct. The Board found him guilty of all three charged counts. In determining the appropriate sanction, the Board considered the fact that Legg had previously received two private admonitions. Ultimately, the Board voted to recommend that Legg be publicly reprimanded and required to pay the costs of the disciplinary proceedings.

Neither Legg nor Bar Counsel contested the validity of the counts against Legg. But Bar Counsel filed a notice of review, arguing that the sanction recommended by the Board was inadequate and requesting that the Supreme Court suspend Legg from the practice of law for thirty days and require him to repay his client. The Court disagreed with Bar Counsel with respect to the request for suspension but agreed that Legg should repay his client. Accordingly, Legg was publicly reprimanded, ordered to repay his client, and ordered to pay the costs of the disciplinary proceedings.

### **B. Kentucky Bar Association v. Damian Gallaher 2017-SC-000529-KB February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. Gallaher was charged with 22 counts in six separate disciplinary cases, each of which proceeded as a default case under SCR 3.210. The Board voted to suspend Gallaher from the practice of law in the Commonwealth for a period of five years, with the suspension probated to one year on the condition that Gallaher be evaluated by KYLAP, attend the Ethics and Professionalism Enhancement Program (EPEP), and replay his clients' fees. The Court agreed with the sanction and adopted the Board's recommendations under SCR 3.370(9).

**C. Kentucky Bar Association v. Heather Mary Boone McKeever**  
**[2017-SC-000560-KB](#) February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. In September 2017, the Supreme Court of South Carolina rendered an Opinion disbaring McKeever for numerous violations of the South Carolina Rules of Professional Conduct. The KBA petitioned the Supreme Court of Kentucky for reciprocal discipline under SCR 3.435. McKeever responded in opposition to the KBA's request, claiming the South Carolina disciplinary proceeding was the result of fraud. She also claimed that disbaring her would be an inappropriate punishment because attorneys who are disbarred in South Carolina are permitted to apply for reinstatement after a five-year period while disbarment in Kentucky is irrevocable.

After considering the KBA's petition and McKeever's response, the Court concluded that disbarment was the appropriate sanction for McKeever's pattern of serious misconduct. The Court noted that although McKeever did not have any prior discipline in Kentucky, her serial misconduct reflected adversely on the profession of law. Accordingly, McKeever was permanently disbarred from the practice of law in Kentucky.

**D. Kentucky Bar Association v. Daniel Alan Niehaus**  
**[2017-SC-000579-KB](#) February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. Niehaus failed to respond to a charge of three separate violations of the Kentucky Rules of Professional Conduct and his case proceeded to the Board of Governors of the Kentucky Bar Association as a default case under SCR 3.210. The Board found Niehaus guilty of violating SCR 3.130(1.3) (failure to act with reasonable diligence and promptness in representing a client); (1.4)(a)(3) (failure to keep a client reasonably informed); and (1.16)(d) (failure to protect a client's interests upon termination of representation) and recommended a 181-day suspension, to be served consecutively with any pending discipline, a \$2,500 payment in restitution to his client, and payment of the costs of the proceeding. The Supreme Court agreed with the Board's findings and recommendations and sanctioned Niehaus accordingly.

**E. Kentucky Bar Association v. Genon Ginn Hensley**  
**[2017-SC-000590-KB](#) February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. Hensley was served by certified mail with a Bar complaint charging her with violating SCR 3.130-1.3 (failure to act with reasonable diligence and promptness in representing a client); SCR 3.130-1.4(a)(3) (failure to keep a client reasonably informed); and SCR 3.130-8.1(b) (failure to respond to lawful demands for information from a disciplinary authority). She failed to respond to the charges and the matter came before the Board of Governors as a default case under SCR 3.210. After

reviewing Hensley’s extensive disciplinary background, including two suspensions and one private admonition, the Board voted unanimously to suspend her from the practice of law in the Commonwealth for thirty days. The Court agreed with the Board’s findings and recommendation and sanctions Hensley accordingly.

**F. Kentucky Bar Association v. David Thomas Sparks  
2017-SC-000591-KB February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. Sparks was charged with a number of disciplinary violations arising from three separate files. The Board of Governors found him guilty of violating SCR 3.130-1.3 (three counts); 3.130-1.4(a)(3) (three counts); 3.130-1.4(a)(4) (three counts); 3.130-1.5; 3.130-1.15(a); 3.130-1.16(d) (three counts); 3.130-3.4(c) (two counts); 3.130-5.5; and 3.130-8.4(c), and recommended that he be permanently disbarred from the practice of law. In reaching this conclusion, the Board reviewed Sparks significant disciplinary history, including several suspensions. Noting Sparks’s “continuing pattern of accepting money from clients, ceasing communication, and failing to complete (or, in some cases, even begin) working on their cases,” the Board concluded that permanent disbarment was the appropriate sanction. Given the gravity and the number of charges, along with Sparks’s complete disregard for ethical standards, the Court agreed and permanently disbarred Sparks from the practice of law in Kentucky.

**G. Eric Christopher Conn v. Kentucky Bar Association  
2017-SC-000606-KB February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. Conn, by counsel authorized to act on his behalf under SCR 3.480(3), moved the Court to resign under terms of permanent disbarment. The KBA acknowledged that the motion was made through counsel without Conn attesting to it. But the KBA noted that it had received a letter from Conn in March 2017 resigning from the KBA and authorizing his counsel to act on his behalf. The motion was filed by counsel while Conn was a fugitive from justice and, although he was subsequently captured and extradited to the United States, the KBA had no reason to believe that Conn’s counsel was without authority to act on Conn’s behalf. Conn’s request for disbarment was based on his guilty plea to two felony charges in criminal proceedings before the US District Court for the Eastern District of Kentucky and one misdemeanor charge in Franklin Circuit Court.

In response to Conn’s motion, the KBA directed the Court to several disciplinary matters involving similar facts that supported the disposition in this case. After reviewing the facts of the present case and the relevant case law, the Court agreed that Conn’s actions exhibited conduct which made him unfit to practice law in the Commonwealth. Accordingly, the Court granted Conn’s motion and permanently disbarred him from the practice of law in the Commonwealth.

**H. Kentucky Bar Association v. Delbert Keith Pruitt**  
**[2017-SC-000613-KB](#) February 15, 2018**

Opinion and Order of the Court. Minton, C.J.; Hughes, Keller, Venters, VanMeter and Wright, JJ., sitting. All concur. Cunningham, J., not sitting. The Supreme Court of Illinois permanently disbarred Pruitt, prompting the KBA to seek reciprocal discipline under SCR 3.435(4). The Illinois decision was based upon Pruitt's conversion of client money for his own use. The Supreme Court of Kentucky ordered Pruitt to show cause why reciprocal discipline should not be imposed but he failed to respond. Accordingly, the Court ordered Pruitt permanently disbarred from the practice of law in the Commonwealth.

**I. David John Hoff v. Kentucky Bar Association**  
**[2018-SC-000013-KB](#) February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. David John Hoff moved the Court to impose a public reprimand for his alleged violations of Supreme Court Rules (SCR) 3.4, 5.5(a), 5.5(b), and 5.7(a). The Inquiry Commission began an investigation against Hoff determining that his alleged violations of the rules resulted from his failure to update his contact information with the KBA upon changing employers. Hoff's failure to update his bar roster address and email address resulted in his failure to pay his KBA dues, leading to him being suspended from the practice of law. Hoff remained unaware of his suspension until his previous employer notified him. Despite Hoff's actions being unintentional, he nevertheless admitted to violating the respective Supreme Court Rules. The KBA consented to Hoff's request for a public remand and the Court found the discipline appropriate. Accordingly, the Court imposed the agreed upon discipline, issuing a public reprimand and ordering Hoff to pay all costs of the disciplinary proceeding.

**J. Kentucky Bar Association v. Kenneth W. Humphries**  
**[2018-SC-000014-KB](#) February 15, 2018**

Opinion and Order of the Court. All sitting; all concur. A trial commissioner found Humphries guilty of violating SCR 3.130-1.4(a)(4) (promptly responding to reasonable requests for information); SCR 3.130-1.15(a) (charging or collecting an unreasonable fee); SCR 3.130-1.15(e) (placing advanced fees in a client trust account and only withdrawing an earned fee); and SCR 3.130-1.16(d) (protecting client's interests). For these violations, the trial commissioner recommended that the Supreme Court publicly reprimand Humphries and suspend him from the practice of law for thirty days, with the suspension probated so long as he repays his client the unearned portion of the fee. After reviewing the trial commissioner's findings and relevant case law, the Court agreed with the recommendation and sanctioned Humphries accordingly.