

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 21, 2006

RELEASED: 2:00 P.M.

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| 292. | PATRICIA MOORE AND
POLLY ANN RICE V.
GLOBE AMERICAN
CASUALTY COMPANY
OPINION OF THE COURT BY
JUSTICE SCOTT – <u>AFFIRMING</u>
LAMBERT, C.J., DISSENTS BY
SEPARATE OPINION, WITH
WINTERSHEIMER, J., JOINING
THAT DISSENT.
WINTERSHEIMER, J., ALSO
DISSENTS BY SEPARATE
OPINION, WITH LAMBERT, C.J.,
JOINING THAT DISSENT.
MCANULTY, J., NOT SITTING. | 2005-SC-000544-DG
TO BE PUBLISHED | CLAY |
| 293. | JEFFERSON COUNTY PUBLIC
SCHOOLS/JEFFERSON COUNTY
BOARD OF EDUCATION V.
MARY ALICE STEPHENS, ET AL.
OPINION OF THE COURT –
<u>AFFIRMING</u>
MCANULTY, J., NOT SITTING. | 2006-SC-000320-WC
TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 294. | JOHN RAY WILLIAMS V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE GRAVES – <u>REVERSING
AND REMANDING</u>
WINTERSHEIMER, J.J., DISSENTS
IN A SEPARATE OPINION.
MCANULTY, J., NOT SITTING. | 2004-SC-001006-DG
TO BE PUBLISHED | CALLOWAY |
| 295. | DEBRA DOWELL, ET AL. V.
SAFE AUTO INSURANCE COMPANY
OPINION OF THE COURT BY
CHIEF JUSTICE LAMBERT –
<u>REVERSING AND REMANDING</u>
MINTON, J.J., DISSENTS BY
SEPARATE OPINION. | 2005-SC-000153-DG
TO BE PUBLISHED | JEFFERSON |

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 21, 2006

RELEASED: 2:00 P.M.

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| 296. | BOBBI PILE (AS EXECUTRIX OF THE ESTATE OF THERESA ANN FOLTZ, DECEASED) V.
CITY OF BRANDENBURG AND JOHN MILLER, OFFICER
OPINION OF THE COURT BY JUSTICE WINTERSHEIMER – REVERSING
MCANULTY, J.J, DISSENTS BY SEPARATE OPINION AND IS JOINED BY NOBLE, J.
MINTON, J., NOT SITTING. | 2005-SC-000047-DG
TO BE PUBLISHED | MEADE |
| 297. | RALPH SCOTT V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING | 2005-SC-000100-MR
NOT TO BE PUBLISHED | MCCRACKEN |
| 298. | MITCHELL WILLOUGHBY V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING
MCANULTY, AND MINTON J.J,
CONCUR IN RESULT ONLY. | 2005-SC-000115-MR
NOT TO BE PUBLISHED | FAYETTE |
| 299. | RONALD GENE WAGERS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING | 2005-SC-000261-MR
NOT TO BE PUBLISHED | TRIMBLE |
| 300. | CHERYL LYNN GABOW V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING | 2005-SC-000277-MR
NOT TO BE PUBLISHED | HARDIN |
| 301. | GRANT R. MARKSBERRY V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING | 2005-SC-000360-TG
2005-SC-000390-MR
NOT TO BE PUBLISHED | JEFFERSON |

SUPREME COURT OF KENTUCKY

MINUTES

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| 302. | ARTHUR EUGENE ROBERTS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2005-SC-000471-MR
NOT TO BE PUBLISHED | FAYETTE |
| 303. | JIMMY RAY SPARKMAN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2005-SC-000929-MR
NOT TO BE PUBLISHED | PENDLETON |
| 304. | NINA BLACKBURN, INDIVIDUALLY
AND AS EXECUTRIX OF THE
ESTATE OF GARY BLACKBURN,
DECEASED, ET AL. V.
LODESTAR ENGERGY, INC., ET AL.
AND
KENTUCKY EMPLOYERS'
MUTUAL INSURANCE V.
LODESTAR ENGERGY, INC., ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2006-SC-000095-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| | | 2006-SC-000228-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 305. | LADONNA LUSE V.
ROBERT W. GAREY, D.M.D., ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u>
MCANULTY, J., NOT SITTING. | 2006-SC-000239-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 21, 2006

RELEASED: 2:00 P.M.

OPINIONS AND ORDERS – DECEMBER 21, 2006

CLAYTON G. MANNING V. COMMONWEALTH OF KENTUCKY ORDER GRANTED MOTION FOR REVIEW, VACATED THE COURT OF APPEALS DECISION AND REMANDED TO THE COURT OF APPEALS FOR FURTHER CONSIDERATION. MINTON, J., WOULD GRANT REVIEW TO REVISIT <u>MOORE AND HAWKINS</u> ROACH'S DISSENT IN THAT CASE.	2005-SC-000816-D	JEFFERSON
MORRIS DUNCAN, SR. V. COMMONWEALTH OF KENTUCKY ORDER GRANTED MOTION FOR REVIEW, VACATED THE COURT OF APPEALS DECISION AND REMANDED TO THE COURT OF APPEALS FOR REVIEW. MINTON, J., NOT SITTING.	2005-SC-000907-D	HARDIN
G. GEORGE BERTRAM V. KENTUCKY BAR ASSOCIATION ORDER REINSTATED MOVANT TO THE PRACTICE OF LAW WITH CONDITIONS.	2006-SC-000044-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. JAMES W. CRAFT ORDER DISMISSED CHARGES. WINTERSHEIMER, J., DISSENTS BY SEPARATE OPINION, WITH MINTON, J., AND MCANULTY, J., JOINING THAT DISSENT.	2006-SC-000258-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. MICHAEL B. RONEY ORDER PERMANENTLY DISBARRED RESPONDENT FROM THE PRACTICE OF LAW.	2006-SC-000694-KB TO BE PUBLISHED	IN SUPREME COURT

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 21, 2006

RELEASED: 2:00 P.M.

OPINIONS AND ORDERS – DECEMBER 21, 2006

KENTUCKY BAR ASSOCIATION V.
WILLIAM RALPH WOODS
**ORDER SUSPENDED RESPONDENT
FROM THE PRACTICE OF LAW FOR
THE PERIOD OF FIVE (5) YEARS.**
SCOTT, J., DISSENTS IN PART BY
SEPARATE OPINION IN WHICH
GRAVES, J., JOINS.

[2006-SC-000749-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2006**

COMMONWEALTH OF KENTUCKY,
TRANSPORTATION CABINET,
DEPARTMENT OF HIGHWAYS V.
AMANDA GUFFEY (NOW MELTON,
IN HER CAPACITY AS ADMINISTRATRIX
OF THE ESTATE OF JEREMIAH GUFFEY,
DECEASED, AND KENTUCKY BOARD
OF CLAIMS

2006-SC-000436-D

WAYNE

ASSET ACCEPTANCE, LLC V.
SONDRA MOBERLY

2006-SC-000617-D

MADISON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2006**

JOSEPH L. SILVERBURG V.
PATTI WEBB, WARDEN

2005-SC-000931-D

MUHLENBURG

CHARLES COLLIER V.
COMMONWEALTH OF KENTUCKY

2005-SC-000940-D

OLDHAM

RONNIE LEE BOWLING V.
COMMONWEALTH OF KENTUCKY

2005-SC-001018-D

ROCKCASTLE

SUPREME COURT OF KENTUCKY

MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2006**

WILLIAM LESTER MORGAN V. COMMONWEALTH OF KENTUCKY	2006-SC-000405-D	BUTLER
MICHAEL CHILTON V. COMMONWEALTH OF KENTUCKY	2006-SC-000411-D	DAVISS
DANNY LEE LAY, JR. V. COMMONWEALTH OF KENTUCKY	2006-SC-000419-D	CASEY
ANDREW JOHNSON AND ALEX BURDETTE V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED	2006-SC-000426-D	MADISON
FARMERS FERTILIZER COMPANY, INC. V. ADVANTA U.S.A., INC, D/B/A GARST SEED COMPANY	2006-SC-000442-D	WARREN
JOHNNY SALYERS, JR. V. COMMONWEALTH OF KENTUCKY	2006-SC-000465-D	BREATHITT
ILLINOIS CENTRAL RAILROAD COMPANY V. TOBY WOOD KNOTH	2006-SC-000472-D	MCCRACKEN
PAUL JOSEPH DYAR V. OUTLOOK INN, INC., AND RALPH BRIDGERS	2006-SC-000486-D	JEFFERSON
WILLIAM FLORMAN, ET AL. V. MEBCO LIMITED PARTNERSHIP, A KENTUCKY LIMITED PARTNERSHIP, ET AL. COURT OF APPEALS' OPINION ORDERED TO BE PUBLISHED	2006-SC-000495-D	LIINGSTON
HAROLD BURCHETT V. SANDRA BURCHETT	2006-SC-000500-D	BOYD

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2006**

JAMES RICKETT AND PAUL RICKETT V. DANNY RICKETT	2006-SC-000503-D	WHITLEY
ANTHONY GRAGSTON V. COMMONWEALTH OF KENTUCKY	2006-SC-000514-D	FAYETTE
DERREK DONALD THOMPSON V. KAYLA ANN THOMPSON	2006-SC-000532-D	JESSAMINE
JERRY LOTZ V. GARY BECKSTROM, WARDEN	2006-SC-000546-D	ELLIOTT
WALTER "WALLY" SKIBA, INDIVIDUALLY, AND IN HIS OFFICIAL CAPACITY AS DIRECTOR OF HUMAN RESOURCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, ET AL. V. ERIC GARDNER COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED	2006-SC-000549-D	FAYETTE
MARK JOSEPH LABER V. COMMONWEALTH OF KENTUCKY	2006-SC-000550-D	FAYETTE
ALPHONZO R. MORTON V. COMMONWEALTH OF KENTUCKY	2006-SC-000556-D	FAYETTE
MARK WAYNE TAYLOR V. COMMONWEALTH OF KENTUCKY	2006-SC-000569-D	FAYETTE
JAMES WILLIAM VESTAL V. JOHN MOTLEY, WARDEN, ET AL.	2006-SC-000573-D	FRANKLIN
DEON CRUMES V. COMMONWEALTH OF KENTUCKY	2006-SC-000578-D	JEFFERSON

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
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ELBERT PHILLIP LONG V. LARRY CHANDLER, WARDEN, ET AL.	2006-SC-000580-D	OLDHAM
JOHN HENSLEY V. COMMONWEALTH OF KENTUCKY	2006-SC-000583-D	JEFFERSON
KENNETH URIAH ROSS A/K/A URIAH PASHA V. JOHN MOTLEY, WARDEN	2006-SC-000591-D	MORGAN
WARREN COUNTY CITIZENS FOR MANAGED GROWTH, INC., ET AL. V. BOARD OF COMMISSIONERS OF CITY OF BOWLING GREEN, KENTUCKY, ET AL.	2006-SC-000593-D	WARREN
K.A.C., A CHILD UNDER EIGHTEEN V. COMMONWEALTH OF KENTUCKY	2006-SC-000595-D	BOYLE
CURTIS E. SANDERS AND CYNTHIA SANDERS V. GREEN TREE SERVICING, LLC, F/K/A CONSECO FINANCE SERVICING	2006-SC-000599-D	SHELBY
INVESTMENT PROPERTIES, INC. OF LEXINGTON, D/B/A CAMPBELL HOUSE INN V. CRAIG BIGSBY	2006-SC-000604-D	FAYETTE
COMMONWEALTH OF KENTUCKY V. STEVEN BRADLEY FILBEN COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED	2006-SC-000607-D	JEFFERSON
WILLIAM MCDANIEL V. COMMONWEALTH OF KENTUCKY	2006-SC-000612-D	WOODFORD

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2006**

KEVIN RAY WILSON V. COMMONWEALTH OF KENTUCKY	2006-SC-000643-D	FAYETTE
DEJUAN BARGER V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED	2006-SC-000647-D	JEFFERSON
JAMES ODOM V. RIAZLINO M. RAFI, JR., ET AL.	2006-SC-000663-D	MUHLENBERG
MARCUS L. MILLER V. COMMONWEALTH OF KENTUCKY	2006-SC-000710-D	FAYETTE
ROBERT A. LEVENSON V. CHERYL LYNN LEVENSON	2006-SC-000725-D	FAYETTE
PAMELA BURKICH V. COMMONWEALTH OF KENTUCKY. CABINET FOR FAMILIES AND CHILDREN, N/K/A CABINET FOR HEALTH AND FAMILY SERVICES AND CABINET FOR FINANCE AND ADMINISTRATION AND COMMONWEALTH OF KENTUCKY. CABINET FOR FAMILIES AND CHILDREN, N/K/A CABINET FOR HEALTH AND FAMILY SERVICES V. PAMELA BURKICH	2006-SC-000752-D	FRANKLIN
	2006-SC-000755-D	FRANKLIN
DEXTER ARTHUR RABOURN, INDIVIDUALLY, ET AL. V. COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED	2006-SC-000776-D	CARTER

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2006**

WARREN COUNTY CITIZENS FOR MANAGED GROWTH, INC., ET AL. V. BOARD OF COMMISSIONERS OF CITY OF BOWLING GREEN, KENTUCKY, ET AL.	2006-SC-000805-D	WARREN
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**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – DECEMBER 18, 2006**

DARRELL SMALLWOOD V. COMMONWEALTH OF KENTUCKY	2006-SC-000697-D	BULLITT
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HENRY HALL V. THOMAS SIMPSON, WARDEN	2006-SC-000795-D	LYON
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COURT ORDERS DENYING MOTION TO TRANSFER – DECEMBER 18, 2006

TROY WADE V. COMMONWEALTH OF KENTUCKY	2006-SC-000925-T	MEADE
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COURT ORDERS DENYING PETITION FOR REHEARING – DECEMBER 21, 2006

TROY MARTIN V. COMMONWEALTH OF KENTUCKY	2004-SC-000130-MR	FAYETTE
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STEVE ROBERIE, ET AL V. ROBERT VONBOKERN, ET AL ORDER MODIFIED OPINION RENDERED AUGUST 24, 2006, TO THE EXTENT THAT IT IS ORDERED DEPUBLISHED AND IS MODIFIED BY SUBSTITUTION OF PAGE 1.	2004-SC-000250-DG	OWEN
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SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 21, 2006

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COURT ORDERS DENYING PETITION FOR REHEARING – DECEMBER 21, 2006

J. D. DAVIS V. CITY OF WINCHESTER, ET AL.	2004-SC-000820-DG	LIVINGSTON
FREDERICK CARL KRAUSE III V. COMMONWEALTH OF KENTUCKY	2004-SC-001009-DG	MCCRACKEN
JOE ALLEN EVANS V. COMMONWEALTH OF KENTUCKY	2005-SC-000133-MR	MARTIN
ALFREDO RIVERA-REYES V. COMMONWEALTH OF KENTUCKY	2005-SC-000488-MR	JEFFERSON
UNITED PARCEL SERVICE V. MELISSA MONTGOMERY, ET AL ORDER MODIFIED MEMORANDUM OF OPINION OF THE COURT RENDERED SEPTEMBER 21, 2006, BY SUBSTITUTION OF PAGES 1, 4, AND 5.	2005-SC-000791-WC	FROM COURT OF APPEALS

COURT ORDERS

COMMONWEALTH OF KENTUCKY V. CHARLES JONES ORDER CORRECTED OPINION RENDERED NOVEMBER 22, 2006, BY SUBSTITUTION OF PAGES 1 AND 3 OF THE DISSENTING OPINION BY JUSTICE SCOTT AND SUBSTITUTION OF PAGE 1 OF THE MAJORITY OPINION. ENTERED: DECEMBER 1, 2006	2004-SC-001017-DG	HARLAN
JACOB AARON WISEMAN V. COMMONWEALTH OF KENTUCKY ORDER DISMISSED APPEAL. ENTERED: DECEMBER 18, 2006	2005-SC-000887-MR	HARDIN

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 21, 2006

RELEASED: 2:00 P.M.

COURT ORDERS

RONNIE GAY CORNETT V. COMMONWEALTH OF KENTUCKY ORDER CORRECTED OPINION RENDERED NOVEMBER 22, 2006, BY SUBSTITUTION OF PAGES 1 AND 19. ENTERED: NOVEMBER 30, 2006	2006-SC-000032-MR	BOYLE
KENTUCKY BAR ASSOCIATION V. DAVID S. O'BRIEN ORDER CORRECTED OPINION AND ORDER ENTERED NOVEMBER 22, 2006, BY SUBSTITUTION OF PAGES 1, 2, AND 4. ENTERED: NOVEMBER 29, 2006	2006-SC-000571-KB	IN SUPREME COURT
COMMONWEALTH OF KENTUCKY V. BRIAN KEITH MOORE ORDER DISMISSED APPEAL. ENTERED: DECEMBER 18, 2006	2006-SC-000706-MR	JEFFERSON
MARK CURTIS ARFLACK V. STEPHEN HAYDEN, JUDGE HENDERSON CIRCUIT COURT ORDER DISMISSED APPEAL. ENTERED: NOVEMBER 30, 2006	2006-SC-000722-OA	FROM COURT OF APPEALS
CRAIG L. MILNER V. HONORABLE THOMAS WINGATE, JUDGE FRANKLIN CIRCUIT COURT, ET AL. ORDER DISMISSED APPEAL. ENTERED: DECEMBER 12, 2006	2006-SC-000834-MR	FROM COURT OF APPEALS

SUPREME COURT OF KENTUCKY

MINUTES

DECEMBER 21, 2006

RELEASED: 2:00 P.M.

**COURT ORDER PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF
THE KENTUCKY BAR ASSOCIATION- NOVEMBER 28, 2006**

LAURA BETH PICKENS V.
KENTUCKY BAR ASSOCIATION

2006-SC-000867

IN SUPREME
COURT

MICHAEL PATRICK STUDEBAKER V.
KENTUCKY BAR ASSOCIATION

2006-SC-000868

IN SUPREME
COURT