

UPDATED: 01/05/2010

**JANUARY 2010**  
**ORAL ARGUMENT**  
**CALENDAR**

**1/5/2010**

**JANUARY, 2010**

**COURT MEETING WILL NOT BE HELD**

**January 12, 2010**

**10:00 A.M., (FRANKFORT TIME) MOTION PANEL,  
SR. JUDGE KNOPF, PRESIDING, JUDGE KELLER AND  
JUDGE STUMBO.**

**PHONE NUMBERS WHERE PANEL MEMBERS CAN BE REACHED WHEN ORAL  
ARGUMENTS SCHEDULED:**

**FRANKFORT – Contact Mary Zagale (502) 573-7920**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Wednesday, January 13, 2010**

**10:00 AM PJ: KNOPF, HON. WILLIAM L. CAPERTON, HON. MICHAEL O. STUMBO, HON. JANET L.**

**2008CA002124 BRENDA SHELL v DAVID A. HAGGARD**

**2008CA002272**

Appeal and cross-appeal from a jury verdict and judgment of the Fayette Circuit Court finding no liability in a personal injury action. Appellant argues that the circuit court erred by not permitting a "negligence per se" jury instruction and by excluding certain evidence. Appellee seeks to affirm the judgment but argues on cross-appeal that he was entitled to a directed verdict.

**CIVIL FAYETTE COUNTY HON JAMES D ISHMAEL**

Appellant Atty:

**WALLINGFORD, WILLIAM**

Appellant Name:

**SHELL, BRENDA**

Appellee Atty:

**TRAVIS, THOMAS**

Appellee Name:

**HAGGARD, DAVID**

**\*\* NOTE:**

**10:45 AM PJ: KNOPF, HON. WILLIAM L. CAPERTON, HON. MICHAEL O. STUMBO, HON. JANET L.**

**2009CA000160 STANFORD HEALTH & REHABILITATION CENTER v LUCILLE BROCK**

Interlocutory appeal from an order of the Lincoln Circuit Court denying Appellant's motion to compel arbitration in a nursing home negligence action. The circuit court concluded that the arbitration agreement in question was unenforceable because it was: (1) unconscionable; and (2) not executed by the applicable party or anyone authorized to act on his behalf.

**CIVIL LINCOLN COUNTY HON DAVID A. TAPP**

Appellant Atty:

**GUILD, A JR  
SCHOENBAECHLER, EDWARD**

Appellant Name:

**STANFORD HEALTH & REHABILITATION CENTER**

Appellee Atty:

**BALETTE, JACQUES  
CHILDERS, MASTEN II**

Appellee Name:

**BROCK, LUCILLE**

**\*\* NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Wednesday, January 13, 2010**

**11:30 AM PJ: KNOPF, HON. WILLIAM L. CAPERTON, HON. MICHAEL O. STUMBO, HON. JANET L.**  
**2009CA000455 SOLHEIM ROOFING, INC. v GRANGE MUTUAL CASUALTY COMPANY**

Appeal from the Franklin Circuit Court's entry of summary judgment against Appellant in an underinsured motorist (UIM) benefits insurance case. At issue is: (1) whether Appellant waived her right to receive UIM benefits by signing a general liability release issued to the underlying tortfeasor; and (2) whether Appellant met the requirements for coverage under the UIM policy.

<b>CIVIL</b>	<b>FRANKLIN COUNTY</b>	<b>HON PHILLIP J. SHEPHERD</b>
	<u>Appellant Atty:</u>	<u>Appellant Name:</u>
	<b>HAWKINS, MICHAEL</b>	<b>SOLHEIM ROOFING, INC.</b>
	<u>Appellee Atty:</u>	<u>Appellee Name:</u>
	<b>DUNLAP, WHITNEY III MANSFIELD, LESLIE</b>	<b>GRANGE MUTUAL CASUALTY COMPANY</b>

**\*\* NOTE:**

**1:30 PM PJ: STUMBO, HON. JANET L. CAPERTON, HON. MICHAEL O. KNOPF, HON. WILLIAM L.**  
**2009CA000600 ERNEST ABNEY v KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY**

MOR appeal from grant of summary judgment in suit claiming release settling an automobile accident claim was improperly obtained. Issue is whether trial court erred in holding that there was no issue of fact about whether claims' adjuster falsely or recklessly stated that release was to one potential tortfeasor but not as to others. Additional claims include that insurance company negligently trained adjuster.

<b>CIVIL</b>	<b>BOURBON COUNTY</b>	<b>HON ROBERT G. JOHNSON</b>
	<u>Appellant Atty:</u>	<u>Appellant Name:</u>
	<b>DECKER, JAMES</b>	<b>ABNEY, ERNEST</b>
	<u>Appellee Atty:</u>	<u>Appellee Name:</u>
	<b>COLSON, GUY WEST, TIMOTHY</b>	<b>KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY</b>

**\*\* NOTE:ORIGINALLY 2:15 PM**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Thursday, January 21, 2010**

**01:45 PM PJ: TAYLOR, HON. JEFF S.**

**CLAYTON, HON. DENISE G.**

**WINE, HON. THOMAS B.**

**2008CA001340 CHARLES E. SMITH v COMMONWEALTH OF KENTUCKY**

**2008CA001374**

2008-CA-001340 – whether appellant was deprived of a jury representing a fair cross section of the community; whether circuit court erred by admitting certain statements into evidence; whether circuit court erred in its jury instructions; 2008-CA-001374 – whether appellant was deprived of a jury representing a fair cross section of the community; whether trial court erred by allowing trial to continue with 11 jurors; whether jury was incorrectly instructed on complicity.

**CRIMINAL**

**MADISON COUNTY**

**HON WILLIAM T JENNINGS**

Appellant Atty:

**BALLIET, SUSAN  
SCHMIDT, KATHLEEN**

Appellant Name:

**SMITH, CHARLES**

Appellee Atty:

**CROSS, JEFFREY**

Appellee Name:

**COMMONWEALTH OF KENTUCKY**

**\*\* NOTE:50 MINUTE ORAL**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Monday, January 25, 2010**

**10:30 AM PJ: KELLER, HON. MICHELLE M. ACREE, HON. GLENN E. LAMBERT, HON. JAMES H.**

**2007CA002241 EDWARD JOSEPH MITCHELL III v COMMONWEALTH OF KENTUCKY**

**2007CA002260**

A father and son appeal the circuit court's denial of their RCr 11.42 petitions for ineffective assistance of counsel. The Appellants argue that there existed an actual conflict of interest and that the absence of compliance with RCr 8.30 regarding dual representation constituted palpable error.

**CRIMINAL**

**JEFFERSON COUNTY**

**HON THOMAS L CLARK**

Appellant Atty:

**WOLFF, DARREN**

Appellant Name:

**MITCHELL, EDWARD**

Appellee Atty:

**MILLER, CHRISTIAN**

Appellee Name:

**COMMONWEALTH OF KENTUCKY**

**\*\* NOTE:**

**11:15 AM PJ: KELLER, HON. MICHELLE M. ACREE, HON. GLENN E. LAMBERT, HON. JAMES H.**

**2009CA000025 KENTUCKY FARM BUREAU INSURANCE v JOYCE & SONS INC.**

Appellant appeals from summary judgment and argues that its personal property damages claim and its real property damages claim were improperly dismissed.

**CIVIL**

**JEFFERSON COUNTY**

**HON IRV MAZE**

Appellant Atty:

**EDWARDS, PHILIP**

Appellant Name:

**KENTUCKY FARM BUREAU INSURANCE**

Appellee Atty:

**DEVER, MARIE**

**PRICE, FINIS III**

Appellee Name:

**JOYCE & SONS INC.**

**WEIHE, RODGER**

**\*\* NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Monday, January 25, 2010**

**01:30 PM PJ: LAMBERT, HON. JOSEPH E.**

**KELLER, HON. MICHELLE M.**

**WINE, HON. THOMAS B.**

**2009CA000874 JESSE GARDNER v VISION MINING, INC.**

Workers' Compensation appeal – issue is constitutionality of KRS 342.216 and whether that statute violates equal protection rights of coal miners (miners injured by exposure to coal dust versus workers exposed to other particulates).

**WORKERS COMP**

**WORKERS' COMP COUNTY**

**HON JOHN A GARDNER**

Appellant Atty:

**SPRINGER, THOMAS III**

Appellant Name:

**GARDNER, JESSE**

Appellee Atty:

**GOTT, DOUGLAS**

**FINALDI, ANTHONY**

**LOVAN, DWIGHT**

Appellee Name:

**GOTT, DOUGLAS**

**VISION MINING, INC.**

**WORKERS' COMPENSATION BOARD**

**\*\* NOTE:**