

January 2023

Oral Argument Calendar

Motion Panel

Judge James Lambert, Presiding Judge
Judge Glenn Acree and
Judge Jeff Taylor, Associate Judges

Contact Natasha Coates for Oral Arguments – (502) 573-7920

Kentucky Court of Appeals

Oral Argument Calendar

Thursday, January 12, 2023

Location: FAYETTE COUNTY CIRCUIT COURTHOUSE, 120 NORTH LIMESTONE,
LEXINGTON, KY

**10:00 AM
(EST)** **HEATHER JONES, AS SISTER OF NICOLE WAGNER AND AS ADMINISTRATRIX AND
ON BEHALF OF THE ESTATE OF NICOLE WAGNER, ET. AL. V. ACUITY, A MUTUAL
INSURANCE COMPANY**

[2021-CA-0834](#)

Presiding Judge: HON. SUSANNE M. CETRULO

Associate Judges: HON. SARA W. COMBS and HON. PAMELA R. GOODWINE

This is an appeal from a Summary Judgment entered by the Harrison Circuit Court in favor of Acuity Mutual finding that an insurance policy did not provide coverage for a fatal shooting of appellant's decedent even though its insured pled guilty to second degree manslaughter. The trial court also found that the shooting did not arise from the use of a motor vehicle, so coverage was denied.

HARRISON County, HON. JAY B. DELANEY

Attorneys for Appellant: Alfred John Welsh and David Vandeventer

Attorney for Appellee: Kenneth Andrew Calderone

Thursday, January 19, 2023

Location: SARA WALTER COMBS COURTROOM, KENTUCKY COURT OF APPEALS, 360 DEMOCRAT DR., FRANKFORT, KY

11:00 AM (EST) MARY B. BECKER V. BAPTIST HEALTH MEDICAL GROUP, INC., D/B/A BAPTIST MEDICAL ASSOCIATES

[2022-CA-0074](#)

Presiding Judge: HON. GLENN E. ACREE

Associate Judges: J. CHRISTOPHER McNEILL and HON. LARRY E. THOMPSON

Employment Law; Appellant sued Appellee for breach of contract, tortious interference with contract, wrongful discharge, retaliation in violation of KRS 342.197, age discrimination, and perceived disability discrimination. During a pre-trial conference, the trial court considered Appellee's motion for summary judgment, gave reasons verbally on the record for its decision regarding the motion and response, then granted summary judgment as to all Appellant's claims. Appellant appeals, arguing genuine issues of material fact exist requiring reversal of the judgment.

JEFFERSON County, HON. ERIC JOSEPH HANER

Attorneys for Appellant: Abigail Victoria Lewis and Laura Elizabeth Landenwich

Attorneys for Appellee: Alina Klimkina, August Tyler Johannsen and Donna King Perry

11:45 AM (EST) JAIME MORALES V. CITY OF GEORGETOWN, KENTUCKY, ET. AL.

[2022-CA-0009](#)

Presiding Judge: HON. GLENN E. ACREE

Associate Judges: J. CHRISTOPHER McNEILL and HON. LARRY E. THOMPSON

Negligence, governmental immunity; Whether summary judgment was proper where circuit court determined individual police officers, police department, and municipality were entitled to immunity from negligence claims brought by Appellant police officer.

SCOTT County, HON BRIAN PRIVETT

Attorneys for Appellant: Elizabeth Catesby Woodford, Elliott Clay Miller, and Thomas Walcutt Miller

Attorneys for Appellee: Jeffrey Charles Mando, Devon Elise Golden, Lyndol Scott Miller, Maureen Camilla Malles, and Jason B Bell

Thursday, January 19, 2023

Location: SARA WALTER COMBS COURTROOM, KENTUCKY COURT OF APPEALS, 360 DEMOCRAT DR., FRANKFORT, KY

1:00 PM
(EST)

KRISTINA L. IVES, INDIVIDUALLY, ET. AL. V. HMB PROFESSIONAL ENGINEERS, INC., ET. AL.

[2021-CA-1187, 2021-CA-1223, 2021-CA-1445, 2021-CA-1501](#)

Presiding Judge: HON. ALLISON E. JONES

Associate Judges: HON. GLENN E. ACREE, HON. JAMES H. LAMBERT

Following a car accident resulting in the death of one person, and serious injury to another, the decedent's estate and a crash survivor appeal the orders of the Fayette Circuit Court granting summary judgment to the various Appellee highway engineers of a particular stretch of Interstate 65 along Hart County. The case involves whether the engineers are entitled to immunity, and/or whether the claims against them are federally preempted.

FAYETTE County, HON. KIMBERLY N BUNNELL

Attorneys for the Appellants: Benjamin Kessinger, III, Mason Moore Kessinger; JR., Bartley Kemble Hagerman, and Erik David Peterson

Attorneys for the Appellees: William Gerard Geisen, Megan K. George, John Wickliffe Hays Kenneth Bradley Oakley, John Daniel Clay, Denise Michelle Motta, and Alexander Hammond Gardner

Wednesday, January 25, 2023

Location: GRAYSON COUNTY JUDICIAL CENTER, 500 CARROLL GIBSON BLVD., LEITCHFIELD, KY

10:30 AM (CST) COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS V. LEAH ATKINSON, ET. AL.

[2021-CA-1461](#)

Presiding Judge: HON. JEFF S. TAYLOR

Associate Judges: HON. JACQUELINE M. CALDWELL and HON. DONNA L. DIXON

Whether circuit court erred by denying appellant's motion to exclude testimony regarding the royalty rate for the coal upon condemned property.

FLOYD County, HON. THOMAS M. SMITH

Attorney for Appellant: Stacy D Conley

Attorneys for Appellees: Jarrod Owen Bentley, Robert Allen Rowe, JR., John Michael Williams, and Melanie Jane Kilpatrick

11:15 AM (CST) CLEVELAND ASKEW, JR. V. TROOPER EDWARD WHITWORTH

[2022-CA-0126](#)

Presiding Judge: HON. DONNA L. DIXON

Associate Judges: HON. JACQUELINE M. CALDWELL and HON. SUSANNE M. CETRULO

Is police officer entitled to immunity for use of deadly force in effectuating an arrest in a civil suit for damages?

JEFFERSON County, HON. CHARLES L. CUNNINGHAM, JR.

Attorney for Appellant: Adrian M Mendiondo

Attorneys for Appellee: Jason Michael Nemes and Robert Joseph Nemes
