

**UPDATED: 07/15/2009**

**JULY 2009**

**ORAL ARGUMENT**

**CALENDAR**

Report Updated On: 07/15/2009

**07/15/2009**

**JULY, 2009**

**July 7, 2009**

**12:00 NOON, FRANKFORT TIME., MOTION PANEL,  
JUDGE VANMETER, PRES., JUDGE STUMBO, AND  
JUDGE TAYLOR, ASSOC.**

**COURT MEETING WILL NOT BE HELD**

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

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

**LOUISVILLE – Contact Marti Dodd – (502) 595-3440**

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

**DATE: Tuesday, July 7, 2009**

01:00 PM PJ: HARRIS, HON. WILLIAM R.

ACREE, HON. GLENN E.

LAMBERT, HON. JAMES H.

2008CA000634 JASON P. GOODLETT v LORI M. GOODLETT

2008CA000681

2008CA001209

Appeal from a decree of dissolution of marriage where father argues that the trial court erred in its custody determination and division of marital property. On cross-appeal, mother argues that the trial court erred by denying her request for maintenance, by denying her motion for attorney fees, and erred in its division of marital property.

**FRANKLIN COUNTY**

**HON O. REED RHORER**

Appellant Atty:

Appellant Name:

FLYNN, JACK

GOODLETT, JASON

Appellee Atty:

Appellee Name:

JUDY, MICHAEL

GOODLETT, LORI

\*\* NOTE:

01:45 PM PJ: HARRIS, HON. WILLIAM R.

ACREE, HON. GLENN E.

LAMBERT, HON. JAMES H.

2008CA001615 NEWPORT INDEPENDENT SCHOOL DISTRICT/NEWPORT BOARD OF EDU. v  
COMMONWEALTH OF KENTUCKY

Appeal from an order dismissing a petition for declaratory judgment seeking a determination regarding the constitutionality of the residency requirement contained in KRS 160.350(2) where Appellant argues the statute violates equal protection.

CIVIL

**CAMPBELL COUNTY**

**HON JULIE REINHARDT WARD**

Appellant Atty:

Appellant Name:

WOLNITZEK, STEPHEN

BRANDT, MICHAEL

VOELKER, BRANDON

NEWPORT INDEPENDENT SCHOOL  
DISTRICT/NEWPORT BOARD OF EDU.

Appellee Atty:

Appellee Name:

COBB, STUART

COMMONWEALTH OF KENTUCKY

\*\* NOTE:

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

**DATE: Thursday, July 16, 2009**

10:00 AM PJ: MOORE, HON. JOY A.

WINE, HON. THOMAS B.

HENRY, HON. MICHAEL L.

2008CA000300

DAVID LAMAR HAMILTON v COMMONWEALTH OF KENTUCKY

Whether the trial court erred in not holding a Daubert hearing on Shaken Baby Syndrome.

CRIMINAL

MCCRACKEN COUNTY

HON CRAIG Z CLYMER

Appellant Atty:

Appellant Name:

BALLIET, SUSAN

HAMILTON, DAVID

SCHMIDT, KATHLEEN

Appellee Atty:

Appellee Name:

ABNER, DAVID

COMMONWEALTH OF KENTUCKY

\*\* NOTE:

10:45 AM PJ: WINE, HON. THOMAS B.

MOORE, HON. JOY A.

HENRY, HON. MICHAEL L.

2008CA001307

CLIFFORD NEW v LYNDON PROPERTY INSURANCE COMPANY

2008CA001334

Appeal and cross appeal holding the News liable to Lyndon as guarantors on a bond. Appeal: genuine issues of material fact on fraud in the inducement and ordinary care. Cross-appeal: Attorney fees and costs.

CIVIL

FRANKLIN COUNTY

HON THOMAS D. WINGATE

Appellant Atty:

Appellant Name:

MAZZOLI, ENRICO

NEW, CLIFFORD

WATERS, ROBERT

Appellee Atty:

Appellee Name:

BOHNERT, KENNETH

LYNDON PROPERTY INSURANCE COMPANY

FUST-RUTHERFORD, JENNIFER

SULLIVAN, RICHARD

\*\* NOTE:40 MINUTE ORAL

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Monday, July 20, 2009**

01:30 PM PJ: COMBS, HON. SARA W.

NICKELL, HON. C. SHEA

TAYLOR, HON. JEFF S.

2008CA000263

LOUISVILLE GALLERIA, LLC v SCARBOROUGH MECHANICAL SERVICES, INC.

2008CA000328

This appeal involves a thorough inquiry into the proper interpretation of various statutory requirements of Kentucky's mechanics lien process - from notice to mitigation of damages.

CIVIL

JEFFERSON COUNTY

HON KATHLEEN VOOR MONTANO

Appellant Atty:

Appellant Name:

GRIFFITH, ROBERT

LOUISVILLE GALLERIA, LLC

MCTIGHE, CHADWICK

Appellee Atty:

Appellee Name:

COOMBS, RONALD

SCARBOROUGH MECHANICAL SERVICES, INC.

\*\* NOTE:

02:15 PM PJ: NICKELL, HON. C. SHEA

COMBS, HON. SARA W.

TAYLOR, HON. JEFF S.

2007CA001785

DAVINDER SAHNI v JANETT HOCK

2007CA002421

Whether trial court erred in failing to dismiss a shareholder derivative action alleging a breach of fiduciary duty against defendant-appellant, a majority shareholder, director, and officer of the corporation, where plaintiff-appellee allegedly: (1) failed to satisfy statutory demand requirements, (2) did not fairly and adequately serve as shareholder representative, and (3) lacked standing to institute and maintain the action. Alternatively, defendant-appellant requests a reduction in jury-awarded damages. On cross appeal, plaintiff below urges reversal of court's award of attorneys' fees to defendants below alleging it was excessive, improper and the statute authorizing the award is unconstitutional.

CIVIL

JEFFERSON COUNTY

HON DENISE G. CLAYTON

Appellant Atty:

Appellant Name:

CALABRESE, JEFFREY

SAHNI, DAVINDER

DILGER, CRAIG

Appellee Atty:

Appellee Name:

BRIGHTWELL, BRUCE

HOCK, JANETT

\*\* NOTE:

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Monday, July 20, 2009**

03:00 PM PJ: KNOFF, HON. WILLIAM L.

CLAYTON, HON. DENISE G.

TAYLOR, HON. JEFF S.

2008CA001174 J. J. v G. R.

2008CA001175

The appeal involves two cases. (1) Appeal made on behalf of a minor child asserting child should have been allowed to intervene in his half-sibling's adoption proceedings. Issues include whether child's motion to intervene was a proper pleading and whether child had standing to intervene; (2) Appeal from an order denying a grandmother's motion to intervene in her granddaughter's adoption proceedings.

**BOONE COUNTY**

**HON LINDA R. BRAMLAGE**

Appellant Atty:

CRABTREE, JOSHUA  
RUCK, THERESA

Appellant Name:

J., J.

Appellee Atty:

CRIDER, GEORGE

WOMACK, MONA

JACKSON, SAMANTHA  
TABAR, M

HELMER, DENNIS

Appellee Name:

C., G.

CABINET FOR HEALTH AND FAMILY SERVICES

J, S.

R., G.

\*\* NOTE:40 MINUTE ORAL

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Tuesday, July 21, 2009**

10:45 AM PJ: TAYLOR, HON. JEFF S.

COMBS, HON. SARA W.

NICKELL, HON. C. SHEA

2008CA001958

**NELSON COUNTY BOARD OF EDUCATION v GENE A. FORTE**

Whether circuit court properly reversed the Board of Claims' decision dismissing appellee's negligence claim as time-barred.

CIVIL

NELSON COUNTY

HON CHARLES C. SIMMS

Appellant Atty:

Appellant Name:

CASSIS, CHARLES  
SILLETTO, AARON

NELSON COUNTY BOARD OF EDUCATION

Appellee Atty:

Appellee Name:

RAIKES, LARRY

FORTE, GENE

MATTINGLY, GEORGE

KENTUCKY BOARD OF CLAIMS

\*\* NOTE:

11:30 AM PJ: TAYLOR, HON. JEFF S.

COMBS, HON. SARA W.

NICKELL, HON. C. SHEA

2008CA001157

**ROBERT A. JACOB v PHILIP O. DRIPCHAK**

Whether circuit court properly confirmed arbitrator's awards.

CIVIL

JEFFERSON COUNTY

HON MARTIN F MCDONALD

Appellant Atty:

Appellant Name:

FRIEDMAN, DAVID

JACOB, ROBERT

Appellee Atty:

Appellee Name:

ALEXANDER, STUART III  
HILLERICH, GARY  
SCHOEN, KATHLEEN

DRIPCHAK, PHILIP

\*\* NOTE:

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Thursday, July 23, 2009**

12:30 PM PJ: CLAYTON, HON. DENISE G. THOMPSON, HON. KELLY LAMBERT, HON. JOSEPH E.

2007CA002167 JAMES M. THORNSBERRY v KENTUCKY POWER COMPANY

2007CA002201

Jury verdict on behalf of defendant involving claim for loss of parental consortium. Additionally, appellant argues that the court erroneously instructed the jury as to appellee's common law duties and appropriate standard of care. Appeal and cross-appeal filed.

CIVIL FLOYD COUNTY HON DANNY P CAUDILL

Appellant Atty:

COLLINS, NATHANIEL  
VAUGHN, NICHOLAS

Appellant Name:

THORNSBERRY, JAMES

Appellee Atty:

MAY, RANDALL

Appellee Name:

KENTUCKY POWER COMPANY

\*\* NOTE:

01:15 PM PJ: THOMPSON, HON. KELLY CLAYTON, HON. DENISE G. LAMBERT, HON. JOSEPH E.

2008CA001265 WENDELL RIGSBY v ASHLAND INC.

2008CA001428  
2008CA001429  
2008CA001430  
2008CA001431  
2008CA001432

Appellants settled action with appellee Ashland Inc. Appellee made cash settlement payment to appellants and agreed to correct radioactive waste resulting from oil production activities. Appellants filed with the trial ct info that oil production cont'dto contain illegal hazardous and toxic levels of radioactive materials. Trial ct ordered funds paid to appellants in settlement must be returned to appellee. When the funds were not returned, the trial court dismissed the appellants' request for relief.

CIVIL JOHNSON COUNTY HON JOHN DAVID PRESTON

Appellant Atty:

SISCO, EUGENE JR  
THOMPSON, KEVIN

Appellant Name:

RIGSBY, WENDELL

Appellee Atty:

BILLINGS, JOHN  
CHESNUT, ANNE  
JOHNSON, BRIAN  
SCHMITT, MICHAEL  
SCOTT, PHILLIP  
STINNETT, MATTHEW

Appellee Name:

ASHLAND INC.

\*\* NOTE:ORIGINALLY 2:00 PM