

UPDATED 03/11/2008

**MARCH 2008**

**ORAL ARGUMENT**

**CALENDAR**

03/11/2008

**MARCH, 2008**

**March 4, 2008**

**8:45 – 9:00 A.M., SHOW CAUSE HEARING,  
#2006-CA-000489, DAVID WHEATLEY V.  
JOINT CITY-COUNTY PLANNING COMMISSION  
OF NELSON COUNTY, KY, JUDGE DIXON, PRES.,  
JUDGE CLAYTON AND JUDGE WINE, ASSOC.**

**9:15 – 9:45 AM., ORAL ARGUMENT,  
#2007-CA-000548, PRISCILLA PARKER V. PEDIATRIC  
ACUTE CARE, PSC., JUDGE STUMBO, PRES.,  
JUDGE DIXON, AND JUDGE WINE, ASSOC.**

**10:00 AM., FULL COURT MEETING**

**12:30 – 1:00 P.M., ORAL ARGUMENT,  
#2007-CA-001783, L.P. V. CABINET FOR HEALTH  
AND FAMILY SERVICES, JUDGE CAPERTON, PRES.,  
JUDGE LAMBERT AND JUDGE THOMPSON, ASSOC.**

**1:15 – 1:45 P.M., SHOW CAUSE HEARING  
#2007-CA-000497, MARIANNA ASHEY V. CITY OF  
LAGRANGE, ET AL., JUDGE TAYLOR, PRES.,  
JUDGE NICKELL AND SR. JUDGE BUCKINGHAM,  
ASSOC.**

**1:30 P.M., MOTION PANEL, JUDGE CLAYTON, PRES.,  
JUDGE VANMETER, AND SR. JUDGE KNOPF, ASSOC.**

**2:45 – 3:00 P.M., SHOW CAUSE HEARING,  
#2007-CA-000265, BRENDA PENNINGTON V.  
BENNIE JACOBS, ET AL., JUDGE VANMETER, PRES.,  
JUDGE ACREE AND JUDGE KELLER, ASSOC.**

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

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

**LOUISVILLE – Contact Linda Fox (502) 595-3430**

**BOWLING GREEN – Contact Jim Gildersleeve (270) 746-7411**

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

DATE: Monday, March 03, 2008

1:00 PM PJ: COMBS DIXON KNOFF  
2007CA000148 LEILANI CHRISTY CAREY VS DONALD JAYNES ET AL.

Biological child was disinherited from father's will for failure to meet definitional terms of his will. She contests entry of summary judgment against her.

CIVIL MADISON COUNTY JULIA HYLTON ADAMS

Appellant Atty:

Appellant Name:

.....  
PETERS, FRED E.

.....  
LEILANI CHRISTY HALE CAREY

Appellee Atty:

Appellee Name:

.....  
PUCKETT, GREGORY KEITH

.....  
DONALD JAYNES  
RUSSELL CRAIG HALE  
WHITNEY S. HALE

1:45 PM PJ: KNOFF COMBS DIXON  
2006CA002232 MORRIS MOOR VS LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Appeal from a summary judgment against an employee claiming wrongful termination in violation of the Kentucky Whistleblower Act & KRS 61.102.

CIVIL FAYETTE COUNTY PAMELA R GOODWINE

Appellant Atty:

Appellant Name:

.....  
ABELL, ROBERT L.

.....  
MORRIS H. MOOR

Appellee Atty:

Appellee Name:

.....  
MOORMAN, KEITH  
ZERGA, CAROLYN C

.....  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

2:30 PM PJ: KNOFF COMBS DIXON  
2007CA001304 DONALD CHRISTY VS COMMONWEALTH OF KENTUCKY

Appeal from an order denying motion to prohibit enhancement of DUI because the first DUI conviction occurred when appellant was 16 years of age.

CRIMINAL MASON COUNTY STOCKTON B. WOOD

Appellant Atty:

Appellant Name:

.....  
SCHMIDT, KATHLEEN K.  
YANG, ERIN HOFFMAN

.....  
DONALD T. CHRISTY  
DONALD T. CHRISTY

Appellee Atty:

Appellee Name:

.....  
BARR, DAVID W

.....  
COMMONWEALTH OF KENTUCKY

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

DATE: Tuesday, March 04, 2008

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8:45 AM PJ: DIXON CLAYTON WINE  
2006CA000489 DAVID WHEATLEY ET AL. VS JOINT CITY-COUNTY PLANNING COMMISSION  
OF NELSON COUNTY, KY

CIVIL NELSON COUNTY CHARLES C. SIMMS III

Appellant Atty:

Appellant Name:

.....  
WILLETT III, JAMES P

.....  
BARDSTOWN AUTO SALES, INC.  
BARDSTOWN AUTO WRECKERS, INC.  
DAVID WHEATLEY

Appellee Atty:

Appellee Name:

.....  
COEN, MICHAEL E

.....  
JOINT CITY-COUNTY PLANNING COMMISSION OF NELSON COUNTY, KY

**\*\*NOTE:SHOW CAUSE HEARING**

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9:15 AM PJ: STUMBO DIXON WINE  
2007CA000548 PRISCILLA PARKER VS PEDIATRIC ACUTE CARE, P.S.C.

Appeal from Summary Judge granted in retaliatory discharge and sexually hostile work environment case; sufficiency of evidence to overcome motion for summary judgment granted employer.

CIVIL JEFFERSON COUNTY DENISE CLAYTON

Appellant Atty:

Appellant Name:

.....  
BATES, CHRISTOPHER A.  
EFFINGER, CYNTHIA L.

.....  
PRISCILLA PARKER  
PRISCILLA PARKER

Appellee Atty:

Appellee Name:

.....  
PRIZANT, LOREN TELLER  
QUESENBERRY, KATHRYN A

.....  
PEDIATRIC ACUTE CARE, P.S.C.  
PEDIATRIC ACUTE CARE, P.S.C.

**\*\*NOTE:ORIGINALLY 1/8/08 AT 9:15 AM AND 2/5/08 AT 9:15 AM**

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

DATE: Tuesday, March 04, 2008

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12:30 PM PJ: CAPERTON LAMBERT THOMPSON  
2007CA001783 L. P. ET AL. VS CABINET FOR HEALTH AND FAMILY SERVICES ET AL.

Appeal from denial of grandparents request to intervene in termination proceeding and a request for custody. Advance.

KENTON COUNTY

LISA O. BUSHELMAN

Appellant Atty:

Appellant Name:

.....  
VOORHEES, MICHAEL RYAN

.....  
L. J. P.  
M. J. P.

Appellee Atty:

Appellee Name:

.....  
KLOEKER, CYNTHIA  
SALYER, MARY MILLER

.....  
CABINET FOR HEALTH AND FAMILY SERVICES  
D. J. P.

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1:15 PM PJ: TAYLOR NICKELL BUCKINGHAM  
2007CA000497 MARIANNA ASHEY VS CITY OF LAGRANGE ET AL.

Public Right of way/Abandonment.

CIVIL

OLDHAM COUNTY

TIMOTHY E. FEELEY

Appellant Atty:

Appellant Name:

.....  
TALBOTT, ALEX

.....  
MARIANNA ASHEY

Appellee Atty:

Appellee Name:

.....  
COHEN, JOSEPH H  
HELM, WADE HAMPTON

.....  
THE LAGRANGE PARK BOARD  
CITY OF LAGRANGE  
THE CITY OF LAGRANGE FOUNDATION, INC.  
CITY OF LAGRANGE  
THE CITY OF LAGRANGE FOUNDATION, INC.  
THE LAGRANGE PARK BOARD  
THE LAGRANGE PARK BOARD

HERSHBERG, PAUL J.

LINKER, ALAN N

\*\*NOTE:SHOW CAUSE HEARING

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

DATE: Tuesday, March 04, 2008

2:45 PM

PJ: VANMETER

ACREE

KELLER

2007CA000265

BRENDA PENNINGTON VS BENNIE JACOBS ET AL.

CIVIL

LINCOLN COUNTY

JEFFREY T BURDETTE

Appellant Atty:

Appellant Name:

.....  
SEBASTIAN, RUTH A

.....  
BRENDA PENNINGTON

Appellee Atty:

Appellee Name:

.....  
BAKER, ROBERT R

.....  
BENNIE JACOBS  
SUE ELLEN WILSON

\*\*NOTE:SHOW CAUSE HEARING

LOCATION: WARREN COUNTY JUDICIAL CENTER, CIRCUIT COURTROOM C, 4TH FLOOR, 1001 CENTER STREET, BOWLING GREEN, KENTUCKY

DATE: Wednesday, March 05, 2008

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1:00 PM PJ: MOORE WINE BUCKINGHAM

2007CA001239 DIANA SMITH VS DENECA MCCURDY ET AL.

Whether decedent's estate could bring a wrongful death action rather than a survival action and how damages should have been distributed.

CIVIL MARSHALL COUNTY DENNIS R. FOUST

Appellant Atty:

Appellant Name:

.....  
ADAMS, WILLIAM C

.....  
DIANA SMITH

Appellee Atty:

Appellee Name:

.....  
HOPKINS, WARREN K.

.....  
DENECA MCCURDY  
DENECA MCCURDY  
DENECA MCCURDY

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1:45 PM PJ: WINE MOORE BUCKINGHAM

2006CA000539 GORDON SETTLOW VS ALICE SETTLOW

2006CA000610;  
2007CA000171

Gordon Settlow appeals from an order requiring him to pay permanent maintenance in the amount of \$2,100.00 per month. Alice Settlow cross-appeals arguing that the trial court failed to consider applicable law in awarding an inadequate amount of permanent maintenance.

CIVIL TRIGG COUNTY BILL CUNNINGHAM

Appellant Atty:

Appellant Name:

.....  
DEATHERAGE JR, WILLIAM G

.....  
GORDON JAY SETTLOW

Appellee Atty:

Appellee Name:

.....  
MOORE, DOV

.....  
ALICE JEAN HAENDIGES SETTLOW

LOCATION: MONTGOMERY COUNTY CIRCUIT COURTROOM, COURTHOUSE, 1  
COURT STREET, MT. STERLING, KENTUCKY

DATE: Thursday, March 13, 2008

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10:15 AM PJ: STUMBO ACREE GRAVES  
2007CA000376 JERRY WOOLUM, M.D. ET AL. VS LISA HILLMAN ET AL.  
2007CA000499 Appeal from plaintiff's verdict in medical malpractice case; issues include denial of directed verdict, evidentiary rulings and jury misconduct.

CIVIL BELL COUNTY JAMES L BOWLING JR

Appellant Atty:

Appellant Name:

.....  
NABER, KIMBERLEY S.

.....  
JERRY L. WOOLUM, M.D.

WOOLUM & COMBS-WOOLUM, P.S.C.

SCHILLER JR., RICHARD PAUL

JERRY L. WOOLUM, M.D.

WOOLUM & COMBS-WOOLUM, P.S.C.

TONER, GERALD R

JERRY L. WOOLUM, M.D.

WOOLUM & COMBS-WOOLUM, P.S.C.

VESELY, KATHERINE K

JERRY L. WOOLUM, M.D.

WOOLUM & COMBS-WOOLUM, P.S.C.

Appellee Atty:

Appellee Name:

.....  
BATTEN II, BRUCE CLARK

.....  
LISA ANN HILLMAN

O'BRIEN III, STEPHEN M.

AARON HILLMAN

LISA ANN HILLMAN

LISA ANN HILLMAN

LISA ANN HILLMAN

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11:00 AM PJ: STUMBO ACREE GRAVES  
2007CA000699 KENTUCKY ASSOCIATED GENERAL CONTRACTORS SELF-INSURANCE  
FUND VS MUSIC CONSTRUCTION, INC.

2007CA000736 Appeal from order dismissing action for failure to state a claim. Can workers' Comp carrier recover payments of safety violation award from insured employer under terms of insurance contract?

CIVIL MONTGOMERY COUNTY BETH LEWIS MAZE

Appellant Atty:

Appellant Name:

.....  
U'SELLIS, DOUGLAS A.

.....  
KENTUCKY ASSOCIATED GENERAL CONTRACTORS SELF-INSURANCE  
FUND

Appellee Atty:

Appellee Name:

.....  
HOLMES, ELAINA LELL

.....  
MUSIC CONSTRUCTION, INC.



LOCATION: ALLEN COURTROOM, BRANDEIS SCHOOL OF LAW, UNIVERSITY OF LOUISVILLE, 2301 SOUTH THIRD STREET, LOUISVILLE, KENTUCKY

DATE: Tuesday, March 18, 2008

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1:30 PM PJ: TAYLOR KELLER VANMETER

2006CA002415 SHERRY COLEMAN VS RIF EL-MALLAKH, M.D. ET AL.

Whether circuit court properly dismissed appellant's action under CR 77.02.

CIVIL JEFFERSON COUNTY MARTIN F MCDONALD

Appellant Atty:

Appellant Name:

.....  
BURKE, KEVIN C.

.....  
SHERRY COLEMAN

Appellee Atty:

Appellee Name:

.....  
CALABRESE, MELISSA FARMER

.....  
RIF EL-MALLAKH, M.D.  
UNIVERSITY MEDICAL CENTER, INC.  
UNIVERSITY PSYCHIATRIC SERVICES,P.S.C.

O'BRYAN, CHRISTOPHER P

RIF EL-MALLAKH, M.D.  
UNIVERSITY MEDICAL CENTER, INC.  
UNIVERSITY PSYCHIATRIC SERVICES,P.S.C.

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2:15 PM PJ: TAYLOR KELLER VANMETER

2006CA002612 DONALD FIELDS VS COMMONWEALTH OF KENTUCKY

Whether circuit court properly denied appellant's RCr 11.42 motion and found appellant competent after retrospective competency hearing.

POST-CONVICTION FAYETTE COUNTY THOMAS L CLARK

Appellant Atty:

Appellant Name:

.....  
GAFFORD, EDWARD  
SCHMIDT, KATHLEEN K.

.....  
DONALD R. FIELDS  
DONALD R. FIELDS

Appellee Atty:

Appellee Name:

.....  
MATHIAS JR, LOUIS F

.....  
COMMONWEALTH OF KENTUCKY

LOCATION: ALLEN COURTROOM, BRANDEIS SCHOOL OF LAW, UNIVERSITY OF LOUISVILLE, 2301 SOUTH THIRD STREET, LOUISVILLE, KENTUCKY

DATE: Tuesday, March 18, 2008

3:00 PM

PJ: TAYLOR

KELLER

VANMETER

2007CA000067

NANNIE AMBURN ET AL. VS SEAN DELAHANTY ET AL.

Whether circuit court properly denied petition for writ of mandamus under CR 81.

CIVIL

JEFFERSON COUNTY

ROGER L. CRITTENDEN

Appellant Atty:

Appellant Name:

ANDREWS, JACKSON MONTGOMERY

ALLAN PARKER GRAGE  
ARTHUR LESLIE THOMAS JR  
BEVERLY JOAN RENTZ WOMACK  
DAVID HERBERT REAMES III  
FRANKIE PRISCILLA JONES DABBS  
FRANKLIN JACKSON ISOM  
GARY LEE ISOM  
HILORY FRANK JONES JR  
JAMES A. HARRELL SR  
JEAN MARIE SHIRES  
JODY JANE THOMAS OCHOA  
JULIA AUGUSTA THOMAS BOYD  
MARGARET RICKER  
MARGARET BROKAW GARLAND  
MARGARET JANE GRAY GAY  
MARIANNE MARTHA WOODRUFF  
MARK GORDON WOODRUFF  
MARY ELLEN HARRELL BULLARD  
MARY FRANCES JONES ROLLINGS  
MARY GARLAND OXLEY NAPE  
MARY ISOM FAY  
MAX M. MARSHALL III  
MELISSA ELLEN WOODRUFF EHRlich  
MICHELLE MARIE MARSHALL VARAY  
NANNIE KATHERINE JONES AMBURN  
PHILIP CRAIG THOMAS  
RANDELL ALLEN THOMAS  
REBECCA ELIZABETH DICKINSON JOHNSON  
REID BRANNOCH REAMES  
RHONDA KAY ISOM BRICKELL  
RICHARD KEITH THOMAS  
RICKIE LEE THOMAS  
SANDA GRAGE LEIBKEMANN  
SHARON MARGARET BROKAW TANNER  
SHAWN TERESA BROKAW NESBITT

LOCATION: ALLEN COURTROOM, BRANDEIS SCHOOL OF LAW, UNIVERSITY OF LOUISVILLE, 2301 SOUTH THIRD STREET, LOUISVILLE, KENTUCKY

DATE: Tuesday, March 18, 2008

THOMAS MARSHALL  
TINA ISOM WILTSEY  
WARDER LEE SHIRES  
WILLIAM MITCHELL CROWE JR

Appellee Atty:

Appellee Name:

.....  
BOBROW, ROBERT D.

DELAHANTY, SEAN R

PARRENT III, HOMER

STOPHER, ROBERT E.

.....  
FOSTER L. HAUNZ  
MICHAEL R. SCHWARTZ  
MICHAEL R. SCHWARTZ  
SEAN R. DELAHANTY  
CHARLES III MIDDLETON  
PARKER & CALL  
WILLIAM A. WHITAKER  
FOSTER L. HAUNZ  
MICHAEL R. SCHWARTZ

LOCATION: ALLEN COURTROOM, BRANDEIS SCHOOL OF LAW, UNIVERSITY OF LOUISVILLE, 2301 SOUTH THIRD STREET, LOUISVILLE, KENTUCKY

DATE: Wednesday, March 19, 2008

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9:30 AM

PJ: KELLER

TAYLOR

GRAVES

2007CA000965

PARADISE TOMATO KITCHENS, INC. VS LOUISVILLE-JEFFERSON COUNTY METRO REVENUE COMMISSION ET AL.

Whether appellant is entitled to tax refund. Issues further include timeliness of refund; whether tax paid voluntarily; and violation of commerce clause.

CIVIL

JEFFERSON COUNTY

MARTIN F MCDONALD

Appellant Atty:

Appellant Name:

.....  
EBERLE, KATHRYN V  
EIFLER, TIMOTHY J  
SALES, WALTER L

.....  
PARADISE TOMATO KITCHENS, INC.  
PARADISE TOMATO KITCHENS, INC.  
PARADISE TOMATO KITCHENS, INC.

Appellee Atty:

Appellee Name:

.....  
GERAGHTY, TERRI A

.....  
LOUISVILLE-JEFFERSON COUNTY METRO REVENUE COMMISSION  
LOUISVILLE/JEFFERSON METRO GOVERNMENT  
TRANSIT AUTHORITY OF RIVER CITY  
BOARD OF EDUCATION OF JEFFERSON COUNTY, KY

MELLEN JR, FRANCIS J

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10:15 AM

PJ: KELLER

TAYLOR

VANMETER

2006CA002255

LARRY WHITE VS COMMONWEALTH OF KENTUCKY

Whether prior felony conviction can be used both to create an offense and prosecute as persistant felony offender. Whether prosecutor alluded to matters outside the record.

CRIMINAL

JEFFERSON COUNTY

ROGER L. CRITTENDEN

Appellant Atty:

Appellant Name:

.....  
MCCALL, JOHN CASEY

.....  
LARRY LAMONT WHITE

Appellee Atty:

Appellee Name:

.....  
CROSS, JEFFREY A  
SMITH, DAVID A

.....  
COMMONWEALTH OF KENTUCKY  
COMMONWEALTH OF KENTUCKY

LOCATION: ALLEN COURTROOM, BRANDEIS SCHOOL OF LAW, UNIVERSITY OF LOUISVILLE, 2301 SOUTH THIRD STREET, LOUISVILLE, KENTUCKY

DATE: Wednesday, March 19, 2008

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11:00 AM

PJ: TAYLOR

KELLER

VANMETER

2006CA002646

W. DUFF, M.D. VS KENTUCKY BOARD OF MEDICAL LICENSURE

Whether Board properly entered order indefinitely restricting appellant's medical license.

CIVIL

JEFFERSON COUNTY

STEPHEN P RYAN

Appellant Atty:

Appellant Name:

.....  
DEMOISEY, J FOX

.....  
W. REX DUFF, M.D.

Appellee Atty:

Appellee Name:

.....  
QUINN, KAREN  
VEST II, C LLOYD

.....  
KENTUCKY BOARD OF MEDICAL LICENSURE  
KENTUCKY BOARD OF MEDICAL LICENSURE