

UPDATED 3/12/2009

MARCH 2009

ORAL ARGUMENT

CALENDAR

03/12/2009

MARCH, 2009

COURT MEETING WILL NOT BE HELD

March 4, 2009

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

**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: Thursday, March 05, 2009

1:30 PM PJ: TAYLOR LAMBERT, (JAMES) GRAVES
2008CA000068 LEXINGTON H-L SERVICES, INC. VS LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

Whether circuit court properly granted summary judgment in favor of LFUCG and determined that identity of alleged rape suspect sought to be disclosed by the Herald Leader is protected by KRS 61.878.

CIVIL FAYETTE COUNTY JAMES D ISHMAEL JR

Appellant Atty:

Appellant Name:

.....
HOULIHAN JR, ROBERT F
MOORE III, ESCUM L

.....
LEXINGTON H-L SERVICES, INC.
LEXINGTON H-L SERVICES, INC.

Appellee Atty:

Appellee Name:

.....
BOLAND , ROCHELLE E
BOWMAN , LESLYE M
SANNER , MICHAEL R

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

**NOTE:ORIGINALLY 1/27/09 AT 1:15 PM

2:15 PM PJ: TAYLOR LAMBERT, (JAMES) GRAVES
2006CA001805 HOWELL CONTRACTORS, INC. VS BOARD OF EDUCATION OF BOONE
COUNTY, KENTUCKY

Whether circuit court erred in granting appellee's motion to dismiss appellant's amended complaint.

CIVIL BOONE COUNTY KEVIN HORNE

Appellant Atty:

Appellant Name:

.....
SEIFRIED , KENT W

.....
HOWELL CONTRACTORS, INC.

Appellee Atty:

Appellee Name:

.....
STEWART , MARY ANN

.....
BOARD OF EDUCATION OF BOONE COUNTY, KENTUCKY

**NOTE:ORIGINALLY 1/27/09 AT 10:30 AM

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

DATE: Thursday, March 05, 2009

3:00 PM PJ: TAYLOR LAMBERT, (JAMES) GRAVES
2007CA002219 MUHLENBERG COMMUNITY HOSPITAL ET AL. VS MUHLENBERG MEDICAL
PROPERTIES VI, LLC ET AL.

Whether circuit court properly reversed decision of the Cabinet for Health and Family Services and determined Muhlenberg Medical Properties is not required to obtain certificate of need to establish MRI services.

CIVIL FRANKLIN COUNTY THOMAS D. WINGATE

Appellant Atty:

Appellant Name:

.....
BAKER , MICHAEL D.

.....
MUHLENBERG COMMUNITY HOSPITAL

OWENSBORO MEDICAL HEALTH SYSTEM, INC.

CHRISTIAN , CAROLE D

MUHLENBERG COMMUNITY HOSPITAL

OWENSBORO MEDICAL HEALTH SYSTEM, INC.

HAYDEN , MARIAN J

KENTUCKY HOSPITAL ASSOCIATION

Appellee Atty:

Appellee Name:

.....
HUNSAKER , ANN T

.....
CABINET FOR HEALTH AND FAMILY SERVICES

LOGAN , EDWIN A.

MUHLENBERG MEDICAL PROPERTIES VI, LLC

**NOTE:ORIGINALLY 1/27/09 AT 11:15 AM

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

DATE: Tuesday, March 10, 2009

10:15 AM PJ: KELLER DIXON WINE
2006CA001166 GREGORY HINES VS COMMONWEALTH OF KENTUCKY

Direct appeal from a judgment of the Casey Circuit Court convicting appellant of one count of 1st degree rape and sentencing him to serve 10 years in prison. Issues include the admission into evidence of the victim's handwritten account of the rape, the admission into evidence of some medical records of the victim, and admission into evidence of victim's statements to examining nurse. There is also an issue regarding forensic evidence collected from the victim.

CRIMINAL CASEY COUNTY JAMES G. WEDDLE

Appellant Atty:

Appellant Name:

.....
APRILE II, JOSEPH V

.....
GREGORY HINES

Appellee Atty:

Appellee Name:

.....
CROSS , JEFFREY A

.....
COMMONWEALTH OF KENTUCKY

11:00 AM PJ: KELLER DIXON WINE
2007CA002399 LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT VS COMMERCE CABINET ET AL.

This appeal is taken by the Louisville/Jefferson County Metro Government, the mayor, and other parties from an order requiring the Metro Government to convey certain property to the Commonwealth of Kentucky Commerce Cabinet, Department of Parks.

CIVIL JEFFERSON COUNTY DENISE G. CLAYTON

Appellant Atty:

Appellant Name:

.....
VISSMAN , PAUL F

.....
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

Appellee Atty:

Appellee Name:

.....
BENZING , ELLEN FRANCES

.....
COMMERCE CABINET
COMMONWEALTH OF KENTUCKY
DEPARTMENT OF PARKS
GEORGE WARD
COMMERCE CABINET

YORK , CATHERINE E

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

DATE: Tuesday, March 10, 2009

1:30 PM

PJ: WINE

DIXON

KELLER

2008CA000298

JUANITA TURPIN VS STANLEY SCHULZE AND COMPANY, INC. ET AL.

2008CA000385;
2008CA000453

Appeal and cross-appeal from judgment in Turpin's product liability claims against Shulze and IDC. In Turpin's appeal, she argues that SJ was not appropriate on her strict liability claims. On cross-appeal, Shultze and IDC argue that they were entitled to SJ on the warranty and negligence product liability claims based on the middleman statute, KRS 411.340. Shultze also argues that Turpin failed to prove causation.

CIVIL

JEFFERSON COUNTY

JUDITH E MCDONALD-BUR

Appellant Atty:

Appellant Name:

.....
BERMAN , SHEILA

.....
JUANITA TURPIN

Appellee Atty:

Appellee Name:

.....
CARRELL II, WILLIAM P

.....
STANLEY SCHULZE AND COMPANY, INC.

EWEN , A. CAMPBELL

STANLEY SCHULZE AND COMPANY, INC.

MURPHY , PATRICK J.

INTERNATIONAL DOOR CLOSERS, INC., OF TENNESSEE

SEWELL , PETER J

COURIER JOURNAL, INC.

**NOTE:40 MINUTE ORAL

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

DATE: Tuesday, March 10, 2009

2:30 PM

PJ: WINE

DIXON

KELLER

2008CA000604

BEVERLY HEALTH AND REHABILITATION SERVICES, INC. ET AL. VS LUCY SMITH

BHRS appeals from an order denying its motion to compel arbitration. Standard of proof for validity of an arbitration agreement; validity of arbitration agreement signed by third party on behalf of patient in resident nursing care facility; agency of third party to sign contract; estoppel

CIVIL

JEFFERSON COUNTY

GEOFFREY P MORRIS

Appellant Atty:

Appellant Name:

.....
GUILD JR, A COURTNEY

.....
BEVERLY CALIFORNIA CORP.
BEVERLY ENTERPRISES - KENTUCKY, INC.
BEVERLY ENTERPRISES, INC.
BEVERLY HEALTH AND REHABILITATION SERVICES, INC.
RENAY ADKINS
BEVERLY CALIFORNIA CORP.
BEVERLY ENTERPRISES - KENTUCKY, INC.
BEVERLY ENTERPRISES, INC.
BEVERLY HEALTH AND REHABILITATION SERVICES, INC.
RENAY ADKINS

SCHOENBAECHLER , EDWARD L

Appellee Atty:

Appellee Name:

.....
CIRCEO , RICHARD E.

.....
LUCY SMITH

CIRCEO , LISA ERICKSON

LUCY SMITH

CLARE , LINDA H

LUCY SMITH

HIBBS , GUY JANTZEN

LUCY SMITH

RIORDAN , DEBORAH KAY

LUCY SMITH

WILSON , REBECCA FAYE

LUCY SMITH

**NOTE:40 MINUTE ORAL

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

DATE: Wednesday, March 18, 2009

11:00 AM PJ: KNOFF ACREE MOORE
2006CA002639 THE REVENUE CABINET VS MARQUETTE TRANSPORTATION COMPANY, INC.

2007CA001666;
2007CA001722 Consolidated appeal and cross-appeal from McCracken and Franklin Cir. Cts. concerning Ky Bd of Tax Appeals decision. Issues: whether wages of Marquette's towboat employees who operated on Miss. and Ill. rivers should be included in its payroll factor numerator for calculating its Ky corp. income and lic. tax liability; whether Marquette was an "aggrieved party" under KRS 131.370 and entitled to appeal; whether the Revenue Cab. was obligated to present cross-appeal to Marquette's appeal in McCracken Cir.

CIVIL MCCRACKEN COUNTY R JEFFREY HINES

Appellant Atty:

Appellant Name:

.....
DOWELL , DOUGLAS M
FERGUSON , LAURA M

.....
THE REVENUE CABINET
THE REVENUE CABINET

Appellee Atty:

Appellee Name:

.....
DUBACK , STEVEN R
LOYD JR, MARK ALLEN
SMART , JENNIFER SARTOR

.....
MARQUETTE TRANSPORTATION COMPANY, INC.
MARQUETTE TRANSPORTATION COMPANY, INC.
MARQUETTE TRANSPORTATION COMPANY, INC.

**NOTE:40 MINUTE ORAL

1:30 PM PJ: ACREE MOORE KNOFF
2008CA000848 KRISTI TAPP ET AL. VS OWENSBORO MEDICAL HEALTH SYSTEM, INC.

Civil; Wrongful Death, Medical Malpractice: Whether trial court erred by allowing certain expert testimony and/or failing to grant Appellant's motion for a new trial.

CIVIL DAVIESS COUNTY JAY A. WETHINGTON

Appellant Atty:

Appellant Name:

.....
WIBLE , CHARLES S.

.....
DONALD ARD
KRISTI TAPP

Appellee Atty:

Appellee Name:

.....
BURNHAM , WILLIAM K
SHEFFER , RONALD G.

.....
OWENSBORO MEDICAL HEALTH SYSTEM, INC.
OWENSBORO MEDICAL HEALTH SYSTEM, INC.

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

DATE: Tuesday, March 24, 2009

10:00 AM PJ: STUMBO TAYLOR BUCKINGHAM
2008CA000469 LM ENTERTAINMENT, INC. VS CITY OF MT. STERLING, KENTUCKY

MOR appeal from grant of summary judgment; issues include constitutionality of sexually oriented business ordinances, which version of ordinance is applicable, whether appellant's was a sexually oriented business as defined by ordinance is a question of fact.

CIVIL MONTGOMERY COUNTY BETH LEWIS MAZE

Appellant Atty:

Appellant Name:

.....
HATZELL , C MICHAEL
SIRKIN , LOUIS H

.....
LM ENTERTAINMENT, INC.
LM ENTERTAINMENT, INC.

Appellee Atty:

Appellee Name:

.....
BERGTHOLD , SCOTT D
BRASHEAR , CRYSTAL

.....
CITY OF MT. STERLING, KENTUCKY
CITY OF MT. STERLING, KENTUCKY

10:45 AM PJ: TAYLOR STUMBO BUCKINGHAM
2008CA000370 CLARENCE BUSHEY ET AL. VS CHARLES MCBRAYER ET AL.

Whether circuit court erred in fixing the location of the disputed boundary line; whether circuit court erred by excluding certain evidence.

CIVIL ROWAN COUNTY BETH LEWIS MAZE

Appellant Atty:

Appellant Name:

.....
TRAUTWEIN , TODD K.

.....
CAROL JEAN BUSHEY
CLARENCE A. BUSHEY

Appellee Atty:

Appellee Name:

.....
ROGERS III, EARL

.....
BARBARA ANN MCBRAYER
CHARLES DOUGLAS MCBRAYER

11:30 AM PJ: BUCKINGHAM STUMBO TAYLOR
2008CA001249 STACIE COOK VS LISHA POPPLEWELL

Political candidacy/employment termination.

CIVIL RUSSELL COUNTY VERNON MINIARD JR

Appellant Atty:

Appellant Name:

.....
KELLER , JAMES
MILLER , JOSEPH H

.....
STACIE L. COOK
STACIE L. COOK

Appellee Atty:

Appellee Name:

.....
HUFF , WINTER R.

.....
LISHA POPPLEWELL