

# September 2024 ORAL ARGUMENT CALENDAR

# Motion Panel

Chief Judge Larry Thompson, Presiding Judge  
Judge Susanne Cetrulo and  
Judge James H. Lambert,  
Associate Judges

## Kentucky Court of Appeals

### Oral Argument Calendar

Thursday, September 12, 2024

Location: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, LOUISVILLE, KY

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**1:30PM (EST) COMMISSIONER OF THE DEPARTMENT OF WORKPLACE STANDARDS, EDUCATION AND LABOR CABINET v. KALKREUTH ROOFING AND SHEET METAL, INC., ET AL.**

[2023-CA-0649](#)

Presiding Judge: HON. AUDRA J. ECKERLE

Associate Judges: HON. ALLISON E. JONES and HON. JEFF S. TAYLOR

APPEAL FROM CIRCUIT COURT ORDER AFFIRMING COMMISSION'S DISMISSAL OF OSHA VIOLATION. DEFERENCE AFFORDED TO AGENCY'S INTERPRETATION OF REGULATION. WHETHER COMMISSION'S INTERPRETATION OF REGULATION WAS CORRECT AS A MATTER OF LAW. WHETHER COMMISSION ERRED IN FINDING CABINET FAILED TO PROVE VIOLATION OF REGULATION.

FRANKLIN County, HON. PHILLIP J. SHEPHERD

Attorneys for Appellant: Haley K. Koontz and John Mohammad Ghaelian

Attorney for Appellees: Chip H. Smith, Joyce Ann Merritt, and Oliver Barrett Rutherford

Attorney for Amicus: Oliver Barrett Rutherford, Carter J. Pope, Kyle C. Rea, Trent H. Cotney, and Franklin Laurens Brock

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**2:30PM (EST) BAPTIST HEALTH MEDICAL GROUP, INC., ET AL. v. JOHN MITCHELL FARMER, M.D.**

[2023-CA-0809](#)

Presiding Judge: HON. AUDRA J. ECKERLE

Associate Judges: HON. ALLISON E. JONES and HON. JEFF S. TAYLOR

APPEAL FROM JURY VERDICT ON PHYSICIAN'S CLAIMS FOR BREACH OF CONTRACT AND TORTIOUS INTERFERENCE. WHETHER NATURE OF CLAIMS CONSTITUTED A WAIVER OF PHYSICIAN-PATIENT PRIVILEGE. WHETHER KRS 311.6191 AFFORDS IMMUNITY FOR GOOD-FAITH REPORTING OF SUSPECTED.

JEFFERSON County, HON.SUSAN SCHULTZ GIBSON

Attorneys for Appellants: Bethany A. Breetz, Holly Renee Iaccarino, Jeffery Todd Barnett, and Robert James Benvenuti, III

Attorneys for Appellee: Kathleen A. Delaney, David Lee Sage, II, and Marvin Louis Coan

Attorney for Other: Leanne Kittrell Diakov and Michael J. O'Connell

**Tuesday, September 17, 2024**

Location: SARA WALTER COMBS COURTROOM, KENTUCKY COURT OF APPEALS, 669 CHAMBERLIN AVE., SUITE B, FRANKFORT, KY

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**2:00PM (EST) THOMAS O. EIFLER, JR. V. ARDIS GREENAMYER, II**

[2023-CA-1026](#)

**Presiding Judge: HON. KELLY MARK EASTON**

**Associate Judges: HON. GLENN E. ACREE and HON. J. CHRISTOPHER McNEILL**

CIVIL: APPEAL OF A BENCH TRIAL, IN WHICH CIRCUIT COURT AWARDED 3.8 MILLION IN DAMAGES FOR CLAIM OF PROMISSORY ESTOPPEL WITH SMALL AWARD FOR UNJUST ENRICHMENT. ON PRIOR APPEAL, KSC VACATED JURY VERDICT ON BREACH OF CONTRACT CLAIM, AS CONTRACT WAS "LEGALLY NONEXISTENT." CASE WAS REMANDED FOR CONSIDERATION OF ABOVE CLAIMS. APPELLANT ARGUES CIRCUIT COURT ERRED IN RELYING ON HANDWRITTEN DOCUMENT THE KSC DETERMINED WAS NOT AN ENFORCEABLE CONTRACT, AND THE COURT'S BENCH TRIAL JUDGMENT VIOLATES THE LAW OF THE CASE DOCTRINE AND KY LAW REGARDING PROMISSORY ESTOPPEL. APPELLANT ALSO ALLEGES THE COURT ERRED IN DETERMINING VALUE OF COMPANY TO CALCULATE DAMAGES AND THAT AWARD FOR UNJUST ENRICHMENT WAS NOT BASED ON COMPETENT EVIDENCE.

**JEFFERSON County, HON. JENNIFER WILCOX**

Attorneys for Appellant: Stephen Joseph Mattingly and David Newkirk Giesel

Attorneys for Appellee: Garry Richard Adams, Jr. and Andrew Lay

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