

UPDATED: 08/07/2009

AUGUST 2009

ORAL ARGUMENT

CALENDAR

Report Updated On: 08/07/2009

Updated 08/07/2009

AUGUST, 2009

August 4, 2009

10:00 A.M. COURT MEETING

**1:00 – 1:30 P.M., ORAL ARGUMENT, 2008-CA-000255,
MISTY GLASSON V. MUHAMMAD RIZWAN AFZAL, JR.,
ET AL., JUDGE KELLER, PRES., JUDGE MOORE AND
JUDGE THOMPSON, ASSOC.**

**1:45 – 2:45 P.M., ORAL ARGUMENT, 2008-CA-000921,
PHILIP J. GOODMAN V. GOLDBERG & SIMPSON, PSC.,
ET AL., SR. JUDGE HARRIS, PRES., JUDGE ACREE AND
JUDGE LAMBERT (JAMES), ASSOC.**

**3:00 – 3:30 P.M., ORAL ARGUMENT, 2008-CA-001423,
RAYCINE LOVE V. COMMONWEALTH.,
JUDGE TAYLOR, PRES., JUDGE LAMBERT (JAMES),
SR. JUDGE HENRY, ASSOC.**

**3:45 – 4:15 P.M., ORAL ARGUMENT, 2008-CA-000519,
JEFFERY L. CARPENTER V. COMMONWEALTH,
JUDGE TAYLOR, PRES., JUDGE LAMBERT (JAMES)
AND SR. JUDGE HENRY, ASSOC.**

August 7, 2009

**11:00 A.M. MOTION PANEL, JUDGE WINE, PRES.,
JUDGE CLAYTON, AND JUDGE LAMBERT (JAMES)
ASSOC.**

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

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

LOUISVILLE – Contact Marti Dodd - 595-3440

SMITHLAND – Contact Debbie Knoth, Clerk – (270) 928-2172

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

DATE: Monday, August 3, 2009

01:45 PM PJ: CLAYTON, HON. DENISE G. CAPERTON, HON. MICHAEL O. DIXON, HON. DONNA L.

2007CA001683 TYLER SIMS v WEYERHAEUSER COMPANY

2007CA001980

1) Summary judgment granted on case involving express disclaimer regarding alleged material misrepresentations concerning indoor air quality. 2) Summary judgment granted to appellee Weyerhaeuser on issue of breach of duty of care of harmful product.

CIVIL FAYETTE COUNTY HON PAMELA R GOODWINE

Appellant Atty:

GRADDY, W. IV
STROBO, RANDAL

Appellant Name:

SIMS, TYLER

Appellee Atty:

POPE, SUSAN

Appellee Name:

WEYERHAEUSER COMPANY

** NOTE:

02:30 PM PJ: CLAYTON, HON. DENISE G. CAPERTON, HON. MICHAEL O. DIXON, HON. DONNA L.

2008CA000982 RICKY LYNN ESTES v TROY THOMPSON

Trial court granted summary judgment finding that appellee was an employee acting within the scope of his employment and that workers compensation was the exclusive remedy.

CIVIL CLARK COUNTY HON JULIA HYLTON ADAMS

Appellant Atty:

MOORES, E
RITCHIE, BRIAN
WOHLANDER, MARK

Appellant Name:

ESTES, RICKY

Appellee Atty:

AMATO, STEPHEN
RIDDLE, BENJAMIN

Appellee Name:

THOMPSON, TROY

** NOTE:

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

DATE: Monday, August 3, 2009

03:15 PM PJ: CAPERTON, HON. MICHAEL O.

CLAYTON, HON. DENISE G.

DIXON, HON. DONNA L.

2008CA001570

WILLIAM CHARLES WOLEJSZA v PATTIE MARIE WOLEJSZA

Dissolution of marriage; second time to COA from remand concerning property issues; court failed to follow mandate of COA; court erred by failing to make findings of fact and conclusions of law; court erred by failing to assign credit to the Appellant for the mortgage payments made by him.

FRANKLIN COUNTY

HON O. REED RHORER

Appellant Atty:

BOLTON, STEVEN

Appellant Name:

WOLEJSZA, WILLIAM

Appellee Atty:

FAURI, PAUL

Appellee Name:

WOLEJSZA, PATTIE

**** NOTE:ORIGINALLY AT 4:00 PM**

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

DATE: Tuesday, August 4, 2009

01:00 PM PJ: KELLER, HON. MICHELLE M. MOORE, HON. JOY A. THOMPSON, HON. KELLY
2008CA000255 MISTY GLASSON v Dr MUHAMMAD RIZWAN AFZAL

Appellant alleged sexual battery; however, a jury found in favor of the appellees. Appellant alleges on appeal that the trial judge granted the appellees too many peremptory challenges; improperly admitted reputation and medical evidence; and permitted improper statements by appellees during closing argument.

CIVIL	CAMPBELL COUNTY	HON FRED A STINE
	<u>Appellant Atty:</u>	<u>Appellant Name:</u>
	CROSKERY, ROBERT	GLASSON, MISTY
	<u>Appellee Atty:</u>	<u>Appellee Name:</u>
	OTT, ROBERT	AFZAL, MUHAMMAD
	WHONSETLER, SCOTT	

**** NOTE:ORIGINALLY ON 2/24/09 AT 1:30 PM IN COVINGTON, KY**

01:45 PM PJ: HARRIS, HON. WILLIAM R. ACREE, HON. GLENN E. LAMBERT, HON. JAMES H.
2008CA000921 PHILIP J. GOODMAN v GOLDBERG & SIMPSON, P.S.C.

Appeal from a summary judgment where trial court dismissed common-law tort claims based on fraud. Appellant argues that there was sufficient evidence of record to overcome Appellee's motion for summary judgment.

CIVIL	FAYETTE COUNTY	HON PAMELA R GOODWINE
	<u>Appellant Atty:</u>	<u>Appellant Name:</u>
	COWEN, THEODORE	GOODMAN, PHILIP
	YUNKER, KATHERINE	
	<u>Appellee Atty:</u>	<u>Appellee Name:</u>
	SMITH, RAYMOND	GOLDBERG & SIMPSON, P.S.C.
	SEGAL, RICHARD	GOODMAN, STEVEN

**** NOTE:60 MINUTE ORAL - ORIGINALLY ON 7/7/09 AT 2:30 PM**

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

DATE: Tuesday, August 4, 2009

03:00 PM PJ: TAYLOR, HON. JEFF S.

LAMBERT, HON. JAMES H.

HENRY, HON. MICHAEL L.

2008CA001423

RAYCINE LOVE v COMMONWEALTH OF KENTUCKY

Whether circuit court erred by ordering appellant's sentences of imprisonment to be served consecutively.

CRIMINAL

MCCRACKEN COUNTY

HON R JEFFREY HINES

Appellant Atty:

Appellant Name:

MAURER, KAREN

LOVE, RAYCINE

SCHMIDT, KATHLEEN

Appellee Atty:

Appellee Name:

FARLEY, JOSHUA

COMMONWEALTH OF KENTUCKY

** NOTE:

03:45 PM PJ: TAYLOR, HON. JEFF S.

LAMBERT, HON. JAMES H.

HENRY, HON. MICHAEL L.

2008CA000519

JEFFERY L. CARPENTER v COMMONWEALTH OF KENTUCKY

Whether circuit court properly denied appellant's RCr 11.42 motion to vacate sentence.

BUTLER COUNTY

HON RONNIE C DORTCH

Appellant Atty:

Appellant Name:

FOOTE, MELANIE

CARPENTER, JEFFERY

SCHMIDT, KATHLEEN

Appellee Atty:

Appellee Name:

FERGUSON, TODD

COMMONWEALTH OF KENTUCKY

** NOTE:

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

DATE: Wednesday, August 5, 2009

11:30 AM PJ: STUMBO, HON. JANET L. ACREE, HON. GLENN E. WINE, HON. THOMAS B.

2008CA001888 DEPARTMENT OF REVENUE, FINANCE AND ADMINISTRATION CABINET v A T & T CORPORATION

MOR appeal from judgment of circuit court reversing the decision of the Kentucky Board of Tax Appeals. Proper interpretation of multiple sections of KRS 141.040 and 141.200.

CIVIL JEFFERSON COUNTY HON JUDITH E MCDONALD-BURKMAN

Appellant Atty:

FERGUSON, LAURA

Appellant Name:

DEPARTMENT OF REVENUE, FINANCE AND ADMINISTRATION CABINET

Appellee Atty:

LOYD, MARK JR
SOMMER, MARK

Appellee Name:

A T & T CORPORATION

** NOTE:PREVIOUSLY 10:45 AM.

01:30 PM PJ: WINE, HON. THOMAS B. ACREE, HON. GLENN E. STUMBO, HON. JANET L.

2008CA000059 BOLAND-MALONEY LUMBER COMPANY, INC. v DOUGLAS BURNETT

2008CA000299

Negligence case arising from Appellee's fall on stairwell at a construction site. He alleges that a subcontractor on the job improperly roughed in a staircase on the site.

CIVIL JEFFERSON COUNTY HON SUSAN SCHULZ GIBSON

Appellant Atty:

BREETZ, BETHANY
GARY, JAMES
GAULT, PATRICK
NEAL, JAMIE
TATE, JOHN

Appellant Name:

BOLAND-MALONEY LUMBER COMPANY, INC.

Appellee Atty:

PRICE, GENE
ROSE, JOSHUA

Appellee Name:

ANTHEM HEALTH PLANS OF KENTUCKY, INC.

HUGHES, THOMAS
SCHUHMANN, KERSTIN

BURNETT, DOUGLAS

** NOTE:

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

DATE: Wednesday, August 5, 2009

02:15 PM PJ: WINE, HON. THOMAS B.

ACREE, HON. GLENN E.

STUMBO, HON. JANET L.

2008CA001414

MARTIN GOLDSMITH v FIFTH THIRD BANK

Appeal from grant of summary judgment in favor of Fifth Third Bank on four properties owned by Appellant Goldsmith. Fifth Third foreclosed on Goldsmith's properties while he was incarcerated. Appeal raises numerous concerns regarding waiver, standing, and the conveyance of real property.

CIVIL JEFFERSON COUNTY HON JAMES M SHAKE

Appellant Atty:

ADAMS, KEVIN

Appellant Name:

GOLDSMITH, MARTIN

Appellee Atty:

**POWELL, LARRY
SENN, M**

Appellee Name:

FIFTH THIRD BANK

**** NOTE:**

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

DATE: Wednesday, August 12, 2009

01:00 PM PJ: LAMBERT, HON. JOSEPH E. COMBS, HON. SARA W. VANMETER, HON. LAURANCE B.
2008CA001563 BILLY REED v COMMONWEALTH OF KENTUCKY

Direct appeal from judgment convicting appellant of second degree manslaughter. Issues include whether trial court properly denied appellant's motion to quash indictment and motion to dismiss wanton murder charge, and whether the trial court properly admitted evidence, including medical records and a 911 call.

CRIMINAL	PIKE COUNTY	HON STEVEN D. COMBS
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
MAY, TOMMY		REED, BILLY
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
SCOTT, JULIE		COMMONWEALTH OF KENTUCKY
.....		

**** NOTE:**

01:45 PM PJ: LAMBERT, HON. JOSEPH E. ACREE, HON. GLENN E. VANMETER, HON. LAURANCE B.
2008CA001851 HOLLY CREEK PRODUCTION CORP. v DOWIE BANKS

Case involves breach of contract of and oil and gas lease – appeal is from decision granting damages for termination of the lease, including compensatory punitive damages. Issues include whether a default judgment should have been set aside and whether the trial court properly permitted amendment of pleadings to assert new claims at hearing on damages.

CIVIL	WOLFE COUNTY	HON FRANK ALLEN FLETCHER
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
MEDARIS, FRANK JR.		HOLLY CREEK PRODUCTION CORP.
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
O'NEILL, PATRICK		BANKS, DOWIE
.....		

**** NOTE:**

**LOCATION: LIVINGSTON COUNTY JUSTICE CENTER, 122 WEST ADAIR STREET,
SMITHLAND, KENTUCKY**

DATE: Tuesday, August 18, 2009

10:00 AM PJ: HARRIS, HON. WILLIAM R. MOORE, HON. JOY A. NICKELL, HON. C. SHEA

2007CA002533 HART COUNTY BANK AND TRUST COMPANY v TRANSPORTATION CABINET,
DEPARTMENT OF HIGHWAYS

Appeal from an order of condemnation where Appellant argues that the DOT failed to negotiate in good faith prior to the condemnation hearing and that the trial court failed to provide sufficient time to prepare for the hearing.

CIVIL HART COUNTY HON JOHN DAVID SEAY

Appellant Atty:

PRESTON, DWIGHT

Appellant Name:

HART COUNTY BANK AND TRUST COMPANY

Appellee Atty:

DEAN, WILLIAM

WICKER, PHILLIP

Appellee Name:

TRANSPORTATION CABINET, DEPARTMENT
OF HIGHWAYS

** NOTE:

10:45 AM PJ: MOORE, HON. JOY A. NICKELL, HON. C. SHEA HARRIS, HON. WILLIAM R.

2008CA001984 GAIL LAMB v BRANCH BANKING AND TRUST COMPANY

Appellant argues that the trial court erred in granting Appellees' CR 12.03 motions. Appellant seeks reversal regarding whether banks are subject to negligent misrepresentation claims; justifiable reliance claims; and dismissal of a third party defendant prior to any discovery taking place regarding his participation in the underlying matter.

CIVIL DAVIESS COUNTY HON JAY A. WETHINGTON

Appellant Atty:

SIMON, FRED

Appellant Name:

LAMB, GAIL

Appellee Atty:

ADAMS, WILLIAM

MILLER, ROGER

TULLIS, JOHN

MEYER, JOHN

Appellee Name:

BRANCH BANKING AND TRUST COMPANY

MILLER, ROGER

SACRAMENTO DEPOSIT BANK

U.S. BANK

** NOTE:

**LOCATION: LIVINGSTON COUNTY JUSTICE CENTER, 122 WEST ADAIR STREET,
SMITHLAND, KENTUCKY**

DATE: Tuesday, August 18, 2009

11:30 AM PJ: MOORE, HON. JOY A.

THOMPSON, HON. KELLY

HARRIS, HON. WILLIAM R.

2008CA001549

RUBEN VAUGHN v CITY OF PADUCAH

Appellant, a civil servant employee, contends the trial court erred in granting partial summary judgment to Appellee because the trial court did not use standards set forth in a collective bargaining agreement in evaluating whether Appellant was properly discharged.

CIVIL

MCCRACKEN COUNTY

HON R JEFFREY HINES

Appellant Atty:

Appellant Name:

JANES, DENNIS

VAUGHN, RUBEN

Appellee Atty:

Appellee Name:

BLANKENSHIP, STACEY

CITY OF PADUCAH

** NOTE:

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

DATE: Thursday, August 20, 2009

11:00 AM PJ: STUMBO, HON. JANET L.

ACREE, HON. GLENN E.

WINE, HON. THOMAS B.

2008CA000163 JAMES WALKER v CSX TRANSPORTATION INC.

2008CA000219

Appeal from jury verdict in personal injury action brought under FELA. Issues include whether trial court erred in sustaining objection to introduction of evidence of other employees suffering similar injuries and in permitting introduction of evidence of award of disability benefits. Appellee challenges preservation of issue one.

CIVIL JEFFERSON COUNTY

HON GEOFFREY P MORRIS

Appellant Atty:

Appellant Name:

HUMFLEET, DEREK

WALKER, JAMES

Appellee Atty:

Appellee Name:

HUGHES, GUY
STEWART, KARA
WEST, LINSEY

CSX TRANSPORTATION INC.

** NOTE:PREVIOUSLY ON 8/5/09 AT 10:00 AM.