PUBLISHED OPINIONS
KENTUCKY COURT OF APPEALS
JANUARY 1, 2026 to JANUARY 31, 2026

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I. CIVIL LAW

A. ESTATE OF SELENA GILBERT LEE, BY AND THROUGH MICHELLE MAGGARD, ET AL. v. JEFFREY CROSS AND STEPHANIE RENEA WALKER, CO-ADMINISTRATRIX OF THE ESTATE OF TAMARA RACHELLE MEFFORD, ET AL. v. JEFFREY CROSS (Ky. App. 2026).

2024-CA-1452-MR 1/02/2026 2026 WL 16375
2024-CA-1470-MR

Opinion Affirming by EASTON, JUDGE; CALDWELL, J. (CONCURS) AND COMBS, J. (CONCURS)

This case addresses the legal theories for liability of a parent, guardian, or custodian for the negligent operation of a vehicle by a minor. T.C. Genoa Somersall ("Genoa") was operating a vehicle she bought and insured when a one-vehicle accident occurred. At the time of the accident, Genoa was a minor but is now an adult. Three minor passengers were in the vehicle: two were killed and the other sustained serious injuries. Appellants filed suit against several defendants, including the Appellee Jeffrey Cross (Cross), Genoa's legal custodian. The circuit court entered summary judgment in favor of Cross on all claims against him.

Appellants asserted claims under the Family Purpose Doctrine, Negligent Entrustment, and KRS 186.590. They insist that issues of fact regarding Cross's "control" of the vehicle prevented summary judgment. This Court affirmed the order granting summary judgment on these claims because Cross did not own, maintain, furnish, or control Genoa's vehicle. Genoa purchased the vehicle with her own funds; the title was solely in her name; and Cross had no ownership interest in the vehicle. Cross did not "entrust" the vehicle to Genoa as it was hers. Cross exercised no control over the vehicle. Cross never exercised any restriction on the use of Genoa's vehicle, testifying that "it was her car." The trip undertaken by Genoa when the accident occurred was not a trip for any family purpose. Statutory liability for Cross was removed under KRS 186.590(2) because Genoa maintained her own insurance policy, and there is no liability under KRS 186.590(3) because Cross did not give or furnish the vehicle to Genoa.

The final avenue of liability argued was the general negligence theory of Negligent Supervision. Negligent Supervision requires that the injury be foreseeable. Appellants argued the accident was foreseeable because Cross did not trust Genoa to drive after she had previously wrecked his car. But Cross's uncontested testimony showed that this prior wreck was a result of a blown tire, not any reckless driving by Genoa. Also, as a result of that prior accident, Cross he did not trust Genoa's friends, rather than Genoa herself, because the friends had lied about having a driver's license. For these reasons, Cross wanted to be present when Genoa drove his car; he had no issue with Genoa later driving her own vehicle after she had obtained a driver's license. Because Cross did not know about them, Genoa's prior acts of sneaking out of town with friends was insufficient to put Cross on notice that she was a foreseeable risk to others because of any incompetent driving by her. The evidence simply failed to show Cross was on notice, or should have been on notice, that Genoa was a dangerous driver. No evidence of prior inept driving by Genoa was presented. Cross had no notice that Genoa and her passengers planned to skip school and drive to Michigan on the day of the fatal accident. Cross was not required to monitor Genoa twenty-four hours a day.

B. DAVID PADGETT, ET AL. v. MEADE COUNTY, KENTUCKY (Ky. App. 2026).

2025-CA-0383-MR 1/02/2026 2026 WL 16262

Opinion Affirming by THOMPSON, CHIEF JUDGE; COMBS, J. (CONCURS) AND ECKERLE, J. (CONCURS)

The Court of Appeals affirmed an order of the trial court which held that an RV park located across the street from a farm is not used for agricultural purposes; therefore, it is not exempt from zoning regulations imposed by Appellee. KRS 100.203(4) limits city and county zoning provisions related to land used for agricultural purposes. KRS 100.111(2) defines "agricultural use" as "the production of agricultural or horticultural crops." Appellants believed that agritourism should be included in the definition of "agricultural use," and since the RV park provided accommodations for tourists visiting the farm for agritourism purposes, the park should be exempt from zoning regulations. The Court held that the RV park is not used for agricultural purposes and that KRS 100.111(2) is clear and unambiguous and agritourism does not fit the definition of "agricultural use."

C. GARY GATCHEL v. TERRY OPELL, ET AL. (Ky. App. 2026).

2024-CA-0882-MR 1/09/2026 2026 WL 16259

Opinion Affirming by A. JONES, JUDGE; THOMPSON, C.J. (CONCURS) AND ACREE, J. (CONCURS)

In an appeal from a bench trial, in which the trial court entered a judgment in favor of the appellees and dismissed the appellant's claims with prejudice, the Court of Appeals affirmed. The appellant and his friend purchased rural lakeside property from the appellees in Cadiz, Kentucky. The appellant's friend lived on the property for over a year and a half before appellant bought her one-half share and became the full owner. When appellant began his own occupation of the property, however, he encountered detrimental living conditions involving, inter alia, soil erosion, drainage and the wet cell septic system. The appellant eventually believed these conditions had not been properly disclosed by the appellees in their Seller's Disclosure at the time of the purchase.

The appellant filed suit against the appellees, alleging fraud, misrepresentation, and failure to disclose material defects. After more than a decade of extensive pretrial litigation, the trial court conducted a bench trial and found that the appellant had failed to prove any claim of fraudulent misrepresentation or fraudulent omission by clear and convincing evidence. In his appeal to this Court, the appellant argued that the trial court had applied the wrong legal standard in evaluating his nondisclosure claims, contending that the trial court should have looked beyond the sellers' subjective beliefs in their Seller's Disclosure.

The Court of Appeals considered and rejected the appellant's arguments. To prevail on a claim for fraudulent misrepresentation, a plaintiff must prove by clear and convincing evidence a material representation that is false, known to be false or made recklessly. The trial court applied the correct legal principles when it examined what the appellees knew about the conditions of their property, whether they regarded any condition as a defect, and whether the evidence demonstrated intentional concealment or omission. Under this legal framework, the evidence adduced at the bench trial supported the trial court's ultimate findings in favor of the appellees. Finally, the Court of Appeals held that the trial court properly denied the appellant's motion to amend his complaint to assert a statutory claim under KRS 446.070. The proposed claim did not relate back under CR 15.03 and was therefore barred by the statute of limitations.

D. LOUISVILLE METRO GOVERNMENT v. CLINT CHEMICAL AND JANITORIAL SUPPLIES, INC. (Ky. App. 2026).

2024-CA-0556-MR 1/16/2026 2026 WL 119216
Opinion Vacating and Remanding by ACREE, JUDGE; KAREM, J. (CONCURS) AND LAMBERT, J. (CONCURS)

Clint Chemical and Janitorial Supplies (Clint) entered into a contract with the Louisville Metro Government (Metro) for janitorial supplies. When Metro purchased supplies from

another vendor, Clint filed suit in the Jefferson Circuit Court alleging Metro breached the implied covenant of good faith, among other claims asserted pursuant to the Kentucky Model Procurement Code (KMPC), codified in KRS Chapter 45A. Metro characterized the breach of the implied covenant of good faith claim as a tort claim from which it enjoys governmental immunity. Clint asserted the claim was an action "on the contract" under KRS 45A.245(1), for which governmental immunity is waived. The trial court allowed the claim to move forward, and Metro appealed. On appeal, the Court explained the "Catch-22" inherent in Clint's position, given that KRS 45A.245(1) requires actions "on a contract" to be "brought in the Franklin Circuit Court": If Clint was wrong in characterizing its action as an action "on a contract," then Metro was immune, but if Clint was correct in characterizing its action as an action "on a contract," then Clint filed its action in the wrong court. The Court explained that KRS 45A.245(1) does not speak to venue; it vests the Franklin Circuit Court with exclusive subject matter jurisdiction over disputes governed by the KMPC. The Court vacated the ruling of the Jefferson Circuit Court and remanded with instructions to dismiss Clint's complaint.

E. CARROLL PROPERTIES LLC v. DANNA S. HAMMONS, ET AL. (Ky. App. 2026).

2024-CA-1328-MR 1/16/2026 2026 WL 118944
Opinion Affirming by CALDWELL, JUDGE; MCNEILL, J. (CONCURS) AND TAYLOR, J. (CONCURS)

This appeal arose from the circuit court's grant of summary judgment in an action filed by subdivision lot owners seeking a declaration of rights and to void the title of a parcel of land dedicated as a right-of-way on the subdivision plat.

This particular subdivision plat included a fifty-foot-wide lot, designated as a right-of-way on the plat, that also fronted the shoreline of a lake. The remaining owner from the original land dedicating the subdivision sold the right-of-way lot. The lot owners adjacent to the right-of-way, hearing rumors that the purchaser of the right-of-way planned to obstruct other lot owners from use of the right-of-way to access the lake, filed the original declaration of rights action. They then amended the action to also include seeking to void the title to the right-of way lot.

Our court affirmed the circuit court's ruling, based on the holdings in *Cassell v. Reeves*, 265 S.W.2d 801 (Ky. 1954) and *Herron v. Boggs*, 582 S.W.2d 643 (Ky. 1979). The sweeping language in those two cases unmistakably indicates that land on a plat which was set aside as being dedicated for the usage of the public or other subdivision owners loses its character as the private property of the developer once the plat is dedicated, recorded, and lots depicted on it are sold to others. However, these cases did not address whether the title transferred was void or could be voided. We also affirmed that ruling of the circuit court as "[w]here, as here, the grantor has nothing to convey, a mutual intent to convey and receive title to the property is beside the point. The

purported conveyance is a nullity, notwithstanding the parties' intent." *Bongaards v. Millen*, 440 Mass. 10, 15, 793 N.E.2d 335, 339 (2003).

F. ***COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, DEPARTMENT FOR MEDICAID SERVICES, ET AL. v. FACES OF CHANGE, LLC (Ky. App. 2026).***

2025-CA-0144-MR 1/16/2026 2026 WL 118984
Opinion Reversing and Remanding by THOMPSON, CHIEF JUDGE; ECKERLE, J. (CONCURS) AND COMBS, J. (DISSENTS AND FILES SEPARATE OPINION)

The Court of Appeals reversed and remanded an order which held that the Cabinet failed to follow certain regulatory rules and improperly withheld Medicaid payments from Faces of Change, LLC. Faces of Change's petition before the circuit court was brought before it exhausted its administrative remedies. The trial court held that it would be futile for Faces of Change to have to exhaust the administrative remedies before filing its petition. Faces of Change's funding came solely from payments made by Medicaid; therefore, Faces of Change would likely be forced to close due to lack of funds before the administrative action was complete. The Court of Appeals reversed finding that Faces of Change would need to exhaust the administrative remedies first even at the risk of closing down. The administrative process was not futile because the Cabinet was acting within its jurisdiction and potential remedies were available to Faces of Change. The Court held that the administrative process was not futile so as to excuse failing to exhaust administrative remedies. Judge Combs dissented and would have affirmed the trial court.

G. ***LARRY SCHWING v. KNOTT COUNTY FISCAL COURT, ET AL. (Ky. App. 2026).***

2025-CA-0331-MR 1/23/2026 2026 WL 16338
Opinion Affirming by COMBS, JUDGE; THOMPSON, C. J. (CONCURS) AND ECKERLE, J. (CONCURS)

Appellant is the owner of property containing a roadway with respect to which Knott County had obtained an easement from previous property owners. Appellant now challenges the county's extension of the length of the roadway "to match the length of the recorded deed."

Appellant contended that the county had abandoned the portion sought to be extended and that the action of the county would constitute an act of inverse condemnation for which he sought compensation.

We affirmed the holding of the circuit court: that the easement had never been abandoned simply due to infrequency of use and that the original deed granting the easement had created an express easement. Therefore, the terms of the deed of conveyance properly determined the rights and liabilities of the parties, duly authorizing an alteration in the status quo to reflect the terms of the recorded deed.

II. CRIMINAL LAW

A. JAMES RANDALL NANTZ v. COMMONWEALTH OF KENTUCKY (Ky. App. 2026).

2024-CA-1501-MR 1/02/2026 2026 WL 16193
2024-CA-1502-MR
2024-CA-1502-MR
2024-CA-1504-MR
2024-CA-1505-MR
2024-CA-1506-MR
2024-CA-1507-MR
2024-CA-1508-MR

Opinion Affirming by ECKERLE, JUDGE; MCNEILL, J. (CONCURS) AND MOYNAHAN, J. (CONCURS)

The Kentucky Court of Appeals affirmed the Harlan Circuit Court's orders revoking Appellant's probation in eight criminal cases. As a condition of probation, the Trial Court ordered Appellant to complete a long-term, inpatient rehabilitation program. Appellant, however, failed to complete the rehabilitation program, absconded from supervision, fled to Virginia, and admitted to continued drug use. Following a probation revocation hearing, and pursuant to KRS 439.3106, the Trial Court found that Appellant's failures to comply with the conditions of supervision constituted a significant risk to prior victims or the community at large, and that he could not be appropriately managed in the community. On appeal, Appellant misconstrued precedential authority in arguing that the Trial Court failed to provide a reviewable analysis supporting its findings. The Court clarified that a Trial Court's cursory recitation of the findings mandated by KRS 439.3106(1) is adequate so long as a preponderance of the evidence supports those findings. The Court further held that the Trial Court's findings were adequately supported by a preponderance of the evidence based on Appellant's admitted lawlessness, repeated failures to comply with the conditions of his probation and in consideration of his extensive criminal history. Lastly, the Court rejected Appellant's argument that the Trial Court committed reversable error by failing to impose lesser sanctions. The Court held that the Trial Court is not required to impose lesser sanctions

other than revocation and incarceration upon a finding that revocation is statutorily permissible pursuant to KRS 439.3106.

B. TREVOR COLLINS v. COMMONWEALTH OF KENTUCKY (Ky. App. 2026).

2024-CA-0493-MR 1/16/2026 2026 WL 119998
Opinion Affirming by MCNEILL, JUDGE; ECKERLE, J. (CONCURS) AND MOYNAHAN, J. (CONCURS)

This is a criminal case in which Trevor Collins appeals his conviction and sentence for first-degree assault and second-degree criminal mischief. The charges stemmed from an incident on January 14, 2023, at Tater's Bar in Mason County, Kentucky, where Collins assaulted Mathew Tyler Newman in the restroom of the bar, causing serious and permanent injuries. Collins was sentenced to fifteen years in prison and fined $500, with an agreed restitution amount of $183,215.39. On appeal, Collins argued that his constitutional right to a unanimous verdict was violated due to the jury instructions, and that there was no proof of a dangerous instrument used in the assault. Both issues were unpreserved, and Collins requested palpable error review. The Court found that: 1) the jury instructions mirrored the statutory requirements; and 2) the evidence was sufficient to support the conviction, in part, because the restroom wall could be considered a dangerous instrument based on its use during the assault. The Court ultimately concluded that there was no palpable error in the trial proceedings and upheld the conviction and sentence.

C. COMMONWEALTH OF KENTUCKY v. ROBERT W. BROCK (Ky. App. 2026).

2025-CA-0029-MR 1/16/2026 2026 WL 119044
Opinion Vacating and Remanding by CETRULO, JUDGE; ACREE, J. (CONCURS) AND CALDWELL, J. (CONCURS)

The Commonwealth filed this interlocutory appeal of the Powell Circuit Court's order interpreting KRS 512.020(2)(b). The circuit court held that the statute permits a criminal defendant to qualify for a class B misdemeanor by depositing restitution with the clerk of court to hold pending the outcome of trial.

In January 2023, Brock was indicted under KRS 512.020 for criminal mischief in the first-degree, a class D felony. In July 2024, the Kentucky Legislature amended KRS 512.020 to include subsection (2)(b). This amendment permitted a defendant to reduce his sentencing exposure for a first offense to that of a class B misdemeanor upon completion of one of the following tasks prior to trial: (1) repair or replace the damaged property; (2) perform community service; or (3) pay full restitution. Brock opted to pursue option (3), but instead of paying restitution to the victim prior to trial, he proposed

depositing the restitution with the clerk of court to hold pending the jury's verdict. In effect, Brock would proceed to trial on a class B misdemeanor, and if convicted, only then would the victim receive restitution. If acquitted, Brock argued that the restitution would be returned to him.

The circuit court found that KRS 512.020 as amended contained ambiguities and required construing the statute in Brock's favor, thereby permitting him to proceed to trial as he proposed.

Basing our analysis solely on statutory interpretation, we vacated the circuit court and held that KRS 512.020(2)(b) was unambiguous and required the complete payment of restitution to the victim prior to trial in order to benefit from the provisions of KRS 512.020(2)(b).

D. COMMONWEALTH OF KENTUCKY v. WILLIAM MICHAEL MCCUISTON (Ky. App. 2026).

2024-CA-1109-DG 1/23/2026 2026 WL 179333
Opinion Reversing by EASTON, JUDGE; THOMPSON, C. J. (CONCURS) AND L. JONES, J. (CONCURS)

This Court granted discretionary review in this DUI case. An Officer responded to a local bar for possible shots fired. While the Officer was interviewing two bar employees, McCuiston existed the bar. The employees mentioned to the Officer that McCuiston had been drinking "a lot," and the Officer testified that he witnessed McCuiston stumble on his way to his car. The Officer followed McCuiston and later pulled him over for failing to properly use a turn signal. McCuiston failed field sobriety tests, and a breath test showed an over the limit level of alcohol. McCuiston was arrested and charged with DUI.

McCuiston moved to suppress the test results challenging the stop. He argued that there is no duty to use a turn signal in a right-turn only lane. The district court denied the motion, holding that there are no exceptions to the requirement to use a turn signal under KRS 189.380(2). The district court separately determined that the stop was justified based on the employees' statements and the Officer's observation of McCuiston. McCuiston entered a conditional guilty plea pending the appeal of the denial of the motion to suppress.

The circuit court reversed the denial of the suppression motion determining that the investigative stop was not supported by reasonable, articulable suspicion. The circuit court based its conclusion solely on the Officer's inability to state the exact amount of footage traveled while McCuiston had a turn signal on. The Commonwealth sought discretionary review in this Court, challenging the failure to give proper deference to the district court's findings of fact, and the failure to find reasonable and articulable suspicion to stop McCuiston.

This Court reversed. First, the Court addressed the circuit court's reliance on a 2011 opinion of the same circuit court which held that signals were not required when in a turn only lane. There is no authority to support the proposition that a circuit court opinion, especially one entered by a judge no longer on that bench, has precedential value; thus, reliance on that opinion was improper. Next, this Court determined that McCuiston was required to use a signal when turning. KRS 189.380(2) requires a continuous signal for at least 100 feet before making a turn, without any stated exceptions. The district court determined that the stop was legal, in part, because of the weight it gave the Officer's testimony that a signal was not used continuously for 100-feet prior to the turn. The circuit court reassessed the Officer's testimony by focusing on the Officer's inability to state exactly how many feet a signal was used. As the district court was the factfinder, the circuit court is to determine only whether there is substantial evidence to support a factual finding. There was substantial evidence to support the finding by the district court. And, even if the Officer had been wrong about the distance travelled with a signal on, this did not remove probable cause to conduct the traffic stop.

This Court also determined that the Officer had a reasonable, articulable suspicion that McCuiston was driving under the influence of alcohol. Officers often wait for a traffic infraction by an impaired driver to justify a stop, but observing erratic driving is not required for sufficient suspicion to conduct a DUI stop. The Officer receiving statements from the bar employees alone but especially combined with the Officer's observation of McCuiston stumbling was enough to give rise to a reasonable suspicion. This Court reversed the circuit court and remanded the case to reinstate the district court's judgment based upon its order denying the motion to suppress.

E. JERALD JENNINGS v. COMMONWEALTH OF KENTUCKY (Ky. App. 2026).

2025-CA-0069-MR 1/30/2026 2026 WL 248011

Opinion Affirming by L. JONES, JUDGE; THOMPSON, C. J. (CONCURS) AND EASTON, J. (CONCURS)

Court held that a Kentucky court had jurisdiction over a theft by unlawful taking charge even though there was no evidence that any portion of the theft occurred within the territorial boundaries of Kentucky. Under KRS 500.060(1)(a), Kentucky courts have jurisdiction over an offense if "[e]ither the conduct or the result which is an element of the offense occurs within this state[.]" Here, the theft resulted in the unlawful exercise of control of funds belonging to a Kentucky resident held in a Kentucky bank and the theft was intended to deprive the Kentuckian of those funds. Thus, the "result which is an element of the offense" occurred in Kentucky.

III. WRIT OF PROHIBITION

A. D. ANTHONY BRINKER, INDIVIDUALLY v. HON. MARY KATHLEEN MOLLOY, JUDGE, KENTON CIRCUIT COURT, ET AL. (Ky. App. 2026).

2025-CA-1139-OA 1/02/2026 2026 WL 16165

Opinion and Order Granting Petition for Writ of Prohibition by EASTON, JUDGE; THOMPSON, C.J. (CONCURS) AND L. JONES, J. (CONCURS)

Brinker was a beneficiary and the trustee of the Brinker Family Trust. Following a complicated procedural history before both the district and circuit courts, the Beneficiaries filed a motion for summary judgment in the circuit court for their numerous claims of abuse and fraud by Brinker as trustee. Brinker responded by arguing, in part, that the district court had proper jurisdiction over all claims. In the context of an appeal, the circuit court granted summary judgment in favor of the Beneficiaries and scheduled a trial for damages. Brinker filed this original action with this Court seeking a writ of prohibition based on lack of jurisdiction of the circuit court to determine the claims and damages.

Brinker argues that, because no party filed a petition in the circuit court within 20 days of Beneficiaries' petition in district court, the circuit court is acting outside of its jurisdiction. The Beneficiaries filed a petition with the district court and, only after obtaining an unfavorable result, appealed to the circuit court. The circuit court then tried to remand the case only for an accounting and retain the rest of the case. Further confusion arose because the appeal never became final, and the district court continued to rule on various motions which it had no jurisdiction to do while an appeal was pending.

To act in accordance with the provisions of the Uniform Trust Code and specifically KRS 386B.2-030(2), jurisdiction remains exclusively with the district court unless a party files a petition with the circuit court within 20 days of when the petition is filed with the district court. Thus, the district court here obtained exclusive jurisdiction over all claims, subject to an appeal after the claims are properly addressed. The circuit court should have remanded the entire action to the district court. This Court granted Brinker's writ of prohibition and instructed the circuit court to remand the entire case to the district court to resolve all claims. Only after those proceedings would review by appeal be proper.

IV. FAMILY LAW

A. BRITTNEY HOWE v. MICHAEL HOWE, ET AL. (Ky. App. 2026).

2025-CA-1194-ME 1/30/2026 2026 WL 248081

Opinion Reversing THOMPSON, CHIEF JUDGE; CALDWELL, J. (CONCURS) AND A. JONES, J. (CONCURS)

The Court of Appeals reversed a domestic violence order which prohibited Ms. Howe from having contact with her former husband and their two minor children. During dissolution proceedings, Mr. Howe was awarded sole custody of the children with Ms. Howe getting supervised visitation. This was due to some erratic behavior on the part of Ms. Howe. This behavior included taking the children to doctors and hospitals twenty times over a thirty-day period. Despite the order for supervised visitation only, Ms. Howe took the children from the supervised visitation location and was later arrested. She then began harassing Mr. Howe and was arrested additional times. Mr. Howe sought a DVO, and it was granted. The trial court found that taking the children to doctors twenty times would have likely scared the children and this was the reason for granting the DVO petition. The court specifically stated that no other grounds for granting the DVO were present. The Court of Appeals held that there was no evidence that the medical visits scared the children, and that potential fear of excessive medical visits did not meet the definition of “fear of serious physical injury” required to grant a DVO.