

SUPREME COURT OF KENTUCKY

MINUTES

MAY 22, 2008

RELEASED: 2:00 P .M.

- |      |  |   |           |
|------|--|---|-----------|
| 103. | COMMONWEALTH OF KENTUCKY V.<br>STEWART OLIVER<br><b>OPINION OF THE COURT BY<br/>JUSTICE ABRAMSON – <u>AFFIRMING</u></b><br>CUNNINGHAM, J., CONCURS IN<br>RESULT ONLY BY SEPARATE<br>OPINION IN WHICH NOBLE, J.,<br>JOINS.  | <a href="#">2006-SC-000385-DG</a><br><b>TO BE PUBLISHED</b> | MCCRACKEN |
| 104. | BENJAMIN COLE BENET V.<br>COMMONWEALTH OF KENTUCKY<br><b>OPINION OF THE COURT BY<br/>JUSTICE MINTON – <u>AFFIRMING</u></b>   | <a href="#">2006-SC-000422-MR</a><br><b>TO BE PUBLISHED</b> | JEFFERSON |
| 105. | JASON ALLEN DANT V.<br>COMMONWEALTH OF KENTUCKY<br><b>OPINION OF THE COURT BY<br/>JUSTICE ABRAMSON – <u>AFFIRMING</u></b>  | <a href="#">2006-SC-000505-MR</a><br><b>TO BE PUBLISHED</b> | HANCOCK   |
| 106. | WILLIAM RYAN DIXON V.<br>COMMONWEALTH OF KENTUCKY<br><b>OPINION OF THE COURT BY<br/>JUSTICE MINTON – <u>AFFIRMING</u></b>  | <a href="#">2006-SC-000682-MR</a><br><b>TO BE PUBLISHED</b> | GREENUP   |
| 107. | JOHN BIANCHI, D.M.D., ET AL V.<br>CITY OF HARLAN, A FOURTH<br>CLASS CITY, ET AL.<br><b>OPINION OF THE COURT BY<br/>JUSTICE ABRAMSON – <u>AFFIRMING</u></b><br>SCOTT, J., DISSENTS AS HE VIEWS<br>THE “UNITY RULE” APPLICABLE TO<br>THE EXTENT APPLIED TO THE<br>PROPERTIES BY THE TRIAL COURT<br>ON THE APPELLANT’S COUNTERCLAIM.<br>THUS, HE WOULD REVERSE THE<br>COURT OF APPEALS DECISION<br>AND REINSTATE THE FULL JUDGMENT<br>OF THE TRIAL COURT. | <a href="#">2006-SC-000895-DG</a><br><b>TO BE PUBLISHED</b> | HARLAN    |

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| 108. | AK STEEL CORPORATION V.<br>BEVERLY ADKINS, ET AL.<br><b>OPINION OF THE COURT –<br/><u>AFFIRMING</u></b>   | <a href="#">2007-SC-000515-WC</a><br><b>TO BE PUBLISHED</b>     | FROM COURT<br>OF APPEALS |
| 109. | CHRISTOPHER SHAHEID PEYTON V.<br>COMMONWEALTH OF KENTUCKY<br><b>OPINION OF THE COURT BY<br/>JUSTICE SCOTT – <u>AFFIRMING IN PART<br/>AND REVERSING IN PART</u></b>  | <a href="#">2006-SC-000343-MR</a><br><b>TO BE PUBLISHED</b>     | HOPKINS                  |
| 110. | AMERICAN GENERAL HOME<br>EQUITY, INC. V.<br>TERESA KESTEL<br><b>OPINION OF THE COURT BY<br/>JUSTICE MINTON – <u>REVERSING AND<br/>REMANDING</u></b><br>NOBLE, J., NOT SITTING.  | <a href="#">2006-SC-000830-DG</a><br><b>TO BE PUBLISHED</b>     | MERCER                   |
| 111. | COMMONWEALTH OF KENTUCKY,<br>EDUCATION CABINET, OFFICE OF<br>CAREER AND TECHNICAL EDUCATION;<br>KENTUCKY TECHNICAL EDUCATION<br>PERSONNEL BOARD V.<br>DONNA P. SOLLY<br><b>OPINION OF THE COURT BY<br/>JUSTICE NOBLE – <u>REVERSING</u></b><br>SCHRODER, J., NOT SITTING. | <a href="#">2006-SC-000858-DG</a><br><b>TO BE PUBLISHED</b>     | FRANKLIN                 |
| 112. | PATRICIA ELAINE NICHOLS V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>   | <a href="#">2006-SC-000063-MR</a><br><b>NOT TO BE PUBLISHED</b> | GRAYSON                  |

SUPREME COURT OF KENTUCKY

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113. COMMONWEALTH OF KENTUCKY V. [2006-SC-000305-DG](#) FAYETTE  
BRANDY SUE STEPHENS **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
SCOTT, J., DISSENTS BY SEPARATE  
OPINION IN WHICH MINTON, J., JOINS.  
SCHRODER J., NOT SITTING.
114. BEVERLY CLAY V. [2006-SC-000380-MR](#) GREENUP  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
NOBLE, J., DISSENTS BY SEPARATE  
OPINION, WITH MINTON AND  
SCHRODER, J.J., JOINING THIS  
DISSENT.
115. CARLTON EVAN MCINTOSH V. [2006-SC-000421-MR](#) WARREN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
SCHRODER, J., CONCURS IN RESULT  
ONLY BY SEPARATE OPINION.
116. ANGEL JUAREZ V. [2007-SC-000067-MR](#) BOONE  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
NOBLE, J., DISSENTS BY SEPARATE  
OPINION IN WHICH LAMBERT, C.J.,  
AND SCHRODER, J., JOIN.
117. GARY GOODMAN V. [2007-SC-000290-MR](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
SCHRODER, J., CONCURS IN  
RESULT ONLY.

SUPREME COURT OF KENTUCKY

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| 118. | R & L CARRIERS V.<br>DONALD E. GREGORY, JR., ET AL.<br><b>AND</b><br>DONALD E. GREGORY, JR. V.<br>R & L CARRIERS, ET AL.<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b> | <a href="#">2007-SC-000341-WC</a><br><b>NOT TO BE PUBLISHED</b> | FROM COURT<br>OF APPEALS |
|      |   | <a href="#">2007-SC-000360-WC</a><br><b>NOT TO BE PUBLISHED</b> | FROM COURT<br>OF APPEALS |
| 119. | CINCINNATI CONCESSION CO., INC. V.<br>THELMA R. WADE, ET AL.<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>   | <a href="#">2007-SC-000492-WC</a><br><b>NOT TO BE PUBLISHED</b> | FROM COURT<br>OF APPEALS |
| 120. | DAVID K. BENTLEY V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>REVERSING AND<br/>REMANDING</u></b>  | <a href="#">2006-SC-000376-MR</a><br><b>NOT TO BE PUBLISHED</b> | FRANKLIN                 |
| 121. | TIMOTHY P. HEIL V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>REVERSING AND<br/>REMANDING</u></b>   | <a href="#">2007-SC-000162-MR</a><br><b>NOT TO BE PUBLISHED</b> | JEFFERSON                |

**OPINIONS AND ORDERS – MAY 22, 2008**

- |   |   |                     |
|---|---|---------------------|
| KENNETH W. LAMPE V.<br>KENTUCKY BAR ASSOCIATION<br><b>ORDER SUSPENDED MOVANT FROM<br/>THE PRACTICE OF LAW FOR 180 DAYS.</b> | <a href="#">2008-SC-000200-KB</a><br><b>TO BE PUBLISHED</b> | IN SUPREME<br>COURT |
| STEPHANIE BAISDEN V.<br>KENTUCKY BAR ASSOCIATION<br><b>ORDER SUSPENDED MOVANT FROM<br/>THE PRACTICE OF LAW FOR 1 YEAR.</b>  | <a href="#">2008-SC-000231-KB</a><br><b>TO BE PUBLISHED</b> | IN SUPREME<br>COURT |

**SUPREME COURT OF KENTUCKY**

**MINUTES**

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**OPINIONS AND ORDERS – MAY 22, 2008**

**DEAN LYLE SEXTON V.  
KENTUCKY BAR ASSOCIATION  
ORDER PERMANENTLY DISBARRED  
MOVANT FROM THE PRACTICE OF LAW.**

[2008-SC-000235-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

**PATRICK B. MCCLURE V.  
KENTUCKY BAR ASSOCIATION  
ORDER SUSPENDED MOVANT FROM  
THE PRACTICE OF LAW FOR 181 DAYS.**

[2008-SC-000265-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

**DAVID R. SCHOTT V.  
KENTUCKY BAR ASSOCIATION  
ORDER SUSPENDED MOVANT FROM  
THE PRACTICE OF LAW FOR 60 DAYS,  
30 DAYS TO BE SERVED AND 30 DAYS  
PROBATED FOR 1 YEAR SUBJECT TO  
CONDITIONS.**

[2008-SC-000266-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
MAY 14, 2008**

**KIMBERLY G. HILL, ET AL. V.  
KENTUCKY LOTTERY CORPORATION**

2006-SC-000748-DG

JEFFERSON

**COMMONWEALTH OF KENTUCKY V.  
LAWRENCE EVERETT ALLEMAN**

2007-SC-000570-DG

HARDIN

**TERRY TOBAR V.  
COMMONWEALTH OF KENTUCKY**

2007-SC-000842-DG

FAYETTE

**MARK E. BAUDER V.  
COMMONWEALTH OF KENTUCKY**

2008-SC-000056-DG

BOYLE

SUPREME COURT OF KENTUCKY

MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
MAY 14, 2008**

JACKIE R. MARCUM V. COMMONWEALTH OF KENTUCKY	2007-SC-000449-D	JACKSON
MICHAEL NEVITT, ET AL. V. LICIA BARRETT, D/B/A EXTREME DAWGS, ET AL.	2007-SC-000565-D	JEFFERSON
MARK EDMOND BROWN V. COMMONWEALTH OF KENTUCKY	2007-SC-000626-D	FAYETTE
RAYMOND G. DICKERSON, ET AL. V. HENRY L. STEPHENS, JR., ET AL.	2007-SC-000629-D	KENTON
JAMES L. WASHINGTON V. COMMONWEALTH OF KENTUCKY	2007-SC-000634-D	HARDIN
JOSEPH M. CODISPOTI, ET AL. V. FIRST FINANCIAL INSURANCE CO., ET AL. <b>COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.</b>	2007-SC-000638-D	JEFFERSON
JOHN CARMICAL V. KEITH BULLOCK	2007-SC-000639-D	MADISON
SOLOMON RICHARDSON V. COMMONWEALTH OF KENTUCKY	2007-SC-000643-D	CAMPBELL
CHRISTINE A. BLOCK V. BERNARD F. BLOCK	2007-SC-000659-D	JEFFERSON
COMMONWEALTH OF KENTUCKY V. LISA ROBINSON <b>AND</b> LISA ROBINSON V. COMMONWEALTH OF KENTUCKY <b>COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.</b>	2007-SC-000697-D	LINCOLN
	2007-SC-000698-D	LINCOLN

SUPREME COURT OF KENTUCKY

MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
MAY 14, 2008**

RICK LEE PIPPIN V. MICHELLE LENE PIPPIN	2007-SC-000707-D	JEFFERSON
DONALD MCCOY, ET AL. V. DOUGLAS C. HATFIELD, ET AL.	2007-SC-000708-D	PIKE
J.R. WATTS, ET AL. V. HARRY D. (JACK) SIMPSON, JR. ET AL. <b>COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.</b>	2007-SC-000726-D	DAVISS
JAMES SUTTON V. COMMONWEALTH OF KENTUCKY	2007-SC-000732-D	JEFFERSON
PHILLIP LICKLITER V. COMMONWEALTH OF KENTUCKY	2007-SC-000765-D	FAYETTE
CHAD SHOFNER V. COMMONWEALTH OF KENTUCKY	2007-SC-000822-D	TAYLOR
DAVID WADE CONLEY V. COMMONWEALTH OF KENTUCKY	2007-SC-000836-D	FAYETTE
COMMONWEALTH OF KENTUCKY, FINANCE AND ADMINISTRATION CABINET, DEPARTMENT OF REVENUE V. AUTOZONE DEVELOPMENT CORPORATION <b>COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.</b>	2007-SC-000846-D	FRANKLIN
DOUGLAS E. BAKER, JR. V. COMMONWEALTH OF KENTUCKY	2007-SC-000889-D	BRACKEN
LERA BRAEHLER, INDIVIDUALLY, ETC. V. PAULA FLEMING, FORMERLY PAULA BRAEHLER	2007-SC-000895-D	JEFFERSON

**SUPREME COURT OF KENTUCKY**

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
MAY 14, 2008**

BILLY RAY CARROLL V. COMMONWEALTH OF KENTUCKY	2007-SC-000905-D	KENTON
DANIEL DARBY V. COMMONWEALTH OF KENTUCKY	2008-SC-000002-D	RUSSELL
JOSEPH SILVERBERG V. COMMONWEALTH OF KENTUCKY	2008-SC-000008-D	JEFFERSON
BRENNAN J. ROUSE V. COMMONWEALTH OF KENTUCKY	2008-SC-000010-D	MCCRACKEN
ANTHONY HAWKINS V. COMMONWEALTH OF KENTUCKY	2008-SC-000030-D	HARLAN
KELVIN W. REED V. COMMONWEALTH OF KENTUCKY	2008-SC-000036-D	JEFFERSON
KROGER LIMITED PARTNERSHIP I, D/B/A KROGER L-347 V. CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY	2008-SC-000069-D	FAYETTE
THOMAS LEE VELTEN V. LYNN PEERS WELCH	2008-SC-000135-D	JEFFERSON
RORY K. HILL V. COMMONWEALTH OF KENTUCKY	2008-SC-000145-D	HARDIN
R.P., GREAT GRANDPARENT OF THE INFANT CHILDREN, ET AL. V. K.N., MOTHER OF THE INFANT CHILDREN, ET AL.	2008-SC-000147-DE	MERCER
RODNEY HAMILTON HIGGINS, JR. V. COMMONWEALTH OF KENTUCKY	2008-SC-000153-D	FAYETTE



**SUPREME COURT OF KENTUCKY**

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
MAY 14, 2008**

BRANDON FORD V. JAY NICHOLAS CHAPPEL, ET AL.	2008-SC-000157-DE	TAYLOR
LARRY ADAMS V. KATHERINE ADAMS	2008-SC-000164-D	LETCHER
JOSEPH E. JONES, JR. V. COMMONWEALTH OF KENTUCKY	2008-SC-000171-D	FAYETTE
MICHAEL CREEKMORE V. HEATHER CREEKMORE	2008-SC-000175-DE	JEFFERSON
GARY PENTECOST V. COMMONWEALTH OF KENTUCKY	2008-SC-000242-D	CHRISTIAN

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT/EXTENSION OF TIME  
TO FILE MOTION FOR DISCRETIONARY REVIEW – MAY 14, 2008**

DAVID BUTLER V. NELDA BIGGERSTAFF, ET AL.	2008-SC-000270-D	MONROE
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**COURT ORDERS GRANTING PETITION FOR REHEARING – MAY 22, 2008**

RUBEN RIOS SALINAS V. COMMONWEALTH OF KENTUCKY <b>AND</b>	<a href="#">2005-SC-000782-MR</a>	FAYETTE
RUBEN RIOS SALINAS V. TOM SIMPSON <b>AND</b>	<a href="#">2006-SC-000482-TG</a>	LYON
RUBEN RIOS SALINAS V. COMMONWEALTH OF KENTUCKY <b>ORDER GRANTED PETITION FOR REHEARING AND WITHDREW AND REISSUED OPINION.</b>	<a href="#">2006-SC-000483-TG</a>	FAYETTE

SUPREME COURT OF KENTUCKY

MINUTES

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**COURT ORDERS GRANTING PETITION FOR REHEARING – MAY 22, 2008**

SEBASTIAN-VOOR PROPERTIES, LLC, ET AL. V. LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, ET AL. <b>ORDER GRANTED APPELLANTS' PETITION FOR REHEARING AND WITHDREW OPINION RENDERED FEBRUARY 21, 2008. ORDER DENIED APPELLEES' PETITION FOR MODIFICATION AS MOOT.</b>	2006-SC-000732-DG	FAYETTE
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**COURT ORDERS DENYING PETITION FOR REHEARING – MAY 22, 2008**

GRANT HATFIELD, JR. V. COMMONWEALTH OF KENTUCKY	2006-SC-000333-MR	CLAY
MICHAEL MERRALL SHEPHERD V. COMMONWEALTH OF KENTUCKY <b>ORDER MODIFIED THE OPINION OF THE COURT BY JUSTICE ABRAMSON RENDERED FEBRUARY 21, 2008, BY SUBSTITUTION OF NEW OPINION.</b>	<a href="#">2006-SC-000450-MR</a>	FAYETTE
GEORGE KELLY MAYES V. COMMONWEALTH OF KENTUCKY	2006-SC-000656-MR	TRIGG

**COURT ORDERS**

ARDETH C. FINLEY, JR. V. COMMONWEALTH OF KENTUCKY <b>ORDER DENIED MOTION TO PROCEED INFORMA PAUPERIS. ENTERED: MAY 1, 2008</b>	2008-SC-000283-D	BOONE
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**SUPREME COURT OF KENTUCKY**

**MINUTES**

**MAY 22, 2008**

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**COURT ORDERS DISMISSING – MAY 19, 2008**

BRIAN R. SMITH V.  
COMMONWEALTH OF KENTUCKY

2007-SC-000404-DG

LAUREL

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE  
KENTUCKY BAR ASSOCIATION – MAY 12, 2008**

TITUS G. LYLE V.  
KENTUCKY BAR ASSOCIATION

2008-SC-000335-KB

IN SUPREME  
COURT

MARC DOUGLAS DIETZ V.  
KENTUCKY BAR ASSOCIATION

2008-SC-000336-KB

IN SUPREME  
COURT

**SUPREME COURT RECENT OPINIONS** – THE KENTUCKY SUPREME COURT HAS COMPILED THE MOST RECENT OPINIONS INTO A ZIP FILE. PLEASE VIEW THE INSTRUCTIONS AND FILE BEFORE DOWNLOADING ON OUR SEARCHABLE OPINIONS WEBSITE, [http://apps.kycourts.net/supreme/sc\\_opinions.shtm](http://apps.kycourts.net/supreme/sc_opinions.shtm)