

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

- |     |   |   |  |
|-----|---|---|--|
| 90. | WARREN SMITH, ET AL. V.<br>CARBIDE AND CHEMICALS<br>CORPORATION, ET AL.<br><b>OPINION OF THE COURT BY<br/>JUSTICE SCHRODER –<br/>CERTIFYING THE LAW</b><br>CUNNINGHAM, J., DISSENTS BY<br>SEPARATE OPINION. MINTON, J.,<br>DISSENTS BY SEPARATE OPINION<br>IN WHICH LAMBERT, C.J., JOINS. | <a href="#">2005-SC-000686-CL</a><br><b>TO BE PUBLISHED</b> | FROM U.S.<br>COURT OF<br>APPEALS,<br>6 <sup>TH</sup> CIRCUIT |
| 91. | DEBORAH F. THEISEN,<br>(INDIVIDUALLY) V.<br>ESTATE OF CLAYTON C. WILSON,<br>(A/K/A CLEO WILSON), ET AL.<br><b>OPINION OF THE COURT BY<br/>JUSTICE SCHRODER –<br/>VACATING AND REMANDING</b>   | <a href="#">2005-SC-000769-DG</a><br><b>TO BE PUBLISHED</b> | PULASKI  |
| 92. | BITUMINOUS CASUALTY<br>CORPORATION V.<br>KENWAY CONTRACTING, INC., ET AL.<br><b>OPINION OF THE COURT BY<br/>JUSTICE CUNNINGHAM –<br/>AFFIRMING</b><br>MCANULTY AND MINTON, J.J,<br>NOT SITTING.   | <a href="#">2005-SC-000013-DG</a><br><b>TO BE PUBLISHED</b> | WARREN   |
| 93. | TRACEY J. DUNN V.<br>TODD FELTY<br><b>OPINION OF THE COURT BY<br/>JUSTICE MCANULTY –<br/>AFFIRMING</b>  | <a href="#">2005-SC-000295-DG</a><br><b>TO BE PUBLISHED</b> | JEFFERSON  |
| 94. | COMMONWEALTH OF KENTUCKY V.<br>CHARLES BUSSELL<br><b>OPINION OF THE COURT –<br/>AFFIRMING</b><br>SCOTT, J., NOT SITTING.  | <a href="#">2006-SC-000001-MR</a><br><b>TO BE PUBLISHED</b> | CHRISTIAN  |

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

95. DANIEL GENE CUMMINGS V. [2005-SC-000479-MR](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**  
**OPINION OF THE COURT BY**  
**JUSTICE MCANULTY –**  
**AFFIRMING IN PART, REVERSING**  
**IN PART AND REMANDING**
96. STEEL TECHNOLOGIES, INC. V. [2005-SC-000551-DG](#) GALLATIN  
JASON CONGLETON (INDIVIDUALLY; **TO BE PUBLISHED**  
IN HIS CAPACITY AS ADMINISTRATOR  
FOR THE ESTATE OF MELISSA  
CONGLETON; AND IN HIS CAPACITY  
AS PARENT AND NEXT FRIEND OF  
JASON AND SAMANTHA CONGLETON)  
**OPINION OF THE COURT BY**  
**JUSTICE NOBLE – AFFIRMING IN**  
**PART AND REVERSING IN PART**  
MCANULTY, J., CONCURS BY  
SEPARATE OPINION. MINTON, J.,  
NOT SITTING.
97. KARLOS BROWN V. [2005-SC-000078-DG](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**  
**OPINION OF THE COURT BY**  
**JUSTICE NOBLE – REVERSING**  
**AND REMANDING**  
CUNNINGHAM, J., CONCURS BY  
SEPARATE OPINION IN WHICH  
LAMBERT, C.J.; MINTON AND  
NOBLE, J.J., JOIN. SCOTT, J.,  
DISSENTS BY SEPARATE OPINION  
IN WHICH MCANULTY, J., JOINS.  
SCHRODER, J., NOT SITTING.
98. B.B. (A CHILD UNDER EIGHTEEN) V. [2005-SC-000814-DG](#) ADAIR  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**  
**OPINION OF THE COURT BY**  
**JUSTICE SCHRODER –**  
**REVERSING AND REMANDING**

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

- |      |  |   |                          |
|------|--|---|--------------------------|
| 99.  | MICHAEL KEITH BUTTREY V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>  | <a href="#">2005-SC-000320-MR</a><br><b>NOT TO BE PUBLISHED</b> | LAUREL                   |
| 100. | DEBORAH L. HUIETT V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>MCANULTY, J., CONCURS BY<br>SEPARATE OPINION IN WHICH<br>MINTON, J., JOINS. | <a href="#">2005-SC-000643-MR</a><br><b>NOT TO BE PUBLISHED</b> | BOONE                    |
| 101. | ROBERT FLANDERS V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>  | <a href="#">2005-SC-000815-MR</a><br><b>NOT TO BE PUBLISHED</b> | LAUREL                   |
| 102. | MICHAEL TODD KEELING V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>   | <a href="#">2006-SC-000003-MR</a><br><b>NOT TO BE PUBLISHED</b> | MCCRACKEN                |
| 103. | JASON PATRICK BOZE V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>   | <a href="#">2006-SC-000137-MR</a><br><b>NOT TO BE PUBLISHED</b> | FAYETTE                  |
| 104. | TONY GLASPER V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>   | <a href="#">2006-SC-000300-MR</a><br><b>NOT TO BE PUBLISHED</b> | JEFFERSON                |
| 105. | PEGGY ENGLEMAN V.<br>RUMPKE, ET AL.<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b>   | <a href="#">2006-SC-000632-WC</a><br><b>NOT TO BE PUBLISHED</b> | FROM COURT<br>OF APPEALS |

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

106. JAMES A. ELLIS, ET AL. V. [2006-SC-000660-MR](#) PIKE  
HONORABLE JOHN DAVID CAUDILL, **NOT TO BE PUBLISHED**  
SPECIAL JUDGE,  
PIKE CIRCUIT COURT, ET AL.  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
SCOTT, J., NOT SITTING.

**OPINIONS AND ORDERS –**

KENTUCKY BAR ASSOCIATION V. [2006-SC-000057-KB](#) IN SUPREME  
KEVIN LEE NESBITT **TO BE PUBLISHED** COURT  
**ORDER GRANTED 1 YEAR**  
**EXTENSION TO COMPLETE**  
**REMEDIAL EDUCATION.**  
ENTERED: JUNE 21, 2007.

KENTUCKY BAR ASSOCIATION V. [2007-SC-000097-KB](#) IN SUPREME  
DAVID ANTHONY GRIFFITHS **TO BE PUBLISHED** COURT  
**ORDER SUSPENDED RESPONDENT**  
**FROM THE PRACTICE OF LAW**  
**FOR 181 DAYS.**  
ENTERED: JUNE 21, 2007

KENTUCKY BAR ASSOCIATION V. [2007-SC-000116-KB](#) IN SUPREME  
NANCY E. SHELBY CALLOWAY **TO BE PUBLISHED** COURT  
**ORDER PUBLICLY REPRIMANDED**  
**RESPONDENT.**  
ENTERED: JUNE 14, 2007.

WILLIAM MORRIS SAWYER V. [2007-SC-000297-KB](#) IN SUPREME  
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT  
**ORDER SUSPENDED MOVANT**  
**FROM THE PRACTICE OF LAW**  
**FOR 3 YEARS.**  
ENTERED: JUNE 21, 2007

**SUPREME COURT OF KENTUCKY**

**MINUTES**

**JUNE 21, 2007**

**RELEASED: 2:00 P.M.**

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
JUNE 13, 2007**

MICHAEL WAYNE HOLT V. COMMONWEALTH OF KENTUCKY	2006-SC-000391-DG	JEFFERSON
TRIPLE CROWN SUBDIVISION HOMEOWNERS ASSOCIATION, INC. V. CLINTON S. OBERST AND SUSAN J. OBERST	2006-SC-000934-DG	BOONE
STEPHEN B. EARLY, ET AL. V. OLDHAM COUNTY BOARD OF EDUCATION	2007-SC-000008-DG	OLDHAM
BRYAN LEE REINHARDT V. CAROLINE MUDD, WARDEN, ET AL.	2007-SC-000201-DG	MARION
LINDA JUSTICE V. DAN HALL	2007-SC-000215-DG	FLOYD
DAVID R. PORTERFIELD, JR. V. PAUL RENAKER	2007-SC-000223-DG	KENTON
JOHN TIM JENKINS V. COMMONWEALTH OF KENTUCKY	2007-SC-000248-DG	WOODFORD
MOORE PONTIAC, BUICK, GMC, INC. V. CANDRIA SCOTT AND JAMES E. SCOTT, JR.	2007-SC-000282-DG	PIKE

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
JUNE 13, 2007**

GEORGE D. LAWSON, EXECUTOR OF THE ESTATE OF R.E. PETRIE AND TRUSTEE OF THE TRUST ESTABLISHED BY THE WILL OF R.E. PETRIE V. WILLIAM A. HAYNES, SPECIAL ADMINISTRATOR OF THE ESTATE OF FRANCIS R. PETRIE AND THOMAS R. LOID, JR.	2006-SC-000687-D	WARREN
WILLIAM J. BARROW II V. LEXINGTON-FAYETTE URBAN COUNTY CIVIL SERVICE COMMISSION, ET AL.	2006-SC-000730-D	FAYETTE
DAVID TRENT V. LAKE CUMBERLAND RESORT, INC.	2006-SC-000811-D	PULASKI
CHRISTOPHER BARLEY V. KENTUCKY DEPARTMENT OF CORRECTIONS, ET AL.	2006-SC-000941-D	MUHLENBERG
HOANG CONG DUONG V. COMMONWEALTH OF KENTUCKY	2007-SC-000022-D	FAYETTE
DR. ROBERT D. HILGERS, ET AL. V. INTERNATIONAL GYNECOLOGIC CANCER SOCIETY, INC., ET AL.	2007-SC-000065-D	JEFFERSON
WOODROW CLAY BUSH, ET AL. V. ELLIS BUSH, ET AL.	2007-SC-000068-D	WOLFE
VIRGINIA KUPPER V. COMMONWEALTH OF KENTUCKY <b>COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.</b>	2007-SC-000070-D	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
JUNE 13, 2007**

DONALD RAY VIOLETT V. W. CURRIE MILLIKEN	2007-SC-000110-D	WARREN
MICHAEL HARDIN V. COMMONWEALTH OF KENTUCKY <b>COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.</b>	2007-SC-000129-D	NELSON
WHITNEY W. BRIDGERS V. COMMONWEALTH OF KENTUCKY	2007-SC-000139-D	SPENCER
C. WES COLLINS V. PEGGY S. COLLINS (RICE)	2007-SC-000144-D	FAYETTE
RICK BELL V. COMMONWEALTH OF KENTUCKY	2007-SC-000171-D	MCCREARY
ESTATE OF TONY TURNER, BY AND THROUGH ADMINISTRATRIX, GERALDINE TURNER V. GLOBE INDEMNITY COMPANY	2007-SC-000182-D	HARLAN
JATHNIEL CHENAULT V. COMMONWEALTH OF KENTUCKY <b>COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.</b>	2007-SC-000198-D	FAYETTE
AUBREY HALL, ET AL. V. COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS	2007-SC-000211-D	PERRY
CHARLES ANTHONY COATES V. COMMONWEALTH OF KENTUCKY	2007-SC-000219-D	JEFFERSON
ARTHUR JASPER, JR. V. COMMONWEALTH OF KENTUCKY	2007-SC-000231-D	FAYETTE

**SUPREME COURT OF KENTUCKY**

**MINUTES**

**JUNE 21, 2007**

**RELEASED: 2:00 P.M.**

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
JUNE 13, 2007**

JERI STEWART V. JIMMY RANDALL	2007-SC-000232-DE	JEFFERSON
KROGER V-338 V. DR. JAMES W. HOLSINGER, JR., SECRETARY, COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH & FAMILY SERVICES, ET AL.	2007-SC-000240-D	MCCRACKEN
DEMETRIUS DAVIS V. COMMONWEALTH OF KENTUCKY	2007-SC-000244-D	JEFFERSON
GINA MARIE LEE V. BENSON LOCKHART LEE	2007-SC-000252-D	FRANKLIN
MILTON W. KEENEY, ET AL. V. BARBARA JOANNE KEENEY	2007-SC-000263-D	PULASKI

**COURT ORDERS GRANTING MOTION TO TRANSFER – JUNE 14, 2007**

ERNIE FLETCHER, IN HIS OFFICIAL CAPACITY AS THE GOVERNOR OF THE COMMONWEALTH OF KENTUCKY, ET AL. V. HAYDON BRIDGE COMPANY, INC., ET AL.	2007-SC-000058-TG	FRANKLIN
--	-------------------	----------

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE  
MOTION FOR DISCRETIONARY REVIEW – JUNE 18, 2007**

JEFFREY CURTIS V. COMMONWEALTH OF KENTUCKY	2007-SC-000334-D	CALLOWAY
---	------------------	----------



SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING PETITION FOR REHEARING – JUNE 21, 2007**

ROBERT EARL GAINES V. 2005-SC-000412-MR LIVINGSTON  
COMMONWEALTH OF KENTUCKY

CORNELIUS JAMAL MONK V. [2005-SC-000470-MR](#) CHRISTIAN  
COMMONWEALTH OF KENTUCKY  
**ORDER MODIFIED OPINION  
RENDERED MARCH 22, 2007,  
BY SUBSTITUTION OF PAGE 10.**

THOMAS C. BOWLING V. [2005-SC-000712-MR](#) FAYETTE  
COMMONWEALTH OF KENTUCKY  
**ORDER MODIFIED OPINION  
RENDERED JUNE 15, 2006,  
BY SUBSTITUTION OF  
PAGES 1 AND 6 THROUGH 13.**

**COURT ORDERS**

JAMES A. CRUM V. [2005-SC-000395-DG](#) PIKE  
COMMONWEALTH OF KENTUCKY  
**ORDER MODIFIED OPINION  
RENDERED MAY 24, 2007, BY  
BY SUBSTITUTION OF  
PAGES 4, 5, AND 6.**  
ENTERED: MAY 25, 2007

JOHN W. POTTER, SPECIAL JUDGE 2006-SC-000886-OA FROM COURT  
BOONE CIRCUIT COURT V. OF APPEALS  
JOHN DOE CLASS, ET AL.  
**ORDER GRANTED MOTION TO  
DISMISS APPEAL.**  
ENTERED: JUNE 21, 2007

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

**COURT ORDERS**

HYDEN CITIZENS BANK V. 2006-SC-000887-I FRANKLIN  
COMMONWEALTH OF KENTUCKY,  
EX REL. KENTUCKY DEPARTMENT  
OF REVENUE.  
**ORDER GRANTED MOTION TO  
DISMISS APPEAL.**  
ENTERED: JUNE 14, 2007

JACK LAKE, JR. V. 2007-SC-000145-MR KNOX  
COMMONWEALTH OF KENTUCKY  
**ORDER DISMISSED APPEAL FOR  
FAILURE TO PERFECT.**  
MAY 22, 2007

LEE SCALF V. 2007-SC-000228-D KENTON  
COMMONWEALTH OF KENTUCKY  
**ORDER GRANTED MOTION  
TO DISMISS MOTION FOR  
DISCRETIONARY REVIEW.**  
JUNE 11, 2007

GARRY BROCK V. 2007-SC-000325-MR JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**ORDER DENIED MOTION TO  
PROCEED IN FORMA PAUPERIS.**  
ENTERED: MAY 23, 2007

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE  
KENTUCKY BAR ASSOCIATION – JUNE 14, 2007**

DAVID K. SCHWIRIAN V. 2007-SC-000424-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT

CHELSEA ANNE WHITLEY V. 2007-SC-000431-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT