

UPDATED: 04/18/2012

APRIL 2012

ORAL ARGUMENT

CALENDAR

Report Updated On: 04/18/2012

04/18/2012

APRIL, 2012

APRIL 10, 2012

FULL COURT MEETING

APRIL 17, 2012

10:00 A.M. MOTION PANEL, JUDGE VANMETER, PRES.,
JUDGE DIXON AND JUDGE KELLER, ASSOC.

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

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

LEXINGTON – Contact Dana Carter – (859) 246-2132

SHEPHERDSVILLE – Contact Layne Abell – (502) 543-7104

**LOCATION: FAYETTE COUNTY CIRCUIT COURT, COURTROOM I, 4TH FLOOR,
120 NORTH LIMESTONE, LEXINGTON, KENTUCKY**

DATE: Wednesday, April 18, 2012

12:15 PM PJ: THOMPSON, HON. KELLY

LAMBERT, HON. JAMES H.

VANMETER, HON. LAURANCE B.

2011CA000223

ROXANNE SMITH v TERESA GRUBB

Appeal from judgment involving a slip and fall caused by a depression in a parking lot. Appellant alleges that the store manager is not liable for joint and severable damages and was fraudulently joined in the action and that the trial judge should have recused himself.

CIVIL

CLAY COUNTY

HON OSCAR G HOUSE

Appellant Atty:

JOHNSON, BRIAN
OWEN, DAVID
STINNETT, MATTHEW

Appellant Name:

SMITH, ROXANNE

Appellee Atty:

WHITE, YANCEY

Appellee Name:

GRUBB, TERESA

** NOTE:PREVIOUSLY ON 4/9/12 AT 2:00 PM.

01:00 PM PJ: THOMPSON, HON. KELLY

LAMBERT, HON. JAMES H.

VANMETER, HON. LAURANCE B.

2011CA001090

CARLA GIBSON v DONNA K. HICKS

Appeal by a state social worker's supervisor alleging entitlement to immunity and res judicata defenses and alleging no legal duty for failure to protect a crime victim who was not in custody when she was harmed.

CIVIL

PERRY COUNTY

HON WILLIAM ENGLE

Appellant Atty:

IRVIN, D
WOMACK, MONA

Appellant Name:

GIBSON, CARLA

Appellee Atty:

RICHARDSON, PAULA
STUMBO, MARTIN

Appellee Name:

HICKS, DONNA

** NOTE:PREVIOUSLY ON 4/9/12 AT 2:45 PM.

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

DATE: Wednesday, April 25, 2012

01:00 PM PJ: COMBS, HON. SARA W.

STUMBO, HON. JANET L.

LAMBERT, HON. JOSEPH E.

2011CA000164

**THE FAMILY TRUST FOUNDATION OF KENTUCKY, INC. v THE KENTUCKY HORSE
RACING COMMISSION**

Justiciability is primary issue: i.e., whether a court may render an advisory opinion of action of executive branch in rendering preliminary draft regulations in conflict with violation of pertinent statutes passed by the legislature. Appellant also complains that it was deprived of adequate opportunity to develop discovery as a result of court order. Revenue issue also involved.

CIVIL

FRANKLIN COUNTY

HON THOMAS D. WINGATE

Appellant Atty:

Appellant Name:

CAVE, STANTON

THE FAMILY TRUST FOUNDATION OF KENTUCKY,
INC.

Appellee Atty:

Appellee Name:

HOSKINS, WILLIAM III
INGLE, JAY

APPALACHIAN RACING, LLC

RENZELMANN, JASON
SNYDER, SHERYL

CHURCHILL DOWNS INCORPORATED

ARVIN, SHANNON
LEAR, WILLIAM JR
THACKER, CHRISTOPHER

KEENELAND ASSOCIATION, INC

DOWELL, DOUGLAS
FERGUSON, LAURA
MOSLEY, EUGENE

THE KENTUCKY DEPARTMENT OF REVENUE

ERVIN, PETER
HOPKINS, M.
SPECKERT, SUSAN
WEST, TIMOTHY

THE KENTUCKY HORSE RACING COMMISSION

** NOTE:40 MINUTE ORAL

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

DATE: Wednesday, April 25, 2012

02:00 PM PJ: LAMBERT, HON. JOSEPH E.

COMBS, HON. SARA W.

MOORE, HON. JOY A.

2010CA000626 SANDOZ INC. v COMMONWEALTH OF KENTUCKY

2011CA000225

Pharmaceutical companies appeal from adverse jury verdict on AG's claims under the KCPA and Medicare Fraud statute. Sufficiency of evidence of fraud; causation of damages; standing; application of Medicare Fraud statute to pharmaceutical companies; Federal pre-emption; separation of powers/justiciability; new trial issues.

CIVIL

FRANKLIN COUNTY

HON ROGER L. CRITTENDEN

Appellant Atty:

Appellant Name:

ANGLAND, JOSEPH
COHEN, DANIEL
FITZPATRICK, VINCENT JR
GALLAGHER, MICHAEL
HOSKINS, KEVIN
JOHNSON, WILLIAM
KRAMER, DAVID
MCDEVITT, HEATHER
MCMURTRY, TODD
MENTZER, STEFAN

SANDOZ INC.

Appellee Atty:

Appellee Name:

APPLEGATE, LEEANNE
CONWAY, JACK
GALLAND, GEORGE
JOHNSTONE, C.
LIBMAN, ROBERT

COMMONWEALTH OF KENTUCKY

** NOTE:80 MINUTE ORAL (PREVIOUSLY AT 2:45 PM)

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

DATE: Thursday, April 26, 2012

10:15 AM PJ: MOORE, HON. JOY A.

COMBS, HON. SARA W.

LAMBERT, HON. JOSEPH E.

2010CA001484

COMMONWEALTH OF KENTUCKY v ERIC GRIDER

Criminal case: Appeal from mistrial and dismissal of indictment in an alleged Medicaid fraud scheme; issues include whether retrial is barred and whether trial court had the authority to dismiss the indictment.

CRIMINAL

FRANKLIN COUNTY

HON PHILLIP J. SHEPHERD

Appellant Atty:

ROBERTS, MICAH

Appellant Name:

COMMONWEALTH OF KENTUCKY

Appellee Atty:

TAYLOR, KEMBRA

SMITH, JOEL

WICKER, J

Appellee Name:

**COMMONWEALTH OF KY BOARD OF
PHARMACY**

GRIDER, ERIC

**** NOTE:ORIGINALLY AT 9:30 AM**

11:00 AM PJ: MOORE, HON. JOY A.

COMBS, HON. SARA W.

LAMBERT, HON. JOSEPH E.

2011CA000744

PAL OIL COMPANY, LLC v UNITED AMERICAN ENERGY, LLC

2011CA001120

Civil case: Appeal from bench trial in case involving purchase and sale of oil and gas leases; issues include the trial court's finding of fraud, whether fraud was properly plead, whether a mutual mistake existed as to the formation of lease, whether subject matter jurisdiction existed and errors claimed with respect to reasonableness of fees and costs.

CIVIL

FAYETTE COUNTY

HON ERNESTO M. SCORSONE

Appellant Atty:

DECAMP, PATTERSON

FAIRBANKS, PHILIP

MEHR, M.

SEIF, ELIZABETH

TALBOTT, JOHN III

Appellant Name:

PAL OIL COMPANY, LLC

Appellee Atty:

GADDIS, LYNSIE

MORGAN, GRAHMN

Appellee Name:

UNITED AMERICAN ENERGY, LLC

**** NOTE:60 MINUTE ORAL**

**LOCATION: BULLITT COUNTY JUDICIAL CENTER, 250 FRANK E. SIMON AVENUE,
COURTROOM 301, THIRD FLOOR, SHEPHERDSVILLE, KENTUCKY**

DATE: Monday, April 30, 2012

01:30 PM PJ: ACREE, HON. GLENN E. TAYLOR, HON. JEFF S. CAPERTON, HON. MICHAEL O.
2011CA000888 COLLEEN MCCARTHY, AS ADMINISTRATRIX v RITSCREEN COMPANY, INC.

Civil; Product Liability: Whether the court applied the appropriate standard to the motion to dismiss. Whether the court improperly applied the "open and obvious" doctrine. Whether appellees owed a duty to appellants.

CIVIL	JEFFERSON COUNTY	HON SUSAN SCHULTZ GIBSON
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
DECAMILLIS, JOHN		COLLEEN MCCARTHY, AS ADMINISTRATRIX
HARTLEY, AMANDA		
MATTINGLY, ROBERT		
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
GORMAN, CHRISTOPHER		RITSCREEN COMPANY, INC.
LAMB, EMILY		
.....		

**** NOTE:PREVIOUSLY ON 4/23/12**

02:15 PM PJ: CAPERTON, HON. MICHAEL O. TAYLOR, HON. JEFF S. ACREE, HON. GLENN E.
2011CA000732 THOMAS PEACOCK v KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY

Appeal from summary judgment denying claim for uninsured motorist benefits.

CIVIL	JEFFERSON COUNTY	HON OLU A. STEVENS
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
HIESTAND, CHAUNCEY		PEACOCK, THOMAS
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
BREIT, MARC		KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY
.....		

**** NOTE:PREVIOUSLY ON 4/23/12**