

April 2024 ORAL ARGUMENT CALENDAR

Motion Panel

Judge Susanne Cetrulo, Presiding Judge
Chief Judge Larry E. Thompson and
Judge Kelly Mark Easton,
Associate Judges

Kentucky Court of Appeals

Oral Argument Calendar

Tuesday, April 23, 2024

Location: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, LOUISVILLE, KY

11:00AM (EST) CSX TRANSPORTATION, INC. V. DANIEL J. CAREY, II, D.C. ET AL. 2022-CA-1431 AND

CRAIG HELIGMAN, M.D. V. DANIEL J. CAREY II, D.C. ET AL. 2022-CA-1477

[2022-CA-1431, 2022-CA-1477](#)

Presiding Judge: HON. LARRY E. THOMPSON

Associate Judges: HON. ANNETTE C. KAREM and HON. J. CHRISTOPHER McNEILL

THIS IS AN APPEAL FOR DEFAMATION AND TORTIOUS INTERFERENCE CASE. ISSUES INCLUDE WHETHER THE DEFAMATORY STATEMENTS MADE WERE PURE OPINION OR OTHERWISE PROTECTED BY QUALIFIED PRIVILEGE. APPELLANTS ALSO ARGUE THERE WAS NO MALICE AND THAT THEY ACTED IN GOOD FAITH TO PROTECT THEIR OWN INTERESTS, THEREBY NEGATING THE TORTIOUS INTERFERENCE CLAIM. APPELLANTS ALSO CLAIM THAT THE AWARD OF PUNITIVE DAMAGES WAS EXCESSIVE. APPELLANTS ARGUE THEY WERE ENTITLED TO A VERDICT IN THEIR FAVOR AS A MATTER OF LAW OR, IN THE ALTERNATIVE, A NEW TRIAL.

GREENUP County, HON. JOHN F. VINCENT

Attorneys for Appellant: Evan Mark Tager, William Richard Adams, II, Melissa G Bird, Michael Patrick Abate, Shaina Danielle Massie, Brian D. Schmalzbach, Earl Lipscomb Martin, III, Rodney Dale Payne, and John Louis Bishop

Attorneys for Appellee: David J Guarnieri, Kenneth Ray Reed, and Stephen Garrett Amato

Attorneys for Other Participants: Cary Silverman, Michael D. Risley, Chadwick Aaron McTighe, Tayllor Blair Johnson, Bethany A. Breetz, and Byron Norman Miller

Tuesday, April 23, 2024

Location: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, LOUISVILLE, KY

1:30PM (EST) MILLERS CENTER, LLC, A KENTUCKY LIMITED LIABILITY COMPANY ET AL. V. MORGAN & POTTINGER, P.S.C. 2022-CA-1341

AND

JAMES P. MCCROCKLIN ET AL. V. MILLERS CENTER, LLC, A KENTUCKY LIMITED LIABILITY COMPANY ET AL. 2022-CA-1398

AND

MORGAN & POTTINGER, P.S.C. ET AL. V. MILLERS CENTER, LLC, A KENTUCKY LIMITED LIABILITY COMPANY ET AL. 2022-CA-1399

[2022-CA-1341](#), [2022-CA-1398](#), [2022-CA-1399](#)

Presiding Judge: HON. KELLY MARK EASTON

Associate Judges: HON. ANNETTE C. KAREM and HON. JEFF S. TAYLOR

CIVIL: DIRECT APPEAL: APPELLANTS CHALLENGE ORDER DISMISSING AND SUMMARY JUDGMENT FOR APPELLEES IN PROFESSIONAL NEGLIGENCE CLAIM. APPELLANTS ARGUE BOTH LLC PLAINTIFFS HAVE STANDING. THEY ALSO ARGUE SUMMARY JUDGMENT WAS PREMATURE AS NO DISCOVERY HAD BEEN UNDERTAKEN. CROSS-APPEAL: CLAIMS TRIAL COURT ERRED IN HOLDING CLAIMS WERE NOT BARRED BY STATUTE OF LIMITATIONS BECAUSE CLAIMANT WAS AWARE OF MALPRACTICE CLAIM MORE THAN ONE YEAR PRIOR TO FILING SUIT.

JEFFERSON County, HON. ANNIE O'CONNELL

Attorney for Appellant: Charles Thomas Hectus,

Attorneys for Appellees: Justin William Janes, James Patrick Grohmann, Mark Squires Fenzel, and David Joseph Kellerman

Tuesday, April 23, 2024

Location: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, LOUISVILLE, KY

**1:30PM
(EST)**

MARK BREWER V. MORGAN & POTTINGER, P.S.C. ET AL. 2022-CA-1368

AND

JAMES P. MCCROCKLIN ET. AL. V. MARK BREWER ET AL. 2022-CA-1400

AND

MORGAN & POTTINGER, P.S.C. V. MARK BREWER ET AL. 2022-CA-1402

[2022-CA-1368, 2022-CA-1400, 2022-CA-1402](#)

Presiding Judge: HON. KELLY MARK EASTON

Associate Judges: HON. ANNETTE C. KAREM and HON. JEFF S. TAYLOR

CIVIL: DIRECT APPEAL: APPELLANT CHALLENGES ORDER DISMISSING SOME CLAIMS AND GRANTING SUMMARY JUDGMENT ON OTHERS IN PROFESSIONAL NEGLIGENCE ACTION. APPELLANT ARGUES HE HAS STANDING TO PURSUE CLAIMS FOR THE LOST VALUE OF HIS INTEREST IN AN LLC. ALSO ARGUES SUMMARY JUDGMENT WAS PREMATURE AS NO DISCOVERY HAD BEEN COMPLETED. CROSS-APPEAL: ARGUES TRIAL COURT ERRED IN HOLDING CLAIMS NOT BARRED BY STATUE OF LIMITATIONS BECAUSE BREWER WAS AWARE OF MALPRACTICE CLAIM MORE THAN ONE YEAR PRIOR TO FILING SUIT.

JEFFERSON County, HON. ANNIE O'CONNELL

Attorney for Appellant: Charles Thomas Hectus

Attorneys for Appellees: Justin William Janes, James Patrick Grohmann, Mark Squires Fenzel, and David Joseph Kellerman

Thursday, April 25, 2024

Location: SARA WALTER COMBS COURTROOM, KENTUCKY COURT OF APPEALS, 669 CHAMBERLIN AVE., SUITE B., FRANKFORT, KY

**1:00PM
(EST)** **GILBERT, BARBEE, MOORE, & MCILVOY, P.S.C. D/B/A GRAVES-GILBERT CLINIC V. ALICE DUFF ET AL. 2023-CA-0022**

AND

ALICE DUFF ET AL. V. TAGE F. HAASE ET AL. 2023-CA-0132

AND

TAGE F. HAASE, M.D. V. ALICE DUFF ET AL. 2023-CA-0133

[2023-CA-0022, 2023-CA-0132, 2023-CA-0133](#)

Presiding Judge: HON. PAMELA R. GOODWINE

Associate Judges: HON. SARA W. COMBS and HON. JAMES H. LAMBERT

CIVIL - APPELLANT CHALLENGES 21 MILLION DOLLAR JURY VERDICT ON MULTIPLE ALLEGATIONS OF ERROR; IMPROPER ARGUMENTS DURING CLOSING; NO JUDGMENT AGAINST DR. HAASE INDIVIDUALLY (INCONSISTENT); AND GOLDEN RULE ARGUMENT, ACKNOWLEDGING FINANCIAL STATUS.

CROSS-APPEALS: HAASE - NO JUDGMENT AGAINST HIM; DUFFS - GGC'S ISSUES ARE UNPRESERVED.

WARREN County, HON. STEVE ALAN WILSON

Attorneys for Appellant: Daniel Garland Brown, Frank Hampton Moore, Jr., Madeline Moss Berry, and Robert Joseph Shilts

Attorneys for Appellee: Chadwick Neal Gardner, John Carl Grey, II, Matthew Marston McGill, Jamie Kristin Neal, Kevin Crosby Burke, Craig Louis Johnson, James Nelson Martin, Jr., Timothy Bland George, Jr., Christopher Glade Johnson, Samuel William Wardle, and Matthew Marston McGill

**1:45PM
(EST)** **HEATHER JONES, AS SISTER OF NICOLE WAGNER, AND AS ADMINISTRATRIX AND ON BEHALF OF THE ESTATE OF NICOLE WAGNER ET AL. V. DONALD BOTTOMS ET AL.**

[2023-CA-0496](#)

Presiding Judge: HON. PAMELA R. GOODWINE

Associate Judges: HON. SARA W. COMBS and HON. JAMES H. LAMBERT

CIVIL - WHETHER THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT UNDER CR. 12.02.

HARRISON County, HON. JEFFERY L. SCHUMACHER

Attorneys for Appellant: Alfred John Welsh and David Vandeventer

Attorneys for Appellee: Andrew C. Smith, Bryan Hamilton Hayes, Judd Richards Uhl, Larry Colby Deener, Kenneth Andrew Calderone, Andrew Louis Sparks, Cassidy Lauren Sorrells, and Jason Scott Morgan
