

UPDATED: 02/16/2011

FEBRUARY 2011

ORAL ARGUMENT

CALENDAR

Report Updated On: 02/16/2011

2/16/2011

FEBRUARY, 2011

February 7, 2011

**1:30 P.M. MOTION PANEL, CHIEF JUDGE TAYLOR,
PRES., JUDGE KELLER, AND JUDGE MOORE, ASSOC.**

February 8, 2011

10:00 A.M., FULL COURT MEETING

**1:00 – 1:30 P.M., ORAL ARGUMENT, #2010-CA-000507,
RYAN MUNDY V. COMMONWEALTH OF KENTUCKY,
JUDGE ACREE, PRES., JUDGE JAMES LAMBERT AND
JUDGE THOMPSON, ASSOC.**

**1:45 – 2:15 P.M., ORAL ARGUMENT, #2009-CA-002202 ,
#2009-CA-002203 & #2009-CA-002263,
JOAN KINCAID, ET AL. V. BRETT KINCAID, ET AL,
JUDGE THOMPSON, PRES., JUDGE ACREE AND
JUDGE JAMES LAMBERT, ASSOC.**

**2:30 – 3:00 P.M., ORAL ARGUMENT, #2009-CA-001925 &
#2009-CA-002050, PEGGY PETRILLI V. CARMEN
COLEMAN, JUDGE JAMES LAMBERT, PRES.,
JUDGE ACREE AND JUDGE THOMPSON, ASSOC.**

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

FRANKFORT – Contact Mary Zagale (502) 573-7920

LOUISVILLE – Contact Marti Dodd (502) 595-3440

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

DATE: Tuesday, February 8, 2011

01:00 PM PJ: ACREE, HON. GLENN E. LAMBERT, HON. JAMES H. THOMPSON, HON. KELLY
2010CA000507 RYAN DAQUAN MUNDY v COMMONWEALTH OF KENTUCKY

Criminal; Search and Seizure: Whether the circuit court properly denied the defendant's motion to suppress evidence seized during a warrantless search pursuant to the emergency aid exception.

| | | |
|--------------------------|-----------------------|---------------------------------|
| CRIMINAL | FAYETTE COUNTY | HON KIMBERLY N BUNNELL |
| <u>Appellant Atty:</u> | | <u>Appellant Name:</u> |
| BUCK, STEVEN | | MUNDY, RYAN |
| SCHMIDT, KATHLEEN | | |
| ----- | | |
| <u>Appellee Atty:</u> | | <u>Appellee Name:</u> |
| BARR, DAVID | | COMMONWEALTH OF KENTUCKY |
| ----- | | |

**** NOTE:**

01:45 PM PJ: THOMPSON, HON. KELLY ACREE, HON. GLENN E. LAMBERT, HON. JAMES H.
2009CA002202 JOAN KINCAID v BRETT KINCAID

2009CA002203
2009CA002263

The appellant advisory committee appeals from a summary judgment denying the committee's request for supplemental fees for sixteen years of administering the \$240,000,000 estate and trust of Garvice D. Kincaid. The circuit court ruled that the advisory committee having operated for a period of nearly eight years without the payment or request for an annual fee waived the ability to collect or charge an annual fee.

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|---------------------------|-----------------------|---|
| CIVIL | FAYETTE COUNTY | HON GARY D PAYNE |
| <u>Appellant Atty:</u> | | <u>Appellant Name:</u> |
| HUNTER, BARRY | | FOLEY, MICHAEL |
| PARK, JAMES JR | | |
| SULLIVAN, PAUL | | |
| ----- | | |
| <u>Appellee Atty:</u> | | <u>Appellee Name:</u> |
| CONE, CARL | | CENTRAL BANK & TRUST COMPANY |
| HUGHES, ELIZABETH | | |
| ----- | | |
| STINETORF, J | | J. ROSS STINETORF, ESQ, AS GAURDIAN AD LITEM FOR THE MINOR |
| ----- | | |
| FRAZIER, JAMES III | | KINCAID, BRETT |
| TALBOTT, JOHN III | | |
| ----- | | |

**** NOTE:**

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

DATE: Tuesday, February 8, 2011

02:30 PM PJ: LAMBERT, HON. JAMES H. ACREE, HON. GLENN E. THOMPSON, HON. KELLY

2009CA001925 PEGGY PETRILLI v CARMEN COLEMAN

2009CA002050

Appeal from judgment denying relief for claims of reverse discrimination, retaliation, and whistleblower claims.

CIVIL FAYETTE COUNTY HON JAMES D ISHMAEL

Appellant Atty:

**GOLDEN, J.
THOMPSON, MELISSA**

Appellant Name:

PETRILLI, PEGGY

.....
Appellee Atty:

MCNEILL, JOHN

Appellee Name:

SILBERMAN, STU
.....

**** NOTE:**

LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,

DATE: Wednesday, February 16, 2011

01:30 PM PJ: CAPERTON, HON. MICHAEL O. COMBS, HON. SARA W. KELLER, HON. MICHELLE M.

2009CA002056 AESTHETICS IN JEWELRY, INC. v ESTATE OF ROBINSON S. BROWN, JR BY AND THROUGH ITS
2009CA002135

Consumer Protection Act case. Appeal one: Directed verdict; Appeal two: Attorney fee issue.

CIVIL JEFFERSON COUNTY HON FREDERIC COWAN

Appellant Atty:

EVANS, RICHARD
HOVIOUS, R.
MCLAUGHLIN, SANDRA

Appellant Name:

AESTHETICS IN JEWELRY, INC.

Appellee Atty:

COHEN, GLENN
LINKER, ALAN

Appellee Name:

ESTATE OF ROBINSON S. BROWN, JR BY AND THROUGH ITS

** NOTE:

02:15 PM PJ: CAPERTON, HON. MICHAEL O. COMBS, HON. SARA W. KELLER, HON. MICHELLE M.

2010CA000286 KINDRED NURSING CENTERS LIMITED PARTNERSHIP v TERESA BROWN

Seeking review of the trial court's denial of a motion to compel arbitration.

CIVIL JEFFERSON COUNTY HON F KENNETH CONLIFFE

Appellant Atty:

CASSIDY, J. JR.
DZENITIS, PAUL
MILLER, DONALD II

Appellant Name:

KINDRED NURSING CENTERS LIMITED PARTNERSHIP

Appellee Atty:

BROOKS, BRIAN
CIRCEO, LISA
RIORDAN, DEBORAH

Appellee Name:

BROWN, TERESA

** NOTE:

LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,

DATE: Thursday, February 17, 2011

10:45 AM PJ: COMBS, HON. SARA W. CAPERTON, HON. MICHAEL O. KELLER, HON. MICHELLE M.

2009CA000466 GEORGE W. EPPERSON v MARY EPPERSON

2009CA002222

Divorce property settlement dispute involving numerous issues allegedly decided erroneously as to equity, appreciation, and distribution of debts and credits between the parties.

JEFFERSON COUNTY

HON DONNA DELAHANTY

Appellant Atty:

Appellant Name:

BAKER, KENNETH

EPPERSON, GEORGE

Appellee Atty:

Appellee Name:

STORMENT, HAROLD

EPPERSON, MARY

**** NOTE:ORIGINALLY AT UNIVERSITY OF LOUISVILLE AND PREVIOUSLY AT 10:00 AM**

11:30 AM PJ: KELLER, HON. MICHELLE M. CAPERTON, HON. MICHAEL O. COMBS, HON. SARA W.

2009CA002403 CHUCK GILBERT v BOWLING GREEN MARINE, INC.

Gilbert appeals from the trial court's order granting the Appellees CR 60.02 motion for modification of an Agreed Judgment.

CIVIL

JEFFERSON COUNTY

HON CHARLES L. CUNNINGHAM

Appellant Atty:

Appellant Name:

KOLTER, DANA

GILBERT, CHUCK

Appellee Atty:

Appellee Name:

SIMPSON, B.

BOWLING GREEN MARINE, INC.

**** NOTE: ORIGINALLY AT UNIVERSITY OF LOUISVILLE**

LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,

DATE: Wednesday, February 23, 2011

01:00 PM PJ: STUMBO, HON. JANET L. TAYLOR, HON. JEFF S. LAMBERT, HON. JOSEPH E.
 2010CA000302 ROBERT JONES v GEICO INDEMNITY COMPANY

MOR appeal from summary judgment granted to insurer, holding that Kentucky insurance code does not require insurer to affirmatively advise prospective insured that BRB coverage is available. KRS 304.39-060(9) and KRS 304.39-040(4).

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| CIVIL | JEFFERSON COUNTY | HON OLU A. STEVENS |
| | <u>Appellant Atty:</u> | <u>Appellant Name:</u> |
| | MCCARTHY, TIMOTHY | JONES, ROBERT |
| | | |
| | <u>Appellee Atty:</u> | <u>Appellee Name:</u> |
| | DEFILIPPO, MICHAEL | GEICO INDEMNITY COMPANY |
| | | |

** NOTE:

01:45 PM PJ: STUMBO, HON. JANET L. TAYLOR, HON. JEFF S. LAMBERT, HON. JOSEPH E.
 2010CA000592 ADA BALDWIN v LAWYERS MUTUAL INSURANCE COMPANY OF KENTUCKY

MOR appeal from summary judgment granted by trial court setting limit of liability under professional liability insurance contract. Issue is whether the trial court correctly interpreted limits under claims made policies where policy limit was increased prior to actual claim was asserted.

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|-------|---------------------------------------|---|
| CIVIL | JEFFERSON COUNTY | HON IRV MAZE |
| | <u>Appellant Atty:</u> | <u>Appellant Name:</u> |
| | HANCE, MICHAEL SHIPMAN, GARY | ADA BALDWIN |
| | | |
| | <u>Appellee Atty:</u> | <u>Appellee Name:</u> |
| | ASSEFF, BRENT O'BRYAN, CHRISTOPHER | LAWYERS MUTUAL INSURANCE COMPANY OF KENTUCKY |
| | | |

** NOTE:

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE
COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

DATE: Wednesday, February 23, 2011

02:30 PM PJ: STUMBO, HON. JANET L.

TAYLOR, HON. JEFF S.

LAMBERT, HON. JOSEPH E.

2010CA000620

CHRIS GORMAN v STITES & HARBISON, PLLC

MOR appeal from grant of summary judgment in malicious prosecution, abuse of process and defamation case. Issue is whether trial court erred in holding that the proceedings were not terminated in the appellant's favor.

CIVIL

JEFFERSON COUNTY

HON ANN O'MALLEY SHAKE

Appellant Atty:

Appellant Name:

COHEN, GLENN

GORMAN, CHRIS

WATSON, LYNN

Appellee Atty:

Appellee Name:

HICKERSON, TANISHA

STITES & HARBISON, PLLC

SMITH, RAYMOND

STOPHER, EDWARD

** NOTE:

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

DATE: Thursday, February 24, 2011

10:00 AM PJ: VANMETER, HON. LAURANCE B. WINE, HON. THOMAS B. SHAKE, HON. ANN O'MALLEY
2010CA000676 TERRY CARL v JERRY DIXSON Jr.

Negligence: whether jailer was entitled to defense of qualified immunity; appeal of denial of summary judgment.

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| CIVIL | KENTON COUNTY | HON MARTIN J SHEEHAN |
| <u>Appellant Atty:</u> | | <u>Appellant Name:</u> |
| NORDLOH, CHRISTOPHER | | CARL, TERRY |
| | | |
| <u>Appellee Atty:</u> | | <u>Appellee Name:</u> |
| MEZIBOV, MARC O'HARA, MICHAEL | | DIXSON, JERRY |
| | | |

**** NOTE:**

10:45 AM PJ: SHAKE, HON. ANN O'MALLEY VANMETER, HON. LAURANCE B. WINE, HON. THOMAS B.
2009CA001650 KENTUCKY OFFICE OF HOMELAND SECURITY v MICHAEL G. CHRISTERSON
2009CA001676

The Office of Homeland Security appeals from a Franklin Circuit Court summary judgment, which found that the legislation that created the Kentucky Office of Homeland Security established religion by endorsing a belief in God. The American Atheists cross-appeals from the Franklin Circuit Court finding that the organization does not have standing.

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|---|------------------------|---|
| CIVIL | FRANKLIN COUNTY | HON THOMAS D. WINGATE |
| <u>Appellant Atty:</u> | | <u>Appellant Name:</u> |
| NEWBERN, CRAIG JR THOMAS, TAD | | KENTUCKY OFFICE OF HOMELAND SECURITY |
| | | |
| <u>Appellee Atty:</u> | | <u>Appellee Name:</u> |
| DUPRE, BENJAMIN MOORE, ROY RAY, RONALD | | 35 KENTUCKY STATE SENATORS |
| | | |
| RICHARDSON, JACK III | | 96 KENTUCKY STATE REPRESENTATIVES |
| | | |
| SHARP, WILLIAM | | AMERICAN CIVIL LIBERTIES UNION OF KENTUCKY |
| | | |
| KAGIN, EDWIN | | CHRISTERSON, MICHAEL |
| | | |
| MURPHY, R | | THE FAMILY TRUST FOUNDATION OF KENTUCKY |
| | | |

**** NOTE:**

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

DATE: Thursday, February 24, 2011

11:30 AM PJ: SHAKE, HON. ANN O'MALLEY

VANMETER, HON. LAURANCE B.

WINE, HON. THOMAS B.

2009CA001908

**COMMONWEALTH OF KENTUCKY v BLUEGRASS ORTHOPAEDICS SURGICAL
DIVISION, L.L.C.**

2009CA001912

2009CA002344

The Cabinet for Health and Family Services (Cabinet) appeals 2 orders of the Franklin Circuit Court allowing groups to perform surgery without certificates of need or license pursuant to KRS 216B.020 (2) (a). Saint Joseph Health System also appeals from a Franklin Circuit Court order allowed a medical group to perform surgery pursuant to the physician's office exemption found in KRS 216.020.

CIVIL

FRANKLIN COUNTY

HON PHILLIP J. SHEPHERD

Appellant Atty:

Appellant Name:

HUNSAKER, ANN

COMMONWEALTH OF KENTUCKY

Appellee Atty:

Appellee Name:

HEMMER, MATTHEW

BLUEGRASS ORTHOPAEDICS SURGICAL
DIVISION, L.L.C.

THOMAS, SCOTT

** NOTE:60 MINUTE ORAL