

UPDATED 2/04/2009

**JANUARY 2009**

**ORAL ARGUMENT**

**CALENDAR**

2/04/2009

JANUARY, 2009

COURT MEETING WILL NOT BE HELD

January 6, 2008

8:30 – 9:00 A.M., ORAL ARGUMENT,  
#2008-CA-000294, BUTLER & ASSOCIATES, P.S.C. V.  
DAVID HARROD, ET AL., JUDGE STUMBO, PRES.,  
JUDGE THOMPSON AND SR. JUDGE GUIDUGLI, ASSOC.

9:15 – 9:45 AM., ORAL ARGUMENT, #2007-CA-001967,  
TURNER ENVIROLOGIC, INC. V. GRIFFIN  
INDUSTRIES, INC., JUDGE STUMBO, PRES.,  
JUDGE WINE, AND SR. JUDGE GUIDUGLI, ASSOC.

10:00 – 10:30 AM., ORAL ARGUMENT, #2008-CA-000718,  
SHERWIN DUNN, ET AL. V. KY. FARM BUREAU  
MUTUAL INSURANCE CO., JUDGE STUMBO, PRES.,  
JUDGE CLAYTON AND SR. JUDGE BUCKINGHAM,  
ASSOC.

12:45 – 1:15 P.M., ORAL ARGUMENT, #2008-CA-000113,  
SUE HELLER V. FRANK HELLER, JUDGE TAYLOR,  
PRES., JUDGE MOORE AND JUDGE VANMETER,  
ASSOC.

1:30 – 2:00 P.M., ORAL ARGUMENT, #2007-CA-002608,  
STEVEN GILES V. COMMONWEALTH OF KENTUCKY,  
SR. JUDGE BUCKINGHAM, PRES.,  
CHIEF JUDGE COMBS, JUDGE WINE, ASSOC.

2:15 – 2:45 P.M., ORAL ARGUMENT, #2008-CA-000314,  
SCOTT CROUCH V. COMMONWEALTH OF KENTUCKY,  
SR. JUDGE BUCKINGHAM, PRES.,  
CHIEF JUDGE COMBS, AND JUDGE WINE, ASSOC.

January 7, 2009

2:00 P.M., (FRANKFORT TIME) MOTION PANEL,  
JUDGE DIXON, PRESIDING, JUDGE ACREE AND  
JUDGE STUMBO.

**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**

**STANTON – Contact Tonya Williams (606) 663-4141**

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

DATE: Tuesday, January 06, 2009

8:30 AM PJ: STUMBO THOMPSON GUIDUGLI  
2008CA000294 BUTLER & ASSOCIATES, P.S.C. VS DAVID HARROD ET AL.

MOR appeal from summary judgment granted dismissing appellant's complaint in regard to employment contract. Issues include whether contract provision at issue was ambiguous, permitting introduction of extrinsic evidence; whether there was sufficient evidence of mutual mistake to support reformation of contract; and whether trial ct. erred in refusing to consider affidavit of witness who died before being deposed as part of record in determining the motion for summary judgment.

CIVIL FRANKLIN COUNTY PHILLIP J. SHEPHERD

Appellant Atty:

Appellant Name:

.....  
POLLY , RONALD G.

.....  
BUTLER & ASSOCIATES, P.S.C.

Appellee Atty:

Appellee Name:

.....  
HOOTS , DOUGLAS L

.....  
EDWIN A. LOGAN  
LOGAN & GAINES  
PAUL C. GAINES III  
STEWART BURCH  
DAVID R. HARROD

TRUE , J. GUTHRIE

\*\*NOTE:PREVIOUSLY ON 12/11/08 AT 1:15 PM IN LOUISVILLE, KY

9:15 AM PJ: STUMBO WINE GUIDUGLI  
2007CA001967 TURNER ENVIROLOGIC, INC. VS GRIFFIN INDUSTRIES, INC.

Appeal from bench trial which awarded purchaser of custom air pollution equipment rescission of contract, refund of purchase price and consequential damages. Appellant contends trial court erred in 1)permitting revocation of acceptance of the equipment, 2)failing to reduce damages awarded based on use of equipment for some two years, 3)finding express warranty disclaimer in contract to be void, 4) denying recovery on counterclaims, and 5)limiting testimony of expert witness.

CIVIL CAMPBELL COUNTY FRED A STINE V

Appellant Atty:

Appellant Name:

.....  
MACLIN III, ROBERT E.

.....  
TURNER ENVIROLOGIC, INC.

Appellee Atty:

Appellee Name:

.....  
HILS , LYNDA MARIE  
MURPHY , KEVIN L.

.....  
GRIFFIN INDUSTRIES, INC.  
GRIFFIN INDUSTRIES, INC.

\*\*NOTE:PREVIOUSLY ON 12/11/08 AT 11:00 AM IN LOUISVILLE, KY

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

DATE: Tuesday, January 06, 2009

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10:00 AM PJ: STUMBO CLAYTON BUCKINGHAM  
2008CA000718 SHERWIN DUNN ET AL. VS KENTUCKY FARM BUREAU MUTUAL INSURANCE  
COMPANY

Appeal from grant of summary judgment; denial of certification of class action without taking evidence; failure to grant interest pursuant to KRS 304.12-235 or KRS 304.14-400.

CIVIL WOLFE COUNTY JOHN DAVID CAUDILL

Appellant Atty:

Appellant Name:

.....  
GEERTZ , TIMOTHY ELIJAH

.....  
DONNA DUNN

SHERWIN DUNN

MEHR , M. AUSTIN

DONNA DUNN

SHERWIN DUNN

SPARKS , ROBERT R

DONNA DUNN

SHERWIN DUNN

Appellee Atty:

Appellee Name:

.....  
FARRIS , MARJORIE A.

.....  
KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY

HAMILTON , JOSEPH L.

KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY

RISLEY , MICHAEL D.

KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY

WIREMAN , MARCIA L

KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY

\*\*NOTE:ORIGINALLY 3:00 PM

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12:45 PM PJ: TAYLOR MOORE VANMETER  
2008CA000113 SUE HELLER VS FRANK HELLER

Whether circuit court erred by denying appellant's motion for contempt.

FAMILY COURT JEFFERSON COUNTY PAULA SHERLOCK

Appellant Atty:

Appellant Name:

.....  
LINTNER , MARY JANICE

.....  
SUE B. HELLER

Appellee Atty:

Appellee Name:

.....  
OGDEN , VICTORIA ANN

.....  
FRANK A. HELLER Jr

\*\*NOTE:PREVIOUSLY 12/17/08 AT 3:00 PM IN SHEPHERDSVILLE, KY

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

DATE: Tuesday, January 06, 2009

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1:30 PM PJ: BUCKINGHAM COMBS WINE  
2007CA002608 STEVEN GILES VS COMMONWEALTH OF KENTUCKY

Criminal/manslaughter/trial errors.

CRIMINAL MCCRACKEN COUNTY CRAIG Z CLYMER

Appellant Atty:

Appellant Name:

.....  
LEWTER , V. GENE  
SCHMIDT , KATHLEEN K.

.....  
STEVEN GILES  
STEVEN GILES

Appellee Atty:

Appellee Name:

.....  
RYAN , PERRY T

.....  
COMMONWEALTH OF KENTUCKY

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2:15 PM PJ: BUCKINGHAM COMBS WINE  
2008CA000314 SCOTT CROUCH VS COMMONWEALTH OF KENTUCKY

Criminal/ trial errors.

CRIMINAL JESSAMINE COUNTY C. HUNTER DAUGHERTY

Appellant Atty:

Appellant Name:

.....  
LEWTER , V. GENE  
SCHMIDT , KATHLEEN K.

.....  
SCOTT CROUCH  
SCOTT CROUCH

Appellee Atty:

Appellee Name:

.....  
CONWAY , JACK

.....  
COMMONWEALTH OF KENTUCKY

MOORE , JASON B.

.....  
COMMONWEALTH OF KENTUCKY

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

DATE: Monday, January 12, 2009

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9:30 AM PJ: KNOFF ACREE NICKELL  
2007CA001651 MARY CALHOUN ET AL. VS CSX TRANSPORTATION, INC. ET AL.

Negligence; RR crossing accident; summary judgment to CSX; issue: Did trial court err in granting summary judgment? Various arguments in support that there are genuine issues of material fact.

CIVIL BULLITT COUNTY RODNEY BURRESS

Appellant Atty:

Appellant Name:

.....  
SCIANTARELLI , KEVIN B

.....  
JESSE DAYMOND CALHOUN

MARY JANE CALHOUN

Appellee Atty:

Appellee Name:

.....  
LEWIS , J. T. BLAINE

.....  
CSX TRANSPORTATION, INC.

PAUL MCCLINTOCK Jr

MENDEL , ELIZABETH ULLMER

CSX TRANSPORTATION, INC.

PAUL MCCLINTOCK Jr

MONOHAN , DAVID R

CSX TRANSPORTATION, INC.

PAUL MCCLINTOCK Jr

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10:15 AM PJ: KNOFF ACREE NICKELL  
2007CA001963 ALPHONZO BAILEY VS COMMONWEALTH OF KENTUCKY

Criminal Direct appeal; drugs issues; suppression re Terry stop; expert police officer testimony re: intent to sell; phrasing of instructions; denial of unanimous verdict.

CRIMINAL JEFFERSON COUNTY GEOFFREY P MORRIS

Appellant Atty:

Appellant Name:

.....  
DAUGHERTY , BRENDAN R

.....  
ALPHONZO BAILEY

HACKETT , BRUCE P

ALPHONZO BAILEY

Appellee Atty:

Appellee Name:

.....  
CONWAY , JACK

.....  
COMMONWEALTH OF KENTUCKY

LENZ , SUSAN RONCARTI

COMMONWEALTH OF KENTUCKY

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

DATE: Monday, January 12, 2009

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11:00 AM PJ: NICKELL ACREE KNOPF  
2007CA001417 METRO LOUISVILLE/JEFFERSON COUNTY GOVERNMENT ET AL. VS SHAWN ABMA ET AL.  
2007CA001527 Proper formula for calculating overtime pay in light of collective bargaining agreement between Louisville Firefighters Union and Louisville Metro Government.

CIVIL JEFFERSON COUNTY MARY M SHAW

Appellant Atty:

Appellant Name:

.....  
HILL , SARAH OSBORN  
HOPSON , EDWIN S  
WYRICK , MITZI D  
ZIELKE , LAURENCE J.

.....  
CITY OF LOUISVILLE  
METRO LOUISVILLE/JEFFERSON COUNTY GOVERNMENT  
CITY OF LOUISVILLE  
METRO LOUISVILLE/JEFFERSON COUNTY GOVERNMENT

Appellee Atty:

Appellee Name:

.....  
BUBA , VICKI L.  
OLDFATHER , ANN B.  
SEGAL , HERBERT L.  
STEELE , DOUGLAS L.  
WALTON , DANDRIDGE F  
WOODLEY , THOMAS A.

.....  
GREG HASKEN  
JAMES A. KUCHENBROD  
LEROY T. HOOVER Jr  
TODD WALTRIP  
JERRON D. LEWIS  
STEPHEN G. HUGHES

\*\*NOTE:40 MINUTE ORAL

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1:30 PM PJ: ACREE NICKELL KNOPF  
2007CA002104 ERIC WILLIAMS ET AL. VS MOSER FARMS HOMEOWNERS ASSOCIATION, INC.

Civil; Real Property Law: Home Owners challenge grant of summary judgment in favor of home owner association after home owners seek injunctive relief from and dissolution of home owner association.

CIVIL OLDHAM COUNTY KAREN A. CONRAD

Appellant Atty:

Appellant Name:

.....  
BUTRUM , GREGORY WARD

.....  
BRIDGET WILLIAMS  
ERIC WILLIAMS

Appellee Atty:

Appellee Name:

.....  
DOMENE , DAVID  
KARAGEORGE , THOMAS G

.....  
MOSER FARMS HOMEOWNERS ASSOCIATION, INC.  
MOSER FARMS HOMEOWNERS ASSOCIATION, INC.

LOCATION: POWELL COUNTY CIRCUIT COURTROOM, COURTHOUSE, 525  
WASHINGTON STREET, STANTON, KENTUCKY

DATE: Wednesday, January 14, 2009

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10:00 AM PJ: CLAYTON MOORE STUMBO  
2008CA000260 HOLLY CREEK PRODUCTION CORPORATION VS ROBERT ROSE

Interlocutory appeal from trial court's decision to grant summary judgment to appellee. Issues involved breach of an expressed covenant and injunctive relief.

CIVIL WOLFE COUNTY FRANK ALLEN FLETCHER

Appellant Atty:

Appellant Name:

.....  
ALLEN , STEPHEN G

.....  
HOLLY CREEK PRODUCTION CORPORATION

DRUST , JENNIFER ELLEN

HOLLY CREEK PRODUCTION CORPORATION

WARD , ASHLEY W.

HOLLY CREEK PRODUCTION CORPORATION

Appellee Atty:

Appellee Name:

.....  
DAVIS , CHRISTOPHER M

.....  
ROBERT LEE ROSE

THOMAS , BRIAN NEAL

ROBERT LEE ROSE

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10:45 AM PJ: CLAYTON MOORE STUMBO  
2008CA001811 MAIMOUNA BARRY VS US AIRWAYS GROUP, INC. ET AL.

Whether appellant was acting in the scope of her employment when she was involved in a traffic accident. Does the "going and coming rule apply to the appellant?"

WORKERS COMP WORKERS' COMP COUNTY JOHN A GARDNER

Appellant Atty:

Appellant Name:

.....  
NEFZGER , WILLIAM DANIEL

.....  
MAIMOUNA BARRY

Appellee Atty:

Appellee Name:

.....  
AUBREY , JOEL W

.....  
US AIRWAYS GROUP, INC.

LOVAN , DWIGHT T

WORKERS' COMPENSATION BOARD

SMITH , MARCEL

MARCEL SMITH