

UPDATED: 09/21/2010

SEPTEMBER 2010
ORAL ARGUMENT
CALENDAR

Updated 09/21/2010

SEPTEMBER, 2010

THERE WILL BE NO COURT MEETING

September 1, 2010

**2:00 P.M. MOTION PANEL, JUDGE MOORE, PJ,
JUDGE DIXON AND JUDGE WINE.**

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

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

LOUISVILLE – Contact Lisa McLain (502) 595-3430

BOWLING GREEN – Contact Connie DeVries – (270) 746-7411

SHELBYVILLE – Contact Patti Mowery – (502) 647-5234

LEITCHFIELD – Contact Elois Downs – (270) 259-3040

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

DATE: Thursday, September 2, 2010

02:30 PM PJ: ACREE, HON. GLENN E.

NICKELL, HON. C. SHEA

HARRIS, HON. WILLIAM R.

2009CA001507 TIMOTHY NOLAN v CAMPBELL COUNTY FISCAL COURT

2009CA001589

Civil; Declaratory Judgment: Whether Campbell County Fiscal Court is operating improperly in Newport, Ky. instead of Alexandria, Ky.

CIVIL CAMPBELL COUNTY

HON ROGER L. CRITTENDEN

Appellant Atty:

Appellant Name:

BLAU, ROBERT

NOLAN, TIMOTHY

Appellee Atty:

Appellee Name:

MANDO, JEFFREY

CAMPBELL COUNTY FISCAL COURT

** NOTE:ORIGINALLY AT 1:45 PM

03:15 PM PJ: HARRIS, HON. WILLIAM R.

ACREE, HON. GLENN E.

NICKELL, HON. C. SHEA

2009CA000186 SHANE RAGLAND v ESTATE OF TRENT DIGIURO

Ragland, defendant below, appeals from verdict-based judgment in wrongful death case awarding decedent Trent Digiuro's estate \$10,000,000 in compensatory damages and punitive damages of \$60,000,000. Ragland also appeals from order denying his post-judgment motions. Ragland asserts that trial court erred in denying his summary judgment motion raising a statute of limitations defense, and in denying his post-judgment motion predicated on argument that the punitive damage award is unconstitutionally excessive.

CIVIL FAYETTE COUNTY

HON THOMAS L CLARK

Appellant Atty:

Appellant Name:

BRODERICK, DAVID

RAGLAND, SHANE

Appellee Atty:

Appellee Name:

CONWAY, F
PRATT, DAVID

ESTATE OF TRENT DIGIURO

** NOTE:40 MINUTE ORAL

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

DATE: Wednesday, September 8, 2010

01:30 PM PJ: CLAYTON, HON. DENISE G. LAMBERT, HON. JAMES H. HENRY, HON. MICHAEL L.
2009CA000728 COMMONWEALTH OF KENTUCKY v JOHN AUBREY

An appeal of an order denying a motion to dismiss and holding that sovereign immunity does not protect the Commonwealth in declaratory judgment.

CIVIL FRANKLIN COUNTY HON THOMAS D. WINGATE

Appellant Atty:

**COBB, STUART
THOMAS, TAD**

Appellant Name:

COMMONWEALTH OF KENTUCKY

Appellee Atty:

CALDWELL, BRENT

**KELLERMAN, ROBERT
OLT, SCHUYLER**

Appellee Name:

AUBREY, JOHN

KENTUCKY RETIREMENT SYSTEMS

**** NOTE:PREVIOUSLY ON 8/10/10 AT 2:15 PM**

**LOCATION: GRAYSON COUNTY COURTHOUSE, CIRCUIT COURTROOM, 500
CARROLL GIBSON BLVD., LEITCHFIELD, KENTUCKY**

DATE: Wednesday, September 8, 2010

01:00 PM PJ: TAYLOR, HON. JEFF S. COMBS, HON. SARA W. NICKELL, HON. C. SHEA
2009CA002366 MICHAEL DIRE v MELISSA DIRE (NOW BAILEY)

Whether circuit court properly modified child custody.

BARREN COUNTY

HON W. MITCHELL NANCE

Appellant Atty:

Appellant Name:

ROGERS, BENJAMIN

DIRE, MICHAEL

Appellee Atty:

Appellee Name:

DICKINSON, TEMPLE

DIRE (NOW BAILEY), MELISSA

**** NOTE:PREVIOUSLY ON 8/25/10 AT 3:00 PM IN HOPKINSVILLE, KY**

01:45 PM PJ: COMBS, HON. SARA W. NICKELL, HON. C. SHEA TAYLOR, HON. JEFF S.
2009CA000551 JAMES E. PHILLIPS v COMMONWEALTH OF KENTUCKY

Appellant was convicted and sentenced to 120 days for failure to file a net profit return for 2005 pursuant to a then newly enacted city ordinance on licensing fees or businesses in the City of Henderson. The trial court suspended the sentence but left the fines and costs in effect. Appellant challenges the constitutionality of the ordinance.

HENDERSON COUNTY

HON KAREN LYNN WILSON

Appellant Atty:

Appellant Name:

TULLIS, JOHN

PHILLIPS, JAMES

Appellee Atty:

Appellee Name:

WADE, NICOLE

COMMONWEALTH OF KENTUCKY

**** NOTE:PREVIOUSLY ON 8/26/10 AT 9:30 AM IN HOPKINSVILLE, KY**

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

DATE: Monday, September 13, 2010

02:15 PM PJ: TAYLOR, HON. JEFF S.

LAMBERT, HON. JAMES H.

HENRY, HON. MICHAEL L.

2009CA001015 JERRY FRITTS v COMMONWEALTH OF KENTUCKY

Whether circuit court erred by admitting certain evidence; whether appellant denied right to represent himself; whether jury instructions were erroneous.

CRIMINAL

WHITLEY COUNTY

HON PAUL E. BRADEN

Appellant Atty:

**PEARSON, JULIA
SCHMIDT, KATHLEEN
YANG, ERIN**

Appellant Name:

FRITTS, JERRY

Appellee Atty:

CROSS, JEFFREY

Appellee Name:

COMMONWEALTH OF KENTUCKY

**** NOTE:**

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

DATE: Monday, September 13, 2010

01:45 PM PJ: CLAYTON, HON. DENISE G.

COMBS, HON. SARA W.

LAMBERT, HON. JOSEPH E.

2009CA000096 RIVER RUN FARM LLC. v ROBERT STORM

2009CA000855

Two consolidated appeals: First appeal is an appeal of summary judgment order that held as a matter of law appellee was not a professional builder or contractor could not be held liable. Second appeal is the same appellant appealing a judgment in favor or manufacture of hot water heater that appellant claims caused his home to burn down.

CIVIL LAUREL COUNTY

HON GREGORY A. LAY

Appellant Atty:

Appellant Name:

**GEERTZ, TIMOTHY
MEHR, M.**

RIVER RUN FARM LLC.

Appellee Atty:

Appellee Name:

CASEY, MICHAEL

GRUNDFOS PUMPS CORPORATION

**BECKNER, TERRY
BENDER, MICHAEL
TOOMS, ROY**

STORM, ROBERT

STEPHENSON, BRIAN

**TRAVELERS INDEMNITY COMPANY OF
AMERICA**

**** NOTE:**

LOCATION: WARREN COUNTY JUDICIAL CENTER, CIRCUIT COURTROOM C, 4TH FLOOR, 1001 CENTER STREET, BOWLING GREEN, KENTUCKY

DATE: Thursday, September 16, 2010

11:00 AM PJ: WINE, HON. THOMAS B. THOMPSON, HON. KELLY VANMETER, HON. LAURANCE B.

2010CA000112 JOHN DRAPER v COMMONWEALTH OF KENTUCKY

2010CA000185

Appeal and cross-appeal from dismissal of paternity claim brought by third party to marriage. Meaning of the term "cessation of marital relation" for purposes of determining standing of third party to seek paternity determination. Estoppel. Right to recoupment of child support paid pursuant to a void order.

BARREN COUNTY

HON W. MITCHELL NANCE

Appellant Atty:

Appellant Name:

ROGERS, BENJAMIN

DRAPER, JOHN

Appellee Atty:

Appellee Name:

**SHARP, JEFFERY
WILCUTT, DENNIS**

COMMONWEALTH OF KENTUCKY

HINES, JOSEPH

HEACOCK, SHANNON

**** NOTE:40 MINUTE ORAL**

**LOCATION: SHELBY COUNTY COURTHOUSE, 2ND FLOOR, 501 MAIN STREET,
SHELBYVILLE, KENTUCKY**

DATE: Monday, September 20, 2010

1:15 PM PJ: MOORE, HON. JOY A. KELLER, HON. MICHELLE M. STUMBO, HON. JANET L.

2009CA001412 MICHELE MORGAN v J. DANIEL LANHAM

2009CA001588

Appeal from direct verdicts involving issues of multiple LLC's regarding claims for recovery of unpaid loans and rent; fraud/misrepresentation and various evidentiary rulings made by the trial court. Cross appeal on directed verdict regarding breach of fiduciary duty.

CIVIL JEFFERSON COUNTY HON MARTIN F MCDONALD

Appellant Atty:

**BERRY, SIMON
ZOPPOTH, SCOTT**

Appellant Name:

MORGAN, MICHELE

Appellee Atty:

O'CONNELL, MICHAEL

Appellee Name:

LANHAM, J.

**** NOTE:40 MINUTE ORAL - PREVIOUSLY SCHEDULED AT 11:00 AM**

**LOCATION: SHELBY COUNTY COURTHOUSE, 2ND FLOOR, 501 MAIN STREET,
SHELBYVILLE, KENTUCKY**

DATE: Monday, September 20, 2010

02:15 PM PJ: MOORE, HON. JOY A.

KELLER, HON. MICHELLE M.

STUMBO, HON. JANET L.

2009CA001427 BRANCH BANKING & TRUST COMPANY v LARRY E. THOMPSON

2009CA001436

Appeal from a foreclosure case wherein Appellant argues that it was entitled to judgment based on the statute of frauds. Appellant also argues punitive damages were inappropriate and alternatively that the trial court erred in failing to grant a new trial. Cross appeal on issue of whether Appellant should have been awarded attorneys' fees.

CIVIL JEFFERSON COUNTY

HON JAMES M SHAKE

Appellant Atty:

Appellant Name:

ALBERS, DANIEL JR
BIRD, JEAN
ROBINSON, MARK
SNELL, VIRGINIA

BRANCH BANKING & TRUST COMPANY

Appellee Atty:

Appellee Name:

BALLINGER, JAMES
BURKE, DENNIS

AMERICAN TAX FUNDING, LLC.

CELEBREZZE, ROCCO

BARGAIN SUPPLY CO., INC.

SCHARDEIN, JOHN

COMMONWEALTH OF KENTUCKY REVENUE
CABINET

MEEHAN, GWEN

GREATER LOUISVILLE FIRST FEDERAL
SAVINGS

ROSE, MOLLY
SCROGHAN, JAMES

J.B. GROUP, INC.

MCGARVEY, JOHN
SENN, M

KENTUCKY BANKERS ASSOCIATION (KBA)

MURPHY, THOMAS II

MOORING TAX ASSET GROUP, LLC.

BLUMEL, JEFFREY

SECURITY NATIONAL BANK

HISE, DAVID
SCHOOK, NANCY
ZIELKE, LAURENCE

THOMPSON, LARRY

** NOTE:

**LOCATION: SHELBY COUNTY COURTHOUSE, 2ND FLOOR, 501 MAIN STREET,
SHELBYVILLE, KENTUCKY**

DATE: Monday, September 20, 2010

**03:00 PM PJ: MOORE, HON. JOY A. CLAYTON, HON. DENISE G. KELLER, HON. MICHELLE M.
2007CA002426 TORI LYNN VAN BERG v COMMONWEALTH OF KENTUCKY**

Direct appeal in criminal matter including claims of error of double jeopardy due to prosecution's discovery violation; failure to instruct the jury on entrapment; and prosecutorial misconduct.

CRIMINAL

DAVIESS COUNTY

HON HENRY M GRIFFIN

Appellant Atty:

APRILE, JOSEPH II

Appellant Name:

VAN BERG, TORI

Appellee Atty:

CROSS, JEFFREY

Appellee Name:

COMMONWEALTH OF KENTUCKY

**** NOTE:**

**LOCATION: SHELBY COUNTY COURTHOUSE, 2ND FLOOR, 501 MAIN STREET,
SHELBYVILLE, KENTUCKY**

DATE: Tuesday, September 21, 2010

10:30 AM PJ: KELLER, HON. MICHELLE M. MOORE, HON. JOY A. STUMBO, HON. JANET L.

2009CA001352 SUSIE PERRY v DR GERALD M. LARSON

2009CA001389

In this medical negligence and wrongful death case, Perry appeals from a jury's defense verdict and Larson cross-appeals. Perry argues that the trial court erred: by admitting into evidence expert opinion testimony that had not been previously disclosed; by excluding testimony related to decedent's post-operative physical condition; and by dismissing Perry's loss of consortium claim. Larson argues on cross-appeal that the court erred by denying his motions for directed verdict.

CIVIL JEFFERSON COUNTY HON JAMES M SHAKE

Appellant Atty:

**GARMER, WILLIAM
PRATHER, JEROME**

Appellant Name:

PERRY, SUSIE

Appellee Atty:

BROWN, DONALD JR

Appellee Name:

LARSON, GERALD

**** NOTE:PREVIOUSLY AT 10:00 AM**

11:30 AM PJ: KELLER, HON. MICHELLE M. MOORE, HON. JOY A. STUMBO, HON. JANET L.

2009CA001533 EARLENE F. GREENE v KENTUCKY BOARD OF DENTISTRY

Greene appeals from the Kentucky Board of Dentistry's order placing her on probation for a period of five years. On appeal, Greene argues that the Board's action was not supported by sufficient evidence and amounted to an abuse of discretion. Greene also challenges the constitutionality KRS 13B.150(2)(c) arguing that it does not permit adequate review by a court of the Board's decision.

CIVIL JEFFERSON COUNTY HON GEOFFREY P MORRIS

Appellant Atty:

DEMOISEY, J

Appellant Name:

GREENE, EARLENE

Appellee Atty:

**BAUSCH, WILLIAM
BRENGELMAN, MARK**

Appellee Name:

KENTUCKY BOARD OF DENTISTRY

**** NOTE:**