

**UPDATED: 09/25/2012**

# **SEPTEMBER 2012**

# **ORAL ARGUMENT**

# **CALENDAR**

Report Updated On: 09/25/2012

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**SEPTEMBER, 2012**

**THERE WILL BE NO COURT MEETING**

**SEPTEMBER 5, 2012**      **10:00 A.M. (FRANKFORT TIME) MOTION PANEL,  
JUDGE DIXON, PJ, JUDGE CLAYTON AND  
JUDGE MOORE.**

**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**

**LEXINGTON (U of K) – Contact Danny Murphy – (859) 257-5155**

**LEXINGTON (Fayette Cir. Ct.) – Contact Dana Carter (859) 246-2132**

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

**DATE: Tuesday, September 11, 2012**

**10:00 AM** PJ: STUMBO, HON. JANET L. CAPERTON, HON. MICHAEL O. DIXON, HON. DONNA L.  
2011CA001874 PHILLIP SEATON v Dr. JOHN M. PATTERSON

Appeal from jury verdict in medical battery case where in surgeon authorized to perform circumcision instead performed penectomy. Issues are whether appellant should have been granted a directed verdict and whether the trial court erred in formulation of the instructions propounded to the jury.

<b>CIVIL</b>	<b>SHELBY COUNTY</b>	<b>HON CHARLES R. HICKMAN</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
GEORGE, KEVIN		SEATON, PHILLIP
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
ROBINSON, CLAYTON		PATTERSON, JOHN
.....		

**\*\* NOTE:**

**10:45 AM** PJ: STUMBO, HON. JANET L. CAPERTON, HON. MICHAEL O. DIXON, HON. DONNA L.  
2011CA000794 STELLUTI KERR, LLC v BASTIAN MATERIAL HANDLING, LLC

Appeal from judgment following bench trial on breach of contract. Issues include whether the trial court erred in holding that contract between parties was a "contract in perpetuity" and therefore terminable, that contract was terminated after a reasonable period of time, that Appellee did not breach covenant of good faith and fair dealing and that contract was erroneously interpreted by the trial court.

<b>CIVIL</b>	<b>JEFFERSON COUNTY</b>	<b>HON IRV MAZE</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
BOHNERT, KENNETH BUSCH, EDWARD		STELLUTI KERR, LLC
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
HURST, MARK		BASTIAN MATERIAL HANDLING, LLC
.....		

**\*\* NOTE:**

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

**DATE: Tuesday, September 11, 2012**

**11:30 AM PJ: STUMBO, HON. JANET L.**

**CAPERTON, HON. MICHAEL O.**

**DIXON, HON. DONNA L.**

**2011CA000956**

**MICHAEL YOUNG v COMMONWEALTH OF KENTUCKY**

**2011CA000957**

Appeal from conditional guilty pleas to charges of theft by deception by accepting medical expenses from two sources seeking to adopt unborn child. Issues are whether directed verdict should have been entered and whether charge should have been reduced in degree based on the amount of money actually received by Appellants.

**CRIMINAL**

**LAWRENCE COUNTY**

**HON JOHN DAVID PRESTON**

Appellant Atty:

Appellant Name:

**DURHAM, ROY II**

**YOUNG, MICHAEL**

**MAURER, KAREN**

**SCHMIDT, KATHLEEN**

.....  
Appellee Atty:

Appellee Name:

**CONWAY, JACK**

**COMMONWEALTH OF KENTUCKY**

**JONES, WILLIAM**  
.....

**\*\* NOTE:**

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

**DATE: Wednesday, September 12, 2012**

10:45 AM PJ: KELLER, HON. MICHELLE M.

CLAYTON, HON. DENISE G.

MAZE, HON. IRV

2011CA001248

**COMMONWEALTH OF KENTUCKY v MATTHEW DEAN BALLINGER**

Following Ballinger's indictment for DUI fourth offense within five years, the court determined that the three prior offenses could not be used, because the convictions did not occur until after Ballinger's arrest for the 4th DUI. The Commonwealth appeals the court's remand of the indictment based on the court's determination that there were no grounds for a felony indictment.

**CRIMINAL**

**WARREN COUNTY**

**HON JOHN R. GRISE**

Appellant Atty:

**FRYMAN, HEATHER  
LAWSON, JAMES**

Appellant Name:

**COMMONWEALTH OF KENTUCKY**

Appellee Atty:

**DUPREE, SHANNON  
SCHMIDT, KATHLEEN**

Appellee Name:

**BALLINGER, MATTHEW**

**\*\* NOTE:**

11:30 AM PJ: MAZE, HON. IRV

CLAYTON, HON. DENISE G.

KELLER, HON. MICHELLE M.

2011CA000932

**STATE AUTO INSURANCE COMPANY v LINDA CRENSHAW**

Consolidated cases following SJ in favor of plaintiff in personal injury case on issue of enforceability of settlement agreement accepted four years after it was made. Whether there were genuine issues of material fact regarding whether the settlement offer lapsed during that time or whether there was a "meeting of the minds" so as to create an agreement.

**CIVIL**

**BARREN COUNTY**

**HON PHIL PATTON**

Appellant Atty:

**CALL, STEVEN  
NUNERY, DAVID**

Appellant Name:

**STATE AUTO INSURANCE COMPANY**

Appellee Atty:

**DICKINSON, TEMPLE**

**MAULDIN, TIMOTHY  
MEREDITH, KENNETH II**

**GILLENWATER, TIMOTHY**

Appellee Name:

**BOYD, ELIZABETH**

**COMPTONS AUTO SALES**

**CRENSHAW, LINDA**

**\*\* NOTE:40 MINUTE ORAL**

**LOCATION: UNIVERSITY OF KENTUCKY COLLEGE OF LAW, COURTROOM, LAW  
BUILDING, 620 SOUTH LIMESTONE STREET, LEXINGTON,**

**DATE: Wednesday, September 26, 2012**

10:30 AM PJ: TAYLOR, HON. JEFF S.

NICKELL, HON. C. SHEA

VANMETER, HON. LAURANCE B.

2011CA000509

JANE ODOM v BERNARD WALT

Whether circuit court erred by awarding an equitable mortgage in favor of Walt.

CIVIL

FAYETTE COUNTY

HON ERNESTO M. SCORSONE

Appellant Atty:

Appellant Name:

VICROY, STEVEN

ODOM, JANE

Appellee Atty:

Appellee Name:

CLENDENEN, CHRISTOPHER  
DAVIS, HENRY

WALT, BERNARD

\*\* NOTE:

11:15 AM PJ: TAYLOR, HON. JEFF S.

NICKELL, HON. C. SHEA

VANMETER, HON. LAURANCE B.

2011CA000473

LV VENTURES, LLC v TREY SCHOTT

2011CA000640

2011CA001132

2011-CA-000473 and 2011-CA-001132 – Whether circuit court erred by submitting jury instructions on both breach of contract and fraudulent inducement; whether appellants were entitled to a directed verdict; whether claims were barred by statute of limitations.

2011-CA-000640 – whether circuit court erred by not awarding more attorney's fees.

CIVIL

FAYETTE COUNTY

HON JAMES D ISHMAEL

Appellant Atty:

Appellant Name:

CURRY, CHARLES

LV VENTURES, LLC

Appellee Atty:

Appellee Name:

MARINO, KARA

SCHOTT, TREY

\*\* NOTE: