

**SUPREME COURT OF KENTUCKY**

**ORAL ARGUMENT CALENDAR**

**WEDNESDAY, SEPTEMBER 14, 2016**

- 9:00 A.M.      LOUISVILLE GAS AND ELECTRIC COMPANY V. KENTUCKY WATERWAYS ALLIANCE, ET AL. (2015-SC-000461-DG) AND COMMONWEALTH OF KENTUCKY, ENERGY AND ENVIRONMENT CABINET V. KENTUCKY WATERWAYS ALLIANCE, ET AL. (2015-SC-000462-DG)**  
**[APPELLANT BRIEF 15-SC-461](#)**  
**[APPELLEE BRIEF 15-SC-461](#)**  
**[REPLY BRIEF 15-SC-461](#)**  
**[AMICUS CURIAE BRIEF 15-SC-461](#)**  
**[APPELLANT BRIEF 15-SC-462](#)**  
**[APPELLEE BRIEF 15-SC-462](#)**  
**[REPLY BRIEF 15-SC-462](#)**  
"Clean Water Act. Best Practice Judgment (BPJ) Analysis. The first issue is whether the Cabinet was required, as a matter of law, to impose best practice judgment (BPJ) analysis, in addition to effluent limitation guidelines (ELG) when issuing a permit to LG&E for the discharge of its wastewaters into the Ohio River when the Cabinet's initial interpretation of the provisions governing the issuance of this permit did not require the Cabinet to do so. The second issue was whether the reviewing court should defer to the Cabinet's interpretation of the provisions and regulations governing the issuance of a permit for the discharge of wastewaters."  
Discretionary Review granted 2/10/2016  
Franklin Circuit Court, Judge Phillip J. Shepherd  
Attorneys for Louisville Gas and Electric Company: Sheryl G. Snyder, John Clarence Bender, Jason Patrick Renzelmann and Richard Clayton Larkin  
Attorney for Kentucky Waterways Alliance, Sierra Club, Valley Watch and Save the Valley: Joe Francis Childers, Jr.  
Attorneys for Commonwealth of Kentucky, Energy and Environment Cabinet: Christopher R. Fitzpatrick and Anna Fletcher
- 10:00 a.m.      KENTUCKY RIVER FOOTHILLS DEVELOPMENT COUNCIL, INC. V. CATHY PHIRMAN, ADMINISTRATRIX OF THE ESTATE OF MELISSA STEFFEN, ET AL (2015-SC-000244-DG)**  
**[APPELLANT BRIEF](#)**  
**[APPELLEE BRIEF](#)**  
**[REPLY BRIEF](#)**  
"Governmental Immunity. Negligence. Comair Analysis. Issues include whether Kentucky River, the Community Action Agency for four counties, is entitled to governmental immunity from a wrongful death claim."  
Discretionary Review granted 2/10/2016  
Madison Circuit Court, Judge William G. Clouse, Jr.  
Attorneys for Appellant: Daniel Barry Stiliz, Robert Coleman Stiliz, III, Adrian M. Mediondo and Kimberly Jean O'Donnell  
Attorneys for Appellees: James T. Gilbert, Douglas Loy Hoots and Gregory Michael Funfsinn

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**THURSDAY, SEPTEMBER 15, 2016**

- 9:00 a.m.**     **KENTUCKY CATV ASSOCIATION, INC., D/B/A KENTUCKY CABLE TELECOMMUNICATIONS ASSOCIATION, INC. V. CITY OF FLORENCE, KENTUCKY, ET AL. (2015-SC-000178-DG) AND LORI HUDSON FLANERY, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE FINANCE AND ADMINISTRATION CABINET, COMMONWEALTH OF KENTUCKY, ET AL. V. CITY OF FLORENCE, KENTUCKY, ET AL. (2015-SC-000181-DG)**  
[APPELLANT BRIEF 15-SC-178](#)  
[APPELLANT BRIEF 15-SC-181](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF 15-SC-178](#)  
[REPLY BRIEF 15-SC-181](#)  
[AMICUS CURIAE BRIEF](#)  
"Taxation. Kentucky Constitution. Telecommunications. Franchise Fees. KRS 136.660. Issues include whether the Telecommunications Tax, which bars localities from collecting franchise fees from telecommunications service providers, violates Sections 163 and 164 of the Kentucky Constitution."  
Discretionary Review granted 2/10/2016  
Franklin Circuit Court, Judge Phillip J. Shepherd  
Attorneys for Kentucky CATV Association, Inc., D/B/A Kentucky Cable Telecommunications Association, Inc.: Jackson W. White, Douglas Frank Brent, Timothy Joseph Eifler, Eric S. Tresh and Maria M. Todorova  
Attorney for Lori Hudson Flanery, In her official capacity as Secretary of Finance and Administration Cabinet and Thomas B. Miller, In his official capacity as Commissioner of the Department of Revenue: Bethany G. Atkins  
Attorneys for Appellees: Barbara B. Edelman, David James Treacy and Haley Trogdlen McCauley
- 10:00 a.m.**     **DARRYL M. SAMUELS V. COMMONWEALTH OF KENTUCKY (2015-SC-000180-DG)**  
[APPELLANT BRIEF](#)  
[APPELLEE BRIEF](#)  
[REPLY BRIEF](#)  
"Criminal Law. Attorneys. Conflict of Interest. The issues presented are (1) whether it is a conflict of interest for a criminal attorney in a local DPA office to represent a defendant in a case where another criminal attorney in the same DPA office represents the victim of that defendant's actions on other criminal charges; and (2) whether it is reversible error for the trial court to conclude that there was no conflict of interest and to proceed to trial with the DPA attorney representing the defendant, who has refused to waive the conflict of interest."  
Discretionary Review granted 10/21/2015

McCracken Circuit Court, Judge Craig Z. Clymer  
Attorney for Appellant: Brandon Neil Jewell  
Attorney for Appellee: Leilani K.M. Martin

**11:00 a.m. GARRARD COUNTY, KENTUCKY, ET AL. V. KEVIN MIDDLETON**

**(2015-SC-000581-DG)**

**[APPELLANT BRIEF](#)**

**[APPELLEE BRIEF](#)**

**[REPLY BRIEF](#)**

"KRS 441.245(3). Authority of Fiscal Court. Establishment of Jailers' Salary. The issue in this case is whether a fiscal court may decrease the salary of a jailer who does not operate a full service jail, from term to term pursuant to KRS 441.245(3)."  
Discretionary Review granted 3/9/2016

Garrard Circuit Court, Judge C. Hunter Daugherty

Attorneys for Appellants: Jonathan L. Gay and Litany Loren Webster

Attorneys for Appellee: James Paul Long, Jr. and Gerry L. Calvert, II