

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

30. COMMONWEALTH OF KENTUCKY V. [2006-SC-000180-DG](#) KNOX
GARY DAVIDSON **TO BE PUBLISHED**

**OPINION OF THE COURT BY
SPECIAL JUSTICE MOORE –
AFFIRMING**

SCOTT, J., CONCURS IN PART AND
DISSENTS IN PART BY SEPARATE
OPINION. MINTON, C.J., AND
SCHRODER, J., NOT SITTING.

Questions presented:

Criminal Law. Double Jeopardy. Whether the retrial of a defendant is precluded if a conviction has been reversed on appeal due to an error in instructions where the evidence was insufficient to sustain a conviction on the instructions that had been given but there was sufficient evidence to support a conviction if proper instructions had been given.

31. FLEGLES, INC. V. [2006-SC-000471-DG](#) CARLISLE
TRUSERV CORPORATION [2007-SC-000155-DG](#)
**OPINION OF THE COURT BY
JUSTICE ABRAMSON –
AFFIRMING** **TO BE PUBLISHED**

SCOTT, J., DISSENTS BY SEPARATE
OPINION IN WHICH SCHRODER AND
VENTERS, JJ., JOIN.

Questions presented:

Fraud. Juror Bias. Change of Venue. Issues include the appropriate evidence and proper requirements for proof of a fraud claim, and the distinction between fraud and mere puffing or sales talk. On cross motion, additional issues include questions relating to juror bias, change of venue, a contractual forum-selection clause, and waiver of the fraud claim.

32. LOIS DEVASIER [2007-SC-000130-DG](#) JEFFERSON
(AS ADMINISTRATRIX OF THE [2007-SC-000365-DG](#)
ESTATE OF KENNEITHA CRADY) V. **TO BE PUBLISHED**
WILLIAM JAMES, M.D.

**OPINION OF THE COURT BY
JUSTICE VENTERS – AFFIRMING**

Questions presented:

Medical Negligence. Mental Health Professionals. Duty to Warn. Issues include the propriety of the jury instructions regarding a psychiatrist's duty to warn regarding a patient's threat of violence and whether KRS 202A.400 addresses such a duty even if the threat is not directly communicated to the psychiatrist.

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

33. JULIE ANNE GASKILL V. [2007-SC-000190-DGE](#) WARREN
JON KEVIN ROBBINS [2007-SC-000207-DGE](#)
OPINION OF THE COURT BY
JUSTICE NOBLE – AFFIRMING
VENTERS, J., CONCURS WITH
JUSTICE NOBLE’S WELL-REASONED
OPINION, BUT STRONGLY
DISAGREES WITH ITS CRITICISM OF
ALL EXPERT VALUATIONS BASED
ON AN AVERAGE OF VARIOUS
VALUATION METHODS.
ABRAMSON, J., CONCURS IN PART
AND DISSENTS IN PART BY
SEPARATE OPINION.
MINTON, C.J., NOT SITTING.
- Questions presented:**
Dissolution of Marriage. Child Custody.
Distribution of Property. Issues include
whether there should be a legal
distinction between personal goodwill
and enterprise goodwill when evaluating
a party's professional practice; whether
the family court correctly assessed and
justly distributed marital property; and
whether the court properly awarded
custody of the parties' child to the father.
34. LOUISVILLE/JEFFERSON COUNTY [2007-SC-000315-DG](#) FRANKLIN
METRO GOVERNMENT V. [2007-SC-000581-DG](#)
TDC GROUP, LLC, D/B/A
MOLLY MALONE’S
AND
ALCOHOLIC BEVERAGE
CONTROL BOARD,
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE NOBLE – AFFIRMING
ABRAMSON, J., NOT SITTING.
- Questions presented:**
Administrative Law. Liquor Licensing.
Issues involve (1) the manner of the
measurement of the KRS 241 .075
minimum distance of 700 feet between
retail liquor drink licensees in cities of the
first class or consolidated local
governments and (2) whether KRS 241
.075(2) violates the local or special
legislation provisions of Ky. Const. §§ 59
and 60."
35. NICHOLAS L. DEPP V. [2007-SC-000575-MR](#) BARREN
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE NOBLE – AFFIRMING
ABRAMSON, J., CONCURS IN RESULT
ONLY. MINTON, C.J., DISSENTS BY
SEPARATE OPINION IN WHICH
SCHRODER, J., JOINS.
- Questions presented:**
Self-representation at criminal trial.
Waiver of constitutional right to counsel.
Hearing under Faretta v. California, 422
U.S. 806 (1975). Cross-examination
of victim witnesses.

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

36. ROBERT DICKERSON V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
CHIEF JUSTICE MINTON –
AFFIRMING**

[2008-SC-000074-MR](#)
TO BE PUBLISHED

FULTON

Questions presented:
Indictment on new charges after reversal of original convictions was not a vindictive prosecution. Right to a speedy trial was not violated. Conditional guilty plea should specify issues reserved for appeal; issues were minimally preserved for appeal.

37. CLARK COUNTY BOARD
OF EDUCATION V.
AUDEEN JACOBS, ET AL.
**OPINION OF THE COURT –
AFFIRMING**

[2008-SC-000222-WC](#)
TO BE PUBLISHED

FROM COURT
OF APPEALS

Questions presented:
Workers' Compensation. "Service to the employer" test of whether an activity comes within the scope of employment.

38. JAMES B. TENNILL, SR. V.
CYRUS M. TALAI
**OPINION OF THE COURT BY
JUSTICE SCHRODER –
AFFIRMING IN PART,
REVERSING IN PART**

[2007-SC-000046-DG](#)
[2007-SC-000673-DG](#)
TO BE PUBLISHED

JEFFERSON

Questions presented:
Civil Procedure. Interrogatories. Damages. Defendant defaulted as to liability, yet then participated in damages hearing. At issue is whether plaintiff, who failed to respond to interrogatories regarding the amount of damages, is prohibited from introducing evidence of unliquidated damages by *Fratzke v. Murphy*, 12 S.W.3d 269, 271 (Ky. 1999).

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

39. TYRONE ANTOINE HARTSFIELD V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY CHIEF JUSTICE MINTON – AFFIRMING, IN PART, AND REVERSING AND REMANDING, IN PART
SCHRODER, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION.
ABRAMSON, J., NOT SITTING.

[2007-SC-000077-DG](#)
TO BE PUBLISHED

FAYETTE

Questions presented:
Criminal Law. Right to Confrontation. Following death of alleged rape victim prior to defendant's trial, issues raised in motion in limine relate to the admissibility, in light of Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed. 2d 177 (2004), of statements made by alleged victim to the Sexual Assault Nurse Examiner during medical examination and collection of evidence, and statements made by the alleged rape victim after she ran from her home following the incident.

40. COMMONWEALTH OF KENTUCKY V. BOBBY A. JONES
OPINION OF THE COURT BY JUSTICE ABRAMSON – REVERSING
VENTERS, J., CONCURS BY SEPARATE OPINION IN WHICH NOBLE AND SCHRODER, JJ., JOIN.

[2006-SC-000650-DG](#)
TO BE PUBLISHED

MONTGOMERY

Questions presented:
Criminal Law. Possession of Firearm by Convicted Felon. Sufficiency of Evidence. Palpable Error. Issues include whether palpable error resulting in manifest injustice under RCr 10.26 occurred when prosecution failed to offer proof that rifle allegedly possessed by defendant was an operable firearm as defined by KRS 527.010(4).

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

- | | | | |
|-----|---|--|----------------------------|
| 41. | DON EARL SMITH V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
SCHRODER, J., DISSENTS BY
SEPARATE OPINION IN WHICH
NOBLE, J., JOINS. | 2006-SC-000896-MR
NOT TO BE PUBLISHED | MCCRACKEN |
| 42. | CLIFTON EUGENE HOLMAN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000225-MR
NOT TO BE PUBLISHED | BOURBON |
| 43. | JAMES ROBERT GIRTON V.
COMMONWEALTH OF KENTUCKY
AND
DRASHAWN BARTLETT V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000289-MR
NOT TO BE PUBLISHED

2007-SC-000293-MR
NOT TO BE PUBLISHED | JEFFERSON

JEFFERSON |
| 44. | MORRIS ALEXANDER V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000655-MR
NOT TO BE PUBLISHED | FAYETTE |
| 45. | DIANA BOWEN V.
HEALTH MANAGEMENT
ASSOCIATES, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ABRAMSON, J., NOT SITTING. | 2007-SC-000686-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 46. | DESMOND COATES V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000897-MR
NOT TO BE PUBLISHED | FAYETTE |

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

47. HOWARD BRYAN V. [2007-SC-000924-MR](#) BOYD
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
48. RODNEY A. ERVIN V. [2007-SC-000959-MR](#) FULTON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
49. LUCIAN RATLIFF V. [2008-SC-000120-WC](#) FROM COURT
PEABODY COAL COMPANY, ET AL. **NOT TO BE PUBLISHED** OF APPEALS
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
SCOTT, J., DISSENTS AS FOLLOWS:
I MUST RESPECTFULLY DISSENT AS I
DID IN DURHAM V. PEABODY COAL CO.,
__ S.W.3D __ (KY.2008), AS YOU CAN
NOT IMPOSE DIFFERING STANDARDS
OF PROOF AND OF JUDICIAL FINDINGS
FOR INJURIES TO DIFFERENT PARTS
OF THE BODY UNDER THE SAME
ADMINISTRATIVE PROCESS. IT IS A
DENIAL OF “EQUAL PROTECTION” IN
VIOLATION OF THE 14TH AMENDMENT
OF THE UNITED STATES CONSTITUTION,
AS WELL AS, SECTIONS 1, 2 AND 3 OF
THE KENTUCKY CONSTITUTION. THE
MEN AND WOMEN WHO RISK THEIR
“LIFE AND LIMBS” TO MINE THE COAL
THAT POWERS THIS GREAT
COMMONWEALTH AND NATION
DESERVE TO BE TREATED BETTER
THAN THIS.
50. OMICO PLASTICS V. [2008-SC-000344-WC](#) FROM COURT
SPARKLE ACTON, ET AL. **NOT TO BE PUBLISHED** OF APPEALS
MEMORANDUM OPINION OF
THE COURT – AFFIRMING

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

51. LEE A. BRASHER V. [2008-SC-000386-WC](#) FROM COURT
CONSOLIDATED COAL NOT TO BE PUBLISHED OF APPEALS
COMPANY, ET AL.
**MEMORANDUM OPINION OF
THE COURT – AFFIRMING**
SCOTT, J., DISSENTS AS FOLLOWS:
I MUST RESPECTFULLY DISSENT AS I
DID IN DURHAM V. PEABODY COAL CO.,
__ S.W.3D __ (KY.2008), AS YOU CAN
NOT IMPOSE DIFFERING STANDARDS
OF PROOF AND OF JUDICIAL FINDINGS
FOR INJURIES TO DIFFERENT PARTS
OF THE BODY UNDER THE SAME
ADMINISTRATIVE PROCESS. IT IS A
DENIAL OF “EQUAL PROTECTION” IN
VIOLATION OF THE 14TH AMENDMENT
OF THE UNITED STATES CONSTITUTION,
AS WELL AS, SECTIONS 1, 2 AND 3 OF
THE KENTUCKY CONSTITUTION. THE
MEN AND WOMEN WHO RISK THEIR
“LIFE AND LIMBS” TO MINE THE COAL
THAT POWERS THIS GREAT
COMMONWEALTH AND NATION
DESERVE TO BE TREATED BETTER
THAN THIS.
52. KRM TRUCKING, INC. V. [2008-SC-000461-MR](#) HOPKINS
HON. JAMES C. BRANTLEY, JUDGE, NOT TO BE PUBLISHED
HOPKINS CIRCUIT COURT, ET AL.
OPINION – AFFIRMING

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

53. DWAYNE EARL BISHOP V. [2005-SC-000361-MR](#) FLOYD
COMMONWEALTH OF KENTUCKY [2005-SC-000373-MR](#)
MEMORANDUM OPINION OF NOT TO BE PUBLISHED
THE COURT – REVERSING AND
REMANDING ON DIRECT APPEAL
AND AFFIRMING ON CROSS APPEAL
CUNNINGHAM, J., CONCURS IN
RESULT ONLY BY SEPARATE
OPINION IN WHICH MINTON, C.J.,
AND SCOTT, J., JOIN.
54. DYLAN JAMAR FRANCE V. [2006-SC-000046-MR](#) WARREN
COMMONWEALTH OF KENTUCKY [2006-SC-000700-MR](#)
MEMORANDUM OPINION OF NOT TO BE PUBLISHED
THE COURT – REMANDING

OPINIONS AND ORDERS

- JEFF JONES AND ANN ALLEN JONES V. 2008-SC-000573-D LINCOLN
PBK BANK
ORDER GRANTED DISCRETIONARY REVIEW,
VACATED THE COURT OF APPEALS' OPINION
AND REMAND TO LINCOLN CIRCUIT COURT.
SCHRODER, J., NOT SITTING.
ENTERED: FEBRUARY 11, 2009
- KENTUCKY BAR ASSOCIATION V. [2008-SC-000827-KB](#) IN SUPREME
ROBERT N. TRAINOR **TO BE PUBLISHED** COURT
ORDER PUBLICLY REPRIMANDED
RESPONDENT.
ENTERED: FEBRUARY 19, 2009
- JAMES W. CONWAY V. [2008-SC-000947-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT
ORDER PERMANENTLY DISBARRED
MOVANT FROM THE PRACTICE OF LAW
IN THE COMMONWEALTH OF KENTUCKY.
ENTERED: FEBRUARY 19, 2009

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

OPINIONS AND ORDERS – FEBRUARY 19, 2009

KENTUCKY BAR ASSOCIATION,
CLE COMMISSION V.
ADAM BOYD BLEILE
**RESPONDENT ORDERED TO PAY
\$175.00 TO THE KBA IN LIEU OF
SUSPENSION FOR NON COMPLIANCE
WITH CLE REQUIREMENTS.**

[2008-SC-000962-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

KENTUCKY BAR ASSOCIATION,
CLE COMMISSION V.
JOHN RUDD MCGEENEY
**RESPONDENT ORDERED TO PAY
\$750.00 TO THE KBA IN LIEU OF
SUSPENSION FOR NON COMPLIANCE
WITH CLE REQUIREMENTS.**

[2008-SC-000969-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
FEBRUARY 11, 2009**

DR. GHASSAN HAJ-HAMED V.
OHIC INSURANCE COMPANY

2008-SC-00127-DG

CAMPBELL

LILA FAYE SPENCER V.
ESTATE OF CHARLES SPENCER

2008-SC-000191-DG

MCCRACKEN

ESTATE OF CHARLES SPENCER V.
LILA FAYE SPENCER

2008-SC-000196-DG

MCCRACKEN

CINCINNATI INSURANCE CO. V.
MOTORISTS MUTUAL INSURANCE CO.

2008-SC-000293-DG

JEFFERSON

KENTUCKY RETIREMENT SYSTEMS V.
DILLARD WAYNE BROWN, INDIVIDUALLY
AND AS EXECUTOR OF THE ESTATE OF
BARBARA FAYE REED BROWN, DECEASED

2008-SC-000326-DG

FRANKLIN

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
FEBRUARY 11, 2009**

AUTO OWNERS INSURANCE CO. V. OMNI INDEMNITY COMPANY	2008-SC-000606-DG	JEFFERSON
ROBERT HOLLON V. COMMONWEALTH OF KENTUCKY	2008-SC-000618-DG	FRANKLIN
CSX TRANSPORTATION V. JOHN X. BEGLEY	2008-SC-000643-DG	PERRY
MEMBERS CHOICE CREDIT UNION, ET AL. V. HOME FEDERAL SAVINGS AND LOAN ASSOCIATION	2008-SC-000877-DG	FRANKLIN
COMMONWEALTH OF KENTUCKY V. NABRYAN MARSHALL	2008-SC-000894-DG	FAYETTE
BRANDI CHIPMAN V. COMMONWEALTH OF KENTUCKY	2008-SC-000895-DG	KENTON
WILLIAM BUCK V. COMMONWEALTH OF KENTUCKY	2008-SC-000896-DG	CAMPBELL
TROY MOODY V. CSX TRANSPORTATION, INC.	2009-SC-000048-DG	JEFFERSON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
FEBRUARY 11, 2009**

RONALD BOWLING V. LAWRENCE WILLIAMS	2007-SC-000484-D	WHITLEY
CONRAD BRYANT, ET AL. V. CITY OF BURNSIDE, ET AL.	2007-SC-000830-D	PULASKI

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
FEBRUARY 11, 2009**

BRIAN O'DONOGHUE, M.D. V. KENTUCKY BOARD OF MEDICAL LICENSURE	2008-SC-000158-D	JEFFERSON
DONALD CHRISTY V. COMMONWEALTH OF KENTUCKY	2008-SC-000275-D	MASON
MARTIN J. CHALFANT V. KAREN CHALFANT, ET AL.	2008-SC-000287-D	SHELBY
COMMONWEALTH OF KENTUCKY V. DUSTIN BEARD	2008-SC-000313-D	CALLOWAY
MICHAEL DAVID CRISWELL V. DIANA CRISWELL, NOW EVERMAN	2008-SC-000323-D	CARTER
LEONARD MICHAEL JAMEISON AND PAULINE JAMEISON V. EAGLE ROD & GUN CLUB, LLC COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000359-D	OWEN
HUFFORD WILLIAMS, ET AL. V. J.T. MCCOY	2008-SC-000436-D	PIKE
JOHN L. DANIELS V. COMMONWEALTH OF KENTUCKY	2008-SC-000469-D	OLDHAM
ASHLEY EDMUNDS V. RONALD G. FETCHKO, ET AL. COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000517-D	JEFFERSON
DANNY GOFF V. JOHN REES, COMMISSIONER	2008-SC-000525-D	FRANKLIN

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
FEBRUARY 11, 2009**

LARRY MORRIS V. COMMONWEALTH OF KENTUCKY	2008-SC-000526-D	JEFFERSON
LEXINGTON TRUCK SALES, INC. V. JOHN KEETON AND JOHN KEETON V. LEXINGTON TRUCK SALES, INC.	2008-SC-000547-D 2008-SC-000590-D	FAYETTE FAYETTE
DANNY L. FISHER V. COMMONWEALTH OF KENTUCKY	2008-SC-000574-D	JEFFERSON
KENNETH AGEE V. COMMONWEALTH OF KENTUCKY	2008-SC-000578-D	NELSON
JEFFREY SHEROAN V. COMMONWEALTH OF KENTUCKY	2008-SC-000586-D	HARDIN
KEVIN SHEGOG V. COMMONWEALTH OF KENTUCKY	2008-SC-000588-D	CAMPBELL
GEORGE B. COHEN V. COMMONWEALTH OF KENTUCKY	2008-SC-000634-D	JEFFERSON
LUCY CRAIG STEILBERG V. C2 FACILITY SOLUTIONS, LLC AND DALE A. CAIN	2008-SC-000637-D	JEFFERSON
WAYNE GORDON, ET AL. V. ALAN KASSOFF, ET AL.	2008-SC-000639-D	BOYLE

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
FEBRUARY 11, 2009**

EMERGENCY CARE PHYSICIANS OF NORTHERN KENTUCKY, P.S.C., AND TIMOTHY LOVE, M.D. V. BOBBY HILL-FERDINANDO, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF DUDLEY JOHN MICHAEL FERDINANDO, III, AND WAYNE D. FERDINANDO AND BOBBY HILL-FERDINANDO, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF DUDLEY JOHN MICHAEL FERDINANDO, III, AND WAYNE D. FERDINANDO V. EMERGENCY CARE PHYSICIANS OF NORTHERN KENTUCKY, P.S.C., AND TIMOTHY LOVE, M.D.	2008-SC-000653-D	BOONE
JEFFREY CHARLES MORRIS V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000668-D	FAYETTE
STEVEN LESTER V. COMMONWEALTH OF KENTUCKY	2008-SC-000693-D	PULASKI
JAMES ADAMS V. COMMONWEALTH OF KENTUCKY	2008-SC-000694-D	MADISON
JOHN WEST V. COMMONWEALTH OF KENTUCKY	2008-SC-000699-D	WAYNE
GORDON JAY SETTLOW V. ALICE JEAN HAENDIGES SETTLOW	2008-SC-000717-D	TRIGG
STEVEN LESTER V. COMMONWEALTH OF KENTUCKY	2008-SC-000693-D	PULASKI

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
FEBRUARY 11, 2009**

PEGGY SUE ROGERS V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000750-D	FAYETTE
MICHAEL DWAYNE STIGALL V. COMMONWEALTH OF KENTUCKY	2008-SC-000751-D	FAYETTE
M.B., A CHILD UNDER EIGHTEEN V. COMMONWEALTH OF KENTUCKY	2008-SC-000788-D	HENDERSON
MARK ROUNTREE V. COMMONWEALTH OF KENTUCKY	2008-SC-000830-D	HARDIN
SHELTER INSURANCE COMPANIES V. MARTIN RUDOLPH COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000865-D	GRAVES
W.A. V. KENTUCKY DEPARTMENT FOR HEALTH AND FAMILY SERVICES AND Z.I.C., AN INFANT	2008-SC-000830-D	FRANKLIN
ALAN TROY WILLIAMS V. COMMONWEALTH OF KENTUCKY	2008-SC-000881-D	SIMPSON
TAMMYE M. GAUNCE V. PATRICK WAYNE GAUNCE	2008-SC-000903-D	WARREN
ROBERT LYNN V. DIGITAL LIFESTYLES, LLC COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000919-D	JEFFERSON
CHERYL LYNN MCNEES V. TERRY GEORGE MCNEES	2008-SC-000903-D	WARREN

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – FEBRUARY 13, 2009**

RANDY FITTS V. 2009-SC-000045-D FULTON
COMMONWEALTH OF KENTUCKY

COURT ORDERS DENYING PETITION FOR REHEARING – FEBRUARY 19, 2009

SAMUEL STEVEN FIELDS V. 2004-SC-000091-MR FLOYD
COMMONWEALTH OF KENTUCKY

ALICE SOUTH HUME, ET AL. V. [2006-SC-000499-DG](#) FRANKLIN
FRANKLIN COUNTY
FISCAL COURT, ET AL.

AND
LEWIS BIZZACK, ET AL. V. [2007-SC-000091-DG](#) FRANKLIN
ALICE SOUTH HUME, ET AL.
**ORDER MODIFIED OPINION RENDERED
SEPTEMBER 18, 2008 BY SUBSTITUTION
OF PAGES 1, 5, 6, 7 AND 8.**

COMMONWEALTH OF KENTUCKY V. 2006-SC-000653-DG MCCRACKEN
MICHAEL CARNEAL 2007-SC-000203-DG

JOHN BIANCHI, D.M.D., ET AL V. 2006-SC-000895-DG HARLAN
CITY OF HARLAN, A FOURTH
CLASS CITY, ET AL.

ROGER L. WHEELER V. 2006-SC-000901-MR JEFFERSON
COMMONWEALTH OF KENTUCKY

COMMONWEALTH OF KENTUCKY, 2007-SC-000463-DGE JEFFERSON
CABINET FOR HEALTH AND FAMILY
SERVICES, AND A.J.M., A CHILD V. 2007-SC-000821-DGE
T.G., MOTHER

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

COURT ORDERS DISMISSING

JUANITA BROWNING, ET AL. V.
WYETH, ET AL.
AND
HON. EDDY COLEMAN, JUDGE,
PIKE CIRCUIT COURT, DIVISION 1
ENTERED: FEBRUARY 13, 2009

2007-SC-000955-MR
2008-SC-000018-MR

PIKE

ROSEMARY MCCLAIN V.
COMMONWEALTH OF KENTUCKY
ENTERED: FEBRUARY 2, 2009

2008-SC-000826-MR

LETCHER

JASON DEAN BORDEN V.
HONORABLE STEVE ALAN WILSON, JUDGE,
WARREN CIRCUIT COURT, ET AL.
ENTERED: FEBRUARY 2, 2009

2008-SC-000913-OA

FROM COURT

COURT ORDERS

DAMON STUCKEY V.
COMMONWEALTH OF KENTUCKY
**ORDER MODIFIED OPINION RENDERED
JANUARY 22, 2009 BY SUBSTITUTION
OF PAGES 1 AND 13.**
ENTERED: FEBRUARY 10, 2009.

[2007-SC-000672-MR](#)

JEFFERSON

COMMONWEALTH OF KENTUCKY,
TRANSPORTATION CABINET,
DEPARTMENT OF HIGHWAYS V.
BILL JOHNSON, INDIVIDUALLY, ET AL.
**THE PREVIOUSLY GRANTED
DISCRETIONARY REVIEW OF THE
COURT OF APPEALS DECISION IS
VACATED AS IMPROVIDENTLY
GRANTED. THE OPINION RENDERED
BY THE COURT OF APPEALS IS
ORDERED NOT TO BE PUBLISHED.**
ENTERED: JANUARY 23, 2009

[2007-SC-000678-DG](#)

KNOX

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

COURT ORDERS

PHILLIP ADAM WEBB V. [2008-SC-000327-DG](#) LAWRENCE
COMMONWEALTH OF KENTUCKY
**ORDER GRANTED DISCRETIONARY
REVIEW AND REMANDED TO THE
LAWRENCE CIRCUIT COURT FOR
RECONSIDERATION OF MOVANT'S
SENTENCE PURSUANT TO THE
RECENT DECISION IN
COMMONWEALTH V. MERRIMAN,
265 S.W.3D 196 (KY 2008).**
ENTERED: FEBRUARY 11, 2009

KENTUCKY BAR ASSOCIATION, [2008-SC-000964-KB](#) IN SUPREME
CLE COMMISSION V. **TO BE PUBLISHED** COURT
ROBERT PAUL MARTIN
**RESPONDENT ORDERED TO PAY
\$100.00 TO THE KBA IN LIEU OF
SUSPENSION FOR NON COMPLIANCE
WITH CLE REQUIREMENTS.**
ENTERED: JANUARY 12, 2009

M.B., A CHILD UNDER EIGHTEEN V. 2008-SC-000802-MR HENDERSON
STEPHEN A. HAYDEN, JUDGE,
HENDERSON CIRCUIT COURT, ET AL.
**ORDER DENIED APPELLANT'S MOTION
TO RECONSIDER.**
ENTERED: FEBRUARY 16, 2009

**COURT ORDERS GRANTING MOVANT'S APPLICATION FOR RESTORATION TO THE
PRACTICE OF LAW – FEBRUARY 19, 2009**

DAVID G. WEBB V. 2008-SC-000183-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT

SHELIA GAIL BAHNER V. 2008-SC-000829-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT

SUPREME COURT OF KENTUCKY

MINUTES

FEBRUARY 19, 2009

RELEASED: 2:00 P.M.

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE
KENTUCKY BAR ASSOCIATION – FEBRUARY 11, 2009**

SUE ELLA EASTERLING KOBAK V.
KENTUCKY BAR ASSOCIATION

2009-SC-000074-KB

IN SUPREME
COURT