

SUPREME COURT OF KENTUCKY

JUNE 11, 2015 MINUTES

RELEASED: 10:00 A.M.

- | | | | |
|---|--|---|--------------------------|
| 66. | BRIDGETT WRIGHT V.
ECOLAB, INC., ET AL.
OPINION OF THE COURT BY
JUSTICE VENTERS –
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2013-SC-000653-DG
TO BE PUBLISHED | KENTON |
| <p>Questions Presented:
Appellate Procedure. Issues involve whether a premature notice of appeal from an interlocutory decision not containing the necessary CR 54.02 recitations of finality can be salvaged by the “relation forward” rule or entry of a <i>nunc pro tunc</i> order adding the CR 54.02 recitations.</p> | | | |
| 67. | CASSANDRA FALK, ETC., ET AL. V.
ALLIANCE COAL, LLC
OPINION OF THE COURT BY
JUSTICE KELLER –
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2013-SC-000655-DG
TO BE PUBLISHED | FAYETTE |
| <p>Questions Presented:
Workers' Compensation. Issue is whether or not the Respondent is the Workers' Compensation "carrier" as the term is defined in KRS 342.011(6), and therefore immune from suit for alleged negligence resulting in the deaths of three miners.</p> | | | |
| 68. | ROBERT CARL FOLEY AND RALPH
BAZE V.
STEVE BESHEAR, GOVERNOR OF
KENTUCKY, ET AL.
OPINION OF THE COURT BY
JUSTICE ABRAMSON –
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2013-SC-000777-MR
TO BE PUBLISHED | FRANKLIN |
| <p>Questions Presented:
Declaratory judgment. Constitutionality of Kentucky procedures outlining the submission and review of a petition for executive clemency. Separation of Powers Doctrine.</p> | | | |
| 69. | JOSEPH JEWELL V.
FORD MOTOR COMPANY, ET AL.
OPINION OF THE COURT BY
JUSTICE KELLER –
<u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2014-SC-000234-WC
TO BE PUBLISHED | FROM COURT
OF APPEALS |
| <p>Questions Presented:
Workers' Compensation. Whether unemployment benefits and supplemental unemployment benefits (SUB) should be considered wages for purposes of the workers' compensation statute.</p> | | | |

SUPREME COURT OF KENTUCKY

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70. STACEY CALDWELL V. HONORABLE A.C.MCKAY CHAUVIN, JUDGE, JEFFERSON CIRCUIT COURT, ET AL. [2014-SC-000390-MR](#) JEFFERSON
TO BE PUBLISHED
- Questions Presented:**
While no law inhibits litigants from seeking ex parte interviews with the opposing party's treating physicians, the disclosure of medical information during those ex parte meetings is controlled by HIPAA. Here the trial court failed to satisfy HIPAA but this writ was denied because ex parte disclosure was not authorized.
- OPINION OF THE COURT BY CHIEF JUSTICE MINTON – AFFIRMING**
ALL SITTING. ALL CONCUR. KELLER, J., CONCURS BY SEPARATE OPINION IN WHICH BARBER AND NOBLE, JJ., JOIN.

71. ARNOLD MOORE V. COMMONWEALTH OF KENTUCKY [2013-SC-000495-MR](#) LAWRENCE
TO BE PUBLISHED
- Questions Presented:**
Manufacturing methamphetamine (first offense), first-degree possession of a controlled substance, and PFO-I-50 years. Mere speculation that a witness would assert his right against self-incrimination did not render the witness unavailable for purposes of KRE 804(b)(3). Commonwealth's introduction of certified copies of defendant's prior convictions was not sufficient evidence to permit the jury to draw a reasonable inference of his PFO status.
- OPINION OF THE COURT BY JUSTICE VENTERS – AFFIRMING IN PART, REVERSING IN PART AND REMANDING**
ALL SITTING. ALL CONCUR.

72. COMMONWEALTH OF KENTUCKY, HON. LORI FLANERY, ETC., ET AL. V. AT&T CORPORATION [2013-SC-000800-DG](#) JEFFERSON
TO BE PUBLISHED
- Questions Presented:**
Taxation. Constitutional Challenges. Ripeness. The primary question involves the ripeness of a facial state constitutional challenge to KRS 139.505(2), interstate business communications service sales tax refundable credit amendments, in view of the circuit court conclusion that the other seven counts of the declaratory judgment action should await resolution by the Kentucky Board of Tax Appeals.
- OPINION OF THE COURT BY JUSTICE CUNNINGHAM – REVERSING**
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

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| 73. | KEVIN ADDISON V.
LYDIA ADDISON
AND
LYDIA ADDISON V.
KEVIN ADDISON
OPINION OF THE COURT BY
JUSTICE BARBER –
REVERSING
ALL SITTING. ALL CONCUR. | 2014-SC-000309-DGE
TO BE PUBLISHED | HARDIN |
| | | 2014-SC-000582-DGE
TO BE PUBLISHED | HARDIN |
| | | Questions Presented:
Child Custody. Issues include the propriety of limiting proof to one day and restricting witnesses on a motion to change custody. | |
| 74. | CHARLES A. SHORT V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR. | 2013-SC-000755-MR
NOT TO BE PUBLISHED | WARREN |
| 75. | JOSHUA C. JOHNSON V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR. | 2013-SC-000787-MR
NOT TO BE PUBLISHED | BOYLE |
| 76. | KENNETH LESLIE WRIGHT, JR. V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR. | 2014-SC-000250-MR
NOT TO BE PUBLISHED | HARDIN |
| 77. | PENNY BERRY V.
CEDAR LAKE PARK PLACE, ET AL.
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR. | 2014-SC-000476-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 78. | BILL HUNTSMAN, SR., ET AL. V.
JOE MANNING, ET AL.
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR. | 2014-SC-000569-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

JUNE 11, 2015 MINUTES

RELEASED: 10:00 A.M.

79. TIMOTHY BRITTON V. [2014-SC-000659-TG](#) HOPKINS
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
80. JOHN J. SCOTT, ET AL. V. [2013-SC-000228-DG](#) HARDIN
TIM DAVIS., ET AL. **NOT TO BE PUBLISHED**
AND
TIM DAVIS., ET AL. V. [2013-SC-000682-DG](#) HARDIN
JOHN J. SCOTT, ET AL. **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING IN PART
AND REVERSING IN PART
ALL SITTING. ALL CONCUR.
81. DUSTIN DWAYNE FARRA V. [2013-SC-000505-MR](#) JACKSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING IN PART
AND REVERSING AND REMANDING
IN PART
MINTON, C.J.; ABRAMSON, BARBER,
KELLER AND NOBLE, JJ., CONCUR.
VENTERS, J., DISSENTS BY
SEPARATE OPINION IN WHICH
CUNNINGHAM, J., JOINS.
82. BOWLIN GROUP, LLC V. [2013-SC-000402-WC](#) FROM COURT
ROBERT SHAWN PADGETT, ET AL. **NOT TO BE PUBLISHED** OF APPEALS
MEMORANDUM OPINION OF
THE COURT – REVERSING
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

JUNE 11, 2015 MINUTES

RELEASED: 10:00 A.M.

OPINION AND ORDERS – JUNE 3, 2015

JOSE PANTOJA, SR., ET AL. V. 2013-SC-000623-DG FAYETTE
TIC PROPERTY MANAGEMENT, LLC, ET AL.
**ORDER GRANTED DISCRETIONARY REVIEW,
VACATED THE COURT OF APPEALS DECISION
AND REMANDED TO THE COURT OF APPEALS
FOR FURTHER CONSIDERATION IN LIGHT OF
KENTUCKY FARM BUREAU MUTUAL
INSURANCE COMPANY V. CONLEY, ___ S.W.3D
(KY. 2015) (FINAL APRIL 23, 2015).**
ALL SITTING. ALL CONCUR.

B.H., ET AL. V. 2014-SC-000704-DGE SCOTT
CABINET FOR HEALTH AND FAMILY
SERVICES, ET AL.
**ORDER GRANTED DISCRETIONARY REVIEW,
VACATED THE COURT OF APPEALS DECISION
AND REMANDED TO THE COURT OF APPEALS
FOR FURTHER CONSIDERATION IN LIGHT OF
KENTUCKY FARM BUREAU MUTUAL
INSURANCE COMPANY V. CONLEY, ___ S.W.3D
(KY. 2015) (FINAL APRIL 23, 2015).**
ALL SITTING. ALL CONCUR.

OPINION AND ORDERS – JUNE 11, 2015

KENTUCKY BAR ASSOCIATION V. [2015-SC-000063-KB](#) IN SUPREME
JAMES DOUGLAS OSBORNE **TO BE PUBLISHED** COURT
**ORDER OF PERMANENT DISBARMENT
FROM THE PRACTICE OF LAW.**
ALL SITTING. ALL CONCUR.

MICHAEL CONSTANTINE SKOUTERIS V. [2015-SC-000079-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT
**ORDER OF SUSPENSION FROM THE
PRACTICE OF LAW FOR FAILURE TO PAY
HIS KBA BAR DUES FOR THE 2014-2015
FISCAL YEAR PURSUANT TO SCR 3.050.**
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

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OPINION AND ORDERS – JUNE 11, 2015

KENTUCKY BAR ASSOCIATION V.
JOHN GREENE ARNETT, JR.
**ORDER OF PERMANENT DISBARMENT
FROM THE PRACTICE OF LAW.**
ALL SITTING. ALL CONCUR.

[2015-SC-000153-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

KENTUCKY BAR ASSOCIATION V.
REBECCA COX VENTER
**ORDER OF SUSPENSION FROM THE
PRACTICE OF LAW FOR 181 DAYS WITH
CONDITIONS.**
ALL SITTING. ALL CONCUR.

[2015-SC-000155-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
JUNE 3, 2015**

LEON M. GRIDER V.
COMMONWEALTH OF KENTUCKY
VENTERS, J., NOT SITTING.

2014-SC-000468-DG

ADAIR

AEP INDUSTRIES, INC. V.
B.G. PROPERTIES, INC.

2014-SC-000512-DG

WARREN

COMMONWEALTH OF KENTUCKY V.
TERRANCE MILES

2014-SC-000558-DG

JEFFERSON

COMMONWEALTH OF KENTUCKY V.
DAVID TAPP

2014-SC-000607-DG

BATH

MARY STORY V.
KENTUCKY COURT OF JUSTICE DISMISSAL
APPEAL BOARD, ET AL.
MINTON, C.J., NOT SITTING.

2014-SC-000626-DG

FRANKLIN

IRIS JENNINGS V.
COMMONWEALTH OF KENTUCKY

2015-SC-000171-DG

KENTON

SUPREME COURT OF KENTUCKY

JUNE 11, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 3, 2015**

MELISSA DERMODY V. UNIVERSITY OF LOUISVILLE MEDICAL SCHOOL ASSOCIATION, INC., ETC.	2013-SC-000296-D	JEFFERSON
AMY PHILPOT, ET AL. V. BEST BUY, ETC, ET AL.	2013-SC-000510-D	BULLITT
GLENN MARTIN HAMMOND V. ELENA JILL HAMMOND, ET AL. BARBER, J., NOT SITTING.	2014-SC-000246-D	PIKE
WESTERN KENTUCKY UNIVERSITY V. ELIZABETH ESTERS THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. MINTON, C.J., NOT SITTING.	2014-SC-000251-D	FRANKLIN
JAMES G. SWINGOS V. COMMONWEALTH OF KENTUCKY	2014-SC-000253-D	KENTON
ROBERT NAEGELE V. COMMONWEALTH OF KENTUCKY	2014-SC-000264-D	CARROLL
TRAVIS WHITAKER V. DARRELL K. HALSEY, ET AL.	2014-SC-000297-D	FRANKLIN
RICHARD EARL THOMAS, II V. COMMONWEALTH OF KENTUCKY	2014-SC-000302-D	BULLITT
CIERRA PICKENS, ETC. V. AMBER T. BLAND, ETC. CUNNINGHAM, J., WOULD GRANT.	2014-SC-000374-D	JEFFERSON
JAMES W. CALBOUGH V. COMMONWEALTH OF KENTUCKY	2014-SC-000380-D	JEFFERSON

SUPREME COURT OF KENTUCKY

JUNE 11, 2015 MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 3, 2015**

WALTER E. BREWER, III V. KENTUCKY DEPARTMENT OF CORRECTIONS, ET AL. KELLER, J., WOULD GRANT.	2014-SC-000397-D	FRANKLIN
JONES PLASTIC AND ENGINEERING COMPANY, LLC., ETC. V. JOSEPH VARRO	2014-SC-000423-D	WHITLEY
PAUL GRANT, ET AL. V. CITY OF RACELAND, KENTUCKY, ET AL.	2014-SC-000432-D	GREENUP
TORIES D. QUALLS V. COMMONWEALTH OF KENTUCKY	2014-SC-000440-D	HARDIN
JANELLE DISHMAN, ET AL. V. C&R ASPHALT, LLC, ET AL.	2014-SC-000471-D	FAYETTE
AMBER MOSHER V. COMMONWEALTH OF KENTUCKY	2014-SC-000473-D	LESLIE
RAYMOND K. HAMPSON, ET AL. V. BOONE CO. PLANNING COMMISSION, ET AL.	2014-SC-000504-D	BOONE
WILMA HORN V. ASHLAND HOSPITAL CORPORATION, ETC., ET AL.	2014-SC-000509-D	BOYD
RAYMOND K. WILSON V. COMMONWEALTH OF KENTUCKY	2014-SC-000527-D	HARDIN
CARLTON E. MCINTOSH V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2014-SC-000528-D	WARREN
EDWARD R. STOESS V. COMMONWEALTH OF KENTUCKY	2014-SC-000529-D	OLDHAM

SUPREME COURT OF KENTUCKY

JUNE 11, 2015 MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 3, 2015**

JIMMY DALE STAGE V. COMMONWEALTH OF KENTUCKY	2014-SC-000530-D	JEFFERSON
KASHMIRE COX V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2014-SC-000532-D	JEFFERSON
CRYSTAL MARLOWE V. LOUISVILLE METRO POLICE MERIT BOARD, ET AL.	2014-SC-000537-D	JEFFERSON
COMMONWEALTH OF KENTUCKY V. A.K.M.	2014-SC-000538-D	POWELL
CECIL WILLIAMS ESTATE, ET AL. V. WILLIAM C. OATES ESTATE, ET AL.	2014-SC-000550-D	WARREN
J.M., A CHILD V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2014-SC-000573-D	JEFFERSON
JASON PALMER, ET AL. V. PAUL CARTER, SR.	2014-SC-000580-D	FAYETTE
DR. T. ROBERT LOVE V. ASHLAND HOSPITAL CORPORATION, ETC., ET AL.	2014-SC-000588-D	GREENUP
BRANDON GRANNIS V. COMMONWEALTH OF KENTUCKY	2014-SC-000592-D	MASON
ROBERT SHANE GREEN V. COMMONWEALTH OF KENTUCKY	2014-SC-000596-D	WEBSTER
WELLS FARGO BANK, N.A. V. TRACY ACUFF, ET AL.	2014-SC-000599-D	KENTON

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 3, 2015**

JAMES RICKY OWENS V. COMMONWEALTH OF KENTUCKY	2014-SC-000613-D	SIMPSON
FREDERICK HANNAH V. COMMONWEALTH OF KENTUCKY	2014-SC-000627-D	MCCRACKEN
HQM OF PIKEVILLE, LLC, ETC., ET AL. V. SHERRY COLLINS, ETC., ET AL. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2014-SC-000632-D	PIKE
RAYCHEL STILGENBAUER V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2014-SC-000643-D	BOYD
H.S. V. COMMONWEALTH OF KENTUCKY BARBER AND KELLER, JJ., WOULD GRANT.	2014-SC-000644-D	FAYETTE
COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES V. C.L.H., ET AL. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2015-SC-000124-DE	WHITLEY
JERMAINE S. MARTIN V. DANIEL AKERS, WARDEN, ETC.	2015-SC-000209-D	MARION

**COURT ORDER DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW**

BOBBY BROCKMAN V. DON BOTTOM, WARDEN, NORTHPOINT TRAINING CENTER, ET AL. ENTERED: MAY 14, 2015	2015-SC-000131-D	BOYLE
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SUPREME COURT OF KENTUCKY

JUNE 11, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDER DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW**

WALTER PHODES V. 2015-SC-000220-D JEFFERSON
COMMONWEALTH OF KENTUCKY
**KELLER, NOBLE, VENTERS AND ABRAMSON,
JJ., SITTING. ALL CONCUR.**
ENTERED: JUNE 5, 2015

COURT ORDERS DENYING PETITION FOR REHEARING – JUNE 11, 2015

RICHARD C. OLIPHANT, M.D., 2013-SC-000059-DG JEFFERSON
ET AL. V.
BILLY JO RIES, ETC., ET AL.
ALL SITTING. ALL CONCUR.

GEORGE A. LUNA V. 2013-SC-000173-MR TRIGG
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.

BONITA BEAUMONT V. 2013-SC-000489-DG JEFFERSON
MULUKEN ZERU
ALL SITTING. ALL CONCUR.

COURT ORDERS DISMISSING

HONORABLE ANN BAILEY SMITH (CHIEF 2013-SC-000828-TG JEFFERSON
JUDGE, JEFFERSON DISTRICT COURT) V.
COMMONWEALTH OF KENTUCKY (EX REL.
MICHAEL J. O'CONNELL), ET AL.
ALL SITTING. ALL CONCUR.
ENTERED: JUNE 11, 2015

WILLIAM MARK SMITH, ET AL. V. 2015-SC-000165-OA FROM COURT
LESLYE ARNETT, ET AL. OF APPEALS
**KELLER, NOBLE, VENTERS AND ABRAMSON,
JJ., SITTING. ALL CONCUR.**
ENTERED: JUNE 5, 2015