

SUPREME COURT OF KENTUCKY

AUGUST 18, 2022 RULINGS

RELEASED: 10:00 A.M.

70. PRIMAL VANTAGE COMPANY, INC. V. [2020-SC-0247-DG](#) JEFFERSON
KEVIN O'BRYAN, ET AL. **TO BE PUBLISHED**

AND

KEVIN O'BRYAN V. [2021-SC-0064-DG](#) JEFFERSON
PRIMAL VANTAGE COMPANY, INC., ET AL. **TO BE PUBLISHED**

AND

SANTE' O'BRYAN V. [2021-SC-0065-DG](#) JEFFERSON
PRIMAL VANTAGE COMPANY, INC., ET AL. **TO BE PUBLISHED**

**OPINION OF THE COURT BY CHIEF
JUSTICE MINTON - AFFIRMING IN PART,
REVERSING IN PART AND REMANDING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Questions Presented: Tort Law. Products Liability. Evidence. Apportionment of Fault. Immunity. Issues include: (1) whether the trial court committed reversible error by allowing presentation to the jury of evidence involving other accidents and injuries involving ladderstands; (2) whether the trial court's jury instructions regarding failure to warn were erroneous; (3) whether the lower courts correctly concluded that fault could not be apportioned under KRS 150.645(1) to the owners of the property where the accident occurred; (4) whether the trial court's directed verdict regarding plaintiff's design-defect claims was appropriate; (5) whether the instructions for loss of consortium should have expressly prohibited the jury from awarding damages for the period of time after the spouse and the injured party divorced; and (6) whether references to a foreign country and foreign locations resulted in prejudice to the defendants.

71. CONSTANCE MOUANDA V.
JANI-KING INTERNATIONAL, ET AL.

[2021-SC-0089-DG](#)
TO BE PUBLISHED

JEFFERSON

**OPINION OF THE COURT BY JUSTICE
HUGHES - REVERSING AND REMANDING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Standing. Employment Law. Limited Liability Companies. Issues include whether the plaintiff, individually, has standing to assert that she is an employee of the cleaning-company defendants and entitled to the protections of wage and hour laws when: (1) the plaintiff is the sole member of an LLC that has a franchise agreement with the cleaning-company defendants; (2) the cleaning-company defendants demanded that the plaintiff create the LLC to purchase her franchise; (2) the cleaning-company defendants assisted the plaintiff to form her LLC; and (4) the cleaning-company defendants control the work available to the plaintiff.

72. DOLORES ZEPEDA V.
CENTRAL MOTORS, INC.

[2021-SC-0204-DG](#)
TO BE PUBLISHED

SCOTT

**OPINION OF THE COURT BY JUSTICE
CONLEY - AFFIRMING**

MINTON, C.J.; CONLEY, KELLER,
LAMBERT, NICKELL, AND VANMETER, JJ.,
SITTING. ALL CONCUR. HUGHES, J., NOT
SITTING.

Questions Presented:

Tort. Automobile Titling Statutes. Car Dealerships. Statutory Owner. Issues include whether a car dealership that never filed a notice of acquisition form with the county clerk remained the vehicle's statutory owner on the date of the accident when: (1) the dealership applied for title on behalf of the purchaser before the accident occurred; and (2) the county clerk issued title in the purchaser's name after the accident occurred.

73. JACKIE W. JEROME III V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0306-MR](#)
TO BE PUBLISHED

GRAVES

**OPINION OF THE COURT BY JUSTICE
KELLER - AFFIRMING IN PART,
VACATING IN PART AND REMANDING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. Jury Instructions. Juror Impartiality. In this matter of right appeal, the Court considers whether the trial court erred by not including a lesser included offense in jury instructions, and whether it was error for the trial court to release a juror who did not want to continue deliberations during the sentencing phase.

74. DONALD RAY VIOLETT V.
JOHN GRISE, ET AL.

[2021-SC-0425-MR](#)
TO BE PUBLISHED

WARREN

**OPINION OF THE COURT BY JUSTICE
VANMETER - AFFIRMING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Writ of Mandamus. Summary Dismissal. Issues include whether standing orders requiring court review of a filer's pleadings to determine whether they are frivolous impinges the litigant's meaningful access to the courts and rights to appeal.

75. COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES V.
L.G., ET AL.

[2021-SC-0530-DGE](#)
TO BE PUBLISHED

JEFFERSON

AND

J.M. V.
L.G., ET AL.

[2021-SC-0533-DGE](#)
TO BE PUBLISHED

**OPINION OF THE COURT BY JUSTICE
KELLER - REVERSING AND
REINSTATING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Dependency, Neglect and Abuse. KRS 600.020(26). Issues involve evidentiary sufficiency regarding abuse and KRS 600.020(26) "emotional injury."

76. BRIANNA ROBINSON V.
MONROE GUARANTY INSURANCE
COMPANY, ET AL.
- [2019-SC-0451-DG](#)
NOT TO BE PUBLISHED
- CALLOWAY
- AND**
- ROOM TO GROW PRESCHOOL, LLC, ET AL.
V.
BRIANNA ROBINSON, ET AL.
- [2020-SC-0153-DG](#)
NOT TO BE PUBLISHED
- CALLOWAY
- MEMORANDUM OPINION OF THE
COURT – AFFIRMING IN PART, AND
REVERSING IN PART, AND REMANDING**
- ALL SITTING. CONLEY, KELLER,
LAMBERT, NICKELL, AND VANMETER, JJ.,
CONCUR. MINTON, C.J.; HUGHES, AND
LAMBERT, JJ., CONCUR IN RESULT ONLY.
77. VINCENT BERNARD FICKLIN V.
COMMONWEALTH OF KENTUCKY
- [2020-SC-0573-MR](#)
NOT TO BE PUBLISHED
- WARREN
- MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
- ALL SITTING. ALL CONCUR.
78. TIRRELL VASSER V.
COMMONWEALTH OF KENTUCKY
- [2021-SC-0021-MR](#)
NOT TO BE PUBLISHED
- MCCRACKEN
- MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
- ALL SITTING. MINTON, C.J.; CONLEY,
HUGHES, LAMBERT, NICKELL, AND
VANMETER, JJ., CONCUR. KELLER, J.,
CONCURS IN RESULT ONLY.
79. KENDALL LINCOLN V.
COMMONWEALTH OF KENTUCKY
- [2021-SC-0033-MR](#)
NOT TO BE PUBLISHED
- HARDIN
- MEMORANDUM OPINION OF THE
COURT – AFFIRMING**
- ALL SITTING. ALL CONCUR.

80. DAMOU BRADLEY V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT - AFFIRMING
ALL SITTING. ALL CONCUR.
- [2021-SC-0113-MR](#)
NOT TO BE PUBLISHED
- SCOTT
81. DAVID SANDERS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT - AFFIRMING
ALL SITTING. ALL CONCUR.
- [2021-SC-0171-MR](#)
NOT TO BE PUBLISHED
- MADISON
82. JAMES LANG V.
HONORABLE ERIC HANER, ET AL.
MEMORANDUM OPINION OF THE COURT - AFFIRMING
ALL SITTING. ALL CONCUR.
- [2021-SC-0225-MR](#)
NOT TO BE PUBLISHED
- JEFFERSON
83. IJEOMA ODIGWE V.
HONORABLE JAY A. WETHINGTON, ET AL.
MEMORANDUM OPINION OF THE COURT - AFFIRMING
ALL SITTING. ALL CONCUR.
- [2022-SC-0026-MR](#)
NOT TO BE PUBLISHED
- DAVIESS

OPINION AND ORDERS - August 18, 2022

BHEP GP I, LLC, ET AL. V.
KENTUCKY RETIREMENT SYSTEMS
OPINION AND ORDER AFFIRMING
ALL SITTING. ALL CONCUR.

[2022-SC-0151-I](#)
NOT TO BE PUBLISHED

FRANKLIN

OPINION AND ORDERS - August 18, 2022

KENTUCKY BAR ASSOCIATION V.
ERIC TULEY WEINER

[2022-SC-0161-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER SUSPENDING FOR
5 YEARS**

ALL SITTING. ALL CONCUR.

KENTUCKY BAR ASSOCIATION V.
JUSTIN ROSS MORGAN

[2022-SC-0187-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER PERMANENTLY
DISBARRING**

ALL SITTING. ALL CONCUR.

KENTUCKY BAR ASSOCIATION V.
KURT RICHARD DENTON

[2022-SC-0211-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER SUSPENDING FOR
61 DAYS**

ALL SITTING. ALL CONCUR.

JAMES ROACH, II V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0268-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER DENYING WAIVER
OF BAR EXAM**

ALL SITTING. ALL CONCUR.

JASON PAUL PRICE V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0270-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER SUSPENDING FOR
2 YEARS**

ALL SITTING. ALL CONCUR.

OPINION AND ORDERS - August 18, 2022

EMW WOMEN’S SURGICAL CENTER, P.S.C.,
ON BEHALF OF ITSELF, ITS STAFF, AND
ITS PATIENTS; ERNEST MARSHALL, M.D.,
ON BEHALF OF HIMSELF AND HIS
PATIENTS, ET AL. V.

[2022-SC-0326-I](#)
[2022-SC-0329-TG](#)

JEFFERSON

DANIEL CAMERON, IN HIS OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
THE COMMONWEALTH OF KENTUCKY

**OPINION AND ORDER DENYING
EMERGENCY CR 65.09 RELIEF AND
GRANTING TRANSFER**

ALL SITTING. CONLEY, LAMBERT, AND
VANMETER, JJ., CONCUR. KELLER, J.,
CONCURS IN RESULT ONLY BY SEPARATE
OPINION IN WHICH NICKELL, J., JOINS.
MINTON, C.J., CONCURS IN PART AND
DISSENTS IN PART BY SEPARATE OPINION
IN WHICH HUGHES, J., JOINS.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - August 10, 2022

SHAN WOLFE V.
JOE KIMMEL, ET AL.

[2022-SC-0070-DG](#)

MCCRACKEN

NICKELL, J., NOT SITTING.

MR. ROOF OF LOUISVILLE, LLC V.
THE ESTATE OF AYANNA HENRY,
DECEASED (SUCCESSOR ADMINISTRATOR
NOT YET APPOINTED), ET AL.

[2022-SC-0177-DG](#)

JEFFERSON

AMERICAN WATER HEATER COMPANY V.
THE ESTATE OF AYANNA HENRY,
DECEASED (SUCCESSOR ADMINISTRATOR
NOT YET APPOINTED), ET AL.

[2022-SC-0178-DG](#)

JEFFERSON

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - August 16, 2022

LOUISVILLE/JEFFERSON COUNTY METROPOLITAN GOVERNMENT V. DEZMON MOORE, ET AL.	2022-SC-0112-DG	JEFFERSON
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ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - August 10, 2022

PHOENIX AMERICAN ADMINISTRATORS, LLC, ET AL. V. CURTIS LEE	2022-SC-0133-DG	JEFFERSON
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JOE WIELAND, ET AL. V. DANA FREEMAN, ET AL.	2022-SC-0139-DG	HENRY
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ORDER DENYING DISCRETIONARY REVIEW – August 10, 2022

ISAAH TYLER V. DEPARTMENT OF CORRECTIONS	2021-SC-0198-D	FRANKLIN
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JEFFERY L. CARPENTER V. COMMONWEALTH OF KENTUCKY	2021-SC-0433-D	BUTLER
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JAMES HARRISON, ET AL. V. JESSE R. JENKINS, ET AL.	2021-SC-0499-D	LYON
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THE LOOKOUT HEIGHTS CIVIC CLUB, INC. V. KENTON COUNTY PVA, ET AL.	2022-SC-0029-D	KENTON
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KELLER, J., WOULD GRANT
DISCRETIONARY REVIEW.

RON COPLEY, ET AL. V. GREER MINING, INC., ET AL.	<u>2022-SC-0078-D</u>	ELLIOTT
CONLEY, J., WOULD GRANT DISCRETIONARY REVIEW.		
GLENN D. AUGENSTEIN V. DEUTSCHE BANK NATIONAL TRUST COMPANY	<u>2022-SC-0083-D</u>	HENRY
RANDOLPH HOWELL V. PEOPLES COVERAGE, INC., ET AL.	<u>2022-SC-0097-D</u>	FLEMING
DAVID ALLEN GALLAGHER V. ROSEMARY GALLAGHER	<u>2022-SC-0107-D</u>	BATH
LOUISVILLE AND JEFFERSON COUNTY RIVERPORT AUTHORITY V. NEW ALBANY MAIN STREET PROPERTIES, LLC D/B/A PORT OF LOUISVILLE	<u>2022-SC-0113-D</u>	JEFFERSON
TOMMY SHANNON V. DEPARTMENT OF CORRECTIONS, ET AL.	<u>2022-SC-0121-DE</u>	BELL
JEFFREY FRANCK V. FAMILY SELECT INSURANCE, LLC, ET AL.	<u>2022-SC-0122-D</u>	JEFFERSON
A.D., ET AL. V. CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	<u>2022-SC-0130-DE</u>	FAYETTE
JEFFREY A. STREEVAL V. ALLSTATE PROPERTY & CASUALTY INSURANCE COMPANY	<u>2022-SC-0134-D</u>	JEFFERSON
DEBORAH YVETTE PAYTON V. RAPHAEL V. WILLIAMS, JR., ET AL.	<u>2022-SC-0136-D</u>	JEFFERSON
KELLER, J., WOULD GRANT MOVANT'S MOTION TO ABATE.		
JOHN BYRNES V. NATIONWIDE MUTUAL INSURANCE COMPANY	<u>2022-SC-0137-D</u>	JEFFERSON
JOSEPH MATTHEW BYRDWELL V. CHANTELE BYRDWELL	<u>2022-SC-0142-D</u>	HENRY

E.L.T. V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	<u>2022-SC-0156-DE</u>	JEFFERSON
JOHN W. BYRNES V. GEICO GENERAL INSURANCE CO.	<u>2022-SC-0157-D</u>	JEFFERSON
DAVID CIOCHETTY, ET AL. V. FOUNTAIN TRACE HOMEOWNERS' ASSOCIATION, INC., ET AL.	<u>2022-SC-0163-D</u>	WARREN
MERCY AMBULANCE OF EVANSVILLE, INC. D/B/A LIFEGUARD EMERGENCY MEDICAL SERVICES V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, OFFICE OF INSPECTOR GENERAL, DIVISION OF CERTIFICATE OF NEED, ET AL.	<u>2022-SC-0165-D</u>	FRANKLIN
ANTONIO MELO V. EMMA MEAD MELO	<u>2022-SC-0168-D</u>	JEFFERSON
RICHARD BALL, ET AL. V. ANGELIQUE GONZALES	<u>2022-SC-0169-D</u>	OWSLEY
ERIC R. WILLIAMS V. COMMONWEALTH OF KENTUCKY	<u>2022-SC-0170-D</u>	JEFFERSON
SAFECO INSURANCE COMPANY OF ILLINOIS V. LONDON DRAKE DAVIS, ET AL. NICKELL, J., NOT SITTING.	<u>2022-SC-0182-D</u>	MCCRACKEN

MARTY "BO" GILLEY, ET AL. V. [2022-SC-0192-D](#) WHITLEY
JOE PREWITT, INDIVIDUALLY AND IN HIS
OFFICIAL CAPACITY AS DEPUTY SHERIFF
OF WHITLEY COUNTY, KENTUCKY, ET AL.

A.W.W.W. V. [2022-SC-0196-DE](#) BOYD
B.L.W., ET AL.

COMMONWEALTH OF KENTUCKY, [2022-SC-0199-D](#) BULLITT
KENTUCKY HERITAGE LAND
CONSERVATION FUND BOARD V.
EAST KENTUCKY POWER COOPERATIVE,
INC. ET AL.

ORDER DENYING DISCRETIONARY REVIEW - August 16, 2022

JERAMIE STANLEY, AS GUARDIAN OF [2022-SC-0096-D](#) FAYETTE
BENNIE JUNIOR STANLEY, ET AL. V.
SAMEER MADHU DESAI, M.D.

JETH NELSON V. [2022-SC-0143-D](#) MCCRACKEN
COMMONWEALTH OF KENTUCKY

COMMONWEALTH OF KENTUCKY EX REL. [2022-SC-0167-D](#) PULASKI,
DANIEL CAMERON, ATTORNEY GENERAL BOONE
V.
C.M., ET AL.

ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - August 10, 2022

MARY JOHNSON V. [2022-SC-0066-D](#) JEFFERSON
CHARLES BIELEFELD, JR.

TIMOTHY SHANE, ET AL. V. [2022-SC-0146-D](#) FRANKLIN
KENTUCKY PAROLE BOARD, ET AL.

ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - August 10, 2022

JESSICA J. CARR V. [2022-SC-0205-D](#) TRIGG
MARK W. CARR

ORDER DENYING TRANSFER - August 18, 2022

CHARLIE KIRBY, ET AL. V. [2022-SC-0220-T](#) FAYETTE
KEENELAND ASSOCIATIONS, INC., ET AL.

PETITION FOR REHEARING DENIED - August 18, 2022

JAMES LANG V. [2020-SC-0045-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

COMMONWEALTH OF KENTUCKY, [2021-SC-0287-DGE](#) CLARK
CABINET FOR HEALTH AND FAMILY
SERVICES, EX REL. CHILD SUPPORT
ENFORCEMENT V.
B.N.T., ET AL.

ORDER DENYING REHEARING, WITHDRAWING, AND ISSUING NEW OPINION

BEN MARTIN V. [2020-SC-0437-DG](#) SCOTT
DURBIN WALLACE

**MEMORANDUM OPINION OF THE
COURT – AFFIRMING**

ALL SITTING. ALL CONCUR.

ORDER DISMISSING – June 29, 2022

DANTE CORVETTE STONE V. [2022-SC-0009-DE](#) FRANKLIN
COOKIE CREWS

**ORDER DENYING ENLARGEMENT OF
TIME TO SEEK DISCRETIONARY
REVIEW**

MINTON, C.J.; HUGHES, KELLER, AND
VANMETER JJ., SITTING. ALL CONCUR.

TIFFANY DURBIN V. COMMONWEALTH OF KENTUCKY [2022-SC-0069-D](#) GRAYSON

ORDER DISMISSING DUE TO DEFICIENCY

MINTON, C.J.; HUGHES, KELLER, AND VANMETER JJ., SITTING. ALL CONCUR.

JONATHAN HOWELL V. COMMONWEALTH OF KENTUCKY [2022-SC-0173-D](#) FLOYD

ORDER DISMISSING DUE TO DEFICIENCY

MINTON, C.J.; HUGHES, KELLER, AND VANMETER JJ., SITTING. ALL CONCUR.

TERRY WAYNE WILSON V. COMMONWEALTH OF KENTUCKY [2022-SC-0080-D](#) BATH

ORDER GRANTING APPELLANT'S MOTION TO DISMISS

MINTON, C.J.; HUGHES, KELLER, AND VANMETER JJ., SITTING. ALL CONCUR.

TIFFANY NICOLE HODGES V. COMMONWEALTH OF KENTUCKY [2022-SC-0162-MR](#) HARDIN

ORDER DENYING BELATED APPEAL

MINTON, C.J.; HUGHES, KELLER, AND VANMETER JJ., SITTING. ALL CONCUR.

ORDER DENYING – June 29, 2022

WIN, PLACE & SHOW BAR, INC. V. COMMONWEALTH OF KENTUCKY EX REL. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

[2022-SC-0212-I](#) JEFFERSON

ORDER DENYING CR 65.09 RELIEF

MINTON, C.J.; HUGHES, KELLER, AND VANMETER JJ., SITTING. ALL CONCUR.

ORDER DISMISSING - August 01, 2022

T. P., INDIVIDUALLY AND NEXT FRIEND
OF HER DAUGHTER, A. G. P. V.
LISA HART MORGAN, JUDGE, SCOTT
FAMILY COURT, ET AL.

[2022-SC-0149-MR](#)

SCOTT

CONLEY, KELLER, LAMBERT, NICKELL,
JJ., SITTING. ALL CONCUR.

ORDER WITHDRAWING - August 02, 2022

GEORGE MICHAEL STEWART V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0316-KB](#)

IN SUPREME
COURT

ROBERT THOMAS RAZZANO V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0317-KB](#)

IN SUPREME
COURT

JULIA ELIZABETH NEIDHARDT V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0318-KB](#)

IN SUPREME
COURT