

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

- | | | | |
|------|---|---|--|
| 132. | GARY MARTIN V.
STEPHEN O'DANIEL
AND
MIKE SAPP V.
STEPHEN O'DANIEL
AND
BOBBY MOTLEY V.
STEPHEN O'DANIEL
OPINION OF THE COURT BY
 JUSTICE VENTERS –
 AFFIRMING
MINTON, C.J.; HUGHES, NOBLE,
AND WRIGHT, JJ., CONCUR.
CUNNINGHAM, J., DISSENTS BY
SEPARATE OPINION IN WHICH
KELLER, J., JOINS. | 2014-SC-000373-DG
TO BE PUBLISHED

2014-SC-000389-DG
TO BE PUBLISHED

2014-SC-000394-DG
TO BE PUBLISHED | FRANKLIN

FRANKLIN

FRANKLIN |
|------|---|---|--|

Questions Presented:

Torts. Malicious Prosecution. Summary judgment. Elements of Malicious Prosecution are set out in the opinion. Officers were not entitled to dismissal of the malicious prosecution action on the grounds of absolute immunity or qualified official immunity.

- | | | | |
|------|---|---|------|
| 133. | COMMONWEALTH OF KENTUCKY V.
DAVID TAPP
OPINION OF THE COURT BY
 JUSTICE KELLER –
 AFFIRMING
ALL SITTING. MINTON, C.J.; HUGHES,
KELLER AND NOBLE, JJ., CONCUR.
WRIGHT, J., DISSENTS BY
SEPARATE OPINION IN WHICH
CUNNINGHAM AND VENTERS, JJ.,
JOIN. | 2014-SC-000607-DG
TO BE PUBLISHED | BATH |
|------|---|---|------|

Questions Presented:

Criminal Law. Probation Revocation. Whether defendant's probationary period expired before the trial court held the revocation hearing. KRS 533.020(4).

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

134. SAMANTHA G. HOLLOWAY V. [2014-SC-000758-DG](#) FAYETTE
 DIRECT GENERAL INSURANCE
 COMPANY OF MISSISSIPPI, INC.
OPINION OF THE COURT BY
CHIEF JUSTICE MINTON –
AFFIRMING
 ALL SITTING. ALL CONCUR.

Questions Presented:
 Insurance. Third party bad-faith claim under
 Kentucky’s Unfair Claims Settlement
 Practices Act. Summary Judgment.

135. KENTUCKY PROPERTIES HOLDING
 LLC. V. [2014-SC-000368-DG](#) GALLATIN
 DONALD SPROUL
OPINION OF THE COURT BY
JUSTICE HUGHES –
REVERSING
 ALL SITTING. ALL CONCUR.

Questions Presented:
 Property Law. Public and Private Roads. KRS
 178.116. Did the lower courts conduct a
 proper analysis of: (1) whether the road
 crossing the plaintiff’s property was public or
 private; and (2) whether any public portion
 of the road had been discontinued under KRS
 178.116?

136. COMMONWEALTH OF KENTUCKY V. [2014-SC-000417-DG](#) KENTON
 MOHAMUD ABUKAR
OPINION OF THE COURT BY
JUSTICE VENTERS –
REVERSING AND REMANDING
 ALL SITTING. ALL CONCUR.

Questions Presented:
 First degree rape-12 years. Interpreters.
 Trial court’s determination that defendant
 could communicate in English was supported
 by the evidence and the failure to appoint a
 Somali interpreter to assist the defendant was
 not error under the facts of this case.

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

- | | | | |
|------|--|--|--|
| 137. | JOHN DOE, NO. 1, ET AL. V.
HON. EDDY COLEMAN, JUDGE,
PIKE CIRCUIT COURT, ET AL.
OPINION OF THE COURT BY
 JUSTICE NOBLE –
 <u>REVERSING AND REMANDING</u>
ALL SITTING. MINTON, C.J.; HUGHES,
AND KELLER, JJ., CONCUR.
VENTERS, J., CONCURS IN RESULT
BY SEPARATE OPINION.
CUNNINGHAM, J., DISSENTS BY
SEPARATE OPINION IN WHICH
WRIGHT, J., JOINS. | 2015-SC-000408-MR
TO BE PUBLISHED | FROM COURT
OF APPEALS |
| | | | <p style="text-align: center;">Questions Presented:</p> Writ of Prohibition. Defamatory speech on the Internet. First amendment right to anonymous speech. Attorney-Client Privilege-KRE 503. |
| 138. | COMMONWEALTH OF KENTUCKY,
EX REL. ANDY BESHEAR,
ATTORNEY GENERAL V.
COMMONWEALTH OF
KENTUCKY OFFICE OF THE
GOVERNOR, EX REL. MATTHEW
BEVIN, IN HIS OFFICIAL CAPACITY
AS GOVERNOR, ET AL.
AND
JIM WAYNE, IN HIS OFFICIAL
CAPACITY AS STATE
REPRESENTATIVE, ET AL. V.
COMMONWEALTH OF
KENTUCKY OFFICE OF THE
GOVERNOR, EX REL. MATTHEW
BEVIN, IN HIS OFFICIAL CAPACITY
AS GOVERNOR, ET AL.
OPINION OF THE COURT BY
 JUSTICE NOBLE –
 <u>REVERSING AND REMANDING</u>
ALL SITTING. MINTON, C.J.;
CUNNINGHAM, HUGHES,
AND KELLER, JJ., CONCUR.
VENTERS, J., DISSENTS BY
SEPARATE OPINION. WRIGHT, J.,
DISSENTS BY SEPARATE OPINION
IN WHICH VENTERS, J., JOINS. | 2016-SC-000272-TG
2016-SC-000273-TG
TO BE PUBLISHED | FRANKLIN |
| | | | <p style="text-align: center;">Questions Presented:</p> Summary judgment. Budgeting and Appropriations. Separation of Powers. |

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

- | | | | |
|------|---|---|--|
| 139. | BAPTIST HEALTH RICHMOND, INC. V.
HON. WILLIAM G. CLOUSE, JR., JUDGE, MADISON CIRCUIT COURT, DIVISION 1, ET AL.
OPINION OF THE COURT BY JUSTICE KELLER – VACATING AND REMANDING
ALL SITTING. KELLER, CUNNINGHAM, NOBLE AND VENTERS, JJ., CONCUR. HUGHES, J., CONCURS BY SEPARATE OPINION IN WHICH MINTON, C.J. AND WRIGHT, J., JOIN. | 2015-SC-000657-MR
TO BE PUBLISHED | FROM COURT OF APPEALS |
| | | | <p style="text-align: center;">Questions Presented:</p> <p>Writ of prohibition. Discovery. Medical Negligence. Information that is usually contained in state-mandated reports is not protected from disclosure by the Patient Safety and Quality Improvement Act of 2005 and will be discoverable. Case remanded to trial court for in camera hearing.</p> |
| 140. | CARLOS LAMONT ORDWAY V. COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR. | 2014-SC-000535-MR
NOT TO BE PUBLISHED | FAYETTE |
| 141. | ROGER DALE EPPERSON V. COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING
MINTON, C.J.; CUNNINGHAM, HUGHES, KELLER, NOBLE, AND VENTERS, JJ., SITTING. MINTON, C.J.; CUNNINGHAM, KELLER, NOBLE, AND VENTERS, JJ., CONCUR. HUGHES, J., CONCURS IN RESULT ONLY. WRIGHT, J., NOT SITTING. | 2014-SC-000662-MR
NOT TO BE PUBLISHED | LETCHER |
| 142. | JOSEPH M. DOBBINS V. COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR. | 2015-SC-000190-MR
NOT TO BE PUBLISHED | CALDWELL |

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

143. KYLE THOMPSON V. [2015-SC-000245-MR](#) HARDIN
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
144. BRITT DECKERT V. [2015-SC-000311-MR](#) CRITTENDEN
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. MINTON, C.J.;
CUNNINGHAM, HUGHES, AND
KELLER, JJ., CONCUR. WRIGHT,
J., CONCURS IN PART AND DISSENTS
IN PART BY SEPARATE OPINION IN
WHICH NOBLE AND VENTERS, JJ.,
JOIN.
145. DEER RUN ESTATES, LLC V. [2015-SC-000390-MR](#) FROM COURT
HON. DARREN W. PECKLER, **NOT TO BE PUBLISHED** OF APPEALS
JUDGE, MERCER CIRCUIT COURT,
ET AL.
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
146. MATTHEW SMITH A/K/A MADDIE [2015-SC-000451-MR](#) KENTON
SMITH V. **NOT TO BE PUBLISHED**
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
147. UNINSURED EMPLOYERS' FUND, [2015-SC-000658-WC](#) FROM COURT
COMMONWEALTH OF KENTUCKY V. **NOT TO BE PUBLISHED** OF APPEALS
POPLAR BROOK DEVELOPMENT,
LLC., ET AL.
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

148. JOSEPH BANIS V. [2014-SC-000127-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING AND
DISMISSING APPEAL
ALL SITTING. ALL CONCUR.
149. WALTER SCHMUCK V. [2015-SC-000511-MR](#) GRAYSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – REVERSING, VACATING
AND REMANDING
ALL SITTING. HUGHES, NOBLE,
VENTERS, AND WRIGHT, JJ., CONCUR.
MINTON, C.J.; CUNNINGHAM, AND
KELLER, JJ., CONCUR IN RESULT
ONLY.
150. RANDALL THOMAS HESTER V. [2015-SC-000034-MR](#) WARREN
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – VACATING AND
REMANDING
MINTON, C.J.; KELLER, NOBLE, AND
VENTERS, JJ., CONCUR. WRIGHT, J.,
CONCURS IN PART AND DISSENTS
IN PART BY SEPARATE OPINION IN
WHICH CUNNINGHAM AND HUGHES,
JJ., JOIN.

OPINION AND ORDERS – SEPTEMBER 22, 2016

- KENTUCKY BAR ASSOCIATION V. 2015-SC-000051-KB IN SUPREME
MICHAEL LINDEN MYERS COURT
ORDER TO OBTAIN KYLAP EVALUATION
WITHIN 30 DAYS AND PROVIDE WAIVER.
ALL SITTING. ALL CONCUR.
- CABELL D. FRANCIS, II V. [2016-SC-000331-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT
ORDER OF PERMANENT DISBARMENT.
ALL SITTING. ALL CONCUR.

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

OPINION AND ORDERS – SEPTEMBER 22, 2016

KENTUCKY BAR ASSOCIATION V. JEFFREY OWENS MOORE ORDER OF SUSPENSION FROM THE PRACTICE OF LAW FOR 1 YEAR WITH 61 DAYS TO SERVE, PROBATED FOR 1 YEAR WITH CONDITIONS. ALL SITTING. ALL CONCUR.	2016-SC-000335-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. DOUGLAS C. BRANDON ORDER OF PERMANENT DISBARMENT. ALL SITTING. ALL CONCUR.	2016-SC-000336-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. DAVID THOMAS SPARKS ORDER OF SUSPENSION FROM THE PRACTICE OF LAW FOR 181 DAYS TO RUN CONSECUTIVE TO THE 181 DAY SUSPENSION ORDERED BY THIS COURT ON FEBRUARY 18, 2016 WITH CONDITIONS. ALL SITTING. ALL CONCUR.	2016-SC-000338-KB TO BE PUBLISHED	IN SUPREME COURT
MICHAEL STEPHEN WADE V. KENTUCKY BAR ASSOCIATION ORDER OF SUSPENSION FROM THE PRACTICE OF LAW FOR 4 YEARS AND 6 MONTHS RETROACTIVE FROM OCTOBER 26, 2012, WITH CONDITIONS. ALL SITTING. ALL CONCUR.	2016-SC-000373-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. GEORGE KEITH WELLS ORDER OF SUSPENSION FROM THE PRACTICE OF LAW FOR 61 DAYS, WITH CONDITIONS. ALL SITTING. ALL CONCUR.	2016-SC-000379-KB TO BE PUBLISHED	IN SUPREME COURT

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 15, 2016**

BIG SANDY REGIONAL JAIL AUTHORITY V. 2016-SC-000008-DG FAYETTE
LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

UNIVERSITY OF LOUISVILLE V. 2016-SC-000064-DG FRANKLIN
DR. JAMES WELDON LILLARD, JR.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 15, 2016**

JOHNNY COWHERD V. 2015-SC-000278-D FAYETTE
COMMONWEALTH OF KENTUCKY

MARGARET A. WILLIS V. 2015-SC-000577-D JEFFERSON
THERESA HAYWARD, D.M.D.

RICHARD L. FELDHOFF, ET AL V. 2015-SC-000649-D JEFFERSON
COMMONWEALTH OF KENTUCKY
VENTERS, J., WOULD GRANT.

CARL TOWNSLEY V. 2015-SC-000668-D KNOX
COMMONWEALTH OF KENTUCKY

CULLMAN SECURITY SERVICES, INC., 2015-SC-000677-D MCCRACKEN
ET AL. V.
UNITED PROPANE GAS, INC., ETC.

JOSHUA M. GOODE, ET AL. V. 2015-SC-000678-D JEFFERSON
COMMONWEALTH OF KENTUCKY

JOYCE SMITH, ET AL. V. 2015-SC-000697-D WARREN
TAX EASE LIEN INVESTMENTS 1, LLC, ET AL.

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 15, 2016**

KENTUCKY UNEMPLOYMENT INSURANCE COMMISSION V. TARSIS HICKS AND FAIRVIEW COMMUNITY HEALTH CENTER V. TARSIS HICKS THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. CUNNINGHAM AND VENTERS, JJ., WOULD GRANT.	2015-SC-000716-D 2015-SC-000718-D	WARREN WARREN
MARTINE L. WALLACE V. COMMONWEALTH OF KENTUCKY	2016-SC-000009-D	JEFFERSON
KAREN Y. PAULY, EXECUTRIX, ETC., ET AL. V. PHILLIP K. CHANG, M.D., ET AL. KELLER, VENTERS AND WRIGHT, JJ., WOULD GRANT.	2016-SC-000012-D	FAYETTE
JOE CHATMAN V. RAVONNE SIMS, WARDEN, ETC.	2016-SC-000013-D	OLDHAM
LISA HILL V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	2016-SC-000024-D	BELL
PARK HILLS CENTER V. PIMLICO PARKWAY, LLC, ETC., ET AL.	2016-SC-000033-D	FAYETTE
CHAD HAYS, ET AL. V. KENNETH S. HAYS, SR., ET AL.	2016-SC-000038-D	JEFFERSON
COMMONWEALTH OF KENTUCKY V. JUAN CARLOS GONZALES-BARBOZA	2016-SC-000045-D	HENDERSON
BRENDA KORB V. PHILIP C. TROVER, M.D., ET AL.	2016-SC-000061-D	HOPKINS

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 15, 2016**

ELIZABETH RANGEL V. UNIVERSITY OF KENTUCKY WRIGHT, J., WOULD GRANT. VENTERS, J., NOT SITTING.	2016-SC-000123-D	FAYETTE
CHARLES BROADDUS V. KENTUCKY NATIONAL INSURANCE COMPANY WRIGHT, J., WOULD GRANT.	2016-SC-000138-D	NELSON
NICHOLAS M. STEVENS V. COMMONWEALTH OF KENTUCKY	2016-SC-000143-D	JEFFERSON
APPRISS, INC. V. ANGELA BURTON AND ANGELA BURTON V. APPRISS, INC.	2016-SC-000145-D	JEFFERSON
DEPARTMENT OF REVENUE, ETC. V. CHEGG, INC.	2016-SC-000146-D	JEFFERSON
DEPARTMENT OF REVENUE, ETC. V. CHEGG, INC.	2016-SC-000164-D	FRANKLIN
LUNDY L. SPARKS, ET AL. V. BARBER CABINET COMPANY	2016-SC-000167-D	JESSAMINE
KEVIN FOX V. COMMONWEALTH OF KENTUCKY	2016-SC-000172-D	NELSON
BOONE COUNTY PROPERTY VALUATION ADMINISTRATOR, ET AL. V. ROGER W. HURLBERT, ETC.	2016-SC-000176-D	BOONE
NATASHA HARRIS JOHNSON V. CITIMORTGAGE, INC.	2016-SC-000182-D	MCCRACKEN
HALE GENERAL CONTRACTING, INC., ET AL. V. MOTORIST MUTUAL INSURANCE COMPANY	2016-SC-000191-D	WARREN

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 15, 2016**

JERRY WINSTEAD V. COMMONWEALTH OF KENTUCKY	2016-SC-000192-D	DAVISS
JOHN T. GLOVER V. COMMONWEALTH OF KENTUCKY	2016-SC-000211-D	WHITLEY
BERNARD C. MOSES, M.D. V. KENTUCKY BOARD OF MEDICAL LICENSURE THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2016-SC-000231-D	JEFFERSON
MIGUEL SOTO V. COMMONWEALTH OF KENTUCKY	2016-SC-000244-D	OLDHAM
CODY WHITAKER V. JAMES W. BEWARD, ET AL. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2016-SC-000293-D	BULLITT
TELFON HOGAN V. COMMONWEALTH OF KENTUCKY	2016-SC-000296-D	HARDIN
STEVEN MICHAEL HAWS V. COMMONWEALTH OF KENTUCKY	2016-SC-000297-D	BALLARD
JACOB EBERLE, ETC. V. NATIONWIDE MUTUAL INSURANCE COMPANY, ET AL. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2016-SC-000299-D	JEFFERSON
WANDA WRIGHT-STARNES V. CONTINENTAL REALTY ADVISORS, LTD., ET AL.	2016-SC-000312-D	JEFFERSON
JERRY HUGHES V. C.J. WILLIAMSON, ETC.	2016-SC-000314-D	OLDHAM

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 15, 2016**SAMUEL E. PLOTNICK V.
COMMONWEALTH OF KENTUCKY

2016-SC-000315-D

WHITLEY

CLIFTON CHESTER V.
COMMONWEALTH OF KENTUCKY

2016-SC-000342-D

CHRISTIAN

**COURT ORDER DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – SEPTEMBER 16, 2016**A.S.L., MOTHER V.
CABINET FOR HEALTH AND FAMILY
SERVICES, COMMONWEALTH OF KENTUCKY
KELLER, NOBLE, VENTERS, WRIGHT, JJ.,
SITTING. ALL CONCUR.

2016-SC-000421-DE

MARSHALL

COURT ORDER GRANTING MOTION TO TRANSFER – AUGUST 29, 2016STEVEN PETTWAY V.
COMMONWEALTH OF KENTUCKY

2016-SC-000392-TG

JEFFERSON

COURT ORDERS DENYING PETITION FOR REHEARING – SEPTEMBER 22, 2016COMMONWEALTH OF KENTUCKY V.
CATON KAMIL JONES
ALL SITTING. ALL CONCUR.

2014-SC-000306-DG

FAYETTE

JEFFREY KINGDON V.
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.

2014-SC-000406-MR

JEFFERSON

REBEKAH MCCARTY V.
KENNETH FARIED
ORDER DENIED APPELLEE'S PETITION FOR
EXTENSION OF OPINION AND MODIFIED THE
OPINION OF THIS COURT RENDERED MAY 5,
2016, BY SUBSTITUTION OF THIS OPINION IN
LIEU OF THE ORIGINAL OPINION.[2015-SC-000271-DGE](#)
TO BE PUBLISHED

BATH

SEPTEMBER 22, 2016 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS DISMISSING

ICON-LEX DEVELOPMENT, LLC V.
REI REAL ESTATE SERVICES, LLC, ET AL.
**KELLER, NOBLE, VENTERS, WRIGHT, JJ.,
SITTING. ALL CONCUR.**
ENTERED: SEPTEMBER 16, 2016

2016-SC-000284-D

JEFFERSON

COURT ORDERS

DERICK BARNETT V.
HON. MITCH PERRY, JUDGE, JEFFERSON
CIRCUIT COURT, DIVISION THREE, ET AL.
**HUGHES, KELLER, NOBLE, AND VENTERS,
JJ., SITTING. ALL CONCUR.**
ENTERED: AUGUST 24, 2016

2016-SC-000260-MR

JEFFERSON