

**SUPREME COURT OF KENTUCKY**

**ORAL ARGUMENT CALENDAR**

**WEDNESDAY, JUNE 7, 2017**

**9:00 a.m. KENTUCKY STATE POLICE V. TERRY SCOTT, ET AL.  
(2016-SC-000303-DG)**

**[APPELLANT BRIEF](#)**

**[APPELLEE BRIEF](#)**

**[REPLY BRIEF](#)**

**[AMICUS CURIAE BRIEF](#)**

"Sovereign immunity. Facial vs. As-applied Constitutional Challenge to Exhaustion of Administrative Remedies Requirement. Application of Administrative Regulation. At issue in this case is whether sovereign immunity bars a complaint against the KSP for payment of retroactive wages and benefits to the Respondents, who were denied salaries and benefits equal to another employee who occupied the same position at another KSP post. Another issue is whether the failure of the Respondents to exhaust their administrative remedies barred their claims in circuit court against the KSP, where they challenged the constitutionality of the administrative regulation under which their claims were denied."

Discretionary Review granted 10/13/2016

Franklin Circuit Court, Judge Phillip J. Shepherd

Attorney for Appellant: Shawna Virgin Kincer

Attorneys for Appellees: David F. Broderick and Brandon T. Murley

**10:00 a.m. BRADLEY RIFFE V. COMMONWEALTH OF KENTUCKY  
(2016-SC-000219-DG)**

**[APPELLANT BRIEF](#)**

**[APPELLEE BRIEF](#)**

**[REPLY BRIEF](#)**

"Criminal Law. Suspension of driver's license for refusal to take breathalyzer. Subsequent acquittal on DUI charge. The issue in this case is whether the trial court erred in suspending the driver's license for 36 months following his acquittal on a DUI-third offense, where the driver had refused a breathalyzer on advice of counsel."

Discretionary Review granted 8/17/2016

Fayette Circuit Court, Judge Kimberly N. Bunnell

Attorneys for Appellant: Fred E. Peters and Rhey Denniston Mills

Attorneys for Appellee: Steven Paul Stadler, Jacqueline Alexander, and Janet Luo

11:00 a.m. **STEEL CREATIONS, BY AND THROUGH KESA, THE KENTUCKY WORKERS' COMPENSATION FUND, ET AL. V. INJURED WORKERS' PHARMACY, ET AL. (2016-SC-000217-WC) AND INJURED WORKERS' PHARMACY, ET AL. V. STEEL CREATIONS, BY AND THROUGH KESA, THE KENTUCKY WORKERS' COMPENSATION FUND, ET AL. (2016-SC-000222-WC)**

[APPELLANT BRIEF](#)

[AMICUS CURIAE](#)

[AMICUS CURIAE](#)

[APPELLEE BRIEF](#)

[APPELLEE BRIEF](#)

[REPLY BRIEF](#)

[REPLY BRIEF](#)

[REPLY BRIEF](#)

"Workers' Compensation. Maximum price for a prescription drug a pharmacy can require a workers' compensation payer to pay."

Attorneys for Steel Creations, by and through KESA, the Kentucky Workers' Compensation Fund, Murray Electronics, by and through KESA, the Kentucky Workers' Compensation Fund, Family Allergy and Asthma, by and through KESA, the Kentucky Workers' Compensation Fund, and Samaritan Alliance, by and through KESA, the Kentucky Workers' Compensation Fund: Joseph L. Ardery, James Gordon Fogle, and Griffin Terry Sumner

Attorneys for Preston Highway Metered Concrete, etc.: Natalie Laszkowski, Joseph L. Ardery, James Gordon Fogle, and Griffin Terry Sumner

Attorneys for Injured Workers' Pharmacy: Charles E. Jennings and Eric M. Lamb

Attorney for Kevin Kerch and Donald Grammer: Charles E. Jennings

Attorney for Kem Barnes: Jeffrey Roberts

Attorney for Rita Merrick: McKinnley Morgan

Attorney for Shauna Little F/K/A Hardin: Paul Guthrie

**VanMeter and Wright, JJ., not sitting.**

**Special Justices Samford and McCann, sitting.**

**THURSDAY, JUNE 8, 2017**

9:00 a.m. **COMMONWEALTH OF KENTUCKY V. JEFFREY DEWAYNE CLARK, ET AL. (2016-SC-000693-TG)**

[APPELLANT BRIEF](#)

[APPELLEE BRIEF](#)

[REPLY BRIEF](#)

"Motion for a new trial after remand. DNA testing."

Meade Circuit Court, Judge Bruce T. Butler

Attorney for Appellant: Perry Thomas Ryan

Attorney for Appellee Clark: Linda Andrea Smith

Attorneys for Appellee Hardin: Larry David Simon and Amy Robinson Staples

10:00 a.m. **DANIEL LEE MOSS V. COMMONWEALTH OF KENTUCKY**  
**(2016-SC-000165-DG)**

[APPELLANT BRIEF](#)

[APPELLEE BRIEF](#)

[REPLY BRIEF](#)

"Criminal Law. Evidence. Adoptive admissions. Pre-arrest silence. The primary issue in this case is whether a defendant's failure to respond to a witness' statement made during a police investigation constitutes an adoptive admission, which may be introduced into evidence, or whether this failure to respond to the witness' statement is pre-arrest silence which may not be introduced as evidence against the defendant."

Discretionary Review granted 8/17/2016

Simpson Circuit Court, Judge Janet Crocker

Attorney for Appellant: Erin Hoffman Yang

Attorney for Appellee: Jason Bradley Moore