

SUPREME COURT OF KENTUCKY

AUGUST 25, 2011 MINUTES

RELEASED: 10:00 A.M.

118. COMMONWEALTH OF KENTUCKY V. [2009-SC-000229-DG](#) GRAVES  
RANDY MARSHALL [2010-SC-000348-DG](#)  
**AND** [2009-SC-000589-DG](#)  
COMMONWEALTH OF KENTUCKY V. **TO BE PUBLISHED**  
MARK JOHNSON  
**OPINION OF THE COURT BY**  
**CHIEF JUSTICE MINTON –**  
**AFFIRMING**  
ABRAMSON, NOBLE, AND SCHRODER,  
JJ., CONCUR. CUNNINGHAM, J.,  
DISSENTS BY SEPARATE OPINION  
IN WHICH SCOTT AND VENTERS JJ.,  
JOIN.
- Questions Presented:**  
Flagrant nonsupport cases. Due process requires trial court to consider whether the probationer had made sufficient bona fide efforts to pay but has been unable to pay through no fault of his own and if so, to consider whether alternative forms of punishment might serve the interest of punishment and deterrence.
119. MADISON COUNTY FISCAL COURT, [2010-SC-000322-TG](#) FRANKLIN  
ET AL. V. **TO BE PUBLISHED**  
KENTUCKY LABOR CABINET, ETC.,  
ET AL.  
**OPINION OF THE COURT BY**  
**JUSTICE VENTERS –**  
**AFFIRMING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
In these cases, the Labor Cabinet has jurisdiction to assert claims to collect unpaid overtime. Municipalities are not immune from such claims.
120. JEFFREY GRAHAM V. [2010-SC-000676-WC](#) COURT OF  
TSL, LTD; HONORABLE SCOTT R. **TO BE PUBLISHED** APPEALS  
BORDERS, ACTING CHIEF  
ADMINISTRATIVE LAW JUDGE;  
AND WORKERS COMPENSATION  
BOARD  
**OPINION OF THE COURT**  
**AFFIRMING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
Workers' Compensation. KRS 342.670(1)(b). Whether contract of hire was made by telephone in Kentucky or when various acts were completed subsequently in Missouri.

SUPREME COURT OF KENTUCKY

AUGUST 25, 2011 MINUTES

RELEASED: 10:00 A.M.

121. ABEL VERDON CONSTRUCTION, [2010-SC-000744-WC](#) FROM COURT  
AND ACUITY INSURANCE V. **TO BE PUBLISHED** OF APPEALS  
MIGUEL A. RIVERA, ET AL.  
**OPINION OF THE COURT**  
**AFFIRMING**  
ALL SITTING. ALL CONCUR  
SCOTT, J., CONCURS BY SEPARATE  
OPINION WITH RESPECT TO KRS  
342.640(1).
- Questions Presented:**  
Workers' Compensation. Issues include whether the claimant was an employee for the purposes of Chapter 342; whether the Immigration Reform and Control Act of 1986 preempts the application of Chapter 342 to the claim of an "unauthorized alien;" and the adequacy of proof concerning average weekly wage, duration of temporary total disability, and alleged safety violation.
122. JAMES PETERS V. [2010-SC-000384-MR](#) LAUREL  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**  
**OPINION OF THE COURT BY**  
**JUSTICE SCHRODER –**  
**AFFIRMING IN PART AND**  
**REVERSING IN PART**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
Second-degree manslaughter, first degree fleeing or evading the police in the first degree, two misdemeanors and PFO II-20 years. Error in admission of lab reports did not constitute palpable error. Admission of rebuttal evidence was proper. Imposition of court costs and fines was erroneous where the defendant was indigent.
123. JAMES B. TURNER JR. V. [2010-SC-000391-MR](#) BOYLE  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**  
**OPINION OF THE COURT BY**  
**JUSTICE NOBLE –**  
**AFFIRMING IN PART AND**  
**REVERSING IN PART, AND**  
**REMANDING.**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
First degree sexual abuse and incest-22 years. Venue right was waived when issue was not raised prior to trial. Conviction of first degree sexual abuse reversed where defective jury instruction was given.

SUPREME COURT OF KENTUCKY

AUGUST 25, 2011 MINUTES

RELEASED: 10:00 A.M.

124. COMMONWEALTH OF KENTUCKY V. [2010-SC-000091-DG](#) FROM COURT  
RANDY LEINENBACH TO BE PUBLISHED OF APPEALS  
**OPINION OF THE COURT BY  
JUSTICE CUNNINGHAM –  
REVERSING AND REMANDING**  
ABRAMSON, NOBLE, SCHRODER,  
SCOTT AND VENTERS, JJ., CONCUR.  
MINTON, C.J., NOT SITTING.
- Questions Presented:**  
RCr 11.42. Failure to object to two  
instructions given on one rape charge.
125. RONNIE LEE ANDERSON V. [2010-SC-000205-MR](#) MASON  
COMMONWEALTH OF KENTUCKY TO BE PUBLISHED  
**OPINION OF THE COURT BY  
JUSTICE ABRAMSON –  
REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
First degree assault and PFO II-20 years.  
Proof did not support a conviction for assault  
in the first degree. Motion to suppress  
defendant's statements, due to his  
intoxication, was properly denied by the trial  
court.
126. BILLY FRANKLIN FIELDS V. [2009-SC-000435-MR](#) CHRISTIAN  
COMMONWEALTH OF KENTUCKY NOT TO BE PUBLISHED  
AND  
JIMMIE CRAMER V. [2009-SC-000457-MR](#) CHRISTIAN  
COMMONWEALTH OF KENTUCKY NOT TO BE PUBLISHED  
AND  
JEFFREY LEE BOYD V. [2009-SC-000732-TG](#) CHRISTIAN  
COMMONWEALTH OF KENTUCKY NOT TO BE PUBLISHED  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
127. JESSE BRIAN CONNER V. [2009-SC-000490-MR](#) MADISON  
COMMONWEALTH OF KENTUCKY NOT TO BE PUBLISHED  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

128. CHARLES WAYNE BUSSELL V. [2009-SC-000647-MR](#) CHRISTIAN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, NOBLE, SCHRODER,  
AND VENTERS, JJ., CONCUR.  
SCOTT, J., NOT SITTING.
129. BENNY LEE HODGE V. [2009-SC-000791-MR](#) LETCHER  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
130. MARTIN PHILLIP JACKSON V. [2009-SC-000836-MR](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
MINTON, C.J.; ABRAMSON,  
NOBLE, SCHRODER,  
AND VENTERS, JJ., CONCUR.  
CUNNINGHAM, J., CONCURS IN  
RESULT BY SEPARATE OPINION  
IN WHICH SCOTT, J., JOINS.
131. EARL STRANGE V. [2010-SC-000150-MR](#) POWELL  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
132. WILLIAM COUCH, JR. V. [2010-SC-000697-WC](#) FROM COURT  
BLEVINS LOGGING; HONORABLE **NOT TO BE PUBLISHED** OF APPEALS  
DOUGLAS GOTT, ADMINISTRATIVE  
LAW JUDGE; AND WORKERS'  
COMPENSATION BOARD  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

133. PEABODY HOLDING, INC., N/K/A [2010-SC-000746-WC](#) FROM COURT  
PATRIOT COAL COMPANY V. **NOT TO BE PUBLISHED** OF APPEALS  
GREGORY MCGUIRE; HONORABLE  
JOHN B. COLEMAN, ADMINISTRATIVE  
LAW JUDGE; AND WORKERS'  
COMPENSATION BOARD  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
134. BARRY BORDERS V. [2010-SC-000825-WC](#) FROM COURT  
BUSH & BURCHETT; HONORABLE **NOT TO BE PUBLISHED** OF APPEALS  
DOUGLAS GOTT, ADMINISTRATIVE  
LAW JUDGE; AND WORKERS'  
COMPENSATION BOARD  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
135. THOMAS MCPHERSON V. [2011-SC-000003-MR](#) UNION  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
136. TERRRY STEINROCK AND GLEN [2011-SC-000032-WC](#) FROM COURT  
COKE, D/B/A GLEN COKE GENERAL **NOT TO BE PUBLISHED** OF APPEALS  
CONTRACTING V.  
HOWARD C. COOK; UNISURED  
EMPLOYERS FUND; HONORABLE  
LAWRENCE SMITH, ADMINISTRATIVE  
LAW JUDGE; AND WORKERS'  
COMPENSATION BOARD  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

137. RAYMOND O. POYNTER V. [2011-SC-000044-WC](#) FROM COURT  
BARREN-METCALFE AMBULANCE **NOT TO BE PUBLISHED** OF APPEALS  
SERVICE; HONORABLE CHRIS DAVIS,  
ADMINISTRATIVE LAW JUDGE;  
WORKERS' COMPENSATION BOARD;  
DR. MICHAEL CASSARO; DR. AMELIA  
KISER; AND THE LASER SPINE  
INSTITUTE  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
138. STEPHEN P. GILMORE V. [2011-SC-000048-MR](#) FROM COURT  
HONORABLE LISA OSBORNE- **NOT TO BE PUBLISHED** OF APPEALS  
BUSHELMAN, (JUDGE, KENTON  
CIRCUIT COURT), ET AL.  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; CUNNINGHAM, NOBLE,  
SCHRODER, SCOTT, AND VENTERS,  
JJ., CONCUR. ABRAMSON, J.,  
CONCURS IN RESULT ONLY.
139. LAURA HUDSON (NOW STANBERY) V. [2011-SC-000091-DGE](#) FROM COURT  
DONALD HUDSON **NOT TO BE PUBLISHED** OF APPEALS  
**MEMORANDUM OPINION OF  
THE COURT – REVERSING AND  
REMANDING**  
MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, SCHRODER,  
SCOTT, AND VENTERS, JJ., CONCUR.  
NOBLE, J., DISSENTS HEREIN FOR  
THE REASONS STATED IN HER DISSENT  
IN ARTRIP V. NOE.

**OPINIONS AND ORDERS – AUGUST 25, 2011**

- KENTUCKY BAR ASSOCIATION V. [2011-SC-000168-KB](#) IN SUPREME  
JIMMIE GREEN ORR, JR. **TO BE PUBLISHED** COURT  
**ORDER SUSPENDED RESPONDENT  
FROM THE PRACTICE OF LAW FOR 61 DAYS.**  
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

AUGUST 25, 2011 MINUTES

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – AUGUST 25, 2011

KENTUCKY BAR ASSOCIATION V. LUANN GLIDEWELL <b>ORDER SUSPENDED RESPONDENT FROM THE PRACTICE OF LAW FOR THREE YEARS WITH CONDITIONS.</b> ALL SITTING. ALL CONCUR.	<a href="#">2011-SC-000206-KB</a> <b>TO BE PUBLISHED</b>	IN SUPREME COURT
SAMUEL FIELDS V. HONORABLE JOHN DAVID CAUDILL, JUDGE, FLOYD CIRCUIT COURT AND COMMONWEALTH OF KENTUCKY, REAL PARTY IN INTEREST <b>ORDER DENIED PETITION FOR WRIT OF MANDAMUS.</b> MINTON, C.J.; ABRAMSON, CUNNINGHAM, NOBLE, SCHRODER AND VENTERS, JJ., CONCUR. SCOTT, J., NOT SITTING.	<a href="#">2011-SC-000252-OA</a> <b>NOT TO BE PUBLISHED</b>	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. WILLIAM A. MITCHELL <b>ORDER SUSPENDED RESPONDENT FROM THE PRACTICE OF LAW FOR ONE YEAR.</b> ALL SITTING. ALL CONCUR.	<a href="#">2011-SC-000300-KB</a> <b>TO BE PUBLISHED</b>	IN SUPREME COURT
ROBERT W. RILEY V. KENTUCKY BAR ASSOCIATION <b>ORDER PUBLICLY REPRIMANDED MOVANT.</b> ALL SITTING. ALL CONCUR.	<a href="#">2011-SC-000309-KB</a> <b>TO BE PUBLISHED</b>	IN SUPREME COURT
JOHN F. RAMPULLA, III. V. KENTUCKY BAR ASSOCIATION <b>ORDER SUSPENDED MOVANT FROM THE PRACTICE OF LAW FOR 181 DAYS, WITH 91 DAYS PROBATED FOR 3 YEARS, WITH CONDITIONS.</b> ALL SITTING. ALL CONCUR.	<a href="#">2011-SC-000310-KB</a> <b>TO BE PUBLISHED</b>	IN SUPREME COURT

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**OPINIONS AND ORDERS – AUGUST 25, 2011**

**DAVID A. BAKER V.  
KENTUCKY BAR ASSOCIATION  
ORDER RESTORED MOVANT TO  
THE PRACTICE OF LAW WITH CONDITIONS.  
ALL SITTING. ALL CONCUR.**

[2011-SC-000328-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

**AN UNNAMED ATTORNEY V.  
KENTUCKY BAR ASSOCIATION  
ORDER PRIVATELY REPRIMANDED  
MOVANT WITH CONDITIONS.  
ALL SITTING. ALL CONCUR.**

[2011-SC-000333-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 17, 2011**

**CHRISTOPHER TUCKER, AS  
ADMINISTRATOR OF THE ESTATE OF  
MINDI TUCKER, DECEASED, ET AL. V.  
WOMEN'S CARE PHYSICIANS OF LOUISVILLE  
P.S.C., ET AL.**

2010-SC-000466-D

JEFFERSON

**KEITH EDWARD MEYERS V.  
COMMONWEALTH OF KENTUCKY**

2010-SC-000515-D

HICKMAN

**DANIELLE N. BIDWELL V.  
SHELTER MUTUAL INSURANCE COMPANY**

2010-SC-000560-D

KENTON

**COMMONWEALTH OF KENTUCKY V.  
KENTUCKY RETIREMENT SYSTEMS, ET AL.**

2010-SC-000809-D

FRANKLIN

**NORTON HOSPITALS, INC., D/B/A NORTON  
SUBURBAN HOSPITAL V.  
BRANDI PEYTON**

2010-SC-000818-D

JEFFERSON

**AND  
NEONATAL INTENSIVE CARE EXPERTS  
II, PLLC, AND KETAN MEHTA, M.D. V.  
BRANDI PEYTON**

2010-SC-000819-D

JEFFERSON

**ELMER DAVID MILLER V.  
COMMONWEALTH OF KENTUCKY**

2011-SC-000030-D

LINCOLN



SUPREME COURT OF KENTUCKY

AUGUST 25, 2011 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 17, 2011**

RICKY L. BARNARD V. KENTUCKY DEPARTMENT OF CORRECTIONS, ET AL.	2009-SC-000407-D	OLDHAM
JAMES D. LAWSON V. JOHN HUNT, OFFICER, ET AL.	2010-SC-000428-D	PIKE
LEAMON LORNE OLIVER V. SUN LIFE FINANCIAL DISTRIBUTORS, INC., ETC.	2010-SC-000439-D	JEFFERSON
ALVIN C. GIST V. COMMONWEALTH OF KENTUCKY	2010-SC-000450-D	JEFFERSON
ADAM PHIPPS V. COMMONWEALTH OF KENTUCKY	2010-SC-000462-D	ADAIR
JOHN GERSTAL PERKINS V. INTERSTATE FIRE AND CASUALTY COMPANY, ET AL.	2010-SC-000463-D	MCCREARY
PATRICIA THOMPSON V. CITY OF CALHOUN, KENTUCKY	2010-SC-000480-D	MCLEAN
JOSEPH E. FLOCK V. BROWN-FORMAN CORPORATION	2010-SC-000497-D	JEFFERSON
KENNETH EASTRIDGE V. COURIER-JOURNAL, INC., ET AL. <b>VENTERS, J., WOULD GRANT.</b>	2010-SC-000528-D	JEFFERSON
JOHNSON FAMILY COAL COMPANY, ET AL. V. MILLICENT MAY, ET AL. <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2010-SC-000535-D	PIKE

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 17, 2011**

FIVE STAR LODGING, INC. V. GEORGE CONSTRUCTION, ET AL.	2010-SC-000574-D	FAYETTE
PAUL PRICE, ET AL. V. CITY OF HILLVIEW, ET AL.	2010-SC-000580-D	BULLITT
RICKY FERRELL, ET AL. V. PAUL DAVIS RESTORATION, INC., ETC.	2010-SC-000623-D	WARREN
BENNY R. PILKINGTON V. CIRCLE K	2010-SC-000628-D	JEFFERSON
DONALD OWENS, JR., ET AL. V. SAMUEL E. DAVIES, ET AL.	2010-SC-000629-D	KNOX
MARONIAKA CORNETT V. BRICE BAKER, ET AL.	2010-SC-000644-D	LETCHER
SHAWN M. SMITH, ADMINISTRATOR, OF THE ESTATE OF MICHAEL SMITH V. LOUISVILLE AND JEFFERSON CO. METROPOLITAN SEWER DISTRICT, ET AL.	2010-SC-000704-D	JEFFERSON
RANDY A. COBURN V. CSX TRANSPORTATION, INC.	2010-SC-000705-D	GREENUP
RONALD SALYER V. COMMONWEALTH OF KENTUCKY	2010-SC-000725-D	JEFFERSON
GARRY MARRS COMER V. SUSAN BARRETT COMER	2010-SC-000740-D	WARREN
COMMONWEALTH OF KENTUCKY V. BARBARA SCHAMBON, ET AL.	2010-SC-000743-D	WARREN
JOSH BROUGHTON, ET AL. V. TOMMY RUSSELL	2010-SC-000771-D	FRANKLIN

SUPREME COURT OF KENTUCKY

AUGUST 25, 2011 MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 17, 2011**

ROCKY CHAD MCENTIRE V. COMMONWEALTH OF KENTUCKY	2010-SC-000795-D	JEFFERSON
KENNY D. HOLLAND V. COMMONWEALTH OF KENTUCKY	2010-SC-000806-D	WEBSTER
BILLY HOOKER V. COMMONWEALTH OF KENTUCKY	2010-SC-000807-D	KNOX
EVERETT H. CARDWELL, JR. V. NICOLE G. CARDWELL	2010-SC-000823-D	UNION
CLIFTON GERALD BRISTOL V. COMMONWEALTH OF KENTUCKY <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2010-SC-000831-D	HARDIN
JEFFREY ALLEN MORRIS V. COMMONWEALTH OF KENTUCKY <b>VENTERS, J., NOT SITTING.</b>	2011-SC-000004-D	PULASKI
NANCY FLEMING, ET AL. V. GARY JESSEY, ET AL.	2011-SC-000019-D	LETCHER
KENTUCKY ASSOCIATION OF FIRE CHIEFS, INC., ET AL. V. KENTUCKY BOARD OF HOUSING, BUILDINGS AND CONSTRUCTION, ET AL. <b>SCOTT, J., WOULD GRANT.</b>	2011-SC-000021-D	FRANKLIN
KAREN STEVENSON, EXECUTRIX, ETC., ET AL. V. CLARK REGIONAL MEDICAL CENTER, INC., ET AL. <b>VENTERS, J., WOULD GRANT.</b>	2011-SC-000024-D	CLARK

SUPREME COURT OF KENTUCKY

AUGUST 25, 2011 MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 17, 2011**

PATRICIA RENEE VALANDINGHAM V. COMMONWEALTH OF KENTUCKY	2011-SC-000028-D	CARTER
TIMOTHY SHOCKLEY V. COMMONWEALTH OF KENTUCKY	2011-SC-000037-D	JEFFERSON
AUTO OWNERS INSURANCE COMPANY, ET AL. V. THE ELITE AGENCY, INC.	2011-SC-000050-D	LAWRENCE
EMORY HUDSON V. COMMONWEALTH OF KENTUCKY	2011-SC-000061-D	MONTGOMERY
COMMONWEALTH OF KENTUCKY V. ANTHONY RUSTIN <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2011-SC-000066-D	CALDWELL
N.H. V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES EX REL, K.M.F. <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. SCOTT, J., WOULD GRANT.</b>	2011-SC-00070-DE	SIMPSON
DOMINIC ANDRE GALES V. COMMONWEALTH OF KENTUCKY <b>CUNNINGHAM AND SCOTT, JJ., WOULD GRANT.</b>	2011-SC-000075-D	CHRISTIAN
CALVIN ANDREW MCKINNEY V. COMMONWEALTH OF KENTUCKY	2011-SC-000080-D	WARREN
WILLIAM A. YEAGLE V. COMMONWEALTH OF KENTUCKY	2011-SC-000101-D	DAVISS
GARY HAGER V. CHARLES MILLS	2011-SC-000139-D	MARTIN

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 17, 2011**

COMMONWEALTH OF KENTUCKY V. BARRIE LESLIE MATLOCK	2011-SC-000147-D	CHRISTIAN
BONNIE KEMPER, ETC. V. PAUL KEMPER, ET AL.	2011-SC-000152-D	CUMBERLAND
JAMES HARRISON V. COMMONWEALTH OF KENTUCKY	2011-SC-000162-D	OLDHAM
JAMES HARRISON V. SGT. ESCOBEDO	2011-SC-000163-D	OLDHAM
JAMES HARRISON V. TARA WILKINS	2011-SC-000164-D	OLDHAM
JAMES HARRISON V. CLARK TAYLOR, (WARDEN)	2011-SC-000165-D	OLDHAM
JAMES HARRISON V. LT. TIM FORGEY	2011-SC-000166-D	OLDHAM
SHANNON HEACOCK V. JOHN DRAPER, ET AL.	2011-SC-000190-DE	BARREN
KENNETH STARRETT V. CRYSTAL DUNN	2011-SC-000198-DE	JEFFERSON
JO ANN CROSBY, ET AL. V. MASON COUNTY FISCAL COURT, ET AL.	2011-SC-000223-D	MASON
RONALD EARL WILLIANMS, JR. V. COMMONWEALTH OF KENTUCKY	2011-SC-000234-D	JEFFERSON
JOHN G. WAGNER (REVOCABLE LIVING TRUST) V. EDWARD A. WILSON, ET AL.	2011-SC-000244-D	MARION

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 17, 2011**

TIMOTHY NOLAN, ET AL. V. CAMPBELL COUNTY FISCAL COURT, ET AL.	2011-SC-000245-D	CAMPBELL
MARY COWAN V. BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY, ET AL.	2011-SC-000251-D	FAYETTE
KINDRED NURSING CENTERS LIMITED PARTNERSHIP (D/B/A/ BASHFORD EAST HEALTH CARE), ET AL. V. TERESA BROWN (AS GUARDIAN OF MAURICE CHILDRESS, AN INCAPACITATED PERSON)	2011-SC-000256-D	JEFFERSON
PERCY DEWAYNE BROWN V. COMMONWEALTH OF KENTUCKY	2011-SC-000267-D	JEFFERSON
JERRY WELLS V. THE CITY OF BOWLING GREEN	2011-SC-000273-D	WARREN
R.G.H. V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	2011-SC-000274-DE	BELL
THERESA BALLARD WILLOUGHBY V. ANTHONY WILLOUGHBY	2011-SC-000284-DE	FRANKLIN
DAVID GAINES ROOFING, LLC. V. KENTUCKY OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION, ET AL.	2011-SC-000292-D	FRANKLIN
WILLIAM NATHAN WALLS V. LORI WYNN WALLS (NOW CONGER) <b>SCOTT, J., WOULD GRANT. CUNNINGHAM, J., NOT SITTING.</b>	2011-SC-000363-DE	CALDWELL

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 18, 2011**

JOHNNY COWHERD V.  
COMMONWEALTH OF KENTUCKY

2011-SC-000078-D

FAYETTE

WILLIAM DAUGHERTY V.  
COMMONWEALTH OF KENTUCKY

2011-SC-000114-D

JEFFERSON

JEREMY LAWRENCE V.  
COMMONWEALTH OF KENTUCKY

2011-SC-000125-D

MCCRACKEN

KELLY WAYNE GREENWELL V.  
COMMONWEALTH OF KENTUCKY

2011-SC-000156-D

NELSON

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

COREY MCKINLEY V.  
COMMONWEALTH OF KENTUCKY  
**ENTERED: JUNE 2, 2011**

2011-SC-000197-D

JEFFERSON

LARRY REARDON V.  
COMMONWEALTH OF KENTUCKY  
**CUNNINGHAM, NOBLE, SCHRODER,  
AND VENTERS JJ., SITTING. ALL CONCUR.  
ENTERED: JUNE 10, 2011**

2011-SC-000218-D

MARION

THOMAS M. ROBERTS V.  
COMMONWEALTH OF KENTUCKY  
**ENTERED: JULY 27, 2011**

2011-SC-000260-D

FAYETTE

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS GRANTING PETITION FOR REHEARING – AUGUST 25, 2011**

MICHAEL SCHNUERLE, AMY GILBERT LANCE GILBERT AND ROBIN WOLFF <b>V.</b> INSIGHT COMMUNICATIONS COMPANY, LP. AND INSIGHT COMMUNICATIONS MIDWEST, LLC. <b>AND</b>	2008-SC-000789-DG	JEFFERSON
INSIGHT COMMUNICATIONS COMPANY, LP. AND INSIGHT COMMUNICATIONS MIDWEST, LLC. <b>V.</b> MICHAEL SCHNUERLE, AMY GILBERT LANCE GILBERT AND ROBIN WOLFF	2009-SC-000390-DG	JEFFERSON
MICHAEL ALLEN HALLUM <b>V.</b> COMMONWEALTH OF KENTUCKY <b>AND</b>	2009-SC-000762-DG	LOGAN
JOE B. JONES <b>V.</b> COMMONWEALTH OF KENTUCKY <b>ORDER GRANTED PETITION FOR MODIFICATION OF OPINION RENDERED APRIL 21, 2011 AND SUBSTITUTED PAGES 1 AND 8.</b>	2010-SC-000049-DG	MARION



**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DENYING PETITION FOR REHEARING – AUGUST 25, 2011**

WELLS FARGO BANK, MINNESOTA,  
N.A. **V.**  
COMMONWEALTH OF KENTUCKY,  
FINANCE AND ADMINISTRATION CABINET,  
DEPARTMENT OF REVENUE (F/K/A  
REVENUE CABINET)

[2008-SC-000419-DG](#)

BULLITT

**AND**

CENTRAL BANK OF JEFFERSON COUNTY,  
INC. (F/K/A FIRST BANK, INC.) **V.**  
COMMONWEALTH OF KENTUCKY, FINANCE  
AND ADMINISTRATION CABINET,  
DEPARTMENT OF REVENUE  
(F.K.A REVENUE CABINET)

[2008-SC-000427-DG](#)

JEFFERSON

**ORDER DENIED PETITION FOR REHEARING  
AND CORRECTED THE OPINION OF THE  
COURT ENTERED APRIL 21, 2011 BY  
SUBSTITUTION OF PAGES 1 AND 12 IN  
LIEU OF PAGES 1 AND 12 OF THE  
OPINION.**

ENTERED: AUGUST 25, 2011

**COURT ORDERS DENYING PETITION FOR REHEARING – AUGUST 25, 2011**

SHERI LYNN REINSTEDLER **V.**  
DANIEL THOMAS REINSTEDLER

2009-SC-000088-DG

JEFFERSON

PAUL NASH, ET AL. **V.**  
CAMPBELL COUNTY FISCAL COURT, ET AL.

2009-SC-000152-DG

CAMPBELL

JONATHAN LEVI JOHNSON **V.**  
COMMONWEALTH OF KENTUCKY

2009-SC-000727-MR

JEFFERSON

**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS DISMISSING**

DANIEL L. AULL, INDIVIDUALLY, ETC.,  
ET AL. V.  
JOHN T. HOUSTON, M.D., ET AL.  
**ORDER GRANTED MOVANT'S MOTION  
TO DISMISS THE MOTION FOR  
DISCRETIONARY REVIEW.**  
ENTERED: AUGUST 17, 2011

2010-SC-000701-D

DAVISS

RICKY ALLEN V.  
COMMONWEALTH OF KENTUCKY  
**ENTERED JUNE 14, 2011**

2011-SC-000132- MR

LAUREL

AMANDA LEIGH BOGGS V.  
LARRY JACKSON BOGGS  
**ORDER GRANTED APPELLANT'S  
MOTION TO DISMISS THE MOTION FOR  
DISCRETIONARY REVIEW.**  
ENTERED: AUGUST 17, 2011

2011-SC-000161- D

CARTER

**COURT ORDERS**

CINCINNATI INSURANCE COMPANY V.  
MOTORISTS MUTUAL INSURANCE  
COMPANY  
**ORDER CORRECTED OPINION  
ENTERED MARCH 18, 2010, AND  
SUBSTITUTED PAGES 1 AND 10.**  
ENTERED: JULY 19, 2011

[2008-SC-000293-DG](#)

FROM COURT  
OF APPEALS

KENNETH M. BOGGS V.  
KENTUCKY BAR ASSOCIATION  
**ORDER MODIFIED OPINION AND ORDER  
RENDERED MARCH 24, 2011, BY  
SUBSTITUTION OF PAGE 1.**  
ENTERED: AUGUST 25, 2011

[2011-SC-000073- KB](#)

IN SUPREME  
COURT



**SUPREME COURT OF KENTUCKY**

**AUGUST 25, 2011 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE  
KENTUCKY BAR ASSOCIATION**

EUGENE D. ATTKISSON V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JUNE 29, 2011</b>	2011-SC-000377-KB	IN SUPREME COURT
JAMES FRANK LUMMANICK V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JULY 14, 2011</b>	2011-SC-000404-KB	IN SUPREME COURT
MELISSA ANN PRESSER V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JULY 14, 2011</b>	2011-SC-000405-KB	IN SUPREME COURT
STUART DANIEL BAKER V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JULY 14, 2011</b>	2011-SC-000406-KB	IN SUPREME COURT
STEPHANIE HAWKINS SMITH V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JULY 26, 2011</b>	2011-SC-000427-KB	IN SUPREME COURT
BRUCE LEE KLEINSCHMIDT V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JULY 26, 2011</b>	2011-SC-000429-KB	IN SUPREME COURT
HENRY C. GERMANN V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JULY 26, 2011</b>	2011-SC-000430-KB	IN SUPREME COURT
ANDREW J. PALMER III V. KENTUCKY BAR ASSOCIATION <b>ENTERED: JULY 26, 2011</b>	2011-SC-000432-KB	IN SUPREME COURT