

August 2022

Oral Argument Calendar

Motion Panel

**Judge Glenn Acree, Presiding Judge
Judge Donna Dixon and
Judge Susanne Cetrulo, Associate Judges**

Contact Natasha Coates for Oral Arguments – (502) 573-7920

Kentucky Court of Appeals

Oral Argument Calendar

Thursday, August 18, 2022

Location: FAYETTE COUNTY CIRCUIT COURTHOUSE, 120 NORTH LIMESTONE,
LEXINGTON, KY

1:00 PM (EST) MOLINA HEALTHCARE OF KENTUCKY, INC. ET. AL. V. ANTHEM KENTUCKY MANAGED CARE PLAN, INC. ET. AL.

[2021-CA-0806](#) [2021-CA-0819](#) [2021-CA-0822](#) [2021-CA-0824](#) [2021-CA-0847](#)
[2021-CA-0849](#) [2021-CA-0855](#)

Presiding Judge: HON. PAMELA R. GOODWINE

Associate Judges: HON. ALLISON E. JONES, HON. IRV MAZE

Attorneys for MOLINA HEALTHCARE OF KENTUCKY, INC.: David Victor Kramer, Kayla Michelle Campbell, Mitchel Terence Denham, David Brandeis Tachau, Dustin Elizabeth Meek and Katherine Lacy Crosby

Attorney for AETNA BETTER HEALTH OF KENTUCKY INSURANCE COMPANY D/B/A AETNA BETTER HEALTH OF KENTUCKY INC.: Marc J. Kessler

Attorneys for AETNA BETTER HEALTH OF KENTUCKY INSURANCE COMPANY D/B/A AETNA BETTER HEALTH OF KENTUCKY INC.: Fredrick Ryan Keith, Jeffrey Belkin, Mark William Leach, Min Ji Kim, Robert J. Fogarty and William Herman Jordan

Attorneys for COMMONWEALTH OF KENTUCKY: Brian Christopher Thomas, Cary Brandon Bishop, Jessica Danielle Williamson

Attorneys for ERIC FRIEDLANDER, IN HIS OFFICIAL CAPACITY AS SECRETARY OF KENTUCKY'S CABINET FOR HEALTH AND FAMILY SERVICES: Blake Austin Vogt, Jessica Danielle Williamson and Wesley Warden Duke

Attorneys for HUMANA HEALTH PLAN, INC.: Casey Leigh Hinkle and Michael Patrick Abate

Attorneys for HOLLY M. JOHNSON, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE KENTUCKY FINANCE AND ADMINISTRATION CABINET: Brian Christopher Thomas and Cary Brandon Bishop

Attorneys for KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES: Blake Austin Vogt, Jessica Danielle Williamson and Wesley Warden Duke

Attorneys for KENTUCKY FINANCE AND ADMINISTRATION CABINET: Brian Christopher Thomas, Cary Brandon Bishop and William Robert Long, JR.

Attorneys for ANTHEM KENTUCKY MANAGED CARE PLAN, INC.: Christopher Grafflin Browning, JR., Craig Christman Dilger and James Andrew Washburn

Attorneys for UNITEDHEALTHCARE OF KENTUCKY, LTD.: Alex A. Hontos, Christopher A. Delong, and Mark William Leach

Attorneys for WELLCARE HEALTH INSURANCE COMPANY OF KENTUCKY, INC. D/B/A WELLCARE OF KENTUCKY, INC: Brian Waagner, Bryan Beauman, Kevin Gudgel Henry, Sarah Charles Wright and Steven Neeley

Attorneys for ANTHEM KENTUCKY MANAGED CARE PLAN, INC.: Craig Christman Dilger, Harry L Dadds, II and Thomas George French

Tuesday, August 23, 2022

Location: BULLITT COUNTY JUDICIAL CENTER, 250 FRANK E. SIMON AVE.,
SHEPHERSVILLE, KY

11:00 AM (EST) COMMONWEALTH OF KENTUCKY V. WAYNE RILEY, ADMINISTRATOR FOR THE ESTATE OF ARCHIMEDIA DELEARA RILEY

[2021-CA-1115](#)

Presiding Judge: HON. JACQUELINE M. CALDWELL

Associate Judges: HON. DENISE G. CLAYTON, HON. KELLY THOMPSON

JEFFERSON County, HON. ERIC JOSEPH HANER

Civil – Issues on appeal: Whether sovereign immunity prevents a civil court from ordering the Commonwealth, a non-party, to produce discovery; or even if sovereign immunity does not apply, was it an abuse of discretion for the trial court to do order; or, was it an abuse of discretion to compel discovery from a non-party when a party possesses the material; and, was it an abuse of discretion to order the Commonwealth to produce materials from a criminal case where the court in that case had prohibited disclosure.

Attorneys for Appellant: Brett Robert Nolan, Daniel John Grabowski, Jason Bradley Moore and Matthew Franklin Kuhn

Attorneys for Appellees: Joseph M. Effinger, Marcia Milby Ridings, Ryan Daniel Nafziger, Charles Aaron Walker, Joseph Allan Cobb, John Garry McNeill, Brandon Jerrard Lawrence, and Mark Hyatt Gaston

11:45 AM (EST) BINGHAM GREENEBAUM DOLL LLP V. MEREDITH L. LAWRENCE ET. AL. 2020-CA-1131, BINGHAM, GREENEBAUM, DOLL L.L.P, D/B/A DENTONS BINGHAM GREENBAUM, L.L.P V. MEREDITH L. LAWRENCE ET. AL. 2020-CA-1217, CUT AND SHOOT, L.L.C. V. BINGHAM, GREENEBAUM, DOLL, L.L.P. 2021-CA-0320

[2020-CA-1131](#), [2020-CA-1217](#), [2021-CA-0320](#)

Presiding Judge: HON. DENISE G. CLAYTON

Associate Judges: HON. JACQUELINE M. CALDWELL, HON. KELLY THOMPSON

Appeal and cross-appeal of judgments involving attorney fees and restitution.

GALLATIN County, HON. JAMES R. SCHRAND, II

Attorneys for Appellant/Cross-Appellee/Appellee: Aaron Alan VanderLaan and Frank Kern Tremper

Attorney for Appellee/Cross-Appellant/Appellant: Brandy Kathleen Lawrence

Tuesday, August 23, 2022

Location: BULLITT COUNTY JUDICIAL CENTER, 250 FRANK E. SIMON AVE.,
SHEPHERSVILLE, KY

12:30 PM COURIER JOURNAL, INC. V. SHIVELY POLICE DEPARTMENT
(EST)

[2021-CA-1120](#)

Presiding Judge: HON. KELLY THOMPSON

Associate Judges: HON. JACQUELINE M. CALDWELL, HON. DENISE G. CLAYTON

On July 27, 2020, the Shively Police Department (SPD) engaged in a high speed chase which resulted in three fatalities when a third car was hit by the vehicle being pursued. On August 10, 2020, Appellant, the Courier Journal (CJ) submitted a request pursuant to the Open Records Act (ORA) to the SPD relating to the vehicle chase and collision, requesting: (1) Computer Aided Dispatch (CAD) reports for services calls; (2) 911 calls; (3) audio communication between dispatch, the responding officers, and any other officers or supervisory personnel; (4) dashcam and bodycam footage; and (5) incident or accident reports. After the SPD summarily refused to produce any records based on the ORA exemption set forth in KRS 61.878(1)(h), CJ filed an action before the circuit court for disclosure of these records. The SPD argued these records did not have to be disclosed pursuant to: (1) KRS 61.878(1)(h) (because of concerns disclosure would interfere with an ongoing investigation causing harm to the agency in the grand jury process and witness recollections); (2) KRS 61.878(1)(a) (as the dashcam/bodycam footage of the fatal accident would constitute an unwarranted invasion of personal privacy); and (3) KRS 61.878(1)(l) as it incorporates KRS 17.150(2) (interpreting that it exempts the SPD from having to disclose any investigatory records until the matter was concluded). The circuit court granted the SPD's motion for summary judgment as to the August 10th request, as it agreed that KRS 61.878(1)(h) provided a valid basis for exclusion. CJ argues a blanket exclusion is not warranted and argues that none of these grounds apply as: (1) the requested disclosures will not harm the ongoing investigation; (2) privacy concerns do not justify not producing video footage of the fatal accident; and (3) KRS 17.150(2) does not apply at all as it only applies to determine what materials must be released after an investigation is concluded.

JEFFERSON County, HON. ANGELA MCCORMICK-BISIG

Attorneys for Appellant: Jon L Fleischaker, Michael Patrick Abate, and William Richard Adams, II

Attorney for Appellee: Finn Robert Cato

Wednesday, August 24, 2022

Location: HENRY COUNTY COURTHOUSE, 30 NORTH MAIN STREET, NEW
CASTLE, KY

**1:30 PM
(EST)**

JEREMY BOTTOMS V. CHARLES SMITH ET. AL.

[2021-CA-1085](#)

Presiding Judge: HON. SUSANNE M. CETRULO

Associate Judges: HON. GLENN E. ACREE, HON. LARRY E. THOMPSON

NELSON County, HON. JOSEPH GUINAN BALLARD

This is an appeal from a judgment in favor of an owner of a vehicle that was taken by his unlicensed, underage grandson who then had an accident and caused injuries to a third party.

Attorney for Appellant: Michelle Buckley Sparks

Attorneys Appellees: Joseph Michael Mills, Ryan Foster Quick and Eric Allen Hamilton

Tuesday, August 30, 2022

Location: BARREN COUNTY COURTHOUSE, 100 COURTHOUSE SQUARE,
GLASGOW, KY

1:00 PM
(CST)

JOSHUA ADKINS V. COMMONWEALTH OF KENTUCKY

[2021-CA-0670](#)

Presiding Judge: HON. JEFF S. TAYLOR

Associate Judges: HON. DONNA L. DIXON, J. CHRISTOPHER McNEILL

Whether circuit court properly affirmed the district court's decision denying Adkin's motion to proceed *in forma pauperis*.

KENTON County, HON. PATRICIA M. SUMME

Attorneys for Appellant: Adam Meyer and Kathleen Kallaher Schmidt

Attorneys for Appellee: Christopher Scott Nordloh and Daniel J. Cameron
