

UPDATED: 11/23/2010

# **DECEMBER 2010 ORAL ARGUMENT CALENDAR**

Report Updated On: 11/23/2010

**11/23/2010**

**DECEMBER, 2010**

**December 3, 2010**

**2:00 P.M. COURT MEETING**  
**MOONLITE BARBEQUE MEETING ROOM,**  
**OWENSBORO, KY (CENTRAL TIME)**

**December 7, 2010**

**1:15 P.M. MOTION PANEL, JUDGE THOMPSON, PJ,**  
**JUDGE JAMES LAMBERT AND JUDGE WINE**

**PHONE NUMBERS WHERE PANEL MEMBERS CAN BE REACHED WHEN ORAL ARGUMENTS SCHEDULED:**

**FRANKFORT – Contact Mary Zagale - (502) 573-7920**

**LOUISVILLE – Contact Marti Dodd – (502) 595-3440**

**LEXINGTON – Contact Dana Carter – (859) 246-2132**

**SHEPHERDSVILLE – Contact Layne Abell – (502) 543-7104**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Monday, December 6, 2010**

**10:45 AM PJ: KELLER, HON. MICHELLE M. NICKELL, HON. C. SHEA STUMBO, HON. JANET L.**  
**2009CA001767 KIESHON RENEA HAWKINS v COMMONWEALTH OF KENTUCKY**

A jury convicted Hawkins of criminal possession of a forged instrument, counterfeit money. She appeals her conviction, arguing that the court erred when it failed to grant a mistrial after an officer commented on Hawkins's invocation of the right to remain silent and when it failed to grant a continuance so that a material witness for Hawkins could recover from an illness. Hawkins also argues that the Commonwealth withheld exculpatory evidence.

<b>CRIMINAL</b>	<b>HARDIN COUNTY</b>	<b>HON KEN M. HOWARD</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
<b>MAURER, KAREN</b>		<b>HAWKINS, KIESHON</b>
<b>SCHMIDT, KATHLEEN</b>		
-----		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
<b>VARO, JOHN</b>		<b>COMMONWEALTH OF KENTUCKY</b>
-----		

**\*\* NOTE:**

**11:30 AM PJ: KELLER, HON. MICHELLE M. NICKELL, HON. C. SHEA STUMBO, HON. JANET L.**  
**2009CA000800 VANESSA CARTER v COMMONWEALTH OF KENTUCKY**

Carter entered a conditional guilty plea to obtaining a controlled substance by deception. She appeals the trial court's denial of her motion to suppress, arguing that officers searched her medical records through KASPER without probable cause.

<b>CRIMINAL</b>	<b>GRAVES COUNTY</b>	<b>HON TIMOTHY C STARK</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
<b>JEWELL, BRANDON</b>		<b>CARTER, VANESSA</b>
<b>SCHMIDT, KATHLEEN</b>		
-----		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
<b>CROSS, JEFFREY</b>		<b>COMMONWEALTH OF KENTUCKY</b>
-----		

**\*\* NOTE:**

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Monday, December 6, 2010**

**01:00 PM PJ: CLAYTON, HON. DENISE G. ACREE, HON. GLENN E. CAPERTON, HON. MICHAEL O.**  
**2009CA002232 DOROTHY BASHAM v THE CITY OF BOWLING GREEN, KENTUCKY**

Question as to whether trial court erred in concluding that the seller intended to sell all tracts of land to the city of Bowling Green.

**CIVIL WARREN COUNTY HON STEVE ALAN WILSON**

Appellant Atty:

**BAKER, MATTHEW**

Appellant Name:

**BASHAM, BOBBY**

Appellee Atty:

**HARMON, H.  
LAUFENBERG, SCOTT  
STIVERS, GREGORY**

Appellee Name:

**THE CITY OF BOWLING GREEN, KENTUCKY**

**\*\* NOTE:PREVIOUSLY ON 12/7/10 AT 1:00 PM IN BOWLING GREEN, KY**

**01:45 PM PJ: ACREE, HON. GLENN E. CAPERTON, HON. MICHAEL O. CLAYTON, HON. DENISE G.**  
**2009CA001867 ANTHONY HELTSLEY v BRIAN LEE FROGGE SR.**

**2010CA000049**

Civil; Family Law: Whether family court's award of custody and allowance of attorney fees constituted an abuse of discretion.

**WARREN COUNTY**

Appellant Atty:

**SATTERFIELD, DIXIE**

**HON CATHERINE R. HOLDERFIELD**

Appellant Name:

**HELTSLEY, ANTHONY**

Appellee Atty:

**ROBERTS, NANCY**

**KININMONTH, DANIEL**

Appellee Name:

**FROGGE, BRIAN**

**FROGGE, SUSAN**

**\*\* NOTE:PREVIOUSLY ON 12/7/10 AT 1:45 PM IN BOWLING GREEN, KY**

**LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,**

**DATE: Monday, December 6, 2010**

**02:30 PM PJ: CAPERTON, HON. MICHAEL O.**

**ACREE, HON. GLENN E.**

**CLAYTON, HON. DENISE G.**

**2009CA001595 THE ESTATE OF JUDITH BURTON v THE TROVER CLINIC FOUNDATION, INC.**

**2009CA001726**

**2009CA001735**

Bifurcated medical negligence/malpractice claim, issues concerning admission of evidence, change of venue, and various other.

**CIVIL HOPKINS COUNTY HON CHARLES W. BOTELER**

Appellant Atty:

**BRADEN, ROGER  
WHITFIELD, JOHN**

Appellant Name:

**THE ESTATE OF JUDITH BURTON**

Appellee Atty:

**BROWN, DONALD JR  
HOBGOOD, BYRON  
HUME, BRADLEY**

Appellee Name:

**THE TROVER CLINIC FOUNDATION, INC.**

**GRANT, ALLISON  
SHEFFER, RONALD**

**TROVER, PHILIP**

**\*\* NOTE:PREVIOUSLY ON 12/7/10 AT 2:30 PM IN BOWLING GREEN, KY**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Tuesday, December 7, 2010**

11:45 AM PJ: THOMPSON, HON. KELLY

MOORE, HON. JOY A.

LAMBERT, HON. JOSEPH E.

2010CA000202

**MOTORIST MUTUAL INSURANCE COMPANY v GLEN HARTLEY**

Appellant appeals from the trial court's ruling that an uninsured motorist exclusion is invalid and unenforceable and argues that any UIM coverage afforded under the policy is nevertheless secondary in excess to the insured's primary policy written by another insurer and in force at the time of the accident.

CIVIL

WOODFORD COUNTY

HON ROBERT G. JOHNSON

Appellant Atty:

Appellant Name:

DAVIS, MICHAEL

MOTORIST MUTUAL INSURANCE COMPANY

MEADOWS, DREW

Appellee Atty:

Appellee Name:

BOTT, JOSEPH

HARTLEY, GLEN

MILLER, JOHN

**\*\* NOTE:**

12:30 PM PJ: THOMPSON, HON. KELLY

MOORE, HON. JOY A.

LAMBERT, HON. JOSEPH E.

2010CA000264

**BRYAN WALDRIDGE v HOME SERVICES OF KENTUCKY, INC.**

Appellants/home purchasers appeal from a summary judgment in favor of appellees/realtor and agent who negotiated the purchase of the property. The trial court ruled that their complaint was barred by res judicata based upon a prior ruling of the Kentucky Real Estate Commission which summarily dismissed appellants' complaint.

CIVIL

SCOTT COUNTY

HON ROBERT G. JOHNSON

Appellant Atty:

Appellant Name:

MOLONEY, PHILLIP

WALDRIDGE, SONJA

Appellee Atty:

Appellee Name:

MORGAN, KEVAN

HOME SERVICES OF KENTUCKY, INC.

RAGER, JEFFREY

**\*\* NOTE:**

**LOCATION: FAYETTE COUNTY CIRCUIT COURT, COURTROOM I, 4TH FLOOR,  
120 NORTH LIMESTONE, LEXINGTON, KENTUCKY**

**DATE: Wednesday, December 8, 2010**

10:00 AM PJ: SHAKE, HON. ANN O'MALLEY VANMETER, HON. LAURANCE B. WINE, HON. THOMAS B.  
2010CA000471 CLIFFORD COLEMAN v ROGER ELSTER FORD

Coleman appeals from a Pike Circuit Court summary judgment regarding an easement reserved in a deed.

CIVIL	PIKE COUNTY	HON EDDY COLEMAN
	Appellant Atty:	Appellant Name:
	HOGG, STEPHEN	COLEMAN, CLIFFORD
.....		
	Appellee Atty:	Appellee Name:
	COMBS, DONALD	FORD, ROGER
.....		

\*\* NOTE:

10:45 AM PJ: SHAKE, HON. ANN O'MALLEY VANMETER, HON. LAURANCE B. WINE, HON. THOMAS B.  
2009CA001817 CALVIN CUMMINGS v BURNICE STEELE

Cummings appeals a Perry Circuit Court order denying his request for a new trial based upon the jury's failure to award pain and suffering damages.

CIVIL	PERRY COUNTY	HON WILLIAM ENGLE
	Appellant Atty:	Appellant Name:
	HOLLIDAY, JAMES	CUMMINGS, CALVIN
.....		
	Appellee Atty:	Appellee Name:
	GOFORTH, MICHAEL	STEELE, BURNICE
	JONES, DONALD	TRAVELERS CASUALTY COMPANY OF CONNECTICUT
.....		

\*\* NOTE:

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Thursday, December 9, 2010**

**11:30 AM PJ: STUMBO, HON. JANET L. TAYLOR, HON. JEFF S. SHAKE, HON. ANN O'MALLEY**  
**2009CA001608 EDDY CREEK MARINA, LLC v MARTIN TABOR**

MOR appeal from action to dissolve limited liability company. Issue is whether value of minority interest was properly calculated.

<b>CIVIL</b>	<b>LYON COUNTY</b>	<b>HON CLARENCE A. WOODALL</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
WILSON, ALLEN		EDDY CREEK MARINA, LLC
WILSON, MARVIN		
-----		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
PAXTON, WILLARD		TABOR, MARTIN
-----		

**\*\* NOTE:PREVIOUSLY ON 11/18/10 AT 1:00 PM.**

**01:00 PM PJ: STUMBO, HON. JANET L. LAMBERT, HON. JAMES H. SHAKE, HON. ANN O'MALLEY**  
**2010CA000003 JOYCE FLORENCE v PATTON LAFELEESHA**  
**2010CA000004**

MOR appeal from denial of summary judgment on issue of entitlement to qualified official immunity to director of middle school, principal and assistant principal of middle school in school bullying case. At issue are application of Yanero v. Davis, 65 S.W.3d 510 (Ky. 2001) and whether appellant acted in good faith and whether 20 U.S.C. Sec. 6731-6738 protects and provides liability protection to principal.

<b>CIVIL</b>	<b>FAYETTE COUNTY</b>	<b>HON PAMELA R GOODWINE</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
CHENOWETH, GRANT		FLORENCE, JOYCE
CHENOWETH, ROBERT		
-----		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
THOMPSON, MELISSA		LAFELEESHA, PATTON
-----		

**\*\* NOTE:PREVIOUSLY ON 11/18/10 AT 1:45 PM.**



**LOCATION: BULLITT COUNTY JUDICIAL CENTER, 250 FRANK E. SIMON AVENUE,  
COURTROOM 301, THIRD FLOOR, SHEPHERDSVILLE, KENTUCKY**

**DATE: Thursday, December 16, 2010**

01:30 PM PJ: TAYLOR, HON. JEFF S.

DIXON, HON. DONNA L.

ISAAC, HON . SHEILA

2009CA001516

JOANNE HOWLETT v SAFE AUTO SERVICES, INC.

Whether circuit court's summary judgment in favor of Safe Auto and dismissing Howlett's claims against same was proper given Safe Auto's "Dual Purpose" notice and doctrine of reasonable expectation.

CIVIL

JEFFERSON COUNTY

HON SUSAN SCHULTZ GIBSON

Appellant Atty:

Appellant Name:

EDWARDS, PHILIP

HOWLETT, JOANNE

Appellee Atty:

Appellee Name:

SHEARER, DAVID  
SPILLE, TIMOTHY

BINDNER, DAVID

KEMPER, W.  
STEINMETZ, ROBERT

SAFE AUTO SERVICES, INC.

\*\* NOTE:

02:15 PM PJ: TAYLOR, HON. JEFF S.

DIXON, HON. DONNA L.

ISAAC, HON . SHEILA

2009CA002276

KENNETH H. BAKER v PATRICK WAYNE BACK

Whether the amount of jury's award and damages resulting from a legal malpractice claim (missing statute of limitations on personal injury claim) was proper.

CIVIL

JEFFERSON COUNTY

HON MARY M SHAW

Appellant Atty:

Appellant Name:

COX, GROVER

BAKER, KENNETH

Appellee Atty:

Appellee Name:

TROUTMAN, MATTHEW

BACK, PATRICK

\*\* NOTE: