

UPDATED: 3/23/2017

# **MARCH 2017**

# **ORAL ARGUMENT**

# **CALENDAR**

3/23/2017

**MARCH, 2017**

**COURT MEETING WILL NOT BE HELD**

**March 20, 2017**

**1:00 P.M. (ET), MOTION PANEL, JUDGE DEBRA LAMBERT, PJ; JUDGE COMBS AND JUDGE DIXON, ASSOCIATES.**

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

**POWELL COUNTY, STANTON, KY – Contact Tonya Williams – (606) 663-4141  
NELSON COUNTY, BARDSTOWN, KY – Contact Diane Thompson – (502) 348-3648  
FRANKFORT – Contact Patricia Brauer - (502) 573-7920**

**LOCATION: POWELL COUNTY COURTHOUSE COURTROOM, 525 WASHINGTON STREET, STANTON, KENTUCKY**

**DATE: Tuesday, March 14, 2017**

**01:00 PM PJ: COMBS, HON. SARA W. MAZE, HON. IRV STUMBO, HON. JANET L.**  
**2015CA001857 ALETHA VAN HUET v JOSEPH GRANT HALL**

Unique case involving enforceability of a property settlement agreement allegedly time-barred involving retirement funds that were a marital asset and are now supposedly uncollectable based on a statute of limitations. Case of first impression.

**FRANKLIN COUNTY**

**HON SQUIRE WILLIAMS**

**Appellant Atty:**  
**ANDERSON, NICHOLAS**  
**HOWARD, DOUGLAS**

**Appellant Name:**  
**HUET, ALETHA**

**Appellee Atty:**  
**BRUMLEY, KAMI**

**Appellee Name:**  
**HALL, JOSEPH**

**NOTE:**

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**02:45 PM PJ: MAZE, HON. IRV COMBS, HON. SARA W. LAMBERT, HON. JAMES H.**  
**2015CA001248 ADKINS PLAINTIFFS v ROBERT GREGORY STAPLETON**

Appeal from dismissal of against Cabinet inspectors for damages caused by failure to enforce mining regulations. Whether settlement of prior litigation against coal company precludes current claims based on res judicata, collateral estoppel, accord & satisfaction & double recovery.

**CIVIL**

**PIKE COUNTY**

**HON JOHNNY RAY HARRIS**

**Appellant Atty:**  
**PILLERSDORF, NED**

**Appellant Name:**  
**ADKINS PLAINTIFFS**

**Appellee Atty:**  
**BAIRD, CHARLES**

**Appellee Name:**  
**BLACKBURN, GENE**

**MAINES, SUSAN**

**CAMBRIAN COAL CORPORATION**

**COLLINS, ADAM**

**STAPLETON, ROBERT**

**NOTE:\*\*40 MINUTE ORAL**

**\*\***

**LOCATION: POWELL COUNTY COURTHOUSE COURTROOM, 25 WASHINGTON STREET, STANTON, KENTUCKY**

**DATE: Wednesday, March 15, 2017**

**10:30 AM PJ: MAZE, HON. IRV COMBS, HON. SARA W. STUMBO, HON. JANET L.**  
**2015CA001601 FIRST STOP URGENT CARE CENTER, PSC v UNIVERSITY HEALTH CARE INC.**

Appeal from summary judgment on claim alleging wrongful termination of a health-services provider contract. Existence of genuine issues of material fact on whether there was a breach, and application of "any willing provider" statute.

<b>CIVIL</b>	<b>JEFFERSON COUNTY</b>	<b>HON MITCHELL PERRY</b>
<b>Appellant Atty:</b>		<b>Appellant Name:</b>
<b>WHONSETLER, SCOTT</b>		<b>FIRST STOP URGENT CARE CENTER, PSC</b>
<b>ZIKA, DAVID</b>		
<b>Appellee Atty:</b>		<b>Appellee Name:</b>
<b>PENCE, STEPHEN</b>		<b>UNIVERSITY HEALTH CARE INC.</b>
<b>WHETZEL, STANLEY JR.</b>		

**NOTE:**

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**11:15 AM PJ: MAZE, HON. IRV COMBS, HON. SARA W. STUMBO, HON. JANET L.**  
**2015CA001675 RIDEGEWAY NURSING & REHABILITATION FACILITY, LLC v STELLA COLLINS**

Appeal from jury verdict in wrongful death/negligence claim against nursing home. Whether separate consulting company was engaged in a joint venture with nursing home. Sufficiency of evidence of negligence, and gross negligence. Award and amount of punitive damages.

<b>CIVIL</b>	<b>BATH COUNTY</b>	<b>HON ANGELA MCCORMICK BISIG</b>
<b>Appellant Atty:</b>		<b>Appellant Name:</b>
<b>BROOKER, CHRISTOPHER</b>		<b>RIDEGEWAY NURSING &amp; REHABILITATION</b>
<b>EDGE, AMANDA</b>		<b>FACILITY, LLC</b>
<b>FORGY, JOHN</b>		
<b>FORGY, LAWRENCE JR</b>		
<b>SNELL, VIRGINIA</b>		
<b>Appellee Atty:</b>		<b>Appellee Name:</b>
<b>FANNIN, COREY</b>		<b>COLLINS, STELLA</b>
<b>FORSYTHE, TYLER</b>		
<b>SALYER, ROBERT</b>		

**NOTE:**

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**LOCATION: POWELL COUNTY COURTHOUSE COURTROOM, 525 WASHINGTON STREET, STANTON, KENTUCKY**

**DATE: Wednesday, March 15, 2017**

**01:15 PM PJ: MAZE, HON. IRV COMBS, HON. SARA W. STUMBO, HON. JANET L.  
2016CA000473 DONALD REDD v COMMONWEALTH OF KENTUCKY**

Appeal from convictions for TICS and importing heroin. Double Jeopardy; Denial of motion for Admonition.

**CRIMINAL CAMPBELL COUNTY HON JULIE REINHARDT WARD**  
Appellant Atty: Appellant Name:  
**BUCK, STEVEN REDD, DONALD**  
**SCHMIDT, KATHLEEN**

Appellee Atty: Appellee Name:  
**LUCAS, EMILY COMMONWEALTH OF KENTUCKY**

**NOTE:**

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**02:00 PM PJ: MAZE, HON. IRV COMBS, HON. SARA W. STUMBO, HON. JANET L.  
2016CA000496 BOARD OF DIRECTORS FOR THE COMMONWEALTH POSTSECONDARY v BETH LEWIS MAZE**

Appeal from declaratory judgment addressing the application and constitutionality of the 2014 amendments to the KAPT statutes. Whether contracts permit the legislature to retroactively modify contracts. Whether amendments impermissibly impair the state's obligations under the KAPT contracts.

**CIVIL FRANKLIN COUNTY HON THOMAS D. WINGATE**  
Appellant Atty: Appellant Name:  
**TIPTON, LAURA BOARD OF DIRECTORS FOR THE COMMONWEALTH POSTSECONDARY**

Appellee Atty: Appellee Name:  
**ROWLAND, ROBERT MAZE, BETH**

**NOTE: \*\*40 MINUTE ORAL**

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

**DATE: Thursday, March 23, 2017**

**01:00 PM PJ: LAMBERT, HON. DEBRA HEMBREE CLAYTON, HON. DENISE G. DIXON, HON. DONNA L.  
2016CA000395 AMERICAN GENERAL LIFE INSURANCE COMPANY v DRB CAPITAL, LLC**

Whether the trial court properly approved the transfer of a structured settlement consisting of worker's compensation benefits, finding the transfer to be in compliance with KRS 454.435.

<b>CIVIL</b>	<b>BOYD COUNTY</b>	<b>HON C DAVID HAGERMAN</b>
	<b>Appellant Atty:</b>	<b>Appellant Name:</b>
	<b>BOYEA, AMY</b>	<b>AMERICAN GENERAL LIFE INSURANCE COMPANY</b>
	<b>FARRELL, MICHAEL</b>	
	<b>THOMAS-BUSH, SAMANTHA</b>	
	<b>Appellee Atty:</b>	<b>Appellee Name:</b>
	<b>DEMARCUS, MATTHEW</b>	<b>DRB CAPITAL, LLC</b>
	<b>THOMAS, RAY JR</b>	<b>THOMAS, RAY</b>

**NOTE:**

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**01:45 PM PJ: LAMBERT, HON. DEBRA HEMBREE CLAYTON, HON. DENISE G. DIXON, HON. DONNA L.  
2016CA000116 J.E. v COMMONWEALTH OF KENTUCKY**

Whether the district court erred in adjudication of a sodomy first charge by 1) using a board to block the view of the witness by the Appellant 2) denying the use of an expert regarding the competency of a child witness, and 3) the involvement of the child's grandmother in the child's testimony.

**KENTON COUNTY HON GREGORY M BARTLETT**

	<b>Appellant Atty:</b>	<b>Appellant Name:</b>
	<b>SCHMIDT, KATHLEEN</b>	<b>J.E.</b>
	<b>VANDENWALLBAKE, RENEE</b>	
	<b>Appellee Atty:</b>	<b>Appellee Name:</b>
	<b>BESHEAR, ANDREW</b>	<b>COMMONWEALTH OF KENTUCKY</b>
	<b>NORDLOH, CHRISTOPHER</b>	

**NOTE:**

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**LOCATION: NELSON COUNTY JUSTICE CENTER COURTROOM, 200 NELSON COUNTY PLAZA, BARDSTOWN, KENTUCKY**

**DATE: Monday, March 27, 2017**

**01:45 PM PJ: TAYLOR, HON. JEFF S. LAMBERT, HON. JAMES H. NICKELL, HON. C. SHEA**  
**2015CA001821 THOMAS BEAN v VNB NEW YORK, LLC**

**2015CA001822**

2015-CA-001821 and 2015-CA-001822 – Whether circuit court properly rendered summary judgment determining that fraud in obtaining promissory notes constituted fraud in the inducement and not fraud in the factum; whether circuit court properly applied 12 USC § 1823(3); and whether circuit court properly determined that appellants’ affirmative defenses were barred.

<b>CIVIL</b>	<b>JEFFERSON COUNTY</b>	<b>HON JUDITH E MCDONALD-BURKMAN</b>
	<b>Appellant Atty:</b>	<b>Appellant Name:</b>
	<b>ARCHER, LEE</b>	<b>BEAN, THOMAS</b>
	<b>VALENTI, MICHAEL</b>	
	<b>Appellee Atty:</b>	<b>Appellee Name:</b>
	<b>NOT REPRESENTED BY COUNSEL,</b>	<b>ALEXANDER AND ALEXANDER RISK SERVICES, LLC</b>
	<b>BALLINGER, JAMES</b>	<b>AMERICAN TAX FUNDING, LLC</b>
	<b>SINGLER, JOHN</b>	<b>CITY OF HURSTBOURNE, KY</b>
	<b>HAMILTON, TAYLOR</b>	<b>FIFTH THIRD BANK, KENTUCKY, INC.</b>
	<b>WAGENSELLER, JUDSON</b>	<b>HUFF, SHERI</b>
	<b>SCHARDEIN, JOHN</b>	<b>LOUISVILLE JEFFERSON COUNTY METRO GOVERNMENT</b>
	<b>SCHULTEN, RICHARD</b>	
	<b>MOORE, CHRISTIE</b>	<b>VNB NEW YORK, LLC</b>
	<b>WIMBERG, APRIL</b>	

**NOTE:**

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**LOCATION: NELSON COUNTY JUSTICE CENTER COURTROOM, 200 NELSON COUNTY PLAZA, BARDSTOWN, KENTUCKY**

**DATE: Monday, March 27, 2017**

**02:30 PM PJ: TAYLOR, HON. JEFF S. LAMBERT, HON. JAMES H. NICKELL, HON. C. SHEA**

**2015CA001875 MICHAEL L. MITCHELL v HOWARD'S HARDWARE & FARM SUPPLY, INC.**

Whether circuit court properly rendered summary judgment dismissing appellants' claim that appellee violated work place safety standards.

**CIVIL**

**NELSON COUNTY**

**HON JOHN DAVID SEAY**

**Appellant Atty:**

**Appellant Name:**

**MATTINGLY, JOSEPH III**

**MITCHELL, MICHAEL**

**REED, KAELIN**

**Appellee Atty:**

**Appellee Name:**

**NUNERY, DAVID**

**HOWARD'S HARDWARE & FARM SUPPLY, INC.**

**NOTE:**

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