

COMMONWEALTH OF KENTUCKY
Claims Commission
Agenda
December 19, 2017

*Minutes
Approved*

The Kentucky Claims Commission received 53 negligence claims filed against the Commonwealth during the month of November, 2017. Since the staff that handles negligence claims was cut from three (3) to two (2) unexpectedly on November 13, 2017, as many claims as possible were set up and served on state agencies by the two (2) remaining staff persons.

Investigators Angela Robertson and Raymond Shields decided 28 claims under \$2,500.00 in November, 2017. Angela reports that 16 of these claims were denied and 12 were awarded, for a total amount awarded of \$7,857.01.

At its meeting on November 28, 2017, the Kentucky Claims Commission dismissed nine (9) negligence claims and awarded seven (7) negligence claims totaling \$10,842.95. Together with the claims investigated in-house, the Claims Commission dismissed a total of 25 negligence claims and awarded a total of 19 negligence claims for a total amount awarded of **\$18,699.96** in November, 2017.

FOR INSTRUCTIONS FROM THE COMMISSION:

BC-2017-207

Karen Sturges v. Transportation Cabinet, Dept. of Highways

Notes: Agreed Order awarding the Claimant \$2,119.57 in settlement of this claim.

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$2,119.57. ✓

BC-2017-470

Lee Masonry Products, Inc. v. Transportation Cabinet, Dept. of Highways

Notes: E-mail from the Claimant stating that it wishes to withdraw this claim.

Counsel's Recommendation: Enter an Order of Dismissal as requested by the Claimant. ✓

FULL COMMISSION REVIEW:

BC-2017-117

Hart Terrell v. Transportation Cabinet, Department of Highways

Notes: Claimant filed for damage to his vehicle which was allegedly caused by a sunken manhole on outbound Richmond Road in Fayette County. The Claimant stated that the hole was five (5) inches deep and caused him \$916.64 in damages. The Claimant asserts that the Commonwealth is at fault because maintenance or repair had not been made and the area was clearly dangerous. The Respondent stated that the area in question was the responsibility of Lexington/Fayette County Urban Government and this claim was subsequently dismissed for lack of jurisdiction. The Claimant then requested a Full Commission Review and submitted additional information from LFCUG that the road in question is not a county maintained roadway. This subsequent information has been sent to the Respondent for a response.

Counsel's Recommendation: The Respondent states that the manhole cover that the Claimant hit is the responsibility of the Lexington-Fayette Urban County Government and not the Commonwealth. However, LFUCG contends that the storm sewer structure "belongs to the State" per the attached contract. *For discussion.*

MOTIONS:

Reverse + Awarded *Upheld*
Dismissed

BC-2017-382

William Rogers and Lisa Rogers v. Transportation Cabinet, Dept. of Highways

Notes: Respondent's unopposed Amended Motion for Summary Judgment.

Counsel's Recommendation: Sustain the Amended Motion for Summary Judgment as the claim was filed outside the statute of limitations set by KRS 49.120(1). ✓

RECOMMENDED ORDERS:

BC-2014-728

Bryan Elliott and Barbara Elliott v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer Doug Hardin's Findings of Fact, Conclusions of Law and Recommended Order awarding the Claimants \$9,900.00 in damages and the parties' exceptions filed thereto.

Counsel's Recommendation: *For discussion.*

Adopt

BC-2015-114

Melody Couture v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer Tim Cocanougher's Recommended Order awarding the Claimant \$6,500.00 in settlement of this matter.

Counsel's Recommendation: Adopt the recommendation of the hearing officer. ✓

BC-2016-371

Eddie and Regina Thacker v. Energy & Environment Cabinet, Dept. for Natural Resources, Division of Abandoned Land Mines

Notes: Hearing Officer Carson Kerr's Recommended Order of Dismissal with prejudice for the Claimants' failure to participate in this matter.

Counsel's Recommendation: Adopt the recommendation of the hearing officer. ✓

BC-2017-134

Mike Woosley v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer Patrick Flannery's Recommended Order Granting Summary Judgment for the Claimant's failure to meet the burden of proof.

Counsel's Recommendation: Adopt the recommendation of the hearing officer. ✓

Total number of Claims: 8

**COMMONWEALTH OF KENTUCKY
CLAIMS COMMISSION
*Addendum***

December 19, 2017

BC-2016-00555

Patricia Billings v. Transportation Cabinet, Dept. of Highways

Agreed Order awarding the Claimant \$6,000.00 filed.

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$6,000.00 in settlement of this claim. ✓
