

**COMMONWEALTH OF KENTUCKY**  
**Board of Claims**  
**Agenda**  
**February 16, 2012**

*Minutes Approved*

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The Board of Claims received 43 new claims during the month of January, 2012. A total of 74 claims were set up, according to Assistant Clerk Paula Woolums. Paula also returned eight (8) claims for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 41 claims (under \$1,000.00) in January, 2012. Jackie reports that 24 claims were dismissed and 17 claims were awarded, for a total amount awarded of \$6,721.13.

At its Board meeting on January 19, 2012, the Board dismissed 20 claims and awarded nine (9) claims totaling \$93,669.40. Together with the claims investigated in-house, the Board dismissed a total of 44 claims and awarded a total of 26 claims for a total amount awarded of \$100,390.53 in January, 2012.

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**For Instructions From the Board**

BC-2010-00459

Judith Sark vs. University of Kentucky

Notes: Agreed Order of Settlement awarding \$8,500.00 to the Claimant.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$8,500.00 in settlement of this claim. ✓

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BC-2010-00589

Mohammed Haque vs. Transportation Cabinet / Dept. of Highways

Notes: Claimant's Notice of Voluntary Dismissal with prejudice.

Counsel's Recommendation: Enter a Final Order dismissing the claim with prejudice at the request of the Claimant. ✓

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BC-2010-00633

Glenn Daugherty vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement and Dismissal filed.

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$2,000.00 in settlement of this claim. ✓

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BC-2011-00514

Ruth Hatler vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order

Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-00766

Roger Stewart vs. Transportation Cabinet, Dept. of Highways

Notes: Agreed Order of Dismissal filed by the parties.

Counsel's Recommendation: Enter the Agreed Order of Dismissal awarding the Claimant \$2,000.00 in settlement of this claim. ✓

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BC-2011-00797

Joseph Pike vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order

Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-00804

Lionel Jarviss vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order  
Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-00865

Timothy Embry vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order  
Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-00867

Matthew Hunt vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order  
Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-00891

Larry Cooper vs. Transportation Cabinet, Dept. of Highways

Notes: Agreed Order of Settlement filed by the parties.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$3,000.00 in settlement hereof. ✓

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BC-2011-00898

Elizabeth Pack vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order  
Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-00903

Patricia Jarboe vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order  
Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-00982

Kimberly Workman vs. Commonwealth of Kentucky

Notes: February 16, 2012- Default Order  
Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

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BC-2011-01091

Daviess County Fire Dept vs. Transportation Cabinet

Notes: Claim filed against a contractor, not a state agency.

Counsel's Recommendation: Dismiss the claim with prejudice pursuant to KRS 44.073(15). ✓

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**Full Board Review**

BC-2011-01018

Michael Dunn vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 12/9/11 Findings of Fact, Opinion and Order Dismissing claim.  
12/28/11 Claimant requests FBR  
1/4/12 Board denied request due to filing late.  
1/11/12 Claimant's letter, again requesting FBR  
1/17/12 FBR accepted, put on agenda for 2/16/12.

*Upheld  
Dismissal*

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BC-2011-01075

Brian Hendren vs. Justice and Public Safety Cabinet / Dept. of Corrections

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Notes: 1/4/12 Board ordered dismissed  
1/12/12 Claimant requests FBR (\$385.68).

**Motions**

BC-2011-01047

Michael Florian vs. Transportation Cabinet / Dept. of Highways

Notes: Respondent's Answer and Motion to Dismiss; no response filed thereto by the Claimant.

Counsel's Recommendation: Overrule the Motion to Dismiss and assign the claim to hearing officer Jan West for further proceedings. ✓

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BC-2011-01086

Jacqueline Martin-Gaines vs. Transportation Cabinet / Dept. of Highways

Notes: Respondent's Motion to Dismiss; no response filed thereto by the Claimant.

Counsel's Recommendation: Sustain the Motion to Dismiss pursuant to KRS 44.073(15), thereby dismissing the claim with prejudice. ✓

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BC-2011-01104

Sharon Ware vs. Tourism, Arts & Heritage Cabinet / Department of Parks

Notes: Respondent's Answer and Motion to Dismiss; no response filed thereto by the Claimant.

Counsel's Recommendation: Overrule the Motion to Dismiss and assign the claim to Hearing Officer Dan Rudloff for further proceedings. ✓

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BC-2011-01113

Bonnie Cook; Dumas Short vs. Transportation Cabinet, Dept. of Highways

Notes: Respondent's Answer and Motion to Dismiss; no response filed thereto by the Claimants.

Counsel's Recommendation: Sustain the Motion to Dismiss for failure to state a claim upon which relief can be granted (no negligence alleged), thereby dismissing the claim with prejudice. ✓

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BC-2011-01126

Alexis Dassell, by and through her Mother and Next Friend, Lisa Dassell vs. University of Louisville

Notes: Respondent's Motion to Dismiss and Claimant's Response filed thereto.

Counsel's Recommendation: Overrule Motion to Dismiss and assign claim to hearing officer Jan West for further proceedings. ✓

BC-2011-01131

Thomas Wolf vs. Transportation Cabinet, Dept. of Highways

Notes: Respondent's Answer and Motion to Hold Claim in Abeyance and Claimant's response filed thereto.

Counsel's Recommendation: Overrule Motion to Hold [Claim] in Abeyance, sustain Motion to Consolidate Discovery and assign claim to hearing officer Dan Rudloff for further proceedings. ✓

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**Recommended Order**

BC-2010-00126

Katrina Patterson vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw's Recommended Order of Dismissal.

Counsel's Recommendation: Adopt the recommendation of the hearing officer dismissing the claim with prejudice at the request of the Claimant. ✓

BC-2010-00192

Paul Huffman; Pauline Huffman vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Bo Fugazzi's Recommended Order awarding the Claimants a total of \$179,665.81; exceptions to the recommendation and briefs ordered by the Board filed by both parties regarding the issue of damages.

Counsel's Recommendation: To be discussed; issue is amount and applicability of offsets to the award (Board previously adopted the recommendation of the hearing officer regarding liability in this matter). *Offsets come from \$350K*

BC-2011-00233

Linda Kirby vs. Transportation Cabinet / Dept. of Highways

*Exceptions filed by Claimant.*

Notes: Hearing Officer Jan West's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim.

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

BC-2011-00303

Christopher Hoinke vs. Transportation Cabinet / Department of Highways

Notes: Hearing Officer Jan West's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim.

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

BC-2011-00479

Mary Boger vs. University of Kentucky

Notes: Hearing Officer Braxton Crenshaw's Recommended Order of Dismissal.

Counsel's Recommendation: Adopt the recommendation of the hearing officer dismissing the claim with prejudice for the Claimant's failure to comply with the orders of this tribunal. ✓

BC-2011-00518

Robert Frausto; Felicia Frausto; Carol Frausto vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer William Rudloff's Recommended Findings of Fact, Conclusions of Law and Recommended Order awarding the Claimants \$5,300.00; and the Respondent's Exceptions filed thereto.

Counsel's Recommendation: To be discussed; issue is adequacy of warning.

*Motion to reject the RO carried 2-1.*

BC-2011-00528

Wilfred Ruck vs. University of Kentucky

Notes: Hearing Officer Braxton Crenshaw's Recommended Order of Dismissal.

Counsel's Recommendation: Adopt the recommendation of the hearing officer dismissing the claim with prejudice for Claimant's failure to comply with the orders of this tribunal. ✓

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BC-2011-00531

Nathan Kimberlain vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer William Rudloff's Recommended Findings of Fact, Conclusions of Law and Recommended Order awarding \$14,200.00 to the Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer awarding the Claimant \$14,200.00 in damages. ✓

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BC-2011-00756

Betty Blue vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer William Rudloff's Recommended Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim.

Counsel's Recommendation: Adopt the recommendation of the hearing officer denying payment of this claim. ✓

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*Exceptions  
filed by Claimant.*

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Total number of Claims: 31

**COMMONWEALTH OF KENTUCKY**  
**BOARD OF CLAIMS**  
*Addendum*  
*February 16, 2012*

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**BC-2010-396**

Lila G. Simpson v. University of Kentucky

Agreed Order of Settlement awarding \$1,700.00 to the Claimant filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$1,700.00 in settlement of this claim. ✓

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