

COMMONWEALTH OF KENTUCKY
Board of Claims
Agenda
March 17, 2011

Minutes Accepted
Handy Absent

The Board of Claims received 143 new claims during the month of February, 2011. A total of 81 claims were set up, according to Assistant Clerk Paula Woolums. Five (5) claims were returned by Paula for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 38 claims (under \$1,000.00) in February, 2011. Jackie reports that 32 claims were dismissed and six (6) claims were awarded, for a total amount awarded of \$1,651.58.

At its Board meeting on February 17, 2011, the Board dismissed 17 claims and awarded five (5) claims totaling \$29,947.37. Together with the claims investigated in-house, the Board dismissed a total of 49 claims and awarded a total of 11 claims for a total amount awarded of \$31,598.95 in February, 2011.

For Instructions From the Board

BC-2008-00472

James Lindsay vs. Tourism, Arts & Heritage Cabinet / Department of Parks

Notes: Claimant filed this claim on 4/14/08 that is a duplicate of Claim No. BC-06-641 in which the Claimant was paid \$698.98. ✓

Counsel's Recommendation: Dismiss the claim as duplicative of a previously awarded claim.

BC-2010-00412

George Young vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order and Settlement Agreement awarding Claimant \$1,000.00 in settlement of this claim.

Counsel's Recommendation: Enter the Agreed Order awarding Claimant \$1,000.00 in settlement of this claim. ✓

BC-2010-00530

Michael Gibson vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Agreed Order awarding \$975.00 to Claimant.

Counsel's Recommendation: Enter the Agreed Order awarding \$975.00 to Claimant. ✓

BC-2010-00789

Sherri Ramirez vs. Transportation Cabinet / Department of Highways

Notes: Answer attaching contract and alleging contractor involvement.

Counsel's Recommendation: Enter a Final Order dismissing the claim for lack of jurisdiction over contractors pursuant to KRS 44.073(15). ✓

BC-2010-00817

Thomas Moran vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Respondent's offer to pay the full amount claimed.

Counsel's Recommendation: Enter a Final Order awarding Claimant \$1,000.00 as settlement in full of this claim. ✓

BC-2011-00023

Jack Wilson vs. Bell County EMS and Bell County Fiscal Court

Notes: Claim filed against a county governmental entity.

Counsel's Recommendation: Enter a Final Order dismissing the claim for lack of jurisdiction over county governmental entities. ✓

BC-2011-00068

Ronald Bradford vs. Transportation Cabinet

Notes: Notification from State Risk & Insurance Services Division that this claim was paid by Travelers Insurance, the Commonwealth's Master Auto Policy carrier.

Counsel's Recommendation: Enter a Final Order dismissing this claim as paid by the Commonwealth's liability insurance carrier. ✓

Full Board Review

BC-2010-00809

Donna Fittje vs. Department of Parks / Tourism, Arts and Heritage

Notes: 2/17/11 Board ordered dismissed
3/7/11 Cl.'s atty. requests FBR.
3/8/11 FBR Memo to CL. & Resp.

Hold over to
next mtg.

BC-2010-00826

Janet Hill; Wardell Hill vs. Department of Highways / Transportation

Notes: 2/14/11 Board ordered dismissed.
2/28/11 Claimant requests FBR (\$500)

uphold original
dismissal

BC-2011-00063

Lesa Bullard vs. Department of Highways / Transportation

Notes: 2/21/11 Board ordered dismissed
2/28/11 Claimant requests FBR (\$500)

Reverse + Award
\$500⁰⁰/

Motions

BC-2010-00651

James Adkins vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

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

BC-2010-00751

Moosa Arshad vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: Claimant's Motion to Reconsider or Set Aside Previous Dismissal; Respondent's Response to Motion to Reconsider; and Claimant's Reply in Support of Motion to Reconsider.

Counsel's Recommendation: Enter an Order denying Claimant's Motion for Reconsideration. ✓

BC-2010-00756

Henry Brockman; Deborah Brockman vs. Transportation Cabinet / Dept. of Highways

Notes: Answer and Motion to Dismiss; Claimant's Motion to Overrule Respondent's Motion to Dismiss. ✓

Counsel's Recommendation: Reserve ruling on the Motion to Dismiss and order Claimant to provide documents or arguments, through limited discovery, if necessary, regarding whether the Board's jurisdiction has been properly invoked.

BC-2010-00820

Brian Stegman vs. Cabinet for Health and Family Services

Notes: Respondent's Motion to Dismiss or for Summary Judgment, Claimant's Response to Motion to Dismiss, and Respondent's Reply in Support of Motion to Dismiss.

Counsel's Recommendation: Sustain the Respondent's Motion to Dismiss for failure to state a claim upon which relief can be granted. ✓

Recommended Order

BC-2004-00771

Hope Brooks; Anna Stede 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: Enter a Final Order adopting the recommendation of the hearing officer and dismissing the claim with prejudice. ✓

BC-2008-01085

Chanda Willoughby vs. Transportation Cabinet / Department of Highways

Notes: Hearing Officer Bo Fugazzi's Recommended Order denying Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and overrule Respondent's Motion for Summary Judgment. ✓

BC-2009-00391

Eddie Vaughn vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: Hearing Officer Lansden King's Recommended Order granting the Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Adopt the recommendations of the hearing officer, granting the Motion for Summary Judgment and dismissing the claim with prejudice. ✓

*Exceptions filed
& noted*

BC-2009-00610

Monna Clark vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing officer Jan West's Recommended Order granting Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Adopt the recommendation of the hearing officer, granting the Motion for Summary Judgment and dismissing the claim with prejudice. ✓

BC-2010-00509

Shirley Jean Allen vs. University of Kentucky

Notes: Hearing Officer Lansden King's Recommended Order denying Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Adopt the recommendation of the hearing officer, denying the Motion for Summary Judgment and remanding the claim to the hearing officer for further proceedings. ✓

Total number of Claims: 19

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS

Addendum
March 17, 2011

BC-2010-254

Tammy Horne v. Transportation Cabinet, Dept. of Highways

Hearing Officer Fred Fugazzi's Recommended Order of Dismissal at the Claimant's request.

Counsel's Recommendation: Enter a Final Order dismissing the claim with prejudice as requested by the Claimant. ✓

BC-2010-357 & BC-10-358

Shellena Smith and Joshua Smith v. Transportation Cabinet

Agreed Final Order awarding \$12,000.00 to Claimant Shellena Smith and \$3,000.00 to Claimant Joshua Smith in settlement of these consolidated claims.

Counsel's Recommendation: Enter the Agreed Final Order as stipulated to by the parties and dismiss the claims with prejudice. ✓

BC-2010-398

Richard Kerst v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Agreed Order of Settlement filed.

Counsel's Recommendation: Enter the Agreed Order that awards \$2,360.00 to the Claimant and dismissing the claim with prejudice. ✓

BC-2010-749

Caldwell Co. Water District v. Transportation Cabinet, Dept. of Highways

Settlement Agreement filed.

Counsel's Recommendation: Enter a Final Order incorporating the Settlement Agreement between the parties that awards the Claimant damages not to exceed \$13,816.04 and dismissing the claim with prejudice. ✓

BC-2011-150

James Jointer v. University of Kentucky

Agreed Order to Hold Matter in Abeyance filed.

Counsel's Recommendation: Enter the Agreed Order holding the above-styled claim in abeyance pending the resolution of James Jointer v. Paul Kearney, M.D., et al., Fayette Circuit Court, Civil Action No. 10-CI-7213 or until further orders of this Board. ✓
