

**COMMONWEALTH OF KENTUCKY
CLAIMS COMMISSION**

**Agenda
March 28, 2017**

The Kentucky Claims Commission received 42 negligence claims filed against the Commonwealth during the month of ~~January~~^{Feb}, 2017. Paula reports that 45 claims were set up and three (3) claims were returned for lack of jurisdiction.

Investigator Angela Robertson decided 17 claims under \$1,000.00 in February, 2017. Angela reports that 11 of these claims were dismissed and six (6) were awarded, for a total amount awarded of **\$1,021.66**.

At its meeting on February 21, 2017, the Kentucky Claims Commission dismissed seven (7) negligence claims and awarded four (4) negligence claims totaling \$7,591.33. (An award of \$8,797.42 in *Claim No. BC-09-612, Tussey v. Dept. of Natural Resources*, ordered by the former Board of Claims in 2012, was reinstated by the Commission upon remand by the Kentucky Court of Appeals.) Together with the claims investigated in-house, the Claims Commission dismissed a total of 18 negligence claims and awarded a total of 10 negligence claims for a total amount awarded of **\$8,612.99** in February, 2017.

FOR INSTRUCTIONS FROM THE BOARD:

BC-2013-00037

Bellsouth Telecommunications, Inc., d/b/a A T and T Kentucky vs. Transportation Cabinet /Dept. of Highways

Notes: Agreed Order of Dismissal filed. ✓

Counsel's Recommendation: Enter the Agreed Order dismissing the claim with prejudice as agreed by the parties.

BC-2013-00505

William Queen; Cynthia Queen vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order for \$1,000.00 filed. ✓

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

BC-2016-00153

Katherine Cole vs. Transportation Cabinet / Dept. of Highways

Notes: Claimant's e-mail stating that she wants to drop her claim.

Counsel's Recommendation: Enter an Order dismissing the claim with prejudice at the Claimant's request and as recommended by the hearing officer. ✓

BC-2016-00221

Michael McNew vs. University of Kentucky

Notes: Agreed Order of Settlement for \$6,538.98 filed. ✓

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$6,538.98 in full settlement of this matter.

BC-2016-00248

Carlos Ledford vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Dismissal and Settlement Agreement for \$750.00 filed.

Counsel's Recommendation: Enter an Order awarding the Claimant \$750.00 in settlement of this matter as agreed to by the parties. ✓

BC-2016-00255

David Bennett vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement for \$1,250.00 filed.

Counsel's Recommendation: Enter an Order awarding the Claimant \$1,250.00 in settlement of this matter as agreed by the parties. ✓

BC-2016-00391

Victor Smith vs. University of Kentucky

Notes: Respondent's Amended Answer recommending payment of the claim.

Counsel's Recommendation: Enter an Order awarding the Claimant \$1,708.20 in settlement of this claim. ✓

BC-2016-00409

Christopher Ware vs. University of Kentucky

Notes: Agreed Order of Settlement for \$2,500.00 filed.

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$2,500.00 in settlement of this claim. ✓

BC-2016-00458

Crop Productions Services, Inc. vs. Transportation Cabinet / Dept. of Highways

Notes: Email notification from Hearing Officer Allen Wilson that the Claimant corporation does not wish to prosecute this claim further.

Counsel's Recommendation: Enter an Order dismissing the claim at the Claimant's request. ✓

BC-2016-00629

Karren Doolin vs. University of Kentucky

Notes: Respondent's Answer recommending payment of the claim.

Counsel's Recommendation: Enter an Order awarding the Claimant \$1,390.00 in settlement of this matter. ✓

BC-2017-00023

Darrell Seithers; Peggy Seithers vs. University of Kentucky

Notes: Respondent's Answer recommending payment of the claim.

Counsel's Recommendation: Enter an Order awarding the Claimant \$1,104.00 in settlement of this matter. ✓

FULL BOARD REVIEWS:

BC-2016-00478

Lonnie Ritter vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Mr. Ritter filed a claim for \$306.28 regarding stolen property from his cell.

Claimant stated negligence because EKCC knew who stole his property but did nothing to recover the property. The Respondent provided documentation that the

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inmate that stole the property has been found guilty and ordered to pay restitution of \$284.62. Totaling receipts provided and factoring in depreciation on the television the total that would be considered by the Claims Commission would be \$261.67 which is less than the restitution awarded so there is no outstanding balance to consider. The Commission's Investigator, Angela Robertson, recommends upholding dismissal of this claim. ✓

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BC-2016-00554

Jeremy Starkey vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Claimant stated his personal property was stolen while being transferred to restricted housing. Respondent stated that they reviewed the video and the Claimant's cell was not accessed by anyone until guards went to pack up the cell. The Claimant did not provide any evidence of negligence and the claim was dismissed.

MOTIONS

BC-2015-00622

Estate of Martha Boggs vs. Transportation Cabinet / Dept. of Highways

Notes: Motion to Dismiss as Settled with attached Settlement Agreement for \$5,000.00 filed.

Counsel's Recommendation: ✓ Enter an Order awarding the Claimant Estate \$5,000.00 in settlement of this matter. ✓

BC-2015-00623

Estate of John Boggs vs. Transportation Cabinet / Dept. of Highways

Notes: Motion to Dismiss as Settled with attached Settlement Agreement for \$5,000.00 filed.

Counsel's Recommendation: ✓ Enter an Order awarding the Claimant Estate \$5,000.00 as agreed by the parties. ✓

BC-2016-00314

Donald Jordan vs. Transportation Cabinet / Dept. of Highways

Notes: Respondent's Motion to Dismiss as settled for \$1,000.00. ✓

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

BC-2016-00607

Derrick Smith vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

Counsel's Recommendation: ✓ Enter an Order overruling the Motion to Dismiss and assigning the claim to a hearing officer in a separate order. ✓

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BC-2016-00668

Sarah Marineau; Andrew Rutland vs. Murray State University

Notes: Respondent's unopposed Motion to Dismiss with attachments.

Counsel's Recommendation: ✓ Enter an Order of Dismissal for failure to state a claim upon which relief can be granted. ✓

BC-2017-00021

Camille Frey vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Respondent's Answer and Motion to Dismiss filed.

Counsel's Recommendation: Enter an Order overruling the Motion to Dismiss as the claim was timely filed and holding the claim in abeyance pending a related Powell Circuit Court matter.

RECOMMENDED ORDERS:

BC-2015-00868

Matthew Smith vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Carson Kerr'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 dismissing the claim.

BC-2015-00950

Walter Perry vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Tim Cocanougher'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 dismissing the claim.

BC-2016-00147

Lisa Spicer vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Tim Cocanougher's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim and the Claimant's exceptions filed thereto.

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

Total number of Claims: 22