

**COMMONWEALTH OF KENTUCKY**  
**Board of Claims**  
**Agenda**  
**October 21, 2010**

*Forgy Absent*

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The Board of Claims received 48 new claims during the month of September, 2010. A total of 59 claims were set up, according to Assistant Clerk Paula Woolums. Paula also dismissed two (2) claims for being under the \$100.00 threshold and returned one (1) subrogation claim.

Investigators Jackie Lynch and Wanda Luttrell decided 40 claims (under \$1,000.00) in September, 2010. Wanda reports that 23 claims were dismissed and 17 claims were awarded, for a total amount awarded of \$6,205.18.

At its Board meeting on September 16, 2010, the Board dismissed 36 claims and awarded three (3) claims totaling \$6,250.00. Together with the claims investigated in-house, the Board dismissed a total of 59 claims and awarded a total of 20 claims for a total amount awarded of \$12,455.18 in September, 2010.

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**For Instructions From the Board**

BC-2007-00555

James Floyd vs. Trimble County Board of Education

Notes: Agreed Order of Dismissal filed.

Counsel's Recommendation: Enter Agreed Order and dismiss the claim as settled by the parties. ✓

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BC-2009-00510

WE R Xhibits vs. Tourism, Arts and Heritage / Ky. State Fair Board

Notes: Agreed Order Dismissing as Settled filed.

Counsel's Recommendation: Enter Agreed Order and dismiss the claim as settled by the parties. ✓

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BC-2009-00798

Michael Walker; Amy Walker; Keith Walker vs. Grayson County Board of Education

Notes: Agreed Order of Dismissal filed by the parties.

Counsel's Recommendation: Enter Agreed Order and dismiss the claim as settled by the parties. ✓

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BC-2010-00314

Betty Johnson; Lisa Johnson vs. University of Kentucky

Notes: October 21, 2010 Default Order

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

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BC-2010-00381

Lloyd Holmes vs. University of Kentucky

Notes: October 21, 2010- Default Order

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

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BC-2010-00409

Connie Baker vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: October 21, 2010- Default Order

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

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BC-2010-00419

Quincy Taylor vs. Justice and Public Safety Cabinet

Notes: October 21, 2010-Default Order

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

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BC-2010-00466

Brandon Watts vs. Justice and Public Safety Cabinet

Notes: October 21, 2010- Default Order

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

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BC-2010-00479

Sun Windows, Inc. vs. Transportation Cabinet / Department of Highways

Notes: Respondent's Motion to Dismiss until the claim is resolved through the Commonwealth's insurance carrier and the insurance carrier's notes regarding payment of the claim.

Counsel's Recommendation: Enter a Final Order dismissing the claim as satisfied by the Commonwealth's general liability insurance policy. ✓

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BC-2010-00483

Ricky Rawlings vs. Justice and Public Safety Cabinet

Notes: October 21, 2010- Default Order

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

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BC-2010-00552

Robert Hall vs. Transportation Cabinet / Dept. of Highways

Notes: Claim filed against a state contractor.

Counsel's Recommendation: Enter Final Order dismissing the claim pursuant to KRS 44.073(15). ✓

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BC-2010-00595

Launie Wolford vs. Tourism, Arts and Heritage / Ky. State Fair Board

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

Counsel's Recommendation: Enter Final Order awarding Claimant \$1,454.07 for damages incurred in this matter. ✓

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BC-2010-00642

Billy Steele vs. University of Kentucky

Notes: Respondent's Answer recommending payment of the full amount claimed of \$1,870.00.

Counsel's Recommendation: Enter Final Order awarding Claimant \$1,870.00 for lost dentures. ✓

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**Full Board Review**

BC-2010-00380

Tenetria Frazier vs. Transportation Cabinet / Department of Highways

*Upheld Dismissal*

Notes: 6/8/10 Board awarded \$500, insurance deductible.  
6/22/10 Check paid claim; file closed  
7/6/10 Claimant stated insurance wouldn't cover tires and rims, wants remainder of receipts/estimates paid by Board of Claims.  
10/7/10 Claimant has not responded to letter or numerous calls re insurance.

BC-2010-00389

Sheila Gay vs. University of Kentucky

*Upheld Dismissal*

Notes: 8/27/10 Board ordered dismissed.  
9/20/10 Claimant requests FBR (\$242.82)

BC-2010-00520

LaStar Ball vs. Justice and Public Safety Cabinet / Dept. of Corrections

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Notes: 9/17/10 Board ordered dismissed.  
9/27/10 Claimant requests FBR (\$436.00)

**Motions**

BC-2010-00532

Han-Chun Yeh vs. University of Kentucky

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

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

BC-2010-00550

Jason Mullikin vs. Department of Public Advocacy and Attorney's General Office

*Hold Over to 11/18/10 Mtg. ✓*

Notes: Respondent Department of Public Advocacy's Motion to Dismiss; no response filed by the Claimant.

Counsel's Recommendation: Enter a Final Order dismissing the claim for the Claimant's failure to state a claim upon which relief can be granted as the Board has no jurisdiction over constitutional claims of ineffective assistance of counsel.

BC-2010-00553

Robert Marking vs. Tourism, Arts & Heritage Cabinet / Kentucky Horse Park

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

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

BC-2010-00564

Helen Mitchell vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Dismiss the claim for the Claimant's failure to show that negligence on behalf of the Respondent contributed to her damages. ✓

BC-2010-00574

Jason Mullikin vs. Justice and Public Safety Cabinet / Department of Corrections and Jeffrey R. Burton

*Hold Over to 12/18/10 Mtg. ✓*

Notes: Respondents' Motion to Dismiss; no response was filed by the Claimant.

Counsel's Recommendation: Dismiss the claim for lack of jurisdiction over county agencies, pursuant to Commonwealth v. Harris.

BC-2010-00584

Russell Messer vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

Counsel's Recommendation: Dismiss the claim for failure to state a claim upon which relief can be granted as the alleged negligent acts of the Respondent are discretionary. ✓

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BC-2010-00589

Mohammed Haque vs. Transportation Cabinet

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

Counsel's Recommendation: Order Respondent to produce a copy of its construction contract for the date in question and reserve the Motion to Dismiss pending the Board's review of said contract. ✓

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### **Recommended Order**

BC-2006-00327

Andrew Rice; Tom Pennington; Jan Pennington vs. Green County Board of Education

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

Counsel's Recommendation: Adopt the recommendation and dismiss the claim with prejudice for failure to comply with the orders of the hearing officer. ✓

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BC-2006-00357

Matthew Smith vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Adopt the recommendation of the hearing officer and dismiss the claim with prejudice. ✓

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BC-2007-00236

Kenneth Kestner; Sheila Kestner vs. Transportation Cabinet / Department of Highways

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

Counsel's Recommendation: Adopt the recommendation and dismiss the claim with prejudice for failure to comply with the orders of the hearing officer. ✓

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BC-2007-00396

Sandra Lanting vs. Transportation Cabinet, Dept. of Highways and Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Hearing Officer Jan West's Opinion and Recommended Order dismissing Respondent Tourism, Arts & Heritage Cabinet from the claim.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and dismiss the Respondent Tourism, Arts & Heritage Cabinet from the claim. ✓

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BC-2007-00455

Quickways Carriers, Inc. vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Jan West's Findings of Fact, Conclusions of Law and Recommended Order awarding \$13,014.15 to the Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and award the Claimant \$13,014.15. ✓

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BC-2007-00744

Carolyn Dalton vs. Cabinet for Health and Family Services

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

Counsel's Recommendation: Adopt the recommendation and dismiss the claim for failure to comply with the orders of the hearing officer. ✓

BC-2008-00966

Edward Brady vs. Justice and Public Safety Cabinet / Department of Corrections

*Exceptions Filed*

Notes: Hearing Officer Braxton Crenshaw's Recommended Findings of Fact, Conclusions of Law and Order awarding Claimant \$100.00. ✓

Counsel's Recommendation: Adopt the recommendation of the hearing officer and award the Claimant \$100.00.

BC-2008-01084

Nancy Bruner vs. Tourism, Arts & Heritage Cabinet / Kentucky Horse Park

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

Counsel's Recommendation: Adopt the recommendation and dismiss the claim for failure to abide by the orders of the hearing officer. ✓

BC-2008-01209

Winston Wright vs. Justice and Public Safety Cabinet / Department of Corrections

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

Counsel's Recommendation: Adopt the recommendation of the hearing officer and dismiss the claim accordingly. ✓

BC-2009-00155

Allison Shanks vs. Transportation Cabinet / Department of Highways

*Exceptions Filed*

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

Counsel's Recommendation: Adopt the recommendation of the hearing officer and dismiss the claim with prejudice. ✓

BC-2009-00561

Stephen Hardin vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Fred Fugazzi's Recommended Order awarding \$4,446.00 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer, awarding the Claimant \$4,446.00. ✓

Total number of Claims: 34

COMMONWEALTH OF KENTUCKY  
BOARD OF CLAIMS

*Addendum*  
*October 21, 2010*

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**BC-07-101**

Kelly R. Oliver v. Transportation Cabinet, Dept. of Highways

Claimant's Status Report filed 9/16/10 indicating that the claim was resolved with the independent contractor.

Counsel's Recommendation: Enter a Final Order dismissing the claim as settled. ✓

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**BC-2009-763**

Veronica Foster v. Transportation Cabinet, Dept. of Highways

Agreed Order of Dismissal filed.

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

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**BC-2009-897**

Ackton Corporation v. Tourism, Arts & Heritage Cabinet, Ky. State Fair Board

Agreed Order of Dismissal filed.

Counsel's Recommendation: Enter Agreed Order awarding Claimant \$1,745.00 in settlement of this claim. ✓

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**BC-2010-158**

Dawn Lynch v. Transportation Cabinet, Dept. of Highways

Notification from the State Risk and Insurance Services Division of the Finance & Administration Cabinet that this claim was paid by the Commonwealth's insurance carrier.

Counsel's Recommendation: Enter a Final Order dismissing the claim as settled. ✓

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**BC-2010-487**

Gary Sentell v. Transportation Cabinet, Dept. of Highways

Agreed Order of Dismissal filed.

Counsel's Recommendation: Enter Agreed Order awarding Claimant \$1,200.00 ✓  
in settlement of this claim.

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