

COMMONWEALTH OF KENTUCKY
Board of Claims
Agenda
October 18, 2012

All present

The Board of Claims received 49 new claims during the month of September, 2012. A total of 57 claims were set up, according to Assistant Clerk Paula Woolums. Paula also returned 3 claims for lack of jurisdiction.

Investigator Jackie Lynch decided 30 claims under \$1,000.00 in September, 2012. Jackie reports that 17 of these claims were denied and 13 were awarded, for a total amount awarded of \$5,392.22.

At its Board meeting on September 20, 2012, the Board dismissed 15 claims and awarded six (6) claims totaling \$18,435.57. Together with the claims investigated in-house, the Board dismissed a total of 32 claims and awarded a total of 19 claims for a total amount awarded of \$23,827.79 in September, 2012.

For Instructions From the Board

BC-2011-00789

Randall Dishman; Stephanie Maguire vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Dismissal dismissing the claims of Randall Dishman with prejudice.

Counsel's Recommendation: Enter the Agreed Order as agreed to by the parties. ✓

BC-2011-00848

Dominico Burdell vs. Transportation Cabinet / Dept. of Highways

Notes: Board's Order to Comply or Show Cause rendered 7/26/12; no response filed thereto by the Claimant.

Counsel's Recommendation: Enter a Final Order dismissing the claim with prejudice for the Claimant's failure to abide by the orders of this tribunal. ✓

BC-2011-01047

Michael Florian vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$585.00 to the Claimant in settlement of this matter filed by the parties.

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$585.00 in settlement of this matter. ✓

BC-2012-00017

Donald Berger vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Agreed Order of Settlement awarding \$10,000.00 to the Claimant filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding \$10,000.00 to the Claimant in settlement of this matter. ✓

BC-2012-00110

Bill Miller vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$1,500.00 to the Claimant in settlement of this matter filed and recommended by Hearing Officer Jan West.

Counsel's Recommendation: Enter a Final Order awarding the Claimant \$1,500.00 as agreed to by the parties. ✓

BC-2012-00217

Donna McCoy vs. Transportation Cabinet / Dept. of Highways

Notes: October 18, 2012- Default Order

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

BC-2012-00227

Lysie Gaddis vs. Transportation Cabinet / Dept. of Highways

Notes: October 18, 2012- Default Order

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

BC-2012-00237

Communications Exhibits, Inc. vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: October 18, 2012-Default Order

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

BC-2012-00299

Laverne Lindquist vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Agreed Order of Settlement awarding \$2,311.53 to the Claimant filed by the parties.

Counsel's Recommendation: Enter the Agreed Order awarding \$2,311.53 to the Claimant in settlement of this matter. ✓

BC-2012-00351

John Scott vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Notification from State Risk & Insurance Services Division that the claim was settled with the Claimant by the Commonwealth's Self-Insured Auto Program (KSAP).

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

BC-2012-00423

Floyd Cook vs. University of Kentucky

Notes: Respondent's Answer recommending payment of the full amount claimed.

Counsel's Recommendation: Enter a Final Order awarding the Claimant \$1,949.00 in settlement of this claim. ✓

BC-2012-00465

Jacquelyn Johnson vs. University of Kentucky

Notes: Respondent's Answer recommending payment in full of the amount claimed.

Counsel's Recommendation: Enter an Order reimbursing the Claimant \$10,400.00 for lost dentures. ✓

Full Board Review

BC-2012-00324

Glenn Odom vs. Justice and Public Safety Cabinet / Dept. of Corrections

Removed by JKL

Notes: 8/23/12 Board ordered dismissed
9/6/12 Claimant requests FBR (\$177.25)

Motions

BC-2010-00600

Durenda Howard, next friend of Angelina Rusher vs. Corbin Independent Board of Education

Notes: Respondent's Motion to Dismiss as settled.

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

BC-2010-00676

Jennifer Freeman vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

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

BC-2012-00139

Timothy Cornett vs. Transportation Cabinet / Dept. of Highways

Notes: Motion to Consolidate filed by Douglas Jenkins, Claim No. BC-12-306; no opposition to motion by the Claimant herein.

Counsel's Recommendation: Enter an Order consolidating with BC-12-306, Douglas Jenkins v. Transportation Cabinet, Dept. of Highways, and reassigning consolidated claims to Hearing Officer Mike Wilson. ✓

BC-2012-00312

Janis Guinchigliani vs. Administrative Office of The Courts

Notes: Respondent's Motion to Dismiss and Memorandum in support thereof; no response filed by the Claimant.

Counsel's Recommendation: Enter a Final Order dismissing the claim with prejudice pursuant to KRS 26A100(2) and for lack of jurisdiction over county governmental entities. ✓

BC-2012-00387

Jacquelyn Beckett vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

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

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

BC-2012-00410

Ashley Lee vs. University of Kentucky

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

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

Recommended Order

BC-2010-00436

Sherman Willoughby vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Mike Wilson's Recommended Findings of Fact, Conclusions of Law and Order awarding \$117,135.70 to the Claimant and Respondent's Exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer awarding the Claimant \$117,135.70. ✓

BC-2011-00141

Estate of Mark Abdallah vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Jan West's Opinion and Recommended Order granting the Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Adopt the recommendation of the hearing officer granting the Motion for Summary Judgment and enter a Final Order of Dismissal accordingly. ✓

BC-2011-00949

Ron Bacigalupi vs. Transportation Cabinet / Dept. 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 and dismiss the claim accordingly. ✓

BC-2012-00172

John Fugate; Woodrow Fugate vs. University of Kentucky

Notes: Hearing Officer Mike Wilson's Recommendation for Dismissal.

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

Total number of Claims: 23

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS
Addendum

October 18, 2012

BC-2009-00431

Walid Mourad, MD v. University of Kentucky

Joint Motion to Dismiss and Agreed Settlement Agreement filed awarding the Claimant \$172,500.00 in settlement of this matter.

Counsel's Recommendation: Enter a Final Order of Dismissal awarding the Claimant \$172,500.00 as agreed to by the parties. ✓

BC-2011-00599

Jackie Miller, Jr., by and through his next friend, Jackie Miller, Sr. v. Erlanger-Elsmere Board of Education

Claimant's Voluntary Dismissal with prejudice.

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

- Sue Cassidy recused -

BC-2011-01010

Janel Ratliff v. Transportation Cabinet, Dept. of Highways

Agreed Order of Dismissal filed awarding the Claimant \$2,500.00 in settlement of this matter.

Counsel's Recommendation: Enter the Agreed Order of Dismissal awarding the Claimant \$2,500.00 as agreed to by the parties. ✓

BC-2012-00015

Roger Pete Thomas v. Transportation Cabinet, Dept. of Highways

Agreed Order of Dismissal filed awarding the Claimant \$4,500.00 in settlement of this matter.

Counsel's Recommendation: Enter the Agreed Order of Dismissal awarding the Claimant \$4,500.00 as agreed to by the parties. ✓

BC-2012-00327

Estate of Jennifer Zimmer v. Justice & Public Safety Cabinet, State Police Dept.

Agreed Order of Dismissal filed by the parties.

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

BC-2012-00446

Charlene Engle v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Respondent filed an Answer admitting its liability and recommending payment of the Claimant's damages. However, upon investigation by the Assistant Clerk of the Board, the Board finds that the Claimant's damages are covered under her personal medical insurance plans and thus not compensable by the Board of Claims Act.

per GMAU Counsel's Recommendation: Enter a Final Order dismissing the claim ~~with~~ prejudice pursuant to KRS 44.070(1). ✓
