

COMMONWEALTH OF KENTUCKY

Board of Claims

Agenda

April 15, 2010

Minutes Accepted
L.E. Forgy not in attendance

The Board of Claims received 120 new claims during the month of March, 2010. A total of 109 claims were set up, according to Assistant Clerk Paula Woolums. Paula also dismissed 12 claims for being under the \$100.00 threshold and returned nine (9) claims for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 58 claims (under \$1,000.00) in March, 2010. Jackie reports that 45 claims were dismissed and 13 claims were awarded, for a total amount awarded of \$5,628.37.

At its Board meeting on March 18, 2010, the Board dismissed 24 claims and awarded eight (8) claims totaling \$133,602.59. Together with the claims investigated in-house, the Board dismissed a total of 69 claims and awarded a total of 21 claims for a total amount awarded of \$139,230.96 in March, 2010.

For Instructions From the Board

BC-2007-00479

Amber Wilson; Priscilla Richard vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Order to Comply or Show Cause rendered by the Board on February 12, 2010. No response has been received from Claimant to date.

Counsel's Recommendation: Enter Final Order dismissing the claim for failure to prosecute and failure to comply with the Order of the Board. ✓

BC-2007-00529

Walter Combs; Ruvisela Combs vs. Transportation Cabinet / Department of Highways

Notes: Agreed Order of Settlement and Dismissal filed.

Counsel's Recommendation: Enter Agreed Order of Dismissal, awarding Claimant \$1,395.00 in settlement of this matter. ✓

BC-2009-00150

Carrie Henrickson vs. Transportation Cabinet

Notes: Agreed Order of Settlement and Dismissal filed.

Counsel's Recommendation: Enter Agreed Order of Settlement and Dismissal, awarding Claimant \$950.00 in settlement of this claim. ✓

BC-2009-00354

James Hayden vs. Transportation Cabinet / Department of Highways

Notes: Agreed Order of Settlement and Dismissal filed.

Counsel's Recommendation: Enter Agreed Order and award Claimant \$850.00 in settlement of this claim. ✓

BC-2009-00754

Russell ~~Head~~ vs. Justice and Public Safety Cabinet

Notes: April 15, 2010 Default Order

Counsel's Recommendation: Rule the Claimant in default and dismiss the claim. ✓

BC-2009-00868

Forest Green vs. University of Kentucky

Notes: April 15, 2010 Default Order

Counsel's Recommendation: Rule the Claimant in default and dismiss the claim. ✓

BC-2009-00885

Michael Cairns vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: Respondent's Answer denying liability due to its lease agreement with National Gun Day Promotions.

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

BC-2009-00931

Charles Yates; Linda Yates vs. Commonwealth of Kentucky

Notes: April 16, 2010 Default Order

Counsel's Recommendation- Rule the Claimant in default and dismiss the claim.

BC-2010-00073

Herbert Stevens vs. Transportation Cabinet / Department of Highways

Notes: Agreed Order dismissing the claim as settled.

Counsel's Recommendation: Enter the Agreed Order and dismiss the claim accordingly. ✓

Full Board Review

BC-2009-00712

Mark Cole vs. Justice and Public Safety Cabinet / Department of Corrections

*Upheld
Original*

Notes: 3/04/10 Board ordered dismissed.
3/19/10 Claimant requested FBR. (\$357.92)

BC-2009-00906

Jason Gay vs. Justice and Public Safety Cabinet / Department of Corrections

||

Notes: 2/26/10 Board ordered dismissed
3/12/10 Claimant requests FBR (\$255.00)

BC-2009-00916

Glenn Niehaus vs. Justice and Public Safety Cabinet / Department of Corrections

||

Notes: 3/5/10 Board ordered dismissed
3/15/10 Claimant requests FBR (\$822.01)

BC-2009-00926

Marquis Powell vs. Justice and Public Safety Cabinet / Department of Corrections

||

Notes: 3/12/10 Board ordered dismissed
3/25/10 Claimant requests FBR (\$288.26)

BC-2009-00944
Charles Pearl vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: 2/26/10 Board ordered dismissed
3/12/10 Claimant requests FBR

*Upheld
Original Order*

BC-2009-00989
Kelly Jones vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: 2/22/10 Board dismissed claim.
3/05/10 Claimant requests FBR (\$271.71)

H

BC-2009-00998
Ronald Burgess vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: 3/22/10 Board dismissed claim.
3/31/10 Claimant requested FBR (\$314.61)

H

BC-2009-01000
Jerry Denney vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: 3/12/10 Board ordered dismissed
3/24/10 Claimant requests FBR (\$317.99)

H

Motions

BC-2009-00583
Brian Scholbrock vs. Transportation Cabinet / Department of Highways

Notes: 8/12/09 Board awarded \$500, insurance deductible.
9/2/09 Claimant called to say he may want a FBR.
10/15/09 Mitch/Jackie's letter to Claimant regarding how to request a FBR. He wants 4 tires/rims rather than the 2 that were damaged. Has recovered for 2 tires from insurance, plus \$500 from the Transportation Cabinet.
1/20/10 Claimant submitted documents, no letter. Called later and left message.
1/22/10 FBR Memo to Claimant and Respondent.
2/18/10 Final Order - awarding \$632.22 (1/2 of 4 rims)
2/26/10 Respondent sends Motion for Reconsideration

*Continued
to 5/20/10*

BC-2009-00860
Lindsay Florence vs. Eastern Kentucky University

Notes: Respondent's Answer and Motion to Dismiss.

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

BC-2009-00988
Fred Luckenbill vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

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

BC-2009-01006

Alfonso Bailey 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 Final Order sustaining the Motion to Dismiss for failure to state a claim upon which relief can be granted. ✓

BC-2010-00059

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

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

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

BC-2010-00095

Donna Hicks vs. Cabinet for Health and Family Services

Notes: Respondent's Motion for Summary Judgment.

Counsel's Recommendation will be made at the meeting.

Failure to state a claim - no duty

Sustain unopposed Motion for SJ.

BC-2010-00107

Casey Spencer vs. Jessamine County Board of Education

Notes: Respondent's Motion to Dismiss. No response received from Claimant.

Counsel's Recommendation: Sustain the Motion to Dismiss for failure to meet the statute of limitations. ✓

BC-2010-00147

Timothy Rouse vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Claimant's Motion to Withdraw Claim filed.

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

Recommended Order

BC-1988-00917

Deborah Cole (now Turner), Individually and on behalf of Justin Cole and Sharon McQueen vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw's Recommended Order awarding damages totalling \$33,388.06 to Claimants.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and award Claimants accordingly.

*Exceptions Filed
Parties to clarify offsets*

BC-2004-00800

Ricky Edwards, et ux. vs. Transportation Cabinet / Department of Highways

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

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

Exceptions Filed

BC-2007-00545
Sima Maiti vs. Transportation Cabinet

Exceptions Filed

Notes: Hearing Officer Darren Embry's Recommended Order denying the claim.

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

BC-2008-01088
Bernadette Mechels vs. Transportation Cabinet / Department of Highways

Exceptions Filed

Notes: Hearing Officer Todd Farmer's Recommended Order awarding \$17,500.00 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and award \$17,500.00 to Claimant. ✓

BC-2009-00269
Robert Sprague vs. Eastern Kentucky University

Notes: Hearing Officer Darren Embry's Recommended Order dismissing the claim.

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

BC-2009-00485
Steve Sallee; Melissa Silvers vs. Transportation Cabinet / Department 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. ✓

BC-2009-00486
Scottie Bowling vs. Transportation Cabinet

Notes: Hearing Officer Charles Miller's Recommended Order on Respondent's Motion for Summary Judgment.

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

BC-2009-00604
Nick Byrd vs. Transportation Cabinet

Notes: Hearing Officer Charles Miller's Recommended Order of Dismissal.

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

BC-2009-00630
Sara Joines; David Joines vs. Transportation Cabinet / Department of Highways

Notes: Hearing Officer Todd Farmer's Recommended Order of Settlement and Dismissal.

Counsel's Recommendation: Enter Final Order adopting the settlement of \$500.00 to Claimants and dismiss the claim as settled. ✓

BC-2009-00634
Sally Baker vs. Energy & Environmental Cabinet / Dept. for Natural Resources / Division of Forestry

Exceptions
Filed

Notes: Hearing Officer Darren Embry's Recommended Order awarding \$5,850.00 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and award Claimant \$5,850.00.

CONTINUE

BC-2009-00641

Jessica Brock vs. Transportation Cabinet

Notes: Hearing Officer Charles Miller's Recommended Order of Dismissal.

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

BC-2009-00722

Philip Schoenauer vs. Transportation Cabinet

Exceptions Filed

Notes: Hearing Officer Todd Farmer's Opinion and Recommended Order denying claim.

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

Total number of Claims: 37

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS
Addendum
April 15, 2010

BC-09-819

Daniel and Marcia Boland v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Agreed Order of Settlement filed.

Counsel's Recommendation: Enter Agreed Order of Settlement, awarding Claimant \$2,700.00 in settlement of this claim. ✓

BC-10-290

John A. May v. Finance and Administration Cabinet, Dept. of Revenue

Duplicate claim filed; original claim was dismissed on September 17, 2009 for failure to state a claim upon which relief can be granted.

Counsel's Recommendation: Enter Order dismissing the claim with prejudice as duplicative. ✓
