

COMMONWEALTH OF KENTUCKY

Board of Claims

Agenda

August 18, 2011

Minutes Adopted

The Board of Claims received 66 new claims during the month of July, 2011. A total of 130 claims were set up, according to Assistant Clerk Paula Woolums. Paula also dismissed six (6) claims for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 85 claims (under \$1,000.00) in July, 2011. Jackie reports that 44 claims were dismissed and 41 claims were awarded, for a total amount awarded of \$14,692.48.

At its Board meeting on July 21, 2011, the Board dismissed 30 claims and awarded nine (9) claims totaling \$379,183.20. Together with the claims investigated in-house, the Board dismissed a total of 74 claims and awarded a total of 50 claims for a total amount awarded of \$393,875.68 in July, 2011.

(See back)

For Instructions From the Board

BC-2009-00728

Barbara Reames vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$5,000.00 to Claimant filed.

Counsel's Recommendation: Enter the Agreed Order awarding \$5,000.00 to Claimant as stipulated to by the parties. ✓

BC-2009-00729

David Williams vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Enter Agreed Order awarding \$10,000.00 to Claimant as stipulated to by the parties. ✓

BC-2009-00874

Brian Dillon vs. Commonwealth of Kentucky

Notes: August 18, 2011- Default Order

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

BC-2009-01013

Suzann Phillips, Next Friend of Dillon Phillips vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Agreed Order awarding \$10,000.00 to Claimant.

Counsel's Recommendation: Enter the Agreed Order and award Claimant \$10,000.00 as stipulated to by the parties. ✓

BC-2010-00422

Darrell Risner vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Fred E. Fugazzi's recommended Agreed Order awarding \$25,000.00 to Claimant as a result of mediation between the parties.

Counsel's Recommendation: Enter a Final Order awarding Claimant \$25,000.00 in settlement of this claim as agreed to by the parties during mediation. ✓

Bd. Dir. gave a positive report
on former Tom Handy.

Two new members: Larry O'Bryan
& Sue Cassidy.

BC-2010-00489

John Hager; Donna Hager vs. Transportation Cabinet / Dept. of Highways; and Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Agreed Order dismissing Respondent Justice & Public Safety Cabinet, Dept. of Corrections, from the above-referenced action.

Counsel's Recommendation: Enter the Agreed Order dismissing the Justice & Public Safety Cabinet as a respondent in BC-10-489. ✓

BC-2010-00591

Ada Chenault vs. Military Affairs

Notes: Settlement Agreement awarding \$2,070.92 to Claimant filed.

Counsel's Recommendation: Enter a Final Order awarding \$2,070.92 to Claimant as agreed to by the parties. ✓

BC-2010-00622

Lonnie Anderson vs. Transportation Cabinet / Department of Highways

Notes: August 18, 2011- Default Order

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

BC-2010-00681

Iona Shantz vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: Agreed Order awarding \$771.00 to Claimant filed.

Counsel's Recommendation: Enter Agreed Order awarding \$771.00 to Claimant a stipulated to by the parties. ✓

BC-2010-00750

Ernie Fowler vs. Commonwealth of Kentucky

Notes: August 18, 2011- Default Order

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

BC-2010-00757

Brydon Christensen vs. Tourism, Arts & Heritage Cabinet / Kentucky Horse Park

Notes: August 18, 2011- Default Order

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

BC-2011-00190

Teresa Sams vs. Transportation Cabinet / Dept. of Highways

Notes: August 18, 2011- Default Order

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

BC-2011-00312

Barbara Spurlin vs. Transportation Cabinet / Department of Highways

Notes: August 18, 2011 Default Order

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

BC-2011-00423

Sherry Bruce vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$1,000.00 to Claimant filed.

Counsel's Recommendation: Enter Agreed Order awarding \$1,000.00 to Claimant as stipulated to by the parties. ✓

BC-2011-00582

Estevao Lima vs. Transportation Cabinet / Dept. of Highways

Notes: Claimant's Motion to Stay [hold claim in abeyance] pending suit in federal district court against the contractor.

Counsel's Recommendation: Enter an Order holding the claim in abeyance pending the outcome of the federal district court case against the contractor. ✓

BC-2011-00582

Estevao Lima vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Enter an Order sustaining Claimant's Motion to Stay, holding claim in abeyance pending the outcome of the parallel federal civil action.

BC-2011-00615

Ebony Patterson v. University of Kentucky

Notes: Respondent's Answer recommending payment of \$5,000.00 to Claimant.

Counsel's Recommendation: Enter a Final Order awarding Claimant \$5,000.00 in settlement of this claim. ✓

BC-2011-00684

Gene Forte, Individually and as Administrator of the Estate of Carole Forte vs. Nelson County Board of Education

Notes: Agreed Order regarding the filing of discovery documents from the Nelson Circuit Court, Civil Action Nos. 07-CI-164 and 07-CI-338.

Counsel's Recommendation: Enter Agreed Order allowing the filing of certain discovery documents from the aforementioned Nelson Circuit Court actions. ✓

BC-2011-00839

Michelle Fox vs. Commonwealth of Kentucky

Notes: Claim filed by an insurer on behalf of its insured.

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

Full Board Review

BC-2011-00287

Mary Evans vs. Transportation Cabinet / Department of Highways

Notes: 7/7/11 Board ordered dismissed
7/14/11 Claimant requests FBR (\$192.00) ✓

Uphold original dismissed

BC-2011-00333

Martha Boggs vs. Transportation Cabinet / Department of Highways

Notes: 7/5/11 Board ordered dismissed
7/19/11 Claimant requests FBR (\$371.46)

11

BC-2011-00471

Charles Foote vs. Department of Highways / Transportation

Notes: 7/7/11 Board ordered dismissed
7/22/11 Claimant requests FBR (\$164.73)

*Uphold
original
order*

BC-2011-00583

Dan Ziegler vs. Transportation Cabinet / Department of Highways

Notes: 6/29/11 Board ordered dismissed
7/18/11 Claimant requests FBR (\$124.98) ✓

*Reverse &
award*

Motions

BC-2009-00779

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

Notes: Respondent's Motion to Dismiss. No response filed by Claimant.

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

BC-2010-00756

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

Notes: Claimants' Motion to Amend Petition and Respondent's Memorandum in Opposition thereto.

Counsel's Recommendation: Overrule the Claimants' Motion to Amend Petition and Sustain the Respondent's Motion to Dismiss for failure to state a claim upon which relief can be granted.

*Hold over to
future docket*

BC-2011-00517

Douglas Yates vs. Transportation Cabinet / Department of Highways

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

Counsel's Recommendation: Overrule the Motion to Dismiss and allow Claimant thirty (30) days to retain counsel for Yates Auto Sales. ✓

BC-2011-00548

Richard Lytton vs. Finance and Administration Cabinet

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

Counsel's Recommendation: Overrule the Motion to Dismiss and hold the claim in abeyance pending a parallel Franklin Circuit Court action. ✓

BC-2011-00564

Larry Frazee vs. Transportation Cabinet / Department of Highways

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

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

Recommended Order

BC-2001-00780

Sycilla Collins vs. Transportation Cabinet / Dept. of Highways

Exceptions filed by Claimants.

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

Counsel's Recommendation: Adopt the recommendation of the hearing officer denying payment of the claim. ✓

BC-2007-00818

Charles Pilant vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Adopt the recommendation of the hearing officer denying payment of the claim. ✓

BC-2008-00569

Rhonda Thacker vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw'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 denying payment of the claim. ✓

BC-2008-01188

Paul Brewer vs. University of Kentucky

Adopt liability + revise amt. of damages. \$80,168.39 total

Notes: Hearing Officer Braxton Crenshaw's Recommended Findings of Fact, Conclusions of Law and Order awarding ~~\$20,516.48~~ to Claimant; both parties files exceptions to the recommendation.

Counsel's Recommendation: Forthcoming at meeting. ✓

BC-2009-00497

Walter Jones vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw's Recommended Findings of Fact, Conclusions of Law and Order awarding \$144,409.41 to Claimant; both parties filed exceptions to the recommendation.

Counsel's Recommendation: ~~Forthcoming at meeting.~~

Reject RO in total + find no liability on part of Respondent.

BC-2009-00603

Estate of Kevin Jewell, by and through Tina Jewell, Administratrix vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Fred E. Fugazzi's Recommended Order holding the claim in abeyance pending a parallel Harlan Circuit Court action.

Counsel's Recommendation: Adopt the recommendation of the hearing officer holding the claim in abeyance pending the outcome of the parallel Harlan Circuit Court action. ✓

BC-2009-00920

Estate of Benny Blanton, by and through Angela Blanton, Administratrix vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Fred E. Fugazzi's Recommended Order holding the claim in abeyance pending the outcome of a parallel Harlan Circuit Court action.

Counsel's Recommendation: Adopt the recommendation of the hearing officer holding the claim in abeyance pending the outcome of the parallel Harlan Circuit Court action. ✓

BC-2010-00101

Pat Arrabito vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: Hearing Officer Jan West's Findings of Fact, Conclusions of Law and Recommended Order awarding \$1,600.00 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer awarding Claimant \$1,600.00 in settlement of this claim. ✓

BC-2010-00372

William McNees vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw's Recommended Findings of Fact, Conclusions of Law and Order granting Respondent's Motion to Dismiss.

Counsel's Recommendation: Adopt the recommendation of the hearing officer granting the Motion to Dismiss and dismissing the claim with prejudice. ✓

BC-2010-00606

Mary Murray vs. Ky. Community and Technical College System

Notes: Hearing Officer Jan West's Findings of Fact, Conclusions of Law and Recommended Order denying the Respondent's Motion for Summary Judgment.

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

BC-2010-00609

Charlene Cripps vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer William 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 denying payment of the claim. ✓

BC-2010-00646

Linda Hopper vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Hearing Officer Lanny King's Recommended Order of Dismissal for failure to prosecute.

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

BC-2010-00814

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

Notes: Hearing Officer Lansden King's Recommended Order granting Respondent's Motion to Dismiss.

Counsel's Recommendation: Adopt the recommendation of the hearing officer granting the Respondent's Motion to Dismiss and dismissing the claim with prejudice. ✓

BC-2011-00171

Moon-He Baik vs. Transportation Cabinet / Dept. of Highways

Exceptions filed by Claimant.

Notes: Hearing Officer Jan West's Recommended Opinion and Order dismissing the claim for failure to prosecute.

Counsel's Recommendation: *Reject* ~~Adopt the recommendation of the hearing officer dismissing the claim with prejudice for Claimant's failure to prosecute~~ *& remand to Jo West.*

BC-2011-00219

Allen Pharr vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Lansden King'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 denying payment of the claim. ✓

Total number of Claims: 43

**COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS**

*Addendum
August 18, 2011*

BC-2009-694

S. Dianne Blanford v. Justice & Public Safety Cabinet, Ky. State Police Dept.

Agreed Order of Dismissal filed by the parties.

Counsel's Recommendation: Enter an Order dismissing the claim pursuant to the agreement entered into by the parties. ✓

// Ms. Cassidy to recuse on all claims
// that her law firm is involved in.

Add to minutes -