

COMMONWEALTH OF KENTUCKY
Board of Claims
Agenda
February 19, 2009

12/08
Minutes
Approved

The Board of Claims received 61 new claims during the month of December, 2008. A total of 78 new claims were set up, according to Assistant Clerk Paula Woolums. Paula also dismissed three (3) claims for being under the \$100.00 threshold.

Investigators Jackie Lynch and Wanda Luttrell decided 55 claims (under \$1000.00) in December, 2008. They dismissed 34 claims and awarded 21 claims for a total amount of \$8,572.94. Together with the claims investigated in-house, the Board dismissed a total of 45 claims and awarded 28 claims for a total amount awarded of \$26,987.16 in December, 2008.

The Board of Claims received 82 new claims during the month of January, 2009. A total of 59 new claims were set up, according to Assistant Clerk Paula Woolums. Paula also dismissed one (1) claim for being under the \$100.00 threshold.

Investigators Jackie Lynch and Wanda Luttrell decided 70 claims (under \$1000.00) in January, 2009. They dismissed 47 claims and awarded 23 claims for a total amount of \$8,659.52. No Board meeting was held in January, 2009.

For Instructions From the Board

BC-2008-00198

Terry McGuire vs. Justice and Public Safety Cabinet / Justice and Public Safety Cabinet

Notes: March 18, 2008 Order for More information
August 6, 2008 Order to Comply of Show Cause

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

BC-2008-00200

Carroll Alexander vs. Justice and Public Safety Cabinet / Justice and Public Safety Cabinet

Notes: March 18, 2008 Order for More Information
August 6, 2008 Order to Comply or Show Cause

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

BC-2008-00302

Tiffany Newton vs. Department of Highways / Transportation

Notes: April 3, 2008 Order for More Information
September 9, 2008 Order to Comply or Show Cause

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

BC-2008-00321

Keith Dixon vs. Department of Highways / Transportation

Notes: April 7, 2008 Order for More Information
September 9, 2008 Order to Comply or Show Cause

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

BC-2008-00369

Rick Wilson vs. Department of Highways / Transportation

Notes: April 22, 2008 Order for More Information
September 8, 2008 Order to Comply or Show Cause

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

BC-2008-00384

Patrisha Durbin vs. Department of Highways / Transportation

Notes: April 16, 2008 Order for More Information
September 9, 2008 Order to Comply or Show Cause

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

BC-2008-00412

Charles Skirvin vs. Department of Highways / Transportation

Notes: April 17, 2008 Order for More Information
May 21, 2008 Order
September 8, 2008 Order to Comply or Show Cause

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

BC-2008-00441

Brenda Rhodes vs. Department of Highways / Transportation

Notes: April 25, 2008 Order for More Information
September 9, 2008 Order to Comply or Show Cause

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

BC-2008-00442

Gladys Curtis vs. Department of Highways / Transportation

Notes: April 17, 2008 Order for More Information
September 9, 2008 Order to Comply or Show Cause

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

BC-2008-00478

Willie Ray vs. Department of Highways / Transportation

Notes: April 30, 2008 Order for More Information
September 8, 2008 Order to Comply or Show Cause

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

BC-2008-00490

Dorothy Cook vs. Department of Highways / Transportation

Notes: April 29, 2008 Order for More Information
September 9, 2008 Order to Comply or Show Cause

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

BC-2008-00499

Kelly Starks vs. Department of Highways / Transportation

Notes: May 14, 2008 Order for More Information
September 8, 2008 Order to Comply or Show Cause
Counsel's Recommendation- Rule the Claimant in Default and Dismiss the Claim. ✓

BC-2008-00516

James Fields vs. Department of Highways / Transportation

Notes: May 12, 2008 Order for More Information
September 8, 2008 Order to Comply or Show Cause
Counsel's Recommendation- Rule the Claimant in Default and Dismiss the Claim. ✓

BC-2008-00517

Amanda Allen vs. Department of Highways / Transportation

Notes: May 12, 2008 Order for More Information
September 8, 2008 Order to Comply or Show Cause
Counsel's Recommendation- Rule the Claimant in Default and Dismiss the Claim. ✓

BC-2008-00538

Scott Smith vs. Department of Highways / Transportation

Notes: May 8, 2008 Order for More Information
September 18, 2008 Order to Comply or Show Cause
Counsel's Recommendation- Rule the Claimant in Default and Dismiss the Claim. ✓

BC-2008-00616

Wilma Rogerson vs. Department of Highways / Transportation

Notes: May 28, 2008 Order for More Information
September 18, 2008 Order to Comply or Show Cause
Counsel's Recommendation- Rule the Claimant in Default and Dismiss the Claim. ✓

BC-2008-00627

Ronald Gentry vs. Justice and Public Safety Cabinet / Justice and Public Safety Cabinet

Notes: May 23, 2008 Order for More Information
September 18, 2008 Order to Comply or Show Cause
Counsel's Recommendation- Rule the Claimant in Default and Dismiss the Claim. ✓

BC-2008-00668

Michael Kurk vs. Department of Highways / Transportation

Notes: May 30, 3008 Order for More Information
September 18, 2008 Order to Comply or Show Cause
Counsel's Recommendation- Rule the Claimant in Default and Dismiss the Claim. ✓

BC-2008-00669

Theresa Smith vs. Department of Highways / Transportation

Notes: May 30, 2008 Order for More Information
September 18, 2008 Order to Comply or Show Cause

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

BC-2008-00713

Maurice Todd, #195347 vs. Jefferson County Metro Jail

Notes: June 13, 2008 Order for More Information
September 18, 2008 Order to Comply or Show Cause

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

BC-2008-01040

Steven Evans vs. Pike County Fiscal Court

Notes: Answer filed by Pike Co. Fiscal Court on 1/9/09.

Counsel's Recommendation: Enter Final Order dismissing claim against county government. ✓

BC-2008-01099

Rebecca Hamlin vs. City of Somerset

Notes: Claim filed against a city government. No answer filed by the City of Somerset.

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

BC-2008-01131

Troy Gavin vs. City of Louisville Water Company

Notes: Answer and Motion to Dismiss filed by the Louisville Water Company.

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

Full Board Review

\$351⁰⁰

BC-2008-00532

Virgie Dixon vs. Department of Highways / Transportation

Notes: 12/5/08 Board dismissed claim
12/17/08 Claimant requests a FBR

- JMM recommended an award -
Awarded - Original
decision reversed

BC-2008-00806

Brandy Kidd vs. Department of Highways / Transportation

Notes: 1/22/09 CL sends additional info. & photos and requests FBR
2/04/09 FBR memo to Claimant and Respondent.

\$500⁰⁰

Awarded - Original
decision reversed
(FBRy recused)

BC-2008-00814

Carol Nugent vs. Department of Highways / Transportation

Notes: 1/27/09 Claimant requests FBR
2/04/09 FBR to Claimant and Respondent.

(\$418.23)

Uphold Original
Decision

Motions

BC-2006-00547

Stones River Electric, Inc. vs. Murray State University, et al.

Notes: Joint Stipulation of Dismissal of Claims and Request for Approval of Dismissal of Claims. ✓

Counsel's Recommendation: Enter Final Order dismissing claim.

BC-2008-00523

Pam Owens vs. Transportation Cabinet

Notes: Answer of Respondent stating that subject location does not fall under the jurisdiction of the Board of Claims. ✓

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

~~BC-2008-00847~~

~~Crystal Williams vs. Cabinet for Health and Family Services~~

~~Notes: Claimant's Motion for Extension of Time to file a response to the Verified Motion to Dismiss filed by Respondent.~~

~~Counsel's Recommendation: Enter Order Granting Motion for Extension of Time.~~

BC-2008-00924

Pam Elkins; Thomas Parker vs. Hickman County Board of Education

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

Counsel's Recommendation: Enter Order Overruling Motion to Dismiss and assign claim to a Hearing Officer. ✓

BC-2008-00990

Timothy Rouse vs. Justice and Public Safety Cabinet / Ky. State Penitentiary

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

Counsel's Recommendation: Sustain as much of the Motion to Dismiss as it relates to confinement and discrimination issues; enter Order requiring Claimant to provide a more definite statement of his medical negligence claim. ✓

BC-2008-01000

Sean Bardes vs. Eastern Kentucky University

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

Counsel's Recommendation: Enter Order Overruling Motion to Dismiss and assign claim to Hearing Officer Charles Miller. ✓

BC-2008-01016

Trent Fry; Tracey Fry vs. Scott County Board of Education

Notes: Respondent's Motion to Dismiss and Claimant's Response thereto; Claimant's Motion to Hold Claim in Abeyance.

Counsel's Recommendation: Enter Order Holding Claim in Abeyance and Reserving the Motion to Dismiss. ✓

BC-2008-01073

Michael Paisley vs. Transportation Cabinet / Department of Highways

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

Counsel's Recommendation: Enter Order Sustaining Motion to Dismiss. ✓

BC-2008-01108

Katy Trout vs. University of Kentucky Medical Center

Notes: Respondent's Motion to Hold in Abeyance. No response received from Claimant.

Counsel's Recommendation: Enter Order Holding Claim in Abeyance pending the outcome of the Claimant's Medicare claim. ✓

BC-2008-01111

Holly Rosser vs. Cabinet for Health and Family Services / Western State Hospital

Notes: Respondent's Answer and Motion to Dismiss or, Alternatively, Motion to Hold in Abeyance. No response received from Claimant.

Counsel's Recommendation: Enter Order Holding Claim in Abeyance pending the Worker's Compensation claim and Reserving the Motion to Dismiss. ✓

BC-2008-01160

David Qualls; Paula Qualls vs. Transportation Cabinet

Notes: Respondent's Motion to Dismiss for lack of jurisdiction.

Counsel's Recommendation: Enter Order Sustaining Motion to Dismiss. ✓

BC-2008-01185

George Green vs. Department of Parks / Tourism, Arts and Heritage Cabinet

Notes: Respondent's Answer and Motion to Dismiss re Claimant hit deer in roadway.

Counsel's Recommendation: Enter Order Sustaining Motion to Dismiss for lack of jurisdiction over wildlife. ✓

BC-2008-01188

Paul Brewer vs. University of Kentucky Medical Center

Notes: Claimant's Motion to Strike Answer and Respondent's Response filed thereto.

Counsel's Recommendation: Enter Order Overruling Motion to Strike Answer and assign claim to Hearing Officer Charles Miller. ✓

Recommended Order

BC-2002-00334

Ira Southwood; Leatha Southwood vs. Transportation Cabinet

Notes: Agreed Order of Settlement filed.

Counsel's Recommendation: Enter Agreed Order of Settlement and dismiss claim as settled. ✓

BC-2006-00175

Michael Eades vs. Tourism, Arts & Heritage Cabinet / Ky. State Fair Board

Notes: Claimant's Notice of Dismissal.

Counsel's Recommendation: Enter Final Order Dismissing claim at Claimant's request. ✓

BC-2006-00362

Michael Stone vs. Transportation Cabinet

Notes: Claimant deceased as of February 12, 2008; no personal representative has been appointed for the Claimant's Estate, despite several extensions of time granted by the Board.

Counsel's Recommendation: Enter Final Order Dismissing claim due to death of Claimant. ✓

BC-2007-00112

Rhonda Kircher vs. Transportation / Transportation Cabinet

Notes: Agreed Order of Settlement and Dismissal.

Counsel's Recommendation: Enter Agreed Order of Settlement and award Claimant \$30,000.00. ✓

BC-2007-00158

Melisa Kessinger vs. Department of Military Affairs

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

Counsel's Recommendation: Enter Final Order adopting the recommendation of the hearing officer and dismiss the claim for failure to prosecute. ✓

BC-2007-00450

Dwain Brockman vs. Justice and Public Safety Cabinet / Department of State Police

Notes: Hearing Officer Braxton Crenshaw's Recommended Findings of Fact, Conclusions of Law and Recommended Order; Claimant's Exceptions filed thereto; and Respondent's Response to Claimant's Exceptions.

Counsel's Recommendation: Enter Final Order adopting the recommendation of the hearing officer and deny the claim. ✓

BC-2007-00637

Tuesday Helton; Marsha Helton vs. Office of Housing, Buildings and Construction / Office of Housing, Buildings and Construction; Environmental and Public Protection Cabinet / Bath Co.

Notes: Agreed Order Dismissing Claimants' claims against Respondent Bath Co.

Counsel's Recommendation: Enter Order Dismissing Bath Co. as a Respondent on all four (4) consolidated claims, pursuant to Board of Claims v. Harris. ✓

BC-2007-00721

Bertha Pentecost vs. Tourism, Arts & Heritage Cabinet / Ky. State Fair Board

Notes: Agreed Order Dismissing as Settled filed 12/23/08.

Counsel's Recommendation: Enter Agreed Order Dismissing as Settled and Award Claimant \$201.39. ✓

BC-2007-00749

James Mallory vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: Hearing Officer Todd Farmer's Recommended Order Granting Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Enter Final Order Adopting the recommendation of the hearing officer and Sustaining the Motion for Summary Judgment. ✓

BC-2007-00762

Quinton Glendening; LeQuita Chittenden vs. Transportation Cabinet

Notes: Hearing Officer Todd Farmer's Opinion and Recommended Order Denying Claim.

Counsel's Recommendation: Enter Final Order adopting the recommendation of the hearing officer and deny the claim. ✓

BC-2008-00081

James Landrum vs. Tourism, Arts & Heritage Cabinet / Dept. of Parks

Notes: Agreed Order of Settlement filed 12/22/08.

Counsel's Recommendation: Enter Agreed Order of Settlement and Award Claimant \$800.00. ✓

BC-2008-00248

Cleo Miller vs. Transportation Cabinet

Notes: Agreed Order of Settlement and Dismissal.

Counsel's Recommendation: Enter Agreed Order of Settlement and award Claimant \$1,000.00. ✓

BC-2008-00497

James Deardorff vs. Transportation Cabinet

Notes: Hearing Officer Charles Miller's Recommended Findings of Fact, Conclusions of Law and Recommended Order Denying Claim.

Counsel's Recommendation: Enter Final Order adopting the recommendation of the hearing officer and deny the claim. ✓

BC-2008-00541

James May vs. University of Kentucky

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

Counsel's Recommendation: Enter Order adopting the recommendation of the hearing officer and dismiss the claim. ✓

BC-2008-00629

Haldex Brake Props. Corp vs. Tourism, Arts & Heritage Cabinet / Ky. State Fair Board

Notes: Agreed Order Dismissing as Settled filed 12/24/08.

Counsel's Recommendation: Enter Agreed Order Dismissing as Settled and Award Claimant \$8,500.00. ✓

BC-2008-00697

Samuel Dobson vs. Western Kentucky University

Notes: Hearing Officer Charles Miller's Recommended Order Denying Motion to Dismiss.

Counsel's Recommendation: Enter Final Order adopting the recommendation of the hearing officer and Overruling the Motion to Dismiss. ✓

BC-2008-01047

Lamar Outdoor Advertising vs. Transportation Cabinet

Notes: Notication received the Claimant was paid by Travelers Insurance on behalf of Respondent.

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

BC-2008-01194

Alice Wilson vs. Transportation Cabinet

Notes: Agreed Order of Dismissal.

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

BC-2009-00061

Jason Borden vs. Warren Circuit Court, Division I

Notes: Answer filed by Judge Steve Alan Wilson, Judge, Warren Circuit Court, Division I, requesting a more definite statement from Claimant.

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

Total number of Claims: 58

41 dismissed

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS
Addendum
February 19, 2009

BC-2007-614 & BC-2007-615
Thomas Fisher and Elizabeth Fisher v. Transportation Cabinet

Agreed Order of Dismissal filed 2/12/09.

Counsel's Recommendation: Enter Agreed Order of Dismissal and dismiss the claims with prejudice. ✓

BC-2008-663
Dan Ziegler v. Transportation Cabinet

Agreed Order Dismissing as Settled, filed 2/12/09.

Counsel's Recommendation: Enter Agreed Order Dismissing as Settled and award Claimant \$925.00. ✓

BC-07-203
William L. Hollon v. Transportation Cabinet

Agreed Order Dismissing as Settled, filed 2/13/09. *

Counsel's Recommendation: Enter Agreed Order Dismissing as Settled and award Claimant \$1,000.00. ✓
