

COMMONWEALTH OF KENTUCKY  
Claims Commission  
Agenda  
July 25, 2017

Carlo Wessels  
out  
GMMout

The Kentucky Claims Commission received 59 negligence claims filed against the Commonwealth during the month of June, 2017. Paula reports that 59 claims were set up and two (2) claims were returned for lack of jurisdiction.

Investigator Angela Robertson decided 19 claims under \$1,000.00 in June, 2017. Angela reports that 11 of these claims were denied and eight (8) were awarded, for a total amount awarded of \$2,973.95.

At its meeting on June 20, 2017, the Kentucky Claims Commission dismissed two (2) negligence claims and awarded nine (9) negligence claims totaling \$54,017.00. Together with the claims investigated in-house, the Claims Commission dismissed a total of 13 negligence claims and awarded a total of 17 negligence claims for a total amount awarded of \$56,990.95 in June, 2017.

// Appreciation for Paula's  
Years of Service.

FOR INSTRUCTIONS FROM THE COMMISSION:

**BC-2015-337**

Patricia Tate vs. Transportation Cabinet / Dept. of Highways

Notes: Claimant filed Notice of Dismissal of her claim.

Counsel's Recommendation: Enter an Order dismissing the claim with prejudice as requested by the Claimant.

**BC-2015-1023**

Estate of Ernest Erwin v. Justice & Public Safety Cabinet / Dept. of State Police

Notes: Agreed Order of Dismissal filed.

Counsel's Recommendation: Enter the Agreed Order of Dismissal as recommended by Hearing Officer Patrick Flannery.

**BC-2016-242**

Estate of Odis R. Burroughs v. Transportation Cabinet / Dept. of Highways

Notes: Claims Commission's Order for the Claimant to Comply or Show Cause for its lack of responding to the Commission's prior Status Orders; no response has been received from the Claimant.

Counsel's Recommendation: Enter an Order of Dismissal for the Claimant's failure to abide by the orders of this tribunal.

**BC-2016-326**

Dolly Lipperd v. Transportation Cabinet / Dept. of Highways

Notes: Claims Commission's Order for the Claimant to Comply or Show Cause for her lack of responding to the Commission's prior Status Orders; no response has been received from the Claimant.

Counsel's Recommendation: Enter an Order of Dismissal for the Claimant's failure to abide by the orders of this tribunal.

**BC-2016-353**

Timothy and April Mahan v. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Dismissal for \$1,500.00 filed.

Counsel's Recommendation: Enter the Agreed Order of Dismissal awarding the Claimants \$1,500.00 in settlement of this claim.

**BC-2016-449**

Hattie Carter v. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Dismissal for \$1,250.00 filed by the parties.

Counsel's Recommendation: Enter the Agreed Order of Dismissal awarding the Claimant \$1,250.00 in settlement of this claim.

**BC-2017-116**

Ashley Murley v. Tourism, Arts & Heritage Cabinet / Dept. of Parks

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

Counsel's Recommendation: Enter an Order awarding the Claimant \$3,154.55 in settlement of this claim.

**BC-2017-00193**

PLR LLC, d/b/a Performance Lexus Rivercenter v. Transportation Cabinet / Dept. of Highways

Notes: Respondent's Answer denying liability and recommending dismissal filed.

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

*Back on Agenda in Aug.*

**BC-2017-208**

Kasey Miracle v. Western Kentucky University

Notes: Agreed Order of Dismissal for \$1,025.46 filed.

Counsel's Recommendation: Enter an Order awarding the Claimant \$1,025.46 in settlement of this claim.

REQUESTS FOR COMMISSION REVIEW (f/k/a Full Board Review):

**BC-2016-602**

James Richard v. Justice & Public Safety Cabinet / Dept. of Corrections

Notes: Mr. Richard filed a claim for property stolen from a secure location. The total damages claimed \$214.05. The Claimant stated that the guard opened his cell for his television, remote and headphones to be stolen on May 16, 2016. The Respondent stated that the theft was not reported until September 15, 2016 when the Claimant filed a grievance. The Respondent reviewed the records and does not show that guards opened the Claimant's cell on May 16, 2016. The Claimant did not prove the loss was due to the negligence of the Respondent and the claim was dismissed. The Claimant requested a full

*Upheld Dismissal*

board review and submitted additional information. A property form from December 2015 showing that he had a television in his possession at that time and one from September 2016 showing he did not have a television in his possession at that time. He stated that a theft report was filed on May 16, 2016 but did not submit a copy of this report. He also stated that the guard can use a key to open the cells so he questions if that would show up on the electronic report. The Claimant has not provided evidence that the Respondent was negligent, request this claim be dismissed.

*Upheld  
Dismissed*

**BC-2016-645**

Jason Cline v. Justice & Public Safety Cabinet / Dept. of Corrections

Notes: The Claimant has filed a claim for missing property totaling \$216.96. The Claimant stated his property was stolen after being beat up by three other inmates. The claimant stated the Commonwealth is at fault because the control center was not watching the cameras. The Respondent stated the Claimant is in a four wing building with 152 inmates. Each wing has one guard assigned for each shift who is responsible for making rounds and doing cell searches. The control center does not watch the cameras they are reviewed during investigations. Inmates will block the cameras or disguise themselves so they cannot be identified on camera. The property room was checked for the missing items but were not located. The Respondent stated that KRS cannot be responsible for property that was not in their possession. The Claimant stated that his television and "canteen items" were stolen but did not provide a list of what those canteen items were. The theft report for the incident was also not submitted. Negligence could not be found on part of the Respondent. The Claimant submitted a Full Board Review and has submitted a list of stolen canteen items but states that the theft report was never properly filed by KSR staff Evidence of the theft and proof of negligence has not been provided. Recommend the dismissal of the claim be upheld.

MOTIONS:

**BC-2009-005**

Melonie Pursifull, Individually and as Administratrix of the Estate of Anthony S. Pursifull, et. al. v. Justice & Public Safety Cabinet / Dept. of State Police

Notes: Respondent's Motion for Summary Judgment and the Claimants' response filed thereto.

Counsel's Recommendation: Enter an Order granting the Respondent's Motion for Summary Judgment dismissing the claim with prejudice. ✓

**BC-2015-880**

Nelson DeTalente, Jr. v. Transportation Cabinet / Dept. of Highways

Notes: Joint Motion to Dismiss filed.

Counsel's Recommendation: Enter an Order granting the Joint Motion to Dismiss. ✓

RECOMMENDED ORDERS:

**BC-2015-1013**

Anthony M. Russell vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Tim Cocanougher's Recommended Order of Dismissal.

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

**BC-2016-312**

Russell Parsons v. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Allen Wilson's Recommended Order of Dismissal.

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

**BC-2015-336**

Holly Tatum v. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Allen Wilson's Recommended Order of Dismissal.

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

**BC-2016-348**

Kimberly Bellfield v. University of Kentucky

Notes: Hearing Officer Carson Kerr's Recommended Order of Dismissal.

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

**BC-2017-024**

Joseph Hinkle v. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Jim Howard's Recommended Findings of Fact, Conclusions of Law and Order of Dismissal.

Counsel's Recommendation: Adopt the recommendation of the hearing officer dismissing the claim at the Claimant's request. ✓

**BC-2017-072**

Cesar Giron v. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Jim Howard's Recommended Findings of Fact, Conclusions of Law and Order of Dismissal.

Counsel's Recommendation: Adopt the recommendation of the hearing officer dismissing the claim at the Claimant's request. ✓

**BC-2017-096**

Myrtle R. Maloney, by Susan Humphrey, POA v. University of Kentucky

Notes: Hearing Officer Jim Howard's Recommended Findings of Fact, Conclusions of Law and Order of Dismissal.

Counsel's Recommendation: Adopt the recommendation of the hearing officer dismissing the claim at the Claimant's request, ✓

**Total number of Claims: 20**