

COMMONWEALTH OF KENTUCKY

Board of Claims

Agenda

March 15, 2012

*Minutes
Adopted*

The Board of Claims received 57 new claims during the month of February, 2012. A total of 33 claims were set up, according to Assistant Clerk Paula Woolums. Paula also returned two (2) claims for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 34 claims under \$1,000.00 in February, 2012. Jackie reports that 22 of these claims were dismissed and 12 were awarded, for a total amount awarded of \$4,833.02.

At its Board meeting on February 16, 2012, the Board dismissed 19 claims and awarded six (6) claims totaling \$31,400.00. Together with the claims investigated in-house, the Board dismissed a total of 53 claims and awarded a total of 18 claims for a total amount awarded of \$36,233.02 in February, 2012.

Plummer Absent

For Instructions From the Board

BC-2008-00114

Adam Burdin vs. Tourism, Arts & Heritage Cabinet / Department of Parks

Notes: Agreed Order of Settlement awarding \$15,000.00 to the Claimant.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$15,000.00 in settlement of this matter. ✓

BC-2011-00755

Matthew DiBenedetto vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Claimant's Notice of Withdrawal of Claim.

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

BC-2011-00826

Amy Helm vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement awarding \$1,122.22 to the Claimant.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding \$1,122.00 to the Claimant in settlement of this matter. ✓

BC-2011-00877

Lisa Humphrey vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: Agreed Order of Settlement filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$1,000.00 in settlement of this claim. ✓

BC-2011-00918

Grace Supplee vs. Commonwealth of Kentucky

Notes: March 15, 2012: Default Order

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

BC-2011-00936

David Slinker vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: March, 15, 2012: Default Order

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

BC-2011-00940

Clarence Caudill vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$1,680.00 to the Claimant.

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$1,680.00 in settlement of this matter. ✓

BC-2011-00950

Ryan Butler vs. Commonwealth of Kentucky

Notes: March 15, 2012: Default Order

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

BC-2011-00951

Melissa Butler vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: March 15, 2012: Default Order

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

BC-2011-00958

Louis Orsburn vs. Justice and Public Safety Cabinet

Notes: March 15, 2012: Default Order

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

BC-2011-00971

Ronald Jones vs. Commonwealth of Kentucky

Notes: March 15, 2012: Default Order

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

BC-2011-01008

Jetter Jessup vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$400.00 in settlement of this claim. ✓

BC-2011-01122

Thomas Erwin vs. Transportation Cabinet / Dept. of Highways

Notes: Notification to the Board that the Ky. Self-Insured Auto Program paid the Claimant the full amount claimed of \$2,510.32.

Counsel's Recommendation: Enter a Final Order dismissing the claim as settled by the Ky. Self-Insured Auto Program. ✓

Full Board Review

BC-2011-01145

William Ludwig vs. Justice and Public Safety Cabinet

Notes: 2/2/12 Board ordered dismissed due to statute of limitations
2/8/12 Claimant requests FBR (\$554.62).

*Upheld.
Dismissed*

Motions

BC-2011-01046

Brenda England vs. Cabinet for Health and Family Services

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

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

BC-2012-00035

Robert Peters vs. Transportation Cabinet / Dept. of Highways

Notes: Respondent's Answer and Motion to Hold Claim in Abeyance and Claimant's objection filed thereto.

Counsel's Recommendation: Sustain the Motion to Hold Claim in Abeyance pursuant to the Supreme Court's holding in Nelson Co. Bd. of Education v. Forte, 337 SW3d, 617 (Ky., 2011). ✓

Recommended Order

BC-2010-00192

Paul Huffman; Pauline Huffman vs. Transportation Cabinet / Dept. of Highways

Adopt amended Order awarding \$76,377.86 to Paul + 0 to Pauline.

Notes: Board Attorney's Final Order setting forth offsets to be reduced from the award limitation rather than the damages finding, per Commonwealth Transportation Cabinet v. Roof, 913 SW2d 322, (Ky., 1993).

Counsel's Recommendation: Board attorney to discuss the question of whether collateral source benefits are applicable to offset the award in a case involving no fault on the part on the claimants.

BC-2010-00643

Mary Schmidt 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 denying payment of the claim.

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

BC-2010-00848

Rachael Rivera vs. Northern Kentucky University

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-2011-00431

Ibrahim Mashni vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Fred E. Fugazzi, Jr.'s Recommended Order of Dismissal.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and dismiss the claim with prejudice for Claimant's failure to abide by the orders of this tribunal. ✓

Total number of Claims: 20

11-001 Ruby Fulking v. Transportation

Adopt Recommendation

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS

Addendum
March 15, 2012

BC-2009-497

Walter H. Jones v. Transportation Cabinet, Dept. of Highways

Agreed Order of Dismissal awarding \$123,983.78 to the Claimant filed.

Counsel's Recommendation: Enter the Agreed Order of Dismissal awarding the Claimant \$123,983.78 in settlement of this claim. ✓

BC-2011-894

E. Allen Castle and Lisa Castle v. Transportation Cabinet, Dept. of Highways

Agreed Order awarding the Claimants \$445.00 filed.

Counsel's Recommendation: Enter the Agreed Order awarding the Claimants \$445.00 in settlement of this claim. ✓

BC-2011-1101

Susan L. Abone v. Western Kentucky University

Agreed Order of Settlement awarding the Claimant \$5,500.00 filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$5,500.00 in settlement of this claim. ✓

Executive Director:

Complimented Board of Claims
staff for pulling stats together.