

COMMONWEALTH OF KENTUCKY

Board of Claims

Agenda

May 19, 2011

Minutes Accepted & Approved

The Board of Claims received 104 new claims during the month of April, 2011. A total of 92 claims were set up, according to Assistant Clerk Paula Woolums. Paula also returned five (5) claims for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 71 claims (under \$1,000.00) in April, 2011. Jackie reports that 48 claims were dismissed and 23 claims were awarded, for a total amount awarded of \$9,083.22.

At its Board meeting on April 21, 2011, the Board dismissed 13 claims and awarded nine (9) claims totaling \$18,728.75. Together with the claims investigated in-house, the Board dismissed a total of 61 claims and awarded a total of 32 claims for a total amount awarded of \$27,811.97 in April, 2011.

For Instructions From the Board

BC-2008-00708

Barbara Davenport vs. Tourism, Arts & Heritage Cabinet / Dept. of Parks

Notes: Agreed Order awarding \$750.00 to Claimant.

Counsel's Recommendation: Enter the Agreed Order awarding Claimant \$750.00 in settlement of this claim. ✓

BC-2009-00548

Christopher Sergent vs. Transportation Cabinet / Dept. of Highways

Notes: Claimant failed to respond to the Board's Show Cause Order dated March 3, 2011 regarding Claimant's compliance with the hearing officer's order to compel discovery responses.

Counsel's Recommendation: Enter a Final Order dismissing the claim for Claimant's failure to abide by the orders of this tribunal. ✓

BC-2009-00607

Anna Williamson vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$6,000.00 to Claimant filed.

Counsel's Recommendation: Enter the Agreed Order awarding Claimant \$6,000.00 and dismissing the claim with prejudice. ✓

BC-2010-00034

James Fields vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$800.00 to Claimant filed.

Counsel's Recommendation: Enter Agreed Order awarding Claimant \$800.00 in settlement of this claim. ✓

BC-2011-00222

Michael Kenney vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Respondent's Answer recommending payment to Claimant of \$2,629.00 in settlement of this claim.

Counsel's Recommendation: Enter an Order awarding Claimant \$2,629.00 in settlement of this claim. ✓

Full Board Review

BC-2010-00361

Troy McPeak vs. Public Protection Cabinet / Department of Labor; and Finance and Administration Cabinet / Department of Revenue

Notes: 3/01/11 Board ordered dismissed
3/09/11 Claimant requests FBR (\$454.11)
4/21/11 Board held over to review new information from Claimant

Uphold original dismissal

BC-2011-00053

Jasmine Miles vs. University of Kentucky

Notes: 3/30/11 Board awarded \$300
4/11/11 Resp. requests FBR

Reverse award & dismiss

BC-2011-00136

Jenna Sells vs. Transportation Cabinet / Department of Highways

Notes: 4/7/11 Board ordered dismissed
4/21/11 Claimant requests FBR (\$254.99)

Reverse dismissal & award

BC-2011-00201

Vanessa Cockrell vs. Transportation Cabinet / Department of Highways

Notes: 4/07/11 Board ordered dismissed
4/18/11 Claimant requests FBR (\$469.03)

Uphold original dismissal

BC-2011-00211

Kenneth Fogle vs. Transportation Cabinet / Department of Highways

Notes: 4/13/11 Board ordered dismissed
4/28/11 Claimant requests FBR (\$913.72)

2-2 file held over

Reverse dismissal & award

BC-2011-00246

Andrew Nelson vs. Transportation Cabinet / Department of Highways

Notes: 4/18/11 Board ordered dismissed
5/2/11 Claimant requests FBR (\$898.74)

Uphold original dismissal

Motions

BC-2009-00642

Billy Black vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Respondent's Motion for Summary Judgment; no response filed by the Claimant.

Counsel's Recommendation: Enter a Final Order granting the Motion for Summary Judgment and dismissing the claim for failure to state a claim upon which relief can be granted. ✓

BC-2010-00703

Ruth Austen vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Enter a Final Order granting the Motion to Dismiss pursuant to KRS 44.073(15). ✓

Claimant filed late response.

BC-2011-00209

Clinton Harold vs. University of Kentucky

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

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

BC-2011-00228

Ruby Mason vs. University of Kentucky and Transportation Cabinet

5/18/11 - R wants to file a Reply; hold over to 6/16/11 Mtg.

Notes: Respondent University of Kentucky's Motion to Dismiss and Memorandum in Support thereof; no response received from the Claimant or Respondent Transportation Cabinet.

Hold over to June docket

Counsel's Recommendation: Enter a Final Order granting the Respondent's Motion to Dismiss pursuant to KRS 44.110, dismissing the claim in its entirety. ✓

BC-2011-00272

Whitney Brock vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Enter a Final Order granting the Respondent's Motion to Dismiss pursuant to KRS 44.110(5). ✓

Recommended Order

BC-2008-00158

Tara and Clifford Briggs vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Fred E. Fugazzi, Jr.'s Findings of Fact, Conclusions of Law and Recommended Order awarding \$12,292.16 to Claimants and Claimants' exceptions filed thereto, requesting equitable relief as well as damages.

Counsel's Recommendation: Enter a Final Order adopting the recommendation of the hearing officer awarding Claimants \$12,292.16 in settlement of this claim, with the stipulation that the Board has no authority to grant equitable relief. ✓

BC-2008-00320

Rebecca Clayburn vs. Transportation Cabinet / Dept. of Highways

Respondent's Exceptions + Claimant's Motion to Strike same.

Notes: Hearing Officer William Rudloff's Findings of Fact, Conclusions of Law and Recommended Order dismissing the claim and the Claimant's exceptions filed thereto.

Hold over to next Board Mtg. ✓

Counsel's recommendation: Adopt the recommendation of the hearing officer dismissing the claim with prejudice. ✓

BC-2008-01085

Chanda Willoughby vs. Transportation Cabinet / Department of Highways

Notes: Hearing Officer Bo Fugazzi's Recommended Order dismissing the claim for lack of jurisdiction.

Counsel's Recommendation: Adopt the recommendation of the hearing officer, dismissing the claim for the Board's lack of jurisdiction over county roadways. ✓

BC-2009-00021

Samantha Royalty vs. University of Kentucky

Notes: Hearing Officer Lansden King's Findings of Fact, Conclusions of Law and Recommended Order awarding \$36,701.19 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer awarding the Claimant damages in the amount of \$36,701.19. ✓

BC-2009-00486

Scottie Bowling vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Fred E. Fugazzi, Jr.'s Recommended Order granting Respondent's Motion to Dismiss.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and enter a Final Order dismissing the claim with prejudice. ✓

BC-2009-00669

James Grim vs. Energy and Environment Cabinet / Dept. for Natural Resources

Notes: Hearing Officer Braxton Crenshaw'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 enter a Final Order dismissing the claim with prejudice. ✓

BC-2010-00368

Brenda Myers vs. University of Kentucky

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

Counsel's Recommendation: Adopt the recommendation of the hearing officer and enter a Final Order dismissing the claim with prejudice at the request of the Claimant. ✓

BC-2010-00413

Steven Wayne vs. Transportation Cabinet / Department of Highways

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 and enter a Final Order dismissing the claim with prejudice. ✓

BC-2010-00445

Irene Karp vs. Transportation Cabinet / Department of Highways

Notes: Hearing Officer William Rudloff'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 enter a Final Order dismissing the claim with prejudice. ✓

BC-2010-00504

Robert Blevins vs. Transportation Cabinet / Department of Highways

Notes: Hearing Officer Fred Fugazzi, Jr.'s Recommended Order denying payment of the claim and the Claimant's exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and enter a Final Order dismissing the claim with prejudice. ✓

BC-2010-00670

Alan McArthur 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 dismissing the claim with prejudice. ✓

BC-2010-00771

Justin Fultz 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 and enter a Final Order dismissing the claim with prejudice. ✓

BC-2010-00816

Doug Johnson vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

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 as modified and enter a Final Order dismissing the claim with prejudice pursuant to KRS 44.073(15). ✓

Total number of Claims: 29

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS
Addendum
May 19, 2011

BC-2006-614

George T. Vaske v. Eastern Ky. University

Notification from the Finance and Administration Cabinet that this claim was settled by the Commonwealth's liability insurance carrier for \$500,000.00.

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

BC-2010-509

Shirley Jean Allen v. University of Kentucky

Stipulation of Voluntary Dismissal filed by Hearing Officer King.

Counsel's Recommendation: Enter the Stipulation of Voluntary Dismissal as recommended by the hearing officer. ✓

BC-2009-586

Brian White and Tiffany White v. Transportation Cabinet, Dept. of Highways

Agreed Order of Dismissal without prejudice filed.

Counsel's Recommendation: Dismiss the claim at the request of the parties. ✓

BC-2010-767

Stephen R. Burrus v. Transportation Cabinet, Dept. of Highways

Agreed Order awarding Claimant \$900.00 for dismissal of this claim.

Counsel's Recommendation: Enter the Agreed Order of Dismissal and award Claimant \$900.00 in settlement of this claim. ✓

BC-2011-132

Preston B. Combs v. University of Kentucky

Respondent's Answer agreeing to pay the lowest estimate "from whatever source that may be" for one (1) hearing aid only, without optional insurance or warranty charges, and Claimant's two (2) estimates for same.

Counsel's Recommendation: Enter an Order awarding Claimant \$1,495.00 in settlement of this matter. ✓
