

COMMONWEALTH OF KENTUCKY
Board of Claims
Agenda
November 19, 2009

*Minutes
Approved*

The Board of Claims received 69 new claims during the month of September, 2009. A total of 81 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 38 claims (under \$1,000.00) in October, 2009. Jackie reports that nineteen (19) claims were dismissed and 19 claims were awarded, for a total amount awarded of \$6,393.95.

At its Board meeting on October 15, 2009, the Board dismissed six (6) claims and awarded twelve (12) claims totaling \$295,044.13. Together with the claims investigated in-house, the Board dismissed a total of 25 claims and awarded a total of 31 claims for a total amount awarded of \$301,438.08 in October, 2009.

For Instructions From the Board

BC-1998-00585

Carol Williams vs. Cabinet for Health & Family Services

Notes: Board's Order to Comply or Show Cause rendered on 10/20/09. The Claimant has failed to respond.

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

BC-2006-00376

Christine Stewart vs. Tourism, Arts & Heritage Cabinet / Department of Parks

Notes: Agreed Order awarding \$18,000.00 to Claimant filed and recommended by Hearing Officer Braxton Crenshaw.

Counsel's Recommendation: Enter Agreed Order and award Claimant \$18,000.00 in full settlement of this claim. ✓

BC-2008-00254

Tonya Reed vs. Eastern Kentucky University

Notes: Agreed Order of Dismissal filed by the parties.

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

BC-2008-00926

Jennifer Hester, Natural Mother and Next Friend of Julie Smith vs. Cabinet for Health and Family Services

Notes: Agreed Order of Dismissal.

Counsel's Recommendation: Enter Agreed Order dismissing the claim as settled by the parties. ✓

BC-2008-01039

Zhijing Dang vs. University of Kentucky

Notes: Claimant's Exceptions filed after last month's Board meeting wherein the Board dismissed the claim at the recommendation of Hearing Officer Braxton Crenshaw.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and dismiss with prejudice. ✓

BC-2008-01144

Mar'riell Lucas vs. Cabinet for Health and Family Services

Notes: Agreed Order dismissing the claim as settled.

Counsel's Recommendation: Enter Final Order dismissing the claim as settled as stipulated by the parties. ✓

BC-2009-00134

Carl Mason vs. Transportation Cabinet / Department of Highways

Notes: Agreed Order of Settlement and Dismissal.

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

BC-2009-00172

Christopher Gehring vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement and Dismissal filed.

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

BC-2009-00282

Matthew Hollenkamp vs. Commonwealth of Kentucky

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

BC-2009-00307

Rhoda Satchwell vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement and Dismissal filed.

Counsel's Recommendation: Enter Agreed Order awarding Claimant \$700.00 in settlement of this claim. ✓

BC-2009-00372

Marvin Wall; Betty Wall vs. Transportation Cabinet

Notes: Agreed Order of Dismissal.

Counsel's Recommendation: Enter Agreed Order and dismiss the claim as stipulated by the parties. ✓

BC-2009-00388

Ernest Marsillett vs. Commonwealth of Kentucky

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

BC-2009-00400

Schannon Clayton vs. Commonwealth of Kentucky

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

BC-2009-00410

Steve Gamble vs. Transportation Cabinet / Department of Highways

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

BC-2009-00416

Lisa Warren vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Agreed Order of Settlement filed.

Counsel's Recommendation: Enter Agreed Order and award Claimant \$600.00 in settlement of this claim. ✓

BC-2009-00418

John Claycomb vs. Commonwealth of Kentucky

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

BC-2009-00450

Dwayne Carrico vs. Bullitt County Detention Center

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

BC-2009-00456

Denise Madden vs. Transportation Cabinet / Department of Highways

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

BC-2009-00465

Chad Harrod vs. Commonwealth of Kentucky

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

BC-2009-00490

Misty McVay vs. Transportation Cabinet / Department of Highways

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

BC-2009-00508

Mary Harris vs. UK Medical Center / University of Kentucky

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

BC-2009-00525

Philip Thompson vs. Commonwealth of Kentucky

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

BC-2009-00549

Charles Croft vs. Transportation Cabinet / Department of Highways

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

BC-2009-00552

Craig Astor vs. Transportation Cabinet / Department of Highways

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

BC-2009-00564

Billy Cook vs. Transportation Cabinet / Department of Highways

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

BC-2009-00574

Catharine Strickler vs. Transportation Cabinet / Department of Highways

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

BC-2009-00576

Sandy Travis vs. Transportation Cabinet

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

BC-2009-00680

Frank Reinhart vs. Transportation Cabinet

Notes: Agreed Order of Settlement and Dismissal filed.

Counsel's Recommendation: Enter Agreed Order of Dismissal and award Claimant \$1,500.00 in settlement of this matter. ✓

BC-2009-00720

Jerry Bowles vs. Transportation Cabinet / Department of Highways

Notes: Respondent's Answer offering to settle claim for the amount claimed.

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

BC-2009-00727

Darrell Howard vs. City of Richmond

Notes: Claim filed against a non-state agency.

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

BC-2009-00748

Douglas Allen vs. Two Rivers Halfway House and Transitions, Inc.

Notes: Claim filed against a non-state agency.

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

BC-2009-00753

Gregory Snider vs. Tourism, Arts & Heritage Cabinet / Frankfort Covention Center

Notes: Respondent's Answer admitting liability and offering to pay amount claimed.

Counsel's Recommendation: Enter Final Order awarding Claimant \$1,000.00. ✓

BC-2009-00813

Erwin Gamble vs. Transportation Cabinet

Notes: Claimant's request to dismiss his claim.

Counsel's Recommendation: Dismiss the Claim per the Claimant's request. ✓

Full Board Review

BC-2009-00496

Charles Stratton vs. Justice and Public Safety Cabinet

Notes: 9/15/09 Board ordered dismissed
10/9/09 Claimant requested FBR
10/12/09 Board denied FBR, as it was filed 10 days late
10/29/09 Claimant asks for reconsideration of FBR request.

*Uphold
Dismissal*

Upon review of this file, Jackie saw that the Claimant notified the Board of Claims of an address change on 7/30/09, but his Findings of Fact, Opinion and Order had been sent to the old address. While this would not explain a 10-day delay from one institution to the other, BOC staff decided to give Claimant a Full Board Review.

BC-2009-00563

Taylor Hudson vs. Justice and Public Safety Cabinet

Notes: 9/2/09 Board ordered dismissed
9/2/09 Claimant requests FBR (\$400.80)
10/15/09 Board held over for November 19, 2009 agenda.

*Uphold
Dismissal*

BC-2009-00688

Teddy Collins vs. Department of Highways / Transportation

Notes: 11/5/09 Board ordered dismissed.
11/9/09 Claimant requests FBR (\$467.91)

*Reverse of
Award*

Motions

BC-2007-00745

Richard Stinnett vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Respondent's Motion to Withdraw and Substitute Counsel.

Counsel's Recommendation: Enter Order Granting Motion to Withdraw. ✓

BC-2009-00335

Georgene Ebert vs. Military Affairs

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

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

BC-2009-00417

Larry Dennison vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Respondent's Motion to Withdraw counsel filed.

Counsel's Recommendation: Enter Order granting Respondent's Motion to Withdraw. ✓

BC-2009-00492

Misty Slater vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: Respondent's Motion to Withdraw.

Counsel's Recommendation: Enter Order granting Motion to Withdraw. ✓

BC-2009-00518

Tammy Carpenter vs. Cabinet for Health and Family Services

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

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

BC-2009-00614

Berry Craig vs. Murray State University

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

Counsel's Recommendation: Enter Final Order granting the Motion to Dismiss and dismiss the claim with prejudice. ✓

Recommended Order

Accepted GMM recommendation.

R filed exceptions

BC-1990-01313

Robin Babbitt, et al. v. Transportation Cabinet, Department of Highways; and Brandon Taylor, Representative of the Estate of Sherry Taylor v. Transportation Cabinet, Department of Highways (BC-99-1035).

Total Awarded: \$343,745.00

Notes: This matter was consolidated with BC-99-1035 by the Kentucky Supreme Court and remanded to the Board. Hearing Officer Braxton Crenshaw rendered Findings of Fact, Conclusions of Law and Recommended Order awarding the three Claimants a total of \$210,474.80

Counsel's Recommendation: Adopt the recommendation of the hearing officer ~~and award the Estate of Michael Bender \$100,000.00; award the Estate of Cecelia Bender \$100,000.00; and award Larry Logsdon \$10,474.80.~~ *or liability only. Damages to be apportioned differently.*

BC-1998-00133

Virginia Gaither vs. Kentucky State Police / Justice and Public Safety Cabinet

Awarded \$200,000.00

Notes: Hearing Officer Braxton Crenshaw's Recommended Order dismissing the claim with prejudice. Exceptions filed by Claimant.

Counsel's Recommendation: For discussion. *Board voted 4-1 to pay claim*

BC-1999-01035

Brandon Taylor, Personal Representative of the Estate of Sherry Taylor vs. Transportation Cabinet, Department of Highways

C filed exceptions; R filed Motion for Ext.; C filed

Notes: This matter was consolidated with BC-90-1313 and remanded to the Board by the Kentucky Supreme Court. Hearing Officer Braxton Crenshaw rendered a Findings of Fact, Conclusions of Law and Recommended Order dismissing the claim.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and dismiss. ✓ *Motion opposing overruled*

BC-2000-00982

Sue Hinkle vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Jan M. West's Recommended Order awarding Claimant damages in the amount of \$170,357.37. Exceptions filed by both parties.

Counsel's Recommendation: Adopt the hearing officer's recommendation and award Claimant \$170,357.37. ✓

BC-2005-00901

Brian Spencer; Joe Spencer vs. Finance and Administration Cabinet / Kentucky River Authority

Notes: Hearing Officer Braxton Crenshaw's Recommended Order dismissing the claim with prejudice.

Counsel's Recommendation: Adopt the hearing officer's recommendation and deny the claim. ✓

BC-2005-01068

Gregory Dalton; Melissa Dalton vs. Transportation Cabinet / Department of Highways

*C filed Exceptions;
R filed Reply to Exceptions*

Notes: Hearing Officer Braxton Crenshaw's Findings of Fact, Conclusions of Law and Recommended Order dismissing the claim with prejudice.

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

BC-2007-00097

Alfred Coats vs. Transportation Cabinet

Notes: Hearing Officer Braxton Crenshaw's Recommended Order awarding \$46,688.50 to Claimant.

Counsel's Recommendation: Adopt the recommendation and award Claimant \$46,688.50. ✓

BC-2007-00463

Jason Stearman vs. Transportation Cabinet

Notes: Hearing Officer Braxton Crenshaw's Recommended Order Granting the Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Adopt the recommendation and grant the Motion for Summary Judgment, dismissing the claim. ✓

BC-2007-00504

James Oliver vs. Transportation Cabinet / Department of Highways

Notes: Hearing Officer Todd Farmer's Recommended Order awarding \$3,535.33 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and awarding \$3,535.33 to Claimant. ✓

BC-2007-00757

Sabrina Page vs. Transportation Cabinet / Dept. of Highways

Both parties filed Exceptions.

Notes: Hearing Officer Jan West's Findings of Fact, Conclusions of Law and Recommended Order Awarding \$15,649.97 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and award the Claimant \$15,649.97. ✓

BC-2007-00886

Samuel Sturm vs. Warren County Regional Jail

Notes: Hearing Officer Todd Farmer's Recommended Order dismissing the claim.

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

BC-2008-00642

Curtis Brown vs. Justice and Public Safety Cabinet / Dept. of Corrections

C filed Exceptions

Notes: Hearing Officer Darren Embry's Recommended Order Granting Respondent's Motion for Summary Judgment and dismissing the claim with prejudice.

Counsel's Recommendation: *Adopt RO Dismissing* ✓

BC-2008-00825

Timothy Seward vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Charles Miller's Recommended Order in favor of the Respondent. Claimant's Exceptions filed thereto on 11/3/09.

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

BC-2008-01085

Chanda Willoughby vs. Transportation Cabinet

Notes: Hearing Officer Darren Embry's Recommended Order overruling Respondent's Motion to Dismiss and Respondent's Exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer and overrule Respondent's Motion to Dismiss. ✓

BC-2008-01174

Charles Ellis vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Charles Miller's Recommended Order of Dismissal for lack of prosecution.

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

BC-2008-01177

Maher Ewagdy vs. Justice and Public Safety Cabinet / Department of State Police

Notes: Hearing Officer Darren Embry's Recommended Order of Dismissal. Claimant filed Exceptions thereto via e-mail.

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

BC-2008-01224

Joseph Mattingly vs. Transportation Cabinet

Notes: Hearing Officer Jan West's Recommended Order in favor of the Respondent.

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

BC-2009-00482

Alma Weyerbacher vs. Tourism, Arts and Heritage Cabinet / Department of Parks

Notes: Hearing Officer Todd Farmer's Recommended Order dismissing the claim for failure to comply with the orders of the hearing officer and failure to prosecute.

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

Total number of Claims: 60

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS
Addendum
November 19, 2009

BC-2008-959

Sharon Savadogo v. Transportation Cabinet

Agreed Release and Settlement Agreement filed.

Counsel's Recommendation: Enter Final Order awarding Claimant \$10,000.00 in settlement of this claim. ✓

BC-2009-324

Kathy Kimberlin v. Transportation Cabinet

Agreed Order of Dismissal filed.

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