

COMMONWEALTH OF KENTUCKY
Claims Commission
Agenda
November 28, 2017

Next Mtg.
12/19/17

The Kentucky Claims Commission received 57 negligence claims filed against the Commonwealth during the month of October, 2017. Sasha Petrey reports that 30 claims were set up and 19 claims were returned for lack of jurisdiction.

Investigator Angela Robertson decided 19 claims under \$2,500.00 in October, 2017. Angela reports that 12 of these claims were denied and seven (7) were awarded, for a total amount awarded of \$4,548.72.

At its meeting on October 24, 2017, the Kentucky Claims Commission dismissed ten (10) negligence claims and awarded three (3) consolidated negligence claims totaling \$150,000.00. Together with the claims investigated in-house, the Claims Commission dismissed a total of 22 negligence claims and awarded a total of eight (8) negligence claims for a total amount awarded of **\$154,548.72** in October, 2017.

FOR INSTRUCTIONS FROM THE COMMISSION:

BC-2014-740

Gary Larue v. Transportation Cabinet, Dept. of Highways

Notes: Agreed Order of Dismissal indicating that this claim was dismissed in June, 2017 by the Warren Circuit Court.

Counsel's Recommendation: Enter the Agreed Order of Dismissal as settled in the Warren Circuit Court action. ✓

BC-2017-120

Janet Price v. Transportation Cabinet, Dept. of Highways

Notes: Agreed Order awarding the Claimant \$3,100.00 in settlement of this claim. ✓

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$3,100.00.

BC-2017-187

Susan Hoffman v. Northern Kentucky University

Notes: Settlement Agreement awarding the Claimant \$2,400.00 in settlement of this claim. ✓

Counsel's Recommendation: Enter an Order awarding the Claimant \$2,400.00.

BC-2017-236

Danielle Webster v. Transportation Cabinet, Dept. of Highways

Notes: Agreed Order awarding the Claimant \$500.00 in settlement of this claim. ✓

Counsel's Recommendation: Enter the Agreed Order awarding the Claimant \$500.00.

BC-2017-334

David and Patricia Thompson v. Transportation Cabinet, Dept. of Highways

Notes: E-mail from the Claimants stating that this claim has been settled by the Commonwealth's liability insurance program. ✓

Counsel's Recommendation: Enter an Order of Dismissal as settled by KSAP.

BC-2017-357

Billie Walker v. University of Kentucky

Notes: The Respondent's written offer of settlement for \$1,000.00 and the Claimant's written acceptance thereof. ✓

Counsel's Recommendation: Enter an Order awarding the Claimant \$1,000.00 as agreed by the parties.

FULL COMMISSION REVIEW:

BC-2017-005

Chelsea Davis v. Transportation Cabinet, Department of Highways

Notes: Claimant states that on 10/9/2016, as she was traveling on KY47 in Carroll County, her vehicle "hit the road" and drug on uneven pavement, causing \$430.70 worth of damage to her vehicle. The Claimant states that the Commonwealth is at fault because there was nothing to alert her of potential danger at the time of the incident. The Respondent investigated the claim and found the road to be in poor repair, but there had been no complaints reported regarding the road condition and the Respondent had been doing routine patching of the area until the budget allowed for the road to be repaved. Finding of facts found the Respondent negligent but was unable to verify that the Claimant had insurance coverage at the time of the incident so the claim was dismissed. 11/7/2017 the Claimant requested a Full Commission Review and provided information from her insurance that she did have insurance at the time of the incident.

Investigator's Recommendation: Recommend award of \$430.70 to the Claimant. ✓

BC-2017-059

Roger Rafferty v. Justice & Public Safety Cabinet, Dept. of Corrections

Notes: The Claimant states that on August 23, 2016 and December 25, 2016, he had two separate televisions stolen. The Claimant states that the second television was found but was not checked for damage. The Claimant further states that the Commonwealth is negligent because they did not find who stole his TVs. The Respondent has investigated the claim and states that inmates are provided lockers to secure their property, they can elect to purchase a padlock for the locker and they can secure their cell door with the provided key to prevent the possibility of theft. Corrections staff were unable to identify those responsible for the thefts. The Claimant did not prove negligence by the Respondent and the claim was dismissed. The Claimant requested a Full Commission review on 11/3/2017 stating that he proved his case and the claim should have been awarded. The Claimant states his cell was locked when the items were stolen and that since the cameras are not watched that theft occurs daily. No additional evidence was submitted with this FCR request.

Investigator's Recommendation: Recommend the Commission uphold the dismissal. ✓

MOTIONS:

BC-2017-402

Rick Lynn v. University of Kentucky

Notes: Respondent's unopposed Motion to Dismiss.

Counsel's Recommendation: Overrule the Motion to Dismiss pursuant to KRS 49.120(3) and assign the claim to Hearing Officer Tim Cocanougher for further proceedings. ✓

RECOMMENDED ORDERS:

BC-2014-104

Dana Davis v. Kenton Co. Commonwealth Attorney's Office

Notes: Hearing Officer Patrick Flannary's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim.

*Delana Sanders
Refused*

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

BC-2015-627

Nan Ternes v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer Doug Hardin's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim and the Claimant's exceptions filed thereto.

Counsel's Recommendation: *For discussion.*

dismissed as recommended.

BC-2016-019

Alston Hammond v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer Tim Cocanougher'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. ✓

BC-2016-632

Marva Huff v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Hearing Officer James Howard's Findings of Fact, Conclusions of Law and Recommended Order dismissing the claim with prejudice at the Claimant's request.

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

BC-2016-659

Bonnie Qualls and Bill Moxley v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer James Howard's Findings of Fact, Conclusions of Law and Recommended Order awarding the Claimants \$2,912.25 and the Respondent's exceptions filed thereto.

Counsel's Recommendation: *For discussion.*

Adopt recommendation

BC-2017-092

Thomas G. Bickal v. University of Kentucky

Notes: Hearing Officer James Howard'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. ✓

BC-2017-112

Page Watson v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer James Howard'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. ✓

BC-2017-129

Joshua Gilvin v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer James Howard's Recommended Order awarding the Claimant \$500.00 in settlement of this matter.

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

BC-2017-235

Ashleigh P. P'Simer v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Hearing Officer James Howard's Recommended Findings of Fact, Conclusions of Law and Order Dismissing the claim with prejudice at the Claimant's request.

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

Total number of Claims: 18