

COMMONWEALTH OF KENTUCKY
Board of Claims
Agenda
October 16, 2008

*- Luncheon in 11/08
for employees -*

The Board of Claims received 79 new claims during the month of August, 2008. A total of 60 new claims were set up, according to Assistant Clerk Paula Woolums.

Investigators Jackie Lynch and Wanda Luttrell decided 68 claims (under \$1000.00) in August. The Board awarded eight (8) claims for a total of \$166,955.74 at its August 21, 2008 meeting. Seventeen (17) claims were dismissed by the Board at that meeting. Combined with the claims decided in-house, the Board dismissed 57 claims and awarded 36 claims for a total amount of \$178,004.73 in August, 2008.

The Board of Claims received 79 new claims during the month of September, 2008. A total of 63 new claims were set up, according to Assistant Clerk Paula Woolums. Paula also dismissed four (4) claims for being under the \$100.00 threshold.

Investigators Jackie Lynch and Wanda Luttrell decided 54 claims (under \$1000.00) in September, 2008. They dismissed 28 claims and awarded 26 claims for a total amount paid of \$8,435.24 for September, 2008.

The Board did not meet in September due to a lack of a quorum.

For Instructions From the Board

3C-2007-00759

Barbara Rush vs. Transportation Cabinet

Notes: Former Hearing Officer Matthew Mooney's Show Cause Order to Claimant dated February 1, 2008. No response was received from the Claimant.

Counsel's Recommendation: Enter Order of Default and dismiss claim. *X*

3C-2007-00835

Barbara Crook vs. Transportation Cabinet

Notes: Former Hearing Officer Matthew Mooney's Show Cause Order to Claimant dated 6/16/08. No response received from Claimant.

Counsel's Recommendation: Enter Order of Default and dismiss claim. *X*

Motions

3C-2004-00720

Robert Kline vs. Department of Highways / Transportation Cabinet

Notes: Respondent's Renewed Motion to Dismiss filed 7/1/08. Claimant's attorney verbally stated that he had no objection to dismissing this claim.

Counsel's Recommendation: Sustain Renewed Motion to Dismiss and dismiss claim. *X*

Close file

3C-2005-00996

Parents of New Jersey, Inc. vs. Transportation Cabinet

Notes: Respondent's Motion for Summary Judgment filed 7/16/07; Claimant's Response to Motion for Summary Judgment filed 8/14/07; Respondent's Reply filed 8/21/07.

Counsel's Recommendation: Overrule Motion for Summary Judgment and Reassign claim to Hearing Officer Charles W. Miller. ✓

3C-2007-00003

Warren Stamper vs. Transportation Cabinet / Dept. of Highways

Notes: Respondent's Motion for Summary Judgment filed 9/10/07. No response filed by Claimant.

Counsel's Recommendation: Sustain Motion for Summary Judgment and dismiss claim. ✓

3C-2007-00425

Eugene Sisco, Jr. vs. Justice and Public Safety Cabinet

Notes: Respondent's Motion for Summary Judgment filed 8/02/07; Claimant's Response to Motion for Summary Judgment filed 10/05/07; and Respondent's Reply Brief filed 10/22/07.

Counsel's Recommendation: Sustain Motion for Summary Judgment and dismiss claim. ✓

3C-2007-00849

Victor Rice; Bridgett Rice; Brittany Rice; Dominique Rice vs. University of Kentucky Medical Center

Notes: Respondent's Motion for Summary Judgment filed 1/29/08; Claimant's Opposition to Motion for Summary Judgment filed 8/27/08; Respondent's Reply Brief filed 9/19/08.

Counsel's Recommendation: Sustain Motion for Summary Judgment and dismiss claim.

- passed ✓

GMU to Pull from Agenda

3C-2008-00101

Demetrius Wilson vs. Transportation Cabinet, Department of Highways

Notes: Respondent's Motion to Dismiss filed 8/28/08.

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

3C-2008-00340

William McGinnis; Ann McGinnis vs. University of Kentucky Medical Center

Notes: Respondent's Motion to Dismiss for expiration of Statute of Limitations.

Counsel's Recommendation: Sustain Motion to Dismiss and enter Final Order dismissing claim. ✓

3C-2008-00396

Jennifer Tarullo vs. Transportation Cabinet

Notes: Respondent's Motion to Dismiss due to Claimant not responding to Board's Order compelling discovery. No response received from Claimant.

Counsel's Recommendation: Enter Final Order Dismissing Claim for failure to comply with the Board's Order. ✓

close file

Order to
GMM

IC-2008-00539

Thomas Robards vs. Cabinet for Health and Family Services

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

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

IC-2008-00609

Penyatta Humphrey vs. Department of Highways / Transportation Cabinet

Notes: Respondent's Motion to Compel filed 9/3/08; Board's Show Cause Order dated 9/4/08. No response received from Claimant.

Counsel's Recommendation: Enter Final Order Dismissing Claim for Failure to Comply with the Orders of the Board. X

IC-2008-00721

Dewana Turner vs. University of Kentucky Medical Center

Notes: Respondent's Motion to Dismiss. No response filed by Claimant.

Counsel's Recommendation: Overrule Motion to Dismiss and Assign to Hearing Officer Braxton Crenshaw. X

IC-2008-00725

Freeman Davis; Florean Wilson vs. Cabinet for Health and Family Services; Jefferson County District and Circuit Courts

Notes: Cabinet for Health and Family Services' Motion and Memorandum to Dismiss filed 8/15/08. Jefferson Co. Courts' Motion to Dismiss filed 8/19/08.

Counsel's Recommendation: Enter Order of Dismissal and dismiss claim on the grounds that the Board does not have personal jurisdiction over state personnel in their individual capacities, res judicata and judicial immunity. X

IC-2008-00753

Deba Young vs. Tourism Arts & Heritage Cabinet / Capital Plaza Authority

Notes: Respondent's Answer and Motion to Dismiss due to stipulations in event contract.

Counsel's Recommendation: Overrule Motion to Dismiss as premature at this stage in the proceedings. Direct Claimant to investigate whether the claim should include an action against either Scott Co. High School or the Scott Co. Board of Education within sixty (60) days. X

IC-2008-00765

Diane Mobley, Executrix of the Estate of Megan Morris vs. Transportation Cabinet, Department of Highways; and Graves County Fiscal Court, Graves Co. Road Department

Notes: Respondent Transportation Cabinet's Motion to Dismiss filed 8/27/08; Respondent Graves Co. Fiscal Court's Motion to Dismiss filed 9/2/08; Claimant's Response to Motions to Dismiss filed 9/11/08.

Counsel's Recommendation: Overrule Motion to Dismiss to allow limited discovery on the issues regarding the maintenance responsibilities of the road in question. X

IC-2008-00772

Thomas Swarbrick vs. University of Kentucky Medical Center

Notes: Respondent's Motion to Dismiss filed 8/19/08 and Claimant's Response filed 9/10/08.

Counsel's Recommendation: Sustain the Motion to Dismiss because the alleged medical negligence was discovered well over the three (3) year discovery deadline imposed in KRS 44.110(4). X

3C-2008-00775

Jeneva Hunter vs. University of Kentucky

Notes: Respondent's Answer and Motion to Dismiss.

Counsel's Recommendation: Enter Final Order dismissing claim due to the expiration of the Statute of Limitations. 

3C-2008-00790

Jriah Pasha vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: Respondent's Motion to Dismiss (filed 8/8/08) and Claimant's Reply to Motion to Dismiss (filed 8/18/08).

Counsel's Recommendation: Enter Order of Dismissal and dismiss claim on the grounds that the Board has no jurisdiction over contract claims or allegations of constitutional deprivations. 

3C-2008-00808

Cavie Dawson; LaShonda Haddix vs. University of Kentucky Medical Center

Notes: Respondent's Motion to Dismiss filed 8/28/08. Claimant's Response to Motion to Dismiss filed 9/25/08.

Counsel's Recommendation: Overrule Motion to Dismiss pursuant to KRS 413.270 and Assign to Hearing Officer Braxton Crenshaw.

3C-2008-00923

Timothy Rouse vs. Justice and Public Safety Cabinet / Department of Corrections

Notes: Respondent's Motion to Dismiss filed 8/26/08.

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

Recommended Order

3C-1997-00741

Britian Fruit vs. Transportation Cabinet / Department of Highways

Notes: Agreed Order of Settlement filed by the parties on 9/15/08.

Counsel's Recommendation: Enter Agreed Order of Settlement and Award Claimant \$3,500.00. 

3C-2006-00689

Mary Green vs. University of Kentucky Medical Center

Notes: Hearing Officer Braxton Crenshaw's Recommended Findings of Fact, Conclusions of Law and Order awarding \$5,472.02 to Claimant.

Counsel's Recommendation: Adopt the hearing officer's recommendation and award Claimant \$5,472.02. 

3C-2007-00732

Catherine Pruitt vs. Transportation Cabinet, Department of Highways

Notes: Hearing Officer Jan West's Recommended Order awarding damages of \$2,050.00 to Claimant.

Counsel's Recommendation: Adopt the hearing officer's recommendation and enter a Final Order Awarding \$2,050.00 to Claimant. 

3C-2007-00765

George Brown; Judy Brown vs. Transportation Cabinet, Department of Highways

Notes: Hearing Officer Jan West's Recommended Order awarding damages of \$1,400.00 to Claimants.

Counsel's Recommendation: Adopt the hearing officer's recommendation and enter a Final Order Awarding \$1,400.00 to Claimants. 

3C-2007-00890

David Brantley vs. Transportation Cabinet

Notes: Agreed Order of Settlement and Dismissal.

Counsel's Recommendation: Enter Agreed Order of Settlement and award \$2,000.00 to Claimant. X

3C-2008-00509

Enterprise Commercial Trucks vs. Transportation Cabinet

Notes: Agreed Order of Dismissal and Settlement.

Counsel's Recommendation: Enter Agreed Order and dismiss claim as settled. X

Close file

3C-2008-00801

Savannah Cassity vs. Transportation Cabinet

Notes: Agreed Order of Dismissal.

Counsel's Recommendation: Enter Agreed Order and dismiss the claim. X

Close file

3C-2008-00905

Anthony Linton vs. Transportation Cabinet, Department of Highways

Notes: Respondent's Answer and Settlement Offer of \$1,250.00.

Counsel's Recommendation: Enter Final Order Awarding \$1,250.00 to Claimant. X

Total number of Claims: 29