

COMMONWEALTH OF KENTUCKY
Board of Claims
Agenda
October 20, 2011

Minutes Accepted

The Board of Claims received 72 new claims during the month of September, 2011. A total of 58 claims were set up, according to Assistant Clerk Paula Woolums. Paula also returned three (3) claims for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 81 claims (under \$1,000.00) in September, 2011. Jackie reports that 44 claims were dismissed and 37 claims were awarded, for a total amount awarded of \$13,676.72.

At its Board meeting on September 15, 2011, the Board dismissed 32 claims and awarded nine (9) claims totaling \$172,191.98. Together with the claims investigated in-house, the Board dismissed a total of 76 claims and awarded a total of 46 claims for a total amount awarded of \$185,868.70 in September, 2011.

For Instructions From the Board

BC-2009-00975

Estate of Aliyssa Lambert, et al. vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$50,000.00 to Claimants filed.

Counsel's Recommendation: Enter the Agreed Order awarding \$50,000.00 to Claimants in settlement of this matter. ✓

BC-2010-00086

Christopher Scherzer vs. University of Louisville

Notes: Agreed Order of Dismissal filed by the parties.

Counsel's Recommendation: Enter the Agreed Order dismissing the claim with prejudice as agreed to by the parties. ✓

BC-2011-00033

Warren Johnson vs. Transportation Cabinet / Dept. of Corrections

Notes: Agreed Order of Dismissal awarding \$500.00 to Claimant filed.

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

BC-2011-00086

Patricia Holley vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding Claimant \$1,000.00 filed.

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

BC-2011-00241

John Hamm vs. Transportation Cabinet / Dept. of Highways

Notes: October 20, 2011- Default Order

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

BC-2011-00260

Sandra Hatchett vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order

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

BC-2011-00270

Jeffrey Neagle vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00282

Marlene Locke vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00284

Robert Duncan vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00328

Ryan Barr vs. University of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00338

Patricia Diniz vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00348

Robert Brown vs. Transportation Cabinet / Dept. of Highways

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00351

Bengie Marks vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00376

Jack Gillespie vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00379

Tirza Howard vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00383

Danny Scott vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00404

Irina Stockton vs. University of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00430

Jeremy Gilbert vs. Commonwealth of Kentucky

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss.

BC-2011-00453

J.C. Mallory vs. Transportation Cabinet / Dept. of Highways

Notes: October 20, 2011- Default Order
Counsel's Recommendation: Rule the Claimant in Default and Dismiss. ✓

BC-2011-00835

Mattie Blankenship; Clay Stull vs. University of Kentucky

Notes: Agreed Order of Settlement awarding Claimant \$75,000.00 filed.
Counsel's Recommendation: Enter a Final Order awarding Claimant \$75,000.00 in settlement of this claim. ✓

BC-2011-00884

Karen Duckworth vs. Transportation Cabinet / Dept. of Highways

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

BC-2011-00885

Stephen Haviland vs. Transportation Cabinet / Dept. of Highways

Notes: Notification received from State Risk & Insurance Services Division that this claim was paid in full by the Commonwealth's liability insurance carrier.
Counsel's Recommendation: Enter a Final Order dismissing claim as settled by the Commonwealth's liability insurance carrier. ✓

Sullivan received

BC-2011-00895

Charity Paddock vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

Notes: Respondent's filed a recommendation to pay the full amount claimed.
Counsel's Recommendation: Enter a Final Order awarding Claimant \$2,203.99 in full payment of this claim. ✓

Full Board Review

BC-2011-00535

Bryan Todd vs. Transportation Cabinet / Dept. of Highways

Uphold original award

Notes: 7/22/11 Board awarded \$250
8/5/11 Claimant's letter objecting to only getting insurance deductible; Mitch to discuss with Board.

BC-2011-00558

Britney Miller vs. Transportation Cabinet / Dept. of Highways

Uphold dismissal

Notes: 9/01/11 Board ordered dismissed
9/17/11 Claimant requests FBR (\$500.00).

BC-2011-00602

Ernest Abner vs. Transportation Cabinet / Dept. of Highways

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Notes: 8/25/11 Board ordered dismissed
9/08/11 Claimant requests FBR (\$250.00).

BC-2011-00657

Katy Smith vs. Transportation Cabinet / Dept. of Highways

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Notes: 9/20/11 Board ordered dismissed
9/27/11 Claimant requests FBR (\$245.69).

BC-2011-00803

Dorothy Schwieterman vs. Transportation Cabinet / Dept. of Highways

Overturn dismissal & award

Notes: 9/7/11 Board Ordered Dismissed
9/8/11 Claimant requests FBR (\$427.84).

BC-2011-00813

Tackett Newsome vs. Justice and Public Safety Cabinet / Dept. of Corrections

Uphold Dismissal

Notes: 8/26/11 Board ordered dismissed
9/6/11 Claimant requests FBR (\$155.00).

Motions

BC-2011-00150

James Jointer vs. University of Kentucky

Notes: Respondent's Motion for Summary Judgment and Claimant's response filed thereto.

Counsel's Recommendation: Sustain the Motion for Summary Judgment thereby dismissing the claim with prejudice. ✓

BC-2011-00540

Chris Wilson; Rita Douglas vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

Counsel's Recommendation: Sustain the Motion to Dismiss pursuant to KRS 44.073(15). ✓

BC-2011-00689

Rita Compton vs. Eastern Kentucky University

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

Counsel's Recommendation: Overrule the Motion to Dismiss and assign the claim to Hearing Officer Jan West for further proceedings. ✓

BC-2011-00711

Mary Stanfield vs. Administrative Office of The Courts

Claimant filed Amended Claim; Order Respondent to respond in 30 days.

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

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

BC-2011-00783

Christian Gooch vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

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

BC-2011-00820

Eric Hermansen vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

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

BC-2011-00831

Estate of Maggie Cornett, by and through Chris Cornett, Administrator vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Enter an Order consolidating BC-11-831 and BC-11-832, overrule Respondent's Motion to Dismiss, and assign consolidated claims to Hearing Officer Jan West for further proceedings. ✓

BC-2011-00832

Alex Ryan, a Minor vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Enter an Order consolidating BC-11-831 and BC-11-832, overrule Respondent's Motion to Dismiss, and assign consolidated claims to Hearing Officer Jan West for further proceedings. ✓

Recommended Order

BC-2007-00809

Minnie Penix vs. Tourism, Arts & Heritage Cabinet / Kentucky State Fair Board

Notes: Hearing Officer Jan West's Opinion and Recommended Order dismissing the claim for Claimant's failure to respond.

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

BC-2008-01242

James Bunch vs. Transportation Cabinet / Dept. of Highways

Agreed Order to file exceptions filed 10/12/11 - ~~was~~ received by 10/19/11 deadline.

Notes: Hearing Officer Jan West's Findings of Fact, Conclusions of Law and Recommended Order awarding \$111,026.03 to Claimant and Claimant's exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer to award damages to the Claimant, but the Board attorney will recommend revising the award amount after discussion with the Board.

Hold over to 11/11 Ad. Mtg.

BC-2009-00683

Terry Keith vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Hearing Officer Fred E. Fugazzi'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 denying payment of the claim. ✓

BC-2009-00923

Jennifer Wilson vs. Transportation Cabinet / Dept. of Highways

Sue Cassidy learned.

Notes: Hearing Officer Jan West's Opinion and Recommended Order dismissing the claim with prejudice for Claimant's failure to respond to the orders of this tribunal.

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

BC-2010-00193

Rita Barrett; Larry Barrett vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw's Recommended Opinion and Order granting Respondent's Motion for Summary Judgment.

Counsel's Recommendation: Adopt the recommendation of the hearing officer granting the Motion for Summary Judgment and thereby dismissing the claim with prejudice. ✓

BC-2010-00476

Samuel Thacker vs. Tourism, Arts and Heritage Cabinet / Dept. of Fish & Wildlife

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

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

BC-2010-00571

Troy Cupp; Christopher Cupp vs. Transportation Cabinet / Dept. of Highways

Claimant appeared to address the Board; requested that the records of this claim be re-opened.

Notes: Hearing Officer Fred E. Fugazzi's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim and the Claimants' Exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer denying payment of the claim.

BC-2010-00617

Marty Moore vs. Transportation Cabinet / Dept. of Highways

Additional award of \$75,140.00

Notes: Hearing Officer William Rudloff's Recommended Findings of Fact, Conclusions of Law and Order awarding \$73,774.30 to Claimant and Claimant's Exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer to award damages to the Claimant, but the Board attorney will recommend revising the award amount after discussion with the Board.

total amount awarded \$148,914.30

BC-2010-00640

C. William Helm vs. University of Louisville

Notes: Hearing Officer Jan West's Opinion and Recommended Order granting Respondent's Motion for Summary Judgment and Claimant's Exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer granting Respondent's Motion for Summary Judgment, thereby dismissing the claim with prejudice. ✓

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BC-2010-00658

Tonya Norton vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Jan West's Opinion and Recommended Order overruling Respondent's Motion to Dismiss.

Counsel's Recommendation: Adopt the recommendation of the hearing officer, overruling the Motion to Dismiss and remanding the claim to the hearing officer for further proceedings. ✓

BC-2010-00701

Jacob Barker, by and through his mother Amanda Barker vs. Elliott County School Board and Kentucky Department of Education

Notes: Hearing Officer William Rudloff's Recommended Order overruling the Respondent's Motion to Dismiss and holding the claim in abeyance for ninety (90) days to allow the Claimant to file an action in the Elliott Circuit Court, per Board of Education of Nelson Co. v. Forte, 337 S.W.3d 617 (Ky., 2011).

Counsel's Recommendation: Adopt the recommendation of the hearing officer holding the claim in abeyance for ninety (90) days. ✓

BC-2010-00727

Julius Mullins 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 denying payment of the claim. ✓

BC-2011-00106

Johnette Duncan vs. Cabinet for Health and Family Services

Notes: Hearing Officer Braxton Crenshaw's Recommended Order of Dismissal.

Counsel's Recommendation: Accept the recommendation of the hearing officer and dismiss the claim at the Claimant's request. ✓

BC-2011-00141

Judy Kahl; Mark Abdallah vs. Transportation Cabinet / Dept. of Highways, et al.

Notes: Hearing Officer Lansden King's Recommended Order dismissing Claimant's claims against Mike Hancock, Jesse Barber and Steve Waddle in their official capacities.

Counsel's Recommendation: Adopt the recommendation of the hearing officer sustaining the Motion to Dismiss the claims against the above-referenced employees of the Commonwealth of Kentucky in their official capacities and remanding the claim to the hearing officer for further proceedings against the Transportation Cabinet. ✓

BC-2011-00152

David Adkins 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 denying payment of the claim. ✓

BC-2011-00308

Chris Thomas vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Jan West's Opinion and Recommended Order dismissing the claim with prejudice for Claimant's failure to comply with the orders of this tribunal.

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

BC-2011-00503

Edwards Auto Mart vs. Transportation Cabinet / Dept. 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 denying payment of the claim. ✓

BC-2011-00652

Terry Perkins vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer William Rudloff's Recommended Order dismissing the claim with prejudice at the Claimant's request.

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

Total number of Claims: 55

COMMONWEALTH OF KENTUCKY
BOARD OF CLAIMS
Addendum
October 20, 2011

BC-09-108

Clara Furlong v. Tourism, Arts & Heritage Cabinet, Ky. State Fair Board

Agreed Order of Dismissal filed by the parties.

Counsel's Recommendation: Enter the Agreed Order of Dismissal as stipulated to by the parties. ✓

BC-10-610

Bellsouth Telecommunications, Inc., d/b/a AT&T Kentucky v. Transportation Cabinet, Dept. of Highways

Notice of Voluntary Dismissal (Motion to Dismiss) filed by the Claimant.

Counsel's Recommendation: Enter an Order dismissing the claim with prejudice pursuant to the Claimant's request. ✓

BC-11-883

James T. Browning v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Respondent's Answer recommending payment of the claim in full.

Counsel's Recommendation: Enter a Final Order awarding Claimant \$1,100.00 in settlement of this claim as recommended by the Respondent. ✓
