

COMMONWEALTH OF KENTUCKY

Board of Claims

Agenda

September 15, 2011

*Ms. Cassidy cleared up her records to include current former clients.*

The Board of Claims received 93 new claims during the month of August, 2011. A total of 80 claims were set up, according to Assistant Clerk Paula Woolums. Paula also dismissed seven (7) claims for lack of jurisdiction.

Investigators Jackie Lynch and Wanda Luttrell decided 133 claims (under \$1,000.00) in August, 2011. Jackie reports that 77 claims were dismissed and 56 claims were awarded, for a total amount awarded of \$20,035.95.

At its Board meeting on August 18, 2011, the Board dismissed 18 claims and awarded 11 claims totaling \$140,735.29. Together with the claims investigated in-house, the Board dismissed a total of 95 claims and awarded a total of 65 claims for a total amount awarded of \$160,771.24 in August, 2011.

*Minutes accepted.*

**For Instructions From the Board**

BC-2008-00205

Estate of Aydan Cooper vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement awarding \$30,000.00 to Claimant filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding \$30,000.00 to Claimant. ✓

BC-2010-00723

Bernard Hoskins vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement awarding Claimant \$125,000.00 filed.

Counsel's Recommendation: Enter the Agreed Order awarding Claimant \$125,000.00 in settlement of this claim. ✓

BC-2010-00770

Scorpion Protective Coatings, Inc. vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: September 15, 2011- Default Order Dismissing

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

BC-2010-00782

TS Trucking, LLC. vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$2,396.24 to Claimant filed.

Counsel's Recommendation: Enter the Agreed Order awarding \$2,396.24 to Claimant. ✓

BC-2010-00786

Larry Puro vs. Tourism, Arts and Heritage Cabinet / Ky. Horse Park

Notes: September 15, 2011- Default Order

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

BC-2010-00822

Florence Rewinski vs. Commonwealth of Kentucky

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2010-00823

James Wolfe vs. Justice and Public Safety Cabinet

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2010-00829

Sherry Moore vs. Commonwealth of Kentucky

Notes: September 15, 2011- Default Order

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

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BC-2010-00831

Audrey Manning vs. University of Kentucky

Notes: September 15, 2011-Default Order Dismissing

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

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BC-2010-00847

Gordan Bartrum vs. Transportation Cabinet / Dept. of Highways

Notes: September 15, 2011- Default Oder Dismissing

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

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BC-2010-00851

Thomas Draeger vs. Transportation Cabinet / Dept. of Highways

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00005

Joshua Vinson vs. Cabinet for Health and Family Services

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00006

3D Exhibitis, Inc. vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: September 15, 2011- Default Order and Dismiss the Claim

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

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BC-2011-00020

Judy Gibson vs. Transportation Cabinet

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00029

Jennifer Hamlin vs. Transportation Cabinet / Dept. of Highways

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00030

Nicole Stevenson vs. Transportation Cabinet / Dept. of Highways

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00060

Brandy Maples vs. University of Kentucky

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00079

Walt Meachum vs. Transportation Cabinet / Dept. of Highways

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00107

Lavon Yaeger vs. Commonwealth of Kentucky

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00111

Larry Atkinson vs. Transportation Cabinet / Dept. of Highways

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00112

Herbert Honeycutt vs. Transportation Cabinet / Dept. of Highways

Notes: September 15, 2011- Default Order Dismissing

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

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BC-2011-00114

Michael Allen vs. University of Kentucky

Notes: September 15, 2011- Default Order Dismissing Claim

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

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BC-2011-00118

Keith Brown vs. Commonwealth of Kentucky

Notes: September 15, 20110 Default Order

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

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BC-2011-00131

Samantha Prater vs. Commonwealth of Kentucky

Notes: September 15, 2011- Default Order Dismissing Claim

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

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BC-2011-00162

Christopher Doyle vs. Commonwealth of Kentucky

Notes: September 15, 2011- Default Order Dismissing Claim

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

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BC-2011-00178

Lettie Townsend vs. University of Kentucky

Notes: September 15, 2011- Default Order Dismissing Claim

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

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BC-2011-00182

Roger Travis vs. Tourism, Arts and Heritage Cabinet / Dept. of Fish & Wildlife

Notes: September 15, 2011-Default Order Dismissing Claim

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

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BC-2011-00224

Pamela Jarvis vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$750.00 to Claimant filed.

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

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BC-2011-00360

Charles Yarbrough vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order awarding \$900.00 to Claimant filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding Claimant \$900.00. ✓

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BC-2011-00705

Bryant Hodges vs. Transportation Cabinet / Dept. of Highways

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

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

**Full Board Review**

BC-2011-00459

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

Notes: 7/27/11 Board ordered dismissed  
8/8/11 Claimant requests FBR (\$471.88)

*Uphold original dismissal*

BC-2011-00461

Marvin Waddell vs. Transportation Cabinet / Dept. of Highways

Notes: 8/4/11 Board ordered dismissed  
8/19/11 Claimant requests FBR (\$500.00)

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BC-2011-00475

Phillip Karrick vs. Transportation Cabinet / Dept. of Highways

Notes: 7/25/11 Board ordered dismissed  
8/25/11 Claimant requests FBR (\$164.69)

*Reverse + award \$164.69*

Claimant submitted a list of "other" things needing fixing on her car, trying to relate to hitting pothole. Please see emails.

BC-2011-00547

Uriah Pasha vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 8/12/11 Board ordered dismissed  
8/23/11 Claimant requests FBR (\$950.00)

*Uphold original dismissal*

BC-2011-00605

Fay McClain vs. Transportation Cabinet / Dept. of Highways

Notes: 7/29/11 Board ordered dismissed  
8/15/11 Claimant requests FBR (\$500.00)

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BC-2011-00627

Debbie McCarty vs. Transportation Cabinet / Dept. of Highways

Notes: 8/10/11 Board ordered dismissed  
8/25/11 Claimant requests FBR (\$500.00)

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BC-2011-00664

Alfred Bates vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 7/27/11 Board ordered dismissed  
8/8/11 Claimant requests FBR (\$142.50)

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BC-2011-00665

Robert Almestica vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 7/27/11 Board ordered dismissed  
8/4/11 Claimant requests FBR (\$155.00)

BC-2011-00687

Raymond Smith vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 7/27/11 Board ordered dismissed  
8/11/11 Claimant requests FBR (\$155.00)

*Uphold Original Decision*

BC-2011-00696

William Cato vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 7/27/11 Board ordered dismissed  
8/12/11 Claimant requests FBR (\$171.00)

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BC-2011-00720

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

Notes: 8/3/11 Board ordered dismissed  
8/12/11 Claimant requests FBR (\$150.00)

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BC-2011-00722

Gregory Parker vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 8/3/11 Board ordered dismissed  
8/10/11 Claimant requests FBR (\$150.00)

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BC-2011-00723

James Glass vs. Justice and Public Safety Cabinet / Justice and Public Safety Cabinet

Notes: 8/3/11 Bd. ordered dismissed  
8/19/11 Claimant requests FBR (\$150.00)

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BC-2011-00724

Roy Perkins vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 8/3/11 Board ordered dismissed  
8/16/11 Claimant requests FBR (\$153.75)

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BC-2011-00725

JB. Simpson vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 8/12/11 Board ordered dismissed  
8/22/11 Claimant requests FBR (\$153.43)

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BC-2011-00727

Michael Shelton vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 8/12/11 Board ordered dismissed  
8/23/11 Claimant requests FBR (\$150.00)

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BC-2011-00730

Fred Jones vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: 8/12/11 Board ordered dismissed  
8/19/11 Claimant requests FBR (\$150.00)

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BC-2011-00731

Mitchell Dooley vs. Justice and Public Safety Cabinet / Dept. of Corrections

*Upheld original dismissal*

Notes: 8/12/11 Board ordered dismissed  
8/19/11 Claimant requests FBR (\$150.00)

**Motions**

BC-2010-00756

Henry Brockman; Deborah Brockman vs. Transportation Cabinet / Dept. of Highways

*Require Claimant*

Notes: Answer and Motion to Dismiss; Claimant's Motion to Overrule Respondent's Motion to Dismiss.

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

BC-2011-00574

Paul Litz vs. University of Kentucky

Notes: Claimant's Motion to Hold Claim in Abeyance and Respondent's response in opposition thereto.

Counsel's Recommendation: Sustain Motion to Hold Claim in Abeyance pending a parallel federal civil court action. ✓

BC-2011-00579

Bruce Collins 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 pursuant to KRS 44.110. ✓

BC-2011-00647

Edmund Chaney vs. Justice and Public Safety Cabinet / Dept. of Corrections

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

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

BC-2011-00684

Gene Forte, Individually and as Administrator of the Estate of Carole Forte vs. Nelson County Board of Education

Notes: Respondent's Motion to Dismiss, Claimant's Response to Motion to Dismiss, and Respondent's Reply in Support of its Motion to Dismiss. ✓

Counsel's Recommendation: Sustain the Motion to Dismiss as it pertains to the Claimant's claims for loss of consortium, pursuant to KRS 44.070(1), overrule the remainder of the Motion to Dismiss and assign claim to Hearing Officer William Rudloff for further proceedings.

BC-2011-00740

Kelly Cox vs. Transportation Cabinet / Dept. of Highways

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

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

BC-2011-00836

Randy Wagers vs. Transportation Cabinet / Dept. of Highways

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

Counsel's Recommendation: Sustain the Motion to Dismiss pursuant to the Kentucky Supreme Court ruling in Board of Claims v. Harris, which ruling states that the Board of Claims has no jurisdiction over county governmental entities. ✓

**Recommended Order**

BC-2007-00684

Dennis Hencye vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw's Recommended Findings of Fact, Conclusions of Law and Order denying payment of claim.

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

BC-2010-00498

Angela Jordan vs. Western Kentucky University

Notes: Hearing Officer Lansden King's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim and the parties' Exceptions filed thereto.

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

*Request for extension filed by Claimant.*

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

Counsel's Recommendation: ~~Forthcoming at meeting.~~ *Hold over to next meeting.* ✓

BC-2010-00600

Durenda Howard, next friend of Angelina Rusher vs. Corbin Independent School Board

Notes: Hearing Officer William Rudloff's Recommended Order overruling the Respondent's Motion to Dismiss and holding the claim in abeyance and Respondent's Exceptions filed thereto.

Counsel's Recommendation: Adopt the recommendation of the hearing officer holding the claim in abeyance pending adjudication by the relevant circuit court as to whether a tort civil action in circuit court arising out of the same facts is barred by governmental immunity, pursuant to the Kentucky Supreme Court's recent ruling in Nelson Co. Bd. of Education v. Forte, 337 S.W.3d 617 (Ky., 2011). ✓

BC-2010-00617

Marty Moore vs. Transportation Cabinet / Dept. of Highways

*Claimant filed Exceptions.*

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

Counsel's Recommendation: ~~Adopt the recommendation of the hearing officer awarding Claimant \$73,774.30 in settlement of this matter.~~ *Pass to future docket.*

BC-2010-00640

C. William Helm vs. University of Louisville

*Claimant filed Exceptions.*

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

Counsel's Recommendation: ~~Adopt the recommendation of the hearing officer granting Respondent's Motion for Summary Judgment, thereby dismissing the claim.~~ *Pass to next mtg.*



BC-2010-00651

James Adkins vs. Justice and Public Safety Cabinet / Dept. of Corrections

Notes: Hearing Officer Lansden King's Recommended Order finding liability on the part of the Respondent, finding the Claimant's damages to be the actual cash value of the lost property at the time of the loss, and remanding claim for further a further finding on damages; Claimant filed Exceptions and an itemization of his lost property in response.

Counsel's Recommendation: Adopt the recommendation of the hearing officer, ordering the Claimant's damages to be calculated as the actual cash value of the lost personal property at the time of the loss and remanding the claim to the hearing officer for findings of fact regarding the value of said property. ✓

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BC-2010-00842

Jeanetta Beard vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Lansden King's Findings of Fact, Conclusions of Law and Recommended Order finding 50% comparative liability and collateral offsets; the Claimant filed no Excpetions to this recommendation.

Counsel's Recommendation: Adopt the recommendation of the hearing officer finding the Claimant to be 50% at fault and awarding no damages due to collateral offsets, pursuant to KRS 44.070(1). ✓

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BC-2010-00843

Autum Byers vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Lansden King's Findings of Fact, Conclusions of Law and Recommended Order awarding \$1,981.25 to Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer finding the Claimant to be 50% at fault and awarding damages of \$1,981.25 accordingly. ✓

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Total number of Claims: 64

**COMMONWEALTH OF KENTUCKY**  
**BOARD OF CLAIMS**  
*Addendum*  
*September 15, 2011*

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Additional material received in the following agenda items:

**BC-10-571**

Troy Cupp, et al. v. Transportation Cabinet, Dept. of Highways

*Claimant filed request for extension of time to file exceptions to recommendation.*

**BC-10-617**

Marty Moore v. Transportation Cabinet, Dept. of Highways

*Claimant filed exceptions to recommendation.*

**BC-10-640**

C. William Helm v. University of Louisville

*Claimant filed exceptions to recommendation.*

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**BC-2011-746**

Ricky Miller v. University of Kentucky

*Notice of Voluntary Dismissal filed by Claimant.*

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

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