

COMMONWEALTH OF KENTUCKY  
Board of Claims  
Agenda  
September 20, 2012

01111  
VW  
PW  
JL  
MP  
SC  
LJB  
10:30

The Board of Claims received 64 new claims during the month of August, 2012. A total of 63 claims were set up, according to Assistant Clerk Paula Woolums. Paula also returned 5 claims for lack of jurisdiction.

Investigator Jackie Lynch decided 40 claims under \$1,000.00 in August, 2012. Jackie reports that 34 of these claims were dismissed and six (6) were awarded, for a total amount awarded of \$2,000.49.

At its Board meeting on August 16, 2012, the Board dismissed 18 claims and awarded eight (8) claims totaling \$160,242.70. Together with the claims investigated in-house, the Board dismissed a total of 52 claims and awarded a total of 14 claims for a total amount awarded of \$162,243.19 in August, 2012.

**For Instructions From the Board**

*adopt*

BC-2011-00764  
Linville Dixon vs. Transportation Cabinet / Dept. of Highways

Notes: Agreed Order of Settlement filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement and Dismissal awarding the Claimant \$4,000.00 in settlement of this claim.

BC-2011-01125  
Regina Reber vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

*adopt*

Notes: Agreed Order reimbursing \$1,085.00 to the Claimant in settlement of this matter.

Counsel's Recommendation: Enter the Agreed Order reimbursing the Claimant \$1,085.00 as agreed to by the parties.

BC-2011-01182  
Edward Duvall vs. Transportation Cabinet / Dept. of Highways

*adopt*

Notes: Agreed Order of Settlement filed by the parties.

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

BC-2012-00087  
Bridget Ortega vs. ~~Transportation Cabinet~~ / Dept. of Highways

Notes: August 16, 2012- Default Order

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

BC-2012-00196  
William Walden vs. Commonwealth of Kentucky

*adopt*

Notes: Sept 20, 2012 Default Order

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

BC-2012-00206  
John Campbell vs. Transportation Cabinet / Dept. of Highways

*adopt*

Notes: Sept 20, 2012- Default Order

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

BC-2012-00209

Tammy Johncox vs. Tourism, Arts and Heritage Cabinet / Dept. of Parks

*adopt*

Notes: Agreed Order of Settlement in the amount of \$353.57 filed.

Counsel's Recommendation: Enter the Agreed Order of Settlement awarding the Claimant \$353.57 in settlement of this claim.

BC-2012-00265

Trisha O'Brien; Leisha Nickell vs. Justice and Public Safety Cabinet

*adopt*

Notes: Sept 20, 2012- Default Order

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

BC-2012-00273

David Burkhead vs. Transportation Cabinet / Dept. of Highways

*adopt*

Notes: Notification from the State Risk & Insurance Services Division that this claim was paid in full by the Kentucky Self-Insured Auto Program (KSAP).

Counsel's Recommendation: Enter a Final Order dismissing the claim as settled by the Commonwealth's liability insurance.

**Full Board Review**

BC-2012-00294

Jason McVey vs. Transportation Cabinet / Dept. of Highways

*Upheld Dismissal adopt*

Notes: 8/7/12 Board ordered dismissed  
8/15/12 Claimant requests FBR (\$654.36)

BC-2012-00295

Ray Smithers vs. Justice and Public Safety Cabinet / Dept. of Corrections

*|| adopt*

Notes: 8/9/12 Board ordered dismissed  
8/17/12 Claimant requests FBR (\$192.29)

BC-2012-00314

Derrick Hammond vs. Transportation Cabinet / Dept. of Highways

*|| adopt*

Notes: 8/9/12 Board ordered dismissed  
8/8/12 Claimant requests FBR ((From Ans. Rec.)  
(\$216)

BC-2012-00349

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

*|| adopt*

Notes: 8/20/12 Board Order dismissing (\$7.44 already awarded)  
8/29/12 Claimant requests FBR (\$250)

**Motions**

BC-2009-01019

April Younce vs. Transportation Cabinet / Dept. of Highways

*adopt*

Notes: Motion to Set Aside filed by the Claimant; no response filed thereto by the Respondent.

Counsel's Recommendation: Overrule the Motion to Set Aside allowing the Board's Final Order of Dismissal to stand.

BC-2012-00140

GLM Real Estate Investments vs. Transportation Cabinet / Dept. of Highways

*adopt*

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

Counsel's Recommendation: Overrule the Motion to Dismiss and order the Respondent to file its Answer to the claim within thirty (30) days.

BC-2012-00163

Peggy Marcum vs. University of Kentucky

*adopt*

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

Counsel's Recommendation: Sustain the Motion to Dismiss for Claimant's failure to allege negligence on the part of the Respondent.

BC-2012-00286

Nettie Coldwell vs. University of Kentucky

*adopt*

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

Counsel's Recommendation: Overrule Motion to Dismiss and assign claim to Hearing Officer Mike Wilson for further proceedings.

BC-2012-00305

Rachel Holt; Vocus Broughton vs. Transportation Cabinet / Dept. of Highways

*adopt*

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

Counsel's Recommendation: Sustain the Motion to Dismiss and dismiss the claim with prejudice as time-barred.

BC-2012-00326

Jessy Zimmer, by and through her Guardian Geraldine Zimmer vs. Transportation Cabinet / Dept. of Highways and Justice and Public Safety Cabinet / Ky. State Police

*adopt*

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

Counsel's Recommendation: Sustain the Motion to Dismiss as the claim is a collateral or dependent claim barred by KRS 44.070(1).

BC-2012-00327

Estate of Jennifer Zimmer vs. Transportation Cabinet / Dept. of Highways; and Justice and Public Safety Cabinet / Ky. State Police

*adopt*

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

Counsel's Recommendation: Sustain the Motion to Dismiss per KRS 44.073(15) as to Respondent Transportation Cabinet only; assign remaining claim against Respondent Ky. State Police to Hearing Officer Mike Wilson for further proceedings.

**Recommended Order**

*adopt*

BC-2009-00722

Philip Schoenauer vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Mike Wilson's Recommended Findings of Fact, Conclusions of Law and Recommended Order awarding \$11,215.00 to the Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer awarding the Claimant \$11,215.00.

BC-2010-00312

Virginia Little vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Mike Wilson's Recommended 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.

*adopt*

BC-2010-00313

Terry Blackburn vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Mike Wilson's Recommended 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.

*adopt*

BC-2011-00176

Linda Comisar vs. Transportation Cabinet / Dept. of Highways

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

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

*adopt*

BC-2011-00736

Donna Insko; Delores Insko vs. Transportation Cabinet / Department of Highways

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

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

*adopt*

BC-2011-01031

Jerry Rider vs. Tourism, Arts and Heritage Cabinet / Ky. Horse Park

Notes: Hearing Officer Braxton Crenshaw's Recommended Order of Dismissal at the request of the Claimant.

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

*adopt*

BC-2011-01140

Doris Wright vs. Tourism, Arts and Heritage Cabinet / Ky. State Fair Board

Notes: Hearing Officer Jan West's Recommended Order dismissing the claim at the request of the Claimant.

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

*adopt*

BC-2011-01173

Mary Brown vs. Transportation Cabinet / Dept. of Highways

Notes: Hearing Officer Braxton Crenshaw's Recommended Order of Dismissal for the Claimant's failure to respond to the orders of this tribunal.

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

*adopt*

BC-2012-00030

Beverly Little vs. Justice and Public Safety Cabinet / Ky. State Police

accept

Notes: Hearing Officer Braxton Crenshaw's Recommended Order of Dismissal at the request of the Claimant.

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

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Total number of Claims: 29

**COMMONWEALTH OF KENTUCKY**  
**BOARD OF CLAIMS**  
*Addendum*

*September 20, 2012*

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**BC-2012-307**

Eli Alvey v. Western Kentucky University

Agreed Order of Dismissal and Settlement Agreement filed awarding the Claimant \$800.00 in settlement of this matter.

Counsel's Recommendation: Enter the Agreed Order of Dismissal and Settlement awarding the Claimant \$800.00 as agreed to by the parties.

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*Jackie's  
Claim*

COMMONWEALTH OF KENTUCKY  
BOARD OF CLAIMS  
CLAIM NO. BC-2012-00307

Tommy Alvey  
For Eli Alvey

CLAIMANT

**AGREED ORDER OF DISMISSAL  
WITH PREJUDICE  
ORDER FOR PAYMENT**

vs.

Western Kentucky University

RESPONDENT

\* \* \* \* \*

Upon advise by counsel for the parties hereto that this matter has been settled, and this Board being otherwise sufficiently advised,

**IT IS HEREBY ORDERED AND ADJUDGED** that the Clerk of the Board will issue a check to the Claimant in the amount of **eight hundred dollars and 00/100 (\$800.00)** in full payment and satisfaction of the claim filed by the Claimant against the Respondent.

This matter being fully settled, **IT IS FURTHER ORDERED** that the Claimant's Claim and cause of action is hereby **DISMISSED** with prejudice, as settled. Each of the respective parties is to bear their own costs, expenses, and attorney fees incurred.

This is a final and appealable Order, there being no just reason for delay.

ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
CHAIR, BOARD OF CLAIMS  
130 BRIGHTON PARK BLVD  
FRANKFORT, KY 40601

HAVING SEEN AND AGREED TO:

*Tommy Alvey* 8-31-12 11:01 AM  
Tommy Alvey  
on behalf of Eli Alvey  
Claimant

*Deborah T. Wilkins* 8/31/12  
Deborah T. Wilkins  
Authorized Representative  
Western Kentucky University