

COMMONWEALTH OF KENTUCKY
Kentucky Claims Commission
Negligence Claims and Tax Appeals

July 28, 2020

NEGLIGENCE CLAIMS AGENDA

Minutes

AGREED ORDERS – there were none to consider or enter

FULL COMMISSION REVIEWS

CC-2020-0073

MARK HAMILTON v. COMMONWEALTH OF KY, UNIVERSITY OF KENTUCKY
Review of \$469.00 dismissal and FCR request

The Commission voted to enter an Order upholding the dismissal of this claim.

CC-2020-0110

H. TIMOTHY SCHARSTEIN v. COMMONWEALTH OF KY, TRANSPORTATION
CABINET, DEPARTMENT OF HIGHWAYS
Review of \$500.00 dismissal and FCR request

The Commission voted to enter an Order requiring the Respondent to respond to the amended claim, no later than August 18, 2020.

MOTIONS

BC-2017-0391

DAKOTA FIELDS v. COMMONWEALTH OF KY, MURRAY STATE UNIVERSITY
Motion to Dismiss and Memorandum, Response.

The Commission voted to sustain the Motion to Dismiss

CC-2020-0075

DANETTE TAYLOR v. COMMONWEALTH OF KY, KENTUCKY STATE POLICE
Motion to Dismiss (as settled for \$13,000 from KSIP)

The Commission voted to sustain the Motion to Dismiss as agreed for \$13,000 to the Claimant that was paid through KSIP.

CC-2020-0101

STATE FARM INSURANCE v. COMMONWEALTH OF KY, KENTUCKY STATE POLICE
Motion to Dismiss (subro claim)

The Commission voted to enter an Order sustaining the Motion to Dismiss the subrogation claim filed by the Claimant.

RECOMMENDED ORDERS

BC-2015-0652

ESTATE OF EMILY SNOW v. COMMONWEALTH OF KY, TRANSPORTATION
CABINET DEPARTMENT OF HIGHWAYS

Recommended Order and exceptions filed by the Claimant

The Commission voted to enter an Order rejecting Hearing Officer Jim Howard's Recommended Order (RO) wherein he recommended finding the act that allegedly caused the accident was an engineering decision on what signs and where they should be placed were discretionary and not subject to a finding of liability. The Commission found that the ministerial acts that led to the engineering decision to place signs were either not performed or performed negligently. The finding is based on the testimony of 3 engineers who testified the signage was deficient to provide proper warning of the danger in the curve. The Respondent had assumed a duty, and failed to use reasonable care, in breach of that duty, which was a substantial factor in causing the accident. The Commission ultimately voted to remand the claim back to the hearing officer for a recommendation on damages, including apportionment, if any.

CC-2017-0270

BRUCE SHAW v. TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS
Recommended Order

The Commission voted to enter a Final Order adopting the Recommended Order.

CC-2017-0511

SHARON BALLEAU V MURRAY STATE UNIVERSITY

Recommended Order and exceptions filed by the Claimant

The majority of the Commission members voted to enter an Order rejecting the Recommended Order by Hearing Officer Allen Wilson, in which he had recommended sustaining the motion for summary judgment. However, the Commission members believed the claim involved material issues of fact, including the coach's actual conduct and remanded for a hearing.

*Marcus Carey voted to reject the RO
Delana Sanders voted to reject the RO
Carlo Wessels voted to adopt the RO*

CC-2019-0319

MICHAEL D. BOYER v. TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS
Recommended Order of Dismissal

The Commission voted to enter a Final Order adopting the Recommended Order.

CC-2019-0719

SHARMA ROSS v. UNIVERSITY OF KENTUCKY
Recommended Order of Dismissal

The Commission voted to enter a Final Order adopting the Recommended Order.

CC-2019-0853

CLAUDIA CIESLAR v. COMMONWEALTH OF KY, NORTHERN KENTUCKY
UNIVERSITY
Recommended Order

The Commission voted to enter a Final Order adopting the Recommended Order.

TAX APPEALS AGENDA

K16-R-16 AND K17-R-02

SANITATION DISTRICT NO. 1, et. al. v. DOR

Recommended Order – Issued June 11, 2019.

Executive Director/Counsel Mattingly advised the Commission members that the missing Final Order had been retrieved from counsel for the taxpayer in that case and re-distributed the Final Order to counsel for the parties, including counsel for the Dept. of Revenue, Richard Bertelson, who had requested a copy of the final order. So, the issue was rendered moot.