

**SUPREME COURT OF KENTUCKY  
DISCRETIONARY REVIEW GRANTED  
(Pending Cases Only)**

**DISCRETIONARY REVIEW GRANTED IN PART 8/18/2021 AND  
CROSS-MOTION GRANTED 9/20/2023**

Johnson & Johnson v. Hayes, 2021-SC-0079-DG

Hayes v. Johnson & Johnson, 2021-SC-0352-DG

Evidence. Personal Use Testimony by a Corporate Representative. Relevance to Punitive Damages Claim. The issue is whether a corporate representative may provide testimony regarding “personal use” of the corporation’s products, as an indication of the motive, intent or bias of the corporation in producing the product, particularly when punitive damages are sought.

Bisig, J., not sitting.

*NOTE: This case was abated from October 2021 through August 2023.*

**DISCRETIONARY REVIEW GRANTED 10/12/2022**

McMillin, M.D. v. Sanchez, et al., 2022-SC-0272-DG

Sanchez v. McMillin, M.D., et al., 2022-SC-0274-DG

Medical Malpractice. Certificate of Merit. KRS 411.167. Issues involve whether the statutory certificate of merit filing requirements are subject to possible discretionary extensions of time.

Thompson, J., not sitting.

Oral Argument Held: August 2023

**DISCRETIONARY REVIEW GRANTED 8/16/2022 and  
CROSS-MOTION GRANTED 10/12/2022**

Louisville Metro Government v. Moore, 2022-SC-0112-DG, **and**,

Moore v. Louisville Metro Government, 2022-SC-0369-DG

Employment Law. Police Officer Discipline. Merit Board. Evidence. KRS 67C.325 & .326. Expunged Charges. Issues include: (1) whether the Louisville Metro Police Merit Board violated the terminated officer’s right to confront the witnesses against him by admitting sworn, transcribed witness statements into evidence at the officer’s appeal hearing; and (2) whether the Merit Board erred by considering evidence related to an expunged criminal charge against the terminated officer.

Thompson, J., not sitting.

Oral Argument Held: December 2023

**DISCRETIONARY REVIEW GRANTED 12/7/2022**

Conn v. Kentucky Parole Board, 2022-SC-0198-DG

Parole Board. “Serve-Out” Authority. KRS 439.340(14)(b). Issues involve whether the Parole Board possesses the power to order a “serve out” of a life sentence.

Oral Argument Held: September 2023

McWhorter v. Baptist Healthcare System, Inc. d/b/a Baptist Health Lexington, 2022-SC-0354-DG

Medical Negligence. KRS 411.167. Certificate of Merit. Timeliness. Motion to Dismiss. Issues include when a certificate of merit must be filed in a medical negligence case and whether a motion to dismiss on grounds of failure to file a timely certificate of merit must be raised in answer to complaint.

Thompson, J., not sitting.

Oral Argument Held: August 2023

**DISCRETIONARY REVIEW GRANTED 12/7/2022**

Thompson v. Killary, 2022-SC-0308-DG

Civil Recovery. Childhood Sexual Abuse. Statute of Limitations. KRS 413.249. Retroactivity. Issues include whether a statutory amendment may be applied retroactively to extend an already-expired statute of limitations.

Oral Argument Held: October 2023

**DISCRETIONARY REVIEW GRANTED 12/14/2022**

Saint Elizabeth Medical Center, Inc. d/b/a Saint Elizabeth Florence v. Arnsperger, 2022-SC-0302-DG

Torts. Negligence. Issues involve whether expert testimony is necessary on causation in a negligence action filed by a plaintiff whose recently surgically repaired ankle allegedly was damaged upon return to the hospital for x-ray when the wheelchair driver bumped into the registration desk.

Oral Argument Held: September 2023

### **DISCRETIONARY REVIEW GRANTED 2/8/2023**

Commonwealth of Kentucky v. Ricky D. Ullman, Jr., 2022-SC-0293-DG  
Criminal Law. Negotiated Plea Agreement. Distribution of a Matter Portraying a Sexual Performance of a Minor. Sex Offender Registry. Post-incarceration Supervision. KRS 532.043. Issues include whether convictions for a crime not included in the definition of “sex crimes” can be subject to terms of probation typically reserved for sex offenses—or if the imposition of such terms creates an illegal, void sentence.

Thompson, J., not sitting.

Donna Powers v. Kentucky Farm Bureau Mutual Insurance Company, et al., 2022-SC-0309-DG

Insurance. Underinsured Motorists Coverage. Issues include whether all UIM claims are dependent upon the insured’s timely lawsuit against a tortfeasor.

### **DISCRETIONARY REVIEW GRANTED 3/15/2023**

Bluegrass Trust for Historic Preservation v. Lexington Fayette Urban County Government Planning Commission, et al., 2022-SC-0480-DG;

Boone Development, LLC, et al. v. Nicholasville Board of Adjustment, et al., 2022-SC-0476-DG;

Boone Development, LLC, et al. v. Commonwealth ex rel. Daniel Cameron, etc., et al., 2022-SC-0477-DG; and,

Raz, Inc., et al. v. Mercer County Fiscal Court, et al., 2022-SC-0526-DG

Administrative Law. Planning and Zoning Appeals. These cases all involve constitutional challenges to the bond requirements enacted in 2017 in KRS 100.3471 and impacting Court of Appeals jurisdiction over timely appeals from KRS 100.347 circuit court decisions regarding final planning and zoning actions.

Oral Argument Scheduled: February 2024

Combs v. Spicer, 2022-SC-0438-DG

Torts. Intentional Infliction of Emotional Distress. Issues include whether a personal representative’s acceptance of \$25,000 in return for a “Full Release of All Claims with Indemnity” on behalf of a decedent’s estate bars a subsequent suit by the personal representative individually for alleged intentional infliction of emotional distress arising out of the same fatality.

Oral Argument Held: December 2023

Commonwealth v. Roark, 2022-SC-0386-DG

Criminal Law. Methamphetamine Manufacturing. KRS 218A.1432(1)(a) and (b). Unanimous Verdicts. Issues relate to evidentiary sufficiency to support conviction of multiple statutory options to commit the same crime.

Oral Argument Held: December 2023

Swyers v. Allen Family Partnership, 2022-SC-0478-DG

Hysinger Group v. Allen Family Partnership, 2022-SC-0479-DG

Contract Law. Business Entities. Sale of Commercial Real Estate. Division of Sale Proceeds. Allocation of Expenses. Fiduciary Duties. Issues include: (1) whether the parties formed a valid agreement requiring sale proceeds over \$8 million to be divided according to the LLC's original ownership percentages; and (2) whether the LLC manager violated fiduciary duties by distributing the sale proceeds to the LLC members based on his interpretation of the parties' agreement when one of the members disagreed with the manager's interpretation.

Oral Argument Scheduled: February 2024

Commonwealth of Kentucky v. Wayne Riley, Administrator for the Estate of Archimedes Deleara Riley, et al., 2022-SC-0505-DG

Sovereign Immunity. Discovery. Questions include whether an order compelling the Commonwealth to turn over discovery materials it has already collected and turned over constitutes a "suit" for purposes of sovereign immunity.

Thompson, J., not sitting.

### **DISCRETIONARY REVIEW GRANTED 4/19/2023**

Anthem Kentucky Managed Care Plan, Inc. v. Kentucky Finance and Administration Cabinet, et al., 2022-SC-0515-DG

Kentucky Model Procurement Code. KRS 45A. Issues involve alleged irregularities in the 2020 competitive bidding process among managed care organizations bidding for contracts to operate the Kentucky Medicaid program.

Thompson, J., not sitting.

Bradley Racing Stables v. Roby, 2022-SC-0508-DG;

Churchill Downs v. Roby, 2022-SC-0516-DG; and,

Roby v. Churchill Downs, 2022-SC-0523-DG

Torts. Premises Liability. Farm Animal Activities Act. KRS 247.401 et seq. Horse-Racing Activities Exception. Issues include whether Churchill Downs and a horse's owner are liable for injuries resulting when: (1) the horse, which is stabled at Churchill Downs, bites a Backside visitor on Derby Day; (2) the horse, a stable pony used to escort racehorses to and from the track, is not involved in Derby Day races; (3) the visitor, who paid no admission to Churchill, is present as a social guest of another horse owner; and (4) Churchill posted signs warning of the inherently dangerous nature of farm animal activities on the Backside.

James Javonte Crite v. Commonwealth of Kentucky, 2022-SC-0541-DG

Criminal Law. Fourth Amendment. Search and Seizure. Landlord/Tenant. Community Caretaking. Issues include whether the police violated a tenant's Fourth Amendment rights when: (1) the schizophrenic tenant, a convicted felon, ripped wiring from his apartment walls while he was off his medication; (2) the landlord, who the tenant's brother asked to repair the damage, requested that the police meet her and the electrician at the apartment due to safety concerns; and (3) at the landlord's insistence, the police sweep the apartment for hidden threats and discover an AR-style rifle in plain view.

Normandy Farm, LLC v. Kenneth McPeck Racing Stable, Inc., 2022-SC-0552-DG

Equine Law. Contracts. Statute of Frauds. Oral Agreement. Implied Contract. KRS 230.357(11). Questions include whether KRS 230.357(11) applies only to buyers and sellers or, rather, to "any sale, purchase, or transfer of an equine."

VanMeter, C.J., not sitting.

### **DISCRETIONARY REVIEW GRANTED 6/7/2023**

T & J Land Co. v. Miller, 2023-SC-0051-DG

Torts. Negligence. Car Accident. MVRA. Statute of Limitations. Issues include whether the MVRA statute of limitation or the negligence statute of limitations applies when: (1) the plaintiff is struck by a car while inside a commercial building; and (2) the plaintiff sues the building owner, alleging that it was negligent for failing to install barriers to prevent cars from breaching the building; and (3) the plaintiff filed a separate lawsuit against the at-fault drivers and building tenant.

Cleveland Askew, Jr. v. Trooper Edward Whitworth, 2023-SC-0070-DG

Torts. Qualified Immunity. Good Faith. Assault & Battery. Excessive Force. Issues include whether a law enforcement officer who shot a suspect while attempting to execute an arrest warrant is entitled to qualified immunity when the suspect, backup officer, and other witnesses dispute the officer's version of the events that occurred after the suspect opened his apartment door. The officer, suspect, and witnesses disagree about: (1) whether the officer announced he was law enforcement, instructed the suspect to drop his lawful gun, and gave the suspect an opportunity to drop his gun before shooting him; and (2) whether the suspect lunged at the officer before the shooting.

Bisig, J., not sitting.

Jay Picard v. Katherine Knight, 2023-SC-0043-DG

Family Law. Attorney's Fees. CR 68. Offer of Judgment. KRS 403.220. Issues include whether Father can recover attorney's fees from Mother under CR 68 when: (1) Mother rejected Father's offer to settle her motion to modify child support motion by paying her \$150 per month; (2) after a hearing, the family court terminated Father's child support obligation to Mother; (3) at the same hearing, the family court considered several other motions regarding parenting issues; (4) Father made no offer of judgment on the parenting issues; (5) the family court resolved some of the parenting issues in Mother's favor and others in Father's favor.

Louisville & Jefferson County Metropolitan Sewer District v. Jennifer Albright,

Individually and as Administratrix of the Estate of David K. Albright, 2023-SC-0079-DG  
Immunity. Claims Against Local Government Act. Special Districts. Questions include: (1) whether the Metropolitan Sewer District is a "special district" (and, therefore, a "local government") pursuant to the Claims Against Local Government Act and (2) if so, were the relevant actions or inactions ministerial or discretionary in nature?

Tyler Story v. Commonwealth of Kentucky, 2023-SC-0106-DG

Criminal Law. Driving Under the Influence. Evidence. KRS 189A.103(7). Questions include whether the Commonwealth may use the results of an independent blood test obtained pursuant to KRS 189A.103(7) as evidence the defendant was intoxicated?

Blake Jeffreys v. Commonwealth of Kentucky, 2023-SC-0086-DG

Criminal Law. Promoting Human Trafficking. KRS 529.130. Service Fee. Indigency. Questions include whether a court may waive the fee required by KRS 529.130 for an indigent defendant, or, rather, if the fee is akin to a driving under the influence service fee which is an "administrative function" not subject to waiver?

Commonwealth of Kentucky v. Donna Warfield, 2023-SC-0188-DG

State Constitutional Law. Kentucky Constitution Section 115. Right to Appeal. Fugitive Disentitlement Doctrine. Issues include whether the right to appeal guaranteed by the Kentucky Constitution applies to an absconded defendant or, instead, whether the Fugitive Disentitlement Doctrine applies?

### **DISCRETIONARY REVIEW GRANTED 6/12/2023**

Davenport v. Kindred Hospitals Limited Partnership d/b/a Kindred Hospital – Louisville, et al., 2023-SC-0039-DG

Probate. Statute of Limitations. KRS 395.105. Kentucky Rules of Civil Procedure 58(1). Special Statutory Proceeding. Questions include: (1) whether probate is a “special statutory proceeding”; (2) whether an order became effective when it was entered by the court clerk or when it was signed by the judge; and (3) whether KRS 395.105 is an unconstitutional violation of the separation of powers doctrine?

Thompson, J., not sitting.

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 6/7/2023**

Mark Handy v. Louisville/Jefferson County Metro Government, 2023-SC-0044-DG  
Government Employees. CALGA. KRS 65.2005(3). Indemnification. Statute of Limitations. Issues include when Metro Government knew or reasonably should have known that an officer, on whose behalf Metro paid an \$8.5 million settlement to a man wrongfully convicted of murder, acted with fraud, malice, or corruption.

Commonwealth of Kentucky v. Kevin Master, 2023-SC-0101-DG

Criminal Law. Search Warrants. Probable Cause. Child Pornography. Issues include whether the defendant’s receipt of a child sex doll, a legal item, provided the police with probable cause to obtain a warrant to search the defendant’s electronic devices for child pornography.

### **DISCRETIONARY REVIEW GRANTED ORAL ARGUMENT 8/16/2023**

Shively Police Department v. The Courier-Journal, Inc., 2023-SC-0033-DG

Open Records. KRS 17.150(2) and 61.878(1)(a)(h) & (l). Issues involve applicability of open records exemptions for “personal privacy” and law enforcement investigatory materials.

Bisig and Thompson, JJ., not sitting. Special Justice Justin Ray Key and Special Justice Norman E. Harned sitting.

Donna Miller Bruenger, et al. v. Courtenay Ann Miller, 2023-SC-0156-DG

Sanctions. RAP 11(B)(3). Issues involve “costs” sanctions imposed by the Court of Appeals, including attorney’s fees, for filing a frivolous appeal.

Susan Sheehy v. Henry Volentine, etc., et al., 2023-SC-0129-DG

Torts. Qualified Official Immunity. Police Chase. Issues involve the pertinent pursuit policy of the sheriff’s office as impacting ministerial versus discretionary duties.

Commonwealth of Kentucky, Transportation Cabinet, Department of Highways v. Leah Atkinson, et al., 2023-SC-0173-DG

Real Property. Eminent Domain. Fair Market Value. Subsurface Minerals. Issues include whether the circuit court should have excluded the landowners' expert's testimony regarding the value of the coal-containing property because the expert used an income approach that considered the present value of potential future coal royalties.

Timothy S. Hart, MD P.S.C. D/B/A Hart Family Care v. Commonwealth of Kentucky, Kentucky Unemployment Insurance Commission, et al., 2023-SC-0117-DG

Administrative Law. Unemployment Benefits. Misconduct. Issues include whether a medical office terminated a receptionist for misconduct when: (1) the receptionist interrupted a conversation between the employer and the office manager regarding potential problems with the phone system; (2) the receptionist gave a sarcastic response to the employer's confrontational question.

Professional Home Health Care v. Commonwealth of Kentucky, Cabinet for Health and Family Services, et al., 2023-SC-0226-DG

Administrative Law. Medicaid. Home and Community Based Waiver. Safety Net Provider. 907 KAR 1:170. Issues include whether the Cabinet overpaid PHHC, a safety net provider, for case management services when: (1) the HCBW regulation includes case management services in the list of reimbursable services; (2) the safety net regulation does not include case management services in the list of services eligible for enhanced reimbursement; (3) a Cabinet employee incorrectly informed PHHC that case management services were covered by the safety net regulation; and (4) the Cabinet paid PHHC over \$1 million in enhanced reimbursements for case management services.

Wooster Motor Ways, Inc., et al. v. Michael Gonterman, et al., 2023-SC-0062-DG

Torts. Firefighter's Rule. Questions include whether the Firefighter's rule applies to bar recovery when a police officer is injured by an unrelated traffic hazard when responding to a first, separate traffic hazard?

State Auto Property & Casualty Company, et al. v. Greenville Cumberland Presbyterian Church, 2023-SC-0220-DG

Contracts. Insurance. Collapse. Questions include the definition of the term collapse under the policy and whether this Court should reconsider its interpretation of the term.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 8/16/2023  
AND CROSS-MOTION GRANTED WITH ORAL ARGUMENT 1/10/2024**

Board of Education of Paris, Kentucky v. Jason Earlywine, 2023-SC-0142-DG;  
Earlywine v. Board of Education of Paris, Kentucky, 2023-SC-0383-DG

Contracts. Education Law. Sovereign Immunity. KRS 45A.245. Questions include: (1) whether a teacher may sue a school board for breach of contract or if, instead, the school board is immune from suit; (2) whether such a suit, if allowed, must be brought in Franklin Circuit Court; and (3) whether the Court of Appeals' application of KRS Chapter 161 was proper at this venture or, rather, the issues on appeal should have been limited to questions concerning immunity?

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 8/16/2023**

Commonwealth of Kentucky v. Ahmad Rashad Davis, 2023-SC-0178-DG  
Criminal Law. Expungement. Plea Deal. KRS 431.076(1)(b). Issues include whether an appellate court may only look to the trial court's judgment or to other matters of record in determining whether a charge was dismissed in exchange for a guilty plea to another charge?

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 9/20/2023**

Motorists Mutual Insurance Company v. First Specialty Insurance Corp,  
2023-SC-0239-DG

Contract. Insurance. Commercial General Liability. Priority. Other-Insurance Clauses. Issues include the effect of the companies' competing other-insurance clauses. Is First Specialty's other-insurance clause an excess clause, which is mutually repugnant to Motorists Mutual's excess clause, or a nonstandard escape clause, which prevails over Motorists Mutual's excess clause?

Iola Capital v. LG&E, 2023-SC-0216-DG; and  
Muerdter v. LG&E, 2023-SC-0234-DG

Property. Eminent Domain. Right to Take. Public Use. Issues include whether LG&E can use eminent domain to take private property for construction of a gas line that, according to the property owners, will primarily benefit a private business and only marginally benefit the citizens of Bullitt County.

Thompson, J., not sitting.

Jamie Morales v. City of Georgetown, Kentucky, et al., 2023-SC-0248-DG; and Lieutenant James Wagoner, Individually and in his Capacity as a Lieutenant with the Georgetown Police Department v. Jaime Morales, 2023-SC-0265-DG  
Immunity. Summary judgment. CALGA. Issues include whether Lieutenant James Wagoner and the City of Georgetown were immune (under various theories) from claims brought by Jaime Morales who was injured by friendly fire.

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 9/20/2023**

Darrie Rushin v. Commonwealth of Kentucky, 2023-SC-0194-DG  
Criminal Law. Post-incarceration supervision. Violation. Sentence credits. Questions include whether a period of post-incarceration supervision is part of the original sentence and whether sentence credits apply to someone who has violated post-incarceration supervision and is re-incarcerated for that violation.

### **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 10/18/2023**

Commonwealth of Kentucky v. Darryl Ellery, 2023-SC-0228-DG  
Criminal Law. Probation Revocation. Jurisdiction. Fugitive Tolling Doctrine. Equity. Questions include whether the trial court lost jurisdiction when it failed to extend Ellery's probation at his first appearance after his warrant for failure to comply with the terms of his probation was served. The Commonwealth seeks application of the "Fugitive Tolling Doctrine" to toll the running of the probationary period while an individual is a fugitive from justice.

Bill Dunn, McCracken County PVA v. The Solomon Foundation, 2023-SC-0235-DG; Department of Revenue v. The Solomon Foundation, 2023-SC-0236-DG  
Taxation. Real Property. KY Constitution § 170. Institutions of Religion. Owned and Occupied. Issues include: (1) whether a nonprofit corporation that loans money and leases property to Restoration Movement churches is an institution of religion; and (2) whether the same institution of religion must both own and occupy the property to qualify for § 170's tax exemption.

T-Mobile v. Kentucky Commercial Mobile Radio Service Emergency Telecommunications Board, 2023-SC-0245-DG  
Government. Regulatory Fees. 911 Services. Prepaid Cell Phones. Common Law Refund. Is a prepaid cell phone provider entitled to a common law refund of statutory 911 fees paid to the CMRS Board when: (1) the provider questioned the statute's applicability to prepaid cellular services from the time it began offering those services in Kentucky; (2) the CMRS Board informed the provider that the 911-fee statute did apply to prepaid cellular services; (3) the provider paid 911 fees for two years, rather than filing a lawsuit to obtain a ruling regarding the statute's applicability; (4) this Court held that the statute did not apply to prepaid cellular providers in *Virgin Mobile*, 448 S.W.3d 241 (Ky. 2014); and (5) the provider promptly requested a refund from the CMRS Board and properly paid 911 fees after the General Assembly amended the statute?

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 10/18/2023**

Annette Wiley, Individually and as Administratrix and Personal Representative of the Estate of Charlotte Blair, et al. v. Masonic Homes of Kentucky, Inc. d/b/a Masonic Home of Louisville, 2023-SC-0249-DG

Power of Attorney. KRS 457.050. Retroactivity. Questions include whether a power of attorney was valid when the version of KRS 457.050 in effect required two witnesses to the signing of a power of attorney document or if a later amendment to the statute only requiring the power of attorney be notarized was retroactive.

### **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 12/6/2023**

Brandon Blair v. Commonwealth of Kentucky, 2023-SC-0296-DG

Criminal Law. Bail Jumping. KRS 520.070. Double Jeopardy. Issues include whether the defendant was properly charged with five counts of first-degree bail jumping when: (1) the defendant was charged with drug felonies in five separate cases; (2) the defendant was released on bond pending trial of the drug cases; (3) the circuit court scheduled all five drug cases for a single combined hearing; and (4) the defendant failed to appear for the single combined hearing.

Douglas Hodge v. Kentucky Parole Board, 2023-SC-0091-DG

Criminal Law. Parole revocation. Kentucky Parole Board. Administrative Law Judge. Due Process. Questions include whether Hodge's due process rights were violated when both his hearings as to parole revocation were held before an Administrative Law Judge (rather than by the Parole Board).

Kentucky Parole Board v. Timothy Shane, 2023-SC-0364-DG

Criminal Law. Parole revocation. Kentucky Parole Board. Administrative Law Judge. Due Process. KRS 439.440. Questions include whether Shane's due process rights were violated when both his hearings as to parole revocation were held before an Administrative Law Judge (rather than by the Parole Board) and whether KRS439.440 mandates the Parole Board conduct the final revocation hearing.

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 12/6/2023**

David Vincent v. Commonwealth of Kentucky, 2023-SC-0311-DG

Criminal Law. Fourth Amendment. Traffic Stop. Mistake of Law. Informant Tips. Issues include whether a police officer had reasonable suspicion to stop the defendant when: (1) a reliable informant contacted the officer and alleged that the defendant and his passenger were behaving strangely and appeared to be high while at a local gas station; (2) the officer observed the defendant's vehicle at the gas station and noticed that it was equipped with forward-facing red lights; (3) the officer knew that a recently enacted law banned forward-facing red lights but did not know the law's effective date; (4) the law became effective 11 days after the traffic stop; and (5) the officer testified that he stopped the defendant to give him a warning about the red lights.

## **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 1/10/2024**

### Lexington-Fayette Urban County Government v. Fraternal Order of Police, Bluegrass Lodge #4, 2023-SC-0445-DG

Local Governments. Police. No-Knock Warrants. Collective Bargaining. Arbitration. Preemption. KRS 455.180 et seq. Issues include: (1) whether LFUCG was required to engage in collective bargaining with Lexington police officers before enacting an ordinance banning the use of no-knock warrants; (2) whether LFUCG was required to arbitrate after the police filed a grievance related to the no-knock ordinance; and (3) whether LFUCG had the authority to enact an ordinance banning no-knock warrants after the General Assembly enacted a law setting forth the requirements for issuance of no-knock warrants.

### Fraternal Order of Police, Bluegrass Lodge #4 v. Lexington-Fayette Urban County Government, 2023-SC-0322-DG

Local Governments. Police. Collective Bargaining. Arbitration. Civil Claims. Duty to Defend. Issues include whether the collective bargaining agreement between LFUCG and Lexington police officers required LFUCG to arbitrate a grievance asserting a dispute regarding LFUCG's duty to defend an officer from a civil lawsuit.

### Kimberly Deramos v. Anderson Communities, Inc., 2023-SC-0378-DG

Torts. Negligence. Strict Liability. Dog Bite. KRS 258.235(4). Questions include whether the trial court erred in dismissing tenant's complaint against her landlord for failure to state a claim upon which relief could be granted under CR 12.02(f) when: (1) the tenant was attacked by a dog in a common area at the landlord's apartment complex; (2) the landlord was not strictly liable under KRS 258.235(4) because it is not the dog's "owner"; and (3) the tenant's complaint alleged negligence, not strict liability.

## **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 1/10/2024**

### Connie Corner, Individually and as Executrix of the Estate of Thomas Dunbar A/K/A "Sam" Dunbar v. Tyler Popplewell, et al., 2023-SC-0403-DG

Justiciability. Standing. Waiver. Will Contest. Issues include whether the defendant, the beneficiary of the contested will, waived the plaintiff's alleged lack of standing by failing to raise the issue for two years.

### John Edward Anderson v. Commonwealth of Kentucky, 2023-SC-0337-DG

Criminal Law. Fugitive Disentitlement Doctrine. Appeals. Voluntary Surrender. Issues include whether the Court of Appeals correctly applied the fugitive disentitlement doctrine to dismiss a defendant's appeal when: (1) the defendant failed to surrender himself to the jail to begin serving the sentence imposed by district court; (2) the circuit court affirmed the defendant's conviction while the defendant remained at large; and (3) the defendant surrendered himself to law enforcement after the Commonwealth moved the Court of Appeals to dismiss his case.