

SUPREME COURT OF KENTUCKY

**DISCRETIONARY REVIEW GRANTED
(Pending Cases Only)**

DISCRETIONARY REVIEW GRANTED 10/25/2018

Merritt v. Catholic Health Initiatives, 2018-SC-0155-DG
Insurance. Captive Insurer. Unfair Claims Settlement Practices Act. Issues include whether a healthcare company's captive insurer is exempt from the Unfair Claims Settlement Practices Act.

DISCRETIONARY REVIEW GRANTED 2/7/19

Normandin v. Normandin, 2018-SC-0451-DG
Marital Dissolution. Restricted Stock Units. Issues involve marital or nonmarital classification of a spouse's deferred compensation in the form of not-yet-vested restricted stock units.

Simms v. Estate of Blake, et al., 2018-SC-0478-DG
Wrongful Death. Mandy Jo's Law. Issues involve the proof necessary to show that a parent "willfully abandoned the care and maintenance of his or her child" for purposes of "Mandy Jo's Law," KRS 391.033 and KRS 411.137, respectively precluding recovery from a decedent child's estate or for wrongful death of a child.

DISCRETIONARY REVIEW GRANTED 3/6/2019

CHFS v. Baker, 2018-SC-0610-DG
KRS 600.020(1)(h). Exercise of Custodial Control or Supervision of a Child. KRS 532.045. Person in a Position of Authority or Special Trust. The issue in this case is whether the Movant was a person defined by the statute as having custodial control or supervision of a child to justify an investigation and sanctions against her. In the alternative, was the Movant a person in a position of authority or special trust under KRS 532.045 sufficient to justify an investigation where another child is allegedly abusive to children under her care and/or supervision.

Oral Argument – February 2020

DISCRETIONARY REVIEW GRANTED 4/11/2019

Elder v. Kentucky Retirement Systems, 2017-SC-0258-DG
Disability Retirement Benefits. Preexisting Conditions. Genetic Disorders. Issues include: (1) whether the disability claimant's genetic blood disorder predated his membership in the Kentucky Retirement Systems; and (2) whether KRS provided the disability claimant with sufficient opportunity to supplement his evidence with pre-employment medical records following KRS's order remanding the case to the hearing

officer for further consideration in light of *Kentucky Retirement Systems v. West*, 413 S.W.3d 578 (Ky. 2013).

Oral Argument – February 2020

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 4/11/2019

Foreman v. Auto Club Property-Casualty Insurance Company, 2018-SC-0618-DG Insurance. Homeowners. Intentional Act Exclusion. Issues involve applicability of an intentional act exclusion to a claim arising out of a juvenile family member's attempt to commit suicide by setting a fire in the home.

DISCRETIONARY REVIEW GRANTED 6/5/2019

Abbott, Inc. v. Guirguis, et al., 2018-SC-0577-DG

Real Property. Champerty. Judicial Recusal. Issues involve a circuit court's refusal to recuse from consideration of a dispute regarding ownership of an elevated strip of land last used as a railway line in 2001 and near which the judge prior to this litigation (and before he was a judge) was involved in an alleged trespass for purposes of hunting on land owned by one of the parties.

Barnett v. Central Kentucky Hauling, LLC, 2019-SC-0064-DG

Kentucky Civil Rights Act. The issue is whether the KCRA provides a claim for relief for individuals due to their association with a person with disabilities.

Oral Argument – May 2020

DISCRETIONARY REVIEW GRANTED 3/6/2019 and CROSS-MOTION GRANTED 6/5/2019

A.H. v. Louisville Metro Government, 2018-SC-0359-DG **and** (Cross Motion)

Louisville Metro Government v. A.H., 2019-SC-0158-DG

Jails. Statutory Duties. Consolidated Government. Immunity. Issues include whether the estate of a deceased inmate can recover from Metro Government or the director of Metro Corrections for violation of KRS 71.040, which requires jailers to treat inmates humanely.

Oral Argument – July 2020

DISCRETIONARY REVIEW GRANTED 4/11/2019 and CROSS-MOTION GRANTED 6/5/2019

Commonwealth ex rel. Tilley v. Stars Interactive Holdings (IOM) Ltd., et al., 2019-SC-

0058-DG **and** (Cross Motion) Stars Interactive Holdings (IOM) Ltd., et al. v.

Commonwealth ex rel. Tilley, 2019-SC-0209-DG

KRS 372.040. Loss Recovery Act. Standing. On the motion for discretionary review the issue is whether the Commonwealth is "any other person" who has standing to bring claims under the Loss Recovery Act. A second issue is whether the complaint sufficiently stated a cause of action against the Respondents. On the cross-motion, the issues are whether the internet gambling sites are "winners" under the Loss Recovery

Act from which recovery may be obtained, whether the trial court accurately calculated the damages, and whether treble damages were warranted by the circumstances in this matter.

Oral Argument – July 2020

DISCRETIONARY REVIEW GRANTED 8/21/2019

Northern Kentucky Area Development District v. Wilson, 2018-SC-0665-DG
Kentucky Whistleblower Act. Employer. Gray-Area Entities. *Comair* Analysis. Issues include whether NKADD is an employer under the Whistleblower Act.

Oral Argument – August 2020

Howard v. Big Sandy Area Development District, 2018-SC-0601-DG
Governmental Immunity. *Comair* Analysis. Integral State Government Function. Issues include whether BSADD performs an integral state government function, entitling it to governmental immunity under *Comair*.

Oral Argument – August 2020

Phillips v. Rosquist, 2018-SC-0671-DG
Real Property. Judicial Recusal. Issues involve an appellate panel member's refusal to recuse from a property dispute in the judge's residential subdivision.

Commonwealth v. Hess, 2019-SC-0130-DG
Criminal Law. Fugitive Disentitlement Doctrine. Does the constitutional right to appeal preclude application of the fugitive disentitlement doctrine when a paroled appellant absconds from supervision during the pendency of an appeal from an order revoking probation?

Noel v. Welch, 2019-SC-0192-DG
Sovereign Immunity. Waiver. Insurance. Retained Limits. KRS 67.180. The issue is whether a governmental entity which purchases a retained limits policy is obligated to incur the costs of defense of claims made under that policy, where there is no duty to defend under that policy, and such a cost is one which a sovereign immunity defense seeks to avoid.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 9/18/19

Mosley v. Arch Specialty Fire Insurance, 2018-SC-0586-DG
Insurance Law. Bad Faith. Mediation Conduct. Issues include whether evidence of an insurer's conduct during mediation is admissible to prove a bad faith claim.

DISCRETIONARY REVIEW GRANTED 10/24/2019

Commonwealth v. Jennings, 2019-SC-0248-DG
KRS 17.510 and KRS 17.546. Restrictions on Registered Sex Offenders While on Probation. Internet Access. First Amendment. The issue here is when and whether an internet access restriction is warranted for a registered sex offender on probation,

specifically when the original crime did not involve the use of the internet, or whether such a restriction is violative of the First Amendment.

Powers v. Commonwealth, 2019-SC-0341-DG

Evidence. KRE 412. Admissibility of Sexual Activity of Victim After Alleged Crime. The issue here is whether an exception under KRE 412 allows the admissibility of sexual activity of the victim after an alleged rape and prior to report of the crime to police.

DISCRETIONARY REVIEW GRANTED NON-ORAL 10/24/2019

Pleasant Unions, LLC v. Kentucky Tax Co., LLC, et al., 2019-SC-0358-DG

KRS 134.490. Proof of Mailing. Foreclosure. The issue here is what constitutes proof of mailing of the notices required under KRS 134.490, when filing a foreclosure action.

DISCRETIONARY REVIEW GRANTED 12/13/2019

Puckett v. Cabinet for Health and Family Services, 2019-SC-0282-DG

Administrative Law. Personnel Board. Issues involve the impact of a dismissal of a classified employee with status by an individual lacking authority to take personnel actions.

Wilson v. Commonwealth, 2019-SC-0454-DG

Criminal Law. KRS 218 A.133 "Good Samaritan" Exemption. Issues involve whether the exemption applies when a 911 caller reports not specifically a "drug overdose" but rather an unknown running vehicle parked in her driveway with two nonresponsive occupants.

Commonwealth v. Collinsworth, 2019-SC-0132-DG

Criminal Law. Probation Revocation. KRS 533.040. KRS 533.060. When a defendant is on probation in County A; commits new crimes in County B; and is sentenced, incarcerated, and paroled on the new crimes in County B before the court in County A conducts a revocation hearing, must the court in County A run its previously probated sentence concurrent with the paroled sentence from County B.

University of Kentucky v. Kernel Press, Inc. d/b/a The Kentucky Kernel, 2019-SC-0468-DG

Open Records Act. Title IX investigation. Family Education Rights and Privacy Act. Burden of Proof for disclosure. The issue is whether a victim's right to privacy prohibits the university from disclosing records regarding the sexual assault of one of its students, or which contain enough information to allow others to identify the victims, subjecting them to threats or humiliation.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 12/13/2019

Jefferson County Sheriff's Office v. Kentucky Retirement Systems, 2019-SC-0315-DG
Administrative Law. State Retirement. Issues involve application of the KRS 61.598 "pension spiking" provision governing state retirements between January 1st of 2014 and June 30th of 2017.

Commonwealth v. McCarthy, 2019-SC-0380-DG
Evidence. Suppression. Implied Consent. Admissibility of Refusal of Warrantless Blood Test. The issue in this case is whether the admissibility of the refusal to take a warrantless blood test constitutes a criminal sanction, which allows for doubling of the minimum sentence should there be a conviction of the offense of DUI 4th offence.

City of Villa Hills, Kentucky v. Kentucky Retirement Systems, 2019-SC-0434-DG
Pension spiking. KRS 61.598. Retroactive application of statute. There are several issues: whether KRS 61.598 should be retroactively applied; whether the Movant met its burden of proof that the substantial increase in creditable compensation was due to a *bona fide* promotion or career advancement; whether the increase was merely an increase in overtime pay; whether there was substantial evidence to support the assessment against the City.

Upper Pond Creek Volunteer Fire Department, Inc. v. Kinser, 2019-SC-0563-DG
Qualified Immunity. Negligence of Volunteer fire department. Negligence in hiring, retention and training. Procedure. The issue is whether the Court of Appeals erred in dismissing this appeal as interlocutory, or whether the Court should have reviewed this matter to determine whether there was or was not sufficient evidence to warrant dismissal on immunity grounds.

DISCRETIONARY REVIEW GRANTED 2/12/2020

Sheets v. Ford Motor Company, 2019-SC-0208-DG
Torts. Workers' Compensation Act. Up-the-Ladder Immunity. Interlocutory Appeals. Issues include whether denial of a defendant's up-the-ladder immunity defense under the Worker's Compensation Act is appealable on an interlocutory basis.

Britt v. University of Louisville, 2019-SC-0399-DG
Contracts. State University Faculty. Model Procurement Code. Issues involve whether a state university faculty contract was merely "implied" or was included within the waiver of governmental immunity contained in the Kentucky Model Procurement Code at KRS 45A.245.

United States Liability Insurance Company v. Watson, 2019-SC-0475-DG
Limitation of Actions. Third-Party Bad Faith. The issue in this case is whether an oral agreement to settle an underlying tort claim triggers the statute of limitations for filing a third-party bad faith claim. Or stated otherwise, must the settlement agreement be reduced to writing and/or the settlement paid before the statute of limitations begins to run.

Louisville/Jefferson County Metro Government Waste Management District v. Jefferson County League of Cities, Inc., 2019-SC-0520-DG

Special Legislation. KRS Chapter 109. Consolidated Local Governments. The issue is whether an amendment to KRS Chapter 109, which applies only to consolidated local governments constituted impermissible “special legislation” which was violative of the Kentucky Constitution. The amendment would allow any city in Jefferson County to control its own method of solid waste management.

Ford v. Commonwealth, 2019-SC-0538-DG

Criminal Law. RCr 11.42. Issues involve application of “law of the case” and the propriety of review only for manifest injustice because of appellant’s counsel’s filing of a brief failing to comply with CR 76.12 and prior court orders.

Milner v. Commonwealth, 2019-SC-0660-DG

Criminal Law. KRS 218A.133. “Good Samaritan” Exemption. Issues involve whether the exemption applies when a 911 caller reports an unconscious individual slumped over the driver’s seat of a running vehicle with an open door in a commercial parking lot. Are actual overdose and actual need for medical assistance required?

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 2/12/2020

Commonwealth v. Daughtery, 2019-SC-0201-DG

Criminal Law. Sexual Offenses and Crimes Against Minor Victims. Sexual Offender Registration. Issues include whether a defendant who pled guilty to three counts of distribution of matter portraying a sexual performance by a minor is required to register as a sex offender for his lifetime.

Commonwealth v. Crumes, 2019-SC-0278-DG

Criminal Law. CR 60.02. Recantation. Issues include whether the Court of Appeals properly vacated the defendant’s murder and robbery convictions based on his co-defendant’s statements recanting his trial testimony.

DISCRETIONARY REVIEW GRANTED 3/18/2020

Meinhart v. Louisville Metro Government, 2019-SC-0237-DG

Tort Law. Qualified Official Immunity. Police Chase. Issues include whether a Louisville police officer is entitled to qualified official immunity when the victims injured in a high-speed chase allege that the officer’s decision to give chase violated the police department’s pursuit procedures, which: (1) prohibit pursuit of non-felons; and (2) require officers to consider a list of factors prior to commencing a pursuit.

Louisville SW Hotel, LLC v. Lindsey, 2019-SC-0539-DG

Tort Law. Punitive Damages. Partial Retrial. Issues in this case, arising out of the death of a five-year-old by drowning in a hotel indoor swimming pool, involve the propriety and amount of punitive damages against the hotel found 35% responsible for the death as well as the propriety of the partial retrial of compensatory damages as the

result of -0- awards for loss of earning capacity, parental consortium and pain and suffering.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 3/18/2020

Robinson v. Monroe Guarantee Insurance Company, 2019-SC-0451-DG
Insurance. Coverage. Violation of Statute. The issue in this case is the interpretation of the “violation of statute” exclusion in insurance policy endorsement as to whether it precludes coverage for claims of negligence against the insured who did not violate a statute, but where the claimant was injured by some third party who did violate a statute, while the claimant was in the care of the insured.

DISCRETIONARY REVIEW GRANTED 4/22/2020

Childers v. Albright, 2019-SC-0226-DG
Tort Law. KRS 503.085. Self-Defense Immunity. Collateral Estoppel. Issues include whether a court’s ruling that a defendant is entitled to self-defense immunity in a criminal case bars “re-litigation” of the immunity issue in a subsequent civil action.

Blackaby v. Barnes, 2020-SC-0004-DGE
Family Law. Grandparent Visitation. KRS 405.021.
Issues include whether, under circumstances involving a maternal grandmother’s adoption of a child which was being contested by the father at the time of his death, the Court should extend the stepparent adoption exception carved out in Hicks v. Enlow, 764 S.W.2d 68 (Ky. 1989).

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 4/22/2020

Estate of Benton v. Currin, 2019-SC-0279-DG
Civil Procedure. Revival of Claims. KRS 395.278. CR 25.01.
Issues involve whether, upon the death of a plaintiff, a cause of action cannot be revived by the executrix of the decedent’s estate without both a timely CR 25.01 motion for party substitution and a timely KRS 395.278 motion to revive.

Commonwealth v. Clayborne, 2020-SC-0058-DG
Criminal Law. Traffic Stop. Dog Sniff. The issue in this case is whether under the circumstances there was a reasonable articulable suspicion of criminal activity to warrant a dog sniff search where the basis for the traffic stop was suspension of the operator’s license.

DISCRETIONARY REVIEW GRANTED 5/21/2020

University Medical Center, Inc. d/b/a James Graham Brown Cancer Center v. Shwab, 2019-SC-0641-DG
Medical Malpractice. Informed Consent. KRS 304.40-320. Issues involve the validity of an informed consent signed by the participant in a Phase I clinical trial.

Ortiz v. Commonwealth, 2019-SC-0704-DG

Criminal Law. DUI. Informed Consent. KRS 189A.103 and .105. In an original action which began in circuit court regarding the enforceability of a district court suppression of blood test results, issues involve the validity of a Spanish speaking arrestee's consent after KRS 189A warnings were read to him in English. The focus is on the "shall be informed" language of KRS 189A.105.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 5/21/2020

Booth v. Lawson, 2020-SC-0023-DG, K. D. Builders v. Ribeiro, 2020-SC-0026-DG, and Lawson v. Ribeiro, 2020-SC-0028-DG

Real Estate Transactions. Arbitration. Disclosure Statement. Merger Doctrine. The issue in this case is whether the Court of Appeals erred in interpreting KRS 324.360, requiring completion by the seller of a disclosure statement, as superseding the application of the merger doctrine established in the case of *Borden v Litchford*, 619 S.W.2d 715 (Ky. App. 1981). Another issue is whether there was sufficient evidence to determine under KRS 417.160(1)(c),(d) that the arbitrator had exceeded his authority and had refused to hear evidence from an expert witness retained by the purchaser which was arguably material to the matter in controversy.

Commonwealth v. Gibson, 2020-SC-0041-DG

Criminal Law. RCr 11.42. Issues involve argument regarding entitlement to an evidentiary hearing on an RCr 11.42 motion to vacate a counseled guilty plea as charged to possession of a handgun by a convicted felon and receiving a stolen firearm plus a P.F.O. charge as reduced from P.F.O. I to P.F.O. II.

DISCRETIONARY REVIEW GRANTED 7/1/2020

Lynch v. GEICO, 2019-SC-0502-DG

Contract. Auto Insurance. Underinsured Motorist Coverage. Issues include whether a policy provision requiring an insured to make a claim for underinsured motorist benefits within two years of the accident or the last PIP payment, whichever is later, is enforceable.

Belt v. Cincinnati Insurance, 2019-SC-0426-DG

Torts. Insurance. Bad Faith. Issues include whether a catering company's commercial general liability insurer legitimately contested its obligation to cover an injury that occurred when: (1) the catering company's members were hosting a party at their home; (2) the members gave their teenage son permission to give rides around the yard in the company UTV to one passenger at a time; (3) the teenage son drove the UTV to a neighboring subdivision with three teenage passengers; and (4) while in the subdivision, the son hit a median and overturned the UTV.

Kentucky Unemployment Insurance Commission v. Nichols, 2019-SC-0477-DG

Administrative Law. Unemployment Compensation. KY. CONST. § 116. Unauthorized Practice of Law. Issues involve the constitutionality of KRS 341.470(3), permitting non-

lawyer representatives to appear on behalf of corporate or partnership employers before a referee or the commission in unemployment compensation proceedings.

Keeneland Association, Inc. v. Prather, 2020-SC-0067-DG **and** Sallee Horse Vans, Inc. v. Prather, 2020-SC-0075-DG

Farm Animals Activity Act. KRS 247.4025. Immunity. Horse Racing Activity. The issue in this case is whether the Court of Appeals erred in finding that the immunity afforded by the Farm Animals Activity Act did not apply when the injuries claimed occurred during a “horse racing activity.” A second issue is whether the exclusion of immunity applies to claims against both Keeneland and Sallee Horse Vans.

Davis v. Progressive Direct Insurance Company, 2020-SC-0168-DG

Motor Vehicle Reparations Act. Uninsured Motorist Coverage. Horse-drawn Buggy. The issue is whether a horse-drawn buggy was a “trailer of any type” under policy language and whether the policy provided uninsured motorist coverage for a collision between the insured’s vehicle and a horse-drawn buggy.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 7/1/2020

Commonwealth v. Doeblor, 2020-SC-0025-DG

Criminal Law. Forfeiture of Property. KRS 218A.410. Issues involve the propriety of forfeiture of cash found when police searched a motel room, leading to convictions including that of the defendant owner of the cash for possession of drug paraphernalia.

Ramey v. Doe, 2020-SC-0211-DG

Interpersonal Protection Orders. Subject Matter Jurisdiction. KRS 456.030(6). Minors. The issue is whether the jurisdiction of a petition for an interpersonal protection order involving a minor should be in the juvenile division of the district court.

DISCRETIONARY REVIEW GRANTED 8/12/2020

Jones v. Clark County, 2020-SC-0107-DG

KRS 441.265. Constitutional Law. Issues involve whether a prisoner, all charges against whom ultimately were dismissed unconditionally, bears responsibility for a county jailer’s bill of over \$4000 for fees associated with his confinement for nearly 14 months.

DISCRETIONARY REVIEW GRANTED 8/13/2020

M. C. v. Cabinet for Health and Family Services, 2020-SC-0191-DGE, 2020-SC-0192-DGE, & 2020-SC-0193-DGE

KRS 600.020(1). Abused or Neglected Child. Sufficiency of Evidence. The issue in this case was whether the parent’s consumption of alcohol constituted a risk of abuse and was sufficient evidence to support a finding that the children were abused or neglected under the statute, and whether such consumption warranted removal of the children from the parent’s custody.

DISCRETIONARY REVIEW GRANTED 7/1/2020 and CROSS-MOTION GRANTED 8/13/2020

Belt v. Cincinnati Insurance, 2019-SC-0426-DG, and
Cincinnati Insurance v. Belt, 2020-SC-0310-DG

Torts. Insurance. Bad Faith. Issues include whether a catering company's commercial general liability insurer legitimately contested its obligation to cover an accident that occurred when: (1) the catering company's members were hosting a party at their home; (2) the members gave their teenage son permission to give rides around the yard in the company UTV to one passenger at a time; (3) the teenage son drove the UTV to a neighboring subdivision with three teenage passengers; and (4) while in the subdivision, the son hit a curb, overturned the UTV, and severely injured one of his passengers.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 8/12/2020

Thomas v. State Farm Fire and Casualty Company, 2020-SC-0061-DG

Insurance. Homeowners. Issues involve the standard of review as well as public policy concerning the scope of a "child care services" exclusion and applicability of the "occasional" services exclusion from that exclusion from coverage.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 8/13/2020

Phelps v. Bluegrass Hospitality Management, 2019-SC-0613-DG

Tort. Premises Liability. Slip-and-Fall. Issues include whether the plaintiff's deposition testimony recounting two restaurant employees' statements that the patio floor becomes slippery at times, possibly due to floor wax, was sufficient to create a genuine issue of material fact as to what caused her fall.

Adamson v. Adamson, 2020-SC-0175-DG

Statute of Frauds. Real Estate. Mediation Agreements. Enforceability. The issue in this case is whether a mediation agreement which involves ownership of real estate is binding upon the spouse who is the joint owner of the property, who does not sign the mediation agreement but whose spouse did sign the agreement, representing that they have authority to bind their spouse.

Chadwell v. Commonwealth, 2020-SC-0201-DG

KRS 23A.205(3) and KRS 534.020. Imposition of Court Costs. Illegal Sentence. The issue in this case was whether the trial court's imposition of court costs on the Movant, to be paid within six months of his release from prison was a facially illegal sentence, in violation of the statutes governing the imposition of court costs. Another issue is whether the exemption from payment of court costs required some determination of financial status as a "poor person."

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 3/17/2020 and CROSS-MOTION GRANTED WITHOUT ORAL ARGUMENT 8/13/2020

Robinson v. Monroe Guaranty Insurance Company, 2019-SC-0451-DG, and Room to Grow Preschool, LLC v. Robinson, 2020-SC-0153-DG

Insurance. Coverage. Violation of Statute. The issue in this case is the interpretation of the “violation of statute” exclusion in an insurance policy endorsement and whether it precludes coverage for claims of negligence against the insured who did not violate a statute, but where the claimant was injured by some third party who did violate a statute, while the claimant was in the care of the insured. Another issue is whether it is reasonable for an insured to expect that there would be coverage for claims alleging negligence related to the operation of the daycare, even where the injury is caused by violation of a statute by a third party.

DISCRETIONARY REVIEW GRANTED 9/16/2020

City of Fort Wright v. Board of Trustees of the Kentucky Retirement Systems, 2020-SC-0053-DG

Public Pensions. County Employees Retirement System. Statutory Interpretation. Issues include whether KRS 78.790(1), which requires CERS to invest in securities which are “permitted for the investment of funds by fiduciaries in this state[,]” prohibits CERS from investing in financial products that are not included in KRS 386.020, the list of authorized investments for trust funds.

Jones v. Commonwealth, 2019-SC-0651-DG

Criminal Law. Felony Expungement Fees. KRS 431.073. Poor Persons. KRS 453.190. Issues include whether circuit courts may waive the fees required to obtain a felony expungement when the defendant qualifies as a poor person who is entitled to proceed without payment of costs and fees.

Commonwealth v. Reed, 2020-SC-0116-DG

Criminal Law. Search and Seizure. Warrant. Real-Time Cell Phone Location Data. The issue in this case is whether real-time cell phone location data may be obtained without a warrant absent exigent circumstances. Also at issue is what constitutes exigent circumstances with regard to such data.

R. M. v. CHFS, 2020-SC-0205-DGE

Termination of Parental Rights. Issues include evidentiary sufficiency regarding best interests of the children and reasonableness of efforts to reunify the parents with their two sons, born in Romania but in the United States since 2014.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 9/16/2020

Fields v. Commonwealth, 2019-SC-0663-DG

Criminal Law. Possession of Material Portraying Sexual Performance by a Minor. Knowledge Element. Issues include whether the Commonwealth presented sufficient evidence that the defendant, who indiscriminately downloaded thousands of files from a peer-to-peer file-sharing program, knew that some of those files contained child pornography.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 7/1/2020 and CROSS-MOTION GRANTED WITHOUT ORAL ARGUMENT 9/16/2020

Ramey v. Doe, 2020-SC-0211-DG and Doe v. Ramey, 2020-SC-0305-DG
Interpersonal Protection Orders. Subject Matter Jurisdiction. KRS 456.030(6). Minors. Capacity. The issue is whether the jurisdiction of a petition for an interpersonal protection order involving a minor should be in the juvenile division of the district court. On the cross-motion, the issue is whether minors have the capacity to represent themselves in the proceeding or whether they may be represented by a parent or legal guardian.

DISCRETIONARY REVIEW GRANTED 10/22/2020

Kearney v. University of Kentucky, 2020-SC-0010-DG
Whistleblower Protection Act. KRS 61.102. Protected Disclosure. Issues include whether a University-employed doctor made a protected disclosure of suspected wrongdoing by a public entity when: (1) he and other members of the medical school faculty council informed the dean of a potential violation of University regulations; (2) he told the dean, general counsel, a member of the board of trustees, and the executive vice president of medical affairs that the University's medical services foundation needed to be independently audited; (3) he emailed general counsel to allege that the executive vice president of medical affairs was attempting to gain unfettered control of the foundation's funds; and (4) he filed a whistleblower lawsuit repeating his allegations.

Bramlett v. Ryan, 2020-SC-0232-DG
Tort Law. Premises Liability. Issues in this case, arising out of the death of a seven-year-old boy by drowning in a residential swimming pool at his baseball team practice including also a cookout and swimming all hosted at the home of one of the team coaches, involve the scope of duty and any breach of duty as well as the propriety of summary judgment for the homeowners as affirmed by the Court of Appeals panel.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 10/22/2020

Kentucky Guardianship Administrators v. Baptist Health System, 2019-SC-0295-DG
Torts. Medical Malpractice. Evidence. Incident Report. Issues include whether the hospital's incident report, stating the "clinically suspected" cause of the patient's cardiac arrest, was properly excluded due to the report's potential to confuse the jury or due to counsel's failure to authenticate the document.

A. G. v. CHFS, 2020-SC-0273-DG
Termination of Parental Rights. Issues include the sufficiency of the evidence regarding abuse or neglect of a son born in 2005 (and in CHFS custody since 2015) by his father, who was awarded joint custody in 2014 and with whom the boy's older sibling and three younger siblings had been placed prior to the 2018 TPR trial.

Commonwealth v. Perry, 2020-SC-0279-DG

Criminal Law. Stop and Search. The issue in this case is whether the trial court erred in granting a motion to suppress evidence of drug possession and drug paraphernalia which was seized by police during an instance where an officer stopped the defendant while he was walking down the street, when the officer did so simply because he had prior contact with the defendant in his professional capacity.

DISCRETIONARY REVIEW GRANTED 12/9/2020

Commonwealth v. Roark, 2020-SC-0080-DG

Criminal Law. Evidence. Hearsay. Former Testimony Exception. Issues include whether the statement Roark's co-defendant made during the co-defendant's plea hearing, in which the co-defendant claimed sole responsibility for the crime, was admissible at Roark's trial under the former testimony exception to the hearsay rule.

Seiller Waterman, LLC v. Bardstown Capital Corporation, 2020-SC-0312-DG

Torts. Wrongful Use of Civil Proceeding. Issues involve application of the "*Noerr Pennington*" doctrine (and the "sham exception" to that doctrine) to circumstances concerning counsel and their client's challenge to a zoning change premised upon lack of "fresh notice" of the rescheduled Planning Commission evidentiary hearing.

Cox v. Commonwealth, 2020-SC-0391-DG

Criminal Law. *Miranda* Rights. Competency. Right to Counsel. The issue in this matter is whether the trial court erred in denying the defendant's motion to suppress his confession based upon his assertion that the police interrogator allegedly ignored his request for counsel made during his interview with police. In addition, the Movant seeks review of his claim that he did not knowingly and intelligently waive his *Miranda* rights during the police interview.

DISCRETIONARY REVIEW GRANTED 9/16/2020 and CROSS-MOTION GRANTED 12/9/2020

City of Fort Wright v. Board of Trustees of the Kentucky Retirement Systems, 2020-SC-0053-DG, and

Board of Trustees of the Kentucky Retirement Systems v. City of Fort Wright, 2020-SC-0477-DG

Public Pensions. County Employees Retirement System. Statutory Interpretation. Issues include whether KRS 78.790(1), which requires CERS to invest in securities which are "permitted for the investment of funds by fiduciaries in this state[.]" prohibits CERS from investing in financial products that are not included in KRS 386.020, the list of authorized investments for trust funds.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 12/9/2020

Commonwealth v. Conner, 2020-SC-0099-DG

Criminal Law. Traffic Stops. Reasonable Suspicion. Dog Sniff. Issues include whether the police officer had reasonable suspicion to extend the traffic stop for a dog sniff when he saw the passenger reach into the backseat of the stopped vehicle and place a plastic bag underneath clothing and other items.

Commonwealth CHFS v. H.L.O., 2020-SC-0276-DGE

Termination of Parental Rights. Issues involve evidentiary sufficiency and include the propriety of the Court of Appeals reversal of a TPR decision premised upon evidence deemed insufficient to satisfy KRS 625.090(2)(e) and (g) despite satisfaction of alternative KRS 625.090(2)(j).

Nichols v. Zurich American Insurance Company, 2020-SC-0284-DG

Insurance. Bad Faith. Interest and Attorney Fees. The issue in this matter is whether a misapplication of the law by the lower courts by which underinsured coverage was denied, abrogates any bad faith conduct of the insurer which may occur both before and during the pendency of the case.

Martin v. Wallace, 2020-SC-0437-DG

Qualified Immunity. Malice. Probable Cause. Summary Judgment. The issue is whether a school resource officer is entitled to qualified immunity from a bus driver's malicious prosecution, abuse of process, and defamation claims when: (1) the officer investigated allegations that the driver injured a student; (2) as a result of the officer's investigation, the driver was arrested and criminally charged; and (3) the driver was acquitted in the criminal case.

B.B. v. Cabinet for Health and Family Services, 2020-SC-0488-DGE

Family Law. Abuse or Neglect. Admissibility of Hearsay. The issue here is under what circumstances the statements of a child victim to a therapist or physician while in treatment would be admissible. In addition, there is also an issue as to whether competency of the child victim is a prerequisite to the admissibility of the hearsay statements.