

SUPREME COURT OF KENTUCKY

DISCRETIONARY REVIEW GRANTED
(Pending Cases Only)

DISCRETIONARY REVIEW GRANTED 10/25/17

Lexington-Fayette Urban County Human Rights Commission v. Hands-On Originals, 2017-SC-278-DG

Administrative Law. Human Rights Commission. Fairness Ordinance. Issues involve the alleged violation of a local fairness ordinance following from refusal of a private business to print customized T-shirts for the “5th Lexington Pride Festival.”

Oral argument-August 2019

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT
2/7/18 and CROSS MOTION GRANTED WITHOUT ORAL ARGUMENT
4/18/18

Commonwealth v. James, 2017-SC-576-DG and (Cross-Motion) James v. Commonwealth, 2018-SC-66-DG

Criminal Law. Constructive Possession. Directed Verdict. Tampering with Evidence. The issue in this case is whether the defendant was entitled to a directed verdict of acquittal on possession of a controlled substance when it could not be established that he had possessed or dropped a pipe containing meth residue which was found near another item which was dropped by the defendant, but which contained no drug residue. On cross-motion, the issue is whether the simple act of dropping evidence in plain view of the police was sufficient to satisfy the elements of the crime of tampering with evidence under KRS 524.100.

DISCRETIONARY REVIEW GRANTED 6/6/18

Getty v. Getty, 2018-SC-111-DG

Testamentary Capacity. Undue Influence. Directed Verdict. Misappropriation of Marital Property. Contempt. The main issues are whether there was sufficient evidence of lack of testamentary capacity and undue influence to overcome a motion for directed verdict. Another issue is whether the surviving spouse may be liable for misappropriation of marital property before and/or after the death of her husband. Also, was there a basis for holding the surviving spouse and her counsel in contempt of court for proceeding with cremation of the body of the deceased?

Oral argument-June 2019

Krieger v. Garvin, 2018-SC-154-DGE

Child Custody. *De Facto* Custodians. At issue is the propriety of awarding “*de facto*” custodian status to an unmarried couple.

Oral argument-June 2019

DISCRETIONARY REVIEW GRANTED 3/14/18 and CROSS MOTION GRANTED 6/6/18

Commonwealth v. Ferguson, 2017-SC-651-DG and Ferguson v. Commonwealth, 2018-SC-151-DG

Criminal Law. RCr 11.42 Motion. Ineffective Assistance of Counsel. *Pro Se* Defendant. The issue is whether the Defendant was entitled to a new trial when he and his trial counsel disagreed as to how to present his defense (suicide of the victim) to the charge of murder, resulting in the Movant seeking to represent himself at the close of the Commonwealth’s case-in-chief. An additional issue is whether the failure of trial counsel to conduct a reasonable investigation of the suicide defense and to retain an expert to support it denied the Movant his right to effective assistance of counsel.

Oral argument-April 2019

DISCRETIONARY REVIEW GRANTED 8/8/18

Mostert v. The Mostert Group, 2017-SC-600-DG

Secured Transactions. Breach of Contract. Software and Source Code. Issues include whether the creator of a thoroughbred biometrics computer program was entitled to retain the program’s “source code” when: (1) the

creator sold the program to a company in exchange for \$500,000 and a security interest in specified program components; (2) as part of the sale, the creator signed an agreement requiring him to transfer the program's software and source code to the company; and (3) the security agreement between the creator and the company listed software, but not source code, as collateral.

Oral argument-August 2019

Metzger v. Auto-Owners Insurance Company, 2018-SC-70-DG
Insurance. Commercial Automobile. UIM. "Covered Autos". Issues involve whether an automobile insurance policy issued to an LLC as sole named insured of listed covered vehicles owned by the LLC provides first class or only second-class coverage to an LLC member injured as a pedestrian.

Oral argument-August 2019

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT
8/8/18

Culver v. Commonwealth, 2017-SC-568-DG
Criminal Law. First-Degree Wanton Endangerment. First-Degree Fleeing or Evading. Issues include whether a defendant who speeds during a nighttime police chase, but does not otherwise drive erratically, creates a substantial risk of death or serious physical injury sufficient for first-degree wanton endangerment and fleeing or evading.

DISCRETIONARY REVIEW GRANTED 9/19/2018

Isaacs v. Sentinel Insurance Company Limited d/b/a The Hartford, 2018-SC-78-DG
Insurance. Commercial Automobile. UIM. "Covered Autos." Issues involve whether an automobile insurance policy issued to a PSC as sole named insured of listed covered vehicles owned by the PSC provides first class coverage to the PSC owner injured while riding a bicycle.

Oral argument-August 2019

Gonzalez, Administrator v. Johnson, 2018-SC-224-DG
Torts. Fatal Police Chase Liability. Issues involve reconsideration of the viability of "per se no proximate cause" precedent dating back to Chambers v. Ideal Pure Milk Co., 245 S.W.2d 589 (Ky. 1952).

Oral argument-April 2019

Benningfield v. Fields, 2018-SC-292-DG

KRS 342.197. Wrongful Discharge. Governmental Immunity. The issue in this matter is whether a governmental entity or its employees are immune from liability for a claim filed pursuant to KRS 342.197, for wrongful discharge for the filing of a worker's compensation claim. And if a governmental entity and its employees are subject to such a claim, were there genuine issues of fact in this case sufficient to overcome a motion for summary judgment.

Oral argument-August 2019

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT
9/19/2018

VerraLab v. Cemerlic, 2017-SC-675-DG

Civil Procedure. Long-Arm Statute. Default Judgment. Issues include whether the defendants, an out-of-state doctor and his clinic, demonstrated good cause for setting aside a default judgment when they rejected certified mail from the Kentucky Secretary of State, their agent for service of process, and claimed to have no knowledge of the lawsuit.

Warick v. Commonwealth, 2018-SC-229-DG

Evidence. Suppression. Standing. Extension of DUI Stop. The issue is whether a driver lacked standing to seek suppression of evidence found by a search dog in a grassy area near the vehicle, after purpose for stop for a possible DUI had been accomplished. Another issue is whether a search of a passenger which disclosed drugs and paraphernalia would justify an extension of the DUI stop to bring a dog to the scene for a further search.

Floyd v. Neal, 2018-SC-277-DG

Jury Selection. Preservation of Error. Peremptory Challenge. The primary issue in this case is whether the trial court abused its discretion in not striking a juror for cause, when counsel's *voir dire* did not establish with certainty that this juror could render a fair and impartial verdict.

Jackson v. Estate of Day, 2018-SC-297-DG

Personal Injury. Limitation of Actions. Revival of Claims. The issue is whether a summary judgment dismissing a claim originally filed against a deceased tortfeasor which was amended to substitute the tortfeasor's

estate after the limitations period had run, was appropriate. A secondary issue is what steps must a party plaintiff take to assure that the appropriate party defendant is named within the limitations period.

DISCRETIONARY REVIEW GRANTED 10/25/2018

Merritt v. Catholic Health Initiatives, 2018-SC-155-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.

Maguire v. Crook, 2018-SC-290-DG
Emotional Distress Damages. Issues involve whether expert medical testimony is required to present a jury question of entitlement to emotional distress damages for a "stand-alone" claim of statutory violation addressed in KRS 411.120, specifically alleging victimization of identity theft proscribed by KRS 514.160.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 10/25/2018

Ashland Hospital Corporation v. Lewis, 2018-SC-276-DG and Lewis v. Shackelford, 2018-SC-279-DG
Medical Negligence. Expert Testimony. Summary Judgment. The issue here is whether the Court of Appeals erred in its holding that expert testimony was not necessary to establish that the lack of additional treatment lead to additional injury and damages due to a failure to timely diagnose and treat a stroke. Should this Court decide that expert testimony was necessary on the issue of causation and damages, an additional issue is whether the expert testimony proffered by the plaintiff was sufficient to overcome the defendants' motion for summary judgment.

DISCRETIONARY REVIEW GRANTED 8/8/18 and CROSS MOTION GRANTED 12/5/18

CSX Transportation, Inc. v. Boggs, 2018-SC-191-DG **and** (Cross Motion) Boggs v. CSX Transportation, Inc., 2018-SC-440-DG.
FELA. Jury Instructions. Directed Verdict. Statute of Limitations. On the original motion for discretionary review, the issue was what is the proper

instruction by which a jury should determine when the claimant in an FELA case knew or should have known that their injury was caused by their work. A second issue is whether an FELA claimant may recover for a worsening condition if a claim for the original injury is barred by the three-year statute of limitations. On this cross-motion for discretionary review, the issue is whether the claimant should have been entitled to a directed verdict at the close of the evidence regarding when he knew that his work activities had caused his physical complaints. A second issue was whether the trial court should have granted the claimant's motion *in limine* regarding the railroad's opposing argument in the damage phase of the trial, namely, that the railroad had not caused the claimant's injuries.

DISCRETIONARY REVIEW GRANTED 12/5/18

Waugh v. Parker, 2018-SC-405-DG

Uniform Residential Landlord Tenant Act. Building/Housing Codes. Remedies. The issue in this case is whether under the URLTA landlords owe a statutory duty to tenants to deliver premises in compliance with building/housing codes which materially affect safety. And if not, is the tenant injured by such a failure entitled to recover damages beyond the cost of repairing the premises.

Oral argument-August 2019

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 12/5/18

Murphy v. Commonwealth, 2018-SC-281-DG

Criminal Law. Guilty Plea. *Boykin* Colloquy. RCr 11.42. Issues include whether an intellectually disabled defendant's sentence should be set aside where counsel and the circuit court allegedly failed to ensure that he understood the act to which he was pleading guilty and the constitutional rights he was waiving.

DISCRETIONARY REVIEW GRANTED 2/7/19

Normandin v. Normandin, 2018-SC-451-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-478-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, precluding recovery from a decedent child's estate or for wrongful death of a child.

Commonwealth Cabinet for Health and Family Services v. K. S., Mother, 2018-SC-523-DGE

Termination of Parental Rights. Risk of Neglect. Issues involve the sufficiency of the evidence of risk of harm as a basis for neglect or abuse supporting termination of parental rights.

Oral argument-June 2019

Commonwealth Cabinet for Health and Family Services v. H. C., 2018-SC-534-DGE

Dependency, Neglect or Abuse. Expert Witness Funding. Issues include the propriety of funding expert witnesses as sought by indigent parents in dependency/neglect/abuse proceedings involving their children.

Oral argument-June 2019

Seiller Waterman, LLC v. RLB Properties, Ltd., et al., 2018-SC-538 and RLB Properties, Ltd. v. Seiller Waterman, LLC, et al., 2018-SC-558-DG

Cause of Action. Professional Malpractice. Simple Negligence. Statute of Limitations. Malice. The issue is whether a simple negligence claims may be brought by a party to a prior lawsuit against an attorney for an opposing party when the suit was a frivolous claim, along with an unlawful lien filed in favor of the opposing party. A second issue is whether the one-year statute of limitations for professional negligence is extended to five years when there is evidence of malice.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT
2/7/2019

Melton v. Cross, 2018-SC-336-DG

Real Property. Prescriptive Easements. Evidence. Hearsay Rule. KRE 801A(c)(2). Privity Exception. Issues include whether the grandson of a prior owner of the alleged servient tract should have been permitted to testify that his grandfather gave the prior owner of the alleged dominant

tract permission to use a passway across grandfather's land to access his farm.

Hernandez v. Commonwealth, 2018-SC-492-DG

Court Interpreter. Fees. Motion to Reconsider Reduction in Fees Prior to Entry of Judgment. Indispensable Party. There are several procedural issues which impact the substantive issue regarding the trial court's reduction in the interpreter's fee on the grounds that a portion of it was unreasonable and unnecessary. One issue is whether the entry of the defendant's conviction moots the motion to reconsider the reduction in the fee, if that motion was pending before the judgment was entered. Another issue was whether the Commonwealth's failure to raise the issue of failure to name an indispensable party, the interpreter, for nearly 8 months after the filing of the notice of appeal waived that grounds for dismissal of the appeal. Moreover, the interpreter, a non-party to the case, seeks guidance from this Court as to how to seek redress when a dispute over fees arises.

Ledbetter Water District v. Crittenden-Livingston Water District, 2018-SC-494-DG

Contracts. Franchise. Privilege. Kentucky Constitution §164. The issue is whether this contract between two public entities (water districts), to provide water service from one area to another, was a franchise for which public bids must be sought pursuant to Kentucky Constitution §164, and whether the contract, the validity of which had not been challenged for some 13 years, was void.

DISCRETIONARY REVIEW GRANTED 3/6/2019

CHFS v. Baker, 2018-SC-610-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.

Suttles v. Suttles, 2019-SC-19-DGE

Family Law. Timesharing. Issues involve whether the family court's findings regarding abuse in a concurrent dependency/neglect/abuse proceeding precluded the same court's subsequent award of timesharing in the marital dissolution proceeding.

Oral argument-August 2019

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT
3/6/2019

Commonwealth v. Gilmore, 2018-SC-588-DG

KRS 439.3106. Probation Revocation. Findings. The issue in this case is whether the making of specific findings in support of probation revocation are solely within the purview of the trial court, or whether a revocation may be satisfied by the testimony taken at the revocation hearing.

Hampton v. Intech Contracting, LLC, et al., 2018-SC-611-DG

KRS 342.020. Medical Dispute. Motion to Reopen. The issue in this matter is who (employee or employer) has the burden of moving forward in post-award medical fee and other related expense disputes, and under what circumstances that burden attaches. In addition, how should the circuit courts proceed in addressing disputes heard in that forum, such as whether there should be proof regarding reasonableness and necessity.

Williams v. Hawkins, 2019-SC-12-DG

Personal Injury. Limitation of Actions. Revival of Claims. The issue in this case is whether an insurance adjustor has a duty to advise the opposing party of the death of their insured, in order to allow the opposing party to timely file their claim against the insured's estate.

CHFS v. P.W., 2019-SC-20-DGE, 2019-SC-21-DGE

Family Law. Termination of Parental Rights. KRS 600.020(1)(a). Issues include whether the family court correctly found that the children were abused or neglected when mother, a Ghanaian immigrant, underwent years of domestic violence counseling, but failed to disclose father's abuse to CHFS or her service providers.

DISCRETIONARY REVIEW GRANTED 4/11/2019

Elder v. Kentucky Retirement Systems, 2017-SC-258-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).

Lassiter v. Landrum, 2018-SC-657-DG

Contracts. Model Procurement Code. Subpoena Power. The issue is whether the Secretary of the Finance and Administration Cabinet has the authority to issue a subpoena to a former state employee, who later became an independent contractor/consultant for a contractor providing fraud detection service while investigating whether the renewal of the contracts for the services violate the Model Procurement Code.

Sneed v. University of Louisville Hospital, 2019-SC-48-DG

Statute of Limitations. Continuous Treatment Rule. Ostensible Agency. The issue is whether the "continuous treatment" rule tolls the statute of limitations only for the period of treatment by the physician who was allegedly negligent, or whether it may be extended for the period of treatment by other physicians in the same practice group as the allegedly negligent physician. A second issue is whether the trial court erred in concluding that the allegedly negligent treating physicians were not ostensible agents of the Hospital.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT **4/11/2019**

Kentucky Unemployment Insurance Commission v. Miles, 2018-SC-455-DG

Unemployment Insurance Benefits. Termination for Misconduct. Issues include whether the lower courts correctly reversed the Commission's denial of benefits.

Cabinet for Health and Family Services v. Friend, Judge, 2018-SC-550-DG

Writ of Prohibition. KRS 189A.040(1). Alcohol and Drug Treatment. The issue is whether the district court acted within its subject matter jurisdiction when it ordered an alcohol and drug treatment center to show cause why it

should not be held in contempt for failing to provide treatment pursuant to the court's order issued prior to sentencing.

Foreman v. Auto Club Property-Casualty Insurance Company, 2018-SC-618-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 WITHOUT ORAL ARGUMENT
2/7/2019 and CROSS-MOTION GRANTED WITHOUT ORAL ARGUMENT
4/11/2019

Norton Healthcare v. Disselkamp, 2018-SC-274-DG, and
Disselkamp v. Norton Healthcare, 2019-SC-102-DG

Employment Law. Age Discrimination. Jury Instructions. Issues include whether the jury in an age discrimination case may be instructed on one or more elements of a *prima facie* case, including the plaintiff's obligation to prove that she was replaced by a substantially older employee.

Community Financial Services Bank v. Stamper, 2018-SC-320-DG, and
Stamper v. Community Financial Services Bank, 2019-SC-100-DG

Contract Law. Statute of Limitations. UCC Article 3. Issues include whether the 15-year statute of limitations for written agreements or the six-year statute of limitations for negotiable instruments applies to a bank's lawsuit to recover on a note obligating a customer to repay a loan.

DISCRETIONARY REVIEW GRANTED 6/5/2019

Thomas v. University Medical Center, 2018-SC-454-DG

Evidence. KRE 407. Subsequent Remedial Measures. Issues include whether a hospital's post-incident investigative report and recommendations are subsequent remedial measures excluded from evidence under KRE 407.

Abbott, Inc. v. Guirguis, et al., 2018-SC-577-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.

Kenton County Board of Adjustment, et al. v. Meitzen, et al., 2018-SC-677-DG

Zoning. KRS 100.347(1). Issues involve a jurisdictional dispute arising from failure to assert “injured or aggrieved” status in an attempted appeal from final action of a board of adjustment to circuit court.

Barnett v. Central Kentucky Hauling, LLC, 2019-SC-64-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.

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

A.H. v. Louisville Metro Government, 2018-SC-359-DG and (Cross Motion) Louisville Metro Government v. A.H., 2019-SC-158-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.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 3/6/2019 and CROSS-MOTION GRANTED WITHOUT ORAL ARGUMENT 6/5/2019

Hauber v. Hauber, 2018-SC-394-DG and (Cross Motion)

Hauber v. Hauber, 2019-SC-154-DG

Trusts. Jurisdiction. KRS 386B.2-030. Issues include the proper interpretation of the exclusive jurisdiction provision in Kentucky’s Uniform Trust Code. If one of the parties to a trust files a lawsuit in district court and litigates it to completion, must a new case related to the same trust proceed in district court or can it proceed in circuit court?

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-58-DG and (Cross Motion) Stars Interactive Holdings (IOM) Ltd., et al. v. Commonwealth ex rel. Tilley, 2019-SC-209-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.

LP Louisville East, LLC v. Patton, Administrator, 2019-SC-16-DG and (Cross Motion) Patton, Administrator v. LP Louisville East, LLC, 2019-SC-211-DG

Power of Attorney. Arbitration. Wrongful Death. On the motion for discretionary review, the issue is whether an attorney-in-fact may sign an arbitration agreement, which by its terms purported to bind wrongful death beneficiaries. On the cross-motion, the issue is whether the arbitration agreement signed by the attorney-in-fact both as a personal representative and individually, is enforceable, absent consideration, so as to require him to submit his personal wrongful death claim to arbitration, and whether that arbitration must take place prior to any further proceedings in the circuit court.

DISCRETIONARY REVIEW GRANTED 8/21/2019

Louisville MSD v. Hill, 2018-SC-491-DG

Kentucky Whistleblower Act. Employer. Gray-Area Entities. *Comair* Analysis. Issues include whether Louisville MSD is an employer under the Whistleblower Act.

Northern Kentucky Area Development District v. Wilson, 2018-SC-665-DG

Kentucky Whistleblower Act. Employer. Gray-Area Entities. *Comair* Analysis. Issues include whether NKADD is an employer under the Whistleblower Act.

Howard v. Big Sandy Area Development District, 2018-SC-601-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*.

Phillips v. Rosquist, 2018-SC-671-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-130-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-192-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
8/21/2019

Deal v. Commonwealth, 2019-SC-175-DG

Criminal Law. Presumption of Innocence. The issue to be decided is whether it is error to introduce into evidence a video of a defendant showing them in jail clothing and handcuffs during a statement made to police.

Dolt, Thompson, Shepherd & Conway, P.S.C. v. Commonwealth ex rel. Landrum, 2019-SC-197-DG and Commonwealth ex rel. Beshear v. Commonwealth ex rel. Landrum, 2019-SC-199-DG

Contingent Fee Contracts. Enforceability. Model Procurement Code. Equity. The issue to be resolved is whether a law firm, retained by the Commonwealth pursuant to a contingent fee contract is entitled to payment of its fees and expenses pursuant to the original contract properly executed under the Model Procurement Code, the term of which had expired before the settlement of the litigation was reached. A secondary issue is whether

equity demanded that the law firm be paid in accord with the original signed agreement even though the term of the contract had expired before the litigation was ended.

