

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

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 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 WITH ORAL ARGUMENT 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

Rendered: April 18, 2024 (Not Final)

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 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.

Oral Argument Held: March 6, 2024

Rendered: April 18, 2024 (Not Final)

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 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 Held: February 2024

Commonwealth of Kentucky v. Wayne Riley, Administrator for the Estate of Archimidia 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 WITH ORAL ARGUMENT 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.

Oral Argument Held: March 2024

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 4/19/2023
(CONTINUED)

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.

Oral Argument Held: April 2024

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 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.

Oral Argument Held: June 2024

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.

Oral Argument Scheduled: August 2024

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 6/7/2023
(CONTINUED)

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?

Oral Argument Held: June 2024

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.

Oral Argument Scheduled: August 2024

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.

Oral Argument Scheduled: August 2024

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 WITHOUT ORAL ARGUMENT 6/7/2023

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 WITH ORAL ARGUMENT 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.

Oral Argument Scheduled: August 2024

DISCRETIONARY REVIEW GRANTED WITH 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.

Oral Argument Scheduled: August 2024

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.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 8/16/2023
(CONTINUED)**

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 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.

Oral Argument Held: June 2024

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.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 10/18/2023
(CONTINUED)**

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 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.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 12/6/2023
(CONTINUED)**

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.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 1/10/2024
(CONTINUED)**

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.

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 2/7/2024

Blackstone Alternative Asset Mgmt. v. KY Public Pension Authority, 2023-SC-0354-DG

Government. Retirement Systems. Contract. Ripeness. Issues include: (1) whether proceedings in a separate but related case (that is now dismissed) rendered Blackstone's claims against KPPA unripe; and (2) whether the contracts between Blackstone and KPPA require Blackstone to prove that it acted in good faith as a prerequisite to recovering for KPPA's alleged breach of contract.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 2/7/2024
(CONTINUED)**

City of Paintsville v. Haney, 2023-SC-0361-DG. Civil Law. Torts. Battery. Wrongful Death. Negligence. Negligent Hiring, Training, and Retention. Governmental Immunity. Qualified Official Immunity. Claims Against Local Governments Act. Issues include: (1) whether the circuit court erred by granting qualified official immunity to police officers without considering the potential existence of a “special relationship” between the officers and a suspect who was under the influence of methamphetamine; and (2) whether the circuit court erred by granting summary judgment on claims of negligent hiring, training, and retention based on a lack of underlying intentional or tortious acts.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 2/7/2024

Commonwealth v. Moore, 2023-SC-0433-DG. Criminal Law. Violent Offender. Domestic Violence Exception. Parole Eligibility. KRS 439.3401(5). Issues include whether the circuit court erred by ruling that the defendant was not eligible for the domestic violence exception to the violent offender statute when: (1) the circuit court found that the defendant had been subjected to domestic abuse by her boyfriend, the victim; and (2) the circuit court found the defendant’s testimony that she shot the victim “with regard to” those acts of domestic violence not to be credible.

Commonwealth v. Raider, 2023-SC-0504-DG. Criminal Law. Pretrial Diversion. Revocation of Diversion. KRS 533.256. RCr 8.04. Issues include whether the circuit court had authority to *sua sponte* revoke the defendant’s probation, within the probationary period, without a formal motion to revoke filed by the Commonwealth.

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 3/6/2024

Torian v. City of Paducah, 2023-SC-0395-DG
Local Governments. Firefighters. Residence Requirements. Emergency Medical Services Providers. KRS 311A.027. Issues include: (1) whether KRS 311A.027, which prohibits publicly funded emergency medical service first response providers from imposing residence requirement upon employees, applies to firefighters employed by the City of Paducah; and (2) assuming the statute applies, whether KRS 311A.027’s “on call” exception, which allows employers to impose response-time requirements on employees who are off duty but on call to respond to work, allows the City to impose a 45-minute response-time requirement upon Paducah firefighters.

Lemaster v. Stiltner, 2023-SC-0454-DG
Family Law. Custody. Intervention. De Facto Custodian. KRS 403.270. Did the family court err by denying the child’s custodian’s partner’s motion to intervene in the custody action between the custodian and the child’s biological mother when: (1) the partner’s motion to intervene was filed soon after the custodian died; and (2) the custody action

had been pending for six years at the time of the partner's motion? Additionally, did the family court err by ruling that the custodian's partner was not a de facto custodian because he cared for the child alongside the custodian?

Conley, J., not sitting.

DISCRETIONARY REVIEW GRANTED 3/6/2024

Coleman, Attorney General v. Jefferson County Board of Education, et al., 2023-SC-0498-DG

Declaratory Judgment. Special and Local Legislation. Equal Protection. Standing. Necessary Party. CR 19.01. Issues include: (1) whether certain provisions of Senate Bill 1, codified at KRS 160.370, violate the Kentucky Constitution's prohibition against special and local legislation under the test set forth in *Calloway County Sheriff's Department v. Woodall*, 607 S.W.3d 557 (Ky. 2020); (2) whether the Jefferson County Board of Education had standing to bring suit; and (3) whether the Superintendent was a necessary party.

Oral Argument Scheduled: August 2024

Erie Insurance Exchange v. Johnson, 2024-SC-0018-DG

Declaratory Judgment. Motor Vehicle Reparations Act. KRS 304.39-210(1) and KRS 304.39-241. Excess Interest. KRS 304.39-210(2). Attorney's Fees. KRS 304.39-220. Issues include: (1) whether insured may direct priority of insurer's payment to medical providers; and (2) what constitutes a "reasonable foundation" for an insurer's delay in making payment for purposes of awarding excess interest and attorney's fees to insured.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 3/6/2024

Commonwealth v. McKinney, 2023-SC-0457-DG

Criminal Law. CR 60.02. Sentencing. Life-Plus-Years Sentence. Retroactivity. Issues include whether the defendant is entitled to retroactive application of *Bedell v. Commonwealth*, which held that KRS 532.110(1)(c) prohibits courts from running any sentence consecutive to a life sentence, when: (1) the defendant was sentenced to life plus 35 years in a capital case; (2) at the time of defendant's sentencing, *Commonwealth v. Rackley* held that a life-plus-years sentence was permissible in capital cases; and (3) KRS 532.110(1)(c) remained unchanged between *Rackley* and *Bedell*.

Thompson, J., not sitting.

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 4/12/2024

Colemon v. Westport Insurance, 2023-SC-0497-DG

Local Governments. Contracts. Insurance. Injury Policy. Wrongful Incarceration. Issues include whether the injury resulting from wrongful conviction occurs solely at the time of conviction or is ongoing throughout the individual's wrongful incarceration.

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 4/12/2024

Schneider Electric v. Williams, 2023-SC-0436-DG; and

Union Carbide v. Schneider Electric, 2023-SC-0440-DG

Tort. Negligence. Products Liability. Asbestos. Take-Home Exposure. During the mid-1960s to late-1970s, did an employer that used asbestos-containing molding compound to create its products have a duty to prevent employees' household members from being exposed to asbestos fibers taken home in employees' clothing? Did the manufacturer of the asbestos-containing molding compounds used by the employer owe a duty to prevent employees' household members from being exposed to asbestos fibers taken home in employees' clothing?

Lexington Alzheimer's Investors v. Norris, 2023-SC-0510-DG

Contract. Arbitration. Nursing Homes. Healthcare Surrogate. KRS 311.631. Issues include whether a nursing home admittee's statutory healthcare surrogate can execute a binding arbitration agreement on behalf of the admittee when execution of the agreement is a mandatory condition of admission to the nursing home.

Commonwealth v. Strunk, 2023-SC-0518-DG

Criminal Law. Post-Conviction. CR 60.02. Illegal Sentence. Plea Agreements. Remedies. Preservation. Issues include whether the Court of Appeals erred by vacating the portion of the defendant's sentence that exceeds the statutory maximum when: (1) the defendant's convictions and illegal sentence resulted from a plea agreement under which the Commonwealth agreed to dismiss and reduce charges; (2) this Court's opinion in *McClanahan* provides that the proper remedy under similar facts is to set aside the plea agreement, reinstate the original charges, and allow the defendant and Commonwealth to restart the case in circuit court; (3) throughout the post-conviction proceedings, the defendant insisted that he did not want to set aside his plea and wished to vacate the excess portion of his sentence; and (4) the Commonwealth did not request the remedy provided by *McClanahan* until it petitioned for rehearing in the Court of Appeals.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 4/12/2024

Ramsey et al. v. Dapple Stud, et al., 2023-SC-0568-DG; and Hickstead Farm v. Dapple Stud, et al., 2023-SC-0569-DG
Summary Judgment. Contract Law. Agency Law. Relation Back Doctrine. Issues include: (1) whether plaintiffs presented sufficient evidence of a contract to survive summary judgment; (2) whether liability exists under an agency theory; and (3) whether relation-back doctrine permits plaintiffs' assertion of claims against a new defendant.

Ford v. Commonwealth, 2024-SC-0008-DG
Jail Fee Reimbursement. KRS 441.265. Issues include what constitutes sufficient evidence of a jail fee reimbursement policy as required by *Capstraw v. Commonwealth*, 641 S.W.3d 148 (Ky. 2022).

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 6/5/2024

Hartsfield v. Commonwealth, 2024-SC-0044-DG
Criminal Law. Evidence. Admissibility. Police Body Camera Footage. Issues include whether body camera footage from a police officer who responded to the scene of an alleged rape and strangulation is admissible at trial when the footage shows the officer telling a colleague that he did not believe the victim's story.

Smith v. Apex Fund Services, 2023-SC-0336-DG
Property. Foreclosure. Property Tax Liens. Certificates of Delinquency. Priority. When the proceeds from a foreclosure sale are insufficient to pay all the property tax lienholders in full, do the lienholders divide the proceeds on a pro rata basis or is priority to the sale proceeds established by the order in which the lienholders filed their liens?

Georgetown Chicken Coop, LLC v. Grange Insurance Co., 2023-SC-0522-DG
Summary Judgment. Contracts. Insurance Law. Issues include: (1) whether the language of the Commercial Umbrella Policy was ambiguous; (2) whether the Commercial Umbrella Policy excluded liquor liability coverage; and (3) whether an umbrella policy may exclude additional coverage for certain claims covered by a primary policy.

Thompson, J., not sitting.

Missionaries of Saint John the Baptist, Inc. v. Frederic, 2024-SC-0006-DG
Zoning Ordinance. Conditional Use Permit. Free Exercise of Religion. Religious Land Use and Institutionalized Persons Act (RLUIPA). Issues include: (1) whether the conditional use permit and setback variance granted by the City of Park Hills Board of Adjustment were impermissible under the city's zoning ordinance; (2) the correct standard in evaluating RLUIPA cases in Kentucky; and (3) whether denial of the proposed construction of a grotto constitutes a "substantial burden" on religious exercise under RLUIPA.

DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 6/5/2024
(CONTINUED)

Held v. Hitachi Automotive Systems Americas, Inc., 2024-SC-0043-DG
Class Action. Employment Law. Kentucky Wages and Hours Act (“KWA”), KRS 337.010 *et seq.* Issues include: (1) proper “salary basis” analysis for KWA claims given recent decision in *Helix Energy Sols. Grp., Inc. v. Hewitt*, 598 U.S. 39 (2023), which addresses virtually identical provisions contained in the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*; (2) whether employees are exempt from the overtime mandate of KRS 337.285(1); and (3) the burden of proof under the KWA.

KY Dept. of Fish and Wildlife Resources Commission v. KY Open Government Coalition, Inc., 2023-SC-0524-DG
Civil Law. Open Records Act. Public Records. Private Accounts. Private Devices. Issues include: (1) whether records concerning public business sent or received by public officials and employees are exempt from disclosure under the Open Records Act when they were sent, received, or stored on a nongovernmental email account or electronic device such as a personal cell phone; and (2) whether there is any distinction between emails and text messages concerning public business sent from, received by, or stored on nongovernmental systems.

Buffalo Trace Distillery, Inc. v. Pearson, 2024-SC-0011-DG
Civil Law. Arbitration. Federal Arbitration Act. Kentucky Uniform Arbitration Act. Employment Law. Staffing Agency. Onboarding Contract. Integration Clause. Election of Remedies. RAP 20(B). RAP 2. Questions include: (1) whether an arbitration agreement signed with initial “onboarding paperwork” followed the staffing agency employee from one assignment to the next or was subsumed by an integration clause contained in a latter assignment form the employee signed; and (2) a party’s means of appeal when both the Federal Arbitration Act (allowing only an RAP 20(B) motion) and the Kentucky Uniform Arbitration Act (allowing either an RAP 20(B) motion or a normal appeal pursuant to RAP 2) apply to his or her claim.

DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 6/5/2024

Louisville Historical League, Inc. v. Louisville/Jefferson Co. Metro Government, 2024-SC-0005-DG
Administrative Law. Appeals. Jurisdiction. Complaint. Injured-and-Aggravated Requirement. Issues include whether the Louisville Historical League’s complaint satisfied the ordinance’s requirements for appeal by alleging that the organization was injured and aggrieved by Metro’s decision not to designate Liberty Hall as a historic landmark.

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 6/5/2024
(CONTINUED)**

Buechele v. Commonwealth, 2024-SC-0007-DG

Criminal Law. Fourth Amendment. Seizure. Investigative Stop. Reasonable and Articulate Suspicion. KRS 189.570(14). Issues include: (1) whether the officer had a reasonable suspicion, based on objective and articulable facts, that criminal activity has occurred, is occurring, or is about to occur when he seized the defendant after seeing the defendant violate KRS 189.570(14) by walking down the middle of the street; and (2) if so, whether this case is distinguishable from prior Court of Appeals precedent, *Commonwealth v. Wilson*, 625 S.W.3d 252 (Ky. App. 2021).

Hill v. State Farm Mutual Automobile Insurance Co., 2024-SC-0054-DG

Civil Law. Insurance Contract. Resident Relative. Minor. Issues include whether a minor who is living with a relative outside his father's home at the time of an accident is still deemed to be a resident relative "primarily residing" with his father who has legal custody of the minor.

Combs v. Napier, 2024-SC-0026-DG

Civil Law. Estate Law. Wills. Joint Will. Interpretation. Intestacy. Questions include whether a clause in a joint will executed by a husband and wife appearing to limit the will's effect to certain circumstances ("in the event we die in a common disaster or so close in time . . .") applied only to the paragraph in which it was contained dealing with personalty or whether the limitation carried over into the next paragraph dealing with real property.