

**Kentucky Supreme Court**  
**Cases of Note**  
**November-[December](#), 2016**

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1. Hold down the control (“Ctrl”) key and click on the link.
2. Right-click on the link and select “Open Hyperlink”.

**Note: No Court in November**

**WORKERS COMP**

**Eddie’s Service Center v. Donna Thomas, Administratrix of the Estate of Eddie Ray Thomas, Jr., Deceased, et al.**

**[2015-SC-000676-WC](#) December 15, 2016**

Opinion of the Court by Justice Keller. All sitting. Cunningham, Hughes, Keller, Noble, Venters, and Wright, JJ., concur. Minton, C.J., dissents by separate opinion. Eddie Thomas suffered a fatal cardiac event while attempting to tow a pickup truck out of a ditch. Based on the independent medical evaluation from the employer’s cardiologist, the ALJ found that Mr. Thomas’s death was not work-related. The Board affirmed. The Court of Appeals reversed, holding that the ALJ’s findings were not supported by the evidence. In particular, the Court held that the employer’s IME physician had an incorrect understanding of the events leading up to Mr. Thomas’s death and a misunderstanding of Kentucky workers’ compensation law.

The majority of the Supreme Court first noted that, in a death case, the death is presumed to be work-related and that the employer must present substantial evidence to the contrary to overcome the presumption. Furthermore, the Court noted that Mr. Thomas’s estate had filed a report from a cardiologist stating that the cardiac event was work related. The majority then undertook an extensive review of the employer’s IME report and concluded that it did not rise to the level of substantial evidence. In doing so, the majority noted that the employer’s physician misunderstood and/or misrepresented the amount of physical exertion/activity Mr. Thomas engaged in immediately preceding his death. The majority then noted that the physician, based on a misinterpretation of KRS 342.0011(1), failed to consider the mental stress Mr. Thomas was under in the days preceding his death. Finally, the majority noted that the physician’s report contained so many internal inconsistencies that it lacked the relevant consequence necessary to induce conviction in the minds of reasonable men. The Chief Justice dissented, stating that he believed the majority had engaged in inappropriate fact finding.