

**Kentucky Supreme Court**  
**Cases of Note**  
**January-[February](#), 2018**

Note: To open hyperlink, take one of the following steps:

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 January.**

## **TORTS**

### **Latasha Maupin v. Roland Tankersley** **[2016-SC-000572-DG](#) February 15, 2018**

Opinion of the Court by Justice Cunningham. All sitting. Minton, C.J.; Hughes, Keller, and Venters, JJ., concur. VanMeter, J., concurs in part and dissents in part by separate opinion in which Wright, J., joins. This is a dog bite liability case concerning dog owner liability under KRS 258.235(4). The plaintiff, Latasha Maupin, was attacked by dogs while crossing over a large plot of land owned by the defendant, Roland Tankersley. The trial court gave the jury instructions that the defendant was not liable if he either did not have reason to anticipate the plaintiff’s presence or he exercised due care to protect the public from his dogs. The jury found that the defendant was the owner of the dogs, but, based upon the given jury instruction, did not find liability on his part. The plaintiff appealed. The Court of Appeals of Kentucky affirmed the trial court’s ruling. The Supreme Court of Kentucky granted discretionary review and held that a dog owner is strictly liable for injuries caused when his dog attacks a person. However, a comparative fault analysis of the damages in dog bite cases is mandated by KRS 411.182(2). Following the finding of liability on the part of the dog owner, a jury instruction shall be given such that any comparative fault of the dog bite victim may be considered in the calculation of damages. Accordingly, the Court reversed the Court of Appeals and remanded for a new trial in which jury instructions will be given consistent with this opinion.

## **WORKERS COMPENSATION**

### **Jamie Groce v. VanMeter Contracting, Inc., et al.** **[2017-SC-000225-WC](#) February 15, 2018**

Opinion of the Court by Justice Venters. All sitting; all concur. Workers’ Compensation. An injured worker alleged that her accident was due, in part, to his employer’s violation of workplace safety regulations, which if true, entitled her a 30% increase in benefits pursuant to KRS 342.165(1). The ALJ rejected that allegation, but the Workers’ Compensation Board reversed upon its conclusion that the employer’s concurrent settlement of related KOSHA citations and the payment of fines thereon was, in effect, a judicial admission of the violations. The 9 Court of Appeals reversed. The Kentucky Supreme Court affirmed the Court of Appeals, reinstating the judgment of the ALJ. The Court held that the employer’s settlement agreement with KOSHA included a prominent disclaimer that the settlement was not an admission of any safety violation or the violation of any allegations of the KOSHA complaint citation. “[A]n adjudicative determination by an administrative tribunal does not preclude relitigation in another tribunal of the same or a related claim based on the same transaction if the scheme of remedies permits assertion of the second claim notwithstanding the adjudication of the first claim.” *Berrier v. Bizer*, 57 S.W.3d 271, 280 (Ky. 2001).