

**Kentucky Supreme Court**  
**Cases of Note**  
**[January-February, 2023](#)**

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**

**WALMART, INC., ET AL. V. LEIGH ANN REEVES**

**[2021-SC-0288-DG](#) February 16, 2023**

Opinion of the Court by Justice Keller. Bisig, Conley, Keller, Lambert, Nickell, and Thompson, JJ., sitting. All concur. VanMeter, C.J., not sitting. Reeves suffered from assaultive criminal activity in the parking lot of the Walmart on Nicholasville Road in Lexington, Kentucky after midnight on March 22, 2017. Following the attack, Reeves brought suit against Walmart for negligence. The Fayette Circuit Court granted Walmart’s motion for summary judgment, stating that Walmart owed Reeves no duty as a matter of law since the event was not reasonably foreseeable. On appeal, the Court of Appeals reversed the decision. The Supreme Court granted discretionary review and reversed the decision of the Court of Appeals. Specifically, the Court held that for third-party criminal acts, a landowner owes a duty to protect only from dangers that are reasonably foreseeable. Accordingly, the Court reinstated the trial court’s order.

**JEFFERSON COUNTY PUBLIC SCHOOLS A/K/A JEFFERSON COUNTY BOARD OF EDUCATION, ET AL. V. SHONTAI TUDOR, MOTHER AND NEXT FRIEND OF J.T., A MINOR**

**[2022-SC-0024-DG](#) February 16, 2023**

Opinion of the Court by Justice Keller. All sitting. All concur. Shontai Tudor is mother and next friend of J.T., a minor. J.T. was involved in a physical and verbal altercation at school when his assistant principal, Brian Raho, interceded. Because of Raho’s intervention, Tudor brought suit alleging assault and battery against the Jefferson County Board of Education and Raho. The Jefferson Circuit Court granted summary judgment to the school and to Raho on immunity grounds. The Court of Appeals reversed the judgment. The Jefferson County Board of Education sought discretionary review solely to address the issue of whether the Jefferson County Board of Education is entitled to summary judgment on its immunity claim. The Supreme Court reversed the Court of Appeals’ opinion to the extent that it reversed the Jefferson Circuit Court’s grant of summary judgment in favor of the Jefferson County Board of Education. Specifically, the Court held that the Board of Education was not engaged in a proprietary function when Raho interceded into the fight in question, and therefore, the Jefferson County School Board was entitled to governmental immunity.

**WORKERS COMPENSATION**

**DAOUD OUFAFA V. TAXI, LLC D/B/A TAXI 7 (AKA TAXICAB), ET AL.**

**[2022-SC-0003-DG](#) February 16, 2023**

Opinion of the Court by Justice Keller. All sitting. All concur. Daoud Oufafa was working as a taxi driver for Taxi-7 when he was shot during a ride, severely injuring him. Oufafa sought

workers' compensation benefits. An Administrative Law Judge (ALJ) determined that Oufafa was an independent contractor under the Supreme Court's past precedent and therefore was not entitled to workers' compensation benefits. The ALJ was reversed by the Workers' Compensation Board, which was reversed by the Court of Appeals. The Supreme Court reversed and remanded the ALJ. Specifically, the Court held that pursuant to its decision in *Mouanda v. Jani-King Int'l*, 653 S.W.3d 65 (Ky. 2022), the appropriate test to determine whether a worker is an employee or independent contractor is the economic realities test. Accordingly, the Court remanded to the ALJ to apply the economic realities test to Oufafa's case.