

Kentucky Supreme Court
Cases of Note
[March-April, 2023](#)

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TORTS

LAUREN SAVAGE, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF JAMES SAVAGE V. ALLSTATE INSURANCE COMPANY, ET AL.,

[2021-SC-0163-DG](#)

AND

COPART OF CONNECTICUT, INC. D/B/A COPART AUTO AUCTIONS, ET AL. V. LAUREN SAVAGE, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF JAMES SAVAGE

[2021-SC-0167-DG](#) March 23, 2023

Opinion of the Court by Justice Conley. VanMeter, C.J.; Bisig, Keller, Lambert, and Nickell, JJ., concur. Thompson, J., concurs in result only. James Savage was killed on I-65 after being thrown from his motorcycle and run over by a vehicle driven by Oscar Ramos, an agent for Auto Usados Felix. AUF had bought a Toyota owned by Allstate Insurance Company and a Jeep owned by Property and Casualty Insurance Company of Hartford. Both these vehicles were purchased through Copart of Connecticut, acting as the independent contractor for these insurance companies to sell their vehicles. Both vehicles were salvage-titled vehicles.

There were several issues before the Court and its rulings were as follows: first, Hartford was not the owner of the Jeep for insurance liability purposes because Copart had executed a bona fide sale prior to the collision. Copart did not need to obtain proof of insurance from Oscar Ramos prior to delivering possession of the Jeep because the certificate of title had been delivered to AUF four days prior. Second, the statutory scheme in Kentucky prohibits placement of tags on salvage-titled vehicles, because tags are only required for vehicles that are sold for use on the highways of Kentucky, and the General Assembly has declared that salvage-titled vehicles are not usable upon the highways of Kentucky. Third, the Court reversed the Court of Appeals by holding that Copart was not an employer or “otherwise directing” Ramos when he drove the vehicles from the Copart facilities, therefore it had no duty to ensure he drove the vehicles lawfully. Fourth, the Court reversed improper fact-finding by the Court of Appeals. Fifth, the Court refused to hold that strict liability applies to all claims based upon violations of KRS Chapter 186A.500. Sixth, the Court reversed the Court of Appeals by holding the trial court did not abuse its discretion in allowing the withdrawal of an admission. The record demonstrated the discovery period had been re-opened for two months following the withdrawal, and Savage could have taken the necessary depositions in that time so there was no prejudice from the withdrawal. Finally, the Court abrogated *Aull v. Houston*, 345 S.W.3d 232 (Ky. App. 2010), holding that Social Security Disability payments function as a substitute for income and may be considered for damages purposes by a jury in a wrongful death suit.

WORKERS COMPENSATION

PERRY COUNTY BOARD OF EDUCATION V. MARK CAMPBELL, ET AL.

[2022-SC-0119-WC](#) March 23, 2023

Opinion of the Court by Justice Keller. VanMeter, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. All concur. Lambert, J., not sitting. Mark Campbell was working for Perry County Board of Education when he injured his knee in 2018. The injury required a meniscal repair. Following the successful arthroscopy, Campbell continued to experience knee pain. He ultimately underwent total knee replacement surgery to treat his ongoing pain. Perry County Board of Education filed a medical fee dispute against the total knee replacement, arguing that Campbell's condition requiring further treatment was not caused by his initial work injury and that the total knee replacement was neither reasonable nor necessary to treat his condition. An ALJ disagreed, finding causation as well as reasonableness and necessity of the surgery. The Workers' Compensation Board affirmed, and the Court of Appeals affirmed the Board.

On appeal to the Supreme Court, first, Perry County Board of Education argued that the ALJ improperly relied upon inferences instead of medical opinion evidence in reaching his conclusions on causation. Second, it argued that the ALJ erred by relying on inferences instead of medical opinion evidence to determine that the total knee replacement was reasonable and necessary.

The Supreme Court affirmed the lower tribunals. Specifically, the Court held that the ALJ's findings satisfied *Finley v. DBM Technologies*, 217 S.W.3d 261 (Ky. App. 2007). It further held that the ALJ properly relied on inferences from medical evidence regarding causation, reasonableness, and necessity under *Kingery v. Sumitomo Electric Wiring*, 481 S.W.3d 492 (Ky. 2015).

LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT V. MICHAEL GOSPER, ET AL.

[2021-SC-0386-WC](#) April 27, 2023

Opinion of the Court by Justice Nickell. All sitting. All concur. The Administrative Law Judge (ALJ) determined that a worker's bilateral knee condition was caused by work-related cumulative trauma. The Workers' Compensation Board and the Court of Appeals affirmed. On direct appeal, the Supreme Court held there was sufficient evidence to support the finding of work-related injury and causation. The ALJ's findings were also held to be sufficiently specific. The Supreme Court further reaffirmed the standard for cumulative trauma injuries as stated in *Haycraft v. Corhart Refractories Co.*, 544 S.W.2d 222 (Ky. 1976). Therefore, the Supreme Court affirmed the decision of the Court of Appeals.

WRITS

STEVEN RUSH ROMINES V. HONORABLE TIMOTHY R. COLEMAN, ET AL.

[2022-SC-0424-MR](#) April 27, 2023

Opinion of the Court by Justice Thompson. All sitting. All concur. Attorney made statements to news media regarding the ethics and conduct of a police officer. The officer filed a defamation suit against both the attorney and his law firm. Defendants filed a motion to dismiss in the Circuit Court asserting improper venue and failure to state a claim. After the Circuit Court's denied the motion to dismiss, defendants filed a petition for a writ of prohibition, which

sought dismissal of the suit, which was denied by the Court of Appeals. Attorney appealed and the Kentucky Supreme Court determined that the attorney could show neither a lack of adequate remedy by appeal nor a great and irreparable injury based on his claim of improper venue. Further, the attorney was not entitled to writ of prohibition based on his alleged defenses of First Amendment protection, the “judicial statements privilege,” or the “libelproof plaintiff doctrine.”