

**Kentucky Supreme Court**  
**Cases of Note**  
**May-June, 2013**

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”.

**INSURANCE**

**Linda Kaye Samons, Etc. v. Kentucky Farm Bureau Mutual Insurance Company**  
**2011-SC-000414-DG May 23, 2013**

Opinion of the Court by Chief Justice Minton. All sitting; all concur. Linda Kaye Samons, the administratrix of Kenneth Crum’s estate, was attempting to collect Basic Reparation Benefits (BRBs) from Kentucky Farm Bureau. Crum was injured when, riding horseback along a road in Floyd County, he was struck by an uninsured vehicle driven by Raymond K. Ousley, who was insured by Kentucky Farm Bureau. The question before the Court was whether an uninsured pedestrian could recover BRBs from an insured driver when struck by an uninsured vehicle. The Court held that Kentucky Farm Bureau, while not insuring the vehicle that struck Crum, was responsible for the payment of BRBs because they insured the driver of the vehicle. In light of the strong public policy promoting recovery of BRBs under the Motor Vehicle Reparations Act, the Court found no reason to prohibit an uninsured pedestrian from recovering BRBs from an insured driver operating a vehicle uninsured by its owner.

**WORKERS COMP**

**Patricia Hornback v. Hardin Memorial Hospital; Honorable Caroline Pitt Clark,**  
**Administrative Law Judge; and Workers’ Compensation Board**  
**2012-SC-000195-WC May 23, 2013**

Opinion of the Court. All sitting; all concur. Hornback was severely injured during an attempted elevator rescue conducted by her employer. The rescue was not conducted using safety protocols which were provided by the elevator manufacturer. The Court applied the four part test provided in Lexington-Fayette Urban County Government v. Offutt, 11 S.W.3d 598 (Ky. App. 2000), and determined that: 1) a stalled elevator created a condition or activity in the workplace presented a hazard to employees; 2) that employer or employer’s industry recognized the hazard of negligent elevator rescues; 3) that a negligently conducted elevator rescue could lead to serious injury or death; and 4) that reasonable means existed to eliminate the potential injury to the employee. Accordingly, the Court held that Hornback is entitled to an enhancement of her workers’ compensation award pursuant to her employer’s violation of the general duties provision in KRS 338.031 and KRS 342.165(1), which penalizes an employer for an intentional failure to follow a safety protocol.