Kentucky Supreme Court
Cases of Note
September-October, 2013

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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".

CHOICE OF LAW

State Farm Mutual Automobile Insurance Company v. Karen Hodkiss- Warrick
2011-SC-000266-DG September 26, 2013
Opinion of the Court by Justice Abramson. Minton, C.J.; Keller and Noble, JJ., concur. Scott, J., dissents by separate opinion in which Cunningham, J., joins. Venters, J., not sitting. Pennsylvania resident was injured in Kentucky while riding as a passenger in her daughter's car. Her insurer denied her claim for under-insured motorists benefits because her Pennsylvania insurance contract excluded the vehicles of resident relatives from the definition of "under-insured vehicle." Disagreeing with the policy holder's contention that Kentucky's public policy invalidated the exclusion, the trial court ruled that under standard choice-of-law rules Pennsylvania law applied and that under Pennsylvania law the exclusion was valid. Reversing the Court of Appeals rejection of that result and reinstating the trial court's judgment, the Supreme Court held that the General Assembly's statutorily expressed policy of mandating automobile liability insurance did not extend to under-insurance coverage so as to justify a Kentucky court's invalidation of the Pennsylvania contract on public policy grounds.

WORKERS' COMP

Patricia Hornback v. Hardin Memorial Hospital, et al.
2012-SC-000195-WC October 24, 2013
Opinion of the Court. All sitting; all concur. 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. Upon determining that the employer violated the general duty provision in KRS 338.031 under the test set forth in Offutt, the Court further found that Hornback was entitled to an enhancement of her workers' compensation award pursuant to KRS 342.165(1) because her employer's actions in breaching the general duty provision constituted an intentional disregard of a safety hazard that "even a lay person would obviously recognize as likely to cause death or serious physical harm."