

1. S.R. v. Kenton County Sheriff's Office

United States District Court, E.D. Kentucky, Northern Division at Covington.

October 11, 2017 --- F.Supp.3d ---- 2017 WL 4545231

This is an action brought pursuant to 42 U.S.C. §1983 for unreasonable seizure and excessive force and for violation of the Americans with Disabilities Act, 42 U.S. §12132. Plaintiffs, suing through their mothers, are two elementary school children who were handcuffed by a School Resource Officer ("SRO") while...

...Ft. Thomas, KY, for Defendants. OPINION AND ORDER William O. Bertelsman , United States District Judge Introduction This is an action brought...

2. Eat More Wings, LLC v. Home Market Foods, Inc.

United States District Court, E.D. Kentucky, Northern Division at Covington.

October 10, 2017 --- F.Supp.3d ---- 2017 WL 4518660

LITIGATION - Jurisdiction. Distributor's requests that seller send chicken dry rub and liquid spice samples to out-of-State headquarters satisfied jurisdictional due process.

...Ogden , PLLC—Lexington, Lexington, KY, for Defendant. OPINION William O. Bertelsman , United States District Judge INTRODUCTION This matter came before the...

3. Martin v. Browning

United States District Court, E.D. Kentucky, Northern Division., at Covington.

August 02, 2016 198 F.Supp.3d 783 2016 WL 4119790

LABOR AND EMPLOYMENT - Evidence. Admission of evidence of negligent hiring was not required in diversity suit.

...Louisville, KY, for Defendants. MEMORANDUM OPINION AND ORDER William O. Bertelsman , United States District Judge This case presents a significant Erie...

4. State Farm Mutual Automobile Ins. Co. v. Norcold, Inc.

United States District Court, E.D. Kentucky, Northern Division., at Covington.

November 06, 2015 143 F.Supp.3d 586 2015 WL 6871547

PRODUCTS LIABILITY - Damages. Prejudgment interest on certain claims was warranted, under Kentucky law, even though defendant denied liability, since claims were liquidated.

...Louisville, KY, for Defendants. MEMORANDUM OPINION AND ORDER William O. **Bertelsman** , United States District Judge This matter is before the Court...

5. State Farm Mut. Auto. Ins. Co. v. Norcold, Inc.
United States District Court, E.D. Kentucky, Northern Division, at Covington.
March 04, 2015 89 F.Supp.3d 922 2015 WL 927411

TORTS - Damages. Under Kentucky law, as predicted by federal district court, economic-loss rule did not apply to consumer transactions.

...Dinsmore & Shohl, LLP, Louisville, KY, for Defendants. OPINION AND ORDER **BERTELSMAN** , District Judge. I.INTRODUCTION This case presents the Court with...

6. Van Winkle v. HM Ins. Group, Inc.
United States District Court, E.D. Kentucky, Northern Division, at Covington.
December 18, 2014 72 F.Supp.3d 723 2014 WL 7240507

LABOR AND EMPLOYMENT - Discrimination. Employer proceeded according to previously contemplated lines in terminating employee, and thus did not retaliate against employee for EEOC charge.

...Lexington, KY, for Defendants. MEMORANDUM OPINION AND ORDER WILLIAM O. **BERTELSMAN** , District Judge. This is an employment discrimination case involving allegations...

7. Russell v. Grimes
United States District Court, E.D. Kentucky, Northern Division, at Covington.
October 14, 2014 53 F.Supp.3d 1004 2014 WL 5166722

GOVERNMENT - Elections. Kentucky electioneering statute was facially invalid under the First Amendment, and its enforcement was permanently enjoined.

...OF FACT AND CONCLUSIONS OF LAW AND ORDER WILLIAM O. **BERTELSMAN** , District Judge. This matter is before the Court following a...

8. Osborn v. Griffin
United States District Court, E.D. Kentucky, Northern Division, at Covington.
September 29, 2014 50 F.Supp.3d 772 2014 WL 4854549

ESTATE PLANNING AND PROBATE - Trusts. Brothers breached their fiduciary duties by failing to inform sisters of their rights with respect to properties held in trust.

...Atlanta, GA, for Defendant. MEMORANDUM OPINION AND ORDER WILLIAM O. BERTELSMAN , District Judge. These cases are before the Court on numerous...

9. American Atheists, Inc. v. Shulman

United States District Court, E.D. Kentucky, Northern Division, at Covington.

May 19, 2014 21 F.Supp.3d 856 2014 WL 2047911

TAXATION - Income. Atheist organizations lacked standing to challenging tax-exempt status provisions of the Internal Revenue Code.

...Washington, DC, for Defendant. MEMORANDUM ORDER AND OPINION WILLIAM O. BERTELSMAN , District Judge. This matter is before the Court on the...

10. Loftus v. Nazari

United States District Court, E.D. Kentucky, Northern Division, at Covington.

May 13, 2014 21 F.Supp.3d 849 2014 WL 1908812

TORTS - Defamation. Patient's statements that blamed her complications from surgery on her doctor's negligence were protected statements of opinion.

...Mitchell, KY, for Plaintiff. MEMORANDUM OPINION AND ORDER WILLIAM O. BERTELSMAN , District Judge. This is an unusual libel case in which...

11. Burton v. Zwicker and Associates, PSC

United States District Court, E.D. Kentucky, Northern Division, at Covington.

October 16, 2013 978 F.Supp.2d 759 2013 WL 5652646

LABOR AND EMPLOYMENT - Wrongful Discharge. African-American employee was not entitled to reinstatement as a remedy for claims of civil rights violations.

...LLC, Prospect, KY, for Defendant. MEMORANDUM OPINION & ORDER WILLIAM O. BERTELSMAN , District Judge. This matter is before the Court on plaintiff's...

12. Curry v. Brown

United States District Court, E.D. Kentucky, Northern Division, at Covington.

September 09, 2013 970 F.Supp.2d 667 2013 WL 4809279

LABOR AND EMPLOYMENT - Discrimination. Supervisor's comment was not direct evidence of discriminatory motive.

...Covington, KY, for Defendants. MEMORANDUM OPINION AND ORDER WILLIAM O. BERTELSMAN , District Judge. This matter came before the Court on Defendants...

13. Jones v. Dirty World Entertainment Recordings, LLC
United States District Court, E.D. Kentucky, Northern Division, at Covington.
August 12, 2013 965 F.Supp.2d 818 2013 WL 4068780

E-COMMERCE - Torts. Website operator was not entitled to immunity pursuant to Communications Decency Act (CDA).

...Office, PLLC, Phoenix, AZ, for Defendants. MEMORANDUM OPINION WILLIAM O. BERTELSMAN, District Judge. Background At the conclusion of the presentation of...

14. Schaffner v. U.S. Trustee
United States District Court, E.D. Kentucky, Northern Division. November 29, 2012 485 B.R. 130 2012 WL 5988804

BANKRUPTCY - Professionals. Attorney's lack of supervision warranted imposition of sanctions.

...U.S. Trustee, Lexington, KY, for Appellee. MEMORANDUM OPINION WILLIAM O. BERTELSMAN, District Judge. This matter is before the Court on Appellant...

15. Lee v. Medical Protective Co.
United States District Court, E.D. Kentucky, at Covington. November 13, 2012 904 F.Supp.2d 648 2012 WL 5497959

INSURANCE - Bad Faith and Unfair Practices. Insurer did not act in bad faith in appealing or seeking discretionary review of jury's medical malpractice verdict.

...U.S. LLP, Kansas City, MO, for Defendant. OPINION AND ORDER BERTELSMAN, Senior District Judge. This is a third-party bad faith...

16. McLaren-Knipfer v. ArvinMeritor, Inc.
United States District Court, E.D. Kentucky, Northern Division, at Covington.
June 27, 2012 876 F.Supp.2d 913 2012 WL 2462317

LABOR AND EMPLOYMENT - Benefit Plans. Denial of a claim for short-term disability benefits under an ERISA plan was arbitrary and capricious.

...Stewart, Greenville, SC, for Defendant. MEMORANDUM OPINION & ORDER WILLIAM O. BERTELSMAN, District Judge. Plaintiff brings this action under the Employee Retirement...

17. Lee v. Medical Protective Co.

United States District Court, E.D. Kentucky, Northern Division, at Covington.

April 30, 2012 858 F.Supp.2d 803 2012 WL 1533388

INSURANCE - Privileges. Medical liability insurer waived attorney-client privilege by selective disclosure using privilege as sword and shield.

...SNR Denton U.S. LLP, Kansas City, MO, for Defendant. OPINION BERTELSMAN , District Judge: This matter is before the Court on objections...

18. Jones v. Dirty World Entertainment Recordings, LLC

United States District Court, E.D. Kentucky, Northern Division, at Covington.

January 10, 2012 840 F.Supp.2d 1008 2012 WL 70426

TORTS - Defamation. Website operator was not entitled to immunity under the Communications Decency Act (CDA).

...Law Office, PLLC, Phoenix, AZ, for Defendants. OPINION AND ORDER BERTELSMAN , Senior District Judge: This case raises important issues concerning the...

19. Laws v. HealthSouth Northern Kentucky Rehabilitation Hosp. Ltd. Partnership

United States District Court, E.D. Kentucky, Northern Division, at Covington.

November 01, 2011 828 F.Supp.2d 889 2011 WL 5187320

LABOR AND EMPLOYMENT - Discrimination. Licensed nurse who suffered aneurysm behind her left eye was not disabled within meaning of Americans with Disabilities Act.

...ORDER GRANTING SUMMARY JUDGMENT IN FAVOR OF DEFENDANT WILLIAM O. BERTELSMAN , District Judge. This matter is before the court on Defendant's...

20. Scott v. Sanders

United States District Court, E.D. Kentucky, Northern Division, at Covington.

June 07, 2011 789 F.Supp.2d 773 2011 WL 2184319

CIVIL RIGHTS - Sanctions. Failure to follow Rule 11's safe-harbor procedures did not preclude award of sanctions for unreasonable and vexatious multiplication of proceedings.

...Covington, KY, for Defendants. MEMORANDUM OPINION AND ORDER WILLIAM O. BERTELSMAN , District Judge: This matter is before the court on the...

21. Jones v. Dirty World Entertainment Recordings, LLC
United States District Court, E.D. Kentucky, Northern Division, at Covington.
January 21, 2011 : 766 F.Supp.2d 828 : 2011 WL 221836

E-COMMERCE - Internet. Arizona-based defendants purposefully availed themselves of doing business in Kentucky by operating website that posted allegedly libelous comments about Kentucky resident.

...Huddleston, Bolen, LLP, Huntington, WV, for Defendants. OPINION AND ORDER **BERTELSMAN** , District Judge: This matter is before the court on the...

22. Howell v. Sanders
United States District Court, E.D. Kentucky, Northern Division, at Covington.
June 17, 2010 : 755 F.Supp.2d 789 : 2010 WL 2490343

CIVIL RIGHTS - Immunity. A prosecutor was entitled to absolute immunity in an arrestee's §1983 action for false arrest and malicious prosecution.

...Brown, Todd, LLC, Florence, KY, for Defendant. OPINION AND ORDER **BERTELSMAN** , District Judge: This matter is before the court on defendant's...

23. Corporex Companies, LLC v. Proskauer Rose, LLP
United States District Court, E.D. Kentucky, Northern Division, at Covington.
May 19, 2010 : 713 F.Supp.2d 678 : 2010 WL 2010486

LEGAL SERVICES - Malpractice. Malpractice claim had not yet accrued.

...Gracey , Frost Brown Todd LLC, Cincinnati, OH, for Defendant. OPINION **BERTELSMAN** , District Judge. This is a legal malpractice action in which...

24. Sexton v. Kenton County Detention Center
United States District Court, E.D. Kentucky. March 18, 2010 : 702 F.Supp.2d 784 : 2010 WL 1050058

CIVIL RIGHTS - Municipal Liability. Detainees could not prevail in §1983 action against county detention center based on alleged improper discipline.

...Lexington, KY, for Defendants. MEMORANDUM OPINION AND ORDER WILLIAM O. **BERTELSMAN** , District Judge. On March 10, 2010, oral argument on pending...

25. Summe v. Kenton County Clerk's Office

United States District Court, E.D. Kentucky, Northern Division, at Covington.

June 16, 2009 626 F.Supp.2d 680 2009 WL 1684376

LABOR AND EMPLOYMENT - Public Employment. Position of chief deputy to county clerk was an inherently confidential one for which political affiliation was relevant.

...Hege, Edmondson & Associates, Covington, KY, for Defendants. OPINION AND ORDER BERTELSMAN, District Judge: Plaintiff alleges that defendant Eldridge, the Kenton County...

26. S.E. v. Grant County Bd. of Educ.

United States District Court, E.D. Kentucky, Northern Division, at Covington.

October 19, 2007 522 F.Supp.2d 826 2007 WL 3071617

EDUCATION - Civil Rights. Heck rule barred action that necessarily challenged validity of juvenile diversion order.

...Ruberg, Taylor, Sloan & Sergent, Covington, KY, for Defendants. OPINION & ORDER BERTELSMAN, District Judge. INTRODUCTION This matter is before the court on...

27. Indiana State Dist. Council of Laborers and Hod Carriers Pension and Welfare Fund v. Omnicare, Inc.

United States District Court, E.D. Kentucky, Northern Division, at Covington.

October 12, 2007 527 F.Supp.2d 698 2007 WL 3003284

SECURITIES REGULATION - Fraud. Investors failed to show loss causation, in securities fraud class action, by failing to show disclosure of false statements.

...CA, for Plaintiffs/Defendant. MEMORANDUM OPINION AND ORDER WILLIAM O. BERTELSMAN, District Judge. This matter is before the court on defendants...

28. U.S. v. Doane

United States District Court, E.D. Kentucky, Northern Division, at Covington.

May 21, 2007 501 F.Supp.2d 897 2007 WL 1500301

CRIMINAL JUSTICE - Obscenity and Pornography. Application of Adam Walsh Act was not impermissibly retroactive and did not violate right to investigate charges.

...Attorney's Office, Covington, KY, for Plaintiff. MEMORANDUM OPINION AND ORDER **BERTELSMAN**, District Judge. INTRODUCTION This matter is before the court on...

29. Estate of Embry v. GEO Transp. of Indiana, Inc.

United States District Court, E.D. Kentucky, Northern Division. March 21, 2007 478 F.Supp.2d 914 2007 WL 867122

TORTS - Damages. Compensatory damage awards of \$2,700,000 each to two children of a driver killed in a collision were not grossly excessive.

...Kiely & Dennis, LLP, Cincinnati, OH, for Defendants. OPINION AND ORDER **BERTELSMAN**, District Judge. This is a wrongful death action in which...

30. Lassiter v. Lassiter

United States District Court, E.D. Kentucky, at Covington. September 26, 2006 456 F.Supp.2d 876 2006 WL 2792221

TORTS - Defamation. Ex-wife's allegations of adultery were statements of protected opinion under Kentucky law.

...for Defendant. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER **BERTELSMAN**, District Judge. This is a libel action by an ex...

31. United Radio, Inc. v. Wagner

United States District Court, E.D. Kentucky, at Covington. August 16, 2006 448 F.Supp.2d 839 2006 WL 2375608

LABOR AND EMPLOYMENT - Contracts. District Court in Kentucky had specific personal jurisdiction over employee, in employer's action for breach of contract.

...Richter & Hampton, LLP, Costa Mesa, CA, for Defendants. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This is an action for breach of an...

32. Sickles v. Campbell County, Kentucky

United States District Court, E.D. Kentucky, at Covington. July 13, 2006 439 F.Supp.2d 751 2006 WL 2035726

CIVIL RIGHTS - Prisons. Due process did not require a pre-deprivation hearing before prison fees were assessed and deducted.

...Reed Edmondson & Associates , Covington, KY, for Defendants. OPINION AND ORDER **BERTELSMAN** , District Judge. Introduction This matter came before the court for...

33. Ensminger v. Cincinnati Bell Wireless, LLC
United States District Court, E.D. Kentucky, at Covington. June 19, 2006 434 F.Supp.2d 464 2006 WL 1683699

GOVERNMENT - Immunity. City was not entitled to Ohio municipal immunity from claim by 911 caller.

...Stackpole City Solicitor's Office , Cincinnati, OH, for Defendants. MEMORANDUM OPINION **BERTELSMAN** , District Judge. This matter is before the court on the...

34. Kentucky Speedway, LLC v. National Ass'n of Stock Car Auto Racing, Inc.
United States District Court, E.D. Kentucky, at Covington. January 27, 2006 410 F.Supp.2d 592 2006 WL 205112

ANTITRUST - Monopolies. Speedway stated antitrust claims against stock car racing associations.

...Jenkins & Gilchrist, P.C. , Dallas, TX, for Defendants. OPINION AND ORDER **BERTELSMAN** , District Judge. I.INTRODUCTION This matter concerns allegations by Plaintiff...

35. Buyer's Corner Realty, Inc. v. Northern Kentucky Ass'n of Realtors
United States District Court, E.D. Kentucky, at Covington. January 20, 2006 410 F.Supp.2d 574 2006 WL 164922

ANTITRUST - Group Boycotts. Requirement that MLS participants belong to local association did not have anticompetitive effect in market for real estate association services.

...Ziegler & Schneider, P.S.C. , Covington, KY, for Defendants. OPINION AND ORDER **BERTELSMAN** , District Judge. This is an antitrust action brought pursuant to...

36. Kentucky Speedway, LLC v. National Ass'n of Stock Car Auto Racing, Inc.
United States District Court, E.D. Kentucky, at Covington. December 21, 2005 406 F.Supp.2d 751 2005 WL 3529652

ANTITRUST - Venue. Forum selection clause in contract between parties did not require transfer of venue.

...Stettinius & Hollister, LLP , Covington, KY, for Defendants. OPINION AND ORDER **BERTELSMAN** , District Judge. INTRODUCTION This matter came before the court on...

37. Estate of Embry v. GEO Transp. of IN, Inc.
United States District Court, E.D. Kentucky, at Covington. September 28,
2005 395 F.Supp.2d 517 2005 WL 2767109

TRANSPORTATION - Motor Vehicles. Blackout defense was not available to truck driver who allegedly choked on coffee.

...Leslie Patterson Vose Landrum & Shouse , Lexington, KY, for Defendants. OPINION **BERTELSMAN** , District Judge. This is a wrongful death action in which...

38. Angstrom Technologies, Inc. v. Wray
United States District Court, E.D. Kentucky, at Covington. May 13, 2005 382
F.Supp.2d 895 2005 WL 1140722

LITIGATION - Jurisdiction. Defendant's contacts with Kentucky were sufficient to assert personal jurisdiction over him in that forum.

...Jeffrey Blankenship, Florence, KY, pro se. MEMORANDUM OPINION AND ORDER **BERTELSMAN** , District Judge. Plaintiff, Angstrom Technologies, is a Delaware Corporation, with...

39. Holleran v. Crouse Corp.
United States District Court, E.D. Kentucky, at Covington. October 05, 2004
339 F.Supp.2d 930 2004 WL 2453888

MARITIME LAW - Personal Injury. Fact issues precluded summary judgment on injured seaman's Jones Act claim.

...Maundrell, Barbieri & Powers , Cincinnati, OH, for Defendant. OPINION AND ORDER **BERTELSMAN** , District Judge. I.INTRODUCTION Danny Holleran brings this action under...

40. Watson v. Indiana Gaming Co., LP
United States District Court, E.D. Kentucky, at Covington. September 21,
2004 337 F.Supp.2d 951 2004 WL 2165927

MARITIME LAW - Personal Injury. Card dealer injured after riverboat casino's indefinite mooring was not "seaman" under Jones Act.

...Powers Schroeder, Maundrell, Barbieri & Powers , Cincinnati, OH, for Defendant.
OPINION BERTELSMAN , District Judge. This is an admiralty case in which the...

41. Johnson v. Service Merchandise Co.

United States District Court, E.D. Kentucky, at Covington. July 14, 2004 327
F.Supp.2d 735 2004 WL 1672943

INSURANCE - Liability. Under reasonable expectations doctrine, party was covered
as additional insured even though not named in policy.

...Coyne International Enterprises Corp., dba Coyne Textile Services, defendant.
ORDER BERTELSMAN , District Judge. On July 2, 2003, an oral argument was...

42. National Home Ins. Co. v. King

United States District Court, E.D. Kentucky, at Covington. November 03, 2003
291 F.Supp.2d 518 2003 WL 22770110

INSURANCE - Arbitration and Appraisal. Homebuyers warranty agreement was
insurance contract, for purposes of state anti-arbitration statute.

...Rumpke Boggs & Colvin , Florence, KY, for Defendant. OPINION AND ORDER
BERTELSMAN , District Judge. This matter is before the court on defendants...

43. Noonan v. Indiana Gaming Co.

United States District Court, E.D. Kentucky. May 28, 2003 217 F.R.D. 392
2003 WL 22004074

LITIGATION - Class Actions. Plaintiff failed to satisfy threshold requirements for
certification.

...Powers Schroeder, Maundrell, Barbieri & Powers , Cincinnati, OH, for Defendant.
ORDER BERTELSMAN , District Judge. This case is a class action complaint filed...

44. Williams v. City of London

United States District Court, E.D. Kentucky, London Division. March 19, 2003
252 F.Supp.2d 388 2003 WL 1571912

GOVERNMENT - Records. City properly turned over information to newspaper,
pursuant to Kentucky's Open Records Act.

...Roark, Gay & Todd , Lexington, KY, for Defendant. OPINION AND ORDER
BERTELSMAN , District Judge. On January 13, 2003, an oral argument on...

45. Kinley v. Norfolk Southern Railway Co.
United States District Court, E.D. Kentucky. September 26, 2002 230
F.Supp.2d 770 2002 WL 31499269

LABOR AND EMPLOYMENT - Discrimination. Four year statute of limitations applied to railroad employee's §1981 failure to promote claim.

...Kathiejane Oehler Middleton & Reutlinger , Louisville, for Defendant. OPINION AND ORDER BERTELSMAN , District Judge. This matter is before the court on the...

46. Johnson v. Administrative Office of the Courts, Kentucky
United States District Court, E.D. Kentucky, at Covington. February 21, 2001
133 F.Supp.2d 536 2001 WL 202068

JUDICIAL ADMINISTRATION - Court Officers. Written examination for candidates for position of circuit court clerk was reasonable.

...of the Attorney General , Frankfort, KY, for defendant. OPINION & ORDER BERTELSMAN , District Judge. INTRODUCTION Since at least 1890, candidates for the...

47. Steinhoff v. Upriver Restaurant Joint Venture
United States District Court, E.D. Kentucky, at Covington. October 11, 2000
117 F.Supp.2d 598 2000 WL 1552442

LABOR AND EMPLOYMENT - Discrimination. Waitress was not entitled to punitive damages on her Title VII sexual harassment claim.

...Keating, Muething & Klekamp , Cincinnati, OH, for Defendant. OPINION AND ORDER BERTELSMAN , District Judge. Plaintiff brings this cause of action alleging sexual...

48. MX Group, Inc. v. City of Covington
United States District Court, E.D. Kentucky. August 08, 2000 106 F.Supp.2d
914 2000 WL 1145708

CIVIL RIGHTS - Disabilities. Zoning ordinance barring methadone clinics violated ADA.

...McMurtry McMurtry & Wolff , Covington, KY, for Defendant. OPINION AND ORDER BERTELSMAN , District Judge. This matter arises out of the efforts of...

49. Mineer v. Williams

United States District Court, E.D. Kentucky, at Covington. February 03, 2000
82 F.Supp.2d 702 2000 WL 150114

TORTS - Emotional Distress. Mother of deceased individual could not bring emotional distress claim against talk show host.

...Hollander Wyatt, Tarrant & Combs, Louisville, KY, for defendants. OPINION & ORDER **BERTELSMAN**, District Judge. This matter is before the court on the...

50. Henn v. City of Highland Heights

United States District Court, E.D. Kentucky. July 28, 1999 69 F.Supp.2d 908
1999 WL 798915

Property owners brought suit against city seeking declaratory and injunctive relief and damages arising from designation of their residential parcels as redevelopment area. On cross motions for summary judgment, the District Court, **Bertelsman, J.**, held that under Kentucky law, city's administrative action in designating neighborhood as blighted...

...Rendigs, Fry, Kiely & Dennis, Cincinnati, OH, for Defendant. OPINION & ORDER **BERTELSMAN**, District Judge. This is an action seeking declaratory and injunctive...

51. Chipman v. Grant County School Dist.

United States District Court, E.D. Kentucky. December 29, 1998 30
F.Supp.2d 975 1998 WL 918341

Female high school students who were excluded from national honor society organization after becoming pregnant and having children outside of wedlock brought Title IX pregnancy discrimination action against school administration officials. Students moved for preliminary injunction enjoining officials to admit them into organization. The District...

...Sloan & Sergent, Covington, KY, for Defendants. MEMORANDUM OPINION AND ORDER **BERTELSMAN**, District Judge. This is a Title IX, 20 U.S.C. Sections...

52. Kagin v. Kopowski

United States District Court, E.D. Kentucky. August 04, 1998 10 F.Supp.2d
756 1998 WL 514684

Divorcing parents brought action challenging constitutionality of general order of Kentucky circuit court requiring all divorcing parents to take parental counseling program run by agency of Catholic Church. The District Court, William O. **Bertelsman**, Chief Judge, held that order did not violate Establishment Clause. Federal claims dismissed; state...

...Ransdell Office of Attorney General , Frankfort, KY, for Defendant. OPINION **BERTELSMAN** , Chief Judge. The court is once again called upon to...

53. Schneider v. Charles Seligman Distributing Co., Inc.
United States District Court, E.D. Kentucky, Covington Division. . March 04,
1998 995 F.Supp. 756 1998 WL 113471

Former employee brought disability discrimination action against his former employer under Americans with Disabilities Act (ADA). Former employer moved for summary judgment. The District Court, **Bertelsman**, Chief Judge, held that former employee's back impairment did not constitute "disability" under ADA. Motion granted.

...Greenberg Robert M. Lamb , Cincinnati, OH, for Defendant. OPINION & ORDER **BERTELSMAN** , Chief Judge. On February 27, 1998, an oral argument hearing...

54. Line v. Astro Mfg. Co., Inc.
United States District Court, E.D. Kentucky. January 29, 1998 993 F.Supp.
1033 1998 WL 59207

Plaintiff, as representative of putative class of owners of manufactured homes in the state, sued builders of manufactured homes to recover for diminution of property value and stress associated with living in homes that were subject to increased risk of injury and death from fires. On plaintiff's motion to amend complaint and for class...

...for Sweetwater Homes, a Georgia Corporation, defendant. OPINION AND ORDER **BERTELSMAN** , District Judge. This matter is before the court on the...

55. Ellis v. Riverport Enterprises, Inc.
United States District Court, E.D. Kentucky, Covington Division. . February 27,
1997 957 F.Supp. 105 1997 WL 85772

Boat owner who was injured when he fell on walkway which was extension of dock in marina brought personal injury claim against marina owner. On defendant's motion for judgment on the pleadings, the District Court, **Bertelsman**, Chief Judge, held

that: (1) tort claim did not fall within admiralty jurisdiction, as injury was not caused by vessel on...

...Quill & Powers , PSC, Newport, KY, for Defendant. OPINION AND ORDER
BERTELSMAN , Chief Judge. In January 1994, plaintiff, James Ellis (Ellis), lived...

56. Granzeier v. Middleton

United States District Court, E.D. Kentucky, at Covington. . February 27, 1997
955 F.Supp. 741 1997 WL 85968

Parties cross-moved for summary judgment in action alleging that state and county officials violated establishment clause of First Amendment by closing various courts and offices in county courthouse and administration building on Good Friday, and by posting on courthouse door a sign that, in addition to announcing closing, contained picture of...

...of Attorney General , Frankfort, KY, for Defendants. OPINION AND ORDER
BERTELSMAN , Chief Judge: This matter is before the court on cross...

57. Rice v. Cincinnati, New Orleans & Pacific Ry. Co.

United States District Court, E.D. Kentucky. February 18, 1997 955 F.Supp.
739 1997 WL 85770

Railroad employee brought action against railroad under Federal Employers' Liability Act (FELA). On railroad's motion to limit testimony of employee's expert, the District Court, **Bertelsman**, Chief Judge, held that: (1) employee's argument, that train was exceeding railroad's self-imposed speed limit, was superseded by Federal Railway Safety Act...

...Bryson, West & Kummer , Edgewood, KY, for Defendants. OPINION AND ORDER
BERTELSMAN , Chief Judge. This is an action under the Federal Employers...

58. Dixon v. CSX Transp., Inc.

United States District Court, E.D. Kentucky. December 04, 1996 947 F.Supp.
296 1996 WL 699981

Parents of minor who drowned after jumping from high railroad trestle into water brought suit against railroad seeking damages for loss of affection and companionship. Railroad moved for summary judgment. The District Court, **Bertelsman**, Chief Judge, held that, under Kentucky law, railroad had no duty to warn or prevent decedent from jumping off...

...Brockman Lindhorst & Dreidame , Cincinnati, OH, for Defendant. OPINION AND ORDER **BERTELSMAN** , Chief Judge: FACTS On June 5, 1994, John Robert Elfers...

59. Borg-Warner Protective Services Corp. v. Guardsmark, Inc.
United States District Court, E.D. Kentucky, Covington Division. . November 27, 1996 946 F.Supp. 495 1996 WL 700010

Competing security guard firm and former security guard employees brought action against employer alleging that its enforcement of noncompete agreement violates Sherman Antitrust Act, § 1983 and Kentucky law. Employer moved for summary judgment. The District Court, **Bertelsman**, Chief Judge, held that: (1) plaintiff's claims were not barred by res...

...Morrow & Martson, P.C. , Memphis, TN, for Defendant. OPINION AND ORDER **BERTELSMAN** , Chief Judge. This matter is before the court on cross...

60. Vaughn v. U.S.
United States District Court, E.D. Kentucky. July 22, 1996 933 F.Supp. 660 1996 WL 413447

Shooting victims' survivors brought suit under Federal Tort Claims Act (FTCA), alleging negligence by government in use of informant, obtaining informant's release, and failing to supervise informant, who shot victims. On various motions of government, including motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that:...

...Department of Justice, Washington, DC, for Defendant. OPINION AND ORDER **BERTELSMAN** , Chief Judge. INTRODUCTION This matter is before the court on...

61. Griffith v. Wal-Mart Stores, Inc.
United States District Court, E.D. Kentucky. June 10, 1996 930 F.Supp. 1167 1996 WL 370120

Former employee brought action against former employer under Americans with Disabilities Act (ADA). On employer's motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that representations made by employee in application for long-term social security disability benefits precluded him from asserting that he was otherwise...

...Sturgill, Turner & Truitt , Lexington, KY, for Defendant. OPINION AND ORDER **BERTELSMAN** , Chief Judge. This is an employment discrimination action alleging violations...

62. Wiltz v. M/G Transport Services, Inc.

United States District Court, E.D. Kentucky, Covington Division. . April 25, 1996 925 F.Supp. 500 | 1996 WL 239439

Former employees, who had been terminated when employer sold its towboat and barge operation to barge corporation, brought action under Workers Adjustment and Retraining Notification Act (WARN) against employer, employer's parent corporation, and barge corporation. On cross-motions for summary judgment, the District Court, **Bertelsman**, Chief Judge,...

...Orleans, LA, for Ingram Ohio Barge Co. MEMORANDUM OPINION & ORDER **BERTELSMAN**, Chief Judge. This is an attempted class action brought on...

63. Rice v. Cincinnati, New Orleans & Pacific Ry. Co.

United States District Court, E.D. Kentucky. March 18, 1996 920 F.Supp. 732 1996 WL 157209

Employee brought action against railroad under Federal Employers' Liability Act (FELA), stemming from injuries he sustained when train collided with car driven by motorist. In turn, railroad filed third-party claim against motorist's estate on basis that it was motorist's negligence, rather than that of railroad, that caused employee's injuries....

...Covington, KY, for Third Party Defendant Sandlin. OPINION AND ORDER **BERTELSMAN**, Chief Judge. This is an action under the Federal Employers...

64. Scott v. Central School Supply, Inc.

United States District Court, E.D. Kentucky, Covington Division. . February 06, 1996 913 F.Supp. 522 | 1996 WL 54496

Former employee brought action against former employer alleging gender discrimination under Title VII and Kentucky law, and age discrimination under Age Discrimination in Employment Act (ADEA). Employer moved for judgment as matter of law after jury returned verdict for employee for \$266,143. The District Court, **Bertelsman**, Chief Judge, held that...

...Woodward, Hobson & Fulton, Louisville, KY, for Defendant. OPINION AND ORDER **BERTELSMAN**, Chief Judge: This matter comes before the court on a...

65. White v. Manchester Enterprise, Inc.

United States District Court, E.D. Kentucky, London Division. . . January 11, 1996 910 F.Supp. 311 1996 WL 11841

Action was brought against newspaper and its reporters under Kentucky law for defamation and invasion of privacy. After earlier opinion in which it was determined that Kentucky statute prohibiting recovery of punitive damages for false statements contained in newspaper unless plaintiff made written demand for retraction prior to initiating action...

...Wells Smith & Wells, Manchester, KY, for defendant. OPINION AND ORDER **BERTELSMAN**, Chief Judge: The force and scope of Kentucky Revised Statute...

66. Golden Rule Ins. Co. v. Stephens

United States District Court, E.D. Kentucky, Covington Division. . . November 02, 1995 912 F.Supp. 261 1995 WL 783043

Health insurer brought action challenging constitutionality of Kentucky health care reform statute prohibiting insurers, after July 15, 1995, from issuing or renewing health benefit plans other than standard plans promulgated by health policy board. Defendants moved to dismiss. The District Court, **Bertelsman**, Chief Judge, held that: (1) statute is...

...MA, for Defendants. FINDINGS OF FACT AND CONCLUSIONS OF LAW **BERTELSMAN**, Chief Judge: Plaintiff, the Golden Rule Insurance Company, challenges the...

67. McClain v. Laurel Street Art Club, Inc.

United States District Court, E.D. Kentucky. July 28, 1995 925 F.Supp. 496 1995 WL 857632

Laid off employees brought action against employer, alleging violation of notice provisions of Worker Adjustment and Retraining Notification (WARN) Act. After bench trial, the District Court, **Bertelsman**, Chief Judge, held that employer's geographically separate manufacturing and shipping facilities did not constitute "single site of employment"...

...KY, for Defendant. FINDINGS OF FACT AND CONCLUSIONS OF LAW **BERTELSMAN**, Chief Judge. This is an action under the Worker Adjustment...

68. Turner v. City of Newport

United States District Court, E.D. Kentucky, at Covington. . June 08, 1995
887 F.Supp. 149 1995 WL 349026

Arrestee filed action against city and police officers alleging retaliatory arrest and that she was beaten during interrogation. On motions to dismiss on limitations grounds, the District Court, **Bertelsman**, Chief Judge, held that complaint was timely filed when it was delivered to Clerk of Court's post office box on last day before statute of...

...Landrum & Shouse , Louisville, KY, for Mike Scott. OPINION AND ORDER
BERTELSMAN , Chief Judge: This matter is before the court on the...

69. Grisham v. Wal-Mart Stores, Inc.

United States District Court, E.D. Kentucky, Covington Division. . May 17, 1995
929 F.Supp. 1054 1995 WL 867473

Patron sued retail store after being shot by assailant in parking lot. Store moved for summary judgment. The District Court, **Bertelsman**, Chief Judge, held that shooting was not reasonably foreseeable by store so as to give rise to duty to protect patron from such harm. Motion granted. Affirmed, 1996 WL 338668.

...Woodward, Hobson & Fulton , Louisville, KY, for Defendants. ORDER AND OPINION
BERTELSMAN , Chief Judge. The Judgment of this court has been affirmed...

70. Tolliver v. Harlan County Bd. of Educ.

United States District Court, E.D. Kentucky, at London. . April 20, 1995 887
F.Supp. 144 1995 WL 349020

Former acting assistant superintendent of school district brought action against school board under § 1983 arising from her removal from that position, and under state law alleging that board failed to recognize her employment status in that position. On board's motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that:...

...KY, Thomas M. Smith , Prestonsburg, KY, for defendants. OPINION & ORDER
BERTELSMAN , Chief Judge. I.Introduction The plaintiff, Grace Ann Tolliver, brings...

71. Ford v. Hill

United States District Court, E.D. Kentucky, London Division. . January 18, 1995
874 F.Supp. 149 1995 WL 21937

Parents of arrestee filed § 1983 claims individually and on behalf of arrestee's estate against state police officers involved in shooting of arrestee, and officers filed motions to dismiss. The District Court, **Bertelsman**, Chief Judge, held that: (1) under Kentucky tolling provisions, claim brought on behalf of arrestee's estate was timely filed by...

...Jackson & Kelly , Lexington, KY, for Jerry Provence. OPINION AND ORDER
BERTELSMAN , Chief Judge: Plaintiffs initiated this civil rights action pursuant to...

72. White v. Manchester Enterprise, Inc.

United States District Court, E.D. Kentucky, London Division. . . December 22,
1994 871 F.Supp. 934 1994 WL 719205

Organizer of Native American pow-wows brought action for damages against newspaper and reporters for defamation, invasion of privacy, and outrageous conduct based on publication of allegedly insulting article. On newspaper's motion for partial summary judgment, the District Court, **Bertelsman**, Chief Judge, held that: (1) organizer's failure to make...

...plaintiff. Timothy L. Wells Smith & Wells , Manchester, KY, for defendants.
BERTELSMAN , Chief Judge: I.INTRODUCTION Charlotte White alleges claims for defamation...

73. Baker v. Clay County Bd. of Educ.

United States District Court, E.D. Kentucky, London Division. . . December 08,
1994 871 F.Supp. 930 1994 WL 719202

Survivors of student brought civil rights action under § 1983 to recover damages against school district for releasing student into hands of his stepmother and accomplice who murdered him. On school district's motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that compulsory school attendance laws did not create special...

...Lexington, KY, for defendant and official defendants. OPINION AND ORDER
BERTELSMAN , Chief Judge: I.INTRODUCTION This is a civil rights action...

74. Chipman v. City of Florence

United States District Court, E.D. Kentucky, at Covington. . . October 12, 1994
866 F.Supp. 332 1994 WL 577919

Administrator of passenger's estate brought civil rights action under § 1983 against police officers and sheriff's deputies who allowed passenger to leave scene in truck despite evidence of driver's intoxication. On administrator's motion for reconsideration of order denying claim, 858 F.Supp. 87, the District Court, **Bertelsman**, Chief Judge, held...

...for defendants Thomas Dusing, John Dolan and Bobby Joe Wince. **BERTELSMAN**, Chief Judge: I.INTRODUCTION Plaintiff, the administrator of Conni Black's...

75. Mills v. Gibson Greetings, Inc.

United States District Court, E.D. Kentucky, at Covington. . . September 22, 1994 872 F.Supp. 366 1994 WL 738982

Former employee brought action against employer under Title VII and Kentucky statute alleging sex discrimination. Employer moved for summary judgment. The District Court, **Bertelsman**, Chief Judge, held that: (1) employee failed to establish prima facie case, and (2) even if she had, employer articulated legitimate, nondiscriminatory reason for...

...Taft, Stettinius & Hollister , Crestview Hills, KY, for defendant. MEMORANDUM OPINION **BERTELSMAN** , Chief Judge: I.INTRODUCTION Plaintiff Rebecca A. Mills filed this...

76. Chipman v. City of Florence

United States District Court E.D. Kentucky, Covington Division. . . August 02, 1994 858 F.Supp. 87 1994 WL 406540

Administrator of estate of passenger killed in automobile accident brought § 1983 action against city, city police officers, and county sheriff deputies, alleging that defendants caused passenger's death. Officers and city moved to dismiss. The District Court, **Bertelsman**, Chief Judge, held that: (1) officers were protected by qualified immunity...

...Mando Adams, Brooking & Stepner , Covington, KY, for defendants. OPINION & ORDER **BERTELSMAN** , Chief Judge: This is a civil rights action, pursuant to...

77. Shepherd v. Boysen

United States District Court, E.D. Kentucky, London Division. . . April 20, 1994 849 F.Supp. 1168 1994 WL 143766

Former technology coordinator for county schools brought suit under § 1983 and state law against state commissioner of education, for wrongful termination. On education commissioner's motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that: (1) coordinator was not entitled to name-clearing hearing; (2) coordinator waived...

...Tobin Boehl, Stopher & Graves, Louisville, KY, for defendant. OPINION & ORDER **BERTELSMAN**, Chief Judge. I.INTRODUCTION Plaintiff claims that he was wrongfully...

78. Green v. City of Willamstown

United States District Court, E.D. Kentucky. March 24, 1994 848 F.Supp. 102 1994 WL 108148

Property owners brought action seeking an injunction to prevent a city from withdrawing water from an artificial lake created by a dam. City moved for summary judgment. The District Court, **Bertelsman**, Chief Judge, held that: (1) the owners' inverse condemnation action in federal court was not ripe for review before the owners pursued an inverse...

...plaintiffs. David A. Nunery, Campbellsville, KY, for defendant. MEMORANDUM OPINION **BERTELSMAN**, Chief Judge. I.INTRODUCTION This is an action brought by...

79. I.R.S. v. Mando

United States District Court, E.D. Kentucky, at Covington. . January 04, 1994 170 B.R. 104 1994 WL 327600

TAXATION. corporate president was "responsible person" liable for unpaid employee withholding taxes.

...Brooking, Stepner, Woltermann & Dusing, Florence, KY, for Mando. OPINION & ORDER **BERTELSMAN**, Chief Judge. I.INTRODUCTION This is a bankruptcy appeal, pursuant...

80. U.S. v. Travis

United States District Court, E.D. Kentucky, Covington Division. . November 23, 1993 837 F.Supp. 1386 1993 WL 497234

Female African American airline passenger moved to suppress evidence that cocaine was found in her purse during consensual search which resulted in part from officer's use of drug courier profile to target passenger as suspect. The District Court,

Bertelsman, Chief Judge, held that: (1) drug courier profile which disproportionately targeted African...

...Wessels & Ogle , Ft. Wright, KY, for defendant. OPINION AND ORDER

BERTELSMAN , Chief Judge: I.INTRODUCTION The objections to the Report and...

81. Kentucky Div., Horsemen's Benev. & Protective Ass'n, Inc. v. Turfway Park Racing

United States District Court, E.D. Kentucky, Covington Division. . September 20, 1993 832 F.Supp. 1097 1993 WL 370579

Horsemen's organizations brought action against race track for violation of Interstate Horseracing Act. On race track's motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that: (1) Act is invalid restriction on commercial speech; (2) Act is unconstitutional as vague; and (3) Act is unconstitutional as irrational means to...

...of Horsemen's Benevolent and Protective Ass'n, Inc. OPINION AND ORDER

BERTELSMAN , Chief Judge: I.Introduction This action involves constitutional and interpretational...

82. Bright Lights, Inc. v. City of Newport

United States District Court, E.D. Kentucky, at Covington. . August 18, 1993 830 F.Supp. 378 1992 WL 518613

Owners and operators of establishments in Newport, Kentucky brought action challenging constitutionality of ordinances regulating adult entertainment. On cross motions for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that: (1) ordinances requiring erotic dancers to wear bikini top did not impose restriction on First Amendment...

...Greenebaum Doll & McDonald , Covington, KY, for defendants. OPINION AND ORDER **BERTELSMAN** , Chief Judge: This matter is before the court on the...

83. Pierce v. Commonwealth Life Ins. Co.

United States District Court, E.D. Kentucky, Covington Division. . June 25, 1993 825 F.Supp. 783 1993 WL 244553

Male employee brought action against employer for reverse discrimination on basis of sex and for intentional infliction of emotional distress. On employer's motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that: (1)

employee failed to make out prima facie case of discrimination under either federal or state law; (2)...

...Luvisi Brown, Todd & Heyburn , Louisville, KY, for defendants. MEMORANDUM OPINION **BERTELSMAN** , Chief Judge: Plaintiff brings this diversity action claiming reverse discrimination...

84. Tennyson v. Brower

United States District Court, E.D. Kentucky, at Covington. . June 04, 1993
823 F.Supp. 421 1993 WL 213301

Passengers in vehicle involved in collision with parked tractor trailer filed motion for judgment as matter of law and for new trial after jury verdict for operator of tractor trailer. The District Court, **Bertelsman**, Chief Judge, held that: (1) evidence was sufficient for jury to find that plaintiffs failed to establish defendant operator's...

...and David A. Caldwell , Cincinnati, OH, for defendants. MEMORANDUM OPINION **BERTELSMAN** , Chief Judge: Pursuant to this court's Order, dated April 21...

85. Western and Southern Life Ins. Co. v. Crown American Corp.

United States District Court, E.D. Kentucky, at Covington. . June 04, 1993
877 F.Supp. 1041 1993 WL 764507

Owner and developer of shopping center moved for injunction to prohibit anchor store from closing and transferring site to nonaffiliate in violation of shopping center's operating agreement. The District Court, **Bertelsman**, Chief Judge, held that: (1) agreement's restriction prohibiting transfers to nonaffiliates was unenforceable in equity, and (2)...

...OH, for Lazarus. OPINION AND ORDER RE: INTERLOCUTORY INJUNCTIVE RELIEF **BERTELSMAN** , Chief Judge. I.Introduction This matter involves the Florence Mall...

86. D. Kirschner & Sons, Inc. v. Continental Cas. Co.

United States District Court, E.D. Kentucky, Covington Division. . October 14, 1992
805 F.Supp. 479 1992 WL 319918

Action sought interpretation of whether coverage existed under certain comprehensive policies issued by insurers for response costs assessed against plaintiffs in a Comprehensive Environmental Response, Compensation, and Liability

Act (CERCLA) action against only one defendant. Approximately 60 days later, amended complaint was filed naming...

...Stephen Sonderby , Chicago, Ill., for defendants. MEMORANDUM OPINION AND ORDER **BERTELSMAN** , Chief Judge: This matter is before the court on the...

87. Averdick v. Republic Financial Services, Inc.

United States District Court, E.D. Kentucky, Covington Division. . October 06, 1992 803 F.Supp. 37 1992 WL 274286

Agents for sale of insurance policies under which automobile dealerships were reimbursed for extended warranty work sued issuing insurers, alleging that they serviced warranties in a fraudulent manner so as to deny many valid claims. On motion to remand following removal, the District Court, **Bertelsman**, Chief Judge, held that: (1) 1988 amendment to...

...Davis Burr & Forman , Birmingham, Ala., for defendants. OPINION AND ORDER **BERTELSMAN** , Chief Judge: This case is before the court on a...

88. Travelers Ins. Co. v. Corporex Properties, Inc.

United States District Court, E.D. Kentucky, at Covington. . August 26, 1992 798 F.Supp. 423 1992 WL 208878

Mortgagee of commercial real estate sued to foreclose following mortgagor's default. Mortgagee moved for partial summary judgment. The District Court, **Bertelsman**, C.J., held that: (1) commercial mortgagee did not waive right to exercise contractual remedies by attempting to negotiate workout agreement with mortgagor; (2) four percent late payment...

...Frankfort, Ky., for defendant Com. of Ky. MEMORANDUM OPINION & ORDER **BERTELSMAN** , Chief Judge. In this diversity action, the mortgagee of commercial...

89. Wm. H. McGee & Co. v. Liebherr America, Inc.

United States District Court, E.D. Kentucky, Covington. . April 10, 1992 789 F.Supp. 861 1992 WL 77513

Products liability defendant moved to dismiss action as barred by limitations. The District Court, **Bertelsman**, Chief Judge, held that state rule requiring filing of complaint and issuance of summons in order to commence civil action, rather than federal rule requiring only filing of complaint in order to commence action, applied to action, for...

...Covington, Ky., R. Guy Taft , Cincinnati, Ohio, for defendant. OPINION
BERTELSMAN , Chief Judge. The court on this motion is again faced...

90. Estate of Peters by Peters v. U.S. Cycling Federation
United States District Court, E.D. Kentucky, at Covington. . November 13,
1991 779 F.Supp. 853 : 1991 WL 279558

Action for wrongful death of participant in amateur bicycle race was brought against organizer of race and national organization which sanctioned it. On defendants' motion for summary judgment, the District Court, **Bertelsman**, Chief Judge, held that defendants were not guilty of willful or wanton misconduct and thus liability was precluded by...

...M. Jackson , Frankfort, Ky., for defendants. MEMORANDUM OPINION AND ORDER
BERTELSMAN , Chief Judge: This is a diversity action for the wrongful...

91. Hill v. Franklin County, Ky.
United States District Court, E.D. Kentucky, Frankfort. January 14, 1991 : 757
F.Supp. 29 : 1991 WL 24304

Arrestee's widow brought civil rights action against county and county officials, alleging that arrestee was improperly released from custody while he was still intoxicated. On defendants' motion for summary judgment, the District Court, **Bertelsman, J.**, held that decision to release intoxicated arrestee was not result of county policy, precluding...

...James E. Boyd , Frankfort, Ky., for defendants. OPINION AND ORDER
BERTELSMAN , District Judge. On January 4, 1991, this matter came before...

92. Eva N. v. Brock
United States District Court, E.D. Kentucky, Frankfort. May 31, 1990 741
F.Supp. 626 1990 WL 91360

Parent filed action for declaratory and injunctive relief under the Education for All Handicapped Children Act and the Rehabilitation Act, challenging the refusal to place a visually handicapped student at the Kentucky School for the Blind. The District Court, **Bertelsman, J.**, held that: (1) a visually impaired student who was also profoundly...

...Jack E. Ruck , Louisville, Ky., for defendants. OPINION AND ORDER
BERTELSMAN , District Judge. I.INTRODUCTION This is an action for declaratory...

93. Darnell v. Campbell County Fiscal Court

United States District Court, E.D. Kentucky, Covington Division. . . March 06, 1990 731 F.Supp. 1309 1990 WL 27134

Former county employee brought employment discrimination action against county, alleging that she was discharged from her position as secretary clerk in violation of the Age Discrimination in Employment Act, in violation of Title VII of the Civil Rights Act of 1964, and in violation of her due process and First Amendment rights. County filed motion...

...Jr. Twehues & Verst , Newport, Ky., for defendant. **OPINION AND ORDER BERTELSMAN** , District Judge. Background This is an employment discrimination action against...

94. Holbert v. West

United States District Court, E.D. Kentucky, Frankfort. February 02, 1990 730 F.Supp. 50 1990 WL 10174

Civil rights action was brought in connection with alleged rape of minor detainee. On motion for summary judgment, the District Court, **Bertelsman, J.**, held that one-year state statute of limitations governing action stopped being tolled due to detainee's minority at time of her first marriage ceremony even though such marriage took place before...

...Kenneth W. Smith , Lexington, Ky., for defendants. **OPINION AND ORDER BERTELSMAN** , District Judge. This is a civil rights action under 42...

95. Overberg v. Lusby

United States District Court, E.D. Kentucky, at Covington. . . January 04, 1990 727 F.Supp. 1091 1990 WL 1096

Divorced wife brought action against former husband for negligent or intentional infliction of sexually transmitted disease during marriage. Husband moved for summary judgment. The District Court, **Bertelsman, J.**, held that general release in separation agreement barred wife's claim, notwithstanding wife's purported lack of knowledge that she had...

...Kenneth G. Hawley , Cincinnati, Ohio, for defendant. **OPINION AND ORDER BERTELSMAN** , District Judge. This is a diversity action by a woman...

96. **White v. Turfway Park Racing Ass'n, Inc.**
United States District Court, E.D. Kentucky, at Covington. . July 25, 1989
718 F.Supp. 615 1989 WL 83189

Pick-Six bettor brought suit against racetrack alleging fraud and negligence in violation of Kentucky rules of racing in determination of eligibility and winner of race. Racetrack moved for summary judgment. The District Court, **Bertelsman, J.**, held that Pick-Six bettor was not entitled to determination under Kentucky rules of racing in suit against...

...Deters, Benzinger & Lavelle, Covington, Ky., for defendant. OPINION AND ORDER **BERTELSMAN**, District Judge. This is a diversity action in which the...

97. **Neal v. McGinnis, Inc.**
United States District Court, E.D. Kentucky, at Covington. . July 25, 1989
716 F.Supp. 996 1989 WL 83188

Action was brought for wrongful death under general maritime law. Defendant moved for pretrial ruling on applicability of substantive federal admiralty law. The District Court, **Bertelsman, J.**, held that substantive general federal maritime law was applicable to wrongful death claim. Order accordingly.

...Fry, Kiely & Dennis, Cincinnati, Ohio, for defendant. OPINION AND ORDER **BERTELSMAN**, District Judge. This is an action for wrongful death brought...

98. **U.S. v. One 1965 Cessna 320C Twin Engine Airplane, Serial No. 0813841-1, License No. N3062T**
United States District Court, E.D. Kentucky, Covington Division. . June 12, 1989
715 F.Supp. 808 1989 WL 73306

Alleged secured creditor of airplane used to transport marijuana contested civil forfeiture. United States and alleged secured creditor both moved for summary judgment. The District Court, **Bertelsman, J.**, held that: (1) claimant did not have secured interest in seized airplane; (2) state court judgment, which found that claimant was secured...

...Joe T. Roberts, London, Ky., for defendant. OPINION AND ORDER **BERTELSMAN**, District Judge. This matter is before the court on the...

99. Hambrick v. Davies

United States District Court, E.D. Kentucky, Covington Division. . April 26,
1989 711 F.Supp. 884 1989 WL 43951

Prisoner brought § 1983 complaint alleging intentional misconduct by arresting police officer. On defendant's motion for summary judgment, the District Court, **Bertelsman, J.**, held that: (1) action was governed by Kentucky one-year statute of limitations; (2) Kentucky tolling statute did not apply to preserve claim for period during which plaintiff...

...Clark, Ward & Hopgood, Lexington, Ky., for defendant. OPINION AND ORDER **BERTELSMAN**, District Judge. This matter is before the court on plaintiff's...

100. U.S. v. Fogarty

United States District Court, E.D. Kentucky, Covington Division. . April 26,
1989 710 F.Supp. 1126 1989 WL 43944

Defendant moved to dismiss on the basis of Speedy Trial Act violation. The District Court, **Bertelsman, J.**, held that Act was not violated. Motion denied.

...for Wichman. Kurt Philipps, Covington, Ky., for Lopez. MEMORANDUM OPINION **BERTELSMAN**, District Judge. A motion to dismiss on the basis of...

101. City of Covington, Ky. v. Chesapeake & Ohio Ry. Co.

United States District Court, E.D. Kentucky, Covington Division. . April 03,
1989 708 F.Supp. 806 1989 WL 30478

City filed complaint for declaratory judgment and damages against railroad in state court. City sought declaration of its rights under city ordinance limiting speed of trains to 25 miles per hour within city limits. After removal, railroad moved for summary judgment. The District Court, **Bertelsman, J.**, held that the Railway Safety Act preempted...

...Stepner, Woltermann & Dusing, Florence, Ky., for defendant. OPINION AND ORDER **BERTELSMAN**, District Judge. This opinion addresses an action by the City...

102. Brown by Brown v. Johnson

United States District Court, E.D. Kentucky, Covington Division. . April 03,
1989 710 F.Supp. 183 1989 WL 32010

Section 1983 action was brought in which nine-year-old student alleged that her teachers violated her substantive due process rights by spanking her seven times with a paddle. On defendants' motion for summary judgment, the District Court, **Bertelsman, J.**, adopting the report and recommendation of United States Magistrate Joseph M. Hood, held that...

...Fogle & Chenoweth, Mt. Sterling, Ky., for defendants. OPINION AND ORDER **BERTELSMAN**, District Judge. This matter is before the court on the...

103. Roane v. Comair, Inc.

United States District Court, E.D. Kentucky, Covington Division. . . March 01, 1989 708 F.Supp. 802 1989 WL 25439

Pilot and flight attendants brought action against airline seeking to recover damages as result of mandatory drug test. Following removal from state court, pilot's claims were dismissed. On flight attendant's motion to remand, the District Court, **Bertelsman, J.**, held that even though claim of pilot who had the only federal cause of action had been...

...Peter J. Summe, Covington, Ky., for defendants. OPINION AND ORDER **BERTELSMAN**, District Judge. This action against Comair, Inc., a commuter airline...

104. U.S. v. Kentucky Utilities Co.

United States District Court, E.D. Kentucky, Lexington Division. . . February 09, 1989 124 F.R.D. 146 1989 WL 10694

Newspaper sought access to documents obtained by federal Government during discovery in now-settled antitrust litigation. The District Court, **Bertelsman, J.**, held that order providing for confidentiality of discovery documents turned over by antitrust defendant to federal Government would be modified, after settlement of antitrust litigation, so as...

...Malcolm Y. Marshall, Louisville, Ky., for defendant. OPINION AND ORDER **BERTELSMAN**, District Judge: INTRODUCTION This matter comes before the court via...

105. Spencer v. Auditor of Public Accounts

United States District Court, E.D. Kentucky, at Frankfort. . . January 27, 1989 705 F.Supp. 340 1989 WL 6559

Public auditor brought action against Kentucky Auditor of Public Accounts to recover for overtime compensation and compensatory time under Fair Labor Standards Act. Auditor of Public Accounts moved for dismissal or summary judgment. The District Court, **Bertelsman, J.**, held that Auditor of Public Accounts enjoyed no Eleventh Amendment immunity from...

...Asst. Atty. Gen., Frankfort, Ky., for defendant. OPINION AND ORDER
BERTELSMAN, District Judge: This matter is before the court on the...

106. American Civil Liberties Union of Kentucky v. Wilkinson
United States District Court, E.D. Kentucky, Frankfort Division. . December 14,
1988 701 F.Supp. 1296 1988 WL 134939

Civil rights action was brought challenging Kentucky's construction and use of structure resembling biblical-age stable on public grounds of State Capitol Building. On plaintiffs' request for temporary restraining order and preliminary injunction, the District Court, **Bertelsman, J.**, held that: (1) nativity display on Kentucky State Capital ground...

...Habel, Office of the Governor, Frankfort, Ky., for defendant. OPINION
BERTELSMAN, District Judge: INTRODUCTION This is a civil rights action brought...

107. U.S. v. Glass Menagerie, Inc.
United States District Court, E.D. Kentucky, at Covington. . April 21, 1988
702 F.Supp. 139 1988 WL 142099

United States and black persons brought actions seeking preliminary injunction preventing nightclub from discriminating against blacks in its admission policies. The District Court, **Bertelsman, J.**, held that United States and black persons established likelihood of prevailing on merits of claim, and thus, were entitled to preliminary injunction....

...for defendants. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
BERTELSMAN, District Judge. This matter came on for an evidentiary hearing...

108. McKay v. Ashland Oil, Inc.
United States District Court, E.D. Kentucky, Ashland Division. . April 08, 1988
120 F.R.D. 43 1988 WL 31807

In a wrongful discharge case, the plaintiffs filed a motion for reconsideration of court's order for summary jury trial. The District Court, **Bertelsman, J.**, held that mandatory

summary jury trials were a valid pretrial settlement procedure, and could be useful to settle a complex case with one or two key issues where the problem with settlement was...

...Fernstermaker, Krieger, Huntington, W.Va., for defendant Orin E. Atkins. OPINION
BERTELSMAN, District Judge. This court is called upon to decide whether...

109. Williams v. Hall

United States District Court, E.D. Kentucky, Ashland Division. . April 05, 1988
683 F.Supp. 639 | 1988 WL 31806

Former employees brought suit against their former employer, a petroleum company, alleging that their terminations violated the Racketeer Influenced and Corrupt Organizations Act. On defendants' motion for summary judgment, the District Court, **Bertelsman, J.**, held that plaintiffs had standing to sue under RICO for their terminations, where they...

...Garmer & Elliott, Lexington, Ky., for Charles J. Queenan, Jr. OPINION
BERTELSMAN, District Judge. The summary judgment motion by defendants in this...

110. Kordenbrock v. Scroggy

United States District Court, E.D. Kentucky, Covington Division. . February 16, 1988
680 F.Supp. 867 | 1988 WL 11754

State court defendant who had been convicted of murder and robbery petitioned for federal habeas relief. The District Court, **Bertelsman, J.**, held that: (1) prosecutor's repeated statements that juror's function at penalty phase of murder case was merely to "recommend" whether death sentence should be imposed did not unconstitutionally denigrate to...

...Cicely Jaracz Lambert, Frankfort, Ky., for respondent. OPINION AND ORDER
BERTELSMAN, District Judge. Petitioner, Paul Kordenbrock, received the death penalty after...

111. Yancey v. Carroll County, Ky.

United States District Court, E.D. Kentucky, at Covington. . December 01, 1987
674 F.Supp. 572 | 1987 WL 76

After federal civil rights claims against various state and local police officials involved in a murder investigation were dismissed, motion for Rule 11 sanctions against unsuccessful plaintiff's attorneys was filed. The District Court, **Bertelsman, J.**, held

that, although sanctions were necessary due to attorneys' overzealous representation of...

...True, Frankfort, Ky., for defendants. David Judy, pro se. OPINION BERTELSMAN, District Judge. This F.R.Civ.P.Rule 11 motion arises out of a...

112. Howes v. Atkins

United States District Court, E.D. Kentucky, Covington Division. . September 02, 1987 668 F.Supp. 1021

Following settlement of shareholders' derivative action, applications were made for attorneys' fees. The District Court, Bertelsman, J., held that: (1) shareholders' attorneys' fees had to be calculated on percentage basis, rather than pursuant to lodestar analysis, and (2) objectors' counsel were entitled to ten percent of the settlement. So...

...Frankfort, Ky., for defendant, Ashland Oil, Inc. OPINION AND ORDER BERTELSMAN, District Judge. This matter is before the court on the...

113. Thompson v. McDowell

United States District Court, E.D. Kentucky, Frankfort Division. . June 02, 1987 661 F.Supp. 498 | 2 IER Cases 373

Discharged public employee brought civil rights action against employer, alleging violation of his First Amendment rights. The District Court, Bertelsman, J., held that public employee's speech was not of sufficient public concern to merit protection under First Amendment against retaliatory disciplinary action taken by employer. Case dismissed.

...Frankfort, Ky., for McDowell and Seraglio. MEMORANDUM OPINION AND ORDER BERTELSMAN, District Judge: This matter is presently before the court on...

114. Whittington v. Ohio River Co.

United States District Court, E.D. Kentucky, Covington Division. . March 24, 1987 115 F.R.D. 201 1987 A.M.C. 2867

After attorney representing seamen on asbestosis claims moved court for voluntary dismissal without prejudice on ground that actions were too expensive to pursue, and court granted motion to dismiss, defendant sought fees through Rule 11. The District Court, Bertelsman, J., held that: (1) application of Rule 11 has been overdone and some...

...Covington, Ky., for respondent, Meredith L. Lawrence. OPINION AND ORDER
BERTELSMAN, District Judge: This matter is before the court on motions...

115. Simms v. Farris

United States District Court, E.D. Kentucky, Frankfort Division. . . March 03,
1987 657 F.Supp. 119

Parties seeking package liquor store license to operate retail outlet in unincorporated area of Kentucky brought action against Kentucky Alcoholic Beverage Control Board, its individual members, and owner-operators of retail package liquor establishment in county in which license was sought, challenging validity of Kentucky statute regulating...

...Ky., Robert Spragens, Jr., Lebanon, Ky., for defendants. REVISED OPINION
BERTELSMAN, District Judge: The court previously entered an Opinion and Judgment...

116. Lockhart v. Patel

United States District Court, E.D. Kentucky, Pikeville Division. . . February 26,
1987 115 F.R.D. 44 6 Fed.R.Serv.3d 1130

In medical malpractice action, defense counsel was directed to attend settlement conference and bring with him a representative from home office of insurer with authority to settle. Upon failure of representative to appear, the District Court, **Bertelsman, J.**, held that striking of defendants' pleadings was appropriate sanction. Ordered accordingly.

...Pikeville, Ky., for James B. Todd, Attorney at Law. OPINION **BERTELSMAN**, District Judge: Unfortunately, the court finds it necessary in this...

117. Weaver v. Anderson County Fiscal Court

United States District Court, E.D. Kentucky, Frankfort Division. . . December 17,
1986 648 F.Supp. 1575

Mobile home park developers brought section 1983 action seeking permanent injunction, on vested right theory, enjoining zoning officials from interfering with developers' construction of mobile home park. The District Court advised parties that it would be appropriate for the Anderson County Board of Adjustments to hold hearing and make findings on...

...Springfield, Ky., Alex F. Talbott, Louisville, Ky., for defendants. OPINION
BERTELSMAN, District Judge: This 42 U.S.C. §1983 action, arising out...

118. Barnes v. McDowell

United States District Court, E.D. Kentucky, Frankfort Division. . . November 06, 1986 647 F.Supp. 1307 42 Fair Empl.Prac.Cas. (BNA) 1734

Kentucky state employees brought §1983 action based on their discharge. Defendants filed motion for summary judgment. The District Court, **Bertelsman, J.**, held that: (1) first employee would be barred by collateral estoppel from relitigating Kentucky State Personnel Board's finding that he was justly dismissed for...

...Atty. Gen., Frankfort, Ky., for defendants. MEMORANDUM OPINION AND ORDER **BERTELSMAN**, District Judge. This 42 U.S.C. §1983 action is before...

119. Cissell v. Hanover Ins. Co.

United States District Court, E.D. Kentucky, Frankfort Division. . . November 04, 1986 647 F.Supp. 757

Arrestee brought civil rights action against state police officers alleging malicious prosecution. Officer's moved for partial summary judgment. The District Court, **Bertelsman, J.**, held that prosecution which resulted in dismissal following arrestee's voluntary participation in federal pretrial diversion program could not be considered as having...

...Johnson, Frankfort, Ky., for Stucker and Wilding. OPINION AND ORDER **BERTELSMAN**, District Judge. This matter is before the court on the...

120. U.S. v. Reaves

United States District Court, E.D. Kentucky, Lexington Division. . . July 01, 1986 636 F.Supp. 1575 55 USLW 2067

The Government and defendants in criminal tax fraud case challenged authority of District Court to curtail presentation of evidence by placing time limits on various stages of the trial. The District Court, **Bertelsman, J.**, held that District Court has the power to impose reasonable time limits on both civil and criminal cases in the exercise of its...

...York City and Richard Plymale, Lexington, Ky., for Shapot. OPINION **BERTELSMAN**, District Judge: Both the prosecution and the defendants in this...

...America, Plaintiff vs. Daniel Lieberman, et al., Defendants SCHEDULING ORDER **BERTELSMAN**, District Judge. Having reviewed the record herein and having heard...

121. Byrd v. Proctor & Gamble Mfg. Co.

United States District Court, E.D. Kentucky, Covington Division. . . March 03, 1986 629 F.Supp. 602 Prod.Liab.Rep. (CCH) P 11,059

User of home permanent brought action against manufacturer seeking damages for hair loss she sustained. The District Court, Bertelsman, J., held that: (1) jury answer to interrogatory finding that home permanent was not defective in design was in accordance with weight of evidence, and (2) under Kentucky law, jury was justified in finding from...

...plaintiffs. Carl J. Stich, Jr., Cincinnati, Ohio, for defendants. OPINION

BERTELSMAN, District Judge. The defendant, The Proctor & Gamble Company, has filed...

122. Mullanix v. Heckler

United States District Court, E.D. Kentucky, Frankfort Division. . . January 07, 1986 624 F.Supp. 529 12 Soc.Sec.Rep.Serv. 522

Claimant's counsel filed petition for award of attorney fees in the amount of 25% of accrued disability and supplemental security income benefits to be paid claimant. The District Court, Bertelsman, J., held that 25% of accrued supplemental security income and disability benefits could be awarded as attorney fees. Motion granted.

...DeFalaise, U.S. Atty., Lexington, Ky., for defendant. OPINION AND ORDER

BERTELSMAN, District Judge. This matter is before the court on the...

123. Salisbury v. Housing Authority of City of Newport

United States District Court, E.D. Kentucky, Covington Division. . . August 20, 1985 615 F.Supp. 1433

Terminated executive director of City of Newport, Kentucky City Housing Authority, brought civil rights action complaining of alleged denial of substantive and procedural due process rights at termination hearing, specifically, denial of an impartial hearing body. Cross motions for summary judgment were filed. The District Court, Bertelsman, J.,...

...Jr., Florence, Ky., for Day Johnston defendant. OPINION AND ORDER

BERTELSMAN, District Judge. This is a 42 U.S.C. §1983 civil...

124. **Credithrift of America v. Lawson**

United States District Court, E.D. Kentucky, Frankfort Division. . August 09, 1985 52 B.R. 369

Debtor filed motion to avoid lien of creditor on household furnishings of debtor as a lien that impaired the exemption of debtor in such property. The Bankruptcy Court, 42 B.R. 206, granted motion, and appeal was brought. The District Court, **Bertelsman, J.**, held that the Bankruptcy Amendments and Federal Judgeship Act of 1984 was constitutional and...

...Lear, U.S. Dept. of Justice, Washington, D.C., for defendant. ORDER **BERTELSMAN**, District Judge. This matter is before the court on an...

125. **Messer v. Curci**

United States District Court, E.D. Kentucky, Catlettsburg Division. . June 04, 1985 610 F.Supp. 179

Plaintiffs brought § 1983 action challenging decision of Kentucky Department of Parks not to rehire them as seasonal maintenance workers. On defendants' motion to dismiss, the District Court, **Bertelsman, J.**, held that: (1) notwithstanding plaintiffs' past employment as seasonal maintenance employees and their expectation of continued employment...

...for Human Resources, Frankfort, Ky., for defendants. OPINION AND ORDER **BERTELSMAN**, District Judge. "To the Victor Belong the Spoils of the..."

126. **Northwestern Nat. Ins. Co. v. Osborne**

United States District Court, E.D. Kentucky, Covington Division. . May 23, 1985 610 F.Supp. 126

Fire insurer, which settled with insured in underlying action for wrongful denial of coverage after order of default was entered against insurer as discovery sanction, brought legal malpractice action against former counsel. On insurer's motion to reconsider dismissal on basis of statute of limitations, the District Court, **Bertelsman, J.**, held that...

...Breetz, Stites & Harbison, Louisville, Ky., for defendant. OPINION AND ORDER **BERTELSMAN**, District Judge. Once again the continuing drama of the controversy...

127. Carlotta v. Warner

United States District Court, E.D. Kentucky, Covington Division. . January 24, 1985 601 F.Supp. 749

Tenant brought action against owner of apartment complex seeking to recover in negligence for injuries tenant sustained when he struck his head on innertube placed in pool. Defendant sought motion for summary judgment on ground that plaintiff was guilty of contributory negligence as a matter of law. Partial summary judgment was granted in favor of...

...Mark G. Arnzen, Covington, Ky., for defendants. OPINION AND ORDER
BERTELSMAN, District Judge. This case presents one of the troublesome issues...

128. Coatney v. Purkhiser

United States District Court, E.D. Kentucky, Covington Division. . January 16, 1985 104 F.R.D. 118 1 Fed.R.Serv.3d 36

Defendant moved for new trial on ground that court had precluded him from calling certain witnesses not listed as required by court's standard pretrial order. The District Court, **Bertelsman**, J., held that court was well within its discretion in making such ruling where no excuse was shown for failing to have listed witnesses in compliance with...

...for plaintiff. Howell W. Vincent, Covington, Ky., for defendant. ORDER
BERTELSMAN, District Judge: This matter is before the court on the...

129. Askin v. Firestone Tire & Rubber Co.

United States District Court, E.D. Kentucky, Covington Division. . January 11, 1985 600 F.Supp. 751 36 Fair Empl.Prac.Cas. (BNA) 1487

On employees' motion to reconsider order and judgment granting employer's motion for summary judgment and dismissing age discrimination complaint, the District Court, **Bertelsman**, J. held that prima facie case of age discrimination against store managers and assistant managers was made out by proof that each was over 40 and was discharged and...

...Millisor, Belkin & Nobil, Cleveland, Ohio, for defendant. OPINION AND ORDER
BERTELSMAN, District Judge: This matter is before the court on the...

130. Libertarian Party v. Davis

United States District Court, E.D. Kentucky, Frankfort Division. . . January 09, 1985 601 F.Supp. 522

A political party and other plaintiffs brought suit to challenge a Kentucky statute setting certain time limits for filing of petitions or certificates for nomination of candidates for elective office. The District Court, **Bertelsman, J.**, held that: (1) such statute, which was changed by amendment with effective date of July 13, 1984 and with which...

...General Counsel, Frankfort, Ky., for defendants. MEMORANDUM OPINION AND ORDER **BERTELSMAN**, District Judge: On August 28, 1984, representatives of the Libertarian...

131. Anderson v. Black & Decker (U.S.), Inc.

United States District Court, E.D. Kentucky, Covington Division. . . November 28, 1984 597 F.Supp. 1298

In a personal injury, products liability action brought on basis of diversity, the District Court, **Bertelsman, J.**, held that under the plain meaning of the Kentucky Products Liability Act, contributory negligence was a complete defense, if established by evidence. Defendant's motion for instruction granted.

...Clark, Clark, Ward, Stuart & Hopgood, Lexington, Ky., for defendant. OPINION **BERTELSMAN**, District Judge. This products liability case presents the court 1...

132. Bryant v. Allstate Ins. Co.

United States District Court, E.D. Kentucky, Covington Division. . . September 04, 1984 592 F.Supp. 39

Innocent spouse sought her proportional share of proceeds of fire insurance policy on home owned jointly by her and her husband when husband destroyed home by arson. The District Court, **Bertelsman, J.**, held that under Kentucky law innocent spouse was not entitled to her proportional share of proceeds. Ordered accordingly.

...Taliaferro, Smith, Mann, Wolnitzek & Schachter, Florence, Ky., for defendants. OPINION **BERTELSMAN**, District Judge. This case presents the court with an issue...

133. Landrum v. Eastern Kentucky University

United States District Court, E.D. Kentucky, Lexington Division. . . January 16, 1984 578 F.Supp. 241 16 Ed. Law Rep. 87

Former state university professor brought action against university, its president, board of regents and several of its administrators alleging that his termination violated his First Amendment and due process rights. The District Court, **Bertelsman, J.**, held that: (1) First Amendment in employment context is to be narrowly interpreted to give...

...Dr. Martin, Dr. Thompson and Dr. Rowlett. OPINION and ORDER **BERTELSMAN**, District Judge. This matter is before the court on the...

134. Ginter v. Northwestern Mut. Life Ins. Co.
United States District Court, E.D. Kentucky, Covington Division. . . January 16,
1984 576 F.Supp. 627 15 Fed. R. Evid. Serv. 914

Beneficiary of life insurance policy brought suit against insurer. On motion for pretrial evidentiary ruling, the District Court, **Bertelsman, J.**, held that evidence that deceased insured was man of good character who would be unlikely to submit fraudulent or erroneous application was inadmissible. Motion denied.

...Simpson, Stites & Harbison, Kent McElwain, Louisville, Ky., for defendant. OPINION **BERTELSMAN**, District Judge. This matter is before the court on a...

135. In re Comair Air Disaster Litigation
United States District Court, E.D. Kentucky, Covington Division. . . November
08, 1983 100 F.R.D. 350 38 Fed.R.Serv.2d 629

Owner moved to compel production of internal accident report prepared by aircraft manufacturer in connection with crash of manufactured aircraft from which owner's suit against manufacturer arose. The District Court, **Bertelsman, J.**, held that owner was entitled to disclosure of internal accident report prepared by aircraft manufacturer in...

...defendant Daniel Synder, d/b/a The Accessory Shop. OPINION **BERTELSMAN**, District Judge. This matter is before the court on Comair's...

136. Northwestern Nat. Ins. Co. v. Osborne
United States District Court, E.D. Kentucky, Covington Division. . . November
02, 1983 573 F.Supp. 1045

Fire insurer, which settled with insured in underlying action for wrongful denial of coverage after order of default was entered against insurer as discovery sanction, brought legal malpractice action against former counsel. On defendant's motion to

dismiss and plaintiff's countermotion to strike limitations defense, the District Court, **Bertelsman**,...

...Robert G. Breetz, Louisville, Ky., for defendant. OPINION and ORDER **BERTELSMAN**, District Judge: This matter is before the court on the...

137. U.S. v. Phelps

United States District Court, E.D. Kentucky, Covington Division. . . October 13, 1983 572 F.Supp. 262 14 Fed. R. Evid. Serv. 877

After objection was made to the admissibility of the declarant's statement when police officers discovered cocaine in a gym bag in the trunk of a vehicle "That is my gym bag, but [codefendant] put it in the trunk," the District Court, **Bertelsman, J.**, held that: (1) the statement was hearsay in that the declarant was present in the courtroom, but...

...Ky., for Taylor. Bruce Whitman, Cincinnati, Ohio, for Phelps. OPINION **BERTELSMAN**, District Judge: This memorandum is written to explain certain evidentiary...

138. Wessels Const. and Development Co., Inc. v. Com. of Kentucky

United States District Court, E.D. Kentucky, Covington Division. . . March 24, 1983 560 F.Supp. 25

Owners of property situated on city street, a portion of which was designated to be closed, brought action claiming violation of their constitutional rights in failing to accord them a due process hearing and an order for just compensation for depreciation in value of their property. Cross motions for summary judgment were filed. The District...

...Inc. Gregory A. Bartlett, Covington, Ky., for remaining defendants. OPINION **BERTELSMAN**, District Judge. INTRODUCTION This case involves an interpretation of the...

139. Horning v. Sycom

United States District Court, E.D. Kentucky, Covington Division. . . February 24, 1983 556 F.Supp. 819

Computer buyer brought action against seller alleging breach of contract, breach of warranties, negligence, and fraud. On seller's motion to transfer, the District Court,

Bertelsman, J., held that the action would not be transferred to state of Wisconsin pursuant to forum selection clause in the contract. Motion denied.

...Joseph L. Baker, Covington, Ky., for defendants. OPINION and ORDER
BERTELSMAN, District Judge. This matter is before the court on the...

140. Siereveld by Siereveld v. Conn

United States District Court, E.D. Kentucky, Covington Division. . February 23, 1983 557 F.Supp. 1178

Class action was brought challenging practices of Kentucky Cabinet for Human Resources in removing children who had been committed to it from the homes of their natural parents. The District Court, **Bertelsman, J.**, held that: (1) Pullman abstention was not appropriate; (2) due process was violated where there was no prerule hearing in...

...for Human Resources, Frankfort, Ky., for defendants. OPINION AND ORDER
BERTELSMAN, District Judge. The main issue in this case is whether...

141. Watkins v. Reed

United States District Court, E.D. Kentucky, Covington Division. . February 04, 1983 557 F.Supp. 278

Taxicab drivers brought civil rights suit against airport taxicab association, claiming they were suspended from operating their cabs at the airport without notice and hearing. The District Court, **Bertelsman, J.**, held that the airport taxicab association did not act under color of state law and could thus not be held liable for civil rights...

...B. Sloan, Covington, Ky., for Reed. MEMORANDUM OPINION and ORDER
BERTELSMAN, District Judge. This case is based on events that occurred...

142. Ashland Oil, Inc. v. Third Nat. Bank of Ashland, Ky.

United States District Court, E.D. Kentucky, Covington Division. . January 19, 1983 557 F.Supp. 862

Gasoline supplier brought action for exoneration or limitation of liability in regard to claims arising out of accident involving explosion and fire at gasoline tank farm when tank overflowed while gasoline was being offloaded from barge and into tank. The parties filed cross claims among themselves. The District Court, **Bertelsman, J.**, held that:...

...of the Estate of William L. Pack, deceased. MEMORANDUM OPINION
BERTELSMAN, District Judge. This case arises out of the disastrous explosion...

143. C & S Fuel, Inc. v. Clark Equipment Co.

United States District Court, E.D. Kentucky, London Division. . . November 24,
1982 552 F.Supp. 340

Diversity action was brought against manufacturer to recover value of tractor shovel destroyed by fire, on theories of strict liability and negligence. The District Court, **Bertelsman, J.**, held that: (1) tractor was defective under Kentucky strict liability standards where it contained a design defect in that inadequate precautions were taken to...

...Zingman, Wyatt, Tarrant & Combs, Louisville, Ky., for defendant. Memorandum Opinion **BERTELSMAN**, District Judge. FINDINGS OF FACT This is a diversity case...

144. U.S. v. McGuire

United States District Court, E.D. Kentucky. August 06, 1982 552 F.Supp.
503 50 A.F.T.R.2d 82-6044

The Internal Revenue Service initiated garnishment proceedings on taxpayer's state-created retirement fund. On defendant's motion for summary judgment, the District Court, **Bertelsman, J.**, held that: (1) taxpayer's claim was expressly prohibited under federal statute prohibiting suit for purpose of restraining assessment or collection of any tax,...

...Lisle and Robert M. Beck, Jr., Lexington, Ky., for defendants. **BERTELSMAN**, District Judge: Order The matter is before the court on...

145. Stratford v. State-House, Inc.

United States District Court, E. D. Kentucky, Frankfort Division. August 06,
1982 542 F.Supp. 1008

Owners of townhouses, which were situated across the road from planned shopping center site on which a tavern had been constructed, brought action claiming substantive due process violation in connection with approval of tavern construction and issuance of building permit therefore. Defendants moved to dismiss. The District Court, **Bertelsman, J.**,...

...Bd. and Dept. of Alcoholic Beverage Control. OPINION and ORDER **BERTELSMAN**, District Judge. I. Introduction This case presents once again the...

146. Martin v. Covington, Ky.

United States District Court, E. D. Kentucky, Covington Division. June 29, 1982 541 F.Supp. 803

Civil action for deprivation of rights was brought against city and policemen, and defendants moved to dismiss for lack of jurisdiction. The District Court, **Bertelsman, J.**, held that complaint that minor plaintiff was forced by policemen to engage in homosexual solicitation on public street as part of crackdown being conducted by police on...

...Howell, Covington, Ky., for Lt. Thos. Henry. OPINION and ORDER **BERTELSMAN**, District Judge. This 42 U.S.C. s 1983 action is before...

147. Rhodes v. Michelin Tire Corp.

United States District Court, E. D. Kentucky, Covington Division. June 28, 1982 542 F.Supp. 60 11 Fed. R. Evid. Serv. 157

In products liability action, tire manufacturer moved for new trial. The District Court, **Bertelsman, J.**, held that evidence of tearing condition that had developed in 200 tire flaps taken from trucking company's fleet was relevant and admissible in tending to make presence of design defect more or less probable than it would have been without the...

...plaintiffs. Ralph F. Mitchell, Cincinnati, Ohio, for defendants. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This matter is before the court on the...

148. Bahr v. Jenkins

United States District Court, E. D. Kentucky, Covington Division. May 20, 1982 539 F.Supp. 483 4 Ed. Law Rep. 747

Student brought suit following her suspension for her refusal to surrender her purse for purposes of search for type of small legal firecracker. The District Court, **Bertelsman, J.**, held that: (1) warrantless search of student's purse to determine whether student was one distributing type of small legal firecracker was justified, where several...

...Ky., for plaintiff. Robert E. Ruberg, Covington, Ky., for defendants. **BERTELSMAN**, District Judge. Introduction Some explanation is due the reader for...

149. Taylor v. General Motors, Inc.

United States District Court, E. D. Kentucky, Covington Division. April 26, 1982 537 F.Supp. 949

Defendant manufacturer of automobiles moved for new trial in products liability action arising out of accident wherein plaintiff's decedent was struck in chest by blade after it detached itself from fan on car engine for which the fan had not been designed. The District Court, **Bertelsman, J.**, held that under Kentucky law, strict liability...

...Edward J. Utz, Cincinnati, Ohio, for defendant. **OPINION AND ORDER BERTELSMAN**, District Judge. This unusual products liability action, which resulted in...

150. Clay v. Hopperton Nursery, Inc.

United States District Court, E. D. Kentucky, Covington Division. March 09, 1982 533 F.Supp. 476

Foreign insecticide manufacturer moved to dismiss, on grounds of lack of personal jurisdiction, products liability action brought against it. The District Court, **Bertelsman, J.**, held that foreign insecticide manufacturer which regularly advertised product in trade journal which contained return coupon for obtaining more information and which had...

...Louisville, Ky., for Sexton Can Co. **MEMORANDUM OPINION AND ORDER BERTELSMAN**, District Judge. In this serious products liability case, the court...

151. U.S. v. Scharstein

United States District Court, E. D. Kentucky, Covington Division. January 22, 1982 531 F.Supp. 460 9 Fed. R. Evid. Serv. 1234

Following conviction for illegally manufacturing, storing and transporting illegal explosives, defendants moved for new trial. The District Court, **Bertelsman, J.**, held that: (1) when witnesses are excluded pursuant to rule so that they may not hear the testimony of other witnesses, it is within the discretion of the trial court whether to instruct...

...Jolly, Newport, Ky., for David & Terri Herald. **OPINION and ORDER BERTELSMAN**, District Judge. This criminal prosecution for illegally manufacturing, storing, and...

152. Kennedy v. Ziesmann

United States District Court, E. D. Kentucky, Covington Division. | December 08, 1981 | 526 F.Supp. 1328

Physician licensed and practicing in Ohio moved to dismiss medical malpractice suit for lack of personal jurisdiction. The District Court, **Bertelsman, J.**, held that: (1) cause of action against physician did not arise from activities in Kentucky, so as to subject physician to jurisdiction of Kentucky court under long-arm statute, merely because he...

...Frost & Jacobs, Cincinnati, Ohio, for defendants. MEMORANDUM OPINION and ORDER **BERTELSMAN**, District Judge. This opinion will deal with further issues in...

153. Kennedy v. Ziesmann

United States District Court, E. D. Kentucky, Covington Division. | September 24, 1981 | 522 F.Supp. 730

Motion was brought for pretrial ruling as to whether applicable law in medical malpractice action was that of Ohio or Kentucky. The District Court, **Bertelsman, J.**, held that Kentucky law governed action brought by Kentucky resident which was based on a certain surgical procedure performed on resident at Ohio hospital where resident initially sought...

...Cullen. Walter E. Haggerty, Cincinnati, Ohio, for Bethesda. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This matter is before the court on a...

154. Bedell v. H.R.C. Ltd.

United States District Court, E. D. Kentucky, Covington Division. | September 24, 1981 | 522 F.Supp. 732

An action was filed in state court seeking to enjoin the construction of a low-income housing project. The defendants removed the action. The plaintiffs filed a motion to remand. The District Court, **Bertelsman, J.**, held that: (1) the fact that the defendants had expended over \$400,000 in the construction of the project established the requisite...

...Charles C. Bissinger, Jr., Cincinnati, Ohio, for defendants. MEMORANDUM OPINION **BERTELSMAN**, District Judge. The motion to remand filed in this removed...

155. Ott v. St. Luke Hospital of Campbell County, Inc.
United States District Court, E. D. Kentucky, Covington Division. | September 23, 1981 522 F.Supp. 706 32 Fed.R.Serv.2d 665

Doctor brought civil rights suit challenging denial of his application for staff privileges. On motion of hospital for protective order, the District Court, **Bertelsman, J.**, held that where there was no real showing that peer review committees' functions would be substantially impaired by denial of hospital's assertion of common-law privilege for...

...Ky., Frederick Brockmeier, IV, Cincinnati, Ohio, for defendant. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This case requires this court to employ the...

156. Masters v. Chapin Mfg. Co.
United States District Court, E. D. Kentucky, Covington Division. | August 26, 1981 520 F.Supp. 1066

Products liability action was filed in state court against three defendants, one defendant filed petition for removal and subsequently plaintiff filed motion to remand cause to state court. The District Court, **Bertelsman, J.**, held that the jurisdictional prerequisite to removal of case was that all defendants join in the petition within 30 days...

...M. Bartlett, Covington, Ky., for Union Carbide Corp. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This products liability action was filed in the...

157. Federal Deposit Ins. Corp. v. Klayer
United States District Court, E. D. Kentucky, Covington Division. | August 13, 1981 519 F.Supp. 889

Defendant moved to remand removed action instituted by Federal Deposit Insurance Corporation in state court back to the state court. The District Court, **Bertelsman, J.**, held that: (1) there was no "action, suit or proceeding" in state court by reason of defendant's counterclaim-cross claim that was capable of being removed to United States...

...Exec. of the Estate of Doris V. Clark. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This matter is before the court on the...

158. U.S. v. Phillips
United States District Court, E. D. Kentucky, Covington Division. | June 12, 1981 515 F.Supp. 758 8 Fed. R. Evid. Serv. 1224

In prosecution based on shooting of United States marshals in attempt to effect escape of defendant's husband, the District Court, **Bertelsman, J.**, held that: (1) since principal defense was insanity, associated with claim that by reason of hypnosis defendant was unable to form requisite criminal intent, court, in exercise of its discretion, could...

...Spalding, Grause, Robinson, Arnzen, Philipps & Arnzen, Covington, Ky., for defendant. **BERTELSMAN**, District Judge. MEMORANDUM OPINION FACTS This dramatic and unusual case...

159. Reichert v. Draud

United States District Court, E. D. Kentucky, Covington Division. April 15, 1981 511 F.Supp. 679

Teacher brought action against school board and school administrators for alleged violation of her First Amendment rights. The District Court, **Bertelsman, J.**, held that, absent showing that single course change in teacher's schedule resulted in chilling effect on free speech among teachers in school system, such schedule change, which was not...

...P. Durand, Ambrose, Wilson & Grimm, Knoxville, Tenn., for defendants. OPINION **BERTELSMAN**, District Judge. This action by a teacher, who claims that...

160. Harris Corp., Data Communications Division v. Comair, Inc.

United States District Court, E. D. Kentucky, Covington Division. April 14, 1981 510 F.Supp. 1168

Employer of decedent brought wrongful death suit against airline, airplane manufacturer, and airplane service shop allegedly involved in airplane crash in Kentucky which caused employee's death. The District Court, **Bertelsman, J.**, held that: (1) under Kentucky law employer, which alleged that decedent was valued employee and that employer suffered...

...J. O'Hara and Arnold Taylor, Covington, Ky., for Piper. OPINION **BERTELSMAN**, District Judge. This matter is before the court on the...

161. Petrey v. Flaughner

United States District Court, E. D. Kentucky, Covington Division. January 28, 1981 505 F.Supp. 1087

Action was brought challenging expulsion of high school student from county public high school by Board of Education for smoking marijuana in school. The District Court, **Bertelsman, J.**, held that the conduct was an offense of sufficient gravity to justify expulsion for remainder of the school year and that the discipline was not excessive to extent...

...Robert W. McGinnis, Butler, Ky., for defendants. MEMORANDUM OPINION FACTS **BERTELSMAN**, District Judge. The plaintiff is a high school student who...

162. Moorman v. Wood

United States District Court, E. D. Kentucky, Covington Division. December 17, 1980 504 F.Supp. 467

Citizens of city, portions of which were sought to be annexed by smaller cities, sought to block annexation on grounds that Kentucky annexation statute was unconstitutional in that it contravened their right to equal protection under the Fourteenth Amendment to the Constitution. The District Court, **Bertelsman, J.**, held that statute did not deny...

...Jonathan A. Mason, Covington, Ky., for Crescent Spgs. MEMORANDUM OPINION **BERTELSMAN**, District Judge. FACTS [FN1] FN1. Formal findings of fact appear...

163. Black v. American Mut. Ins. Co.

United States District Court, E. D. Kentucky, Covington Division. December 09, 1980 503 F.Supp. 172

Defendants in products liability action moved to disqualify judge. The District Court, **Bertelsman, J.**, held that fact that judge, while practicing law, had represented plaintiffs in products liability action, involving different product, against the same corporation did not require disqualification. Motion denied.

...Mutual. J. Kenneth Meagher, Cincinnati, Ohio, for defendant. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This is a products liability case in which...

164. U.S. v. Algie

United States District Court, E. D. Kentucky, Covington Division. October 01, 1980 503 F.Supp. 783 7 Fed. R. Evid. Serv. 800

In light of individual case before it and its docket as a whole regarding United States attorney's insistence upon literal compliance with the Jencks Act, the District Court, **Bertelsman, J.**, held that: (1) provision of the Jencks Act that witnesses' statements

must be produced by the United States only after direct examination of the witness was...

...Ky., for Humphrey. R. Michael Murphy, Lexington, Ky., for Bridewell. **BERTELSMAN**, District Judge. INTRODUCTION The primary issue before the court in...

165. Boggs v. Blue Diamond Coal Co.

United States District Court, E. D. Kentucky, Pikeville Division. September 08, 1980 497 F.Supp. 1105 30 Fed.R.Serv.2d 1

In a wrongful death action arising out of an explosion in a mine, the District Court, **Bertelsman, J.**, on a motion for substitution of parties, held that: (1) within meaning of Enabling Act provision that rules shall not abridge, enlarge or modify any "substantive" right and shall preserve right of trial by jury as at common law and as declared by...

...for defendants. Cole, Harned & Broderick, Bowling Green, Ky., for intervenors. **BERTELSMAN**, District Judge. INTRODUCTION This is a wrongful death action brought...

166. Hines v. Board of Ed. of Covington, Ky.

United States District Court, E. D. Kentucky, Covington Division. July 03, 1980 492 F.Supp. 469

Federal civil rights action was brought against board of education by nontenured teacher who claimed her contract was not renewed under circumstances which entitled her to due process hearing. The District Court, **Bertelsman, J.**, held that where, although action for deprivation of due process in connection with failure to renew nontenured teacher's...

...for plaintiff. Richard Nelson, Louis DeFalaise, Covington, Ky., for defendants. **BERTELSMAN**, District Judge. FACTS This is a federal civil rights action...

167. U.S. v. Zenni

United States District Court, E. D. Kentucky, Covington Division. July 03, 1980 492 F.Supp. 464 6 Fed. R. Evid. Serv. 441

In prosecution for illegal bookmaking activities, defendant objected on grounds of hearsay to introduction of evidence that government agents, while searching defendant's premises, answered telephone several times and that unknown callers

stated directions for the placing of bets on various sporting events. The District Court, **Bertelsman, J.**, held...

...Smith, Stephen T. McMurtry, Covington, Ky., Dale Schmidt, for defendants.
BERTELSMAN, District Judge. This prosecution for illegal bookmaking activities [FN1] presents...

168. Kay v. Mills

United States District Court, E. D. Kentucky, Frankfort Division. May 02, 1980
490 F.Supp. 844

Action was brought by candidate for Democratic party nomination as president after Kentucky State Board of Elections did not place candidate's name on ballot to be used in Kentucky presidential primary. The District Court, **Bertelsman, J.**, held that: (1) any regulation of access to ballot must conform to principles of equal protection and due...

...for defendants. Richard B. Kay, in pro. per. MEMORANDUM OPINION
BERTELSMAN, District Judge. STATEMENT OF FACTS This action arises out of...

169. Stanley Elec. Contractors, Inc. v. Darin & Armstrong Co.

United States District Court, E. D. Kentucky, Covington Division. March 21, 1980
486 F.Supp. 769 30 Fed.R.Serv.2d 66

Suit was initiated in Kentucky circuit court to obtain damages for money allegedly due on a construction contract on which plaintiff was a subcontractor. Defendants petitioned for removal, alleging diversity of citizenship and seeking to realign a bank that had been named as a defendant to position as plaintiff so as not to defeat diversity. The...

...Ky., Bernard J. Blau, Newport, Ky., for defendants. MEMORANDUM OPINION
BERTELSMAN, District Judge. This action was initiated by the plaintiff, Stanley...

170. Becker v. Conn

United States District Court, E. D. Kentucky, Covington Division. March 18, 1980
518 F.Supp. 740

Action was instituted for declaratory and injunctive relief. On motion of defendant to dismiss, the District Court, **Bertelsman, J.**, held that a hearing prior to termination of the aid to families with dependent children-unemployed fathers program in

Kentucky was not required under either the due process clause or the regulations promulgated...

...for plaintiffs. Ann Hunsaker, Frankfort, Ky., for defendants. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This case involves the issue whether or not...

171. Gleberman v. Trusty

United States District Court, E. D. Kentucky, Covington Division. February 27, 1980 487 F.Supp. 913

Petitioner filed petition seeking habeas corpus relief, alleging that the forthcoming murder trial in Kentucky would expose him to double jeopardy. The District Court, **Bertelsman, J.**, held that petitioner made insufficient efforts properly to have record in state trial court made up so that double jeopardy issue could be considered by state...

...Trusty, II, Com. Atty., Covington, Ky., for defendant. MEMORANDUM OPINION **BERTELSMAN**, District Judge. This action was commenced on February 4, 1980...