



# Kansas Courts News Release

## *Office of Judicial Administration*

### FOR IMMEDIATE RELEASE

April 11, 2018

Contact:

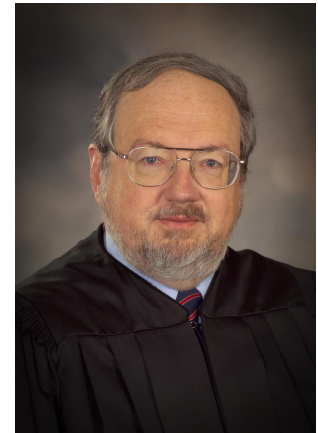
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*Judge David E. Bruns*



*Judge Stephen D. Hill*



*Senior Judge Richard  
Walker*

### **Kansas Court of Appeals to hear oral arguments at Washburn University in Topeka**

TOPEKA—A three-judge panel of the Kansas Court of Appeals will hear oral arguments Tuesday, April 17, at the Robinson Courtroom at the Washburn University School of Law.

Washburn University is located at 1700 SW College, Topeka.

Judge David E. Bruns will be joined by Judge Stephen D. Hill and Senior Judge Richard Walker to hear oral arguments in five cases. Three cases will be heard starting at 9:30 a.m. with the remaining two starting at 1:30 p.m.

After each docket session, the judges will be available to answer questions from students and faculty members about the court and court procedures.

Bruns, the presiding judge for the panel, said it always is an honor for the court to hear cases at Washburn.

"In particular, we look forward to visiting with students and faculty members about the work of our court and the important role the judicial branch plays in our system of government," he said. "As graduates of Washburn Law School, it is especially gratifying for Judge Hill and me to be able to sit at the law school a final time before the retirement of Dean Tom Romig this summer. Under Dean Romig's leadership, the law school has prospered for the past 11 years, and we are confident that it will continue to prosper in the future."

## **Oral Arguments**

Attorneys for each side will have an opportunity to present arguments to the judges, and the judges will have a chance to ask questions. The court will then take each case under consideration and will issue a written decision at a later date, usually within 60 days.

There are 14 judges on the Court of Appeals, and they sit in panels of three to decide cases. In addition to the panel hearing cases this week in Topeka, other panels will hear cases at the University of Kansas School of Law, Lawrence; Newman University, Wichita; and Johnson County Community College, Overland Park. All hearings are open to the public.

In fiscal year 2017, the Court of Appeals resolved appeals in 1,833 cases, including 1,265 in which the court issued a formal written opinion.

The five cases to be heard at Washburn University are summarized below. They originate from Shawnee County.

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**9:30 a.m. Tuesday, April 17, 2018**

### **Appeal Nos. 117,903, 117,904, 117,905, and 117,906: *Eaglemed LLC v. Travelers Insurance***

Travelers Insurance denied coverage under a workers compensation insurance policy for services rendered by Eaglemed, an air ambulance provider, for transporting several people who were injured on the job. Although both parties agree the federal Airline Deregulation Act of 1978 pre-empts the Kansas fee schedule normally used in workers compensation cases, they disagree on the impact of the pre-emption in this case. Issues on appeal are whether: 1) the Medicare fee schedule controls air ambulance fees in Kansas workers compensation cases; 2) the Airline Deregulation Act pre-empts the Kansas Workers Compensation Act requirement that fees be reasonable; and 3) the Workers Compensation Board has jurisdiction to compel Travelers to pay Eaglemed's billed charges.

### **Appeal No. 117,508: *Joseph R. Shepack v. Kansas Department of Revenue (Originating in Shawnee County)***

The Kansas Department of Revenue suspended Shepack's driving privileges after he refused to take an evidentiary breath test. The district court overturned the suspension because there was no probable cause to arrest Shepack and the arresting officer had no authority to request the test under the Kansas implied consent laws. On appeal, the Department of Revenue argues the suspension should be reinstated because the officer did have probable cause to arrest Shepack for failure to obey a lawful order, obstruction of a law enforcement officer, and/or driving under the influence.

### **Appeal No. 118,212: *In the Matter of the Adoption of C.D.F. (Originating in Shawnee County)***

A stepfather sought to adopt a minor child with the consent of his wife, the child's natural mother. However, the child's natural father refused consent to have his parental rights terminated. The district court held that the natural father's consent to the adoption was required and dismissed the petition for adoption. Issues on appeal include whether the district court: 1) erred when it dismissed the stepfather's petition without first conducting a hearing; 2) improperly appointed counsel to represent the natural father under the circumstances presented; and 3) abused its discretion in failing to award the natural father attorney fees.

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**1:30 p.m. Tuesday, April 17, 2018**

### **Appeal No. 116,483: *Frank Robinson v. State of Kansas (Originating in Shawnee County)***

Robinson was convicted of second-degree murder and aggravated arson following an apartment fire in which a tenant was killed. His convictions were affirmed on direct appeal. Robinson filed a habeas corpus motion under K.S.A. 60-1507. The district court held an evidentiary hearing and determined several of Robinson's allegations

had no merit. However, the district court concluded Robinson's trial counsel was ineffective for failing to present sufficient expert testimony to refute claims made by the State's fire investigators and for the cumulative effect of otherwise non-prejudicial errors. The district court vacated Robinson's conviction and ordered a new trial. The State appealed. Issues on appeal include whether the district court erred in finding: 1) Robinson's trial counsel was ineffective; and 2) some of Robinson's claims of ineffective assistance of counsel had no merit.

**Appeal No. 118,640: *State of Kansas v. Lee Sawzer Sanders* (Originating in Shawnee County)**

Sanders was charged with possession of methamphetamine and unlawful use of drug paraphernalia. Before trial, Sanders filed a motion to suppress the evidence, asserting the officers who arrested him did not have sufficient basis to stop him. After holding a suppression hearing, the district court granted Sanders' motion to dismiss, and the State appealed. Issues on appeal include whether: 1) the district court erred by finding the officers did not have reasonable suspicion to support the initial stop; and 2) the officers inevitably would have discovered the methamphetamine when they arrested Sanders for an outstanding felony warrant.

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Note: Reporters who want to cover the oral arguments using video, photo, or audio recording devices, as spelled out in Supreme Court Rule 1001, should contact Lisa Taylor at [taylorl@kscourts.org](mailto:taylorl@kscourts.org) no later than noon Monday, April 16.

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