



KENTUCKY TRANSPORTATION CENTER

ROADWAY RELATED TORT LIABILITY AND RISK MANAGEMENT



OUR MISSION

We provide services to the transportation community
through research, technology transfer and education.

We create and participate in partnerships
to promote safe and effective
transportation systems.

OUR VALUES

Teamwork

Listening and communicating along with
courtesy and respect for others.

Honesty and Ethical Behavior

Delivering the highest quality
products and services.

Continuous Improvement

In all that we do.

Research Report KTC-10-07/SPR399-10-1F

ROADWAY RELATED TORT LIABILITY and RISK MANAGEMENT

by

Kenneth R. Agent
Transportation Research Engineer

Kentucky Transportation Center
College of Engineering
University of Kentucky
Lexington, Kentucky

in cooperation with

Kentucky Transportation Cabinet
Commonwealth of Kentucky

and

Federal Highway Administration
U.S. Department of Transportation

The contents of the report reflect the views of the author who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the University of Kentucky, the Kentucky Transportation Cabinet, or the Federal Highway Administration. This report does not constitute a standard, specification, or regulation. The inclusion of manufacturer names and trade names is for identification purposes and is not to be considered an endorsement.

June 2010

1. Report No. KTC-10-07/SPR399-10-1F		2. Government Accession No.		3. Recipient's Catalog No.	
4. Title and Subtitle Roadway Related Tort Liability and Risk Management				5. Report Date June 2010	
				6. Performing Organization Code	
7. Author(s) Kenneth R. Agent				8. Performing Organization Report No.6 KTC-10-07	
9. Performing Organization Name and Address Kentucky Transportation Center College of Engineering University of Kentucky Lexington, KY 40506-0281				10. Work Unit No. (TRAIS)	
				11. Contract or Grant No.	
12. Sponsoring Agency Name and Address Kentucky Transportation Cabinet State Office Building Frankfort, KY 40622				13. Type of Report and Period Covered Final	
				14. Sponsoring Agency Code	
15. Supplementary Notes Study Title: Roadway Related Tort Liability and Risk Management					
16. Abstract <p>This workbook provides government employees background information related to tort liability and risk management. Past experience with lawsuits against government entities are summarized. The reasons for the lawsuits and results are analyzed. The objective is to provide an understanding of the basis for past claims so the number of future claims and awards can be reduced. This will result in the ultimate objective of reducing highway crashes.</p> <p>Based on the results of the data analysis and the review of the background material, recommendations are made for consideration. Many of the recommendations deal with various types of documentation.</p>					
17. Key Words tort liability sovereign immunity negligence standard of care reasonable notice duty discretionary immunity				18. Distribution Statement Unlimited, with approval of the Kentucky Transportation Cabinet	
19. Security Classif. (of this report) Unclassified		20. Security Classif. (of this page) Unclassified		21. No. of Pages 170	22. Price

Table of Contents

Acknowledgements	
Executive Summary	
Chapter 1. Introduction	1
Background	1
Terminology	2
Risk Management.....	7
Trial Process and Trial Preparation	8
Accident Reconstruction	8
Chapter 2. Tort Law in Kentucky	10
Legal Background	10
Description of Board of Claims.....	13
Legal Decisions Relating to Board of Claims	20
Counties.....	24
Cities.....	25
Chapter 3. Summary of Board of Claims Data	30
Procedure.....	30
Results	31
Summary	37
Chapter 4. Information for Board of Claims Cases of \$50,000 or More....	56
Chapter 5. Summary, Conclusions and Recommendations.....	62
Summary and Conclusions from Analysis	62
Recommendations for Implementation	63
Appendix A. Risk Management Principles.....	66
Appendix B. Description of Trial Process	76
Appendix C. Trial Preparation and Involvement.....	80
Appendix D. Introduction to Accident Reconstruction	86
Appendix E. Detailed Information for Claims of \$50,000 or More	94

Acknowledgements

The following individually contributed to the successful completion of this project through their participation on the Study Advisory Committee:

Chuck Knowles, Chair – Transportation Cabinet, State Highway Engineers Office
Evelyn Charry – Transportation Cabinet, Office of Legal Services
Patty Dunaway – Transportation Cabinet, District 4
Martha Horseman – University of Kentucky, Transportation Center
Lisa Robinson – Public Protection Cabinet, Board of Claims
Brian Roy – Kentucky Association of Counties
Todd Shipp – Transportation Cabinet, Office of Legal Services
Hayley Young – Kentucky League of Cities

The following individuals also provided information and assistance which contributed to the completion of the project.

Tony Fields – University of Kentucky, Transportation Center
Dina Johnson – University of Kentucky, Transportation Center
Marlin Jones – Transportation Cabinet, Office of Legal Services
Mitch Mattingly – Public Protection Cabinet, Board of Claims
Kevin Moore – Transportation Cabinet, Office of Legal Services
Justin Riggs – University of Kentucky, Transportation Center
Neil Tollner – University of Kentucky, Transportation Center

Executive Summary

This workbook provides state, county, and city employees with background information related to tort liability and risk management. A major part of the workbook summarizes past experience with lawsuits against government entities. The reasons for the lawsuits and results are analyzed. The objective is to provide an understanding of the basis for past claims so the number of future claims and awards can be reduced. This will result in the ultimate objective of reducing highway crashes.

The analysis included a review of almost 30 years of Board of Claims data involving lawsuits against the Kentucky Transportation Cabinet. The number of claims and amount claimed has not increased over the past several years. The increase in the allowed claim amount has not resulted in an increase in the number of large dollar amount claims.

The percentage of the claim amount paid is low (about 15 percent). Over one-half of the claims were under \$500. While only about seven percent of the claims were for \$50,000 or more, these 1,035 claims represent about 86 percent of the total amount claimed. Almost one-half of the claims have some payment. The percent paid decreased dramatically as the amount of the claim increased.

The highest number of claims was in Jefferson County with the lowest number in Robertson County. The highest number of claims of \$50,000 or more was in Jefferson County with six counties having none of these claims. The counties with the highest claim amounts were Jefferson, Floyd, and Pike. The county with the highest amount paid was Jefferson County followed by Pike County. The highway districts with the highest amount paid were Districts 11 and 5.

Considering all claims, the most common reason given has been for a low claim amount for damage resulting from a pothole. Considering the larger claim amount (\$50,000 or more), the most common reason relates to an alleged problem relating to traffic signs. The reason with the largest amount paid was inadequate drainage followed by inadequate or improper signs or markings, crash involving a state vehicle, shoulder dropoff, and lack of guardrail.

Based on the results of the data analysis and the review of the background material, recommendations are made for consideration. Many of the recommendations deal with various types of documentation.

Chapter 1. Introduction

Background

The function of government is to provide security and services for its citizens. Transportation is one of the services which governmental officials and employees are charged with providing. The goal of transportation should be the safe and efficient movement of people and goods, within reasonable fiscal constraints.

While providing transportation services, the government is not the absolute insurer of the safety of a highway user. The total resources of any government are limited, and it would not be realistic to expect that the bulk of all funding be devoted to keeping the roads in an absolutely sound and safe condition. However, the courts have consistently held that governments are required to maintain streets and roads in a reasonably safe manner. Failure to do so may result in liability if a user suffers injury.

The Kentucky Transportation Cabinet and local governmental units are charged with providing and maintaining reasonably safe roadways. As such, they must be aware of the possibility of lawsuits. Employees of these agencies should also realize that their personal actions might lead to exposure for their agencies and themselves.

In order to succeed in a tort claim, a plaintiff must prove the following four elements:

1. duty,
2. breach of duty,
3. proximate cause, and
4. injury.

To prevail in a tort case, the plaintiff must prove the existence of each of these elements. It is given that the Cabinet and local governments have a duty to provide a reasonably safe highway. The plaintiff must prove that the Cabinet breached that duty causing a crash which resulted in an injury to the plaintiff. Motorists are not required to anticipate a hazard, danger, obstruction, or unusual condition unless warned.

This workbook provides state, county, and city employees with background information related to tort liability and risk management. A major part of the workbook summarizes past experience with lawsuits against government entities. The reason for the lawsuits and results are analyzed. The objective is to provide an understanding of the basis for past claims so the number of future claims and awards can be reduced. This will result in the ultimate objective of reducing highway crashes.

Terminology

Familiarity with legal terminology is helpful in understanding the tort liability problem and potential solutions. Following is a discussion of some of the terminology which should be understood to assist managers and employees with transportation responsibility in gaining this familiarity.

Tort Liability

A tort is a civil wrong or injury. Liability is the obligation by law to be responsible for an activity or action. The person or persons to whom the wrongful action was directed may seek to regain their previous status through a suit. The person causing the wrong or injury may be liable for repayment for injuries or damages to property.

Negligence

Negligence is the failure to use reasonable care in dealing with others. Negligence in one form or another is usually the key to tort liability cases. In order to win a judgment on the ground of negligence, the plaintiff must prove the following: defendant had a duty to use reasonable care toward plaintiff, defendant breached that duty (negligence), defendant's negligence was the proximate cause of plaintiff's injury, plaintiff was not guilty of contributory negligence which caused the injury, and plaintiff incurred resulting damages.

Reasonable Person

Whether the standard of care has been breached is determined by the trier of fact and is usually phrased in terms of the reasonable person. A description which has been used to describe a reasonable person is whether an individual "proceeded with such reasonable caution as a prudent man would have exercised under such circumstances." Prudent is exercising caution as to danger or risk. Characteristics of "reasonable" include: not extreme or excessive, rational, and possessing sound judgment.

Contributory Negligence

The defense of contributory negligence is no longer applicable in Kentucky because of the Kentucky Supreme Court's 1984 decision of *Hilen v. Hays*. Prior to *Hilen v. Hays*, if a victim failed to use ordinary care for their own safety, they would be barred from any recovery from the original wrongdoer.

Comparative Negligence

Hilen v. Hays made comparative negligence the law in Kentucky. Comparative negligence calls for liability of the parties for any particular injury in direct proportion to fault. This doctrine reduces the total amount of an award against a defendant in proportion to the relationship the injured person's own negligence bears to the total negligence that caused the injury or damage. Thus, a plaintiff can be negligent himself and still recover some award against a defendant. The

plaintiff can recover damages if it is shown that the defendant contributed any percentage to the crash. It is important to note that Kentucky has pure comparative negligence where a payment can be made with any percentage of fault found for the defendant. In many states the defendant has to be more than 50 percent at fault before a payment is made.

Duty

A duty is the standard of care that one person owes to another. It may include acts of omission as well as commission and varies according to the facts and circumstances of the situation. As previously noted, the entity responsible for a road has a duty to provide a reasonably safe roadway for a driver driving their vehicle in a reasonably safe manner. The Cabinet cannot assure there will be no potential hazards along the roadway. When hazards cannot be eliminated, a warning should be provided.

The duty or standard of care owed to others is what determines the degree of the negligence. Ordinary negligence is the failure to exercise the care that a reasonable person would exercise in similar circumstances. Gross negligence however, is the failure to exercise even the slightest care and carries with it the possibility of punitive damages.

Breach of Duty

A person has breached his or her duty if, through their actions or failure to act, they did not meet the standard of care required under the circumstances. The standard of care can be determined through reference to the agencies various standards and guidelines in the related area. The breach of duty will result in negligence. Most lawsuits are based on the theory of negligence.

Proximate Cause

A proximate cause is an act or omission that produces an event without which that event would not have occurred. It is the legal cause of the crash. It is important to note that there may be more than one proximate cause of any given injury. All a plaintiff must prove is that the defendant's negligence was one of the contributing causes of his or her injuries.

Injury

A plaintiff must show that an injury resulted from the defendant's negligence and that he sustained damages. Types of damage may include: death, personal injury (such as a head injury), consequential damages (such as lost wages), and property damage (such as vehicle damage). Damages for pain and suffering are not allowed in Board of Claims cases.

Safety Belt Defense

Kentucky allows a defendant to show that the severity of the injuries sustained by the plaintiff was increased by their failure to wear their available safety belt. If the investigation shows that use of a safety belt would have reduced the injury severity, the damages awarded to the plaintiff can be reduced.

Sovereign Immunity

Sovereign immunity began in England, where the King would not allow a suit against himself. English courts afforded the same protection to those who governed with the King's authority. By 1812 the principle was in use in the United States, and eventually became well established as follows: no one can sue the government without the government's permission and if the government could be sued, it is not responsible for the acts of its employees.

Originally, almost all states possessed sovereign immunity. However, all but a few states have lost their immunity. Kentucky still has sovereign immunity with claims filed against the Transportation Cabinet made through the Board of Claims. Counties are considered an "arm of the state" and retain sovereign immunity with no ability to make a claim against a county using the Board of Claims. Sovereign immunity does not extend to cities. An issue which arises out of sovereign immunity is that, if a claim cannot be made against the government entity, the plaintiff will make a claim against employees of that entity.

Discretionary and Ministerial Acts

Decisions resulting from the exercise of discretionary authority are immune to liability. Ministerial actions are not immune. The term discretionary function means the power and duty to make a choice among valid alternatives; it requires a consideration of alternatives and the exercise of independent judgment in arriving at a decision. For example, the courts have generally held that planning and design level decisions are discretionary in nature.

Ministerial duties usually involve clearly defined tasks not permitting the exercise of discretion. Decisions made at the operational level are usually viewed as ministerial by the courts. An example of ministerial wording is the use of "shall" terminology in the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD uses "shall", "should", and "may" wording under headings of standards, guidelines, and support. These words result in varying levels of discretion.

Organizing improvement programs, assessing property values, selecting a highway route, designing highways, and carrying out these functions (in good faith) are examples of discretionary acts. On the other hand, routine repair and maintenance work, traffic operations, driving government vehicles, and similar actions may be ministerial acts. Documentation to explain the reason certain actions were or were not conducted is very important. Also, work activities must be documented. For example, maintenance records showing regular inspection and clearing of ditches can show that water on a road from debris in a ditch was not the result of the lack of a reasonable effort to maintain the ditch.

Qualified Official Immunity

Government employees can attain immunity if their actions were discretionary with their duties performed in good faith and their actions or decisions within the scope of his job.

For example, KRS 12.211 states “Neither the state, state employee, nor former state employee shall be subject to an action arising from discretionary acts or decisions pertaining to the design or construction of public highways, bridges, or building.” The key word in this statute is “discretionary.”

Nuisance

Nuisance is another legal avenue used by plaintiffs in highway crash related suits. A nuisance is a physical condition that unreasonably interferes with the rights of the public. When nuisance is the issue, the focus is on the effect of the alleged condition, rather than its cause. The essence of nuisance is a condition that is continuous or reoccurring and invades a public right. The issue is simply whether or not the condition existed and whether it interfered with the public's right of reasonably safe travel. Another question is whether there was notice of the nuisance.

Standard of Care

A critical issue in a trial may be whether or not the transportation agency had maintained roads and streets in a reasonably safe manner. The hearing officer or jury will be interested in establishing what standard of care would have been used by a reasonable man in providing this level of maintenance. If the agency's actions fell below this standard, then liability may be imputed.

Maintaining absolutely safe streets is not required, but it may be difficult to determine how close to this perfection the agency should have come. A subjective decision is usually necessary. Many items of information may be brought into court to help determine what should have been the prevailing standard of care. One of the strongest types of evidence will be the agency's own guidelines and policies. Regulations adopted by the agency may define in detail the minimum requirements. A reasonable person would follow such rules and orders. Other resources of information bearing on the standard of care include:

1. agency directives and policies,
2. directives of a superior agency,
3. guidelines and policies of similar agencies,
4. guides developed by national and professional organizations (such as American Association of State Highway and Transportation Officials, Institute of Transportation Engineers, and National Association of County Engineers);
5. textbooks and professional journals,
6. research results, and
7. expert witnesses.

Where the Kentucky Transportation Cabinet has established a standard of care for a given activity, or where there is an accepted industry standard, it is important that employees seek to achieve that level of performance. Care must be taken in the wording of guidelines and policies so that reasonable expectations are given.

Notice of a Defect

Once a public entity has notice of a defect, a duty arises to repair or shield the defect or to warn the public until it can be repaired. Notice can be obtained in three general ways:

1. **Actual Notice:** An example of actual notice would be a complaint call. It is important that the notice be properly recorded and that an appropriate response is taken. A planned program of standby crews and spare parts may be necessary for calls after normal work hours.
2. **Constructive Notice:** If a defect exists for an unreasonable length of time, the defect should be discovered by the agency. The question is what time period represents an unreasonable amount of time. All employees are usually considered agents of the government, and if they observe defects (or should have observed them), constructive notice may have occurred. Educational programs become important in making employees aware of the need to notice and report defects.
3. **Notice By Own Actions:** If the entity's own actions cause the defect, notice is not required. For example, if a poor repair job leaves a defect, then notice of the defect exists already.

All public employees should be trained to look for defects and to report them promptly. Provisions should be made for an appropriate response and for warning the public. Documentation of the response should be made. The response may have been a repair, placement of a warning device, or the determination that no problem existed.

Joint and Several Liability

If parties have “joint liability,” they are liable up to the full amount of the relevant obligation. The converse is “several liability” where the parties are liable for only their respective obligations. Under “joint and several liability,” a claimant may pursue an obligation against any one party as if they were jointly liable and it becomes the responsibility of the defendants to sort out their respective proportions of liability and payment. “Joint and several liability” allows a plaintiff to recover all the damages from any of the defendants regardless of their share of the liability.

Governmental-Proprietary Distinction

A municipal corporation could be held liable for operations which mainly benefited the “proprietors” or owners of a money making venture. Actions which benefited all inhabitants of a state were termed “governmental” and do not produce liability. The general principle has been accepted in the U.S. but it is not easy to distinguish between the two types of actions in practice resulting in conflicting court decisions.

Risk Management

There are two recognized general risk management techniques: risk control by minimizing exposure and risk finance by purchasing insurance. The risk management process consists of four general steps:

1. identify and evaluate the risks involved (e.g., frequency, probability, severity, predictability, etc.).
2. determine the appropriate risk management methods (most suitable risk control technique, risk finance technique, or combination of the two, and the procedures, policies, and financial commitments necessary to administer the method),
3. implement the appropriate methods, and
4. monitor the methods and adjust as necessary.

If the decision is made to purchase insurance, it has been decided to experience a minor loss (the insurance premium), rather than accept the risk of a catastrophic loss. In this case, the insurance company will measure the risk to establish a fair premium. The customer may reduce the insurance premium by reducing the risk through good management practices. However, purchase of insurance does not guarantee that the purchaser will be completely free of traffic crash liability. The presence of a large policy may make the holder an attractive target for a suit. Also, the Kentucky Supreme Court has ruled that purchasing insurance is equivalent to waiving sovereign immunity in some instances.

If the customer elects the other option, risk control, then the proper method of minimizing liability calls for the use of risk management procedures to limit exposure to the extent possible.

Examples of current programs in the Transportation Cabinet which identify and respond to crashes are the Highway Safety Improvement Program (HSIP) and the Strategic Highway Safety Plan (SHSP). Specific and system-wide improvements are made through the HSIP. Examples are programs which identify and implement improvements at high crash intersections and curves. The SHSP established the Governor's Executive Committee on Highway Safety and identified emphasis areas to establish expert teams for analysis. The following emphasis areas have been identified:

- aggressive driving
- commercial vehicle safety
- distracted driving
- drive smart safety corridors
- impaired driving
- incident management
- motorcycles
- occupant protection
- lane departure
- traffic records
- young drivers
- legislative issues

An objective of the information contained in this workbook is to identify the frequency and results of lawsuits related to transportation issues. This is one of the basic steps of a risk management program. A detailed description of risk management principles is given in Appendix A.

Trial Process and Trial Preparation

There is a potential that a government employee will be involved in a lawsuit either through his employer or personally. An understanding of the trial process and the type of trial preparation needed would be beneficial. An overview of the trial process is given in Appendix B.

Advice on how to prepare for a trial is given in Appendix C. The information given in these appendices give general background information which can be used by an employee who is involved in a trial. For example, guidelines to consider when testifying are provided in Appendix C.

Accident Reconstruction

When a lawsuit or claim is filed against a transportation agency or employee resulting from a serious traffic crash, it is necessary to conduct a detailed investigation of the factors which contributed to the crash. In many instances this will involve a reconstruction of the crash. Issues such as vehicle speeds, crash avoidance capability, and location of the impact require an analysis of the physical evidence. Accident reconstruction is a separate type of analysis than a review of policies, guidelines, and standards to determine if there was a deviation from the standard of care.

A traffic crash is caused by factors in one or more of the three following general areas:

1. vehicular factors,
2. environmental factors (including the roadway), and
3. human factors.

The reconstruction will involve an analysis of factors in each of these areas. Factors related to the roadway typically involve the allegation of an environmental factor such as improper drainage, a shoulder defect, or inadequate traffic control devices. The investigation should include a review of all aspects of the potential defect. For example, if improper drainage was alleged, the pavement crown or superelevation should be checked along with any pavement rutting. The investigation should include an inspection of the vehicle, if possible, to check the tread depth if drainage is an issue.

A brief introduction to accident reconstruction is provided in Appendix D. The purpose of this appendix is to provide information on the type of data used to investigate a traffic crash. In many cases, the lawsuit or claim is not filed for up to one year after the crash. The police investigation does not typically include the type of roadway-related documentation that is necessary to conduct the necessary investigation.

It is important to document the type of data necessary for claims against the transportation agency. For example, a common claim alleges inadequate or improper warning signs. The police report has a code for traffic control but, in many instances, all of the related traffic signs are not included. The posted speed limit will be given on the police report but advisory speeds, such as for a curve or intersection, will not be noted. This can be important information, especially if a sign inventory is not available.

Documentation can include measurements, such as the pavement cross-section, along with photographs. The police will typically take photographs at the scene of serious crashes. However, in many instances, the photographs do not document the roadway features critical to the investigation of claims against a transportation agency.

A risk management program could include an investigation of fatal crashes and other crashes involving injuries where a roadway related contributing factor is listed on the police report. The investigation could determine if any roadway-related factor may have contributed to the crash. Documentation of the investigation and any subsequent modifications to the roadway should be made.

Chapter 2. Tort Law in Kentucky

Legal Background

Negligence law in Kentucky is rooted in the common law and in the Kentucky Constitution. Section 233 of the Kentucky Constitution adopted the common laws in force in Virginia as of June 1, 1792. In addition to the negligence common law adopted through Section 233 of Kentucky's Constitution, there are other constitutional sections which insure a person's right to recover for another's negligence. Section 54 of the Kentucky Constitution provides that:

The general assembly shall have no power to limit the amount to be recovered for injuries resulting in death, or for injuries to person or property. Furthermore, Section 241 states that:

“Whenever the death of a person shall result from an injury inflicted by negligence or wrongful act, then in every such case, damages may be recovered for such death, from the corporations and persons so causing the same.” Finally, Section 14 says that: “All courts shall be open and every person, for an injury done him in his lands, goods, person or reputations, shall have remedy by due course of law, and right and justice administered without sale, denial or delay”.

These sections of Kentucky's Constitution, when combined, mean that the legislature may not abolish common-law rights of action of injuries to the person caused by negligence (*Saylor v. Hall*). This right to sue for recovery of damages resulting from negligence is tempered by Kentucky Const. Section 231 and Kentucky common law whenever the wrongdoer is a state governmental entity. Section 231 grants the defense of sovereign immunity to negligence actions and is discussed more fully below.

Sovereign Immunity

The concept of sovereign immunity originated in the era of the divine right of kings when it was believed that a sovereign could do no wrong. Kentucky has had a provision for sovereign immunity in each of its four constitutions of 1792, 1799, 1850 and 1891. With minor variations, each constitution stated that: “The general assembly may, by law, direct in what manner and in what courts suits may be brought against the commonwealth.”

Section 230 of Kentucky's Constitution, a companion section to Section 231, compliments Section 231 by providing that: No money shall be drawn from the state treasury but in pursuance of appropriations made by law. As noted in *Reyes v. Hardin Memorial Hospital*, the words "sovereign immunity" are not found in the Constitution of Kentucky. Rather, sovereign immunity is a common law concept recognized as an inherent attribute of the state. Thus contrary to assertions sometimes found in case law, Sections 230 and 231 of our Constitution are not the source of sovereign immunity in Kentucky, but are provisions that permit the General Assembly to waive the Commonwealth's inherent immunity either by direct appropriation of money from the state treasury (Section 230) and/or by specifying where and in what manner the Commonwealth may be sued (Section 231). Thus, the Board of Claims Act enacted by the 1946 General Assembly and substantially amended to its present-day form by the 1950 General Assembly represents not a creation of immunity, but rather a limited waiver of immunity to the extent that immunity exists. It also designates where and when a claim can be asserted against the Commonwealth or against an otherwise immune agency, officer, or employee.

It is the intention of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its cabinets, departments, bureaus or agencies, or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies to be able to assert their just claims as herein provided. The Commonwealth thereby waives the sovereign immunity defense only in the limited situations set forth. The Board of Claims shall have exclusive jurisdiction to hear claims for damages except as otherwise specifically set forth by statute, against the Commonwealth, its cabinets, departments, bureaus, agencies or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth, its cabinets, departments, bureaus or agencies.

The case of *Foley Construction Company v. Ward* demonstrates that the Kentucky Supreme Court determines the applicability of state sovereign immunity by analyzing whether there is any fiscal impact on state funds if the plaintiff prevails and, if so, whether recovery from these funds is approved by the legislature. In *Foley*, the Supreme Court looked at whether the plaintiff could recover damages for breach of contract. The Court noted that "by this suit [The plaintiffs] seek to recover damages for an alleged breach of the contract." The Courts holding that sovereign immunity barred recovery is consistent with the basis behind sovereign immunity since the suit was not merely for enforcement of a contract, but for an expenditure from the state treasury for damages which had not been approved by the Legislature.

In *Frederick v. University of Kentucky Medical Center*, the Kentucky Court of Appeals held that although the Legislature had established a fund out of which malpractice claims and judgments against the University of Kentucky Medical Center might be paid, the law establishing the fund did not specifically waive sovereign immunity as required by Section 231.

However, the Kentucky Supreme Court considered this same issue and reversed the Court of Appeal's ruling in *Frederick*. In *Dunlap v. University of Kentucky Student Health Services*, the Kentucky Supreme Court overruled *Frederick* and held that the Legislature had waived sovereign immunity by enacting the University of Kentucky Medical Center Malpractice Insurance Act. Unlike the Court of Appeals, Kentucky's Supreme Court found that the words of

the Statute (KRS164.939) indicated that a limited "legislative waiver is plain in its meaning and intent." KRS 164.939 states that the legislative purpose of the act is to promote the health and general welfare of the people of the Commonwealth and that which public funds may be expended." By deciding *Dunlap* on the issue of whether there had been legislative approval for the expenditure of state funds for malpractice claims, the Kentucky Supreme Court continued to use the fiscal analysis in its determination that sovereign immunity did not apply in this situation. Since *Dunlap* sued the University of Kentucky Student Health Service Clinic for monetary damages, the only issue before the Court was whether the Legislature had approved such payments.

The dissenting justices in *Dunlap* criticized the Supreme Court for setting a precedent for finding implied waivers of sovereign immunity even though Section 231 requires that the General Assembly specifically "direct in what manner and in what courts suits may be brought against the Commonwealth." Although technically correct, the dissenting justices' resolution of the case (in which sovereign immunity would have barred recovery) would have forced the court to consider abolishing sovereign immunity.

The Kentucky Supreme Court, in holding that the Legislature had consented for the University of Kentucky Medical Center to be sued, avoided the issue of whether state sovereign immunity should or could be judicially abolished. The complete abolishment of the state's immunity by the courts was argued by *Dunlap* and by the Kentucky Trial Lawyer's Association, who filed an amicus brief in *Dunlap*.

In *Kentucky Center for the Arts Corp. v. Berns*, the Supreme Court faced the sovereign immunity question. The Court described the problem as: "the tension between our constitutional provisions, Kentucky Constitution Section 14, 54, and 241, protecting our citizens against legislative action to limit or deny access to the courts to pursue existing causes of action for personal injury and wrongful death, and our constitutional provision, Kentucky Constitution Section 231, interpreted through the years to constitutionalize the common law doctrine of sovereign immunity in suits brought against the Commonwealth." The court went on to confirm the relationship between Section 230 and 231 of the Kentucky Constitution and "ratified" sovereign immunity on the basis of protecting state funds.

However, the sovereign immunity accepted by the Supreme Court in *Kentucky Center for the Arts* is a very limited immunity applying: "only to those agencies which are under the direction and control of the central State government and are supported by monies which are disbursed by authority of the Commissioner of Finance out of the State treasury" (citing *Louisville & Jefferson Co. Metropolitan Sewer District v. Simpson*).

The Supreme Court has reemphasized the *Kentucky Center for the Arts* test for what constitutes an agency protected by sovereign immunity and subject to Section 231 in *Calvert Investments Inc. v. Louisville and Jefferson County Metropolitan Sewer District*.

Government Immunity

Section 231 of the constitution of Kentucky states "the General Assembly may, by law, direct in what manner and in what courts suits may be brought against the Commonwealth." Thus, the Commonwealth is protected from lawsuits by the doctrine of sovereign immunity, except when the Commonwealth, through the General Assembly, agrees otherwise. The General Assembly decreed that the Commonwealth may be sued for "negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus or agencies, or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies. ..." This legislation created a Board of Claims which hears the actions and decides the amount of compensation. Recovery is limited to \$200,000 in any single claim and \$350,000 when multiple claims arise out of a single act of negligence. Damages based upon loss to another or a claim for damages "for mental distress or pain and suffering" are not recoverable.

The legislation applies specifically to negligent acts, thus the waiver of immunity does not extend to intentional torts. This issue was addressed by the Supreme Court of Kentucky in *Calvert Invs., Inc. v. Louisville and Jefferson County Metro. Sewer District*. The Court of Appeals affirmed the trial court's dismissal of an intentional tort action against the Natural Resources and Environmental Protection Cabinet on the ground that the waiver of immunity did not extend to intentional torts. The Supreme Court reluctantly affirmed. It stated:

"The decision that the state is not liable for the torts of its agents is not a matter of choice, but of constitutional mandate for public agencies that qualify for state sovereign immunity under the Kentucky Constitution 230 and 231. In establishing the sovereign immunity principle, these two sections of the Kentucky Constitution make no distinction between intentional and unintentional torts. Therefore we are not free to make any such distinction. A wrong is a wrong, whether intentionally or negligently committed, but unless our Constitution is changed the sovereign state cannot be held liable in a court of law for either intentional or unintentional torts committed by its agents".

Thus, actions based upon negligence must be brought in the Board of Claims, and actions based upon intentional torts may not be brought against the Commonwealth since KRS 44.070 does not waive immunity for such acts.

The same is true with regard to actions against the Commonwealth based upon a strict liability theory. In *Department of Transportation v. Burger*, the Board of Claims granted an \$88 judgment against the claimant for property damage incurred when a lawnmower being operated by an employee of the Highway Department threw rocks which struck the claimant's car. The Board found the lawnmower was an inherently dangerous machine and the defendant strictly liable. The Court of Appeals reversed and held that "the power of the Board of Claims to make awards is limited to those cases in which it finds that the damages were proximately caused by the negligence of the Commonwealth or its agents."

Description of Board of Claims

Purpose of Board of Claims

The Board of Claims, created in KRS 44.070, allows an injured party to receive up to \$200,000 for injuries sustained at the hands of a negligent state agency or state employee. The claim does not include damages related to pain and suffering or to mental distress. The Board is a limited waiver of the state's sovereign immunity from suit and the exclusive remedy available to one injured by the "Commonwealth, any of its departments or agencies, or any of its officers, agents or employees while acting within the scope of their employment." The Board of Claims Act created a board to investigate, take proof and compensate persons for the damages sustained as a result of negligence on the part of the commonwealth or its agents acting within the scope of their employment. The legislation originally provided only for claims arising from the negligent design and construction of highways but has been amended to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the commonwealth or any of its agencies, departments, or cabinets.

Before creating the Board of Claims the General Assembly granted named persons the right to sue the state by passing a special resolution. One hundred eighty-five such special resolutions were introduced in the 1946 session of the General Assembly, the session that enacted the Board of Claims Act. The Board of Claims statute is now held to preclude special legislative authorizations to sue, thus the Board is the only avenue available for making a negligent claim against the state (*Commonwealth v. McCoun*).

The Board of Claims had its origin in an act of 1946 establishing a Highway Board of Claims with jurisdiction over claims for injuries to person or property due to "negligence in highways by the Department of Highways" (Chapter 189, 1946 Acts). The Act limited recovery to \$1,000. The statutes, now KRS 44.070 to KRS 44.160, have been periodically amended to increase the maximum recovery. Last amended in 2000 (Chapter 304, Section 4, Acts 2000) the Board of Claims Act provides for the maximum recovery per occurrence (\$350,000) to be equally divided among claimants provided that no individual claimant may recover more than \$200,000. Currently, the minimum claim amount is \$100 (Chapter 304, Section 1, Acts 2000).

In establishing the Board of Claims as an administrative agency the General Assembly intended to provide a method for processing claims against the Commonwealth with a minimum of formality and delay. However, its administrative proceedings must be fair and just (KRS 44.080). The powers of the Board to make an award are limited to those cases in which it finds that the damages were caused by the negligence of the Commonwealth (KRS 44.070). Timely filing is a condition precedent to any award. KRS 44.110 provides that a claim must be filed within one year from the date of the occurrence or the Board is without authority to make an award. The one-year statute of limitations has been held to apply over the two years provision of the Motor Vehicle Reparations Act (*Transportation Cabinet v. Abner*). There are exceptions such as two years for personal injury if the injury is discovered after the one-year period.

The Board is made up of five members appointed by the Governor and who also serve on the Crime Victims Compensation Board. The Board has the authority to investigate, hear proof and compensate for damages, and is the only means of redress in the cases of alleged negligence. The Board meets once a month to make decisions regarding claims that are on its agenda.

An issue that is often questioned is whether a state agency can contract away its liability to a contractor. According to current state law an agency cannot contract away its liability because it is a power bestowed upon them by this legislative act. However, it is noted in KRS 44.073 (subsection 15) that a state agency would not be liable for the acts of independent contractors.

Powers of Board of Claims

The powers of the Board of Claims to make an award are limited to those cases in which it finds that the damages were proximately caused by the negligence of the Commonwealth or its agent. The Board is the statutorily designated finder of fact with exclusive authority to resolve any disputed issue of fact. Its decision or award may be overturned by a court when it is supported by substantial evidence and a circuit court may not substitute its own judgment for that of the Board (KRS 44.120 and KRS 44.140). In any case, a circuit court may not itself make an award but is limited to remanding the case to the Board only if the court finds that the Board's decision was in excess of its powers, the award was procured by fraud, the award did not conform to statute, or that the Board's findings did not support an award.

The Board of Claims applies only to agencies of the state. The Kentucky Supreme Court in 1961 ruled that the term "agencies" meant "those agencies which are under the direction and control of the central state government and are supported by monies which are disbursed by authority out of the state treasury." This includes many agencies of the state as well as the parties that represent the agencies. It should be noted that any action against a municipality cannot be filed under this act.

When making its decision the Board must apply the general law of negligence, which includes the doctrine of comparative negligence in appropriate cases (KRS 44.073). It has exclusive authority to determine the amount of an award subject only to a requirement that the amount be supported by substantial evidence and within the statutory maximum recovery. While maximum recovery is usually presented as a straightforward issue, the doctrine of comparative negligence can have a significant impact upon an award. For example, if one were to assume a claimant had shown injury in the amount of \$1 million and that the Board determined 20 percent of the injury was a result of the Commonwealth's negligence, then the claimant would be entitled to 20 percent of \$1 million as a compensated injury by the Commonwealth. Applying this amount to the statutory limitation the claimant would be entitled to a full maximum recovery of \$200,000. This is supported by the case of *Truman v. Kentucky Board of Claims*.

Claims less than \$1,000 are investigated by one of the Board's investigators and a decision is typically made within 60 days. For claims under \$1,000 a claimant can request a full-board review. Claims \$1,000 or greater vary in length of time for a decision. For the claims of \$1,000 or greater decisions can be appealed to the circuit court in the county where the incident occurred or in Franklin County with Board approval.

Damages not covered through the Board of Claims include:

- mental distress
- pain or suffering

- loss of consortium
- subrogation
- claims against local governments and
- acts of contractors with the state

Award amounts are reduced by amounts a claimant has the right to receive from payments from:

- workers' compensation insurance
- social security
- unemployment
- medical, disability or life, and car or home insurance programs

Finally, the Board's Orders, Awards and Judgments are enforced by the Franklin Circuit Court as authorized by KRS 44.130.

1986 Amendments to the Board of Claims Statutes

Collateral or Dependent Claims not Allowed

KRS 44.070(1) states in part that the Commonwealth "shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant." The courts have applied this to consortium and companionship claims. The Board of Claims has interpreted this language to mean that the amount of insurance available to a claimant is deducted from any potential award amount. Also, the Board has a policy stating that insurance companies who pay for a claimant's damages cannot sue the state in a Board of Claims action to recover their payout. This latter interpretation was accepted by the Court of Appeals when it decided *Richerson, et al. v. Transportation Cabinet* in the Transportation Cabinet's favor. The ruling means that insurance companies cannot sue in the Board of Claims to recover their payouts to claimants. This was supported in *Poole Truck Line v. Transportation Cabinet*.

The outcome of the Richerson case not only affects the agencies of state government but also the individual employees. Many lawsuits brought against employees in their individual capacity are brought by insurance companies whose claims for contribution have been dismissed by the Board of Claims as being collateral or dependent claims.

Reduction of Award by Extraneous Proceeds

The provisions of KRS 44.070(1) also contain language which requires that: "any damage claim awarded shall be reduced by the amount of payments received or right to receive payment from worker's compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs or other federal or state or private program designed to supplement income or pay claimants expenses or damages incurred."

Issues that have arisen from this language are: What are "private programs designed to supplement income or pay claimant's expenses or damages incurred?" and, Does the payment amount from such programs reduce the actual damages amount incurred by the claimant or does

it reduce the amount that is awarded by the Board of Claims? Of course claimants take the position that insurance payments received by them are not the "private programs" described in the statute and, even if they are, the insurance proceeds should be taken off the total damage incurred rather than the award amount.

For example, consider a wrongful death claim resulting from a two-car accident where the estate of the decedent brings a claim against the Transportation Cabinet for negligent road design. The estate can prove damages of \$1,000,000 but has received Personal Injury Protection (PIP) benefits of \$10,000. The question is whether the \$10,000 benefit should be taken off the \$1,000,000 damage amount or off the award. If it is taken off the \$1,000,000 and the Transportation Cabinet is held to be only 25 percent liable the Cabinet must still pay the maximum \$200,000 award ($\$1,000,000 - \$10,000 = \$990,000 \times .25 = \$247,500$). If the "PIP" benefits are taken off the award and the Cabinet is held to be 25 percent liable, the Cabinet will pay \$190,000 ($\$1,000,000 \times .25 = \$250,000$. the maximum award is $\$200,000 - \$10,000 = \$190,000$).

The case of *Roof v. Transportation Cabinet* contained these issues. In that case, the Supreme Court held that the statutory maximum award can be reduced by basic reparation benefits received by the driver. However, in the case of *Truman v. Transportation Cabinet*, the payment considered the total damages.

In *Central Kentucky Drying Company, Inc. v. Commonwealth of Kentucky*, the Supreme Court looked at whether amounts paid by a settling joint tortfeasor should be treated as a setoff against damages as specified in KRS 44.070(1). This section of the Board of Claims Act allows a damage award against the Commonwealth to be reduced by the amount paid to the claimant by enumerated sources. According to the Court, payments by a settling joint tortfeasor are not one of such enumerated sources. It was the Court's opinion that "other federal or state or private programs designed to supplement income or pay claimants' expenses or damages incurred" does not encompass settlement by a tortfeasor or its insurer. A general rule of statutory construction states that enumeration of particular items excludes other items which are not specifically mentioned (*Louisville Water Co. v. Wells*). Therefore, the Court held that payments by a settling joint tortfeasor shall not be treated as an offset against a damage award in a Board of Claims action. As a result, it is possible for a claimant to recover damages from a settling joint tortfeasor in addition to the negligent state agency.

Suits against Individual State Employees

Prior to the 1986 amendments, it was well settled law that the Board of Claims Act did not apply to claims against state employees in their individual capacity (*Spellman v. Beechum*). A claimant had an option insofar as the matter of liability of a state employee was concerned, to proceed to judgment in the Board of Claims or file suit against a negligent state employee individually (*Slucher v. Miracle*). An action filed with the Board of Claims and continued until there was an award precluded the right to sue a state employee in any other form (*Dardeen v. Greyhound Corp*) (KRS 44.160). Therefore, after an award had been entered by the Board, a statutory immunity protected a state employee from further responsibility for his negligence. A plaintiff cannot sue an individual employee through the Board of Claims.

The 1986 General Assembly attempted to vest the Board of Claims with exclusive jurisdiction over all negligent claims against state employees acting within the scope of their employment. Further, the amendments preclude a claimant's option of filing suit against a state employee unless and until the Board enters a judgment that it does not have jurisdiction over the claim because the employee was not acting within the scope of his authority. KRS 44.090 authorizes the Commonwealth to provide legal representation for state employees for "any claim filed with the board."

These efforts on behalf of the state employee have proven to be unsuccessful since their passage in 1986. Combined with the other 1986 amendments to the Board of Claims statutes and interpretations by the Kentucky Supreme Court, they may have actually made state employees more vulnerable to being sued individually.

In 1989 the Kentucky Supreme Court decided three cases, all brought under the pre-1986 amended Board of Claims Act, which made it obvious that employee immunity from suit would not survive a constitutional test. In *Guffey v. Cann*, *University of Louisville v. O'Bannon*, and *Gould v. O'Bannon*, the Court noted that the cases were brought under the old law and went on to state that "a Statute which purports to extend sovereign immunity to the personal liability of its employees violates Sections 14, 54 and 241 of the Kentucky Constitution" (*Gould v. O'Bannon*). Following this cue, the Court of Appeals declared the provisions of KRS 44.073 to be unconstitutional in *Blue v. Purcell*, in a case where the claim arose after the effective date of the 1986 Amendments.

Although the Supreme court has not itself decided a state employee negligence case where the claim arose after July 15, 1986, the Court has decided *Kentucky Center for the Arts Corp. v. Berns*, and *Calvert Investments, Inc. v. Louisville and Jefferson County Metropolitan Sewer District*, in which the Justices make clear their position that sovereign immunity may only be applied to state government agencies which receive their funding directly from the state treasury.

These decisions could leave the state employee in a precarious position. Because insurance companies cannot recover their subrogation claims in the Board of Claims, they may choose to sue the employee involved. Also, this could occur if awards in the Board are reduced by other payments received by national recovery. This could result in an increase in the number of suits brought against individual state employees.

State employees can have "qualified official immunity." This would apply when the employee was: a) performing a discretionary act, b) acting in good faith, and c) working within the scope of their job description.

A defense in suits filed against employees individually (besides the assertion that there is no negligence) is KRS 44.160 which precludes suit against an employee where the Board of Claims has already entered a judgment. The Supreme Court (as the old Court of Appeals) ruled that an individual action against a state employee operating a dump truck was barred under this section where the Board of Claims had already entered an award (*Dardeen v. Greyhound Corp*). The Court stated of KRS 44.160 that "we find nothing unconstitutional in this statute".

As for the immunity defense, the Supreme Court has indicated that "there is a distinction between discretionary and ministerial functions of state employees. Ministerial acts will result in liability when negligently performed. ...State officers have frequently been held responsible for their ministerial conduct". *Gould v. O'Bannon*.

A discretionary act is one which is done in the performance of lawful duties requiring personal deliberation, decision, judgment or planning (such as policy decisions). A ministerial act can be defined as a duty which is absolute, certain and imperative, in involving merely execution of a specific duty arising from fixed and designated facts, which is performed without regard to the exercise of the employee's own judgment.

An employee is provided a defense if their action is discretionary. Specifically KRS 12.211 states "Neither the state, state employee, nor former state employee shall be subject to an action arising from discretionary acts or decisions pertaining to the design or construction of public highways, bridges, or buildings."

There is no uniform statewide policy on providing legal counsel for employees sued in their individual capacity. KRS 44.090 only authorizes representation of the employee before the Board of Claims. However, KRS 12.213 authorizes the Attorney General to provide for the defense of a state employee in a civil lawsuit so long as the employee was acting within their scope of employment as noted in KRS 12.211. The Attorney General has delegated the authority to the Transportation Cabinet provided that the funds to do so are provided by the Cabinet's budget. So long as the employee sued was acting within the scope of his authority, the Transportation Cabinet routinely provides legal defense for its employees sued individually.

Providing legal defense is different from paying any judgment rendered against an individual employee. The state cannot pay such court judgments since the payments would be in violation of Sections 320 and 231 of the Kentucky Constitution. Even if there was a statute authorizing the payment of these judgments, it would likely be unconstitutional as violating Section 3 ("no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men") and Section 241 (damages for wrongful death may be recovered "from the corporations and persons so causing the same") of the Kentucky Constitution. This was apparently the fate of former KRS 12.214, repealed in 1978, which provided that judgments against individual employees were to be paid out of the general fund.

If the state employee were working for any other employer, he could bring his employer (the state) into the lawsuit under the doctrine of "respondeat Superior." This legal maneuver says that where an employee acts negligently while within the scope of his employment, his employer can also be held liable. Unfortunately this theory does not work against the state because the state has sovereign immunity.

Whether an employee sued individually could bring a claim against the state for contribution in the Board of Claims once a civil judgment has been rendered against him remains to be seen. However, the one year statute of limitations for filing an action in the Board would have to be considered as well as whether such a claim would be a "collateral or dependent claim" prohibited

under KRS 44.070 or the type of claim which would violate Sections 3 and 241 of the Kentucky constitution.

While there have been suits against employees, there have been no judgments against the employee as a result of the employee performing their work requirements.

Legal Decisions Relating to Board of Claims

Several cases have considered the extent of the Commonwealth's liability under the Board of Claims Act. A good example of the conclusions of law considered by the hearing officer is given in *Dalton v. Transportation Cabinet*. The claim was denied in this case where the Claimant lost control after hitting rocks in the road from a cut adjacent to the road. It was noted the following four elements necessary for a Claimant to meet to make any alleged negligence actionable: 1) duty, 2) breach of duty, 3) causal connection between the negligent conduct and the resulting injury or damage, and 4) actual damages. The Cabinet has a legal duty to keep highways in a reasonably safe condition to travel, to provide proper safeguards, and to give adequate warning of dangerous conditions (*Department of Highways v. Automobile Club Insurance Company*). Where the Cabinet knows or should have known of a dangerous condition and fails either to remedy the condition or warn the traveling public of the danger, it is liable for foreseeable loss (*Department of Highways v. General & Excess Insurance Company*). In this case, warning signs were erected to alert motorists that the area is a falling rock zone so the Cabinet met its duty to warn. Also, there was no evidence of prior notice of rock debris in the road and the response was prompt after receiving notice.

An example of the concept of discretionary versus ministerial acts is provided in *Maiti v. Transportation Cabinet*. In this case, a vehicle crossed the median on KY 4 in Lexington resulting in a fatal, head-on crash. The plaintiff's expert testified that this road was not reasonably safe and a cable guardrail was available for use and, if installed, would have prevented the fatal crash. The decision was that the Cabinet's decision-making process pertaining to the testing and implementation of cable median was discretionary. It was noted that there was no state or federal law requiring median barriers to be installed on this road and setting priorities requires "significant judgment, statutory interpretation and policy-making."

The issue of the duty of a transportation agency and notice of a problem as it relates to liability is shown in *Caldwell v. Transportation Cabinet*. In this case, a pedestrian was hit while walking on a rural road during darkness. The allegation was that there were high weeds adjacent to the road causing the pedestrian to walk in the road. A contractor was mowing roads in several counties when the crash occurred. The ruling was that the Cabinet had the duty to maintain the road in a reasonably safe condition for pedestrians and should have directed the contractor to immediately remedy the dangerous condition at the accident scene since it had actual notice of the condition. The ruling placed 80 percent fault to the Cabinet.

Some decisions have addressed the impact of collateral payments on the amount that can be recovered from the Commonwealth under the Act. KRS 44.070 (1) states in part: Any damage claim awarded shall be reduced by the amount of payments received ... from workers' compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred.

In *Transportation Cabinet v. Thurman*, the court concluded that a voluntary settlement with a joint tortfeasor does not reduce the amount of damages which may be recovered from the Commonwealth. Such a settlement, said the court, does not fall within the "specifically enumerated sources" of the statute.

In *Thurman*, the Court of Appeals also considered language in KRS 44.070(1) which insulates the Commonwealth from liability "for mental distress or pain or suffering." The Commonwealth argued that this language precluded its liability in the *Thurmans'* loss of companionship claim, based on the death of their son. The court disagreed. Citing *Department of Education v. Blevins*, it held that such a claim is an independent one, not one for pain and suffering, and thus is not covered by the statutory language. In *Williams v. Kentucky Department of Education*, the Supreme Court of Kentucky, in essence, reversed the loss of companionship holding of the *Thurman* court without mentioning that decision. In affirming the dismissal of loss of consortium claims brought by the parents of the deceased against the state agency, it said that the amended language of KRS 44.070(1) which excluded "collateral or dependent claims which are dependent on loss to another and not the claimant. ... abrogated the holding in *Blevins*." In *City of Danville v. Goode* the Court of Appeals held that the above cited language of KRS 44.070 (1) precluded a loss of spousal consortium claim. It said that even though *Blevins*, *Thurman*, and *Williams* all involved loss of parental consortium claims, "the principles in the *Williams* case are applicable" to a spousal consortium claim.

In *Transportation Cabinet v. Roof*, the plaintiff's damages were in excess of \$300,000, and the plaintiff sought the maximum recovery of \$100,000 from the Board of Claims. The plaintiff had received a \$10,000 no fault benefit from her insurer, and the issue was whether, under the above quoted language of the statute, that amount was deductible from the \$100,000 award. The Board of Claims, Hardin Circuit Court, and Court of Appeals of Kentucky all held that it was deductible. The Supreme Court affirmed and rejected the plaintiff's argument that, for purposes of the statute, "award" should mean the amount of damages found by the Board (over \$300,000), not the maximum amount recoverable under the Act (\$100,000). In the court's opinion, the clear language of the statute precluded such an argument. One justice dissented and argued that the intent of the statutory language was to prevent windfall and double recovery. That is not the case when the maximum award under the statute is far less than the actual damage suffered. He said: "The clear intent of KRS 44.070 (1) is to preclude an injured party from receiving a double recovery thereby being unjustly enriched." Thus, the statute requires a reduction in the amount of the award only when certain itemized collateral sources duplicate payment for the damages awarded. Interpreting KRS 44.070 (1) to require a reduction in an award when there is no double recovery, leads to an unjust and unduly harsh result.

One case that has provided case law for negligence cases against the Cabinet is *Transportation Cabinet v. Shadrick*. In this case, a driver lost control of her vehicle and impacted a dump truck parked on the Department's right-of-way in front of a junkyard. The Department had sent a notice to the junkyard owner to clear the right-of-way. The Supreme Court stated that they declined to extend the law to the point of guaranteeing that every right-of-way will be completely free of all obstructions, whether permanent or transitory, for motorists who operate their vehicles into that area of the roadway. The court held that it would be "unreasonable and impractical to hold the Department responsible for the negligence of others."

Another Supreme Court decision considered a couple of cases dealing with the installation of guardrail (*Transportation Cabinet v. Babbitt* and *Transportation Cabinet v. Taylor*). The decision noted that a highway authority is not automatically liable every time a motorist drives his vehicle off the traveled portion of the highway and strikes a roadside hazard. Nor does the failure to follow design guidelines constitute the equivalent of negligence per se. Whether the failure to provide warnings or to erect a guardrail at a particular location constitutes negligence on the part of the highway authority is a fact-intensive inquiry for which the various design guidelines, as well as available funds and cost effectiveness, may be considered. If a determination is made that the failure to provide warnings or to erect a guardrail constitutes negligence, the fact finder must then determine from the evidence whether the presence or warnings or a guardrail would have prevented or reduced the damages sustained by the claimant and apportion liability.

In *Yanero v. Davis*, the Court also considered the venue for litigation when there is no immunity. It said that the Board of Claims is not the proper forum when suit is brought against a governmental agency, officer, or employee that is not cloaked with immunity. It considered KRS 44.073 (8) which requires all suits against governmental agencies and employees while acting within the scope of employment to be brought in the Board of Claims, and held that "to the extent that this statute attempts to transfer jurisdiction over non-immune agencies, officers and employees from the circuit court to the Board of Claims, it is unconstitutional." Thus, the circuit court is the proper venue if the "acts or missions occur during the performance of ministerial functions."

As previously noted, sovereign immunity is a doctrine of law created by section 231 of the Constitution of Kentucky. Section 231 "grants the General Assembly the exclusive authority to decide when and under what conditions the Commonwealth will allow itself to be subjected to suit." This fundamental principle was reiterated in *Transportation Cabinet v. Roof*, stating, "It is the province of the General Assembly to waive immunity, if at all, and only to the extent it sees fit."

Two significant cases were decided shortly before the enactment of the 1986 amendments and are important to an understanding of the amendments. The first, *Commonwealth, Department of Banking and Securities v. Brown*, involved claims alleging the negligent regulation of two building and loan associations by the Department of Banking and Securities. The Court agreed that the Department had acted negligently, yet ruled for the Department, relying on KRS 44.120. The Court interpreted KRS 44.120 to incorporate the common law limitations on municipal tort liability, and concluded that "the Commonwealth has no common law liability for the

malfeasance of its agents in the performance of obligations running to the public as a whole.” The second case, *Gas Service Co. v. City of London*, involved a claim that the city of London had negligently installed and repaired a sewer line, contributing to a natural gas explosion. The Court reinstated the rule of sovereign immunity only for “the exercise of legislative or judicial or quasi-legislative or quasi-judicial functions.” The court ruled against the city and remanded the case. In a concurring opinion, a justice noted the distinction between discretionary and ministerial acts with regard to sovereign immunity: In general it must be recognized that there are certain discretionary activities related to the formulation of public activity and public policy. A public entity is not liable for the exercise of discretion when, in the face of competing demands, it determines how or whether to utilize or apply existing resources. Nothing in such a statute should exonerate the public entity for negligence arising out of acts or omissions of its employees in carrying out their ministerial function.

The 1986 amendments clarified the law with regard to what types of conduct may form the basis for recovery under the Act. The first key provision of the 1986 amendments states: The Board of Claims shall have primary and exclusive jurisdiction over all negligence claims for the negligent performance of ministerial acts against the Commonwealth, any of its cabinets, departments, bureaus or agencies, or any officers, agents, or employees thereof while acting within the scope of their employment by the Commonwealth, or any of its cabinets, departments, bureaus, or agencies. This provision clearly establishes that any negligence claims against the Commonwealth or its subdivisions must be for the negligent performance of “ministerial acts.” By implication, the negligent performance of non-ministerial, i.e., discretionary, acts cannot be a basis for recovery under the Act. As explained in *Gas Service Co.*, discretionary acts involve public policy decisions. Discretionary duties have been recently described in the following way: Discretionary or judicial duties are such as necessarily require the exercise of reason in the adaptation of means to an end, and discretion in determining how or whether the act shall be done or the course pursued. Discretion in the manner of the performance of an act arises when the act may be performed in one of two or more ways, either of which would be lawful, and where it is left to the will or judgment of the performer to determine in which way it shall be performed. However, an act is not necessarily taken out of the class styled “ministerial” because the officer performing it is vested with a discretion respecting the means of method to be employed. As succinctly summarized in *Franklin Co. v. Malone*, “The essence of a discretionary power is that the person or persons exercising it may choose which of several courses will be followed.”

Inspection of trees and removal of dead trees on vacant land owned by the state highway department was not a ministerial act, and thus the state and its agencies had sovereign immunity from liability for damages caused when a dead tree fell from vacant land onto urban landowner's adjoining property, damaging garage and destroying vehicle, given that highway department did not have actual notice of dead tree and that, at the time of the incident, no statute, regulation, or other authority had created any duty owed by highway department to public in general or to adjoining landowners regarding defective or unsound trees. In the case of *Sexton* the Supreme Court reversed the Board of Claims and lower courts that tree-inspection was a ministerial act. It was noted that in determining whether acts are ministerial or discretionary for purposes of determining whether the Commonwealth or one of its agencies may be held liable for negligent performance of that act, it is necessary to determine whether the acts involve policy-making

decisions and significant judgment or are merely routine duties. That a state agency occasionally or even regularly engages in a particular act does not necessarily mean that the act is a routine duty not involving significant judgment, statutory interpretation, or policy-making decisions, for the purpose of determining whether acts are ministerial or discretionary and determining whether the Commonwealth or one of its agencies may be held liable for negligent performance of that act.

“Official immunity” is immunity from tort liability afforded to public officers and employees for acts performed in the exercise of their discretionary functions. It rests not on the status or title of the officer or employee, but on the function performed (*Salyer v. Patrick*). Official immunity can be absolute, as when an officer or employee of the state is sued in his/her representative capacity, in which event his/her actions are included under the umbrella of sovereign immunity. Similarly, when an officer or employee of a governmental agency is sued in his/her representative capacity, the officer's or employee's actions are afforded the same immunity, if any, to which the agency, itself, would be entitled.

When sued in their individual capacities, public officers and employees enjoy only qualified official immunity, which affords protection from damages liability for good faith judgment calls made in a legally uncertain environment. Qualified official immunity applies to the negligent performance by a public officer or employee of (1) discretionary acts or functions, i.e., those involving the exercise of discretion and judgment, or personal deliberation, decision, and judgment (2) in good faith; and (3) within the scope of the employee's authority. An act is not necessarily “discretionary” just because the officer performing it has some discretion with respect to the means or method to be employed. Conversely, an officer or employee is afforded no immunity from tort liability for the negligent performance of a ministerial act, i.e., one that requires only obedience to the orders of others, or when the officer's duty is absolute, certain, and imperative, involving merely execution of a specific act arising from fixed and designated facts (*Franklin County v. Malone*). Prior to this case, no Kentucky case had ever held that a public employee was afforded absolute immunity for the negligent performance of a ministerial act simply because that act was a governmental function performed within the scope of the authority of the employee's office. Historically, public officers and employees have always been liable in tort for the negligent performance or nonperformance of the ministerial duties of their offices. It is equally well settled that where the law imposes upon a public officer the performance of ministerial duties in which a private individual has a special and direct interest, the officer will be liable to such individual for any injury which he may proximately sustain in consequence of the failure or neglect of the officer either to perform the duty at all, or to perform it properly.

Counties

Counties have long been considered an "arm of the state" and thus enjoyed sovereign immunity under Kentucky Constitution Section 231. As early as 1884 the courts extended this doctrine to Kentucky counties like state sovereign immunity, the immunity of counties could only be waived in negligence action by express provisions of the legislature. The courts did, however, provide for the county to be sued on an express contract as early as 1909 and in nuisance cases on the theory that a nuisance may be such an invasion of the rights of an adjacent landowner as to amount to an injury and taking of property under section 242 of the Kentucky Constitution.

In 1955 the Kentucky Court recognized a Legislative waiver of "county" immunity pursuant to KRS 67.180, a statute which authorized, but did not require, counties to purchase insurance covering vehicles operated by counties. When a county purchased the insurance, the court said, it waived its immunity to the measure of the insurance policy. Similarly, in a case where a county failed to purchase Worker's Compensation insurance for its employees, the Courts declared that the county had not waived its immunity and was immune from a suit for damages.

In *Ginter v. Montgomery*, the court considered the effect of the Board of Claims Act on Counties. In *Ginter*, the court decided that even though the Act operates as a partial waiver of state immunity, it does not completely abrogate the doctrine as to the state and does not purport to waive any immunity as to local governments. However, the Court clarified in *Board of Claims v. Harris*, by holding that the Board of Claims has no jurisdiction over cases alleging negligence against a county government.

A Kentucky Supreme Court case in which the doctrine of sovereign immunity as applied to counties is considered is *George M. Eady Co. v. Jefferson County*. The Court applied the doctrine and stated that the county was immune from suit for damages resulting from the failure of the county to procure right of way titles in time for Eady to perform excavation work it had contracted to do for the sewer district. Although there was a contract involved, the contract had a "no damages" clause. The Court stated that since the Legislature had not provided for counties to be sued for breach of contract (not to be confused with performance of a contract) as it had for the state, the court had to apply the doctrine and allow counties to "continue to enjoy their singular protection from the inroads of justice."

Counties currently have coverage through a self-insurance pool provided by the Kentucky Association of Counties. The large majority of counties participate in this pool. The premium for each county is based on exposure which considers many variables. This pool is reinsured to cover any large awards. Information is that there have been several lawsuits based on transportation issues.

Urban-County Governments

The Kentucky Court of Appeals ruled in *Hempel v Lexington Fayette Urban County Government* that an urban county government is not a city and retains the immunities of a county government. The opinion was that an urban-county government is like a county government, an arm of the state entitled to the protective cloak of sovereign immunity.

Cities

Kentucky appears to have started without municipal immunity. In *Prather v. City of Lexington*, the court held that a city was liable in its corporate capacity, where the acts done would warrant a like action against an individual. By 1877, however, municipal immunity had found its way to Kentucky courts.

Twyman's Administrator v. Board of Councilman of Frankfort was the first of an unbroken line of Kentucky cases which recognize municipal immunity. The *Twyman* court set out the state of municipal immunity at that time as follows: So far as municipal corporations of any class, and however incorporated, exercise powers conferred upon them for purposes essentially public - purposes pertaining to the administration of general laws, made to enforce the general policy of the state - they should be deemed agencies of the state, and not subject to sue or be sued for any act or omission occurring while in the exercise of such power, unless by statute the action be given.

In *Gnau v. Louisville and Jefferson County Metropolitan Sewer District*, the court considered the effect of the Board of Claims Act on municipal immunity. After finding that the sewer district was an independent corporation exercising a public function and not a "state agency," the Court held that the Board of Claims statute did not waive immunity for any government entities other than those which are under the direct control of the central state government. Thus municipalities retained immunity despite the passage of the Board of Claims Act.

Even though the court continued to uphold the immunity rule, cases since 1964 have often conflicted with one another. The confusing nature of the cases since 1964 prompted the court in 1985 to decide *Gas Service v. City of London*. In *Gas Service*, the court held that municipal corporations are not immune from liability for ordinary torts, and carved out a narrow exception from this rule for a city's exercise of legislative, judicial, quasi-legislative or quasi-judicial functions. The *Gas Service* court defined quasi-judicial and quasi-legislative functions as involving regulatory activity in which the government is not charged with having caused the injury, but only with having failed to prevent it by proper exercise of regulatory functions.

In applying the judicial/legislative exception to the cases decided since 1964, the *Gas Service* court said that in all but two, the functions carried out by municipal employees did not qualify for municipal immunity. The two that did qualify involved failure of employees of the government to inspect and regulate businesses and to enforce laws - activities which the court said fell under the quasi-judicial and "quasi-legislative" functions of government.

The legislative/judicial municipal protection exception stated in *Gas Service* assures "that lawyers for plaintiffs and defendants alike will have their work cut out for them in stitching together or unraveling the fabric of this latest judicial exception." Unless and until the courts abolish municipal immunity without exception, application of the exceptions must be done on a case-by-case basis, with little guidance from the courts. If municipal immunity were completely abolished, perhaps the Legislature would be prodded into enacting a comprehensive governmental liability statute. Indeed, a dissenting justice in the *Gas Service* case, stated "The majority opinion will undoubtedly lead to bankruptcy of many municipalities, large and small. My only suggestion to city fathers is to run for the hills and seek help from the legislature."

In 1988, the Kentucky Supreme Court decided that the Transit Authority of Northern Kentucky (TANK) was not entitled to the protections of sovereign immunity (*Kestler v. Transit Auth. of N. Ky*). The Court determined that the mass transit authorities' enabling statute, KRS 96A.101, is a statute which provides for the mandatory purchase of liability insurance by the transit authority. The Court held that the foregoing statute "clearly contemplates a limited waiver of governmental

immunity to the extent of the insurance coverage." The court declined to apply KRS 44.072, the statute upon which TANK relied for its position that the purchase of insurance should not be construed as a waiver of immunity, because KRS 44.072 was enacted a year and one-half after the accident which prompted the claim against TANK. Because the Court did not hold KRS 44.072 to be retroactive, it had no application to the claim against TANK.

A year later the Supreme Court held that the purchase of liability insurance coverage as authorized by statute by the Green River District Health department constituted a limited waiver of Sovereign immunity (*Green River Health Dept v. Wigginton*). In *Wigginton*, suit was filed against the Health Department after an infant had sustained brain damage at birth as a result of negligent treatment by an employee of the Health Department. *Wigginton*. The Health Department was covered by a \$1.5 million liability insurance policy, purchased as authorized by statute. The Supreme Court agreed with the court of Appeals that stated: "We agree with the circuit court that the appellee (the health department) is protected by sovereign immunity". However, KRS 212.890(4) allows the appellee to be sued and a final judgment obtained which shall measure the liability of its insurance carrier to the appellants. With respect to KRS 44.072, the court in *Wigginton*, like in *Kestler*, held that that section expressly provides for no retroactive application. *Wigginton*. Thus, KRS 44.072 again was not considered by the Supreme Court.

In 1991, the Kentucky Supreme Court held that the Louisville & Jefferson County Metropolitan Sewer District was subject to liability as a municipal corporation (*Calvert Investments v. Louisville & Jefferson County Metro Sewer District*). Significantly, however, the Court in *Calvert* stated: "The distinction we have made in Kentucky cases between municipal corporations and counties, and municipal corporations and school districts, is recognized." The court further commented as follows: "Under the governmental structure of some States, however, certain types of geographic subdivisions, such as counties and school districts, have been held to be entitled to any broader immunity (either from suit or from tort liability) that has been retained by the state itself, rather than being subjected to the type of liability that is applicable to cities and towns The classification is a matter of governmental structure and statutory language for the particular state,..... Thus, while we in Kentucky have treated tort liability for school districts and counties differently from other local entities, this difference may be explained by their particular status. School districts were created by the General Assembly and exist only as a means for the state to carry out the General Assembly's constitutional duty to 'provide for an efficient system of common schools throughout the state (Kentucky Constitution Section 186; *Rose v Council for Better Education*)" Counties are unincorporated political subdivisions of the state, pre-existing its formation, whose existence is provided for constitutionally in Section 63, 64 and 65 of the Kentucky constitution. Both MSD and the Board of Health classify as municipal corporations liable for their torts without disturbing precedent extending state sovereign immunity to counties and school districts as represented by *Cullinan v. Jefferson County*.

In *Cullinan*, the plaintiff stepped into a hole and fractured his ankle while playing on county school premises. The appellant filed suit against Jefferson County, Jefferson County Board of Education, and Jefferson County Playground and Recreation Board. *Cullinan*. The court, in ruling that the county was protected from liability by sovereign immunity, stated that "Jefferson

County is a political subdivision of the commonwealth..., and such is an arm of the state government. It, too, is clothed with the same sovereign immunity (as the state).

Though the court was not faced with the specific issue of whether the purchase of liability insurance by a county constitutes a waiver of the county's sovereign immunity, the court's statement in Calvert that "MSD and the Board of Health classify as municipal corporations liable for their torts without disturbing precedent extending state sovereign immunity to counties and school districts as represented by *Cullinan v. Jefferson Co.*, ..." tends to support the view that counties, unlike municipal corporations, continue to enjoy sovereign immunity.

In summary, municipalities cannot claim maintain sovereign immunity as a defense. Many municipalities are insured through the Kentucky Municipal Risk Management Association which is associated with the Kentucky League of Cities. Other municipalities have private insurance carriers while others are self-insured. Claims related to transportation issues are common in municipalities.

Chapter 3. Summary of Board of Claims Data

One method of reducing the liability risk for government agencies and providing safer highways is to integrate information from highway case law into decision-making about the highway system. A method that can be used to obtain such information is to review tort claims in Kentucky to determine the basis of each claim.

The cases that relate to specific areas, such as pavement condition or roadside barriers, can be studied to detect trends or characteristics in the crashes that led to the lawsuits. The claims can also be analyzed as a function of variables such as geographical location in the state, amount of claim, and amount of award. The results of such an analysis can be used in the development of an effective risk management program.

As previously discussed, claims filed against the Kentucky Transportation Cabinet must be filed through a Board of Claims procedure. Therefore, by accessing this data, an analysis of these claims can be performed. The types of claims filed against the Transportation Cabinet are similar to those filed against cities and counties. Following is a discussion of an analysis of claims made against the Kentucky Transportation Cabinet.

Procedure

A summary of the claims made against the Kentucky Transportation Cabinet (KyTC) through the Board of Claims was prepared for 1981 through 2009. The claims were located by searching records maintained by the Board of Claims and the KyTC. One source of information was the claim form filed when making a claim. Information concerning the location and description of the crash and the basis for the claim is given on the claim form. The KyTC also maintains a computer file giving summary information for each claim. This file was used to obtain a portion of the information. The Board of Claims maintains a listing of all claims with an indication of the agency against which the claim was filed. This listing also includes the amount of the claim, the resolution of the claim, and a brief description of the basis of the claim. When more detailed information was desired for a claim, the case file for that claim was reviewed.

Various types of information were coded onto a computer file for each claim. This information included the date of the claim, the county where the action on which the claim was based occurred, the reason for the claim, the amount sought, the decision, and the date of the decision. Reasons for the claims were classified into several categories and are listed in the summary tables. The reasons for the claims were classified into specific categories for one summary and then combined into broader categories for another analysis.

The Board of Claims information was summarized. Examples of the types of analyses included summaries of the total number and dollar amount of claims and awards by year as well as the number and dollar amount of claims and awards as a function of such variables as type of claim, county, and highway district.

All claims under \$1,000 are investigated by the administrative staff of the Board of Claims. If the claim is less than \$500, a Findings of Fact is issued to the claimant (within 45 days of the date that receipt of claim is acknowledged) along with an Opinion and Order either awarding or denying the claim. If the claim amount is between \$500 and \$1,000, the findings as to negligence are reported to all parties within the 45-day time period. Any party may then request a hearing before the Board. All claims over \$1,000 are investigated by the agency concerned. The agency is given 30 days to answer the charges in writing to the Board and to the claimant. If the response filed by the affected agency admits liability, the case is submitted to the Board. If the response filed by the affected agency denies negligence, or questions the amount of damages, in a claim of \$1,000 or greater, a hearing before a hearing officer is scheduled.

Results

The total number and amount of Board of Claims actions against the KyTC are presented in Table 3-1. The dollar amount for any claim was limited to the maximum allowed by the Kentucky Revised Statutes (KRS). For example, claims for over one million dollars have been received; however, the maximum dollar amount possible under the KRS in effect at the time of the claim was used for the claim amount in the analysis since this amount represented the exposure of the KyTC. The total number of claims ranged from a minimum of 251 in 1981 to a maximum of 946 in 2008. There has been an average of 530 claims for the 29 years of 1981 through 2009 with an average of 590 claims over the past 10 years. The number of claims has fluctuated over the years. The data do not show a constant upward trend in the number of claims. The largest number of claims in any three-year period was from 2003 through 2005.

While the total dollar amount of claims has increased from 1981 to 2009, the largest claim amount was about \$6.5 million in 1990. There was over \$6 million of claims in two other years (1994 and 2005). The average for the 29 years is about \$4.3 million per year. There was an increase in the amount claimed starting in 1987 with the average amount claimed for 1987 through 1997 almost 6.0 million dollars per year. The increase beginning in 1987 would be related to the increase in the maximum allowable claim amount permitted by KRS which occurred in July 1986. There was a substantial increase in the average claim amount beginning in 1987. The average claim amount for the time period of 1987 through 1997 is about \$11,000. The overall reduction in total claim amount in the most recent years may be related to factors such as more work conducted by contract and the lack of large awards which discourage additional claims.

A general summary of the results of the Board of Claims cases is presented in Table 3-2. At the time of this summary, a decision had been made in 99 percent of the claims filed through 2009. While some payment was provided in approximately one half of the cases, only about 15 percent of the claim amount was paid (for claims in which a decision has been made). The payment given each year represents the amount paid for claims filed that year. For example, if a claim was filed in 2005 but was not paid until 2008, the payment would be reflected for 2005. The smaller amounts of total payments in the most recent years are the result of a number of unresolved cases filed during those years with large claim amounts. The large total payment in 1986 through 1988 resulted from a few cases with large payments. The lower percent of claim amount paid in recent years result from the dismissal of several claims with large claim amounts.

The percentages in the most recent years may change when decisions are made for additional claims with large claim amounts.

As of the date of this summary, only 95 cases filed through 2009 have not been resolved. This represents only about 0.6 percent of all cases filed during this time period. All but one of these cases was filed after 2005. However, the amount claimed in these 97 cases is approximately \$10 million or about 8.3 percent of the total amount claimed in all cases. The average claim amount for the undecided cases is slightly over \$100,000. Approximately six percent of the claims of \$50,000 or more remain unresolved with one claim filed in 1988 not decided. This shows that there is a potential for substantial additional payments for the undecided claims.

The average annual amount paid (for decided claims) has been about \$575,000. Adding an amount representing an expected payment for unresolved claims would increase this amount to slightly over \$600,000.

A summary of the number of cases filed classified by the amount of the claim is shown in Table 3-3. As can be seen, the majority of cases (about 58 percent) were for less than \$500. Only about nine percent of the cases were for \$10,000 or more. The number of cases in the highest claim amount of \$50,000 or more reached about 50 in 1986 and remained fairly constant through 1997 before decreasing in recent years. The highest number of claims of \$50,000 or more was 60 in 1990 with the lowest number 17 in 2006. For the years of 1981 through 1984, the number of claims of \$50,000 or more averaged about 25 or one half that from 1986 through 1997. However, the average has been only about 27 for the last four years. This shows that the increase in the maximum claim amount allowed by the KRS has not resulted in an increase in the number of large dollar amount claims.

More detailed information is given for the 1,035 cases involving a claim of \$50,000 or more in Chapter 4. A table is provided in Appendix E which lists the county and route where the accident occurred, the amount sought and amount awarded, and the reason for the claim. This information describes the alleged negligence which led to the claim. In some instances, comments giving more detailed information related to the claim are included.

The percent of claims in the various amount categories for which there was some payment is given in Table 3-4. There was no major trend relating the claim amount and the percentage of claims in which there was some payment. However, the amount paid in many of the large claims represent only a very small percentage of the claim amount.

A summary of the total amount claimed for the various claim amount categories is presented in Table 3-5. It is shown that the large majority of the amount claimed was in the "\$50,000 or more" claim amount category. While only about 6.7 percent of all claims is in the "\$50,000 or more" category, about 86 percent of the total amount of claims is in this category. In contrast, while about 58 percent of all claims are in the "under \$500" category, only 1.5 percent of the total amount of claims is in this category.

The amount of payments for claims in the various claim amount categories is presented in Table 3-6. About 72 percent of all payments were for claims of \$50,000 or more while about 5.6

percent were for claims of less than \$500. Given the large dollar amount for unresolved claims of \$50,000 or more in the last few years, the payment in this category will increase.

The percent of payments for claims in the various claim amount categories is presented in Table 3-7. The percentage of the amount claimed which was paid decreased substantially for the higher claim amounts. For claims of less than \$500, about one half of the claim amount was paid. This percentage decreased as the claim amount increased to about 12 percent for claim amounts of \$50,000 or more. The percentage for the large claim amount may change when the unresolved cases are decided.

A summary of various claim information by county is given in Table 3-8. As would be expected, the highest number of claims was for Jefferson County with 3,294 claims. The county having the second highest number of claims was Kenton County with 734 claims followed by Boone County with 715 claims, Fayette County with 522 claims, Campbell County with 489 claims, and Pike County with 421 claims. All counties had some claims with the lowest numbers of seven claims for Robertson County, 12 claims in Clinton County, and 13 claims in Bracken and Elliott Counties.

The highest number of claims of \$50,000 or more was Jefferson County with 55 of these claims. The total claim amount in Jefferson County was approximately \$8.6 million which was the highest total in the state. There were only two other counties (Floyd and Pike) with claim amounts over \$4 million while two other counties (Kenton and Hardin) had claim amounts between \$3 million and \$4 million. There were 43 counties with a total claim amount over \$1 million. Bracken County had the lowest total amount of claims (about \$8,000) followed by Robertson County (about \$27,000).

Six counties (Bracken, Casey, Lee, Menifee, Nicholas, and Robertson) did not have any claims of \$50,000 or more. The average claim amount varied dramatically for the various counties. The highest average claim amount was in Leslie County of \$35,533 per claim and the lowest amount was in Bracken County of \$617 per claim.

The county having the largest amount paid was Jefferson County followed by Pike County. These counties were followed by Harlan, Knox, Floyd, and Boone Counties. In some counties the large amount paid resulted from a very few major awards.

The percent paid (of claims in which a decision had been made) varied substantially by county from a low of less than one percent in four counties (Owsley, Todd, Crittenden, and Wolfe) to over 75 percent in Cumberland and Robertson Counties. The counties with the extreme low and high percentages are smaller counties where one large award could result in a high percent paid.

A rate of total claims was analyzed using the number of claims divided by the county population as the measure. The counties with the highest rate were determined by population category. Following are the counties having the highest and lowest rates for the various population categories.

<u>Population Category</u>	<u>Highest Rate</u>	<u>Lowest Rate</u>
Less than 10,000	McLean	Clinton
10,000 – 14,999	Carroll	Todd
15,000 – 24,999	Grayson	Harrison
25,000 – 50,000	Floyd	Jessamine
Over 50,000	Boone	McCracken

The numbers of claims classified by reason and year of the claim are summarized in Table 3-9. The number of claims is summarized in six intervals over the 21-year study period. The categories used were based on the explanations given on the summaries maintained by the Board of Claims and a review of case files. In some cases, more than one reason was coded for a claim. For example, a claim might state that there was inadequate warning for a curve which led to a vehicle running off the road, and there was no guardrail provided to protect the vehicle after it ran off the road. Up to two reasons could be coded for a claim. There were 15,954 reasons coded for the 15,459 claims. Multiple reasons were typically only given for the claims with the highest amount claimed.

The summary in the five-year ranges (except for the four years of 1981 through 1984) allows the analysis of any trends that may have occurred. Many of the reasons given, especially those with relatively small numbers of claims, fluctuated dramatically from year to year. There have also been changes in the numbers of the most common claims. For example, claims alleging damage to a vehicle from a pothole has increased in recent years while claims related to an object thrown from a mower and paint striping have decreased. These reductions may be related in the recent use of contractors for mowing and painting operations.

The most common claim dealt with damage to a vehicle from hitting a pothole. Other common reasons listed included: striking an object in the road, a crash involving a KyTC vehicle, an object thrown from a mower into a vehicle, an object thrown from an uncovered load, striping where a vehicle drives through wet paint, and rock from a rock slide.

A more detailed analysis of the claims by the reason for the claim is given in Table 3-10. For each reason, the total numbers of claims, as well as the number of claims for \$50,000 or more, are listed. In addition, the total amount claimed, the average claim amount, and the amount and percent paid for claims for which a decision has been made are given. The largest dollar amounts claimed were related to:

- inadequate or improper signs or markings
- improper drainage
- lack of guardrail
- crash due to pavement defect
- crash involving KyTC vehicle
- inadequate traffic control in a work zone
- shoulder drop-off
- problem with a traffic signal
- substandard guardrail

- hit object on right-of-way (in clear zone)
- view obstructed
- crash due to debris in road
- falling rock/rock slide
- shoulder related defect
- other construction zone related issues
- lack of a stop sign
- improper drainage damaged property
- pedestrian fall

Lack of a stop sign and inadequate signing on a stop approach were classified separately from the general category of inadequate signs because these reasons were specified in a number of claims.

Each of these 18 reasons accounted for more than three million dollars in claims. Combining the claim amounts related to these 18 reasons accounts for about 84 percent of the total claim amounts (considering two reasons can be associated with one claim). The highest average claim amount (for these 18 major reasons) was for claims related to inadequate signing at a stop approach followed by claims related to a shoulder dropoff, lack of guardrail, substandard guardrail, lack of a stop sign, a view obstruction, and inadequate or improper signs or markings. Following is a list of the claims with highest amount paid (with all having at least \$1 million paid).

- improper drainage
- inadequate or improper signs or markings
- crash involving KyTC vehicle
- shoulder dropoff
- lack of guardrail
- pothole damaged vehicle

Considering all the reasons for claims, the highest percent paid was for claims related to spreading salt and/or cinders followed by claims related to an uncovered load, pothole damaged vehicle, paint striping, and an object thrown from a mower. All of these claims involved a low claim amount. The lowest percent paid (considering reasons for which there were several claims) was for claims related to a pedestrian fall followed by hitting a manhole cover.

Since there were such a large number of classifications for the reason for the claim, the reasons were grouped into several broader categories and analyzed as presented in Table 3-11. If two reasons were given for a claim, it would be added to both classifications. If both reasons were in the same broad category, it would only be counted once. This resulted in 15,903 reasons classified with 1,285 reasons classified for claims of \$50,000 or more. The amounts given are higher than the total claimed and paid since amounts would be added twice if two reasons are given for a claim.

The largest number of claims related to the road surface or a maintenance activity, but these claims were generally small in dollar amount. The most common types of claims in the road

surface category were pothole damage and hitting an object in the road. The largest dollar claim amounts related to road surface were for claims in which a road defect was alleged to have caused a crash. The major types of claims in the maintenance activity category included an object thrown from a mower, paint striping, and spreading salt or cinders.

The largest total dollar claim amounts were related to claims involving traffic control devices. The major types of claims in this category would be related to inadequate signs or markings, lack of a stop sign, or inadequate warning on a stop approach. The total dollar amount claimed in this category was substantially higher than any other with approximately 23 percent of the amount for all claims involving this reason. The category with the second highest amount claimed was for road surface related claims with about 14 percent involving that reason. Claims alleging that a roadway defect caused a crash accounted for the highest claim amount in this category while the average claim amount in this category was low. The third highest claim amount involved inadequate drainage with approximately 13 percent of all claims involving this category. Following drainage, the categories with the highest amount claimed were barrier (guardrail) and shoulder related claims. The highest average claim amount was for claims related to alleged deficiencies in barriers (guardrail).

The largest number of claims of \$50,000 or more as well as largest dollar amount paid was related to traffic control devices and drainage. The highest percentages of claim amount paid were for claims involving vehicle operation and maintenance activity. The lowest percentage paid for claims involving traffic control devices.

An analysis of the claims by highway district is presented in Table 3-12. The largest number of claims was in District 5 with the fewest number in District 8. The largest number of claims of \$50,000 or more was in District 12 with the fewest number of these claims again in Districts 8. The largest total amount claimed was in District 7 (followed closely by Districts 5 and 12) with the lowest in District 8. The highest average claim amount was in District 10 with the lowest average in District 5. The highest amount paid was in District 11 (followed by Districts 5 and 12) with the lowest amount paid in District 10. The highest percentage paid was in District 8 with the lowest percentage paid in District 10.

A summary of the reason for the claim versus highway district is shown in Table 3-13. Some differences were noted when comparing the distribution by district. The largest number of claims related to road surface, state vehicle operation, traffic control devices, construction activity, and fixed objects were in District 5. The largest numbers of claims related to barriers was in District 2. District 7 had the largest number of claims related to the shoulder. District 1 had the highest number related to a geometric feature. The largest numbers of claims related to construction zone traffic control and fixed objects were in District 6. District 12 had the highest number related to drainage. A summary of the reason for the claim versus highway district for claims of \$50,000 or more is given in Chapter 4.

Summary

The analysis of Board of Claims cases revealed several specific sources of claims against the KyTC. Some of the major sources included inadequate traffic signs and markings (such as the lack of a stop sign or inadequate warning of a stop approach), inadequate drainage, lack of or substandard guardrail, and shoulder related defects such as a shoulder drop-off. Identification of these areas should allow a government agency to take measures that would both reduce liability risk and provide safer highways. Also, an analysis of the number and reason for claims was conducted by county and district.

A previous research report (KTC-90-8, "Tort Liability Related to Highways in Kentucky") reviewed Board of Claims cases and made recommendations relating to the establishment of an effective risk management program. The summaries given in this report support many of the recommendations made in the previous report. The data contained in this chapter were used to develop the conclusions and recommendations given in Chapter 5.

**Table 3-1. Total Number and Amount of Board of Claims
Claims against Transportation Cabinet**

YEAR	NUMBER	DOLLAR AMOUNT*	AVERAGE CLAIM
1981	251	\$1,196,405	\$4,767
1982	364	\$1,725,843	\$4,741
1983	420	\$1,469,995	\$3,500
1984	512	\$1,728,023	\$3,375
1985	617	\$2,179,553	\$3,533
1986	562	\$3,620,898	\$6,443
1987	566	\$5,599,441	\$9,793
1988	629	\$5,031,973	\$8,000
1989	600	\$5,502,030	\$9,170
1990	702	\$6,554,686	\$9,337
1991	571	\$5,557,577	\$9,733
1992	520	\$4,488,842	\$8,632
1993	436	\$4,576,441	\$10,496
1994	526	\$6,032,411	\$11,468
1995	374	\$4,648,776	\$12,430
1996	514	\$5,529,736	\$10,758
1997	454	\$4,928,731	\$10,856
1998	382	\$3,912,200	\$10,241
1999	596	\$2,855,649	\$4,791
2000	329	\$3,949,170	\$12,004
2001	531	\$3,245,597	\$6,112
2002	406	\$3,529,007	\$8,692
2003	765	\$5,802,529	\$7,585
2004	579	\$5,862,439	\$10,125
2005	773	\$6,145,631	\$7,950
2006	427	\$3,213,460	\$7,526
2007	525	\$5,607,749	\$10,681
2008	946	\$4,920,711	\$5,202
2009	583	\$4,652,579	\$7,980

*The dollar amount for any claim was limited to the maximum allowed by the Kentucky Revised Statutes.

Table 3-2. Results Of Board Of Claims Cases

Year	Number of Claims	Total Amount Claimed	Claims Decided		Percent of claims with payment*	Total Payment*	Percent Claim Amount Paid*
			Number	Percent			
1981	251	\$1,196,405	251	100.0	52.2	\$337,106	31.5
1982	364	\$1,725,843	364	100.0	65.1	\$504,126	29.2
1983	420	\$1,469,995	420	100.0	66.7	\$445,281	30.3
1984	512	\$1,728,023	512	100.0	67.8	\$460,760	26.7
1985	617	\$2,179,553	617	100.0	62.6	\$876,068	40.2
1986	562	\$3,620,898	562	100.0	56.9	\$967,346	26.7
1987	566	\$5,599,441	566	100.0	52.3	\$1,300,838	23.2
1988	629	\$5,031,973	628	99.8	43.9	\$999,286	20.9
1989	600	\$5,502,030	600	100.0	47.5	\$953,360	17.3
1990	702	\$6,554,686	702	100.0	46.9	\$557,542	8.5
1991	571	\$5,557,577	571	100.0	50.3	\$359,926	6.5
1992	520	\$4,488,842	520	100.0	46.5	\$446,702	10.0
1993	436	\$4,576,441	436	100.0	36.7	\$305,437	6.7
1994	526	\$6,032,411	526	100.0	38.6	\$577,704	9.6
1995	374	\$4,648,776	374	100.0	35.8	\$301,862	6.5
1996	514	\$5,529,736	514	100.0	31.9	\$171,326	3.1
1997	454	\$4,928,731	454	100.0	31.3	\$695,112	14.1
1998	382	\$3,912,200	382	100.0	36.4	\$860,780	22.0
1999	596	\$2,855,649	596	100.0	33.6	\$156,762	5.5
2000	329	\$3,949,170	329	100.0	44.1	\$528,461	13.4
2001	531	\$3,245,597	531	100.0	57.1	\$246,394	7.6
2002	406	\$3,529,007	406	100.0	57.9	\$616,014	17.5
2003	765	\$5,802,529	765	100.0	69.4	\$953,109	16.4
2004	579	\$5,862,439	579	100.0	60.4	\$957,038	16.3
2005	773	\$6,145,631	773	100.0	50.1	\$879,818	14.6
2006	427	\$3,213,460	426	99.8	48.4	\$329,803	10.9
2007	525	\$5,607,749	505	96.2	38.8	\$340,291	11.2
2008	946	\$4,920,711	913	96.5	37.6	\$333,459	23.3
2009	583	\$4,652,579	543	93.1	45.9	\$115,393	11.4
All	15,460	\$124,068,082	15,365	99.4	48.8	\$16,617,604	14.6

*For claims in which a decision has been made. Applied to claims filed in given year.

Table 3-3. Summary Of Number Of Cases By Amount Claimed

Year	Number of Cases				
	Claim Amount				
	Under \$500	\$500-\$999	\$1,000-\$9,999	\$10,000-\$49,999	\$50,000 or More
1981	149	38	37	9	18
1982	248	31	48	10	27
1983	285	38	67	10	20
1984	370	46	64	5	27
1985	408	79	89	9	32
1986	361	70	70	17	44
1987	346	60	95	12	53
1988	393	89	91	7	49
1989	354	68	112	16	50
1990	424	93	101	24	60
1991	318	84	105	13	51
1992	266	102	99	12	41
1993	232	64	76	16	48
1994	308	73	76	17	52
1995	156	60	98	19	41
1996	291	63	99	10	51
1997	237	61	94	17	45
1998	180	67	93	8	34
1999	382	111	74	5	24
2000	176	49	68	7	29
2001	296	132	67	16	20
2002	211	98	62	15	20
2003	432	198	89	14	32
2004	335	126	70	11	37
2005	487	163	82	9	32
2006	240	102	62	6	17
2007	269	127	95	5	29
2008	524	261	118	13	30
2009	310	156	90	5	22
All	8,988	2,709	2,391	337	1,035

Table 3-4. Decision Versus Claim Amount

Year	Percent with Any Payment*				
	Claim Amount				
	Under \$500	\$500-\$999	\$1,000-\$9,999	\$10,000 - \$49,999	\$50,000 or More
1981	50.3	60.5	51.4	66.7	44.4
1982	69.8	61.3	58.3	60.0	40.7
1983	69.5	60.5	62.7	60.0	55.0
1984	71.1	56.5	65.6	20.0	55.6
1985	64.0	53.2	65.2	44.4	65.6
1986	58.2	57.1	54.3	47.1	54.5
1987	50.9	60.0	50.5	41.7	58.5
1988	39.4	51.7	45.1	71.4	59.2
1989	45.2	51.5	51.8	62.5	44.0
1990	50.0	46.2	41.6	45.8	35.0
1991	50.3	51.2	50.5	61.5	45.1
1992	46.6	45.1	48.5	66.7	39.0
1993	37.1	42.2	27.6	43.8	39.6
1994	37.0	41.1	48.7	41.2	28.8
1995	35.9	40.0	40.8	36.8	17.1
1996	34.4	33.3	31.3	40.0	15.7
1997	25.3	32.8	39.4	35.3	42.2
1998	36.1	35.8	34.4	62.5	38.2
1999	33.0	39.6	24.3	60.0	37.5
2000	45.5	44.9	51.5	28.6	20.7
2001	65.2	56.8	32.8	50.0	25.0
2002	61.6	58.2	54.8	46.7	35.0
2003	73.1	68.2	58.4	50.0	65.6
2004	64.2	68.3	42.9	27.3	43.2
2005	50.3	54.6	39.0	55.6	48.4
2006	50.8	53.9	38.7	16.7	23.5
2007	37.5	38.6	42.1	40.0	13.8
2008	36.8	43.7	28.0	7.7	6.7
2009	38.4	60.3	37.8	0	50.0
All	49.9	51.2	44.7	45.4	41.5

*For claims in which a decision has been made and any payment was made.

Table 3-5. Summary of Total Amount Claimed By Claim Amount

Year	Total Amount Claimed				
	Claim Amount				
	Under \$500	\$500-\$999	\$1,000-\$9,999	\$10,000 - \$49,999	\$50,000 or More
1981	\$28,421	\$25,319	\$91,322	\$151,343	\$900,000
1982	\$45,875	\$22,252	\$111,407	\$196,309	\$1,350,000
1983	\$51,089	\$26,783	\$171,997	\$220,126	\$1,000,000
1984	\$66,028	\$32,674	\$164,434	\$94,887	\$1,370,000
1985	\$78,898	\$56,291	\$236,128	\$208,236	\$1,600,000
1986	\$69,027	\$47,985	\$173,623	\$409,263	\$2,921,000
1987	\$62,985	\$40,892	\$267,096	\$198,081	\$5,030,387
1988	\$77,025	\$61,222	\$240,293	\$117,433	\$4,536,000
1989	\$73,785	\$47,390	\$278,091	\$283,337	\$4,819,427
1990	\$78,877	\$65,266	\$218,622	\$450,031	\$5,741,890
1991	\$63,462	\$57,896	\$255,693	\$240,526	\$4,940,000
1992	\$52,735	\$71,173	\$270,538	\$264,428	\$3,829,968
1993	\$50,393	\$44,898	\$187,496	\$274,279	\$4,019,375
1994	\$61,342	\$51,320	\$221,535	\$298,214	\$5,400,000
1995	\$33,051	\$42,620	\$288,032	\$360,073	\$3,925,000
1996	\$57,567	\$44,644	\$290,363	\$206,494	\$4,930,668
1997	\$48,930	\$40,817	\$256,567	\$375,417	\$4,207,000
1998	\$35,956	\$48,106	\$238,965	\$188,769	\$3,400,404
1999	\$74,535	\$76,363	\$178,471	\$142,361	\$2,383,919
2000	\$36,976	\$33,980	\$180,741	\$147,473	\$3,550,000
2001	\$72,772	\$80,559	\$206,769	\$409,448	\$2,476,049
2002	\$54,293	\$55,359	\$183,647	\$318,832	\$2,916,876
2003	\$113,550	\$110,083	\$249,575	\$330,545	\$4,998,776
2004	\$86,464	\$74,011	\$180,742	\$255,222	\$5,266,000
2005	\$108,349	\$99,592	\$207,205	\$186,606	\$5,543,879
2006	\$58,029	\$60,823	\$153,980	\$146,612	\$2,794,016
2007	\$66,543	\$75,466	\$258,007	\$116,367	\$5,091,366
2008	\$127,022	\$154,103	\$258,140	\$244,644	\$4,136,802
2009	\$78,007	\$94,810	\$240,573	\$133,474	\$4,105,715
All	\$1,911,986	\$1,742,697	\$6,260,052	\$6,968,830	\$107,184,517

Table 3-6. Payment Versus Claim Amount

Year	Total Payment*				
	Claim Amount				
	Under \$500	\$500-\$999	\$1,000-\$9,999	\$10,000-\$49,999	\$50,000 or More
1981	\$13,049	\$14,527	\$47,631	\$88,536	\$213,318
1982	\$31,454	\$13,701	\$48,764	\$113,025	\$297,182
1983	\$33,020	\$15,340	\$88,383	\$60,036	\$248,502
1984	\$45,502	\$18,229	\$85,976	\$25,697	\$285,356
1985	\$54,871	\$34,831	\$158,716	\$20,600	\$607,050
1986	\$38,228	\$23,483	\$63,919	\$108,052	\$733,664
1987	\$25,750	\$18,299	\$72,970	\$17,850	\$1,165,969
1988	\$23,687	\$20,844	\$66,701	\$25,505	\$862,549
1989	\$28,833	\$14,860	\$89,038	\$74,130	\$746,499
1990	\$33,209	\$17,678	\$44,061	\$114,033	\$348,561
1991	\$25,994	\$19,439	\$68,143	\$14,591	\$231,759
1992	\$21,128	\$19,619	\$70,396	\$33,702	\$301,857
1993	\$15,912	\$12,016	\$30,865	\$53,111	\$193,533
1994	\$20,258	\$14,018	\$53,056	\$35,725	\$454,647
1995	\$10,571	\$11,332	\$64,346	\$48,655	\$166,958
1996	\$18,266	\$9,447	\$47,298	\$20,350	\$75,965
1997	\$12,243	\$11,278	\$51,883	\$75,402	\$544,306
1998	\$12,672	\$10,976	\$41,992	\$21,645	\$773,495
1999	\$15,795	\$15,664	\$16,288	\$12,760	\$96,255
2000	\$16,708	\$10,451	\$39,704	\$6,802	\$454,796
2001	\$48,440	\$41,765	\$33,832	\$36,357	\$86,000
2002	\$35,477	\$30,090	\$68,858	\$68,296	\$413,293
2003	\$87,287	\$72,628	\$80,385	\$63,938	\$648,871
2004	\$56,959	\$49,012	\$71,941	\$223,326	\$756,800
2005	\$59,404	\$47,379	\$40,452	\$49,148	\$683,435
2006	\$30,598	\$31,804	\$71,701	\$3,500	\$192,200
2007	\$26,533	\$26,288	\$74,440	\$41,825	\$171,205
2008	\$50,362	\$60,199	\$50,398	\$17,500	\$155,000
2009	\$31,412	\$50,545	\$33,436	\$0	\$500
All	\$923,622	\$735,742	\$1,775,573	\$1,474,097	\$11,909,525

*For claims in which a decision has been made.

Table 3-7. Percent Paid Versus Claim Amount

	Percent of Claimed Amount Paid*				
	Claim Amount				
Year	Under \$500	\$500-\$999	\$1,000-\$9,999	\$10,000-\$49,999	\$50,000 or More
1981	45.9	57.4	52.2	58.5	23.7
1982	68.6	61.6	43.8	57.6	22.0
1983	64.6	57.3	51.4	27.3	24.9
1984	68.9	55.8	52.3	27.1	20.8
1985	69.5	61.9	67.2	9.9	37.9
1986	55.4	48.9	36.8	26.4	25.1
1987	40.9	44.7	27.3	9.0	23.2
1988	30.8	34.0	27.8	21.7	19.0
1989	39.1	31.4	32.0	26.2	15.5
1990	42.1	27.1	20.2	25.3	6.1
1991	41.0	33.6	26.7	6.1	4.7
1992	40.1	27.6	26.0	12.7	7.9
1993	31.6	26.8	16.5	19.4	4.8
1994	33.0	27.3	23.9	12.0	8.4
1995	32.0	26.6	22.3	13.5	4.3
1996	31.7	21.2	16.3	9.9	1.5
1997	25.0	27.6	20.2	20.1	12.9
1998	35.2	22.8	17.6	11.5	22.7
1999	21.2	20.5	9.1	9.0	4.0
2000	45.2	30.8	22.0	4.6	12.8
2001	66.6	51.8	16.4	8.9	3.5
2002	65.3	54.4	37.5	21.4	14.2
2003	76.9	66.0	32.2	19.3	13.0
2004	65.9	66.2	39.8	87.5	14.4
2005	54.8	47.6	19.5	26.3	12.3
2006	52.7	52.3	46.6	2.4	6.9
2007	39.9	34.8	28.9	35.9	3.4
2008	39.6	39.1	19.5	7.2	3.7
2009	40.3	53.3	13.9	0.0	0.0
All	48.3	42.2	28.4	21.2	12.2

* For claims in which a decision has been made

Table 3-8. Summary by County (1981-2009)

County	Total Number of Claims	Number of Claims \$50,000 or More	Amount Claimed	Average Claim Amount	Amount Paid	Percent Paid*
Adair	31	5	\$702,794	\$22,671	\$393,506	48.3
Allen	32	5	\$489,526	\$15,298	\$17,133	3.5
Anderson	45	6	\$645,102	\$14,336	\$153,896	23.9
Ballard	38	2	\$212,706	\$5,598	\$123,998	58.3
Barren	118	9	\$807,639	\$6,844	\$142,331	17.6
Bath	47	11	\$943,206	\$20,068	\$166,930	17.7
Bell	114	15	\$1,809,851	\$15,876	\$159,279	8.8
Boone	715	22	\$2,837,171	\$3,968	\$569,006	20.1
Bourbon	54	6	\$629,939	\$11,666	\$48,158	7.6
Boyd	198	13	\$1,530,699	\$7,731	\$249,628	16.3
Boyle	69	11	\$960,677	\$13,923	\$49,581	5.2
Bracken	13	0	\$8,018	\$617	\$1,798	22.4
Breathitt	60	3	\$409,749	\$6,829	\$15,589	3.8
Breckinridge	59	8	\$897,592	\$15,213	\$114,312	12.7
Bullitt	122	8	\$1,330,763	\$10,908	\$55,605	4.2
Butler	51	1	\$168,131	\$3,297	\$50,266	29.9
Caldwell	47	8	\$768,811	\$16,358	\$143,820	18.7
Calloway	60	9	\$1,116,521	\$18,609	\$51,576	4.6
Campbell	489	19	\$2,231,455	\$4,563	\$264,066	11.8
Carlisle	31	3	\$308,223	\$9,943	\$104,655	34.0
Carroll	101	5	\$551,882	\$5,464	\$14,345	2.6
Carter	91	13	\$1,679,204	\$18,453	\$75,292	4.5
Casey	34	0	\$34,564	\$1,017	\$12,581	36.4
Christian	113	8	\$855,391	\$7,570	\$62,635	7.3
Clark	98	9	\$1,384,379	\$14,126	\$69,503	5.0
Clay	60	3	\$400,500	\$6,675	\$17,269	4.3
Crittenden	12	1	\$104,155	\$8,680	\$1,726	1.7
Clinton	21	6	\$362,997	\$17,286	\$16,939	4.7
Cumberland	21	1	\$107,641	\$5,126	\$84,102	78.1
Daviess	228	8	\$825,113	\$3,619	\$124,590	15.1

Table 3-8. Summary by County (1981-2009) (continued)

County	Total Number of Claims	Number of Claims \$50,000 or More	Amount Claimed	Average Claim Amount	Amount Paid	Percent Paid*
Edmonson	35	3	\$322,565	\$9,216	\$11,398	3.5
Elliott	13	1	\$82,707	\$6,362	\$5,696	6.9
Estill	39	2	\$413,624	\$10,606	\$30,655	7.4
Fayette	522	22	\$2,723,420	\$5,217	\$213,052	7.8
Fleming	79	1	\$157,152	\$1,989	\$15,163	9.6
Floyd	304	39	\$4,182,358	\$13,758	\$593,345	14.2
Franklin	261	10	\$1,477,906	\$5,662	\$106,514	7.2
Fulton	43	8	\$585,542	\$13,617	\$64,746	11.1
Gallatin	76	8	\$651,477	\$8,572	\$137,002	21.0
Garrard	35	4	\$510,529	\$14,587	\$15,918	3.1
Grant	116	9	\$946,420	\$8,159	\$199,194	21.0
Graves	160	14	\$1,476,907	\$9,231	\$190,067	12.9
Grayson	169	16	\$1,607,653	\$9,513	\$287,993	17.9
Green	38	8	\$712,306	\$18,745	\$155,835	21.9
Greenup	134	17	\$1,545,318	\$11,532	\$346,535	22.4
Hancock	27	1	\$109,535	\$4,057	\$8,790	8.0
Hardin	364	25	\$3,195,896	\$8,780	\$198,749	6.2
Harlan	121	22	\$2,605,963	\$21,537	\$657,311	25.2
Harrison	28	3	\$319,722	\$11,419	\$13,741	4.3
Hart	60	4	\$413,339	\$6,889	\$67,537	16.3
Henderson	195	14	\$1,501,795	\$7,702	\$357,094	23.8
Henry	78	3	\$374,313	\$4,799	\$119,986	32.1
Hickman	33	1	\$261,071	\$7,911	\$5,751	2.2
Hopkins	296	19	\$1,871,991	\$6,324	\$189,844	10.1
Jackson	30	3	\$661,266	\$22,042	\$46,749	7.1
Jefferson	3,294	55	\$8,612,155	\$2,614	\$1,253,236	14.6
Jessamine	64	3	\$395,460	\$6,179	\$66,681	16.9
Johnson	76	10	\$1,237,120	\$16,278	\$130,385	10.5
Kenton	734	30	\$3,837,220	\$5,228	\$227,466	5.9
Knott	80	13	\$1,463,051	\$18,288	\$63,477	4.3

Table 3-8. Summary by County (1981-2009) (continued)

County	Total Number of Claims	Number of Claims \$50,000 or More	Amount Claimed	Average Claim Amount	Amount Paid	Percent Paid*
Knox	85	13	\$1,401,737	\$16,491	\$614,084	43.8
Larue	53	3	\$368,066	\$6,945	\$19,801	5.4
Laurel	114	15	\$1,982,099	\$17,387	\$500,304	25.2
Lawrence	48	11	\$1,193,368	\$24,862	\$118,864	10.0
Lee	22	0	\$41,993	\$1,909	\$4,419	10.5
Leslie	55	15	\$1,954,302	\$35,533	\$234,778	12.0
Letcher	79	9	\$1,091,046	\$13,811	\$49,968	4.6
Lewis	62	1	\$149,201	\$2,406	\$35,676	23.9
Lincoln	46	6	\$597,735	\$12,994	\$62,807	10.5
Livingston	37	1	\$125,384	\$3,389	\$8,236	6.6
Logan	79	9	\$1,300,739	\$16,465	\$93,969	7.2
Lyon	41	2	\$205,667	\$5,016	\$8,054	3.9
McCracken	235	13	\$1,396,273	\$5,942	\$232,898	16.7
McCreary	45	1	\$163,387	\$3,631	\$24,396	14.9
McLean	30	3	\$289,409	\$9,647	\$82,383	28.5
Madison	143	17	\$1,833,817	\$12,824	\$213,872	11.7
Magoffin	57	13	\$1,580,876	\$27,735	\$56,150	3.6
Marion	47	2	\$511,229	\$10,877	\$16,303	3.2
Marshall	93	6	\$969,153	\$10,421	\$71,771	7.4
Martin	51	7	\$744,596	\$14,600	\$48,721	6.5
Mason	106	3	\$515,860	\$4,867	\$83,929	16.3
Meade	65	14	\$1,382,572	\$21,270	\$170,480	12.3
Menifee	14	0	\$43,832	\$3,131	\$8,406	19.2
Mercer	47	10	\$1,315,551	\$27,990	\$107,781	8.2
Metcalfe	39	9	\$907,127	\$23,260	\$284,713	31.4
Monroe	45	3	\$301,940	\$6,710	\$62,247	20.6
Montgomery	71	13	\$1,275,335	\$17,962	\$116,122	9.1
Morgan	36	7	\$964,933	\$26,804	\$43,637	4.5
Muhlenberg	204	19	\$2,511,772	\$12,313	\$304,785	12.1
Nelson	92	6	\$1,016,985	\$11,054	\$85,583	8.4

Table 3-8. Summary by County (1981-2009) (continued)

County	Total Number of Claims	Number of Claims \$50,000 or More	Amount Claimed	Average Claim Amount	Amount Paid	Percent Paid*
Nicholas	25	0	\$108,047	\$4,322	\$35,373	32.7
Ohio	121	2	\$301,176	\$2,489	\$26,206	8.7
Oldham	129	6	\$882,323	\$6,840	\$249,942	28.3
Owen	44	1	\$133,659	\$3,038	\$15,490	11.6
Owsley	21	1	\$231,314	\$11,015	\$3,285	1.4
Pendleton	37	4	\$417,814	\$11,292	\$22,745	5.4
Perry	109	21	\$2,349,629	\$21,556	\$327,131	13.9
Pike	421	39	\$4,133,570	\$9,818	\$705,506	17.1
Powell	53	10	\$1,313,508	\$24,783	\$149,093	11.4
Pulaski	156	16	\$2,132,098	\$13,667	\$100,993	4.7
Robertson	7	0	\$26,604	\$3,801	\$21,357	80.3
Rockcastle	55	2	\$435,427	\$7,917	\$68,076	15.6
Rowan	95	10	\$930,546	\$9,795	\$192,525	20.7
Russell	32	3	\$326,882	\$10,215	\$207,191	63.4
Scott	176	12	\$1,701,279	\$9,666	\$218,717	12.9
Shelby	198	6	\$931,779	\$4,706	\$50,607	5.4
Simpson	74	3	\$370,895	\$5,012	\$21,092	5.7
Spencer	34	4	\$338,672	\$9,961	\$104,025	30.7
Taylor	49	8	\$841,219	\$17,168	\$223,043	26.5
Todd	24	1	\$244,091	\$10,170	\$3,579	1.5
Trigg	41	4	\$269,006	\$6,561	\$12,952	4.8
Trimble	36	3	\$466,378	\$12,955	\$67,664	14.5
Union	52	4	\$428,746	\$8,245	\$35,614	8.3
Warren	225	23	\$2,578,230	\$11,459	\$159,376	6.2
Washington	43	3	\$293,194	\$6,818	\$28,489	9.7
Wayne	38	4	\$436,920	\$11,498	\$238,535	54.6
Webster	97	3	\$373,171	\$3,847	\$79,524	21.3
Whitley	155	11	\$1,795,578	\$11,584	\$143,073	8.0
Wolfe	29	5	\$701,832	\$24,201	\$12,945	1.8
Woodford	60	8	\$958,087	\$15,968	\$180,969	18.9

*For claims in which a decision has been made.

Table 3-9. Summary of Number of Claims by Reason for Claim (1981-2009)

Reason for Claim	1981-1984	1985-1989	1990-1994	1995-1999	2000-2004	2005-2009	ALL
Pothole damaged vehicle	115	286	582	1,035	1,603	2,024	5,645
Object in road	100	144	185	219	231	359	1,238
Accident involving KyTC vehicle	246	420	260	66	15	44	1,051
Object thrown from mower	141	368	277	19	9	56	870
Uncovered load	136	231	181	23	5	23	599
Paint striping	164	253	91	12	8	15	543
Falling rock/rock slide	34	98	129	145	85	48	539
Inadequate/improper signs/markings	189	65	87	76	40	56	513
Hit tree limb/falling tree	19	84	75	94	90	70	432
Snow removal/snowplow operations	85	127	64	8	6	78	368
Damaged utility	102	111	65	29	25	31	363
Construction zone/other	12	17	41	53	135	40	298
Inadequate/improper drainage	18	57	89	86	44	27	280
Inadequate traffic control device-Work Zone	33	57	124	33	1	23	271
Break in pavement	18	35	27	23	3	70	176
Accident due to pavement	20	17	40	34	23	39	173
Improper drainage damaged property	21	25	37	18	33	30	164
Hit manhole cover/drain	23	46	31	13	7	29	149
Oil/tar on road	41	62	28	3	3	8	145
Lack of guardrail	6	31	33	29	16	27	142
Traffic signal malfunction-inadequate	7	43	20	33	23	9	135
Pedestrian fall	16	27	43	22	13	13	134
Accident due to debris in road	18	41	39	11	8	11	128
Construction, damaged property	12	30	27	15	7	21	112
Hit object on right of way (clear zone)	11	27	29	17	9	9	102
Object thrown up from road	10	31	24	5	8	13	91
Shoulder dropoff	12	28	19	4	12	13	88
Loose part of bridge deck	14	15	13	13	1	32	88

Table 3-9. Summary of Number of Claims by Reason for Claim (1981-2009) (continued)

Reason for Claim	1981-1984	1985-1989	1990-1994	1995-1999	2000-2004	2005-2009	ALL
Sign fell onto vehicle	13	13	19	20	3	18	86
Shoulder related defect	9	12	21	21	8	10	81
Signal fell	3	13	3	4	0	1	24
Improperly designed curve/ superelevation	1	4	12	3	3	1	24
Object from bridge	2	2	3	2	0	12	21
Pedestrian - other	1	8	6	3	0	1	19
Construction, loss of business	5	2	2	3	1	2	15
Road too narrow	2	0	1	4	6	0	13
Low clearance	6	3	0	0	0	3	12
Hit animal	0	9	2	1	0	0	12
No roadway lighting	0	0	7	0	1	2	10
Detour design	7	0	0	0	0	0	7
Improper speed limit	4	1	2	0	0	0	7
Related to issued license	0	0	1	2	0	0	3
Miscellaneous	45	164	1,305	1,140	140	114	702

Table 3-10. Analysis of Claims by Reason for Claim (1981-2009)

Reason for Claim	Number of Claims	Number of Claims \$50,000 or More	Amount Claimed	Average Claim Amount	Amount Paid*	Percent Paid*
Pothole damaged vehicle	5,645	0	\$2,415,667	428	\$1,084,007	45.2
Object in road	1,238	0	\$934,234	755	\$219,555	24.0
Accident involving KyTC vehicle	1,051	54	\$7,426,461	7,066	\$1,355,993	19.9
Object thrown from mower	870	4	\$647,505	744	\$211,155	32.6
Uncovered load	599	1	\$272,080	454	\$136,038	50.0
Paint striping	543	0	\$179,507	331	\$74,704	44.0
Falling rock/rock slide	539	29	\$4,080,593	7,571	\$421,523	10.9
Hit tree limb/falling tree	432	11	\$2,053,790	4,754	\$599,659	30.1
Damaged utility	363	4	\$1,208,956	3,330	\$242,229	20.9
Inadequate/improper signs/markings	357	188	\$21,554,666	60,377	\$2,110,969	10.8
Improper drainage	321	153	\$16,178,804	50,401	\$2,758,643	17.7
Construction zone/other	298	27	\$3,762,834	12,627	\$619,859	18.4
Snow removal/snowplow operations	232	0	\$123,653	533	\$24,523	20.5
Break in pavement	176	6	\$864,339	4,911	\$55,887	6.6
Accident due to pavement	173	66	\$7,916,666	45,761	\$709,122	10.7
Improper drainage damaged property	170	28	\$3,331,270	19,596	\$524,619	15.8
Inadequate traffic control device- Work Zone	154	77	\$6,918,890	44,928	\$790,463	13.5
Hit manhole cover/drain	149	4	\$623,667	4,186	\$20,015	3.2
Oil/tar on road	146	0	\$96,875	664	\$21,880	22.8
Lack of guardrail	142	116	\$12,845,977	90,465	\$1,125,634	11.3
Spreading salt and/or cinders	136	0	\$37,517	276	\$19,576	52.2
Traffic signal malfunction-inadequate	135	61	\$6,376,738	47,235	\$514,488	8.3
Pedestrian fall	134	27	\$3,307,061	24,680	\$32,442	1.1
Accident due to debris in road	128	35	\$4,227,018	33,024	\$518,196	14.1
Construction, damaged property	112	9	\$1,417,906	12,660	\$189,462	13.4
Hit object on right of way (clear zone)	102	45	\$4,603,485	45,132	\$746,114	16.9

Table 3-10. Analysis of Claims by Reason for Claim (1981-2009) (continued)

Reason for Claim	Number of Claims	Number of Claims \$50,000 or More	Amount Claimed	Average Claim Amount	Amount Paid*	Percent Paid*
Object thrown from road	91	0	\$46,188	508	\$6,030	13.1
Shoulder dropoff	88	67	\$6,687,704	75,997	\$1,294,611	22.6
Loose part of bridge deck	88	0	\$162,141	1,843	\$47,210	29.1
Sign fell onto vehicle	86	1	\$261,472	3,040	\$20,832	8.0
Shoulder related defect	81	40	\$3,907,912	48,246	\$493,555	13.3
Work zone/flagger related	74	11	\$1,203,825	16,268	\$130,723	10.9
Substandard guardrail	72	56	\$5,475,485	76,048	\$733,446	15.7
View obstructed	62	39	\$4,277,227	68,988	\$711,283	16.6
Inadequate signing at stop approach	46	28	\$2,643,312	57,463	\$218,672	8.3
Lack of stop sign	43	37	\$3,633,841	84,508	\$489,875	14.9
Signal fell	24	0	\$25,278	1,053	\$4,571	18.1
Improperly designed curve/superelevation	24	20	\$2,063,218	85,967	\$155,402	7.5
Object from bridge	21	4	\$419,599	19,981	\$51,250	12.2
Pedestrian - other	19	5	\$469,777	24,725	\$1,019	0.2
Construction, loss of business	15	5	\$497,236	33,149	\$42,000	8.4
Road too narrow	13	10	\$1,002,773	77,136	\$3,500	0.3
Low clearance	12	0	\$49,354	4,113	\$3,046	6.2
Hit animal	12	1	\$139,571	11,631	\$1,605	1.1
No roadway lighting	10	9	\$1,202,000	120,200	\$0	0.0
Detour design	7	5	\$291,309	41,616	\$84,920	29.2
Improper speed limit	7	5	\$413,825	59,118	\$6,000	1.4
Miscellaneous	717	8	\$2,064,738	2,880	\$239,925	11.6

*For Claims in which a decision has been made.

Table 3-11. Summary of Reason for Claim into Various Categories (1981-2009)

Reason for Claim	Number of Claims	Amount Claimed	Average Claim Amount	Number \$50,000 or More	Amount Paid*	Percent Paid*
Maintenance Activity	3,138	\$8,751,475	\$2,789	52	\$1,643,923	19.5
Vehicle Operation	1,643	\$7,695,109	\$4,684	55	\$1,490,531	21.1
Road Surface Related	7,944	\$20,575,389	\$2,590	138	\$2,704,005	14.8
Fixed Object	101	\$4,602,985	\$45,574	45	\$746,114	16.9
Barrier	213	\$18,121,462	\$85,077	171	\$1,852,477	12.8
Traffic Control Devices	698	\$34,256,454	\$49,148	314	\$3,350,207	10.6
Shoulder Related	169	\$10,595,616	\$62,696	107	\$1,788,166	18.9
Drainage	489	\$19,404,874	\$39,683	180	\$3,278,062	17.4
Geometric Feature	110	\$7,292,572	\$66,296	68	\$873,231	12.0
Work Zone Traffic Control	225	\$8,033,116	\$35,703	87	\$918,836	13.1
Construction Activity	432	\$5,969,285	\$13,818	46	\$936,241	16.8
Miscellaneous	742	\$3,862,358	\$5,205	23	\$241,799	6.3

* For claims in which a decision has been made.

Table 3-12. Summary by Highway District (1981-2009)

District	Number of Claims	Number \$50,000 or more	Amount Claimed	Average Claim Amount	Amount Paid*	Percent Paid*
1	833	69	\$7,289,450	\$8,751	\$891,643	12.6
2	1,410	89	\$9,836,910	\$6,977	\$1,415,285	15.2
3	722	66	\$7,490,883	\$10,375	\$846,104	11.3
4	1,039	97	\$11,240,051	\$10,818	\$1,413,283	14.5
5	4,152	95	\$14,414,289	\$3,472	\$2,007,579	15.2
6	2,360	101	\$11,961,442	\$5,068	\$1,486,384	14.3
7	1,384	121	\$14,333,575	\$10,357	\$1,454,831	10.6
8	470	39	\$5,041,603	\$10,727	\$1,139,913	25.4
9	850	70	\$7,641,940	\$8,991	\$1,206,747	16.4
10	440	62	\$8,051,290	\$18,298	\$651,310	10.1
11	734	97	\$12,611,296	\$17,182	\$2,373,347	21.7
12	1,059	128	\$14,045,109	\$13,263	\$1,711,055	12.5

* For claims in which a decision has been made.

Table 3-13. Summary of Reason for Claim into Various Categories (1981-2009)

Number in Given Category													
Reason Category	Highway District												
	1	2	3	4	5	6	7	8	9	10	11	12	All
Road Surface Related	208	671	233	412	3,026	1,546	664	113	325	127	282	337	7,944
Maintenance Activity	261	325	184	240	427	345	286	164	224	136	198	348	3,138
State Vehicle Operation	165	153	142	141	282	183	126	62	116	59	84	130	1,643
Traffic Control Devices	41	56	63	76	112	70	97	24	52	18	36	53	698
Drainage	24	31	18	42	48	53	37	28	43	34	54	77	489
Construction Activity	24	21	25	33	114	46	29	25	25	26	25	39	432
Construction Zone-Traffic Control	16	15	11	14	35	33	21	21	10	13	15	21	225
Barrier	11	29	7	21	15	27	23	4	12	15	24	25	213
Shoulder Related	16	19	7	21	17	16	34	6	14	2	6	11	169
Geometric Feature	18	11	7	13	14	9	10	8	2	6	7	5	110
Fixed Object	9	7	6	12	14	12	10	3	4	3	11	10	101
Miscellaneous	73	105	48	57	108	79	88	30	55	29	26	44	742

Chapter 4. Detailed Information for Board of Claims of \$50,000 or More

As noted in Chapter 3, for the time period of 1981 through 2009, there were 1,035 claims in which the amount sought was \$50,000 or more. Of this total, 205 claims referred to another claim so they were multiple claims from a crash. Prior to June 1986, the maximum claim was \$50,000. In 1986, the maximum single award was increased to \$100,000 with a total award of \$250,000 allowed for all claims in a single crash. Starting in July 2000, the maximum single award was increased to \$200,000 with a total award of \$350,000 allowed for all claims in a single crash.

While these claims account for only 6.7 percent of the total claims filed, they account for about 86 percent of the dollar amount sought and 72 percent of the amount paid as of the date of this summary. Also, six percent of these cases remain open as of this date. The 60 open cases of \$50,000 or more represent approximately \$10 million in claims.

An analysis of the claims of \$50,000 or more by the reason for the claim is given in Table 4-1. For each reason, the total number of claims for \$50,000 or more are listed. In addition, the total amount claimed, the average claim amount, and the amount and percent paid for claims for which a decision has been made are given. Up to two reasons could be listed for any claim. There were 1,295 reasons coded for the 1,035 claims of \$50,000 or more.

The largest number of claims, as well as the largest dollar amount claimed, related to inadequate signs or markings, followed by improper drainage. The improper drainage cases typically involved a vehicle hydroplaning and losing control. If the claims related to lack of a stop sign or inadequate signing on a stop approach are combined with the general category of inadequate signs or marking, there was more paid in this area. The amount paid for improper or inadequate drainage was very close to that for signs and markings. Claims related to shoulder drop-off, lack of a guardrail or sub-standard guardrail, hitting an object in the clear zone, view obstructed, and inadequate traffic control in a work zone also resulted in large amounts paid.

There were nine reasons which had an amount claimed of over \$5 million. Of those reasons, shoulder dropoff and inadequate drainage had the highest percentage paid. Claims involving a traffic signal problem and a crash due to a pavement defect had the lowest percentage paid.

A summary of the reason for claims of \$50,000 or more versus highway district is shown in Table 4-2. The reasons listed in Table 4-1 were combined into a smaller number of reason categories.

The largest number of claims was in the general category of traffic control devices followed by drainage and then barriers (guardrail). The highest number of claims related to drainage, road surface condition, and maintenance activity occurred in District 12. There were also several claims involving drainage in Districts 4 and 11. The highest number of claims related to traffic control devices and shoulder related issues were in District 7. The highest number of claims related to barriers and state vehicle operation were in District 2. The largest number of claims concerning a geometric feature (typically obstructed view or improper curve design or

superelevation) was in District 1. The highest number of claims related to traffic control in a work zone was in District 6. The district having the most fixed object claims, which typically involved hitting an object within the clear zone, was District 11. The highest number of claims related to construction activity occurred in District 5.

Counties with the highest number of claims of \$50,000 for specific reasons were identified. Following is a summary of these counties.

- Floyd and Kenton County each had 10 claims involving signs and markings followed by Bath County with nine claims.
- Pike County had the highest number of drainage claims with 11 followed by Greenup County with nine and Floyd with seven.
- Hopkins and Muhlenberg Counties each had 10 claims dealing with guardrail.
- Jefferson County had 21 claims concerning a work zone claim followed by Floyd County with nine.
- The largest number of shoulder-related claims was eight in Muhlenberg County followed by six in Boone and Pike Counties.
- Counties having the most claims dealing with a pavement defect were Jefferson County with seven followed by six in Magoffin County and five in Pike County.
- Jefferson County had the most traffic signal related claims with six followed by five in Fayette and Floyd Counties.
- The highest number of claims involving limited view was five in Hardin and Henderson Counties.
- Carroll and Jefferson Counties had the highest number of claims related to an object in the clear zone with four.
- Caldwell and Warren Counties had the highest number of claims related to a crash involving a Transportation Cabinet vehicle with four.
- The highest number of claims concerning a rock slide was seven in Pike and Rowan Counties.
- Floyd County had the highest number of claims involving debris on the road with four followed by three in Harlan County.

A detailed description of each of these claims of \$50,000 or more is given in Appendix E. The county and route where the crash occurred was obtained along with the amount sought and amount awarded. A more detailed explanation for the basis of the claim is given. This information describes the alleged negligence that led to the claim. In some instances, comments giving more detailed information related to the claim are included.

Table 4-1. Analysis of Claims for Claim Amount of \$50,000 or More

Reason for Claim	Number of Claims	Amount Claimed	Average Claim Amount	Amount Paid*	Percent Paid*
Inadequate/improper signs/markings	188	\$20,892,689	\$111,131	\$2,014,214	10.8
Inadequate/improper drainage	153	\$14,963,976	\$97,804	\$2,500,057	17.4
Lack of guardrail	116	\$12,625,000	\$108,836	\$1,093,804	11.2
Inadequate traffic control device- Work Zone	77	\$6,589,068	\$85,572	\$693,010	12.5
Shoulder dropoff	67	\$6,549,968	\$97,761	\$1,206,863	21.6
Crash due to pavement defect	66	\$7,351,890	\$111,392	\$576,537	9.5
Traffic signal malfunction- inadequate	61	\$6,094,375	\$99,908	\$481,112	8.2
Substandard guardrail	56	\$5,448,334	\$97,292	\$729,526	15.7
Crash involving KyTC vehicle	54	\$5,480,520	\$101,491	\$542,276	11.0
Hit object on right of way (clear zone)	45	\$4,534,000	\$100,756	\$737,947	17.0
Shoulder related defect	40	\$3,775,000	\$94,375	\$477,345	13.4
View obstructed	39	\$4,159,427	\$106,652	\$701,687	16.9
Lack of stop sign	37	\$3,600,000	\$97,297	\$486,425	15.0
Crash due to debris in road	35	\$3,850,000	\$110,000	\$437,643	13.3
Falling rock/rock slide	29	\$3,052,800	\$105,269	\$259,216	9.1
Inadequate signing at stop approach	28	\$2,562,875	\$91,531	\$210,322	8.2
Improper drainage damaged property	28	\$2,335,271	\$83,403	\$239,400	10.3
Construction zone/other	27	\$3,203,742	\$118,657	\$478,500	17.1
Pedestrian fall	27	\$2,915,000	\$107,963	\$9,675	0.4
Improperly designed curve/ Superelevation	20	\$2,050,000	\$102,500	\$153,902	7.5
Hit tree limb/falling tree	11	\$1,292,312	\$117,483	\$430,442	35.0
Work zone/flagger related	11	\$1,100,000	\$100,000	\$85,764	7.8
Road too narrow	10	\$1,000,000	\$100,000	\$3,500	0.4

Table 4-1. Analysis of Claims for Claim Amount of \$50,000 or More (continued)

Reason for Claim	Number of Claims	Amount Claimed	Average Claim Amount	Amount Paid*	Percent Paid*
No roadway lighting	9	\$1,200,000	\$133,333	\$0	0.0
Construction, damaged property	9	\$785,000	\$87,222	\$56,000	7.1
Miscellaneous	8	\$925,500	\$115,688	\$10,800	1.2
Break in pavement	6	\$571,000	\$95,167	\$3,000	0.5
Pedestrian – other	5	\$450,000	\$90,000	\$0	0.0
Construction, loss of business	5	\$400,404	\$80,081	\$40,000	10.0
Improper speed limit	5	\$400,000	\$80,000	\$3,000	0.8
Detour design	5	\$250,000	\$50,000	\$51,895	20.8
Damaged utility	4	\$706,366	\$176,592	\$59,866	8.5
Hit manhole cover/drain	4	\$500,000	\$125,000	\$7,000	1.4
Object from bridge	4	\$400,000	\$100,000	\$50,000	12.5
Object thrown from mower	4	\$350,000	\$87,500	\$113,400	32.4
Sign fell onto vehicle	1	\$200,000	\$200,000	\$0	0.0
Hit animal	1	\$100,000	\$100,000	\$0	0.0
Uncovered load	1	\$50,000	\$50,000	\$50,000	100.0

*For claims in which a decision has been made.

Table 4-2, Reason Versus Highway District for Claims \$50,000 or More (1981-2009)

Number in Given Category													
Highway District													
Reason Category	1	2	3	4	5	6	7	8	9	10	11	12	All
Traffic Control Devices	15	23	38	38	26	30	50	9	28	9	17	31	314
Drainage	7	10	9	21	9	17	15	9	11	13	21	38	180
Barrier (guardrail)	8	27	6	17	10	25	19	3	12	12	19	13	171
Road Surface Related	7	3	5	8	18	15	11	2	10	21	15	23	138
Shoulder Related	13	15	5	12	5	14	20	2	6	2	3	10	107
Construction Zone-Traffic Control	9	5	1	5	11	16	9	9	0	4	5	13	87
Geometric Feature	14	6	6	13	6	5	5	4	1	3	3	2	68
State Vehicle Operation	5	12	10	1	8	5	3	4	1	1	3	2	55
Maintenance Activity	2	2	0	1	1	0	1	3	10	6	12	14	52
Construction Activity	2	2	2	4	14	6	4	1	3	0	7	1	46
Fixed Object	5	1	0	6	4	6	3	2	2	0	8	6	43
Miscellaneous	1	2	1	0	2	6	4	0	1	2	1	3	23
Total	88	108	83	126	114	145	144	48	85	73	114	156	1,284

Chapter 5. Summary, Conclusions and Recommendations

Summary and Conclusions from Analysis

The analysis of almost 30 years of Board of Claims data involving the Transportation Cabinet result in the following conclusions.

- The number of claims has not increased over the past several years. The average annual number of claims is about 530 with the highest number in 2008. The largest number of claims in any three-year period was 2003 through 2005.
- The dollar amount claimed has not increased over the past several years. The average annual amount of claims is about \$4.3 million with the highest claim amount in 1990.
- The average annual amount paid (for decided claims) has been about \$575,000. Adding an amount representing an expected payment for unresolved claims would increase this amount to slightly over \$600,000.
- The increase in the allowed claim amount has not resulted in an increase in the average claim amount with the largest average claim amount in 1995.
- The percentage of the claim amount paid is low (about 15 percent). The highest percent paid was in the 1980's.
- Over one-half (58 percent) of the claims were under \$500.
- While only about seven percent of the claims were for \$50,000 or more these 1,035 claims represent about 86 percent of the total amount claimed.
- Almost one-half of the claims have some payment with the percent paid decreasing dramatically as the amount of the claim increase (from 48 percent for claims under \$500 to 12 percent for claims of \$50,000 or more).
- The increase in the allowed claim amount has not resulted in an increase in the number of large dollar amount claims. The highest number of claims of \$50,000 or more was 60 in 1990 with the lowest number 17 in 2006.
- The highest number of claims was in Jefferson County with the lowest number in Robertson County.
- The highest number of claims of \$50,000 or more was in Jefferson County (followed by Floyd and Pike Counties) with six counties having none of these claims.
- The counties with the highest claim amounts were Jefferson, Floyd, and Pike.
- The county with the highest amount paid was Jefferson County followed by Pike County.
- Considering all claims, the most common reason given has been for a low claim amount for damage resulting from a pothole (about 35 percent of all reasons with an average claim amount of \$428).
- Considering the larger claim amount (\$50,000 or more), the most common reason relates to an alleged problem relating to traffic signs (about 14 percent of all reasons with an average claim amount of over slightly over \$100,000).
- The reason for the claim with the largest amount paid was inadequate drainage followed by inadequate or improper signs or markings, crash involving a Cabinet vehicle, shoulder dropoff, and lack of guardrail.

- The largest total number of claims was in District 5 with the fewest in District 8 while the largest number of claims of \$50,000 or more was in District 12 with the fewest in District 8. The highest amount paid was in District 11 with the lowest amount paid in District 10.
- For the reasons with the largest amount paid, shoulder dropoff and inadequate drainage had the highest percentage paid.
- The highest number of large claims related to drainage, road surface condition, and maintenance activity occurred in District 12.
- The highest number of claims related to traffic control devices and shoulder related issues were in District 7.

Recommendations for Implementation

Based on the results of the data analysis and the review of the background material, the following recommendations are made for consideration. Many of the recommendations deal with various types of documentation.

- Provide training related to risk management
- Develop and maintain a detailed database of claims including the reason for each claim and the results
- Provide each highway district with an annual summary and analysis of claims filed in their district
- Develop and maintain a traffic sign inventory
- Identify and investigate high crash locations and document results from all investigations
- Use road safety audits as a method to evaluate safety features of a roadway section
- Continue to implement a guardrail installation priority program
- Continue to implement the work zone safety and mobility policy
- Document complaints and their resolution
- Provide training for personnel involved in installing signs and pavement markings
- Ensure that the resurfacing program results in proper roadway cross-section and does not result in a shoulder dropoff
- Review fatal crashes where a roadway feature is listed as a contributing factor
- Delineate objects such as culvert headwalls in the clear zone
- Document maintenance activities
- Review terminology used in agency documents
- Review standards and policies
- Document design exceptions
- Document decisions made in the design, construction, and maintenance processes
- Remove non-crashworthy objects and traffic signs placed by businesses or individuals on state right-of-way
- Use a consistent policy for the placement of signing at the intersection of state and local roads
- Establish a sign maintenance program to comply with reflectivity requirements
- Maintain a roadway inventory system

- Maintain relationships with police agencies to ensure proper coding of roadway-related contributing factors and notification when the police officer believes the Cabinet should investigate the factors contributing to a crash
- Continue to investigate all crashes involving a Cabinet vehicle

Appendix A. Risk Management Principles

A successful risk management program involves the implementation of both risk finance and risk control techniques. A risk management program is desirable and necessary to achieve the following three important goals:

1. minimize the potential number of lawsuits being filed,
2. minimize the number of lawsuits lost, and
3. minimize the damages from lawsuits lost.

From the standpoint of achieving these goals, several desirable elements should be considered when developing a risk management program. Risk finance techniques are generally most useful in achieving the third goal: minimizing money damages to the agency from lawsuits lost. Risk control techniques, on the other hand, are useful in achieving all three of the goals. Following is a discussion of various risk control measures and their applications in a successful risk management program.

It must be remembered that achieving these goals will result in the ultimate objective of reducing crashes and the resulting injuries. The best method of reducing lawsuits against transportation agencies as a result of a traffic crash is to prevent the crash.

Crash Reduction Program

A risk management program must include a procedure to reduce crashes, injuries and fatalities. While all traffic crashes cannot be eliminated, the attempt must be made to decrease the number of collisions by altering the roadway environment. Specifically, an emphasis should be placed upon improving situations and locations which have demonstrated a potential for high risk.

The Kentucky Transportation Cabinet has a Highway Safety Improvement Program (HSIP) to address high crash locations. The HSIP is a data-driven, strategic approach to improving highway safety with a focus on results. It includes construction and operational improvements on high-risk rural roads and elimination of hazards at railway-highway grade crossings. Examples of areas included in the program are improvements at high crash intersections and curves.

Another method used by the Cabinet to reduce crashes is through the Kentucky Strategic Highway Safety Plan (SHSP). Emphasis and focus areas have been identified with committees formed to address these areas. The SHSP creates an integrated and strategic highway safety management program that is data-driven and performance-based.

The crash reduction program might proceed in the following manner:

1. ensure that local police know why crash data is needed, that crash reports are correctly filled out, and that they are filed in a manner that facilitates cross classification and retrieval (this includes accurate identification of the crash location),

2. identify high-crash locations,
3. analyze patterns of crash types and causes at these locations,
4. develop alternative corrective measures for each site and determine the most cost-effective treatment,
5. develop a priority list among competing sites and program corrective actions based upon the list,
6. erect warning signs at sites which cannot immediately be repaired or take routine maintenance actions to improve safety at the site,
7. review projects after completion,
8. periodically reassess the priority list and the need for warning or minor improvements at sites not completed, and
9. maintain records documenting all portions of the program.

High crash locations can be identified by reviewing the crash data. Computer programs are used in crash reduction efforts. This includes calculating crash rates for state routes and identifying high crash locations. This data is routinely provided to cabinet employees or public officials.

Once the high-crash situations or locations are known, patterns of crashes should be identified and matched to causes if possible. This may be as simple as reviewing a few crash reports to determine the types of crashes occurring at an intersection, or it may require using supporting data (collision diagram, condition diagram, traffic counts, warrant analysis, summary of key facts, field observations, etc.) for complex locations. Processes for matching corrective measures to crash patterns, and for choosing the most cost-effective improvements, are well documented.

In addition to examining individual crash locations, it may be prudent to develop programs to remedy system wide deficiencies. For example, the Transportation Cabinet has a procedure to prioritize locations where guardrail may be installed. This procedure uses a ranking procedure to determine an order to install guardrail (based on a rating system using several variables). The defense for a claim involving lack of a guardrail cannot be solely that sufficient funds were not available to install guardrail at all locations where guidelines show a guardrail could be placed. However, a reasonable defense is that a procedure has been developed to install guardrail, using available funding, at locations where the most benefit can be obtained.

In summary, good crash reduction programs may take many different forms. Discretion should be exercised in devising a program to fit the local situation. Good programs share several characteristics:

1. complete crash reporting (including an accurate method to identify the crash location),
2. periodic review of crash data,
3. identifying areas and situations of high risk,
4. corrective actions are directed where they will provide the most benefit,
5. a program of improvement is developed to optimize use of resources (establishing a rational priority system for making safety improvements is important in spending safety funds wisely),
6. motorists are warned of known defects until they are repaired,
7. completed projects are evaluated, and
8. documentation is maintained.

Routine inspection of "high-exposure" crashes, those that have a high probability of a lawsuit, is one method of preparing for suits and of gaining direct knowledge of crash situations. This is also a good way of minimizing the problems associated with attempting to recreate crash scenes many months after the date of the crash. Defendants may not learn that they are being sued until it is too late to gather first hand knowledge of the scene. A question that must be addressed is, "what is a high-exposure crash?" Any crash that results in a death or major injuries has a much higher potential for lawsuit activity than one involving only minor injuries or property damage. Each public entity will have to decide which crashes warrant immediate investigation. As a general rule, all fatal crashes should be considered as "high-exposure" accidents. Injury crashes will need to be dealt with on an individual basis.

Other "high-exposure" crashes are identified by the conditions of the crash. If much publicity is provided, the potential for lawsuit activity will be increased. If a specific claim of a roadway deficiency is made by a witness, the investigating officer, or by an individual involved in the crash, the potential of lawsuit activity will be increased. Comments such as the following indicate the potential of a future lawsuit.

- There was a shoulder drop-off that caused me to lose control of my vehicle.
- There were no signs warning me of the problem.
- The construction signs confused me.
- I hit a pothole and lost control and hit the other car.
- This is the 10th crash I have investigated at this location this year.
- I hit the puddle of water and lost control.
- The weeds were so tall I could not see anything traveling down the road.
- The traffic signals were apparently showing green in all directions.

Notice of a Defect

Once a public entity has notice of a defect, a duty arises to repair it or to warn the public until it can be repaired. As previously described, notice can be obtained in three ways (actual notice from a complaint call; constructive notice after a defect exists for an unreasonable amount of time, and notice resulting from the entity's own actions).

All public employees should be trained to look for defects and to report them promptly. Provisions should be made for immediate response and for warning the public until the problem can be resolved.

Action On Complaints

A procedure should be established for receiving complaints, and if possible, a single person in an organization should be designated to receive and handle them. Upon receiving a notice of a defect, this person should:

1. record key information as required by the complaint form,
2. determine the severity of the defect and the appropriate response action,
3. determine the nature of the complaint:
 - a. routine - file a normal work request,
 - b. critical - call for a maintenance crew to investigate and repair the problem,
 - c. questionable or unknown - call for (or perform) a field visit to confirm the nature of the problem, and
4. if needed, call for law enforcement control.

The person handling complaints, and a sufficient number of backup personnel, should receive detailed training. Experience and good judgment are desirable characteristics for these persons to possess.

It is advisable to adopt a standard procedure for handling complaint calls, and to adopt a standard data form to record the following key information:

1. time the complaint was received,
2. contact information for the person who made the complaint,
3. time the maintenance crew received notice,
4. time the crew responded,
5. time the repair was completed,
6. any problem found by maintenance personnel,
7. repairs that were made, and
8. materials which were used.

The forms should be prepared in a timely manner, completed, dated, signed, and filed in a reasonable manner. It is important to maintain records of complaints and response actions. A periodic review of these files should be made to ensure that corrective actions have been completed, and to analyze patterns, etc., in order to improve agency response.

Though the documentation of defect notices is important, caution should be exercised in the written description of such complaints. The description should be as objective as possible. Words such as "hazardous" or "unsafe" should be used sparingly or avoided. Only facts should be recorded, not opinions. The documentation should be prepared in such a way that its authenticity and authorship may be easily demonstrated.

Maintenance Records

One of the most important aspects of risk management is proper maintenance record keeping. Standard forms may be used for acquiring and storing pertinent information for routine maintenance, response to complaints, and gathering information on defects.

Highway agencies regularly perform routine preventative maintenance. Checklists may be used to include items to be checked at each site. These forms should include remarks by work crews and the date. The location and type of work must be identified. They should be filed for future reference.

Recording and/or documenting agency actions are useful in the following situations:

1. justification for discretionary decisions,
2. complaints,
3. maintenance/repair activities, and
4. roadway inventories.

Inventories

A traffic control device inventory is a very useful way to minimize liability suits. It should locate and identify devices, find unnecessary devices which should be removed, note those that need replacing due to age or wear, and serve as the basis for a continuing maintenance/replacement program. An example of a need for an inventory is the MUTCD requirement to maintain minimum reflectivity for traffic signs. All agencies must establish a sign maintenance program to comply with the reflectivity requirements.

Where defective devices are noted, the public should be warned until the defect can be repaired. The warning should not be considered as a permanent substitute for remedial action.

The control device inventory should be updated as a continuing review. The entity should attempt to find and replace defective devices before constructive notice occurs. As old devices are replaced or new devices installed, records should be changed. As defective devices are identified, the inventory should be coded to indicate the need for correction.

A roadway inventory system is another effective tool which usually contains information about roadway conditions and the general roadway environment. Such a file would include such basic roadway information as the number of lanes, roadway alignment, access control, and cross-section information (lane width, shoulder width, clear zone, etc.).

Other types of inventories are also useful in court. Video-logging and photo-logging are two methods of obtaining roadway inventories. Such documentation methods are advantageous for two reasons:

1. obtaining a large amount of information quickly and economically; and
2. pictorial information is more easily understood by lay persons on a jury than are engineering plans and diaries.

This form of documentation requires timeliness to be useful. If the roadway has changed appreciably since the photo-logging activity, the photographic information should be updated to restore its usefulness.

Operational Reviews

Public entities are generally immune to liability related to the design of a highway, where the design is prepared in conformity with established current standards and approved in advance by a

public authority. However, this immunity does not last forever. Changed conditions can demonstrate the need for additional or remedial action. Using outdated standards can also lead to liability.

Operational reviews are used in several situations. First, a review may be conducted after completion of construction to determine if the design is functioning properly and to look for unexpected adverse effects. Another review should be performed after traffic has had an opportunity to stabilize and to become familiar with operating on the new facility.

A third type of operational review is a periodic examination of sample sites throughout the jurisdiction. Representative sites should be selected based upon crash history, complaints, geographic balance, and other criteria.

The purpose of the operational review is to check basic design and traffic control elements. If changed conditions have produced a dangerous condition, the hazard should be investigated. Where corrections could produce substantial improvements, they should be programmed. It may be necessary to modify or improve design standards if operational reviews indicate that another design technique would be more appropriate.

Another type of review would be during construction projects. After traffic control is established, a review should be made to ensure that the control gives proper advance warning, directions, and visibility of the work area to motorists. Driving through the work zone and monitoring the devices are methods of conducting operational reviews.

Safety audits are being conducted as an operational review. Multi-disciplinary teams are used to evaluate roadways related to proper design, maintenance, and the use of proper traffic control devices.

Qualified Staff

A critical consideration in any public agency's risk management program is to provide qualified and capable personnel to perform agency duties in a responsible manner. It is generally held that public agency employees owe a duty to the public to provide a reasonable "standard of care." If such care is not exercised, the agency or responsible employees may be held liable for such conduct. Obviously, if an agency is operating with unqualified, incompetent personnel, it will be more difficult to provide a reasonable standard of care.

As a minimum, employees are generally expected to follow guidelines and procedures which have been adopted by the agency. Such documents generally contain information ranging from design criteria to operational policies to procedures for periodic reviews. Strict adherence to such guidelines, standards, and policies will not absolutely guarantee against tort claims. In a court of law, however, testimony to the effect that rules and guidelines were being followed will help prove "reasonableness" that a person would follow such rules. It may be necessary to provide training to ensure employees are aware of their responsibilities.

Educational Programs

The first aspect of a good educational program involves the public. There is a need to gain public support for the governmental unit's crash reduction program, which should be perceived as a high priority item. The consequences of sign vandalism, techniques for reporting defective devices, and the "cost" of traffic law suits are examples of items which might be kept before the public.

The second part of the educational program would include government employees. Since the courts consider them agents of the transportation department, they need to be aware of their roles as observers and reporters of defects. They might be informed of how to submit a report of a defect, and of the importance of prompt reporting.

Employees of the transportation agency need to be aware of the total safety effort. A crash reduction program or a risk management program will not be fully successful until transportation employees understand it and adopt it as their own. They must feel responsible, involved and useful in the program.

A good educational program must include both initial training and periodic updating. New employees should be trained and existing employees should be updated through continuing education activities.

Standards and Guidelines

One way to minimize risk of liability is to operate within accepted standards and guidelines. In a liability suit, the standard may be introduced as defense to show that the entity took reasonable action. Merely going by the book does not guarantee freedom from liability however. The courts have held that on occasion action beyond the standard is required to create "a reasonably safe condition." For example, a city using MUTCD signal clearance intervals lost a suit because they failed to consider that the signal had a heavy volume of high-speed trucks on a downhill route which might need a longer clearance. The same principle applies to construction, maintenance, and other standards.

Adopting a standard is a good way to define the performance level for the local entity, but failure to adhere to adopted standards or guidelines constitutes negligence. Therefore, the standards should be kept current, realistic, and obtainable. Also, the wording and terminology used in agency documents must be reviewed. Avoid standards with wording such as "shall" when more general guideline wording is appropriate.

Review of Agency Standards and Policies

The adoption of relevant standards, policies, and manuals by an agency is necessary and useful to:

- define the manner in which activities are to be performed and
- insure a consistent degree of quality and safety for work performed by the agency.

These documents may serve a useful purpose in court, if it can be shown that the agency was adhering to them. On the other hand, if written policies and procedures are not followed, it will be relatively easy for a plaintiff's attorney to establish that a reasonable standard of care was not exercised. Therefore, a periodic review of all relevant documents or manuals adopted by the agency should be undertaken.

One reason for such a review is to determine if the terminology and wording, which may have been appropriate at the time the document was written, continue to be applicable. Manuals have often been written with strong language to stimulate procedures of higher quality. In terms of application, little or no leeway was given to achieve general compliance. Now that much of the desired improvement seems to have come about, tort liability is a major concern. The strong language may make an agency extremely vulnerable to lawsuits.

Four important points to consider when reviewing agency policies are the following:

1. Are the documents useful and needed?
2. Are the documents current and consistent with present policy?
3. Are the documents written from a defensive standpoint?
4. Are the documents imposed as required "standards" or as general guidelines?

From a liability standpoint, the fourth point may deserve special consideration. It has been suggested that terms such as "standards" or "warrants" may serve as potential traps. It will likely be difficult to convince a jury that any deviation from such a document was prudent or reasonable. The use of terms such as standard or warrant should be carefully scrutinized, and in most cases avoided. "Guidelines" would be considered as the preferred terminology.

Regardless of whether a document is a standard or a more general guideline, any deviation from such a document may pose problems in terms of convincing a jury that the deviation was a correct engineering decision instead of an omission or oversight. The most important consideration is to provide adequate documentation of such discretionary decisions to show that a conscious decision was made and that guidelines were not merely disregarded.

Design Exceptions

An example of the use of discretion in the design and construction of highways is the use of design exceptions. Research has shown that past design exceptions have not resulted in a crash problem at the locations where they were implemented. However, proper documentation of the basis for the design exception is important. A file is maintained for each design exception and should include the justification for the exception.

Kentucky has a formal procedure to document the request and approval of a design exception. The documentation materials include: a description of the project, the design criteria, a description of the exception requested, and the reason for requesting the exception. The amount of information related to any specific exception varies from only the Design Executive Summary form to detailed background information.

Context Sensitive Design

Another example of the use of discretion in the planning and design of highways is the use of Context Sensitive Design (CSD). CSD is defined as the project development process, including geometric design, which attempts to address safety and efficiency while being responsive to or consistent with the road's natural and human environment. This concept encourages the use of flexibility as part of the geometric design of roadways. It recognizes that many of the manuals used by highway designers contain guidelines, rather than strict standards, and engineering judgment can be used to construct a road which provides safety to the user while maintaining the natural and human environment.

There have been many examples of the use of CSD across the nation, including Kentucky. The results show that safety can be attained while modifying traditional design concepts. Of course, it is important to document the basis for all decisions made which deviate from typical design.

Appendix B. Description of Trial Process

The United States system of government has selected courts as the primary means of resolving conflicts. The basic function of the court is to apply law to the facts. The facts are determined by a jury, if one is used. If a jury is not used, the court also serves as the finder of the facts. In Board of Claims cases, the hearing officer makes the decision. In any lawsuit there are two parties involved, the plaintiff and the defendant. The plaintiff makes the original complaint against the other party. The other party thus becomes the defendant.

Engineers and other public employees facing the threat of lawsuits should develop a legal mind set and should learn legal philosophy. Monitoring changes in legal theory, and understanding the rationale behind legal processes helps strengthen the employee's defenses against possible suits. A key to coping with litigation is an understanding of the role of the employee and attorneys. For an engineer, "truth" is related to design accuracy and standards, modified by conservative safety factors. For an attorney in a civil matter, truth rests on "a preponderance of evidence," theoretically only a small favorable margin. Trial attorneys are familiar with their adversarial roles, with public debate, and with the courtroom procedures. Engineers have not been trained in these skills and are at a disadvantage when called to the courtroom and faced with lawyers trained to discredit them.

Employees of transportation entities and attorneys also have different allegiances. The employees are responsible to their employer and to society for their decisions. While attorneys are responsible to society according to a professional code, their primary duty is to their clients.

Initiating a Trial or Claim

The purpose of pleadings in civil actions is to define the issues of the lawsuit. The plaintiff files with the clerk of the court a pleading usually called a complaint. The clerk then issues a summons (a warning or citation to appear in court) which, together with a copy of the complaint, is served on the defendant. The summons notifies him of the date by which he is required to either file a pleading in answer to the allegations of the complaint, or file some other pleading attacking the complaint.

In Board of Claims cases, the case is started when the plaintiff files a claim form with the Board of Claims. The form identifies the claimant's name, the state agency involved with the incident, the date and time the incident occurred (must be filed within one year), where the incident occurred, a description of the incident and resulting damage, and in what way the state agency or employee was at fault.

During the initial stage of a trial or filing of a claim, attorneys attempt to provide the soundest possible position for their clients. Many Board of Claims actions involve a very small claim where an attorney is not used. At the request of the attorneys, the court may be asked to decide numerous pre-trial matters. These are presented to the court in the form of motions (e.g., motion to dismiss based on the pleadings, motion to compel disclosure, motion to suppress evidence, etc.).

Many lawsuits are decided without a trial even though the pleadings create issues of fact. The claim may be settled through an agreement between the parties or through arbitration. A summary judgment may result when there is no genuine issue as to any material fact in dispute. If there are no facts in dispute, the only issue before the court is the legal effect of those facts. This can be decided without a trial.

The Discovery Phase

Discovery is a process sanctioned by the court in which the attorneys representing each party gather information about the case. It is designed to reveal strengths and weaknesses of the case and thereby permits appraisal of settlement potential. In addition, it enables orderly and effective organization and presentation of the case. The court has the power to require an attorney for one party to respond to a request from the other party's attorney, under the threat of contempt of court.

There are four techniques commonly utilized to gather information during discovery:

1. Interrogatories: These consist of written questions about the case submitted by one party to the other party.
2. Requests for admissions: Written statements of fact are addressed to one party by the other party, with a demand for admission of such statement of fact.
3. Depositions: Procedures have been established for oral questions to be asked by an attorney to other parties, witnesses, or experts, with the answers given under oath. A transcript is made by a court reporter.
4. Production of documents: This is a procedure for requesting and obtaining from the other party written material, such as correspondence, memoranda, logs, diaries and inspection sheets, plans, drawings, maps, photographs, and data, including computer storage.

The Trial or Hearing

As with the discovery phase, the actual court proceedings are well defined in Kentucky. Following is the trial sequence.

1. jury selection (if a jury trial)
 - a. challenges for cause
 - b. preemptory challenges
2. opening statements of counsel (not evidence)
3. plaintiff's case
 - a. witnesses: direct examination
 - b. witnesses: cross examination
 - c. documentary evidence
4. defendant's case (same sequence as plaintiff's)
5. closing statements of counsel (not evidence)
6. jury instructions by court (if a jury trial)
7. jury deliberations and verdict (if a jury trial)
8. judgment of court

The first step of the trial is to select the jury. Potential jurors selection is known as venire. They are selected by a method in which the court and the attorneys for each party examine the jurors' qualifications to ensure that they will be fair and impartial in reaching a verdict. A Board of Claims case involves a hearing officer rather than a jury.

Next, the attorneys make opening statements, which are used to familiarize the jury (or hearing officer) with the essential facts in the case that each side expects to prove, so that the jury (or hearing officer) may understand the overall picture and the importance of each piece of evidence as presented.

After the opening statement, the plaintiff presents his evidence by means of examination of witnesses and production of documents and other exhibits. The party calling a witness questions him to establish facts about the case. After the party calling the witness has completed his direct examination, the other party is given the opportunity to cross-examine the witness. Cross-examination is limited to those matters that were raised on direct examination. After cross-examination, the party calling the witness again has the opportunity of examining the witness, and this examination is called redirect examination. It is limited to those matters covered on cross-examination and is used to clarify matters raised on cross-examination. After redirect examination, the opposing party is allowed to re-cross-examination, with the corresponding limitation as to the scope of the questions.

The defense presents evidence after the plaintiffs evidence has been completed, using the same procedure. Finally, each side summarizes its case through closing arguments, and the judge outlines the points of law which are applicable to the case. The jury (or hearing officer) retires to determine the facts of the case and then delivers the verdict.

Post-Trial Activities

One aspect of risk management that should not be overlooked occurs after the trial or hearing. The trial or hearing should be analyzed to determine if a problem area has been identified which has the potential for additional future liability against the government.

It is important to collect data on the number of claims and losses, and the categories in which the losses occur. The objective is to classify functional areas and geographic locations that are most likely to generate lawsuits and large judgments. Once such problems are recognized, it makes sense to target resources into improving those facilities for which the agency is most vulnerable.

Selecting Cases to Appeal

The basis for appealing a court decision is an alleged error in trial procedure or application of the law. The finding of the facts of the case can not be appealed. Where the award is small, it is impractical to be concerned about an appeal, even if it appears that it could be won. Cases that result in large awards should be reviewed and, where there appears to be a valid basis for appeals, such action should be undertaken.

There is a more important criterion for appeal which must be considered. Adverse court decisions can build up a body of case law that may substantially affect governmental liability in the transportation area. A well-conceived loss-mitigation program will carefully select those cases for appeal that will set adverse precedents. This approach may be far more beneficial in the long term than merely focusing on those cases involving large monetary verdicts.

Appendix C. Trial Preparation and Involvement

Kentucky government managers and employees may expect to be involved in several tort liability suits over the next few years. They will be required to spend substantial time preparing for and defending these suits. In addition, employees may be called upon as third parties to testify as expert witnesses to items such as which standards governed a crash location. This appendix provides practical advice on how to prepare for and handle these situations.

Release Of Information to Attorneys

During the initial stages, the plaintiff's attorney is trying to decide if he has a case, how strong his case is, and who to sue. The attorney (or an investigator) may visit the transportation agency's office to obtain general information or to begin to gather evidence.

Public records in Kentucky are subject to the Open Records Statute (KRS 61.850 to 61.884). Documents handled by members of the Kentucky Transportation Cabinet come under this act, with a few exceptions (such as some types of negotiations while in progress, some types of personnel investigations, etc.). The public is allowed to inspect and copy documents as part of the statutes.

Administrative regulations have been prepared to carry out the intent of this legislation. Each department of state government is required to appoint a "records custodian." The administrative regulations require persons seeking information to make their request to the custodian in writing. The custodian then either releases the information or serves notice that the information cannot be made available.

When approached for information, the request should be referred to the records custodian. The custodian may then request that the information be provided to a person or group. A record should be kept of information dispensed in this manner in case a suit develops. It may be appropriate to notify agency attorneys if it is apparent that information is being gathered for a claim.

The attorney's request must be reasonable. Where the request is specific and the attorney knows what is desired, it should not be difficult to provide the information. Often times this is not the case, and an attorney may be needed to deduce the information requested.

At some point, it may become obvious that the attorney does not know what is needed and is trying to obtain information upon which to begin a case. Normally, a response is not required to these types of questions. An agency attorney should be consulted when this is the situation.

Attorneys are generally not allowed to ask broad, sweeping questions that require universal answers, i.e., "List for me all of the times you have ever reviewed a roadway for maintenance needs." A request must be realistic and within a person's realm of knowledge before there is a requirement for an answer. It also helps to remember that "I do not know the answer to that question" is always an appropriate response.

If You are Subpoenaed

Subpoenas are a routine and normal portion of a court case. After receiving a subpoena, the first response is to contact the appropriate agency attorney. Also, determine the nature of the subpoena, what the plaintiff's attorney is requesting, and whether you are the correct person to respond. The counselor can assist in preparing a response by defining the limits of testimony and the appropriate nature for testimony.

Tips for the Witnesses

When testifying in court or giving a deposition under oath, remain calm and take your time. Appropriate time should be taken before answering, in case your attorney wants to object to a question. This also allows you to gather your thoughts and give an accurate but brief answer. If questions are answered more quickly on direct examination than on cross-examination, the jury or hearing officer will notice this and may feel that you are in trouble. Some general suggestions that can be offered as an aid to being a good witness are:

1. Walk to the witness stand with even steps.
2. When the officer finishes the oath, say "I do" in a loud voice so that all in the courtroom can hear. Do not act timid.
3. Be thorough and frank. Do not be too anxious or eager to please or too eager to fight.
4. If you make a mistake or a slight contradiction, admit it and correct it. Do not tie yourself in knots trying to cover up some slip of speech or memory.
5. Keep your temper. Do not let anyone draw you into arguments over trivial points or even important ones. Be firm but flexible.
6. If you cannot answer "yes" or "no", say so but modify your reply by "under certain circumstances..."
7. If you do not know or cannot remember, say so. These are legitimate answers to the most illegitimate questions.
8. Avoid mannerisms in speech. The habit of prefacing replies with something like "I can truthfully say" may cast unwarranted doubts on your whole testimony.
9. If a lawyer asks: "Are you as positive about this as you are about the rest of your testimony?" - stop. Are you?
10. "Do you want this jury to understand?" Listen closely to that one; if you do not want the jury to understand it that way, make clear what you do want them to understand.
11. If the opposing attorney interrupts you before you had a chance to complete your answer, you should indicate this to the presiding judge.
12. Do not volunteer information. Only answer the specific question asked.
13. Be brief; just answer the question and stop.
14. Do not memorize any of your testimony.
15. Wait until the entire question is asked before answering.
16. On cross-examination, do not look at your attorney.
17. Keep your hands away from your face and mouth.
18. When addressing the court, use "your honor"; when addressing the attorneys, use their names.

19. During the recess you should not carry on any conversation with other witnesses or parties to the controversy. You should be aloof from everyone except the attorney who retained you to testify.
20. Remember that the witness stand is not a comfortable place for one who is not telling the truth, the whole truth, and nothing but the truth.

If You are the Defendant

You may have the unfortunate experience of being named as a defendant in a traffic crash related suit. Upon notification of a lawsuit immediately contact your agency's chief counsel. A preliminary investigation should be made of the complaint and preparation for trial should begin. For cases involving the state, the Cabinet's general counsel will organize an investigation and prepare a file to determine if there is liability. If there is liability, the Cabinet may try to settle out of court. If no settlement is possible, both parties will obtain information from one another to prepare for court action. A diligent and complete investigation must be conducted. The next step in preparing for a trial is selecting the necessary witnesses. You may be called upon as a witness, or to assist in finding appropriate witnesses, and to evaluate their potential contributions to the case.

Witnesses

Sometimes a law enforcement officer provides information on the crash report which misrepresents conditions or increases the liability of the governmental entity. Police officers are not experts in traffic engineering, roadway design, vehicle ballistics, etc., to the extent of knowing what constitutes a dangerous condition. Yet, information provided on the crash report has been used by plaintiff's attorneys to win cases. This problem should be resolved by working with the law enforcement agencies.

Cabinet or other governmental employees may be used as expert witnesses in a suit, or they may be needed to advise the government's lawyers. Often, providing technical or organizational assistance during the preparation for the trial may be their most important function.

Generally, an expert is needed if the jury will be helped appreciably and if general experience of an ordinary person is not sufficient. An expert is not needed if the jury can just as easily determine the answer to the question at issue. An expert witness is one who has acquired by study or experience a special skill or superior knowledge in a particular field about which persons who do not have special training are incapable of forming an accurate opinion or of deducing correct conclusions. Expert witnesses differ from ordinary witnesses in that the expert witnesses can state their opinions and conclusions based on fact, whereas ordinary witnesses can only testify to something they said, smelled, tasted, felt, and in some cases heard. The weight that a jury or hearing officer will give to expert testimony will depend upon the extent of the experts' learning, skills, experience, and primarily the foundation and the reasons that they give for their opinion in drawing their conclusions.

The witness should do the necessary research. Once it has been determined that they are the person for the job, most of the time spent doing the work will not be in actual court time, but in

preparation for that day. In many instances a written report will be prepared which will form much of the basis for the attorney's case. Because of the permanence of written information, words must be selected very carefully (words like "reasonable", "never", "absolutely", "definitely".) Every avenue of information should be researched so that full preparation is achieved.

The Role of the Expert Witness

The expert witness has much to consider in the giving of testimony while on the witness stand. An expert witness should be able to communicate clearly and be able to explain technical or scientific subjects and matters in plain, understandable language. Above all, he should not try to impress the jury or hearing officer with his learning and ability, but try to communicate in a way which can be understood. He should have good speaking ability and be definite in his opinions. He should never tender an opinion unless he has one and unless it is sound, based upon good scientific knowledge and experience.

Expert witnesses should follow guidelines in preparing for and providing testimony. The most obvious guideline for an expert witness is being truthful. Of course, lying under oath is a crime and for that reason alone should never be considered. Honesty is the best policy not only from a moral and legal standpoint but also because it is the best way to get across the true facts to the trial of the case.

Litigation should be a reach for truth. The court is looking for guidance in its decision and the method in technical matters is from expert testimony. It should be the expert's intention to provide the court with unbiased background and detailed information. This will enable the court to adjudicate the matter correctly and, hopefully, determine as much of the truth as possible.

The expert witness should never be an advocate. The lawyer is supposed to be the advocate (to take sides in the matter before the court). The tendency toward bias must be resisted if the expert's credibility is to be maintained. The best course is to steer clear, as much as possible, of personal involvement in the case and answer all questions without the intent to help either side.

Temperament is important. An expert must accept the fact that someone would question his knowledge. Equally important to keeping emotions under control on the witness stand is answering questions responsively. That means listening carefully to the specific question which is asked (not anticipating another question) and answering as briefly as reasonably possible. The attorneys for both sides have reasons for each specific question. They are not usually interested in any further explanation. Sometimes the judge will direct a specific question at the witness, and that is one time when the expert can expand on their answer.

Another very important guideline while on the witness stand is that one should always stay within one's own area of expertise when testifying. An opposing attorney can effectively cross-examine an expert who tries to extend his testimony into uncharted water outside the scope of his education, experience and background.

The attorney in direct examination should always know the answer that the expert will give to any question asked. In cross-examination, one should be aware that the effective lawyer can sometimes lead the witness and extract testimony which the witness did not intend. The expert should ensure that they are not led by either attorney. The expert should try to ignore adjectives and adverbs which tend to channel toward a specific answer and reply honestly based only on their own knowledge and opinion of the case.

Being Prepared for Trial

Being prepared means visiting and inspecting the crash site as many times as necessary to fill in the gaps of your knowledge. Files, plans and available data must be reviewed to find all pertinent information. All pertinent standards and specifications must be located to determine how they apply to the case. Colleagues may be interviewed to determine their knowledge related to the case. Necessary calculations must be made and preserved for future reference to prepare if certain lines of questioning occur. Preparation is essential to be an effective witness.

Promptness and availability by all witnesses, including the expert witness, are two characteristics which are absolutely essential to the proper management of a case. The witnesses must schedule time carefully so they will be available when needed. Conferences relating to litigation will typically be held a day or so before trial, especially when experts are involved. Experts are expected to be professional, and their appearance reveals something about their knowledge and ability.

After the Trial

Using information collected during the investigation and evaluation program, information received in the depositions and interrogatories, and information obtained in the form of documents, the attorney can prepare for trial in order to successfully defend a lawsuit or win a lawsuit and recover damages.

Your portion of defending a lawsuit can be taken care of by careful preparation of your testimony and by close coordination with your attorney. Make up your mind to be prepared, to be scrupulous in your testimony, and to represent your agency as well as you can.

After the trial, commit yourself to risk management principles to minimize your chances of having to go to court again. Your time is best spent in providing the citizens of the state with the best roads possible, not in preparing for court.

Appendix D. Introduction to Accident Reconstruction

Traffic accident reconstruction is the process of using observed data, the laws of physics, an understanding of the mechanical behavior of vehicles, and a scientific approach to obtain conclusions about how a traffic crash occurred. The analysis involves issues such as vehicle speeds, location of the collision on the road, and the accident avoidance capability of the drivers. Following is a general overview of some aspects of accident reconstruction. A complete review of accident reconstruction is not possible but an overview is provided to describe how reconstruction might be used to provide crucial evidence in a tort liability trial involving a traffic crash.

Some types of accident reconstruction are very simple. For example, when a vehicle comes to rest after leaving skid marks on the pavement, the initial speed may be estimated from knowledge of the pavement friction and the length of the skid marks. Other types of accident reconstruction are complex. Examples include involvement of tractor-trailer trucks, vehicles undergoing a series of different reactions during a collision, or where the data is incomplete. When the reconstruction activities are complex, a high degree of training is necessary.

Reconstruction usually consists of gathering and interpreting data, applying scientific principles, and drawing conclusions based upon the analysis of the evidence. The investigator chooses from many reconstruction techniques to find those analytical tools that best fit the available evidence.

This appendix emphasizes the necessity of good data and introduces some basic reconstruction techniques. In many instances, a lawsuit is not filed for a substantial time after the crash so it is useful to obtain data at the crash scene where there is a reason to suspect that a roadway-related factor may be an issue. An example would be documenting the traffic control devices in place for a crash occurring in a construction zone. Adequate data to analyze factors related to the roadway are not obtained during the police investigation in many instances.

Traffic Crash Investigation

The majority of the information available is taken from the crash site. This may include photographs of damage to the vehicles or photographs of other physical evidence such as skid marks and damage to secondary objects. Measurements of the final locations of the vehicles; identification of the area of impact; identification, measurement and characterization of tire marks; examination of the vehicles; interviews with drivers and witnesses; and other techniques are used to gather this data.

Rarely does the investigator have complete data. In many instances, the crash occurred many months before and much of the physical data will be gone. Skid marks and other tire marks will have disappeared and the vehicles may have been removed from the salvage yard prior to the investigator's examination. Even when the investigator visits the site soon after the crash, the evidence may be incomplete. For example, in some collisions the vehicles leave only partial skid marks. The absence of sufficient data and inaccurate data are normally the biggest difficulties in the reconstruction of an accident.

In most cases the area of impact is referenced to determine where a crash occurred rather than the point of impact. Evidence which can be used to determine the area of impact includes tire marks and gouge marks. Debris can be used to determine a general area of impact since it will scatter over a wide area. Evidence such as the change in the direction of a tire mark can be used to determine the location of a specific tire when the impact occurred and identify a more accurate point of impact.

As previously noted, the police report typically does not contain all the information necessary to analyze roadway issues. For example, all the related traffic signs are typically not listed. Also, the police will not typically take measurements of the roadway profile.

Typical Reconstruction Techniques

There are many reconstruction techniques. This appendix briefly introduces some of the common reconstruction methods and describes some of their more common uses. The information given is only an introduction and more complete texts must be referenced to learn of the strengths and limitations of the techniques and to acquire sufficient knowledge to utilize the techniques.

Kinetic Energy

A moving vehicle possesses a certain amount of kinetic energy. An equation used to describe this energy is as follows:

$$E = \frac{1}{2} m (v^2 - v_0^2) \quad (C-1)$$

where **m** equals the mass of the vehicle, **v** equals the final velocity of the vehicle and **v₀** equals the initial velocity of the vehicle.

This formula may be used to calculate the total kinetic energy associated with stopping a vehicle by setting the final velocity to zero. A good use for this equation is for designing a crash cushion type of traffic barrier. The cushion is designed with enough structural strength to absorb the total kinetic energy while slowing the vehicle at an acceptable rate to prevent serious injuries.

Time-Distance-Speed Relationship

The reconstructionist is often asked to establish the speed of vehicles at certain points during the sequence of collision events. There are a number of basic equations which may be used to make these types of calculations. The equations consider the following six quantities:

1. Time (t)
2. Distance (d)
3. Acceleration (a)
4. Velocity (v)
5. Initial Velocity (v₀)
6. Drag factor (coefficient of friction) (f)

For a constant velocity, the distance traveled in a specified time may be found by multiplying velocity by time. Once the velocity begins to vary, then acceleration (or deceleration) has occurred. There are a few equations which form the basis for most calculations involving velocity, distance, acceleration or time. These basic equations are often manipulated or combined to allow the determination of an unknown variable for different combinations of known variables. These equations include:

$$v - v_0 = 32.2 \text{ tf} \quad (\text{C-2})$$

$$t = (v - v_0)/32.2f \quad (\text{C-3})$$

$$f = (v - v_0)/32.2t \quad (\text{C-4})$$

where the variables have been defined previously.

During the reconstruction of a crash, it is often helpful to know the location of each involved vehicle at various times during the collision sequence. If the initial paths of the vehicles are known, the investigator may choose a starting point and starting time, then plot the location of each vehicle at fixed times during the sequence. Since the area of final rest is frequently known, a common technique is to start there and work backwards to find the locations of the vehicles at fixed times as they approached the impact point. The speed of a vehicle is determined from its final rest position back to the start of any evidence of deceleration.

Knowledge of typical vehicle acceleration and deceleration rates is helpful in forming scenarios of what might have occurred in a collision where no other data is available. For example, typical deceleration for a passenger car is approximately 0.2 for light braking compared to about 0.7 for locked brakes. This compares to a deceleration for a tractor trailer of about 0.45 for locked brakes. Normal acceleration (from a stop to about 20 mph) for a passenger car is about 0.15 compared to about 0.30 for rapid acceleration with a value of 0.05 typically used for a loaded large truck.

Speed from Skid Marks

Skid marks are often found at accident scenes. Of course, many vehicles now have anti-lock brakes. If all four of a passenger car's wheels are locked and the vehicle slides on a level surface there will be four skid marks, although sometimes the rear wheel marks lie on top of the front wheel marks and are difficult to see. Where the skid marks can be measured and the friction value of the pavement is known, the initial speed of the vehicle may be found using the following equation:

$$D = \frac{S^2}{30f} \quad (\text{C-5})$$

where D equals distance in feet, S equals speed in miles per hour and f is the coefficient of friction (drag factor). For example, for a drag factor of 0.50 and a speed of 30 mph, a vehicle would skid 60 feet before stopping.

While formula C-5 is simple, the simplicity of the concept misleads many investigators who fail to recognize that special circumstances often exist which require additional analysis. For example, one or more wheels may fail to leave a skid mark. A second example is when the vehicle slides part way on one pavement surface then the remainder of the skid distance on a second type of pavement surface. A third example involves when the left side of the vehicle slides on pavement but the right side slides on an earth shoulder (which may result in the vehicle rotating around the side with a higher drag factor).

The key to estimating speed from skid marks often lies in the accurate assessment of the appropriate friction factor (which is sometimes called the skid number or the drag factor). Alternative methods to estimate the friction factor at a crash site include: (1) using values found in standard tables, (2) conducting a skid test using an instrumented vehicle, or (3) performing a test using a small drag test device. The appropriate friction factor varies by the condition of the pavement and, as previously noted, is different for automobiles and trucks.

Vault or Flip

When a vehicle becomes airborne, it is acted upon by gravity and becomes subject to the laws of physics. This is a typical "projectile" analysis, like that used to determine how far a bullet will go if fired at a certain velocity from a horizontal rifle.

If the investigator knows the vertical distance that the vehicle traveled while airborne, the time of fall may be calculated. If the investigator knows the horizontal distance that the vehicle traveled in this time, then the speed of the vehicle may be determined.

The following formula gives a speed where the angle of the takeoff angle of the vault or flip is considered to be that where the vehicle will go farthest for its speed.

$$S = (3.87 d)/(\sqrt{d - h}) \quad (C-6)$$

where S is the takeoff speed in mph, d is horizontal distance traveled, and h is the difference in the height of landing versus takeoff (where h is positive if the landing is higher than the takeoff).

The exact vault formula is more complicated and requires knowledge of: (1) the angle at which the vehicle was launched when it became airborne and (2) the horizontal and vertical distances which the vehicle traveled before impact. If the formula is used which uses the vault angle, the investigator must note that the takeoff angle is positive if the car was angled upward when it took off and the angle is negative if the car was angled downward.

There are many complicating factors in this analysis. The takeoff angle may be difficult to measure. If the vehicle hits a curb or a bump, the car may spring upward without leaving evidence of the takeoff angle. If the vehicle traveled a great distance after takeoff, it may be difficult to establish the horizontal and vertical portions of its travel. If the car rotates in the air, the front wheels may dip downward and hit before they would have if the car remained level and

the measured horizontal distance between takeoff and landing will be smaller than it should be. This is important because the formula is intended to apply to the center of gravity of the vehicle.

Linear Momentum

The momentum involved in a collision provides a useful tool for examining the actions of the vehicles. The momentum equation states that the vector sum of momentum before the collision must equal the vector sum of momentum after the collision.

Momentum is the product of mass and velocity. The momentum equation applicable to traffic accidents may be simplified and written as follows:

$$w_1 v_1 + w_2 v_2 = w_1 v_3 + w_2 v_4 \quad (C-7)$$

where: w_1 equals the weight of vehicle one and w_2 equals the weight of vehicle 2, v_1 and v_3 are the velocities of vehicle 1 before and after the collision, and v_2 and v_4 are the velocities of vehicle 2 before and after the collision, respectively.

In general, the investigator needs to know the paths of the approaching vehicles, the paths of their departures after the collision, the speeds after impact, and the approximate weight of each vehicle.

The most common use of the momentum equation is when the investigator can establish the post-collision speeds and directions of the vehicles through analysis of tire marks and the final rest positions of the vehicles relative to the area of impact. Given the post-collision conditions and limited knowledge about pre-collision conditions, the equation can be used to calculate the impact speeds of the vehicles.

Crush as a Measure of Vehicle Speed

The speed of a vehicle involved in a collision can be estimated using the deformation (crush) sustained by the vehicle. As the width and depth of the crush increases, the velocity of the collision increases. More specific conclusions can be drawn about the crush in a specific crash by comparing it to the amount of crush experienced by a similar vehicle of a crash test conducted at a known speed. If sufficient data have been measured, it is possible to prepare a chart of crush distance versus speed.

There are serious limitations to using crush-speed figures. For example, a large, old car has a more substantial frame than a small, new car. Older vehicles may have less crush deformation than the small car in similar collisions at identical speeds.

A second problem deals with the type and shape of the object which has been struck. In a high-speed side collision, a utility pole may make a very deep penetration. A wider object like a brick wall will have a much shallower but wider crush area.

There are so many differences in automobile materials, designs and construction methods that it is not realistic to expect that one crush-speed curve can accurately identify the performance of all vehicles. The best use of curves showing crush versus speed is to make preliminary estimates of vehicle speeds from measured crush deformations. Calculations using tire marks and related deceleration are preferable to estimates using crush, but in some instances the only speed estimate possible is the use of crush measurements.

The general crush-speed relationship has been improved for individual vehicle models. The National Highway Traffic Safety Administration (NHTSA) has conducted controlled crush tests. These types of tests are conducted under controlled conditions and the crush distance is the average of that measured at several uniformly spaced locations. This accurate crush information is then used to determine an "energy dissipation equation." Because this technique uses data gathered under controlled conditions for individual models, it is much more accurate than a general crush-speed chart.

Types of Tire Marks

It is important to understand the type of tire marks left by a vehicle either before or after a crash. In many instances, the police report may refer to all tire marks as skid marks while they may be yaw marks. The deceleration associated with a skid mark is higher than for a yaw mark so the speed estimate will be inaccurate if the tire mark is not identified properly.

A skid mark is caused by a tire sliding on the pavement. The mark is straight and, in many instances, the tire tread can be seen as the mark continues straight. A skipped skid mark can occur with the most common instance involving an unloaded semi-trailer.

A yaw mark is curved and the width varies. Striations from the side of the tire will be observed with the width increasing as the vehicle rotates, and the striations are oblique to the tire mark. Yaw marks may cross if the vehicle rotates sufficiently.

Characteristics of a flat tire mark include a stronger mark on the outside edges. Also, the outside edge mark appears scalloped as it continues down the road.

An impact scrub mark may be left by a tire when the impact occurs. This tire mark will typically increase in width as the tire is pushed from the area of impact.

Tire marks may be analyzed to determine the type of braking actions or whether the tire failed during braking.

Other Techniques

There are many additional types of analyses that are applied to accident reconstruction. For example, knowledge of the various types of tire marks left by the vehicle can determine whether it was sliding straight ahead, spinning, or yawing. If the tire marks are curved, it may be possible to calculate the critical speed, or the fastest the vehicle could have traveled on a given radius without losing control of the vehicle. This is helpful in estimating the maximum speed the

vehicle could have been traveling at some point in the collision sequence. This is not a precise technique but provides speed estimates of the vehicle.

Knowledge of the laws of physics will allow an investigator to determine the speed at which a truck had been traveling when it tipped over while rounding a corner. The investigator needs to know the radius of travel, the weight of the vehicle, and the center of gravity of the load. A similar type of analysis can be used to calculate the shift in the center of gravity of a vehicle as it begins to brake or to corner.

Vehicle head lamps can be examined to determine whether they were on or off at the time of collision. Bits of glass melted into the filament indicate that the light was on when the crash occurred. If the filament has sagged greatly and burst, it was probably hot when a sudden impact exerted more force than it could withstand. Other techniques involving the presence of oxidation or corrosion on the lamp filament may also be interpreted to determine whether it was on when the collision occurred.

Examination of a safety belt can give information concerning whether it was used when a collision occurred. Evidence of loading can show the belt was worn when the impact force was applied to the occupant.

Summary

This appendix introduced some of the concepts used in accident reconstruction. The purpose was to inform the reader of how the reconstruction of a traffic crash might help defend tort liability cases involving traffic crashes and the need to obtain data as soon as possible after a crash (specifically when there is an issue concerning a roadway-related factor). This has been a very limited discussion and was not intended to enable a person to conduct an accident reconstruction.

The reader must understand that there are many limitations concerning when certain formulas may be used and that certain data must be made available for the proper application of formulas. Should the reader desire to learn more, it is recommended that appropriate texts be consulted or a continuing education course on this topic should be attended.

Appendix E. Detailed Information for Claims of \$50,000 or More

TABLE 9-3. DETAILED INFORMATION FOR CLAIMS OF \$50,000 OR MORE						
CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
81-003	Leslie	US 421	\$50,000	Vehicle struck steel beams left on right-of-way and overturned.	\$1,000	DOT left beams on right-of-way.
81-005	Christian	US 41A	\$50,000	Traffic signal was not working properly.	0	Fatal crash.
81-037	Oldham	US 42	\$50,000	Car went out of control on improperly banked icy curve.	\$61,702	
81-065	Hardin	US 31W Bypass	\$50,000	Vehicle lost control due to shoulder dropoff.	\$20,000	Gravel shoulder lower than PCC pavement; fatal crash.
81-080	Grayson	US 62	\$50,000	Car broke through inadequate guardrail.	0	Injury crash.
81-123	Whitley	I-75	\$50,000	Rear-end collision into slow moving DOH vehicle traveling in right lane.	0	Alleged that DOH vehicle did not have proper lighting or identification.
81-166	Trigg	Glenwood Mill Road	\$50,000	Vehicle driven into river because bridge removed with no warning signs.	0	Glenwood Mill Road had not been a state-maintained road since 1965.
81-201	Campbell	KY 8	\$50,000	Pedestrian injured when fell because of hole in pavement.	0	Hole in pavement in parking lot.
81-234	Pulaski	KY 461	\$50,000	Car hit pothole and lost control.	0	Car hit embankment and utility pole; injury crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
81-290	Bourbon	Peacock Road	\$50,000	Pickup ran through wooden rail on bridge.	0	Peacock Road not state maintained; bridge in sharp curve; injury crash.
81-291	Graves	KY 893	\$50,000	Vehicle backing from driveway did not observe approaching vehicle due to weeds.	\$17,500	Fatal crash.
81-292	Graves	KY 893	\$50,000	Refer to 81-291.	\$17,500	
81-336	Webster	KY 132	\$50,000	Lost control due to a shoulder dropoff and hit bridge.	\$40,000	dropoff of three to six inches; fatal crash.
81-359	Campbell	KY 1471	\$50,000	Construction zone collision with a highway divider which was not properly marked.	\$3,500	
81-380	Campbell	Parking Lot	\$50,000	Pedestrian fell in parking lot due to defective pavement.	0	Plaintiff moved to dismiss.
81-406	Fayette	KY 922	\$50,000	Inadequate markings (traffic control) in a construction zone.	0	At I-64 interchange(fatal crash).
81-423	Hopkins	KY 109	\$50,000	Flagman allowed truck to come through area.	0	Flagging for previous crash at request of state police; injury crash.
81-443	Jessamine	US 27	\$50,000	Vehicle dropped off shoulder in a construction zone; driver overcorrected and hit oncoming vehicle.	\$52,166	dropoff of one to 18 inches; Driver had a BAC of 0.22; KyTC was found 20 percent at fault.
82-012	Breckinridge	KY 86	\$50,000	Driver ran off road, overcorrected; and insufficient roadway width.	0	Crash with opposing vehicle.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
82-016	Daviess	Fairview	\$50,000	Crash involving DOH driver having heart attack.	\$32,287	Driver allowed to drive although previously complained of chest pains.
82-110	Barren	US 68	\$50,000	Missing stop sign.	\$42, 500	Intersection with and Old Mayfield Mill Road; fatal crash.
82-125	Jefferson	Unknown	\$50,000	Hit guardrail on icy bridge.	\$50,000	
82-148	Carter	KY 1	\$50,000	Failure to straighten curve, failure to reduce speed limit.	0	Excessive speed was cause of the fatal crash; hit rock on shoulder.
82-183	Pike	KY 194	\$50,000	Driver lost control due to shoulder dropoff.	0	Collision with opposing vehicle.
82-188	Green	KY 793	\$50,000	Vehicle hit steel bridge which collapsed; no guardrail on approach to bridge.	0	Bridge was scheduled for replacement; not state maintained bridge; fatal crash.
82-192	Campbell	Gerger Ave.	\$50,000	Damage to home and unacceptable traffic noise due to construction.	0	In Bellevue. (I-471)
82-264	Kenton	KY 177	\$50,000	Pedestrian injured when fell into drain opening left uncovered.	\$500	Decamsey Street in Covington; hole four feet in depth.
82-291	Pulaski	KY 39	\$50,000	Water pooling.	0	Highway did not drain properly; fatal crash.
82-292	Pulaski	KY 39	\$50,000	Refer to 82-291.	0	
82-294	Larue	US 31E	\$50,000	Crash due to spillage of oil which was not cleaned from the road.	0	Alcohol and speed involved; fatal crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
82-298	Pike	US 23	\$50,000	Vehicle hit pothole and lost control resulting in a head-on collision.	\$20,000	Partial negligence for claimant; noted previous complaints about road conditions; fatal crash.
82-330	Warren	KY 101	\$50,000	Inadequate signing; driver failed to stop at intersection.	0	At intersection of with KY 1297; fatal crash.
82-370	Pike	KY 194	\$50,000	Lost control of vehicle due to water and oil on road.	0	Injury crash.
82-411	Grayson	W.K. Pkwy.	\$50,000	Guardrail end penetrated into the vehicle.	\$50,000	Blunt guardrail end treatment; fatal crash.
82-432	Jefferson	I-65	\$50,000	Overtaken due to detour not in conformity with acceptable engineering standards; inadequate warning signs.	\$13,333	Cargo shifted on truck.
82-481	Knox	Masters Street	\$50,000	Pedestrian injured when stepped in a hole in pavement during repaving operation.	0	Four-inch dropoff about eight inches from curb.
82-531	Morgan	KY 205	\$50,000	House and property damaged due to construction (inadequate drainage).	0	Flooded because culverts too small.
82-533	Jefferson	KY 864	\$50,000	Construction caused loss of business due to lack of access.	0	Poplar Level Road in Louisville.
82-536	Scott	I-75	\$50,000	Tractor-trailer hit raised area in traveled portion of road throwing driver from his seat.	\$50,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
82-551	Jefferson	I-65	\$50,000	Refer to 82-432.	\$16,062	
82-552	Jefferson	I-65	\$50,000	Tractor-trailer overturned on curve on detour.	\$12,000	Contractor had majority of liability.
82-553	Jefferson	I-65	\$50,000	Refer to 82-852.	\$10,500	
82-554	Jefferson	Unknown	\$50,000	Turning left from an intersection and hit in side.	0	
82-573	Jefferson	I-65	\$50,000	Refer to 82-432.	0	
82-600	Perry	US 28	\$50,000	Vehicle lost control on patch of ice; lack of warning sign and guardrail.	0	No record of crash found.
83-026	Pike	KY 195	\$50,000	Vehicle lost control due to pothole and hit oncoming truck.	\$3,200	Pothole was 15 inches wide by 41 long and five inches deep; injury crash.
83-045	Pike	US 23	\$50,000	Vehicle left road and hit ditch on shoulder causing loss of control.	\$14,454	KyTC caused deep ditch by periodic cleaning; injury crash.
83-098	Carter	US 60	\$50,000	Accumulation of mud on the road.	0	Mud accumulated where coal company constructed a service road; injury crash.
83-188	Martin	KY 292	\$50,000	Soft shoulder broke away with loaded truck allowing it to go over embankment.	\$37,900	Both KyTC and claimant judged 50 percent at fault, truck overweight.
83-251	Kenton	KY 1829	\$50,000	Vehicle went over retaining wall of culvert into creek.	\$28,000	DOH found 25 percent negligent due to inadequate wooden guardrails; fatal crash.
83-355	Warren	US 68	\$50,000	Shoulder dropoff caused loss of control.	0	Construction zone.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
83-377	Pike	US 23	\$50,000	Refer to 83-45.	\$21,250	
83-378	Pike	US 23	\$50,000	Refer to 83-45.	\$21,250	
83-383	Boone	KY 338	\$50,000	Failure to mark hazardous curve and excessive speed limit posted.	\$3,000	Injury crash after vehicle went off road and overturned.
83-384	Barren	I-65	\$50,000	Failed to replace grate after complaints or provide warning signs.	0	Injured when car struck an open drain over a storm culvert; plaintiff moved to dismiss.
83-409	Perry	KY 80	\$50,000	Vehicle struck rocks from landslide; no warning signs or protective fence.	0	Injury crash.
83-592	Clark	US 60	\$50,000	Inadequate guardrail and improper traffic control; possible shoulder dropoff and improper superelevation.	\$25,000	Fatal crash when vehicle struck bridge abutment.
83-601	Rowan	KY 519	\$50,000	Hit fallen rocks, no warning.	\$50,000	Vehicle hit rocks and debris in a blind curve, injury crash.
83-602	Rowan	KY 519	\$50,000	Refer to 83-601.	\$25,000	
83-639	Campbell	US 27	\$50,000	Crash involving state vehicle.	\$148	Vehicle pulled from side road into path of state single-unit truck; injury crash.
83-648	Bourbon	KY 353	\$50,000	Construction zone; warning devices not proper or adequate.	0	Fatal crash.
83-650	Pike	US 119	\$50,000	Had to close business due to traffic flow, dust and mud during construction.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
83-691	Wayne	KY 90	\$50,000	Dust in the air from road cleaning; flagman signaled claimant to proceed.	0	
83-719	Boone	KY 16	\$50,000	Vehicle ran off road in curve and hit a tree; failure to warn and provide guardrail.	0	Injury crash.
83-733	McCracken	US 60	\$50,000	Driver confused by traffic controls changed from four-way to two-way stop.	0	At intersection of Park Avenue and 18th street in Paducah.
84-095	Warren	US 31W	\$50,000	Lost control on ice and slid into guardrail; end of guardrail went through driver's door.	\$37,500	Blunt guardrail end treatment; fatal crash.
84-098	Graves	KY 3141	\$50,000	Vehicle struck utility pole in narrow median; pole location; markings insufficient.	\$5,000	Crittenden Lane in Mayfield; KyTC judged 10 percent at fault; injury crash.
84-173	Elliott	KY 32	\$50,000	Four-year old fell into five-foot deep hole.	0	Pedestrian injured.
84-175	Pike	US 23	\$50,000	Rock and debris fell on car from a rock cut.	\$200	KyTC aware of condition of rock cut (no offsets in wall); injury crash.
84-176	Pike	US 23	\$50,000	Refer to 84-175.	\$31,300	
84-226	Jefferson	KY 1932	\$50,000	Traffic signal timing did not allow sufficient time for pedestrian to cross intersection.	\$22, 500	Intersection of Breckinridge Lane and Hikes Lane in Louisville; injury crash.
84-341	Union	US 60	\$50,000	Crash involving state vehicle; lack of warning.	7500	No flagman at maintenance site; visibility reduced by dust.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
84-342	McCracken	US 45	\$50,000	Vehicle hit manhole cover raised in an incorrect manner.	0	Plaintiff moved to dismiss.
84-425	Jefferson	KY 864	\$50,000	Pedestrian signal malfunction.	0	Pedestrian injured when struck at traffic signal.
84-442	Campbell	KY 8	\$50,000	Inadequate warning in construction zone; pedestrian path obstructed.	0	Barrier needed to keep children out of construction zone; pedestrian fatality.
84-484	Knox	Unknown	\$50,000	Improper drainage caused property damage.	0	Barbourville
84-485	Jefferson	I-71	\$50,000	Crash involving state vehicle; lack of warning.	\$9,725	Vehicle struck state truck stopped in right lane.
84-716	Floyd	US 23	\$50,000	Improper drainage caused property damage.	0	Severe erosion of property.
84-794	Floyd	KY 7	\$50,000	Pothole caused crash; hole was 15 inches deep, 10 feet wide, 4 feet long; had been there three months or longer.	0	KYTC judged 50 percent at fault; loss less than initial \$10,000 abolished by the Motor Vehicle Reparation Act.
84-799	Graves	KY 121	\$50,000	Inadequate warning in construction zone; oil in roadway.	\$2,500	One lane three inches higher than the other; injury crash.
84-800	Graves	KY 121	\$50,000	Refer to 84-799.	\$2,500	
84-802	Greenup	KY 750	\$50,000	Pedestrian injured when stepped on water meter cover.	0	Cover turned which allowed pedestrian to fall into hole.
84-804	McCracken	US 60	\$50,000	Refer to 83-733.	0	
84-805	Fulton	US 51	\$50,000	Construction limited visibility at intersection; traffic control devices not adequate.	\$30,000	Embankment on inside of curve limited visibility; fatal crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
84-931	Madison	KY 876	\$50,000	Failure of signal; pedestrian.	0	Intersection with and Lancaster Avenue (Richmond); injury crash.
84-932	Warren	KY 1297	\$50,000	Single-vehicle crash at intersection due to no stop sign.	\$3,222	Intersection with Hydro Cole Bend Road; injury crash.
84-970	Pike	US 23	\$50,000	Car hit rock slide.	\$25,346	Previous rock slides in area; injury crash.
84-1033	Pike	Unknown	\$50,000	Property flooded as a result of blockage of culvert.	0	
84-1053	Fulton	US 51	\$50,000	Refer to 84-805.	\$33,063	
84-1094	Warren	I-65	\$50,000	Driver lost control of vehicle due to hydroplaning.	\$40,000	Partial negligence for plaintiff; fatal crash.
84-1157	Harlan	KY 160	\$50,000	Vehicle dropped off shoulder dropoff; inadequate warning.	0	Driver BAC of 0.26; shoulder dropoff one to two feet; fatal crash.
84-1174	Campbell	US 27	\$50,000	Water pooling in construction area resulted in two-vehicle collision.	\$35,000	Water pooling in median area in crossover; fatal crash.
85-072	Grant	I-75	\$50,000	Truck hit guardrail and then hit bridge abutment.	0	Truck hit turned down end treatment and then rode on top of guardrail to impact; fatal crash.
85-102	Bourbon	Ky 1876	\$50,000	Stop sign hidden by route marking signs.	0	Intersection with US 460; hit utility pole.
85-181	Greenup	KY 10	\$50,000	Retaining wall fell and damaged home.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
85-182	Monroe	Jackson St.	\$50,000	State employee pulled from maintenance facility into path of motorcycle.	\$5,000	Employee driving private vehicle.
85-345	Jefferson	I-65	\$50,000	Vehicle lost control at exit ramp in construction area; lack of proper traffic control; no guardrail.	0	Exit ramp to KY 841.
85-346	Jefferson	I-65	\$50,000	Refer to 85-345.	0	Refer to 85-345.
85-434	Caldwell	US 62	\$50,000	Rear end impact; vehicle slowing because of water on the road; failed to warn of flooded roadway.	\$750	
85-435	Spencer	KY 1251	\$50,000	Crash at intersection with no stop sign or warning sign in place.	\$50,000	Intersection with KY 44; vandalism caused problem keeping stop sign; fatal crash.
85-489	Lyon	KY 293	\$50,000	Road was blocked by construction denying access to business.	0	Bridge was being replaced; resulted in lost business.
85-491	Meade	US 60	\$50,000	Lost control of vehicle at curve due to inadequate warning.	\$35,000	Noted previous crashes and complaints.
85-492	Muhlenberg	KY 181	\$50,000	Pedestrian injured when hit by vehicle because driver could not see claimant due to overgrowth of trees, shrubs.	\$36,000	
85-502	McLean	US 431	\$50,000	DOH ditcher pulled onto highway into path of vehicle.	\$50,000	Fatal crash.
85-521	Spencer	KY 1251	\$50,000	Refer to 85-435.	\$50,000	
85-543	Boone	Union Hathaway Road	\$50,000	Vehicle hit unmarked culvert headwall on right-of-way.	0	Injury crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
85-598	Lincoln	Unknown	\$50,000	Rocks and boulders fell from truck and crashed through windshield of car.	\$50,000	
85-599	Jefferson	I-75	\$50,000	Lost control due to debris on road and ran off ramp; state had removed guardrail on ramp.	\$500	State truck was parked on shoulder partially blocking view.
85-600	Jefferson	KY 1631	\$50,000	Collision caused by malfunctioning traffic light.	\$21,120	Intersection of Fern Valley Road and Old Shepherdsville Road in Louisville; injury crash.
85-654	Montgomery	US 460	\$50,000	Highway employee mowing right-of-way and obstructed the highway.	\$4,500	Injury crash.
85-755	Muhlenberg	KY 277	\$50,000	No warning signs at point where road ended at a boat ramp resulting in injuries to passenger.	\$15,000	Driver intoxicated and arrested; fatal crash.
85-786	Taylor	KY 210	\$50,000	Car hit water in road causing driver to lose control and travel into creek; lack of guardrail; improper design of culvert and no warning devices.	\$50,000	Water two feet deep across road due to heavy rain.
85-787	Taylor	KY 210	\$50,000	Refer to 85-786.	\$50,000	
85-788	Taylor	KY 210	\$50,000	Refer to 85-786.	\$50,000	
85-789	Taylor	KY 210	\$50,000	Refer to 85-786.	\$50,000	
85-851	Harlan	KY 22	\$50,000	Cutting weeds and fell across a rock that came from a slide area causing injury.	0	Claimant had signed release form barring claim.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
85-854	Hardin	I-65	\$50,000	Pothole in construction zone caused loss of control.	0	Hole was 3 feet x 3 feet and 1 inch deep, broke tie rod.
85-1005	Boone	US 25	\$50,000	Crash occurred after resurfacing; shoulder dropoff and no pavement markings.	\$15,000	Dropoff of four to six inches.
85-1007	Daviess	KY 279	\$50,000	Inadequate drainage caused dirt and mud to cover road.	\$35,000	Dirt and mud two to four inches deep.
85-1008	Henderson	US 41	\$50,000	Frost on road caused crash.	0	Loss of control; rear-end crash.
85-1040	Barren	US 31E	\$50,000	View obstructed by another vehicle; failure to designate turn lanes or provide left-turn signal.	\$15,000	Left-turn crash; fatality.
85-1041	Barren	US 31E	\$50,000	Refer to 86-1040.	\$20,000	
85-1070	Pike	KY 195	\$50,000	Ice on roadway; lack of guardrail.	\$4,180	Loss of control; injury crash.
85-1071	Harlan	I-65	\$50,000	Ice on bridge; failure to maintain roadside barrier.	0	No barrier for out-of-control vehicle exiting bridge; injury crash.
86-009	Breckinridge	KY 261	\$50,000	Lost control on slick asphalt.	0	Injury crash.
86-036	Fayette	KY 1685	\$50,000	Lost control on icy road; slid into culvert due to no guardrail.	0	Vehicle slid into 25-foot deep ditch; time limit for filing had expired.
86-038	Wayne	KY 90B	\$50,000	Failed to stop at stop sign due to inadequate warning of stop condition.	\$3,000	Intersection with KY 1275; driver BAC of 0.19.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
86-060	Floyd	US 23	\$50,000	In process of repairing traffic signal which was not operating properly; inadequate work zone traffic control.	\$5,426	Intersection with KY 114; fatal crash.
86-061	Grayson	KY 79	\$50,000	Drainage water permitted to drain across highway; car lost control on ice and hit guardrail end which penetrated car.	\$50,000	Blunt guardrail end treatment.
86-127	Henry	US 127	\$50,000	Tractor trailer that ran off road in curve; inadequate warning signs and inadequate guardrail.	0	Plaintiff dismissed suit; fatal crash.
86-231	Floyd	US 23	\$50,000	Refer to 86-60.	\$100	
86-322	Fayette	Waller Ave.	\$50,000	Failure to place signs and markings in advance of railroad.	0	
86-323	Pulaski	KY 80B	\$100,000	Crash at intersection where driver states he did not observe traffic signal.	\$5,000	Intersection with KY 39 in Somerset; fatal crash.
86-327	Allen	KY 98	\$50,000	DOH vehicle knocked utility pole down causing a mobile home to catch fire.	0	DOH vehicle had been hit by another vehicle.
86-484	Floyd	US 23	\$50,000	Refer to 86-60.	\$45,000	
86-485	Floyd	US 23	\$50,000	Refer to 86-60.	\$45,000	
86-489	Trigg	KY 124	\$50,000	Intersection crash where stop sign obscured by weeds and no other warning devices present (injury crash).	0	Intersection of KY 124 and KY 276.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
86-562	Trigg	I-24	\$50,000	Hit construction equipment on shoulder during fog; inadequate warning devices.	\$7,500	Fatal crash in construction zone; driver BAC of 0.10.
86-565	Larne	KY 210	\$50,000	Weeds at intersection reduced visibility of approaching traffic.	0	Intersection with KY 470; weeds three to four feet high; fatal crash.
86-566	Henderson	US 41	\$50,000	Crash at intersection where traffic signal on flash.	\$6,000	Intersection of US 41 and Watson Lane; separate lawsuit against city; fatal crash.
86-567	Henderson	US 41	\$50,000	Refer to 86-566.	\$6,000	
86-568	Henderson	US 41	\$50,000	Refer to 86-566.	\$6,000	
86-626	Floyd	KY 80	\$50,000	Inadequate drainage of roadway resulted in vehicle hydroplaning and crossing the median.	\$42,000	Pool of water four to five inches deep; fatal crash with opposing vehicle.
86-627	Bell	KY 66	\$50,000	Improper drainage of water resulted in vehicle losing control on ice.	\$300	
86-655	Pulaski	KY 39	\$50,000	Lost control of motorcycle and hit a guy wire on the right-of-way; no guardrail.	\$2,250	Fatal crash.
86-699	Warren	US 68	\$50,000	Inadequate clearance interval at traffic signal.	0	Intersection of Riverview and Kentucky Streets in Bowling Green; injury crash.
86-733	Kenton	I-75	\$50,000	Vehicle overturned on exit ramp due to improper super-elevation; no guardrail.	0	I-75 southbound at exit 188B.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
86-771	Marshall	KY 80	\$50,000	Impact with unmarked culvert on shoulder of road. No guardrail.	0	Culvert two feet off roadway.
86-772	Warren	KY 880	\$100,000	Crash in which operation of DOH vehicle was issue.	0	Involved vehicle making U-turn; injury crash.
86-799	Perry	KY 15	\$100,000	Collision with train at railroad crossing; inadequate warning lights.	\$10,000	Heavy fog.
86-833	Anderson	KY 1291	\$100,000	Collision with guardrail end which entered vehicle.	\$36,141	Blunt guardrail end treatment; fatal crash.
86-885	Kenton	I-275	\$100,000	Collision with guardrail end which entered vehicle.	\$1,000	BCT end treatment; fatal crash.
86-944	Boone	KY 14	\$100,000	Inadequate signs and markings and improper super-elevation.	0	DOH previously notified of road defect; head-on fatal crash.
86-1046	Campbell	US 27	\$50,000	Child injured after running onto road; no guardrail between road and sidewalk.	0	Plaintiff moved to dismiss.
86-1053	Campbell	US 27	\$100,000	Construction zone related to shoulder dropoff and inadequate warning.	0	Head-on collision; fatal crash.
86-1054	Campbell	Unknown	\$50,000	Shoulder dropoff in construction zone	0	Inadequate warning.
86-1055	Floyd	KY 404	\$100,000	Lost control on ice; no warning signs or markings.	\$30,000	Injury crash.
86-1116	Rowan	KY 519	\$50,000	Large portion of rock cliff fell into path causing driver to swerve and hit guardrail.	0	Injury crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
86-1118	Greenup	US 23	\$50,000	Water pooling.	\$62,500	Fatal crash.
86-1119	Greenup	US 23	\$50,000	Refer to 86-1118.	\$62,500	
86-1120	Kenton	I-75	\$100,000	Improper design of curve; improper superelevation.	0	Fatal crash when truck overturned onto another vehicle
86-1180	Laurel	I-75	\$100,000	Driving on ramp to weigh station when vehicle ran over delineator pole rupturing gas tank causing fire.	\$101,649	Driving around truck stopped on ramp; fatal crash.
86-1181	Laurel	I-75	\$100,000	Refer to 86-1180.	\$101,649	
86-1182	Laurel	I-75	\$50,000	Refer to 86-1180.	\$101,649	
86-1183	Perry	KY 1149	\$50,000	Pavement broke away and vehicle went over embankment.	0	Injury crash.
86-1185	Floyd	KY 80	\$100,000	Vehicle fell into collapsed culvert; inadequate warning in construction zone.	\$3,000	Injury crash.
86-1186	Fayette	KY 1681	\$50,000	Driver lost control due to shoulder dropoff in construction area.	0	Head-on collision in opposing lane.
86-1249	Floyd	KY 80	\$121,000	Refer to 86-1185.	0	
87-022	Metcalfe	KY 3234	\$100,000	Limited sight distance and failure to warn of a side road beyond a hillcrest.	\$33,333	Fatal crash.
87-023	Metcalfe	KY 3234	\$100,000	Refer to 87-022.	\$33,333	
87-024	Metcalfe	KY 3234	\$50,000	Refer to 87-022.	\$33,334	
87-025	Fulton	KY 94	\$50,000	Slid onto metal pipe on right-of-way.	\$20,000	Fatal crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
87-026	Edmonson	KY 259	\$100,000	Vehicle left roadway due to unsafe shoulder and insufficient warning signs.	0	Injury crash.
87-027	Warren	US 31W	\$100,000	Improper and inadequate signs directing traffic.	0	Vehicle southbound in northbound lanes; injury crash.
87-031	McCracken	US 45	\$100,000	Crash occurred DOH vehicle changed lanes.	\$85,090	Intersection of Lone Oak Road and Highland Blvd. in Paducah; injury crash.
87-113	Rowan	KY 32	\$50,000	Rocks fell into roadway.	\$50,000	Injury crash.
87-116	Calloway	KY 94	\$100,000	Motorcycle hit pothole on shoulder causing loss of control.	\$5,000	Crossed centerline and hit opposing vehicle; fatal crash.
87-210	Edmonson	KY 259	\$100,000	Hit culvert; unsafe shoulder and inadequate warning signs.	0	Plaintiff moved to dismiss; injury crash.
87-212	Perry	Briar Fork	\$67, 587	Earth and mud slide on state right-of-way caused residence to be pushed off foundation.	\$22,000	Related to construction of Daniel Boone Parkway.
87-217	Harlan	KY 221	\$100,000	Head-on crash related to water pooling.	\$28,921	Water three inches deep on roadway; injury crash.
87-221	Graves	KY 384	\$100,000	Failure to provide stop signs or warning signs or guardrail.	0	Intersection with Macedonia Church Road; injury crash.
87-229	Henderson	KY 359	\$50,000	No stop sign at intersection.	\$8, 500	Stop sign knocked down day previous to crash; fatal crash.
87-341	Bell	Unknown	\$100,000	View obstructed	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
87-344	Hopkins	KY 1034	\$100,000	Stop sign obstructed by a bush at intersection and no stop ahead sign.	\$85,000	Intersection of KY 1034 and Wicks Wells Road; fatal crash.
87-349	Greenup	US 23	\$100,000	Refer to 86-1118.	\$83,332	
87-431	Warren	US 31 W	\$100,000	Improper signs directing traffic.	0	Vehicle wrong direction on 4-lane highway; injury crash.
87-432	McCracken	KY 131	\$110,000	Shoulder dropoff and trees too close to the road.	0	Injury crash.
87-475	Greenup	US 23	\$100,000	Refer to 86-1118.	\$41,668	
87-516	Union	US 60	\$100,000	Crash involving a DOH vehicle.	0	Injury crash.
87-521	Harlan	US 421	\$100,000	Large rock fell from a cliff and hit truck causing fatality.	0	
87-524	Mercer	KY 1160	\$100,000	Shoulder dropoff as a result of paving.	\$44,250	Fatal crash.
87-525	Mercer	KY 1160	\$100,000	Refer to 87-524.	\$750	
87-526	Lincoln	US 27	\$100,000	Collision with road grader.	0	Injury crash.
87-580	Greenup	KY 750	\$100,000	Defective traffic signal and excessive speed limit.	0	Injury crash.
87-584	Metcalfe	Cumberland Pkwy.	\$100,000	Vehicle hit by state vehicle.	\$3,882	Slow speed with no warning emblem; injury crash.
87-621	Kenton	I-75	\$100,000	Construction zone.	0	Related to flagging; fatal crash.
87-623	Christian	US 41	\$75,000	Traffic signal operating improperly.	\$5,000	Injury crash.
87-624	Bell	KY 221	\$100,000	Motor vehicle-bicycle crash related to view obstruction.	0	Bicycle pulled from driveway; view obstructed by trees and bushes; injury crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
87-677	Bullitt	I-65	\$100,000	In construction zone; motorcyclist hit barrel blown into road by truck.	\$25,000	Injury crash.
87-705	Marshall	US 641	\$150,000	Traffic signal not operating (being repaired).	0	Injury crash.
87-732	Perry	Daniel Boone Pkwy.	\$100,000	Water pooling.	\$100,000	Water pooling in rutting caused by overweight trucks; fatal crash.
87-733	Perry	Daniel Boone Pkwy.	\$100,000	Refer to 87-732.	\$40,000	
87-734	Harrison	US 27	\$100,000	Pedestrian injured when fell at grate.	\$1, 500	
87-736	Bullitt	US 641	\$100,000	Lack of marking in construction zone.	\$4,635	Injury crash.
87-756	Marshall	US 641	\$100,000	Refer to 87-705.	0	
87-788	Jefferson	I-65	\$100,000	Improper drainage in construction zone.	\$25,000	Fatal crash.
87-790	Boone	I-75	\$100,000	Inadequate warning at construction zone.	0	Injury crash.
87-794	Russell	US 127	\$100,000	Signing on stop approach was inadequate.	\$90,000	Fatal crash; intersection with KY 619.
87-818	Campbell	US 27	\$50,000	Shoulder dropoff.	\$5,000	Injury crash.
87-918	Anderson	US 62	\$100,000	Water pooling.	\$100,000	Injury crash.
87-975	Shelby	US 60	\$100,000	Water drained onto property causing erosion.	0	
87-980	Madison	Simpson Road	\$100,000	Inadequate signing at stop approach.	\$3,125	Injury crash.
87-1053	Clay	KY 11	\$77,800	Rock slide.	0	Injury crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
87-1055	Floyd	US 23	\$50,000	Vegetation cut causing erosion.	0	
87-1059	Boone	KY 338	\$100,000	Hit pool of water in the roadway.	\$22,500	Injury crash.
87-1060	Fleeting	KY 11	\$100,000	Failure to install necessary traffic control devices.	0	Injury crash.
87-1061	Calloway	US 641	\$100,000	Inadequate warning at work site.	0	
87-1063	Boone	KY 338	\$100,000	Lack of warning sign at curve, shoulder dropoff, and lack of guardrail.	\$143,731	Fatal crash.
87-1112	Whitley	KY 11	\$100,000	Driver drove through intersection over embankment due to lack of stop sign.	0	Intersection of KY 11 and KY 92; stop sign torn down the night of the crash.
87-1156	Hardin	US 31W	\$100,000	Ice on road.	\$10,000	Injury crash.
87-1158	Fayette	US 25	\$100,000	Vehicle lost control due to shoulder dropoff.	\$10,000	Head-on fatal collision.
88-006	Ohio	Western KY Pkwy	\$100,000	Pedestrian hit by truck at service center.	0	Pedestrian injured.
88-058	Fayette	KY 57	\$100,000	Truck ran off road and struck tree and culvert; inadequate shoulder and culvert.	\$82,000	DOH aware of previous crashes; fatal crash.
88-061	Christian	US 41	\$100,000	Vehicle broke through wooden guardrail posts.	\$17,500	Guardrail not modern design; fatal crash.
88-062	Grayson	KY 411	\$100,000	Vehicle broke through guardrail.	\$124,000	Deteriorating wooden posts; substandard guardrail design injury crash.
88-063	Greenup	KY 693	\$50,000	Property flooded due to culvert not being large enough for heavy rain.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
88-085	Leslie	KY 2057	\$100,000	Truck overturned when section of road failed; no guardrail.	0	
88-087	Leslie	KY 2057	\$50,000	Refer to 88-85.	0	
88-139	Boone	KY 18	\$50,000	Refer to 85-1005.	\$5,000	
88-241	Hardin	KY 224	\$100,000	Adequate warning signals not present, at railroad crossing.	0	Fatal crash.
88-243	Mercer	KY 1989	\$100,000	"No passing" markings not replaced after road was resurfaced.	\$14,000	Crash in March 1987 after road was resurfaced in November 1986.
88-285	Fayette	I-75	\$100,000	Crash involving DOH vehicle.	0	Dismissed because not filed within one year; injury crash.
88-331	Knott	KY 7	\$100,000	Stop sign placed too far back resulting in reduced visibility.	0	Intersection of KY 7 and KY 1498; fatal crash.
88-375	Bell	Unknown	\$100,000	Hit rocks in roadway due to landslide	0	
88-412	Boyle	US 150B	\$75,000	Crash due to malfunctioning traffic signal.	0	Signal failed to display yellow interval; intersection with US 127.
88-415	Henderson	US 60	\$100,000	Visibility limited at intersection because of vegetation.	\$64,500	Intersection with KY 1078; fatal crash.
88-416	Green	Unknown	\$100,000	Flagged through area but then had to run off road to avoid paint striping operation.	\$5,117	
88-463	Kenton	KY 177	\$100,000	Inadequate warning and limited sight distance on intersection approach.	0	Intersection of KY 177 and KY 1303.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
88-464	Harrison	US 62	\$100,000	Crash due to gravel and oil left on road by DOH; no warning devices.	\$7,150	DOH used oil and gravel to repair road the previous day.
88-467	Green	Unknown	\$100,000	Refer to 88-416.	0	
88-528	Grant	KY 36	\$100,000	Vehicle ran off road in curve recently resurfaced; lack of warning or guardrail and shoulder dropoff.	\$7,500	No delineator or advisory speed sign or pavement markings; embankment exceeded six feet.
88-570	Pike	CR 5384	\$100,000	Pedestrian fell off bridge because guardrail had been knocked down.	0	County road (Marrowbone Creek Road).
88-623	Boyd	US 23	\$100,000	Guardrail end penetrated vehicle.	0	Fatal crash.
88-788	Pike	KY 468	\$75,000	Pickup overturned after hitting piles of asphalt on shoulder of road.	\$20,000	Asphalt dumped on shoulder to empty load from truck; injury crash.
88-790	Lawrence	KY 3	\$100,000	Vehicle lost control when hit oil on road from spill from prior crash.	\$84,800	Prior crash occurred day before.
88-791	Whitley	KY 727	\$100,000	Ran off road into creek; no guardrail or warning devices.	\$12,500	Shoulder caused driver to lose control; fatal crash.
88-843	Hopkins	Pennyrile Pkwy	\$52,000	Vehicle struck in rear by DOH truck.	\$2,000	Truck hauling guardrail and pulling an air compressor.
88-844	Carter	KY 174	\$100,000	Crash due to lack of stop sign or warning on stop approach.	\$500	Vehicle pulled from side road.
88-848	Laurel	KY 30	\$100,000	Crash at intersection; proper warnings not provided.	0	Intersection of KY 30 and KY 490; pavement markings, signing, and intersection beacon inadequate; fatal crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
88-872	Ballard	US 60	\$100,000	Struck grader blades which were holding a retaining structure upright.	\$5,000	Caused tire to blow out resulting in crash.
88-916	Meade	KY 79	\$100,000	Shoulder dropoff caused driver to lose control; slid into opposing vehicle.	\$74,000	Ran off right side of road in curve; four-inch dropoff.
88-917	Perry	KY 28	\$250,000	Lost control on oil and went over embankment not protected by guardrail.	Pending	Oil on road as result of recent road work.
88-973	Grayson	Market Street	\$50,000	No stop sign at intersection causing crash.	\$500	Intersection of Market Street and S. Main Street in Leitchfield.
88-974	Boyd	Boy Scout Road	\$50,000	Property damage due to flooding.	\$12,500	DOH cleaning and replacing drain and tiles under roadway.
88-1017	Muhlenberg	KY 189B	\$50,000	Intersection crash; during construction there was inadequate traffic control.	0	Intersection of KY 189 Bypass and KY 70; driver did not see stop sign or signal.
88-1052	Anderson	KY 513	\$100,000	Lack of guardrail or adequate warning signs.	0	Claim not filed within one year of crash; fatal crash.
88-1118	Metcalfe	KY 70	\$100,000	Crash due to branches covering stop sign (visible at 33 feet).	\$100,000	Intersection with KY 1243; stop ahead sign installed at time of crash.
88-1119	Metcalfe	KY 70	\$100,000	Refer to 88-1118.	\$60,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
88-1120	Laurel	KY 30	\$85,000	Crash at intersection; proper traffic control not provided.	\$73,394	Intersection with KY 490; traffic control problems related to signing, pavement marking, and beacon; fatal crash.
88-1121	Pike	US 23	\$100,000	Hit tree which had fallen into road.	\$50,000	Tree had been fire damaged and had been leaning toward the road; injury crash.
88-1125	Barren	US 68	\$100,000	Pavement became dangerous when wet; no warning provided.	0	
88-1226	Montgomery	US 460	\$100,000	Intersection crash where both drivers claimed to have a green signal.	\$21,000	Intersection of US 460 and KY 1686.
88-1227	Meade	KY 79	\$100,000	Refer to 88-916.	\$15,000	
88-1228	Meade	KY 79	\$50,000	Refer to 88-916.	\$15,000	
88-1229	Meade	KY 79	\$100,000	Refer to 88-916.	\$15,000	
88-1231	Barren	US 68	\$100,000	Refer to 88-1125.	0	
88-1257	Carter	KY 207	\$100,000	Vehicle slid on mud on road and hit another vehicle.	\$750	
88-1259	Jefferson	I-71	\$100,000	Lack of warning devices at a work zone.	0	Three DOH employees struck (fatal injuries).
88-1297	Kenton	Fowler Creek Road	\$100,000	Crash resulted when vehicle hit an irregular spot in the pavement causing loss of control.	0	Did not warn of condition.
88-1299	Bell	KY 92	\$100,000	Tree fell from embankment onto vehicle.	\$1, 000	Tree not on right-of-way; fatal crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
89-035	Martin	KY 292	\$100,000	Vehicle ran off road after hitting pothole.	\$500	
89-046	Leslie	D.B. Pkwy.	\$100,000	Vehicle lost control after hitting carcass of dead dog.	0	
89-047	Hardin	US 421	\$100,000	Lost control due to ice on road.	\$1,750	DOH called earlier in day to remove debris from ditch; injury crash.
89-073	Kenton	I-75	\$100,000	Crash in construction area related to DOH supervision of traffic control.	0	
89-075	Breckinridge	KY 2202	\$100,000	Lost control after hitting hole in road.	\$4,750	
89-160	Pike	KY 610	\$100,000	Landslide hit vehicle.	\$33,225	Stated that landslides had occurred before so aware of problem; injury crash.
89-190	Pendleton	US 27	\$100,000	Ice on bridge with warning.	0	Head-on fatal collision.
89-191	Pendleton	US 27	\$100,000	Refer to 89-190.	0	
89-192	Letcher	KY 1103	\$100,000	Vehicle ran into an unmarked and unprotected ditch.	0	Private company was responsible for alterations of ditch.
89-309	Hardin	I-65	\$100,000	Vehicle overturned as a result of shoulder dropoff.	\$1,000	Road had been repaved; injury crash.
89-310	Woodford	US 60	\$100,000	Water pooling.	\$100,000	Head-on fatal collision.
89-339	Breckinridge	KY 261	\$100,000	Lost control and overturned due to defective shoulder.	0	Fatal crash.
89-340	Breckinridge	KY 261	\$100,000	Refer to 89-339.	\$100,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
89-362	Bell	US 119	\$100,000	Crash related to landslide.	\$3,825	Rocks fell on vehicle causing loss of control; injury crash.
89-372	Johnson	KY 40	\$100,000	Rock fell on vehicle from rock cut; vehicles stopped with no detour marked.	0	Vehicles stopped to cut brush.
89-408	Hardin	Pleasant Hill Rd.	\$100,000	Vehicle lost control in curve due to lack of warning signs and pavement markings.	0	Road not state maintained.
89-409	Harlan	US 421	\$100,000	Truck lost control on steep grade due to no warning signs.	0	Required signs in place.
89-440	Boyd	US 60	\$50,000	Defective design of traffic signal.	\$6,385	Opposing left turn crash.
89-441	Boyd	US 60	\$100,000	Refer to 89-440.	\$61,464	
89-442	Boyd	US 60	\$100,000	Refer to 89-440.	0	
89-462	Madison	KY 1617	\$100,000	Failure to provide adequate warning signs.	0	Injury motorcycle crash
89-475	Jefferson	US 31W	\$100,000	Guardrail punctured vehicle.	\$45,000	Guardrail in un-repaired condition from previous crash; fatal crash.
89-499	Martin	KY 908	\$100,000	Portion of road caved in causing vehicle to run off the road.	0	
89-501	Metcalfe	KY 1243	\$59,427	Crash at intersection due to grass and trees obscuring view.	\$3,100	Intersection with KY 70.
89-541	Pike	KY 122	\$100,000	Vehicle lost control on wet road and slid into junk vehicle next to road (8.5 feet from road).	0	DOT had notified owner of junkyard to move vehicles beside road; fatal crash.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
89-657	Laurel	KY 1223	\$100,000	No traffic control device installed at the intersection.	0	Intersection of KY 1223 and Clark Road.
89-689	Carlisle	US 62	\$100,000	Shoulder drop-off related to resurfacing.	\$60,000	
89-771	Spencer	KY 55	\$100,000	Crash involving state truck making U-turn.	0	Driver gave no signal.
89-836	Taylor	KY 658	\$100,000	Lost control after tires dropped off excessive shoulder dropoff.	0	Resulted in head-on collision.
89-837	Magoffin	KY 402	\$100,000	Guardrail too low allowing vehicle to vault over guardrail.	\$35,000	
89-889	Caldwell	KY 2066	\$100,000	Problem with warning at boat dock.	0	Alcohol involved (BAC of 0.27).
89-912	Green	US 68	\$100,000	Crash at curve where vehicle ran into rock embankment; issues are lack of guardrail, shoulder, and warning sign.	\$65,000	Unsafe speed listed as contributing factor.
89-913	Green	US 68	\$75,000	Refer to 89-912.	0	
89-914	Green	US 68	\$75,000	Refer to 89-912.	0	
89-924	Carter	US 60	\$100,000	Car hit bump on bridge and lost control.	0	Driver drag racing and charged with DUI.
89-936	Bullitt	KY 61	\$100,000	Lack of warning and advisory speed at curve.	0	Vehicle being chased by police; 15 mph speed advisory present.
89-948	Meade	KY 1638	\$100,000	Vehicle hit utility pole; lack of guardrail and narrow shoulder.	0	Ran off road over steep embankment to avoid rear end collision.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
89-949	Boyd	US 23	\$100,000	Opposing left-turn crash; lack of proper traffic control and sight distance.	\$45,000	Intersection of US 60 and 29th Street in Ashland.
89-953	Floyd	Unknown	\$60,000	House flooded after highway altered drainage.	\$1,500	
89-958	McCracken	US 60	\$100,000	Vehicle lost control due to water pooling.	0	At Island Creek Bridge.
89-964	Logan	US 68	\$100,000	Crash involving DOH vehicle which had defective brakes.	0	Head-on collision; fatal crash.
89-972	McCracken	US 60	\$100,000	Refer to 89-958.	0	
89-1005	Muhlenburg	Holt Rd.	\$100,000	Crash at intersection due to missing stop sign.	0	Intersection of Holt Road and Railroad Avenue in Cleaton; intersection under control of county.
89-1006	Muhlenburg	Holt Rd.	\$100,000	Refer to 89-1005.	0	
89-1008	Knox	Unknown	\$100,000	Crash involving state vehicle.	\$85,000	Mower
89-1010	Grayson	KY 79	\$100,000	No flagman to warn of state truck stopped in road for road maintenance.	\$50,000	Truck stopped in a curve on a hillcrest.
89-1058	Webster	KY 109	\$100,000	Shoulder dropoff.	0	Opposite direction fatal collision.
89-1091	Boyle	US 68	\$100,000	Improper guardrail and inadequate shoulder and signing.	0	Vehicle hit guardrail and overturned; injury crash.
89-1163	Johnson	US23	\$100,000	Driver lost control when struck pothole filled with water.	\$10,000	Fatal crash.
89-1209	Carlisle	US 62	\$100,000	Refer to 89-689.	\$7,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
90-008	Lawrence	KY 2565	\$100,000	Poorly placed stop sign and lack of warning sign.	\$5,000	Intersection with US 23; driver disregarded stop sign.
90-038	Carlisle	US 62	\$50,000	Refer to 89-689.	\$36,000	
90-039	Harlan	Brittains Creek Rd.	\$100,000	Rode bicycle off bridge due to lack of guardrail.	0	
90-041	Letcher	KY 15	\$100,000	Lost control when hydroplaned.	\$7,000	
90-043	Daviess	US 231	\$100,000	Hit bridge abutment; inadequate guardrail.	0	
90-049	Jefferson	US 60	\$100,000	Pedestrian fell (no sidewalk).	0	
90-083	Muhlenberg	W.K. Pkwy.	\$100,000	Ran into rear of state vehicle stopped in roadway with no advance warning.	0	
90-110	Morgan	KY 437	\$100,000	Lost control on mud in road; no warning.	\$12,000	Mud from where state working on hill.
90-111	Campbell	KY 1121	\$100,000	Lost control when ran onto ice on road.	0	
90-180	McCracken	Unknown	\$51,890	Lost control when hit manhole cover and hit tree.	0	
90-183	Boone	KY 338	\$100,000	Hit utility pole located too close to roadway.	0	Pole not on state right-of-way.
90-184	Kenton	KY 16	\$100,000	Inadequate warning at sharp curve.	0	No reduced speed or flashing lights.
90-185	Kenton	KY 16	\$100,000	Refer to 90-184.	0	
90-201	Hancock	KY 144	\$100,000	Stop sign missing (had been stolen).	\$5,000	Intersection with KY 69; no notice of missing sign.
90-220	Christian	KY 107	\$100,000	Lost control when hydroplaned.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
90-221	Laurel	KY 2041	\$100,000	Lack of warning signs.	\$15,000	Lost control in curve, hit tree.
90-222	Livingston	KY 453	\$100,000	Crash due to missing stop sign.	0	
90-240	Breathitt	KY 1933	\$100,000	Drove into section of road which broke away as vehicle drove across.	\$3, 500	Dirt under road had been washed away.
90-245	Letcher	US 119	\$100,000	Head-on crash on three lane section of road; lack of sufficient passing lane and visibility.	0	
90-296	Marshall	US 68	\$100,000	Crossed median into opposing lane because median inadequate (too low).	0	Intersection with US 641.
90-494	Carter	KY 1947	\$100,000	Stop sign had been knocked down.	0	Intersection with KY 1959.
90-553	Fulton	KY 116	\$100,000	Pedestrian hit by vehicle; did not maintain right-of-way; no roadway lighting.	0	
90-558	Laurel	KY 192	\$100,000	Inadequate signing on stop approach.	0	Stop sign in place.
90-577	Perry	KY 15	\$100,000	Vehicle ran into rock slide.	\$25,000	
90-578	Pike	US 460	\$100,000	Swerved to avoid tree in road and ran off road.	0	Tree had been leaning toward road.
90-581	Bath	KY 1602	\$100,000	Inadequate signing on stop approach; lack of guardrail across from intersection.	\$15,000	No stop bar or stop ahead sign; intersection with KY 1325.
90-582	Powell	KY 402	\$100,000	Loss of control due to water pooling.	\$20,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
90-629	Martin	KY 1714	\$100,000	Lost control due to ice on road.	0	Water from broken water line.
90-630	Pulaski	US 27	\$90,000	State vehicle ran into rear of vehicle.	\$750	
90-640	Johnson	US 23	\$50,000	Refer to 89-1163.	\$17,500	
90-641	Hardin	KY 1600	\$100,000	Crash at intersection; view obstructed and change interval too short.	0	Intersection with King Road.
90-654	Kenton	KY 1486	\$100,000	Crash in work area where state in process of placing warning signs.	\$5,500	
90-665	Taylor	KY 76	\$100,000	No warning in advance of stop sign.	0	Intersection with KY 70.
90-666	Taylor	KY 76	\$100,000	Refer to 90-665.	0	
90-669	Carter	US 60	\$100,000	Lost control due to shoulder dropoff.	0	
90-703	Bourbon	US 27	\$100,000	Lost control due to shoulder dropoff.	\$37,500	
90-704	Pike	US 460	\$70,000	Hydroplaned and crossed into opposing lane.	\$45,735	Poor drainage.
90-705	Pike	US 460	\$60,000	Refer to 90-704.	\$18,576	
90-706	Pike	US 460	\$60,000	Refer to 90-704.	0	
90-707	Pike	US 460	\$60,000	Refer to 90-704.	0	
90-708	Metcalf	US 68	\$100,000	Lost control in curve due to lack of warning; ran into creek due to lack of guardrail.	0	
90-750	Leslie	US 421	\$100,000	Business flooded due to road construction.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
90-794	Rowan	Bluebank Rd.	\$100,000	Tractor overturned when ran onto defective shoulder; no warning; no guardrail.	0	
90-816	Mercer	US 68	\$100,000	Lost control due to shoulder dropoff.	\$3,000	
90-841	Lawrence	KY 1690	\$50,000	State vehicle made illegal turn.	0	
90-892	Jefferson	I-65	\$100,000	Truck lost control in curve and hit median barrier.	0	Load threw into opposing lane.
90-915	Woodford	KY 33	\$100,000	Ran off road in curve due to inadequate warning; lost control due to shoulder dropoff.	\$60,000	Improper superelevation in curve.
90-936	Harlan	US 421	\$100,000	Lost control on ice.	0	Ice formed near ditch obstruction.
90-948	Kenton	I-75	\$100,000	Pedestrian hit while walking on bridge; no pedestrian walkway provided.	0	
90-949	Kenton	I-75	\$100,000	Refer to 90-948.	0	
90-988	Hopkins	KY 1034	\$100,000	No warning signs or lighting at intersection.	0	Intersection with Bean Cem. Road.
90-1100	Johnson	US 23	\$100,000	Refer to 89-1163.	\$7,500	
90-1121	Hardin	I-65	\$150.00	Defective shoulders caused vehicle to lose control.	0	
90-1298	Knott	KY 80	\$100,000	Lost control on icy road.	\$500	Hit boulder partially on shoulder.
90-1311	Oldham	KY 329	\$100,000	Truck lost control due to shoulder dropoff.	0	
90-1313	Madison	I-75	\$100,000	Lack of guardrail; lack of delineation.	0	Impact with rock cut (24 feet from pavement).

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
90-1376	Hardin	US 31W	\$100,000	Inadequate traffic signs and markings resulted in vehicle crossing into opposing lane.	0	During heavy rain.
90-1406	Hardin	US 31W	\$100,000	Lost control due to snow and ice on road.	0	
90-1438	Pike	KY 194	\$100,000	Lost control due to ice on road.	\$8,500	Ditch had overflowed.
90-1451	Hardin	US 31W	\$150,000	Refer to 90-1376.	0	
91-083	Floyd	US 23	\$100,000	Improper design and marking of intersection resulted in turning left from straight lane.	0	Intersection with KY 114.
91-104	Green	KY 61	\$100,000	Newly paved road had no pavement marking.	\$33,333	Vehicle crossed into opposing lane.
91-145	Hardin	US 31W	\$100,000	Lost control in curve due to lack of warning sign.	\$20,000	
91-229	Hardin	KY 1882	\$100,000	Crash resulted because of flooded roadway.	0	No warning signs or barricades.
91-263	Henderson	KY 136	\$100,000	Improper design of intersection resulted in vehicle crossing into opposing lane.	0	Speeding and alcohol involved.
91-288	Caldwell	W.K. Pkwy.	\$100,000	Lost control when ran over trash bag left in road.	0	Overtuned because of defective design of median.
91-395	Muhlenberg	KY 70	\$150,000	Lost control due to shoulder dropoff; ran down embankment because of lack of guardrail.	\$5,000	
91-445	Bath	US 60	\$100,000	Lost control due to shoulder dropoff.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
91-451	McLean	US 431	\$100,000	Water pooling caused loss of control.	0	Claim for collateral damages.
91-459	Laurel	KY 3430	\$100,000	Lost control on gravel in curve.	\$50,000	
91-481	Woodford	Clifton Rd.	\$100,000	Lost control due to shoulder dropoff on newly resurfaced road; no guardrail on bridge.	0	Road resurfaced day of crash; no warning signs.
91-500	Muhlenberg	KY 70	\$100,000	Refer to 91-395.	\$1,000	
91-542	Hopkins	KY 1069	\$100,000	Crash with state vehicle.	0	Intersection with KY 1751.
91-547	Kenton	I-75	\$150,000	Refer to 87-621.	0	
91-579	Meade	KY 259	\$50,000	Crash caused by no stop sign.	0	Stop sign had been removed.
91-591	Lawrence	US 23	\$100,000	Lost control on wet road.	\$12,000	Rutting caused water accumulation.
91-617	Laurel	KY 3430	\$100,000	Refer to 91-459.	0	
91-641	Boyd	KY 5	\$100,000	Mower made illegal U-turn.	\$25,000	
91-644	Union	KY 56	\$100,000	Lost control due to shoulder dropoff.	\$500	
91-675	Lincoln	US 27	\$100,000	Stop sign missing and weeds obstructed view.	\$1,000	No junction sign.
91-684	Knox	US 25E	\$100,000	Allowed vehicles to park near intersection which limited view.	0	No warning signs.
91-700	Martin	KY 292	\$100,000	Lost control of vehicle due to debris in roadway.	0	Coal on roadway.
91-706	Hardin	US 31W	\$100,000	Hydroplaned and lost control; hit concrete barrier.	0	Improper drainage.
91-707	Nelson	US 31E	\$100,000	Hydroplaned and lost control.	0	
91-708	Jessamine	Unknown	\$90,000	Pedestrian fall.	\$175	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
91-730	Leslie	KY 80	\$100,000	Vehicle went over embankment due to lack of guardrail.	0	Guardrail had been removed.
91-760	Clark	Colby Rd.	\$100,000	Lost control due to improper shoulders.	\$1,500	
91-763	Floyd .	KY 1428	\$100,000	Hit unmarked culvert when pulled onto shoulder.	0	Weeds concealed culvert.
91-764	Floyd	KY 1428	\$100,000	Refer to 91-763.	0	
91-771	Montgomery	KY 686	\$100,000	Inadequate signing on stop approach.	0	Intersection with KY 713.
91-833	Hardin	KY 144	\$100,000	Construction caused water damage to property.	0	
91-849	Knott	KY 582	\$100,000	Inadequate warning of stop condition.	0	Intersection with KY 160.
91-850	Pike	KY 194	\$100,000	Water pooling caused vehicle to lose control.	\$3,949	Poor drainage.
91-858	Galloway	Fourth St.	\$100,000	Pedestrian stepped in hole where pole had been removed.	0	
91-859	Montgomery	US 60	\$100,000	Inadequate warning of stop approach; caution light not working.	\$6,100	Intersection with KY 686; vehicle disregarded stop sign.
91-988	McCreary	US 27	\$100,000	Defective shoulder caused loss of control.	0	
91-994	Montgomery	US 60	\$100,000	Refer to 91-859.	\$6,100	
91-1027	Montgomery	US 60	\$100,000	Improper traffic control at stop approach.	\$10,000	Intersection with KY 686.
91-1030	Jefferson	US 31W	\$100,000	Hydroplaned and lost control of vehicle.	\$2,000	Design of road allows water pooling.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
91-1056	Kenton	KY 16	\$100,000	Lost control due to water pooling; hit utility pole because of inadequate guardrail.	\$20,000	No warning sign for break in pavement.
91-1083	Floyd	US 23	\$100,000	Rocks fell from hill and hit vehicle.	\$1,000	No warning sign.
91-1110	Montgomery	US 60	\$50,000	Refer to 91-859.	\$6,100	
91-1151	Hopkins	KY 85	\$50,000	Inadequate guardrail allowed vehicle to run off embankment into river.	\$2,668	
91-1152	Hopkins	KY 85	\$50,000	Refer to 91-1151.	\$1,333	
91-1163	Hopkins	KY 85	\$100,000	Refer to 91-1151.	\$5,333	
91-1164	Hopkins	KY 85	\$50,000	Refer to 91-1151.	\$2,668	
91-1186	Nelson	KY 46	\$100,000	No stop sign or warning at stop approach.	0	Intersection with Clarktown Road.
91-1305	Bell	KY 987	\$100,000	Lost control on ice on roadway.	0	
91-1369	Lawrence	KY 644	\$100,000	Vehicle ran off road in curve and over embankment; lack of curve warning signs; no guardrail.	0	
91-1370	Lawrence	KY 644	\$100,000	Refer to 91-1369.	0	
91-1407	Letcher	KY 1103	\$100,000	Vehicle ran off road due to drainage problem.	0	Related to construction of ditch.
92-037	Butler	US 231	\$100,000	Driver lost control on ice-covered bridge and vehicle traveled down steep embankment.	0	Lack of guardrail; lack of sign warning of ice.
92-145	Greenup	US 23	\$100,000	Boulder from rockslide fell on car.	\$500	Injury crash.
92-184	Henry	KY 55	\$50,000	Rear-ended by state vehicle.	\$38,710	Driver of state vehicle was intoxicated.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
92-290	Floyd	US 23	\$100,000	Claimant was hit while crossing street from parking lot to state owned facility.	0	No crosswalk or traffic light for pedestrians.
92-292	Martin	KY 292	\$100,000	Claimant walking along road that broke apart.	0	
92-315	Harlan	KY 38	\$100,000	Debris from previous crash caused another.	0	
92-333	Fayette	KY 1974	\$100,000	Poorly designed intersection and traffic control devices.	0	Intersection with KY 4.
92-338	Bath	US 60	\$100,000	Head on collision in curve; inadequate signing.	\$20,000	
92-339	Bath	US 60	\$100,000	Refer to 92-338.	\$20,000	
92-385	Rowan	KY 519	\$100,000	Rockslide occurred causing crash.	\$1,250	Road construction caused slide; injury crash.
92-386	Rowan	KY 519	\$100,000	Refer to 92-385.	\$1,250	
92-419	Whitley	KY 204	\$100,000	Vehicle left roadway and struck wood piling.	\$1,500	Wood piling was state erected and maintained.
92-437	Lewis	KY 10	\$64,968	Rear tires of vehicle dropped off side of road.	\$21,247	
92-466	Jefferson	US 31E	\$100,000	Claimant made left turn and was hit by another vehicle.	\$750	Opinion that left turns should be protected.
92-486	Garrard Creek Rd.	Old Sugar	\$100,000	Roadway collapsed forcing vehicle down steep embankment.	\$7,500	No guardrail.
92-504	Leslie	KY 118	\$100,000	Road collapsed under vehicle.	0	Driver was charged with DUI.
92-520	Fayette	KY 922	\$100,000	Improper warning and signing in sharp curve.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
92-531	Fayette	KY 922	\$100,000	Refer to 92-531	0	
92-575	Scott	KY 32	\$100,000	Resurfacing caused loss of control; improper superelevation.	\$43,850	Intersection in middle of curve, improper advisory speed.
92-587	Fayette	KY 1927	\$100,000	Claimant ran through stop sign hidden by foliage.	0	Collision with tree.
92-596	Christian	US 41	\$100,000	Claimant's arm hit by debris thrown from mower.	0	
92-613	Grayson	US 62	\$100,000	Crash due to poor visibility and poor design of roadway.	0	
92-639	Madison	KY 1974	\$65,000	Water flooded claimant's home due to inadequate culvert size.	0	
92-673	Logan	US 68	\$100,000	Narrow lanes, improper embankment, and speed limits caused crash.	0	
92-745	Lawrence	US 23	\$100,000	Traffic light malfunctioned causing collision.	0	Intersection with KY 3.
92-786	Barren	KY 90	\$100,000	No warning signs at curve caused loss of control; no guardrail protection.	0	
92-787	Graves	KY 408	\$100,000	Claimant hit by state dump truck.	\$500	
92-798	Hopkins	KY 502	\$100,000	Defendant drove into flooded road and drowned.	\$22,500	No warning signs of flooded road.
92-840	Boone	Turkey Foot Road	\$100,000	Traffic signal malfunctioned.	\$750	
92-867	Hardin	KY 3005	\$75,000	Vehicle hit by railroad maintenance vehicle due to high weeds and poor visibility.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
92-868	Hardin	KY 3005	\$75,000	Refer to claim 92-0867.	0	
92-869	Hardin	KY 3005	\$50,000	Refer to claim 92-0867.	0	
92-950	Hardin	KY 3005	\$50,000	Refer to claim 92-0867.	0	
92-1019	Ballard	KY 51	\$100,000	Object thrown from mower.	\$113,400	
92-1042	Fayette	KY 922	\$100,000	A seven to eight inch dropoff to shoulder.	0	No warning signs of dropoff.
92-1051	Graves	KY 94	\$100,000	State truck hit claimant's vehicle.	0	
92-1065	Harlan	US 421	\$100,000	Milling from road was placed on shoulder.	\$50,000	Lost control due to debris on road; fatal crash.
92-1087	Hardin	KY 86	\$100,000	Hit by train at railroad crossing.	0	Sign blocked view of warning signal.
92-1125	Grayson	US 62	\$100,000	Refer to 92-0613.	0	
92-1212	Carter	KY 1122	\$100,000	Ran off road and hit tree; no guardrail.	0	
92-1213	Hopkins	KY 112	\$100,000	Water pooling in ruts left by coal trucks caused hydroplaning.	0	
93-063	Hart	US 31 W	\$100,000	Inadequate clear zone; inadequate warning signs.	\$25,000	Defendant's tractor overturned at a culvert; hidden by weeds.
93-073	Hart	US 31 W	\$100,000	Refer to 93-63.	\$25,000	
93-092	Allen	DNA	\$100,000	Fell through drainage grate in state parking lot.	0	Poor lighting contributed.
93-093	Allen	DNA	\$100,000	Refer to 93-0092.	0	
93-193	Morgan	KY 519	\$100,000	Crash caused by break in pavement.	0	
93-262	McCracken	Etch Road	\$100,000	State driver rear-ended claimant's vehicle.	\$700	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
93-295	Greenup	US 23	\$100,000	Water pooled in roadway causing hydroplaning an crash.	0	
93-316	Clinton	KY 696	\$100,000	Bridge repair caused crash and injury.	0	No warning signs.
93-317	Metcalfe	Unknown	\$100,000	Hit dip in curve and lost control of vehicle.	0	No warning signs.
93-322	Knott	KY 696	\$50,000	Pooling water froze on roadway causing crash.	0	
93-323	Knott	KY 696	\$50,000	Refer to 93-0322.	0	
93-378	Magoffin	KY 1081	\$50,000	Hit head on by vehicle while crossing bridge; bump at end of bridge caused loss of control.	0	Poor design of bridge and approaches.
93-379	Magoffin	KY 1081	\$50,000	Refer to 93-0378.	0	
93-380	Magoffin	KY 1081	\$50,000	Refer to 93-0378.	0	
93-382	Magoffin	KY 1081	\$50,000	Refer to 93-0378.	0	
93-383	Magoffin	KY 1081	\$50,000	Refer to 93-0378.	0	
93-432	Boone	KY 1017	\$100,000	Hit head on by state truck.	\$5, 500	State employee charged with DUI.
93-479	Franklin	I-64	\$100,000	Claimant (on motorcycle) hit deer.	0	No "deer crossing" signs.
93-520	Rowan	I-64	\$100,000	Hillside slid onto claimants vehicle.	0	Injury crash.
93-530	Lincoln	DNA	\$100,000	Construction of temporary road and inadequately sized culverts flooded property.	0	
93-531	McLean	KY 798	\$100,000	Claimant standing on a concrete culvert which fell.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
93-547	Harlan	KY 221	\$100,000	Claimant was working on contract with state and the truck he was working in hit high voltage power lines causing injury.	0	
93-592	Meade	KY 144	\$100,000	Claimants vehicle hydroplaned causing crash.	\$500	
93-661	Breckinridge	KY 383	\$100,000	Claimants vehicle was hit head on by another.	0	Poor superelevation of curve.
93-677	Letcher	KY 7	\$100,000	Decedent killed at unsignalized railroad crossing.	0	
93-679	Meade	KY 144	\$100,000	Refer to 93-0592.	0	
93-683	Graves	KY 564	\$100,000	Pooling of water caused crash.	0	
93-699	Carter	US 60	\$100,000	Tractor overturned in culvert hidden by weeds.	0	
93-710	Adair	Unknown	\$100,000	Motorcycle lost control due to debris on road.	0	
93-822	Bell	KY 190	\$75,000	Removal of embankment caused landslide onto claimant's home.	\$22,000	
93-827	Pulaski	Clifty Road	\$100,000	Vehicle turned into a blind entrance in a curve.	\$816	
93-849	Floyd	US 23	\$100,000	Hit guardrail under construction and in roadway.	0	No lighting or construction signs.
93-850	Floyd	US 23	\$100,000	Refer to 93-0849.	\$20,400	
93-876	Perry	KY 1165	\$100,000	Improper drainage of roadway flooded claimant's property and home.	\$7,500	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
93-891	Crittenden	KY 1020	\$50,000	Crash due to improper shoulder maintenance and curve superelevation.	\$3,000	
93-892	Crittenden	KY 1020	\$50,000	Refer to 93-0891.	\$3,000	
93-893	Crittenden	KY 1020	\$50,000	Refer to 93-0891.	\$3,000	
93-894	Crittenden	KY 1020	\$50,000	Refer to 93-0891.	\$3,000	
93-895	Crittenden	KY 1020	\$50,000	Refer to 93-0891.	\$3,000	
93-911	Garrard	KY 34	\$94,375	Improperly signalized intersection caused crash.	\$1,117	
93-918	Knott	KY 80	\$100,000	Improperly designed intersection caused collision.	0	Intersection with KY 160.
93-919	Knott	KY 80	\$100,000	Refer to 93-0918.	0	
93-954	Magoffin	US 460	\$100,000	No guardrail protection.	0	Ran off road in curve.
93-974	Greenup	KY 1	\$100,000	Vehicle hydroplaned.	\$17,500	Lost control in curve.
93-975	Greenup	KY 1	\$50,000	Hydroplaned; lack of signing; no guardrail.	\$17,500	Previous crash history.
93-976	Greenup	KY 1	\$50,000	Refer to 93-0974.	\$17,500	
93-977	Greenup	KY 1	\$50,000	Refer to 93-0974.	\$17,500	
93-1080	Boyd	US 23	\$100,000	Rear ended coal truck on shoulder (no signs).	0	Driver taking tarp off; no lighting.
94-070	Carter	KY 1704	\$100,000	Rockslide.	0	Fatal crash.
94-071	Floyd	US 23	\$100,000	Poor lighting at intersection.	0	Intersection with KY 1428.
94-072	Floyd	US 23	\$100,000	Refer to 94-0071,	0	
94-110	Muhlenberg	WK Pkwy	\$100,000	Vehicle left roadway and hit abutment.	\$41,397	No guardrail or rumble strips.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
94-124	Franklin	US 460	\$100,000	Pulled from entrance and hit by vehicle passing another vehicle; should not have been passing zone.	0	Improper speed limit of 55 mph.
94-161	Monroe	KY 1366	\$100,000	Decedent slid on ice into bridge abutment.	\$40,000	No guardrails.
94-182	Greenup	KY 2	\$100,000	Claimant hit slush on road and rolled down hill.	\$1,750	No guardrails.
94-195	Pike	KY 122	\$100,000	Rockslide fell on claimant's truck.	\$4,000	
94-256	Morgan	KY 172	\$100,000	Break in pavement.	\$3,000	
94-280	Scott	LeMars Mill	\$100,000	Pooling water.	0	
94-281	Daviess	KY 56	\$100,000	Cement truck overturned in curve.	0	No signing or guardrails.
94-327	Boyle	US 127	\$100,000	Road construction with no warning signs.	0	At intersection.
94-333	Gallatin	US 42	\$50,000	No signing at construction site.	0	
94-348	Russell	US 127	\$100,000	Lost control on wet road in sharp curve; advisory speed incorrect.	\$97,500	Vehicle went through bridge railing.
94-359	Meade	US 60	\$100,000	Stop sign missing at intersection.	0	Darkness and fog limited visibility.
94-416	Powell	KY 11	\$100,000	Pavement defect related to patching.	\$65,000	
94-439	Russell	US 127	\$100,000	Refer to 94-0348.	0	
94-441	Perry	KY 550	\$100,000	Pooling water caused crash.	\$10,000	
94-468	Fayette	US 27	\$100,000	Pedestrian hit at signalized intersection; walk signal would not activate.	0	Intersection with Lowery Lane.
94-480	Scott	KY 1962	\$100,000	Pooling water caused loss of control; hit tree.	\$32,500	Improper superelevation.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
94-494	Letcher	KY 805	\$100,000	Debris on roadway caused loss of control.	0	
94-497	Owen	KY 227	\$100,000	Poor traffic control devices caused crash.	0	No stop signs or lighting.
94-524	Johnson	US 23	\$100,000	Lack of guardrail.	0	Vehicle went over embankment.
94-550	Fayette	Man-o-War	\$100,000	Crash due to design and operation of traffic signal.	\$7,500	Intersection with Clays Mill Road.
94-594	Bath	KY 36	\$50,000	Poorly designed culvert, no guardrail or warning signs.	0	Headwall 14 inches off pavement.
94-595	Bath	KY 36	\$50,000	Refer to 94-0594.	0	
94-596	Bath	KY 36	\$50,000	Refer to 94-0594.	0	
94-675	Bath	KY 36	\$50,000	Refer to 94-0594.	0	
94-676	Bath	KY 36	\$50,000	Refer to 94-0594.	0	
94-717	Jefferson	I-265	\$100,000	Construction damaged property.	\$7,500	Drainage issue.
94-764	Carroll	KY 36	\$75,000	Driver of vehicle lost control and hit utility pole.	0	Resurfacing caused loss of control.
94-765	Carroll	KY 36	\$75,000	Refer to 94-0764.	0	
94-786	Carroll	KY 36	\$100,000	Refer to 94-0764.	0	
94-787	Washington	BG Pkwy.	\$100,000	Lost control on ice and hit abandoned car on shoulder.	0	
94-910	Franklin	US 127	\$100,000	Crash in curve due to gravel in roadway.	0	
94-911	Franklin	US 127	\$100,000	Refer to 94-0910.	0	
94-946	Harrison	KY 353	\$100,000	Crash in construction zone.	0	No warning signs.
94-987	Harlan	KY 221	\$100,000	Shoulder dropoff after resurfacing.	\$100,000	No warning signs.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
94-1009	Breathitt	KY 1111	\$100,000	Lost control due to improper shoulder.	0	No guardrail protection.
94-1010	Jefferson	KY 22	\$100,000	Hit tree too close to roadway.	0	Fatal crash.
94-1012	Caldwell	Simms Road	\$200,000	Vehicle hit tree too close to roadway.	0	
94-1020	Franklin	US 127	\$100,000	Improper signs and markings at intersection.	0	Intersection with KY 898.
94-1021	Clay	US 421	\$100,000	Ice on roadway caused loss of control.	\$5,000	Improper drainage.
94-1028	McCracken	Broad Street	\$100,000	Crash at intersection due to no traffic signal.	0	At private business.
94-1052	Fayette	KY 956	\$250,000	Claimant slid through curve and hit telephone pole; no warning sign.	0	
94-1060	Rowan	KY 32	\$100,000	Shoulder collapsed.	0	Poor markings.
94-1062	Lawrence	KY 3	\$100,000	Tree lying across road.	0	
94-1104	Pike	KY 1056	\$100,000	Water pooling.	\$4,500	
94-1132	Carter	KY 1	\$100,000	Break in pavement.	\$35,000	
94-1142	Lincoln	US 127	\$100,000	Improperly marked intersection in construction zone.	0	
94-1237	Washington	B.G. Pkwy	\$100,000	Refer to 94-787.	0	
94-1243	Wayne	Unknown	\$100,000	Hit work vehicle stopped in road.	0	No advance signs or flagger.
95-007	Montgomery	I-64	\$100,000	Vehicle ran over end of guardrail.	0	Ruptured fuel tank; vehicle burned.
95-008	Montgomery	I-64	\$150,000	Refer to 95-7.	0	
95-070	Henderson .	Pennyrile	\$125,000	Vehicle hit end of guardrail which penetrated car.	\$55,000	Blunt guardrail end.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
95-071	Henderson	Pennyrile	\$125,000	Refer to 95-70.	\$55,000	
95-073	Floyd	KY 194	\$100,000	Condition of road.	0	Defect or object in highway.
95-111	Knott	Unknown	\$100,000	Improper drainage.	0	
95-293	Bell	US 25 E	\$100,000	Hit patch of ice.	\$5,455	Culvert blocked.
95-335	Boyle	KY 34	\$100,000	Hit guardrail; base and bolts of guardrail deteriorated.	0	Guardrail inadequate.
95-336	Pike	US 23	\$100,000	Tire came off of DOH vehicle and struck vehicle.	0	
95-381	Carter	KY 1	\$150,000	Refer to 94-1132.	\$17,500	
95-402	Perry	KY 451	\$100,000	Failed to install guardrail to protect house.	0	Pedestrian in yard hit by vehicle.
95-403	Perry	KY 451	\$100,000	Refer to 95-402.	0	
95-416	Grayson	KY 1214	\$100,000	Lost control of vehicle on wet pavement.	0	No warning signs.
95-451	Grayson	Sunbeam Road	\$100,000	Lost control of vehicle after hitting pothole.	0	Not state-maintained road.
95-452	Grayson	Sunbeam Road	\$100,000	Refer to 95-451.	0	
95-453	Grayson	Sunbeam Road	\$50,000	Refer to 95-451.	0	
95-493	Perry	KY 7	\$1,000	Lost control of vehicle after hitting a pothole.	\$14,000	
95-536	Simpson	KY 1008	\$100,000	Stop sign obscured by tree branch.	0	
95-537	Simpson	KY 1008	\$100,000	Refer to 95-536.	0	
95-607	Bell	KY 188	\$100,000	Vehicle lost control on curve.	0	No guardrail.
95-641	Hopkins	WK Pkwy	\$50,000	Blunt guardrail end treatment penetrated car.	0	
95-642	Hopkins	WK Pkwy	\$50,000	Refer to 95-641.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
95-643	Hopkins	WK Pkwy	\$50,000	Refer to 95-641.	0	
95-644	Hopkins	WK Pkwy	\$50,000	Refer to 95-641.	0	
95-645	Hopkins	WK Pkwy	\$50,000	Refer to 95-641.	0	
95-703	McCracken	US 45	\$100,000	Lack of motorcycle warning signs for bridge with steel deck.	0	
95-717	Pendleton	KY 177	\$100,000	Vehicle hit CSX railroad bridge.	0	No height signs.
95-783	Grayson	US 62	\$100,000	Lost control of vehicle in curve; ruts allowed waterpooling.	0	Lost control before rutting.
95-810	Powell	Shipsbranch Rd.	\$200,000	Lack of stop sign.	\$5,000	No guardrail.
95-817	Meade	KY 1600	\$100,000	View of stop sign obscured.	0	Intersection with Coleman Road; county responsible for sign.
95-818	Meade	KY 1600	\$100,000	Refer to 95-817.	0	
95-924	Pendleton	KY 17	\$100,000	No signing or reduced speed before a curve.	\$15,000	
95-939	Jefferson	I-64	\$75,000	Vehicle stopped at construction site.	0	I-264 interchange.
95-940	Jefferson	I-64	\$50,000	Refer to 95-939.	0	
95-941	Jefferson	I-64	\$50,000	Refer to 95-939.	0	
95-949	Jefferson	I-64	\$75,000	Refer to 95-939.	0	
95-979	Anderson	KY 513	\$100,000	Vehicle ran off road and overturned.	0	No guardrail.
95-980	Anderson	KY 513	\$100,000	Refer to 95-979.	0	
95-1005	Laurel	KY 1193	\$100,000	Pedestrian fell on bridge.	0	Drain grate.
95-1020	Campbell	KY 8	\$100,000	Improper drainage.	0	Drainage ditch inadequate.
95-1042	Bell	KY 221	\$100,000	Tree fell and hit car.	0	
96-001	Shelby	KY 1779	\$100,000	Guardrail not attached to bridge.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
96-013	Boyle	KY 52	\$100,000	Lost control on ice covered road.	0	
96-014	Boyle	KY 52	\$50,000	Refer to 96-13.	0	
96-015	Boyle	KY 52	\$50,000	Refer to 96-13.	0	
96-016	Boyle	KY 52	\$50,000	Refer to 96-13.	0	
96-018	Lawrence	US 23	\$100,000	Inappropriate warning signs; improper grade; failure to design overpass.	0	Intersection with KY 3.
96-020	Bell	US 231	\$100,000	Head on collision with state vehicle.	\$10,295	
96-060	Grayson	KY 1214	\$100,000	Vehicle ran off road in curve.	0	Improper superelevation.
96-068	Pike	US 23	\$100,000	Rock slide; no warning signs or cones.	0	
96-069	Pike	US 23	\$100,000	Refer to 96-068.	0	
96-083	Pike	Upper Pompey Creek Road	\$100,000	Swerved into opposing lane of traffic to avoid break in pavement; went over embankment.	\$2,250	Road should have been repaired.
96-132	Magoffin	Unknown	\$100,000	Dropped off onto shoulder and lost control.	0	
96-181	Shelby	I-64	\$100,000	Driver fell asleep; hit inadequate guardrail.	0	Vehicle fire.
96-190	Shelby	1-64	\$100,000	Refer to 96-181.	0	
96-218	Johnson	KY 40	\$100,000	Rock fell from embankment.	\$7,320	Failed to inspect.
96-297	Ohio	KY 54	\$100,000	No narrow bridge warning signs.	0	Bridge width 19 feet.
96-354	Crittenden	US 641	\$100,000	Inadequate markings and road signs.	0	Lack of guardrail and shoulder defective.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
96-356	Mercer	KY 2168	\$100,000	Vehicle crossed intersection and went over embankment and hit a utility pole.	0	No stop sign at intersection.
96-430	Garrard	KY 34	\$100,000	Pulled out in front of vehicle on US 27.	0	Should have been a signal.
96-431	Garrard	KY 34	\$100,000	Refer to 96-430	\$1,800	
96-463	Warren	US 68	\$100,000	Vehicle hydroplaned on roadway.	0	Failure to correct known defects in drainage.
96-490	Perry	KY 276	\$100,000	Car came around curve and state crew was in road working on ditches.	0	Should have had flagman.
96-536	Christian	KY 1682	\$100,000	Lack of traffic signal.	0	Intersection of KY 1682 and KY 91.
96-546	Hopkins	Pennyrile Parkway	\$100,000	Lost control due to pothole in road.	0	
96-621	Madison	Unknown	\$100,000	Traffic signing.	0	
96-626	Mason	KY 8	\$100,000	End of guardrail penetrated vehicle.	0	Improper blunt guardrail end.
96-640	Daviess	Old Lyddane Rd.	\$100,000	Ran stop sign; poor signage; trees obscured view.	0	Intersection with KY 81.
96-641	Daviess	Old Lyddane Rd	\$100,000	Refer to 96-641.	0	
96-642	Daviess	Old Lyddane Rd	\$50,000	Refer to 96-641.	0	
96-685	Kenton	Unknown	\$62,600	Improper drainage.	0	
96-687	Adair	KY 704	\$100,000	No curve warning sign.	0	
96-716	Hart	I-65	\$68,068	Crash at construction zone.	0	Lane closure; merging into one lane.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
96-742	Knox	US 25E	\$100,000	Construction zone crash; head on collision where traffic was changed from four-lane to two-lane.	\$40,000	Necessary warning signs not installed.
96-785	Carroll	KY 467	\$100,000	Motorcyclist swerved to avoid opposing vehicle; ran off road and hit culvert.	0	No warning signs of culvert.
96-816	Allen	US 31E	\$100,000	Vehicle ran red light due to improper or non-working traffic signal.	0	Intersection with KY 101.
96-818	Scott	KY 32	\$100,000	Failed to warn of curve.	0	
96-819	Lyon	KY 293	\$100,000	Vehicle failed to stop at stop sign; warning signs.	0	Improperly maintained intersection.
96-824	Allen	US 31E	\$100,000	Refer to 96-816.	0	
96-832	Madison	KY 876	\$100,000	Lack of guardrail; lack of warning signs; shoulder defect.	0	Vehicle ran off road and hit trees and embankment.
96-855	Johnson	KY 3388	\$100,000	Struck railroad rails driven into embankment either as guardrail or to stop erosion.	0	Improper placement of rails.
96-856	Boyle	KY 33	\$100,000	Stop sign missing.	\$12,000	Intersection with KY 2168.
96-882	Boyle	US 150	\$100,000	Pedestrian hit by vehicle at crosswalk.	0	Pedestrian signal not working.
96-884	Kenton	KY 1092	\$100,000	Lost control on wet pavement; struck guardrail.	0	No warning of hazardous conditions.
96-885	Kenton	KY 1092	\$100,000	Refer to 96-884.	0	
96-886	Kenton	KY 1092	\$50,000	Refer to 96-884.	0	
96-892	Warren	I-65	\$100,000	Hit abandoned vehicle on shoulder.	0	Abandoned vehicle stuck in hole; no warning of hole.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
96-893	Warren	KY 526	\$100,000	Lost control due to shoulder dropoff:	0	
96-974	Jefferson	I-64	\$100,000	Lost control due to difference in elevation.	0	Difference in elevation three to four inches.
96-981	Floyd	KY 321	\$100,000	Lost control due to mud on road.	0	Mud from coal trucks.
96-1064	Warren	US 68	\$100,000	Vehicle hit pedestrian; inadequate warning signs.	0	
96-1069	Madison	KY 388	\$100,000	Road construction; inadequate traffic controls.	0	
97-043	Calloway	KY 444	\$100,000	Lost control when hit a patch of ice.	\$13,854	Improper drainage.
97-055	Leslie	D. B. Pkwy	\$100,000	Water ponding on road.	\$72,000	Improper drainage.
97-056	Knott	KY 80	\$75,000	Rock slide from mountain hit car.	0	State failed to construct and maintain hill and roadway.
97-174	Boyle	3rd St. and Main St.	\$100,000	Pedestrian signal not working properly.	\$3,500	
97-183	Leslie	KY 66	\$100,000	Improper road design.	\$3,500	
97-234	Boone	I-71	\$100,000	Improper culvert design and construction; shoulder width and slope improper.	0	
97-235	Bell	US 25E	\$100,000	Failure to provide roadside barrier.	\$65,000	Hit floodwall; issue of required clear zone width.
97-278	Knott	KY 160	\$100,000	Hit utility pole located close to road.	\$5,000	Fatal crash.
97-319	Knott	KY 1097	\$100,000	No stop sign.	0	
97-368	Knox	KY 225	\$58,000	Improper drainage.	\$18,000	Road had been raised and did not drain properly.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
97-404	Oldham	Unknown	\$100,000	Improperly maintained road surface.	0	
97-411	Bath Rd.	Unknown	\$50,000	Cut tree on property.	0	Damaged property.
97-415	Caldwell	US 641	\$75,000	State vehicle speeding, crossed median, and struck oncoming vehicle.	\$32,250	
97-416	Caldwell	US 641	\$75,000	Same as 97-0415.	\$32,250	
97-417	Caldwell	US 641	\$50,000	Same as 97-0415.	\$32,250	
97-418	Caldwell	US 641	\$50,000	Same as 97-0415.	\$32,250	
97-424	Warren	Victoria St.	\$100,000	Improper traffic control device.	0	Traffic signal
97-425	Warren	Victoria St.	\$100,000	Refer to 97-0424.	0	
97-481	Jefferson	I-264	\$100,000	Curb adjacent to the road was a hazard.	0	On-ramp to intersection.
97-499	Clark	KY 402	\$100,000	Hole in fence allowed cow to exit.	0	Collision with animal.
97-523	Magoffin	US 460	\$100,000	Lost control due to dip in road.	0	Guardrail not properly maintained.
97-544	Johnson	KY 1428	\$100,000	Large dip in road.	0	Fatal crash.
97-581	Bourbon	KY 1678	\$100,000	Edge of roadway failed.	\$1,500	
97-605	Franklin	US 460	\$100,000	Lack of no passing zone.	0	
97-621	Madison	Unknown	\$100,000	Lack of stop sign.	0	
97-646	Perry	KY 1067	\$100,000	Road needed widening.	0	
97-647	Perry	KY 1067	\$100,000	Same as 97-0646.	0	
97-742	Trimble	KY 3175	\$50,000	Improper bridge and roadway design.	\$5,000	Shoulders and signing.
97-764	Pike	KY 1967	\$100,000	Culvert flooded and damaged property.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
97-765	Monroe	KY 100	\$100,000	Vehicle hit ditch when turning into gas station.	0	
97-774	Floyd	US 23	\$100,000	Water ponding.	\$100,000	
97-777	Montgomery	KY 1991	\$100,000	Failed to properly design and maintain roadway.	0	
97-778	Montgomery	KY 1991	\$100,000	Same as 97-0777.	0	
97-820	Scott	I-75	\$100,000	Pothole caused crash.	\$60,000	
97-826	Jefferson	KY 1694	\$99,000	Improper striping; pole too close to road.	0	Low shoulder sign hid by trees.
97-922	Jefferson	KY 2053	\$100,000	Hit pothole in road and overturned.	\$2,952	
97-923	Pike	KY 1056	\$100,000	Break in roadway caused crash.	\$25,000	
97-943	Powell	Unknown	\$100,000	Miscellaneous personal property loss/damage.	0	
97-976	Pike	US 119	\$100,000	Road closed sign missing.	0	Road construction zone.
97-991	Pike	US 119	\$100,000	Refer to 97-0976.	0	
97-1020	Rowan	US 60	\$100,000	Inadequate warning signs or devices.	\$35,000	
97-1025	Jefferson	Lexington Rd.	\$125,000	Pedestrian; improper crosswalk.	0	Fatal crash.
97-1026	Jefferson	Lexington Rd	\$125,000	Same as 97-1025.	0	
97-1049	Woodford	KY 33	\$75,000	No guardrail.	0	
97-1078	Kenton	KY 17	\$100,000	Water run-off problems created ice hazard.	\$5,000	
98-017	Letcher	Unknown	\$100,000	Lost control due to debris in the road.	0	
98-023	Johnson	Unknown	\$100,000	Improper drainage caused crash.	0	
98-080	Floyd	Unknown	\$100,000	No guardrail.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
98-170	Harlan	KY 38	\$125,000	Tree fell onto a car.	\$169,635	Fatal crash.
98-175	Harlan	KY 38	\$125,000	Refer to 98-170.	\$169,807	
98-203	Gallatin	KY 467	\$100,000	Failure to warn of flood waters.	\$93,495	
98-234	Knox	KY 225	\$100,000	Failed to negotiate a curve; failure to maintain shoulder/curb.	\$104,791	Improper design.
98-257	Montgomery	Unknown	\$50,404	Construction caused loss of business.	\$40,000	
98-278	Warren	US 231	\$100,000	Lack of traffic control at marked crosswalk.	0	Pedestrian hit.
98-279	Jefferson	Unknown	\$100,000	Pedestrian fall.	0	
98-301	Knox	US 25E	\$100,000	Failure to install traffic signal.	0	Intersection with KY 3041.
98-339	Martin	Unknown	\$100,000	Inadequate warning signs or markings.	\$1,356	
98-496	Pike	KY 199	\$100,000	Break-off in road.	0	Failure to properly maintain highway.
98-565	Marshall	Purchase Parkway	\$100,000	Vehicle hydroplaned due to water pooling.	0	
98-567	Green	KY 61	\$100,000	No warning of high water; no guardrails.	\$50,000	High water common at crash site.
98-572	Henderson	KY 812	\$75,000	Trees and brush obstructed the view of vehicles at intersection.	\$2,493	Intersection with KY 2099.
98-579	Henderson	KY 812	\$75,000	Refer to 98-572.	\$39,915	
98-580	Henderson	KY 812	\$50,000	Refer to 98-572.	0	
98-581	Henderson	KY 812	\$50,000	Refer to 98-572.	0	
98-662	McCracken	Unknown	\$100,000	Inadequate warning signs or markings.	\$90,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
98-727	Breckinridge	KY 259	\$100,000	Vehicle left road and hit earth embankment.	0	Negligent design and construction of roadway.
98-767	Floyd	Jack's Creek Road	\$100,000	Road crew was cleaning debris out of ditches; object from debris injured plaintiff's eye.	0	Road crew should have stopped traffic until debris was clean from road.
98-797	Boone	Unknown	\$100,000	No guardrail.	0	
98-802	Union	KY 130	\$100,000	Shoulder collapsed causing loss of control.	\$5,000	
98-900	Woodford	US 60	\$100,000	Company building entrance and left trench on shoulder; claimant rode bike into the trench and was injured.	0	Failure to warn of the four-inch trench.
98-901	Kenton	I-75	\$100,000	Guardrail not repaired properly after previous crash.	0	Crash six days before.
98-902	Perry	KY 1146	\$100,000	Pedestrian fell over culvert into creek.	0	Lack of warning of no shoulder; no lights or reflectors on road.
98-918	Barren	US 31E	\$100,000	Failed to maintain traffic control device.	0	
98-929	Morgan	Unknown	\$100,000	Pavement defect.	0	
98-936	Logan	Unknown	\$100,000	Inadequate warning signs or markings.	0	
98-958	Letcher	US 23	\$100,000	Failed to control traffic through construction zone; failed to install proper guardrails.	\$4,000	
98-977	Barren	US 31E	\$100,000	Inadequate warning signs and view obstruction at railroad crossing.	\$3,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
98-996	Franklin	US 60	\$100,000	Failure to remove ice from roadway.	0	Hit rock wall.
98-1017	Harlan	KY 38	\$100,000	Improper drainage.	0	Loss of control due to black ice.
99-013	Logan	US 68/80	\$100,000	Improper water drainage in construction zone caused severe eroding in nearby farms.	0	
99-064	Muhlenberg	KY 181	\$100,000	Water pooling.	\$3,500	
99-156	Madison	KY 52 @ Eastern Bypass	\$100,000	Failure to prevent use of road when under construction.	0	Closed road due to construction.
99-511	Fayette	US 27	\$100,000	Negligently installed crosswalk, improper traffic signal timing.	0	Pedestrian hit by a drunk driver.
99-529	Scott	US 460	\$150,000	View obstructed; sight distance limited.	\$2,500	
99-535	Kenton	12 th St. and Dixie Highway exit ramp from I-75/71	\$83,918	Business assets damaged by storm water runoff and flooding.	\$45,000	Defective design and construction of storm water control.
99-570	Fayette	US 27	\$100,000	Refer to 99-511.	0	
99-571	Fayette	US 27	\$50,000	Refer to 99-511.	0	
99-589	Hart	KY 569	\$100,000	Failure to install guardrails; no curve sign.	\$5,582	Lost control in curve.
99-609	Boone	US 42	\$100,000	Potholes caused loss of control.	0	
99-640	Pike	US 119	\$100,000	Collision with vehicle pulling into traffic.	0	Intersection with Ky 1441.
99-642	Muhlenberg	KY 181	\$100,000	Refer to 99-64.	\$3,500	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
99-668	Edmonson	KY 259	\$100,000	Lost control and hit another vehicle.	\$3,000	Poorly constructed highway, not properly maintained.
99-696	Graves	US 45	\$100,000	DOT employee hit claimant in state vehicle.	0	
99-728	Woodford	KY 1964	\$100,000	Failure to supervise contracted construction company; failure to follow safety procedures.	0	Hit by another car in construction zone.
99-750	Clark	US 60	\$100,000	Vehicle slid around curve, rolled over into ditch and culvert.	0	
99-852	Harlan	US 421	\$100,000	Culvert blocked, ditch overflowed onto road and the water froze.	\$20,000	DOH aware of the problem.
99-854	Harlan	US 421	\$100,000	Refer to 99-852.	\$18,673	
99-891	Simpson	KY 100	\$100,000	Negligent design, signing, and maintenance of curve.	0	
99-969	Jefferson	KY 61	\$100,000	View obstructed due to shrubs.	\$12,500	Intersection of Preston St. and Jackson St.
99-1035	Daviess	US 231	\$100,000	Unprotected cement bridge wall; no guardrails.	0	
99-1112	Grayson	KY 259	\$100,000	Failure to provide warning in maintenance zone.	0	Two state vehicles stopped on roadway removing debris.
99-1143	Knott	Unknown	\$100,000	Inadequate guardrail.	0	
99-1212	Meade	KY 1882	\$100,000	Failure to take corrective action on fallen stop sign.	0	Problem was known and not corrected; intersection with KY 1816
00-145	Harlan	US 421	\$100,000	Motorcycle lost control on sand left by road crew to clean up oil spill.	\$82,443	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
00-152	Whitley	Unknown	\$175,000	Pavement defect.	0	
00-153	Whitley	Unknown	\$175,000	Refer to 00-152.	0	
00-163	Carroll	Unknown	\$100,000	Crash involving DOH vehicle.	0	
00-279	Muhlenberg	US 431	\$150,000	Failure to maintain shoulder; failure to erect and maintain guardrail.	\$25,000	Guardrails removed prior to crash.
00-295	Muhlenberg	US 431	\$100,000	Refer to 00-279.	0	
00-409	Trigg	Unknown	\$100,000	Inadequate signage at stop approach.	0	
00-410	Webster	Unknown	\$100,000	Inadequate construction zone traffic control.	0	
00-551	Fulton	Upper Bottom Rd.	\$150,000	No guardrails on bridge.	0	
00-552	Fulton	Upper Bottom Rd.	\$50,000	Refer to 00-551.	0	
00-553	Fulton	Upper Bottom Rd.	\$50,000	Refer to 00-551.	0	
00-554	Fulton	Upper Bottom Rd.	\$50,000	Refer to 00-551.	0	
00-555	Fulton	Upper Bottom Rd.	\$50,000	Refer to 00-551.	0	
00-621	Adair	KY 206	\$200,000	Lost control due to shoulder defect.	\$140,000	Paving contract.
00-647	Kenton	Unknown	\$175,000	Inadequate warning signs or markers.	0	
00-648	Kenton	Unknown	\$175,000	Refer to 00-647	0	
00-670	Clay	Unknown	\$100,000	Crash involving DOH vehicle.	0	
00-755	Oldham	KY 524	\$100,000	Road too narrow; no shoulder.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
00-777	Knox	KY1304	\$100,000	Lack of clear zone.	\$50,000	Hit four foot diameter tree located three feet from shoulder.
00-778	Knox	KY1304	\$100,000	Refer to 00-777.	\$150,750	
00-779	Knox	KY1304	\$100,000	Refer to 00-777.	0	
00-940	Warren	Talley Rd.	\$125,000	Crash involving state vehicle.	\$29,404	Issue was lateral position of vehicle.
00-941	Warren	Talley Rd	\$125,000	Refer to 00-940.	0	
00-942	Warren	Talley Rd	\$100,000	Refer to 00-940.	0	
00-947	Wolfe	KY 746	\$100,000	Improper drainage.	0	
00-949	Wolfe	KY 746	\$100,000	Refer to 00-947.	0	
00-950	Wolfe	KY 746	\$142,200	Refer to 00-947.	0	
00-962	Warren	Unknown	\$200,000	Miscellaneous personal property loss or damage.	0	
00-982	Harlan	US 421	\$200,000	Existing guardrail inadequate.	\$6,603	
01-004	Franklin	Unknown	\$50,000	Miscellaneous personal property loss or damage.	0	
01-020	Scott	KY 1963	\$200,000	Pavement defect.	0	
01-070	Calloway	KY 121	\$200,000	Shoulder dropoff.	\$4,000	
01-165	Shelby	KY 55	\$200,000	Improper drainage.	\$8,500	
01-358	Whitley	KY 836	\$100,000	Debris in road.	0	
01-528	Graves	US 45	\$100,000	View obstructed.	\$10,000	Sight distance limited.
01-618	Fayette	US 60	\$100,000	Crash involving DOH vehicle.	0	
01-631	Anderson	KY 1510	\$100,000	Inadequate warning signs or markings.	\$3,500	Road not wide enough.
01-664	Pulaski	US 27	\$76,049	Improper drainage damaged property.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
01-686	Henderson	KY 136	\$200,000	Shoulder related defect; no guardrail.	0	
01-780	Letcher	US 119	\$100,000	Inadequate warning signs or markings.	0	
01-799	Calloway	Old Concord Rd.	\$100,000	Improper roadway design; pickup truck jumped railroad tracks.	0	Landed on claimant's vehicle, fatality.
01-803	Calloway	Old Concord Rd.	\$100,000	Refer to 01-799.	0	
01-804	Calloway	Old Concord Rd.	\$100,000	Refer to 01-799.	0	
01-805	Calloway	Old Concord Rd.	\$50,000	Refer to 01-799.	0	
01-890	Madison	KY 52	\$150,000	Pedestrian at crosswalk; traffic signal.	\$5,000	
01-905	Madison	KY 52	\$100,000	Refer to 01-890.	\$5,000	
01-908	Madison	KY 52	\$100,000	Refer to 01-890.	0	
01-926	Nelson	US 31E	\$200,000	View obstructed	\$65,000	Sight distance limited.
01-956	Jefferson	Plantside Dr.	\$100,000	Work construction zone control inadequate.	0	
02-006	Scott	KY 620	\$200,000	Signal malfunction.	0	Both approaches had green signal.
02-059	Wayne	Unnumbered	\$200,000	ATV hit cable across old road; no warning	\$197,293	Old section of road; cable placed by private citizen.
02-160	Floyd	KY 680	\$100,000	Vehicle lost control on wet road; lack of warning sign and guardrail.	0	
02-161	Floyd	Unknown	\$100,000	Inadequate guardrail.	0	
02-215	McCracken	I-24	\$100,000	Pedestrian fall.	0	At rest area

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
02-223	Pike	KY 1426	\$132,786	Improper drainage caused ice on roadway.	\$18,500	Injury crash.
02-264	Warren	Unknown	\$200,000	Work construction zone; inadequate traffic control.	0	
02-373	Jefferson	KY 1934	\$200,000	Object in right of way; inadequate clear zone.	0	Motorcycle struck curb and sign in median.
02-411	Scott	I-75	\$200,000	Pedestrian fall.	0	Defective handicap ramp at rest area.
02-441	Logan	US 68	\$100,000	Work construction zone; flagging.	\$10,000	Flagman directing traffic opposed traffic light; crash in intersection.
02-502	Warren	Unknown	\$103,590	Improper drainage.	0	
02-523	Hardin	Unknown	\$350,000	Traffic signal malfunction.	0	
02-566	Hardin	Unknown	\$200,000	Traffic signal malfunction.	\$45,000	
02-577	Estill	KY 89	\$75,000	Inadequate guardrail.	\$12,500	Existing guardrail too low.
02-596	Harlan	Unknown	\$75,500	Roadway improperly maintained.	\$3,500	
02-600	Christian	Unknown	\$50,000	Object thrown from mower caused crash.	0	
02-610	Campbell	KY 915	\$200,000	Inadequate warning signs or markings	\$100,000	Curve sign missing.
02-616	Bullitt	I-65	\$100,000	Pedestrian fall.	0	Defective sidewalk at rest area.
02-635	Boyle	US 68	\$55,000	Improper drainage caused property damage.	0	
02-756	Graves	KY 121 @ Purchase Pkwy	\$175,000	Road construction caused erosion of adjacent property.	\$26,500	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
03-033	Nelson	KY 55	\$107,000	Improper drainage.	0	Fatality occurred when vehicle hydroplaned, struck tree.
03-118	Jefferson	I-265	\$200,000	Elevation difference between lanes.	\$200,000	Fatal motorcycle crash.
03-131	Jefferson	I-265	\$150,000	Refer to 03-118.	0	
03-246	Rockcastle	I-75	\$200,000	Improper drainage related to superelevation.	\$25,000	Improper resurfacing.
03-247	Rockcastle	I-75	\$150,000	Refer to 03-246	\$25,000	
03-284	Jefferson	US 31	\$200,000	Uncovered manhole caused crash.	0	
03-627	Boone	Unknown	\$200,000	Miscellaneous personal injury.	\$300	
03-630	Hopkins	W.K. Parkway	\$200,000	Improper roadway design; no median barrier.	0	Vehicle crossed into opposing lane.
03-668	Pike	US 119	\$88,700	Improper drainage caused property damage.	\$39,000	
03-669	Campbell	I-75	\$200,000	Work construction zone.	0	
03-775	Washington	Unknown	\$53,742	Work construction zone.	\$11,000	
03-833	Boyd	KY 5	\$100,000	Pavement defect.	\$25,000	
03-834	Boyd	KY 5	\$100,000	Refer to 03-834	\$25,000	
03-899	Lawrence	Unknown	\$100,000	Roadway improperly maintained.	\$7,000	
03-922	Kenton	KY 8	\$200,000	Motorcycle thrown over deficient guardrail.	\$2,700	Inadequate warning signs.
03-923	Knott	KY 1697	\$99,334	Lack of guardrail.	0	Vehicle ran off road, struck home in high crash rate area.
03-934	Jefferson	US 60	\$200,000	Improper roadway design.	0	Motorcyclist fatality.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
03-1026	Graves	KY 97	\$100,000 / \$37,500	Improper drainage caused property damage.	\$36,900	
03-1036	Leslie	KY 2009	\$200,000	Break in pavement; no warning.	\$7,435	
03-1086	Floyd	KY 3381	\$200,000	Gravel in roadway.	\$7,500	Driver lost control, hit opposing vehicle.
03-1235	Christian	KY 1453	\$200,000	Crash involving state vehicle.	0	
03-1274	Clark	KY 974	\$100,000	Shoulder dropoff.	\$3,500	Driver unable to return to roadway.
03-1280	Trimble	US 421	\$200,000	Work construction zone.	0	State installing guardrail; visibility restricted by dust.
03-1281	Jackson	US 421	\$210,000	Tree fell into road; no warning.	\$40,000	
03-1312	Whitley	KY 26	\$200,000	Improper drainage; mud on road.	\$6,536	
03-1313	Jefferson	I-264	\$200,000	Improper roadway lighting.	0	Ramp was dark, street lights were not illuminated.
03-1344	Grant	KY 36	\$50,000	Lack of guardrail; improper drainage.	\$2,000	
03-1345	Grant	KY 36	\$200,000	Refer to 03-1344.	\$125,000	
03-1346	Grant	KY 36	\$50,000	Refer to 03-1344.	\$20,000	
03-1347	Grant	KY 36	\$50,000	Refer to 03-1344.	\$30,000	
03-1356	Morgan	US 460	\$200,000	Improper signage.	\$10,000	Curve sign indicated right curve, curve actually went left.
03-1383	Leslie	US 421	\$200,000	Lack of warning signs.	0	Vehicle hit tree in roadway.
04-018	Mason	KY 1234	\$200,000	View obstructed.	\$35,000	Tree limited sight distance.
04-052	Madison	KY 52	\$150,000	Driver lost control due to shoulder dropoff; construction zone.	\$29,000	Crossed centerline and hit opposing vehicle.
04-053	Madison	KY 52	\$100,000	Refer to 40-052	\$20,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
04-054	Madison	KY 52	\$100,000	Refer to 40-052	\$20,000	
04-069	Adair	KY 206	\$200,000	View obstructed; inadequate sight distance.	\$195,300	Driver struck pedestrian in curve due to view obstructed by five-foot tall grass.
04-264	Jefferson	Unknown	\$100,000	Rock from mower caused crash.	0	
04-285	Hardin	KY 251	\$100,000	Patched road caused loss of control.	0	
04-320	Jefferson	Independence School Rd.	\$200,000	Motorcycle lost control due to difference in elevation between roadway and bridge deck.	0	Issue was lack of density testing during construction.
04-340	Jefferson	Independence School Rd.	\$150,000	Refer to 04-320.	0	
04-371	Boone	I-275	\$100,000	Shoulder dropoff (in a construction zone).	\$12,500	Commercial vehicle overcorrected, entered median.
04-375	Boone	I-275	\$125,000	Refer to 04-371.	\$125,000	
04-376	Boone	I-275	\$125,000	Refer to 04-371.	\$125,000	
04-430	Boyd	US 23	\$350,000	View obstructed.	0	View blocked by commercial vehical at intersection.
04-436	Scott	I-75	\$50,000	Pedestrian fall at rest area.	\$2,500	
04-439	Campbell	US 27	\$200,000	Pothole caused crash.	0	
04-448	Montgomery	KY 11	\$100,000	Pothole caused crash.	0	
04-461	Bath	KY 1198	\$200,000	Improper placement of stop sign.	\$97,000	
04-494	Scott	I-75	\$75,000	Pedestrian fall.	\$5,000	Rest area.
04-500	Pike	KY 3226	\$200,000	Defective shoulder.	\$10,000	Roadway collapsed, vehicle fell into creek.
04-586	Powell	KY 1057	\$200,000	View obstructed.	\$42,500	View blocked by bushes at intersection.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
04-588	Floyd	KY 80	\$100,000	Improper drainage damaged property.	0	
04-596	Floyd	KY 80	\$50,000	Refer to 04-588.	0	
04-597	Floyd	KY 80	\$75,000	Refer to 04-588.	0	
04-700	Kenton	KY 371	\$100,000	Motorcycle lost control on sand placed in road from previous crash.	\$7,500	
04-707	Lincoln	US 27	\$66,000	Crash involving state vehicle.	0	
04-720	Fayette	US 27	\$100,000	Pedestrian injured by fall on sidewalk.	0	
04-747	Leslie	Custhin Road	\$100,000	Improper drainage damaged property.	0	
04-748	Leslie	KY 699	\$200,000	Improper drainage.	\$18,000	Clogged ditch; no warning.
04-771	Jefferson	US 60	\$200,000	Inadequate warning signs.	0	Fatal bicycle crash; intersection.
04-772	Shelby	KY 362	\$200,000	Shoulder dropoff.	0	
04-800	Jefferson	US 31E	\$200,000	Pedestrian fell into drain culvert; no warning signs or lighting.	0	
04-842	Laurel	Unknown	\$200,000	Lost business due to road construction.	0	
04-857	Jefferson	US 31W	\$100,000	Pedestrian fall.	0	Sidewalk was lower than adjacent parking lot.
04-904	Todd	KY 848	\$200,000	Vehicle hit by train; improperly maintained road surface.	0	
04-920	Marshall	I-24	\$200,000	Improper drainage; improper superelevation.	\$12,500	Ramp from Purchase Pkwy to I-24.
04-950	Logan	Unknown	\$175,000	Crash involving DOH vehicle.	0	
04-982	Logan	Unknown	\$175,000	Refer to 04-950.	0	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
05-002	Henry	KY 712	\$200,000	Improper drainage; ice on road.	\$65,000	
05-009	Magoffin	KY 867	\$206,500	Landslide; no warning signs.	0	
05-082	Knott	Unknown	\$200,000	Crash in work zone; no flagger.	\$647	Driver passed stopped state vehicle, hit oncoming vehicle.
05-337	Harlan	US 119	\$200,000	Improper drainage caused property damage.	0	Road construction.
05-496	Leslie	US 421	\$200,000	Failure to maintain guardrail.	\$80,000	
05-565	Greenup	KY 7	\$200,000	Inadequate warning in construction zone.	0	Driver overturned vehicle in attempt to avoid barrels.
05-569	Clark	Unknown	\$200,000	Inadequate warning signs for curve.	\$6,209	Motorcycle overturned in curve; loose gravel.
05-570	Greenup	KY 7	\$175,000	Inadequate warning signs for curve.	0	
05-574	Floyd	US 23	\$100,000	Improper drainage.	\$23,000	Vehicle hydroplaned; multiple fatalities.
05-575	Floyd	US 23	\$100,000	Refer to 05-574	\$23,000	Refer to 05-574
05-576	Floyd	US 23	\$100,000	Refer to 05-574	\$23,000	Refer to 05-574
05-577	Floyd	US 23	\$50,000	Refer to 05-574	\$23,000	Refer to 05-574
05-624	Muhlenberg	KY 81	\$200,000	Oil on roadway from spill.	\$130,000	No warning; sand placed on roadway.
05-634	Harlan	KY 38	\$81,497	Tree fell into roadway.	0	Vehicle hit tree.
05-703	Magoffin	US 460	\$200,000	Pedestrian fall.	0	Sidewalk under construction.
05-710	Kenton	US 42	\$200,000	Sign fell on pedestrian.	0	
05-717	Jefferson	Unknown	\$100,000	Traffic signal malfunction.	\$7,500	
05-786	Trimble	KY 55	\$100,000	Crossed centerline due to inadequate signs and markings.	\$23,579	Intersection in middle of sharp curve.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
05-843	Boyd	KY 3292	\$200,000	Failure to warn of narrow bridge.	0	Claimant filed motion to dismiss.
05-858	Madison	Sunset Dr.	\$200,000	Work construction zone; lack of warning.	\$95,000	Fatal crash.
05-863	Knox	KY 459	\$200,000	High water across road.	\$120,000	No warning.
05-869	Taylor	US 68	\$200,000	State vehicle ran red light.	0	
05-872	Spencer	KY 623	\$114,862	Lack of stop sign.	0	
05-893	Morgan	KY 1611	\$200,000	Inadequate warning signs.	0	Head-on collision due to ice on roadway.
05-954	Bullitt	KY 1020	\$350,000	View obstructed; inadequate sight distance.	0	Multiple fatalities.
05-1007	Hickman	US 51	\$250,000	Damaged utility.	\$3,500	Cable was cut when state employees buried deer.
05-1028	Mercer	Unknown	\$200,000	Tree fell into roadway.	0	Injury crash.
05-1030	Logan	KY 3201	\$200,000	Lack of warning signs; no guardrail.	\$55,000	Driver lost control and exited bridge into Mud River; multiple fatalities.
05-1031	Logan	KY 3201	\$200,000	Refer to 05-1030.	\$5,000	
05-1032	Muhlenberg	KY 181	\$200,000	Hit tree, lack of guardrail.	0	
05-1063	Bullitt	I-65	\$72,520	Snowplow operation damaged vehicle.	0	Vehicle was struck by plow truck; contract snowplow operator.
05-1068	Pulaski	Cumberland Pkwy.	\$200,000	Hit fallen rocks; no warning.	0	
06-153	Cumberland	Unknown	\$90,016	Improper drainage caused property damage.	\$75,000	Temporary bridge caused flooding.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
06-214	Jefferson	I-64	\$200,000	Driver lost control due to oil spot on ramp; no guardrail.	0	On-ramp from KY 1747; vehicle overturned causing injuries.
06-292	Carter	KY 174	\$200,000	Object in right of way, inadequate clear zone.	Pending	Struck large rock on side of road; fatality.
06-297	Mercer	KY 33	\$104,000	Improper drainage damaged property.	0	Construction caused water to drain under house.
06-362	Fayette	US 27	\$200,000	Pedestrian injured by fall from sidewalk; no guardrail.	0	
06-365	Clark	I-64	\$200,000	Improper drainage.	0	
06-373	Jackson	US 421	\$200,000	Lack of guardrail, improper drainage.	0	Vehicle lost control in curve on wet road.
06-447	Jessamine	KY 39	\$200,000	Opposing left turn crash related to defective design of traffic signal.	0	High-crash location.
06-581	Breckinridge	KY 86	\$200,000	Inadequate signage in curve.	0	Angle crash at private driveway.
06-682	Laurel	US 31E	\$200,000	Lack of signage; improper superelevation.	\$7,200	Previous crash history.
06-716	Jefferson	KY 61	\$200,000	Pedestrian signal not working properly.	\$60,000	
06-731	Grant	Unknown	\$200,000	Snowplow operation caused crash.	0	Driver blinded by salt (county salt truck).
06-732	Grant	Unknown	\$200,000	Refer to 06-731.	0	
06-733	Perry	KY 15	\$75,000	Concrete from pedestrian bridge fell on passing vehicle.	0	
06-746	Perry	KY 15	\$75,000	Refer to 06-733	0	
06-747	Perry	KY 15	\$200,000	Refer to 06-733	\$50,000	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
06-761	Floyd	US 23	\$100,000	Improper drainage.	0	Vehicle hydroplaned; hit ambulance head-on.
07-016	Whitley	KY 204	\$56,366	Damaged utility.	\$56,366	Broken water line.
07-029	Fayette	I-75	\$200,000	Improper drainage; waterpooling.	Pending	Crash with vehicle stopped on shoulder.
07-063	Adair	KY 80	\$85,000	Construction damaged property.	0	Claimant unaware that previous owner had sold the land to the state.
07-097	Franklin	US 421	\$200,000	Mower overturned injuring state employee.	\$46,689	
07-217	Kenton	KY 2045	\$200,000	Shoulder dropoff; no guardrail.	Pending	Vehicle dropped off shoulder; overturned; fatality.
07-265	Wolfe	KY 1261	\$200,000	Oil on roadway.	0	Driver lost control, slid off road.
07-296	Woodford	US 60	\$200,000	Improper drainage; waterpooling.	0	Head-on crash; fatality.
07-341	Pulaski	KY 1247	\$200,000	Lack of guardrail.	\$52,500	Motorcycle hit rock adjacent to road.
07-367	Laurel	KY 490	\$200,000	Lack of guardrail.	Pending	Responding to call for assistance; single vehicle crash.
07-395	Kenton	KY 2045	\$150,000	Refer to 07-217	Pending	
07-436	Clark	US 60	\$200,000	Lack of guardrail, lack of roadway lighting.	0	Bicyclist rode off sidewalk striking concrete culvert.
07-461	Clark	I-64	\$200,000	Improper drainage; waterpooling.	0	Fatal pedestrian crash.
07-480	Whitley	KY 92	\$200,000	Improper end treatment.	Pending	End of guardrail penetrated vehicle.
07-487	Whitley	KY 92	\$150,000	Refer to 07-480.	Pending	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
07-522	Laurel	KY 30	\$200,000	Relocated electrical facilities onto property.	0	
07-545	Fayette	KY 4	\$200,000	Lack of guardrail.	0	Median crossover; cable barrier in design phase, not installed on date of crash.
07-579	Mercer	Mundy's Landing Rd.	\$200,000	Improper placement of stop sign.	Pending	Motorcyclist struck stopped vehicle in intersection.
07-580	Mercer	Mundy's Landing Rd.	\$150,000	Refer to 07-579.	Pending	
07-603	Boone	I-75	\$200,000	Insufficient lighting.	0	Driver struck disabled vehicle in shoulder, then struck pedestrian; fatality.
07-610	Muhlenberg	US 431	\$200,000	Shoulder dropoff; lack of guardrail.	Pending	Head-on collision; multiple fatalities.
07-611	Muhlenberg	US 431	\$75,000	Refer to 07-610.	Pending	
07-612	Muhlenberg	US 431	\$75,000	Refer to 07-610.	Pending	
07-614	Laurel	I-75	\$200,000	Lack of warning at construction zone.	0	Rear end collision in advance warning area.
07-615	Laurel	I-75	\$150,000	Refer to 07-614.	Pending	
07-716	Muhlenberg	KY 246	\$200,000	Shoulder dropoff; lack of guardrail.	0	Dropped off shoulder and hit tree; fatal crash.
07-757	Oldham	I-75	\$300,000	Pedestrian fall.	\$15,650	Sidewalk joint tripped pedestrian at rest area.
07-818	Whitley	KY296	\$100,000	Lack of guardrail.	Pending	Lost control in curve; struck tree; fatality.
07-846	Boone	KY 1017	\$200,000	Construction area improperly marked.	Pending	Struck concrete median in construction zone

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
07-891	Boone	KY 1017	\$200,000	Work construction zone; lack of proper signs and markings.	Pending	Hit median in construction zone causing injuries.
08-004	Nelson	KY 52	\$200,000	Vehicle crossed center line in curve; inadequate warning signs.	Pending	Issue of previous crash history.
08-048	Meade	KY 448	\$200,000	Pedestrian fall.	Pending	Construction zone; no lighting.
08-049	Grayson	KY 1214	\$200,000	Improper roadway design; improper traffic signal design.	Pending	
08-204	Campbell	KY 8	\$100,000	Lost control due to shoulder dropoff and pavement defect.	Pending	Passing school bus at high speed.
08-205	Campbell	KY 8	\$100,000	Refer to 08-204.	Pending	
08-285	Franklin	Capital Ave.	\$200,000	Crash involving DOH vehicle.	Pending	Intoxicated state employee crashed into claimant's vehicle.
08-569	Floyd	KY 302	\$100,000	Object in roadway.	Pending	Tree fell into roadway, motorcycle struck tree causing crash.
08-570	Mason	KY 9	\$98,013	Missing stop sign.	\$30,000	
08-641	Warren	US 31W	\$138,789	Motorcyclist struck island between roadway and parking lot	0	Lack of warning signs for traffic island.
08-684	Franklin	Capital Ave.	\$150,000	Refer to 08-285.	Pending	
08-717	Powell	KY 1057	\$100,000	Avoided maintenance crew in road; lack of warning.	Pending	Removing trees from road.
08-718	Powell	KY 1057	\$100,000	Refer to 08-717.	Pending	
08-728	Powell	KY 1057	\$150,000	Refer to 08-717.	Pending	
08-765	Graves	Dooms Chapel	\$200,000	Inadequate signage.	Pending	No curve signs; county road.
08-852	Johnson	KY 302	\$200,000	Pedestrian fall, no warning for hole.	Pending	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
08-882	Pulaski	US 27	\$200,000	Improper warning in work zone.	Pending	Detour.
08-883	Pulaski	US 27	\$150,000	Refer to 08-882.	Pending	
08-1062	Leslie	Unknown	\$100,000	Landslides from under road have damaged property.	0	
08-1085	Owsley	Old KY 11	\$200,000	Lost control due to pavement defect; no guardrail.	Pending	Not a state-maintained road; ATV.
08-1135	Powell	Mountain Pkwy	\$100,000	Debris in road caused crash.	Pending	
08-1136	Powell	Mountain Pkwy	\$100,000	Refer to 08-1135.	Pending	
08-1160	Boyd	Hall Ridge Rd.	\$200,000	Oil on roadway, loose gravel caused crash.	0	Dismissed due to lack of jurisdiction.
08-1166	Oldham	I-71	\$200,000	Lack of warning signs; crash involved deer.	\$125,000	Area known for high volume of deer crossings.
08-1195	Gallatin	KY 467	\$70,000	Lack of guardrail; lack of warning signs.	Pending	Vehicle drove into creek; multiple fatalities.
08-1196	Gallatin	KY 467	\$70,000	Refer to 08-1195.	Pending	
08-1197	Gallatin	KY 467	\$70,000	Refer to 08-1195.	Pending	
08-1198	Gallatin	KY 467	\$70,000	Refer to 08-1195.	Pending	
08-1199	Gallatin	KY 467	\$70,000	Refer to 08-1195.	Pending	
08-1240	Bell	KY 92	\$200,000	Lack of proper warning signs; lack of guardrail.	Pending	Single vehicle; ran off road.
08-1242	Jefferson	KY 1934	\$100,000	Motorcycle lost control on pavement patch.	Pending	
09-065	Magoffin	KY 40	\$200,000	Ice on roadway caused crash.	Pending	Driver lost control on ice, hit tree.
09-100	Pulaski	KY 80B	\$200,000	DOH damaged utility.	0	
09-104	Jefferson	I-65	\$200,000	Motorcycle lost control due to pavement defect.	Pending	Difference in height between lanes.

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
09-155	Pulaski	Cumberland Pkwy.	\$200,000	Falling rocks from slide hit vehicle.	Pending	
09-205	Bullitt	Unknown	\$200,000	Snowplow operation caused crash.	Pending	
09-403	Boyd	KY 168	\$60,815	Failure to maintain right of way.	Pending	Tree fell on vehicle.
09-432	Jackson	US 421	\$200,000	Inadequate warning for large truck entrance.	Pending	
09-497	Estill	KY 89	\$200,000	Lost control due to pavement defect.	Pending	
09-555	Bullitt	KY 660	\$200,000	Improper roadway design; lack of warning signs.	0	Vehicle lost control in curve; crashed into house.
09-575	Jefferson	I-65	\$200,000	Inadequate guardrail.	Pending	Damaged guardrail caused injuries.
09-586	Campbell	I-275	\$200,000	Lack of guardrail.	Pending	No guardrail to shield drainage inlet.
09-597	Hopkins	KY 630	\$200,000	Shoulder related defect.	Pending	Driver dropped off tapered shoulder; overcorrected; fatality.
09-603	Harlan	KY 221	\$200,000	Lack of guardrail.	Pending	Slid off road into culvert.
09-610	Bourbon	KY 57	\$200,000	Pavement defect caused crash.	Pending	Uneven pavement caused motorcycle to crash.
09-728	Marion	KY 49	\$95,000	Inadequate warning signs.	Pending	No sign warning of curve.
09-729	Marion	KY 49	\$255,000	Refer to 09-728.	Pending	
09-890	Nelson	US 31E	\$200,000	Lack of guardrail; improper signage.	Pending	Exited roadway in curve; struck tree; multiple fatalities.
09-892	Pulaski	Cumberland Pkwy.	\$100,000	Lack of proper traffic control in construction zone.	\$250	

CLAIM NUMBER	COUNTY	ROUTE	AMOUNT SOUGHT	REASON FOR CLAIM	AMOUNT PAID	COMMENTS
09-893	Pulaski	Cumberland Pkwy.	\$100,000	Refer to 09-892.	\$250	
09-920	Harlan	KY 221	\$200,000	Refer to 09-603.	Pending	
09-975	Bell	KY 74	\$200,000	Improper signing or marking.	Pending	Head-on collision; fatality.
09-1019	Magoffin	KY 30	\$200,000	Inadequate guardrail; improper drainage.	Pending	

For more information or a complete publication list, contact us at:

KENTUCKY TRANSPORTATION CENTER

176 Raymond Building
University of Kentucky
Lexington, Kentucky 40506-0281

(859) 257-4513
(859) 257-1815 (FAX)
1-800-432-0719
www.ktc.uky.edu
ktc@engr.uky.edu

The University of Kentucky is an Equal Opportunity Organization