

COMMONWEALTH OF KENTUCKY
48th JUDICIAL CIRCUIT
FRANKLIN CIRCUIT COURT – DIVISION I
CIVIL ACTION NO. 13-CI-1413

LESLIE THOMAS

PLAINTIFF

vs.

Plaintiff's Motion *In Limine*

BOARD OF REGENTS OF KENTUCKY
STATE UNIVERSITY, et al

DEFENDANTS

* * * * *

Plaintiff Leslie Thomas hereby moves pursuant to KRE 103(d) that the Court order as set forth below.

ARGUMENT

POINT 1

DEFENDANTS AND THEIR WITNESSES SHOULD BE PROHIBITED FROM ARGUING, STATING OR MENTIONING THAT PLAINTIFF HAS THE BURDEN OF PROOF ON HER CLAIMS.

“[T]he established rule in Kentucky is that the jury should not be told specifically that the burden of proof is on any party.” *Rankin v. Bluegrass Boys Ranch, Inc.*, Ky., 469 S.W.2d 767, 773 (1971); *see also* 2 *Palmore, Kentucky Instructions to Juries* § 13.11(f)(1989). Accordingly, defendants and their witnesses should be prohibited from arguing, stating or mentioning that plaintiff has the burden of proof on her claims.

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POINT 2**DEFENDANTS AND THEIR WITNESSES SHOULD BE PROHIBITED FROM ARGUING, STATING, OR MENTIONING THAT PLAINTIFF MUST PROVE HER CLAIMS BY A PREPONDERANCE OF EVIDENCE.**

The rule in Kentucky is that “a jury should not be told... that a litigant must prove his or her case by a preponderance of the evidence.” *Hall v. Arnett by Greene*, 709 S.W.2d 850, 852 (Ky. App. 1986); 2 Palmore, Kentucky Instructions to Juries § 13.11(f)(1989). Accordingly, defendants and their witnesses should be prohibited from arguing, stating or mentioning that plaintiff’s burden is to prove her claims by a preponderance of the evidence.

Notice

PLEASE TAKE NOTICE that the foregoing motion will come on for hearing before the Franklin Circuit Court, Division I, Hon. Phillip J. Shepherd, presiding, on Monday, February 20, 2017, at 10:00 a.m. or as soon thereafter as counsel may be heard at the pretrial conference scheduled then for this action.

Respectfully submitted,

By: /s/ Robert L. Abell
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Certificate of Service

I hereby certify that on the 14th day of February 2017, the foregoing document was electronically filed with the Clerk of this Court using the KY eCourts eFiling system.

I further certify that a true copy of the foregoing was mailed, postage prepaid, this 14th day of February 2017 to the following:

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