

## MINUTES

### JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

November 8 – 9, 2012  
Room 546-S—Statehouse

#### Members Present

Representative Joe Patton, Chairperson  
Representative Mitch Holmes, Vice-chairperson  
Senator Terry Bruce  
Senator Ty Masterson  
Senator Dennis Pyle  
Representative Bill Feuerborn  
Representative Bob Grant  
Representative Mitch Holmes  
Representative Steve Huebert  
Representative Greg Smith

#### Member Absent

Senator Kelly Kultala  
Representative Phil Hermanson

#### Staff Present

Cindy Lash, Kansas Legislative Research Department  
Dylan Dear, Kansas Legislative Research Department  
Mike Heim, Office of the Revisor of Statutes  
David Wiese, Office of the Revisor of Statutes  
Deb Burns, Committee Secretary

#### Others Present

Libby Snider, Legal Counsel, Kansas Department of Corrections  
Amy Robertson, mother of claimant Joshua Robertson  
Tim Keck, Kansas Department of Health and Environment  
Leslie Rawlings, Kansas Department of Revenue  
Martin Hawver, Hawver's Capitol Report

#### Morning Session

The Chairperson called the meeting to order at 10:00 a.m.

The minutes of the December 15, 2011, were approved via e-mail prior to this meeting.

## POST-RELEASE HEARINGS

The Chairperson opened the telephone hearings filed by paroled inmates.

### **Claim No. 6397, Claimant, Ronald Lee Rhodes #34538**

**v. Respondent, Kansas Department of Corrections  
due to personal injury in the amount of \$100,000.00**

**Claimant** stated that he chooses to withdraw his claim and has retained an attorney.

*Following discussion, the Joint Committee recommended that Claim No. 6397 be denied without prejudice. (See section captioned "Committee Action and Recommendation.")*

### **Claim No. 6399, Claimant, Randell Woods**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$6,000.00**

**Cindy Lash, Principal Analyst, Legislative Research Department**, reported that claimant has been released from the Department and currently resides in a nursing facility. He received notice of hearing but did not respond. He claims that due to a fall in the facility shower he has no practical use of his arms and hands, and that the Department has failed to provide adequate assistance to meet his needs, causing him to fall four times in a 90-day period.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated claimant offers no further details and no explanation of what sort of assistance he believes was owed or lacking in each instance. Nor does he describe the nature of extent of his alleged injuries. Claimant did not file a Property/Personal Injury claim with the Department prior to filing the present legislative claim. The respondent recommended the claim be dismissed for failure to exhaust administrative and judicial remedies or denied, as claimant has not established that he suffered injury as a result of negligence on the part of Department staff.

*Following discussion, the Joint Committee recommended that Claim No. 6399 be denied. (See section captioned "Committee Action and Recommendation.")*

### **Claim No. 6411, Claimant, Monty Haynes**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$10,000.00**

**Cindy Lash, Principal Analyst, Legislative Research Department**, reported the claimant was in the process of being transported from El Dorado Correctional Facility to Lansing Correctional Facility, when he was injured at Ellsworth Correctional Facility while changing buses. There was no step platform at the bottom of the steps and no correctional officer to

assist him. As he stepped to the ground, his leg chains twisted around his leg cuffs and he fell forward onto his knee, shoulder and face. Because his hands were cuffed to his side he could not break his fall. He states he suffered severe injury, bruises, abrasions, and a contusion to his face.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that although the claim was filed outside the appropriate time limit set forth, it was investigated and denied. The claim investigator contacted both the officers involved in the claimant's transport, and they stated that they were present at the time of the incident, but did not witness the fall. One of officers escorted the claimant to the Ellsworth Correctional Facility's clinic, where his injuries were assessed. The investigator concluded that the claimant's fall did not result from negligence on the part of an employee of the State. The respondent recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6411 be denied. (See section captioned "Committee Action and Recommendation.")*

### **CLAIMS FROM INMATES AT LANSING CORRECTIONAL FACILITY**

**Claim No. 6400, Claimant, Steven L. Banks #98240**

**v. Respondent, Kansas Department of Corrections (Department)  
due to loss of property in the amount of \$25.67**

**Claimant** reported that his property was packed in two large boxes when he was transferred to Chicago for a court appearance in June, 2011. When he returned to Lansing Correctional Facility in September, 2011, his property was returned to him in four small boxes. He identified a number of missing items and filed a property claim for negligence in repacking his property, which was denied.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant signed property inventory sheets on June 23, 2011, certifying that the inventory was correct, and again on September 29, 2011, certifying that all property shown on the inventory was returned to him. Absent any documentation of discrepancies, the record reflects that his property was packed and returned to him, and his claim losses cannot be substantiated. Respondent recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6400 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6410, Claimant, Leonard Foster #57096**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to loss of property in the amount of \$11.75**

**Claimant** reported that his clock was deliberately damaged by another inmate who was painting inside the claimant's cell. He filed a Facility Property Claim requesting the replacement value of the clock.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that facility investigators reviewed video of the incident which showed the claimant bringing something to the attention of the inmate who was painting. Investigators interviewed the officer on duty who reported that he was made aware of the incidence the next day, stating the damage was minor. The claimant's property claim was filed beyond the deadline set forth in regulation. Because there is no evidence that the claimant's loss was caused by staff negligence, and because the extent of his claimed loss is not substantiated, the Department recommends the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6410 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6432, Claimant, Lorenda H. Crutchfield #82745**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property damage in the amount of \$44.16**

**Claimant** reported that he purchased a pair of Nike tennis shoes on January 5, 2012. His property was packed out on February 9, 2012, when he was transferred to the clinic at Lansing Correctional Facility; his Nike tennis shoes were not in the property returned to him on February 13, 2012. He filed a Facility Property Claim. The claimant states that his Nike tennis shoes were not one of the two pair listed on the inventory sheet and that he was in possession of a pair of New Balance shoes belonging to another inmate as he was in the process of cleaning for another inmate at the time of the February 9<sup>th</sup> packout.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant refused to sign the property inventory sheet on February 9, 2012, based on unspecified missing property. The facility investigator noted that the officer who returned the claimant's property to him recalled there were two pair of tennis shoes in his property. Because he was only permitted to have one pair, the officer had the claimant make disposition of one pair, showing that the claimant had elected to donate a pair of Black Adidas shoes. The investigator concluded that the claimant's property had been properly accounted for and returned to him. The Department recommends the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6432 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6454, Claimant, Johnnie Gideon #91707**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$169.00**

**Claimant** reported that his television was working on April 15, 2012, when it was packed out for his transfer from Norton Correctional Facility to Lansing Correctional Facility. When his property was returned to him on April 18, 2012, the television was checked and it no longer worked. He filed a Facility Property Claim, which was denied.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the condition of the television was not recorded on the inventory sheet completed at Norton Correctional Facility. Therefore, there is no solid evidence as to when the claimant's television stopped working. The Department recommends the claim be denied, or if approved, payment should be limited to the depreciated value of \$118.30.

*Following discussion, the Joint Committee recommended that Claim No. 6454 be allowed in the amount of \$118.30. (See section captioned "Committee Action and Recommendation.")*

## HEARINGS ON THE RECORD

**Claim No. 6401, Claimant, Allen E. White #6011666**

**v. Respondent, Kansas Department of Corrections (Department)  
due to loss of property in the amount of \$10.00**

**Claimant** reported that corrections officers removed his athletic shorts from his cell while he was at work and that the officer did not complete a shakedown report or seizure notice. The claimant submitted a property claim, and two subsequent Form-9 inquiries about the status of his claim, for which he never received any response.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that no documentation of the claimed confiscation exists and that the claimant offers no documentation establishing that his property was confiscated. Staff negligence was not established and the Department recommends the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6401 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6437, Claimant, Cuong Dang #69189**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$344.10**

**Claimant** reported that his locker was broken into by other inmates and his property was stolen. He claims that the facility should be responsible for his loss because the Master Lock provided to him by the facility was faulty. The claimant filed a Facility Property Claim that was denied.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the facility investigator found no evidence that the claimant's loss was attributable to staff negligence. Security camera footage provided evidence that two inmates tampered with the lock and removed items from the locker belonging to the claimant. The inmates were identified and convicted of disciplinary infractions. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6437 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6422, Claimant, Jerry Murdock #7300**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$115.00**

**Claimant** reported that his altered radio confiscated during a cell search; he was found guilty of a reduced disciplinary infraction. He states the disciplinary report indicated that his radio would be held for appeal, but after the appeal time had expired, he learned that his radio was destroyed. He filed a Facility Property Claim that was denied. He feels that he should have been given additional notice prior to the disposition of the radio so that he could have had it sent home.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that because the claimant forfeited his right to the subject property by altering it, and because there is no showing that his claimed loss is attributable to staff negligence, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6422 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6417, Claimant, City of Hutchinson**

**v. Respondent, Kansas Department of Administration (DOA)  
due to underpayment of Tax Increment Financing reimbursement in the amount  
of \$323,633.73**

**Claimant** reported that the city of Hutchinson discovered errors in its filings for TIF reimbursements for 2009, 2010, and 2011. The error was discovered after the person who had been preparing the requests left city employment. A number from the 2008 filing was brought forward incorrectly, and resulted in erroneous filings for three years. The underpayment by the State was \$107,877.91 each year.

**Respondent, Kansas Department of Administration (DOA)  
represented by Dennis R. Taylor, Secretary of Administration, Kansas Department  
of Administration**

**Respondent** stated that the DOA's involvement in this process is to receive from cities certified amounts of the reimbursement due. The DOA in turn certifies that amount to the State Treasurer who transfers the amount annually from the general fund to a fund created for this purpose for eventual payment to the cities. The DOA's Municipal Accounting Section has verified that an error was made by the City of Hutchinson in their annual certification to the DOA for the years in question. The amount requested in this claim is the correct amount that should have been previously paid. The DOA recommends this claim be allowed in the amount of \$323,633.73.

*Following discussion, the Joint Committee recommended that Claim No. 6417 be allowed in the amount of \$323,633.73. (See section captioned "Committee Action and Recommendation.")*

**HEARING**

**Claim No. 6380, Claimant, Presta Oil, Inc. & Presto Convenience Stores, LLC  
("Presta")**

**v. Respondent, Kansas Department of Revenue (KDOR)  
due to incentive payments owed from the Kansas Retail Dealers Incentive Fund**

**Claimant, Terry Presta**, reported that his company built ethanol distribution facilities in four cities to comply with the Kansas Retail Dealers Incentive Program. His company spent nearly \$1.5 million based on promised incentives. The amount claimed is the total amount of incentive payments he calculates he should have received.

**Respondent, Kansas Department of Revenue (KDOR)  
represented by Dennis R. Taylor, Secretary of Administration, Kansas Department  
of Administration**

**Respondent** stated that the Kansas Legislature enacted the motor fuel incentive program to pay qualifying claimants a monetary incentive for selling and/or dispensing renewable fuels. The incentive payment was to be funded by the state general fund. The act became effective in 2009, statutorily designating the KDOR as the acting agency for the program. The KDOR is without authority to pay the claimant because the legislature never funded the program. The legislature has expressly provided that no funding will be made to pay

fuel incentive claims from the date the incentive was created through fiscal year ending June 30, 2012.

*Following discussion, the Joint Committee recommended that Claim No. 6380 be continued to the December 7, 2012, meeting. (See section captioned "Committee Action and Recommendation.")*

## **CLAIMS FROM INMATES AT HUTCHINSON CORRECTIONAL FACILITY**

### **Claim No. 6459, Claimant, Jackie Crenshaw #54466** **v. Respondent, Kansas Department of Corrections (Department)** **due to loss of wages**

**Claimant** stated he is claiming back wages lost because of an unsubstantiated disciplinary infraction. That resulted in him losing his prison inmate job at the Hutchinson Correctional Facility. The District Court set aside his conviction on the infraction.

### **Respondent, Kansas Department of Corrections (Department)** **represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that because the claimant had no protected property interest in the wages he claims, and because there is no showing that his loss was caused by staff negligence, the Department recommends this claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6459 be denied. (See section captioned "Committee Action and Recommendation.")*

### **Claim No. 6451, Claimant, Darrick Harris #54050** **v. Respondent, Kansas Department of Corrections (Department)** **due to loss of wages**

**Claimant** stated he turned in his old TV to A&D in order to receive his new TV. He filled out a property removal form indicating he wanted the old TV destroyed. Instead, HCF profited by giving the TV to another inmate to settle the other inmate's property claim. Mr. Harris seeks either payment for the old TV or to have it returned so he can send it out.

### **Respondent, Kansas Department of Corrections (Department)** **represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that rules permit inmates to possess one TV in prison. By choosing to have the TV destroyed he forfeited his interest in the item, including the right to complain of the Department's handling of it thereafter. Whether the TV was destroyed or not, the claimant had abandoned it, and there was no harm done to him. The Department recommends the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6451 be denied. (See section captioned "Committee Action and Recommendation.")*



**Claim No. 6467, Claimant, Roberto Honeycutt #59845**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property damage in the amount of \$2.00**

**Claimant** reported that he made arrangements to use his phone when his restrictions were removed. He was approved to use the phone for 120 minutes, but 15 minutes into the call he got a recording saying he had 1 minute remaining. He seeks reimbursement or credit for the call.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant failed to file a Facility Property Claim within the time allow. Therefore he failed to exhaust his administrative remedies, and failed to show that his claimed loss was caused by staff negligence. The Department recommends this claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6467 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6447, Claimant, Isaac Little #97663**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property loss in the amount of \$13.52**

**Claimant** reported that he was placed in segregation after being in a fight, during which he was maced. The sweatshirt and sweat pants he was wearing was bagged and sent to the laundry because of the mace. When he was released from segregation his sweats were not returned to him. He filed a Facility Property Claim.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant did not submit his Facility Property Claim within the time allow by regulation. Therefore he failed to exhaust his administrative remedies, and failed to show that his claimed loss was caused by staff negligence. The Department recommends this claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6447 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6450, Claimant, Roger Allen Patterson #30581**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property damage in the amount of \$40.33**

**Claimant** reported that while he was waiting to be transferred, another inmate was caught in his cell stealing his fan, sandals, and seven magazines. That inmate was charged with theft. The claimant filed a Facility Property Claim.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant's claimed loss could not be substantiated, and because there is no showing that any loss was caused by staff negligence, the Department recommends the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6450 be allowed in the amount of \$40.33. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6436, Claimant, Robert Weber #90240**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property damage in the amount of \$163.00**

**Claimant** reported that his TV was stolen from his living facilities by another inmate while he was working at his prison inmate job. He states that he immediately notified staff and filed a Facility Property Claim.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the investigator of the claim confirmed that the claimant had purchased a TV prior to the date of the claimed theft but a search for the missing property found nothing. While it appeared that the claimants property had been stolen while he was at work, there was no indication that staff was responsible for the loss. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6436 be continued to the December 7, 2012, meeting. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6406, Claimant, Ernest J. Luna #68451**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property loss in the amount of \$157.00**

**Claimant** reported that his TV was damaged while being stored at the Hutchinson Correctional Facility or transported to the Winfield Correctional Facility. He filed a Facility Property Claim.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant offers no documentation of the alleged damage or the value of the property. The Department recommends the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6406 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6416, Claimant, John Jones, Jr. #97742**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$59.52**

**Claimant** reported that his property was packed out and sent to segregation. He states that he did not receive his packout sheet, and learned his property had been left unattended on a bench. His new Nike Zoom tennis shoes were replaced with old white shoes. His claim was recommended for payment at the Warden's level, but disapproved by the Central Office for being outside the required time limit. He claims that his two previous claims for this property loss had "somehow disappeared or been altered" by staff, resulting in a third claim filed ruled "untimely."

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant failed to exhaust his administrative remedies by filing a claim within fifteen days of the discovery of the claimed loss, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6416 be continued to the December 7, 2012, meeting. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6423, Claimant, Mitchell Lee Jazbec #95804**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$500.00**

**Claimant** reported that a dog from the Lucky Dog program at the prison, was under a table where the claimant was seated in the recreation yard. When another dog entered the area, Charger became aggressive and bit the claimant. The claimant's injuries were treated at that time. He seeks \$500.00 for pain and suffering and punitive damages.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant offers no evidence or allegation that his claimed losses resulted from negligence by staff. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6423 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6428, Claimant, Keith L. Crawford #33367**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$158.00**

**Claimant** reported that his property was packed out the day before he was to be transferred to another facility, and he arranged for his excess property to be picked up by a family member. He intended to have a box containing his "legal books, briefs, transcripts, etc." transferred with him but he discovered that the wrong box was transferred. He also states that his fan was in working condition prior to being packed, but it arrived broken in the box. He seeks \$23.00 for replacement of his fan and \$135.00 for the remainder of his missing property.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant offers no evidence or allegation that his claimed losses resulted from negligence by staff. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6428 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6431, Claimant, Leonard Mills #24700**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$23.53**

**Claimant** reported that he went to segregation from the library and his property was packed out in his absence. When he received his property his MP3 player, earbuds and batteries were missing.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant offers no evidence or allegation that his claimed losses resulted from negligence by staff. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6431 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6433, Claimant, William Jackson #89649**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property loss in the amount of \$207.00**

**Claimant** reported that his TV was confiscated after his incentive level was dropped due to conviction on a discipline report. He said a correctional officer took it and issued him a shakedown sheet before moving the TV to the unit team's office. When the TV was returned to him, he was told A & D had no record of it.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that as a result of an investigation it appears that the claimant's TV was confiscated by staff and can no longer be located. The Department recommends that this claim be approved.

*Following discussion, the Joint Committee recommended that Claim No. 6433 be approved for the amount of \$207.00. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6413, Claimant, Gerald V. Ashworth #58813**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property loss in the amount of \$110.56**

**Claimant** reported that when his property was returned upon release from segregation, many of his items were missing. He was later told that another inmate was charged with theft of his property and fined \$74.50. The claimant has not received any restitution by the perpetrator.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant's loss was the result of theft by another inmate. As required by regulation, the Department is managing the payment of restitution for that loss, although at present there are insufficient funds in the perpetrator's account. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6413 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6409, Claimant, Luis A. Rivera #95345**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to property loss in the amount of \$53.02**

**Claimant** reported that when his property was returned upon release from segregation, his Adidas tennis shoes were not with the rest of his property. He filed a Facility Property Claim. The Secretary's office disapproved the claim, citing claimant's failure to submit his claim within fifteen days of discovering the loss. Upon further review by the Secretary's office it was determined that the claimant had filed within the required timeline and recommended his claim be approved. However, the claimant has never been reimbursed.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that because the claimant's shoes were taken while in the Department's care, it is recommended that the claim be approved. In accordance with policy, depreciation of 10% should be taken into account, and claimant's recovery should be \$47.72.

*Following discussion, the Joint Committee recommended that Claim No. 6409 be approved for the amount of \$47.72. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6462, Claimant, Kimberly Hodges #84563**

**v. Respondent, Kansas Department for Aging and Disability Services (KDAD), Legal Services, Larned State Hospital due to personal injury in the amount of \$50,000.00**

**Claimant** reported that she is receiving inadequate medical care for existing medical conditions and for injuries caused when she was grabbed and kicked by a nurse, and again when she was attacked by a patient. She reports that two staff members submitted statements in support of her claim.

**Respondent, Brenda West Hagerman, General Counsel, KDAD, Larned State Hospital**, stated that the claimant has not provided any medical evidence to support her claim. The KDAD recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6462 be continued to the December 7, 2012, meeting. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6415, Claimant, Lester Thomas #45111**

**v. Respondent, Kansas Department of Corrections (Department) due to property loss in the amount of \$10,000.00**

**Claimant** reported that his neck and back were injured when he used a Genie ladder under the direction on a prison officer. He states that when he attempted to lower the ladder the crank handle stopped and he consulted the officer who was overseeing the work. Under the officer's direction to stand under the ladder and hold it while the officer removed the pins, he was injured when the ladder fell on him. He filed a grievance against the facility alleging negligence on the part of staff, and negligence in providing known video camera footage of the incident.

**Respondent, Kansas Department of Corrections (Department) represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant has failed to exhaust administrative and judicial remedies, and failed to provide evidence to prove staff negligence. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6415 be denied. (See section captioned "Committee Action and Recommendation.")*

**CLAIMS FROM INMATES AT  
EL DORADO CORRECTIONAL FACILITY**

**Claim No. 6418, Claimant, Philip Thiome #67043**

**v. Respondent, Kansas Department of Corrections (Department) due to property loss in the amount of \$11.00**

**Claimant** reported that his property was packed out when he went to the infirmary, and when it was returned he was missing 22 packs of ranch dressing and 10 postage stamps.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that it was confirmed that seven boxes of the claimant's property were placed in temporary storage when he was moved to the infirmary, but the inventory sheet prepared by the officer was not in the property file. The claimant failed to provide evidence to prove staff negligence. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6418 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6440, Claimant, John Foshee #76767**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$20.14**

**Claimant** reported that when he returned to his cell after showering a pair of his shoes were missing. He filed a Facility Property Claim that was denied.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant failed to provide evidence to prove staff negligence. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6440 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6452, Claimant, John H. Pickerill #44490**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$290,000.00**

**Claimant** reported that he suffered injuries and property damage as a result of an assault by another inmate who placed him in a choke hold, causing bruises to his face, right eye, hand, and chipped his eyeglasses. He asserts that the perpetrator called him a "child molester" during the assault, and he requests the perpetrator be charged with a hate crime.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that officers broke up the fight; the claimant was examined by medical staff; and the perpetrator was charged with a disciplinary infraction and placed in segregation. The claimant offers no allegations or evidence to establish that his claimed loss was caused by staff negligence, nor was any such evidence discovered in the investigation of his claim. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6452 be denied. (See section captioned "Committee Action and Recommendation.")*

**CLAIMS FROM INMATES AT  
ELLSWORTH CORRECTIONAL FACILITY**

**Claim No. 6420, Claimant, John Dale #35017**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$13.12**

**Claimant** reported that his radio was damaged during a search of his cell by staff. He states that the radio was working prior to the search and he “can only conclude that COI Smith broke [the] radio during the shakedown.” He filed a Facility Property Claim that was denied.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that there is nothing to substantiate that the claimant's radio was damaged or that the claimed damage was a result of staff negligence. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6420 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6441, Claimant, Dustin O. Holt #85647**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$250,000.00**

**Claimant** reported that he was injured when he fell down a flight of stairs at the facility that were wet. Specifically, he was ordered to come down the stairs and was not warned that the porter had been told to push water down the stairs. He was taken to a local emergency room where he was told that his shoulder was dislocated and he was given a brace. When he returned to the facility the brace was taken from him and was told that there was nothing wrong with his arm. He reports that his shoulder is now caved in and painful to move.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that at the outset the claimant repeatedly indicates his intention to pursue judicial remedies. Because the claimant has not exhausted his judicial remedies, his claim is premature and should be dismissed. If it is not dismissed, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6441 be denied without prejudice. (See section captioned "Committee Action and Recommendation.")*



**Claim No. 6449, Claimant, Timothy W. Spidel #65954**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$8,000.00**

**Claimant** reported that the big toe of his right foot was broken when an officer closed a cell door on it. He claims that the officer was negligent in failing to “check the inside of the cell (behind the steel door).” He states that he suffered swelling, blood blisters, infection, eventual loss of toe nail, and loss of work.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** reported that the claimant states in his claim that he is “prepared to file a federal form 42-USC-1983 if his claim is not given reasonable attention.” He also notes on the first page of his claim that the \$8,000.00 he seeks is intended as “out of court settlement.” The claimant failed to provide evidence of staff negligence, and he did not exhaust his judicial remedies prior to filing this claim. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6449 be denied without prejudice. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6472, Claimant, Joshua James Robertson #76205**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$10,000.00**

**Claimant** reported that Correct Care Solutions, the health care contractor for the Department, refused his repeated requests for copies of his health care records. He states this is in violation of state law allowing patients access to their medical records and harms him by impairing his ability to make informed health care decisions.

**Claimant's** mother, Amy Robertson, speaking on behalf of her son, stated that the claimant is only allowed to discuss his health care records for 15 minutes four times per year. She reports that self-harm behaviors, mental suffering and pain could have been prevented if greater access to health care records could have helped with the claimant's care decisions.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant has not been denied access to his medical records. He has been afforded opportunities to review his records in accordance with published policies and procedures of the KDOC and Correct Care Solutions. Nowhere does he allege or explain how this is inadequate, how it has caused him injury, or how he arrived at a claim value of \$10,000.00. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6472 be denied. Chairperson Patton requests the following from Libby Snider, KDOC Legal Counsel: a report on the current policy on outside testing; she makes a request to the KDOC to change policy to reflect current state law. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6475, Claimant, Ricky A. Gadbury #93743**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to personal injury in the amount of \$500,000.00**

**Claimant** reported that he fractured his left wrist in the shower area of the Ford County Jail. He received initial medical treatment in Ford County and was transferred back to the Ellsworth Correctional Facility (ECF) the following day. The claimant asserts that the ECF did not provide adequate medical care for his arm, resulting in a permanent deformity.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant had filed a personal injury claim at ECF for improper medical care that was investigated and denied. Because there is no showing that the claimed injury was caused by staff negligence, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6475 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6443, Claimant, Jerry D. Sellers #99071**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to personal injury in the amount of \$340,000.00**

**Claimant** reported that he was assaulted in his cell by two prisoners. In his attempt to escape his cell he became caught in the electronic closing door but was able to free himself and seek help. He suffered a laceration to his left eyelid, rib fractures, abrasions to the head, neck, trunk and arms.

**Respondent, Kansas Department of Corrections (Department)**  
**represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that in the claimant's document, he states, "I am seeking assistance to help me with my next step on this case. I wish to proceed with a 1983, for violations of my Constitutional Rights." Because he has not exhausted judicial remedies, this claim is subject to dismissal. If it is not dismissed, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6443 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

**WITHDRAWN CLAIM**

**Claim No. 6435, Claimant, Western Cooperative Electric Association, Inc.**  
**v. Respondent, Kansas Department of Corrections (Department)**  
**due to loss of revenue in the amount of \$81,356.73**

**Claimant** reported that on December 14, 2011, while troubleshooting metering it discovered a broken wire on a transformer, which caused the meter to register only 2/3 of actual

energy and demand used. The state of the broken wire occurred in April 2010, but they are requesting reimbursement only for 12 months (CY2012) based on recommendation of the KCC.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claim has been paid in full, and the Department recommends that the claim be dismissed.

*Following discussion, the Joint Committee recommended that Claim No. 6435 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

### **HEARING ON THE RECORD**

**Claim No. 6446, Claimant, Enoch Clark Jr.**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$10.15**

**Claimant** reported that several items of his property were not returned to him after being released from segregation. His claim includes one pair of sweats, coffee, and one can of Coca Cola.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant signed for receipt of all items on the property inventory sheets without noting any discrepancies. The claimant's losses could not be substantiated, and he provides no proof of negligence on the part of correctional staff. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6446 be denied. (See section captioned "Committee Action and Recommendation.")*

### **CLAIMS AGAINST LARNED STATE HOSPITAL**

**Claim No. 6460, Claimant, Christopher Pierce #58077**

**v. Respondent, Kansas Department on Aging and Disability Services (Department)  
due to personal injury in the amount of \$500.00**

**Claimant** reported that the Larned State Security Hospital (LSSH) lost his court papers which prevented him from being able to litigate his court case and resulted in loss of the court case.

**Respondent, Kansas Department on Aging and Disability Services (Department)  
represented by Brenda West Hagerman, General Counsel, Department**

**Respondent** stated that the claimant provides no proof he possessed any "legal papers" while he was transferred to LSSH, nor does he provide proof of any value of his "irreparable

injuries of not being able to litigate my court cases and I lost my court case.” He does not provide proof that he “lost court fees and expenses in litigating.” LSSH has no records to indicate “legal papers” were misplaced by anyone at LSSH. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6460 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6485, Claimant, Michael Lee Brooks #33599**

**v. Respondent, Kansas Department on Aging and Disability Services (Department)  
due to loss of property in the amount of \$59.70**

**Claimant** reported that he was transferred from the Department to the Larned Correctional Mental Health Facility. When his property arrived the next day he discovered that a surge protector and an art book were missing.

**Respondent, Kansas Department on Aging and Disability Services (Department)  
represented by Brenda West Hagerman, General Counsel, Department**

**Respondent** stated that the claimant provided forms as evidence of a release that establishes he took ownership of both items in November, 2009, and March, 2010, and released the hospital from further liability. These forms provide evidence he once had these items in his possession but he provides no proof these items were still in his possession when he was discharged back to the Department of Corrections many months later. The claimant can not substantiate either item remained in his possession at the time he was discharged from Larned State Hospital. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6485 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6426, Claimant, Michael Lee Brooks #33599**

**v. Respondent, Kansas Department on Aging and Disability Services (Department)  
due to property damage in the amount of \$31.42**

**Claimant** reported that on May 20, 2011, staff searched his room after he was placed in “self-regulation.” When he returned to his room one week later several items of property were missing, in addition to items placed in storage. He filed a Property Damage or Loss Claim that was denied.

**Respondent, Kansas Department on Aging and Disability Services (Department)  
represented by Brenda West Hagerman, General Counsel, Department**

**Respondent** stated that his claim is not supported by the facts and has been previously investigated and subsequently denied by Larned State Hospital on March 13, 2012. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6426 be denied. (See section captioned "Committee Action and Recommendation.")*

## WITHDRAWN CLAIMS

### Claim No. 6402, Claimant, Janet L. Wixon

**v. Respondent, Kansas Department of Health and Environment, Bureau of Waste Management (Department) due to property damage in the amount of \$3,841.00**

**Claimant** reported that she owns acreage adjoining a permitted landfill. Ownership of the landfill was transferred with no major modifications, however the Department has allowed the new owner to make major changes substantially increasing the height and volume capacity of the landfill. The landfill and the traffic, dust, debris and runoff has negatively impacted the value of her property by 5%.

**Respondent, Kansas Department of Health and Environment (Department) represented by Timothy Keck, Deputy Chief Counsel, Department**

**Respondent** stated that the claimant has withdrawn the claim, and the Department recommends that the claim be dismissed.

*Following discussion, the Joint Committee recommended that Claim No. 6402 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

### Claim No. 6405, Claimant, Comfort Inn c/o Sanjay Patel

**v. Respondent, Kansas Bureau of Investigation (Department) due to refused invoice not presented in proper fiscal year in the amount of \$167.48**

**Claimant** seeks reimbursement for lodging provided to two KBI employees on April 20, 2011. He indicates he discovered sometime after November 8, 2011, that he had an unpaid invoice for the KBI, and did not know whether his previous general manager had sent the bill to the KBI or not. KBI staff reported to him that they had not received the bill.

**Respondent, Kansas Bureau of Investigation (Department) represented by Marsha Pappen, Fiscal Director, Department**

**Respondent** stated that the claim has been paid in full, and the Department recommends that the claim be dismissed.

*Following discussion, the Joint Committee recommended that Claim No. 6405 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

## TOPEKA CORRECTIONAL FACILITY

### Claim No. 6421, Claimant, Dotty Ingold #43226

**v. Respondent, Kansas Department of Corrections (Department) due to disability discrimination/loss of inmate job in the amount of \$1,000.00**

**Claimant** reported that she was removed from her prison job as a light-duty porter because of her disability by not being able to scrub walls and a water fountain due to arthritis in

both hands. She states that, without the income from the job, she is unable to support herself, and she cannot obtain items like shampoo, stamps, lotion, conditioner, and pain relievers.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant submitted information stating, "If I'm not granted the \$1,000 I'm asking for I will do all I can to obtain a lawyer who will handle a case like this and ask for a higher amount..." Because the claimant failed to exhaust administrative and judicial remedies, her claim is subject to dismissal. However, because there she offers no proof that her claimed loss is attributable to discrimination or staff negligence, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6421 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6457, Claimant, Dotty Ingold #43226**

**v. Respondent, Kansas Department of Corrections (Department)  
due to inadequate medical care in the amount of \$1,000.00**

**Claimant** reported that she was taken off medication she had been taking for stomach issues, and was not prescribed anything to replace it. She has requested a prescription for Sucrulfate for stomach ulcers, but has been refused. She has been diagnosed with irritable bowel syndrome, but she disagrees and believes she has an ulcer. She state she needs an extra mattress because she has scoliosis of the spine, but the facility will not provide it and she does not have the money to buy it herself.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant did not file a property/personal injury claim with the department, making her claim subject to dismissal. Because she failed to exhaust administrative and judicial remedies, her claim is subject to dismissal. Because her claim could not be substantiated, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6457 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6469, Claimant, Natasha Genene Hodge #6008057**

**v. Respondent, Kansas Department of Corrections (Department)  
due to sexual harassment in the amount of \$100,000.00**

**Claimant** reported that she has been sexually harassed by one of her cellmates who has been touching various parts of the claimant's body while she was presumed to be asleep. The claimant reported the situation repeatedly to a corrections counselor, her unit team manager, and to a mental health counselor. The requested cell change was not made until the claimant made a "thinly-veiled threat of violence towards my harasser."

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that because the claimant failed to exhaust administrative and judicial remedies, her claim is subject to dismissal. However, because she did not provide proof that her claimed injury is attributable to staff negligence, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6469 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6476, Claimant, Natasha Genene Hodge #6008057  
v. Respondent, Kansas Department of Corrections (Department)  
due to sexual harassment in the amount of \$350,000.00**

**Claimant** reported that her civil rights have been violated due to the correctional facility's use of security cameras in areas such as toilets, showers, and inmate rooms without warning the inmates that they were not in a private situation. She also is offended by male correctional officers' viewing of the camera feeds.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that because the claimant failed to exhaust administrative and judicial remedies, her claim is subject to dismissal. However, because she did not provide proof that her claimed injury is attributable to staff negligence, the Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6476 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6477, Claimant, Crystal Dawn Gassett #98303  
v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$80,000.00**

**Claimant** reported that she awoke in the middle of the night to find to find that she was being sexually assaulted by another inmate. The next night she awoke to the same situation. She worked with staff, agreed to press charges, was moved to segregation, then to another unit. Ultimately her abuser was moved to the same unit and she reports that staff heard that inmate threaten her but did nothing. She states that staff do not communicate with each other, and that the Department is not adequately protecting her. She complains of intrusive video cameras.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that records indicate staff responded promptly and appropriately to the claimant's report of sexual assault. Her complaint that she was viewed naked in her room on security cameras would not be possible if she was following facility general orders. The cameras complained of were adjusted immediately, and the matter has been resolved. It is not

established that the claimant's claimed injuries were caused by any deliberate or negligent act of correctional staff. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6477 be denied. (See section captioned "Committee Action and Recommendation.")*

## **NORTON CORRECTIONAL FACILITY**

### **Claim No. 6412, Claimant, Gerald J. Groff Jr. #78461**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property loss in the amount of \$13.66**

**Claimant** reported that his radio was damaged by an officer's use of a two-way radio during a random search of his cell. According to his claim, the facility "is negligent for failing to properly train it's officers not to use their two way radio in the cell with electronic as it is known to cause internal damage."

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant offers nothing to substantiate that his claimed loss was caused by staff negligence. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6412 be denied. (See section captioned "Committee Action and Recommendation.")*

### **Claim No. 6468, Claimant, Gerald J. Groff Jr. #78461**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property loss in the amount of \$26.27**

**Claimant** reported that canteen items were stolen from his locker. The lock was "jimmied" and he claims that, because the lock was loaned to him by the facility, the facility should be held responsible for his loss.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that upon investigation the claimant was found to be undamaged. Intentional tampering by a third party does not support a finding that the claimed losses resulted from staff negligence. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6468 be denied. (See section captioned "Committee Action and Recommendation.")*



**Claim No. 6404, Claimant, Marwin Hudge #95065**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$1,000,000.00**

**Claimant** reported that he was mowing weeds too thick for the mower's capacity, and the officer overseeing the work ordered him to remove the safety guards that OSHA had ordered installed two weeks prior. He states that thirty minutes after he returned to mowing, something from under the mower deck flew out and struck him between the eyes. He suffered lacerations and a broken nose, which is now disfigured. He states he will have permanent facial scars, his nasal cavity is now collapsed, restricting airflow, and he will need reconstructive surgery on his nose when he is released from custody. He requests repair of the nasal cavity, referral to a nose and throat specialist, and \$1,000,000.00 for his pain and suffering, emotional and mental distress, and facial scars.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant acted contrary to orders from correctional staff to wear safety equipment, to ensure that cut vegetation was discharged away from uncut vegetation, and to avoid cutting near other inmate workers. Because the claimant failed to exhaust administrative and judicial remedies, his claim is subject to dismissal. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6404 be denied. (See section captioned "Committee Action and Recommendation.")*

**Claim No. 6465, Claimant, Charles L. Sims #99136**

**v. Respondent, Kansas Department of Corrections (Department)  
due to false imprisonment and illegal incarceration in the amount of  
\$1,500,000.00**

**Claimant** reported that he received an illegal sentence of 115 months for failure to register as a sexual offender. He asserts the sentence is illegal because the registration period had terminated in accordance with the federal 1998 Jacob Wetterling Act.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant did not contest the charge in the criminal court, he withdrew his appeal in the appellate court, he's filed no claim with the Department, and he has indicated his intent to pursue judicial remedies. The claim is not exhausted. Because the Department is in no way responsible for the claimant's conviction, his claim against the Department should be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6465 be denied without prejudice. (See section captioned "Committee Action and Recommendation.")*

## LARNED CORRECTIONAL MENTAL HEALTH FACILITY

### **Claim No. 6398, Claimant, Dennie E. Shaw III #7400**

**v. Respondent, Kansas Department of Corrections (Department)  
due to personal injury in the amount of \$60,000.00**

**Claimant** reported that he was injured when the transfer bus he was riding braked suddenly and he was thrown from his seat, striking his left ear on a hard plastic chair in the aisle. He now has ringing, buzzing, and throbbing in this ear that causes headaches and nausea. He seeks compensation for pain, suffering, punitive damages, negligence, and future medical costs.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant fails to substantiate that the incident occurred, that it was a result of staff negligence, that his injuries are as he describes, or that such injuries resulted from the claimed occurrence. The claimant has indicated his intent to pursue legal remedies, making this claim premature and ineligible for dismissal. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6398 be denied. (See section captioned "Committee Action and Recommendation.")*

### **Claim No. 6474, Claimant, Charles Parker #55922**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property loss in the amount of \$99.46**

**Claimant** reported that he was handcuffed and removed from his cell by correctional officers. His property was not secured by the officers and inmates stole most of his property. He claims that he is missing a pair of tennis shoes, fingernail clippers, and canteen items.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that an investigation by the Department provides documentation that the claimants property was packed out correctly. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6474 be denied. (See section captioned "Committee Action and Recommendation.")*

## **HEARINGS ON THE RECORD**

### **Claim No. 6455, Claimant, Richard David Piper #96081**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$8.17**

**Claimant** reported that property was missing following a search of his cell by corrections officers.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that the claimant failed to show that his claimed loss was the result of staff negligence. The Department recommends that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6455 be denied. (See section captioned "Committee Action and Recommendation.")*

### **Claim No. 6461, Claimant, Joe Larry Hunter #50830**

**v. Respondent, Kansas Department of Corrections (Department)  
due to property damage in the amount of \$50.00**

**Claimant** reported his wedding ring was confiscated by a transportation officer during his transport from jail to the Winfield Correctional Facility. The ring was never returned to him.

**Respondent, Kansas Department of Corrections (Department)  
represented by Libby Snider, Legal Counsel, Department**

**Respondent** stated that based upon investigation it was determined that the claimants Facility Claim be paid. The Department recommends that the claim be allowed.

*Following discussion, the Joint Committee recommended that Claim No. 6461 be allowed in the amount of \$50.00. (See section captioned "Committee Action and Recommendation.")*

## **REQUEST FOR RECONSIDERATION**

### **Claim No. 6158, Claimant, Steven Kent Bloom #70714**

**v. Respondent, Kansas Office of Judicial Administration (Department)  
due to personal injury and property damage in the amount of \$97,289.70**

**Claimant** seeks recompensation for irreparable injuries suffered due to two separate judges denying to comply with existing law while hearing his case in a court of appeals for unlawful incarceration and loss of property.

**Respondent, Kansas Office of Judicial Administration (Department)  
represented by Kathy Porter, Executive Assistant to the Judicial Administrator,  
Department**

*Respondent summarized in writing that the claimant's appeal was dismissed for failure to file his brief on time. By order dated April 3, 2006, this appeal was ordered expedited because it involved a habeas corpus petition. Under that order, Mr. Bloom's brief was due June 7, 2006. The brief was not received until June 9, 2006. Claimant did not make a request for additional time or request leave to file the brief instantler, but rather argued his filing should be considered timely because of the "prison mailbox rule." The Court of Appeals rejected this argument in its order dated June 22, 2006, but ordered Mr. Bloom to file a motion for additional time or a motion to file his brief instantler on or before July 13, 2006, or his appeal would be dismissed. On behalf of the Kansas Supreme Court, we recommend that the claim be denied.*

*Following discussion, the Joint Committee denied the motion to reconsider Claim No. 6158. (See section captioned "Committee Action and Recommendation.")*

The Chairperson adjourned the meeting at 4:15 p.m.

Prepared by Deb Burns  
Edited by Cindy Lash & Dylan Dear

Approved by the Committee on:

\_\_\_\_\_  
November 8, 2012

(Date)