

**JUDGE HAMILTON GAYDEN**  
**1st Circuit Court**  
**Room 502**

**I. Brief Biography**

Judge Hamilton Gayden has been a Trial Judge for 40 years. He is the second longest sitting Judge we have in Davidson County, Nashville, Tennessee, and the longest court-of-record jurist in Davidson County.

Judge Gayden was a General Sessions Judge from 1974-1978; in 1978 he was elected to the First Circuit Court.

He attended secondary schools in New York State and Tennessee. He graduated from B.G.A. He also graduated from Vanderbilt where he played basketball and is a graduate of Vanderbilt Law School. He is a veteran of the U.S. Army. He served in the first Metropolitan Legal Department from 1965-1967. He was in private practice nine years before becoming Judge.

He is a member of Nashville Bar Association and he is a Nashville Bar Fellow. He has been active on several civic boards and charities including the Boy Scouts of America, the YMCA, and Sister Cities of Nashville. He was president of the Vanderbilt University Club. He is a member of the Econ Club of Nashville. He is a member of The Rebounders for Vanderbilt University basketball players. He is also a member of the American Legion. He has attended the Tennessee Foreign Language Institute where he was a Spanish student. He is an author with published novels "To Circle the Cross" and "Miscarriage of Justice."

He has presided over several high profile cases in Tennessee including the longest, successful receivership in state history; the ten-year receivership resulted in the preservation of the largest historical cemetery in the state, Mt. Olivet. Some of the high profile cases include the constitutional challenges to the State of Tennessee Capital Punishment Law, the Tennessee Abortion statutes, the "Open Meetings Act" and a leading case on the limits of punitive damages. He ruled in a contested case that the Metropolitan Development and Housing Agency could legally condemn property for private purposes on the east bank for a football stadium housing the Tennessee Titans and Tennessee State University, and others such as the Music City Bowl.

He was presiding judge for the 20<sup>th</sup> Judicial District in 1996-1997. As presiding judge the Davidson County trial courts were granted a new civil court by the state legislature, the first expansion of the courts in over 30 years. During Judge Gayden's tenure as presiding judge, he secured a budgetary item that led to a negative report on the air quality of the Metro Courthouse; it began the process leading to the renovation, including asbestos removal, of the revamped courthouse. The courts vacated the courthouse for four years during the time needed to revamp.

Judge Gayden is married, the father of three children.

**Preliminary General Matters**

**A. Scheduling**

In all jury cases, there will be a status conference after the expiration of approximately four (4) to six (6) months. The conference will be conducted by Court personnel and/or the Court. At the first conference, a scheduling order will either be agreed upon or ordered by the Court. Each case shall be designated as either expedited, standard or complex. Each scheduling order shall contain either a trial date or an outside date before which a trial date must be set and placed upon the calendar.

A scheduling order may not be amended, including the date provided for as the outside date to set the case for trial, without leave of court.

Trial dates for non jury and jury cases can be obtained from Kelli Olin at (615) 862-4209 or Candy Rucker at (615) 862-5901.

Court opens at 9:15 a.m.

**B. Correspondence with the Court**

Judge Gayden prefers that all matters be communicated to the court in pleadings, notices, memoranda and briefs. Letters sent to the Court will be filed in the Clerk's office. An attorney objecting to opposing counsel's order should contact Candy Rucker.

### **C. Telephone Conference with the Court**

Judge Gayden is accessible by telephone to resolve discovery disputes. He has no objection to conducting status conferences or pre-trial conferences by telephone when out-of-town counsel is involved.

### **D. Telephone Conference with Law Clerk**

Telephone conferences with Judge Gayden's law clerks are allowed concerning administration, but not the merits, of any case.

### **E. Pro Hac Vice Admission**

File a motion and order

## **III. Pretrial Matters-Civil Cases**

### **A. Scheduling Orders**

All jury cases designated as standard or expedited must have scheduling orders agreed to by the parties or ordered by the Court. All modifications to original scheduling orders must be by order of Court and cannot be by agreement of the parties, unless approved by Court.

### **B. Continuances and Extensions**

See Rules.

### **C. Pretrial Motions**

File a motion pursuant to Local Rule 26. Judge Gayden will allow a motion to be heard earlier than the minimum notice if all parties agree.

### **D. Discovery**

#### 1. Discovery period and extension

Judge Gayden expects the parties to meet the case management/scheduling order deadlines. Any extensions must be by Court order, and agreement of counsel is not sufficient unless also ordered by the Court.

#### 2. Resolution of Discovery Disputes

File a motion pursuant to Local Rule 22.08. Judge Gayden also resolves discovery disputes by telephone conference.

#### 3. Confidentiality Agreements/Filings Under Seal

These agreements and discovery matters submitted under seal should be in envelope with a label marked TO BE FILED UNDER SEAL. The envelope should be accompanied by a motion to seal.

### **E. Alternative Dispute Resolution**

A questionnaire is attached to all complaints and it is expected that the parties and attorneys will answer the questionnaire and exchange their respective answers to the questionnaires and make a good faith attempt to utilize ADR. The scheduling order should include possible ADR.

## 1. Settlement Conferences

Judge Gayden presides over settlement conferences assigned to his court or any circuit. If the case does not settle, he would not hear the trial in the matter unless all parties agreed.

Judge Gayden requires that the parties or their representatives with full settlement authority attend the conference. He also requires a settlement statement to be filed with his office and not filed with the clerk. The statement shall include a summary of the viable theories of liabilities or defenses, status of settlement negotiations, strengths and weaknesses of plaintiff's position and strengths and weaknesses of defendant's position. He begins the conference in his courtroom meeting with all parties. He then meets with each side separately, shuffling back and forth. He conducts his settlement conferences in an informal setting.

## 2. Mediation

Judge Gayden is a strong advocate of voluntary and mandated mediation. He has also ordered mandatory mediation under certain circumstances in several cases.

Any party may also file a motion to require mandatory mediation. The parties may agree to Court annexed mediation or non-Court annexed mediation.

A book of certified mediators is available in First Circuit Court. If the parties can't agree on a mediator, file a motion with the Court.

## **IV. Trial Procedures**

### **A. Scheduling**

Trial dates for jury and non jury cases can be obtained from Kelli Olin at (615) 862-4209 or Candy Rucker at 862-5901.

### **B. Out-of-Town Parties, Witnesses or Attorneys**

The Court will try to accommodate these parties.

### **C. Motions in Limine**

As per local rules.

### **D. Courtroom Decorum**

Lawyers may move about the courtroom as they like. Counsel must ask for permission before handing documents to witnesses and jurors.

Women may wear pantsuits.

Please turn off all cell phones.

### **E. Voir Dire**

Judge Gayden asks questions to the prospective panel of jurors. At random, twelve persons are seated in the box and the remaining are seated on the benches. Judge Gayden randomly selects jurors in several ways. His clerk randomly calls jurors from a list to be seated in the box. He will ask all jurors who have not set on a trial to come forward and sit in the box, or if the trial will be a lengthy one, he may ask for volunteers. Respective counsel shall ask questions to the entire prospective panel regardless of where the jurors are seated.

### **F. Note taking by Jurors**

Judge Gayden allows jurors to take notes, but not to take their notes in to deliberate. He also allows jurors to ask questions; however, whether the questions will be allowed to be answered is determined only after consultation with the attorneys or pro se litigants.

## **G. Opening Statements**

### 1. Length

Judge Gayden has no time limits.

### 2. Use of exhibits

Ordinarily, use of exhibits in opening statements is permissible.

## **H. Side Bar Conferences**

Judge Gayden holds side bar conferences to avoid having the jury leave the courtroom unless it is a complicated matter that will take considerable time.

## **I. Videotaped Testimony**

This type of testimony is permitted. Attorneys should reserve a VCR through the Circuit Court Clerk's Office.

## **J. Deposition Reading**

This is permitted. Counsel may install a paralegal or co-counsel in the witness box to read the answers in the deposition.

## **K. Proposed Jury Instructions and Verdict Forms**

Proposed Jury instructions are to be filed with the clerk.

Sometimes Judge Gayden uses the verdict form furnished by the attorneys. Sometimes he draws up his own form.

## **L. Jury Deliberation**

### 1. Copy of Instructions

The jury is provided a copy of jury instructions.

### 2. Access to Exhibits

All admitted exhibits subject to No. 3 below, will be sent to the jury room.

### 3. Access to Transcript of Testimony or Videotaped Testimony

Usually Judge Gayden will not permit the jury access to such transcripts or video tapes during its deliberations.

### 4. Availability of Counsel

Judge Gayden will allow counsel to return to their office if it is nearby and if they leave their telephone numbers.

## 5. Polling the Jury

Judge Gayden always asks counsel if they want the jurors polled.

## 6. Interviewing the Jury

Judge Gayden will allow for the jurors to be interviewed if their jury service is completed and the juror wishes to speak to the attorney.