



ROOKER

SEPTEMBER 2011

REPORT

A MONTHLY PUBLICATION OF THE DAVIDSON COUNTY, TENNESSEE CIRCUIT COURT CLERK'S OFFICE

IN THIS ISSUE

Page 2

Tennessee Bar Association and Tennessee Judicial Conference Unveil GAVELS Program

Gentry Sworn In As New Metro Nashville Criminal Court Clerk

Judge Eisenstein Honored For His Work With the Mentally Ill

Page 3

Highlights of Changes Brought On By Tennessee Civil Justice Act of 2011

Page 4

September 2011 Circuit Court Trial Verdicts (Jury, Non-Jury, Specially Set)

Page 5

Statistical Numbers by Each Department for September 2011 and Year-to-Date (Circuit, Probate, Gen Sessions, Traffic)

Page 6

Overview of September 2011 Trials By Type of Case

Photo of Inauguration Ceremony for Mayor, Vice Mayor & Metro Council on Courthouse Plaza

In Memoriam - Judge Leon Ruben

Quotes of the Month

JUDGE BARBARA HAYNES ANNOUNCES RETIREMENT

After 29 Years on the Bench, She Steps Down November 15th

Davidson County Circuit Court Judge Barbara Haynes has announced her retirement after serving on the bench for 29 years. Her retirement will take effect on November 15th. Haynes began her judicial career in 1982 as a Davidson County General Sessions Court judge. In 1990, Haynes was elected judge of the Third Circuit Court in the 20th Judicial District, succeeding Judge Matthew Sweeney. Prior to taking the bench, Haynes was a partner at the law firm of Haynes and Haynes and previously had served as a legal assistant on a congressional staff.

In learning of Haynes' announcement, Supreme Court Chief Justice Cornelia A. Clark commented, "Judge Haynes represents everything a person could want in a judge - she's bright, uses common sense, is fair and impartial, and has dedicated her heart and soul to the judiciary." Chief Justice Clark further said, "we can't thank her enough for all that she has done for the judiciary. Although the court system is losing a dedicated and talented public servant, I'm excited that she will have the opportunity to spend more time pursuing her interests and giving back to the Nashville community." Judge Joe P. Binkley Jr., presiding judge of the Davidson County trial courts said, "Judge Haynes has been a valuable member of the court system. She has held numerous leadership positions throughout the judicial system and in the Nashville community. Our courts won't be the same without her."

In 1986, Governor Lamar Alexander appointed Haynes as Chair of the Tennessee Sentencing Commission, a position she held until 1994. She also served as president of the Tennessee General Sessions Judges' Conference in 1988.

An active member of the Nashville community, Haynes has received numerous awards for championing women's issues. In 2010, Haynes was one of seven women inducted into the YWCA's Academy for Women of Achievement; and in 1989, the Tennessee Lawyers' Association for Women named her Woman of the Year. Last year, she also received the Tennessee Bar Association's award for outstanding judicial service.

Haynes received her undergraduate degree from the University of Tennessee and her law degree from Nashville School of Law. She is married to State Senator Joe M. Haynes and has three children and seven grandchildren.



JUDGE BARBARA HAYNES

UPCOMING EVENT

Annual Memorial Service for members of the Nashville Bar who have died within the past year will be November 17, 2011, at 11:00 a.m. at Downtown Presbyterian Church.



Do You Know a Group Who Might
Enjoy This Informative
Civics Presentation?

GAVELS

Gaining Access to Valuable Education about the Legal System

Tennessee judges and attorneys have partnered together to create a new program designed to explain, in everyday language, just how our judicial system works. The Tennessee Judicial Conference (TJC) and Tennessee Bar Association (TBA) developed the GAVELS program, which stands for Gaining Access to Valuable Education about the Legal System, to fill the growing knowledge gap about the legal system and the important role it plays in our government and lives.

As part of the GAVELS Program, judges and attorneys from across the state have agreed to make presentations about a variety of legal topics to groups that wish to learn more about the Tennessee judicial system. The program is targeted to schools, senior citizens groups, business organizations, community groups and civic clubs to name a few. Presentations can be adapted from fifteen minutes to one hour depending on the needs of the group.

"People tend to ignore the importance of the legal system until they are confronted with it either through jury service or because they have encountered their own legal issue," said TBA President Danny Van Horn. "We want to educate students and the public about how the legal system works and how it impacts their everyday lives."

A list of available judges and attorneys and the topics they are willing to speak about are available online at www.tncourts.gov and www.tba.org. To request a speaker, contact Sarah Hayman at shayman@tnbar.org or (615) 383-7421. Local judges who have agreed to participate thus far are Circuit Court Judge Hamilton Gayden, Chancellor Carol McCoy, Criminal Court Judge Monte Watkins, General Sessions Judge William Higgins and Court of Appeals Judge Frank Clement.

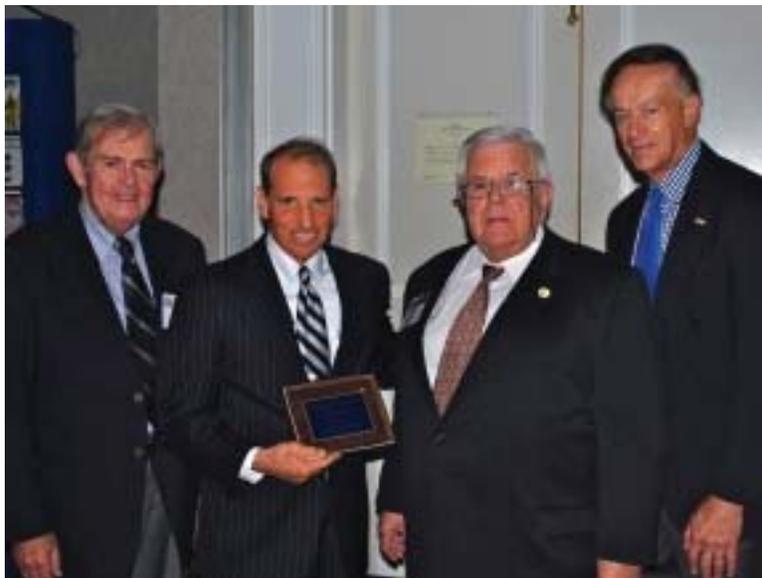
HOWARD GENTRY SWORN IN AS NEW CRIMINAL COURT CLERK FOR NASHVILLE - DAVIDSON COUNTY

On Tuesday, August 30th, an overflowing crowd packed a ground floor courtroom in the Justice A.A. Birch Building to watch former Nashville Vice Mayor Howard Gentry take the oath of office from General Sessions Judge Angelita Dalton to serve as Metro Nashville's new criminal court clerk. The Metro Council had earlier elected Gentry by a wide margin to replace David Torrence, who resigned his position as clerk on July 15th. The ceremony included a tribute to the late Supreme Court Justice A.A. Birch, who died just days before Gentry was sworn in. Gentry credited Birch as a trailblazer and said, "this city was better for having him here. We are grieving today for his loss, but he will never be out of our midst." With his appointment, Gentry himself is a trailblazer in that he becomes the first



GENTRY

African-American to hold one of Davidson County's elected constitutional offices, which also includes seats such as public defender, county clerk and sheriff. In short time, Gentry will have to shift into campaign mode. By Metro Charter, he must be elected by Davidson County voters in August 2012 to retain the seat. From there, he would finish out Torrence's term, which runs through 2014.



Judge Eisenstein, second from left, pictured with representatives from the National Alliance on Mental Illness.

Judge Eisenstein Honored for Helping People with Mental Illness

General Sessions Judge Daniel B. Eisenstein was honored in September with the 2011 Friend of NAMI Tennessee Award by the National Alliance on Mental Illness (NAMI) during the organization's recent annual conference in Nashville.

The NAMI award recognized Judge Eisenstein for his "long career and dedication in helping people with mental illness and their families, providing jail diversion and rigorous treatment and rehabilitation programs that have literally saved the lives of Mental Health Court members. His strong empathy for persons in the criminal justice system assigned to his court has helped them graduate and succeed in making a new life for themselves."

Judge Eisenstein has presided over Davidson County's Mental Health Court since 2004 as part of his duties as Judge of Division 2 of the Davidson County General Sessions Court.

TENNESSEE CIVIL JUSTICE ACT OF 2011

Effective October 1st

The new law covers causes of action accruing on or after that date
and here are the highlights

NEW LAW

OLD LAW

VENUE

Clarifies and defines where a business may be sued. A corporation or similar business organization may be sued in the county where the events constituting the cause of action occurred, where it has its principal office, or where its registered agent of record is located.

Prior law provided that a business could be sued in any county in which it has an office.

MEDICAL MALPRACTICE CHANGED TO HEALTH CARE LIABILITY

Changes the statutory term "medical malpractice" to "health care liability." The potential defendants covered by a health care liability action are described as "health care providers." Clarifies that "health care provider" includes not only physicians and hospitals, but also nursing homes and other assisted living facilities, mental health centers, pharmacists and employees of those entities.

Prior law did not contain definitions for health care provider, health care services or health care liability action, though Tennessee courts have held that nursing homes did not provide health care. In general, Tennessee courts have previously taken a narrower view of the definition of health care provider than the definition contained in the new law.

DAMAGE CAPS:

Noneconomic Damages

Places a cap of \$750,000 on the noneconomic damages incurred by an injured plaintiff. Defines two components of compensatory damages: economic and noneconomic damages. There is no cap on economic damages, and any damages which can be objectively quantified may be recovered as economic damages. Noneconomic damages are the subjective damages like pain and suffering that cannot be quantified and which are subject to the cap.

Prior law did not have a cap on noneconomic damages.

EXCEPTIONS TO CAP ON NONECONOMIC DAMAGES

Exception No. 1. Catastrophic Event - - Raises the cap to \$1 million if the plaintiff becomes a paraplegic or quadriplegic because of a spinal cord injury, sustains third degree burns over 40% or more of his or her body or face, has an amputation of a hand or foot, or wrongfully dies leaving one or more minor children.

Exception No. 2. No cap if the defendant intended to injure the plaintiff, was under the influence of alcohol or illegal drugs and his or her judgment was substantially impaired, or if the defendant intentionally falsified, destroyed or concealed records to avoid liability.

Prior law did not have a cap on noneconomic damages.

CAP ON PUNITIVE DAMAGES

Punitive damages must be proved by clear and convincing evidence and are capped at (a) two times compensatory damages or (b) \$500,000, whichever is greater. There are three instances when the defendant is not subject to the caps: (1) if the defendant intended to injure the plaintiff, (2) if the defendant was under the influence of alcohol or illegal drugs and his or her judgment was substantially impaired, and (3) if the defendant intentionally falsified, destroyed or concealed records to avoid liability.

Prior law did not have a cap on punitive damages.

CLASS ACTIONS

Provides that either party may appeal an order granting or denying class certification as of right and that all proceedings in the trial court are automatically stayed pending the appeal.

Prior law provided that an appeal of a class certification decision was subject to the discretion of the court.

CIRCUIT COURT TRIAL VERDICTS

September 2011

JURY TRIALS

IF CASE WAS
APPEALED FROM
GENERAL SESSIONS

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
Week of September 19					
09C-3684	AUTOMOBILE	2	PLAINTIFF \$7,503 (BUT 35% AT FAULT)	N/A	
08C-4154	AUTOMOBILE	6	HUNG JURY ON 9-21-11	N/A	
Week of September 26					
06C-2712	ASSAULT	2	PLAINTIFF \$100,000 AGAINST DEFENDANT POOLE ONLY	N/A	
10C-3057	AUTOMOBILE	2	PLAINTIFF \$5,000 (NOTE: TRIAL WENT NON-JURY DAY OF TRIAL DUE TO LATE FILED JURY DEMAND)	DISMISSED AFTER TRIAL	PLAINTIFF
10C-2479	AUTOMOBILE	5	PLAINTIFF \$7,430	TRANSFERRED	
08C-3031	AUTOMOBILE	6	PLAINTIFF \$10,041		
07C-1494	MEDICAL MALPRACTICE	1	PLAINTIFF \$1,004,817		

NON-JURY TRIALS

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
Week of September 12					
10C-2194	TRAFFIC APPEAL	2	DEFENDANT / CASE DISMISSED	N/A	
08C-2865	PERSONAL INJURY	1	DEFENDANT / CASE DISMISSED	N/A	
11C-2543	CONTRACT/DEBT	2	PLAINTIFF \$4,000 + ATTY FEES	P - \$4,775	DEFENDANT
11C-431	WORKERS' COMP	5	PLAINTIFF \$293,093	N/A	
10C-1067	AUTOMOBILE/DAMAGES	5	PLAINTIFF \$450,000	N/A	
10C-4863	CONTRACT/DEBT	6	PLAINTIFF (DEFAULT/ATTY FILE AFFIDAVIT)	N/A	
11C-1515	CONTRACT/DEBT	1	PLAINTIFF \$610 BY DEFAULT	P - \$360	DEFENDANT

SPECIALLY SET TRIALS (JURY & NON-JURY)

CASE	TYPE	COURT	CIRCUIT JUDGMENT	DATE OF TRIAL	JURY OR NON-JURY
10C-4155	FRAUD	5	PLAINTIFF \$10,000 (PUNITIVE DAMAGES)	9-7-11	NON-JURY
11C-371	FRAUDULENT CREDIT CARD ACTIVITY (DAMAGES HEARING)	5	PLAINTIFF \$64,743	9-30-11	NON-JURY

DEPARTMENTS BY THE NUMBER

September 2011

	SEP	YTD
New Civil Cases Filed.....	214	1,843
Jury Demand.....	85	843
Non-Jury.....	129	1,000
New Divorce Cases Filed	215	1,798
Domestic Petitions Filed	195	2,200
New Adoption Petitions	21	111
<hr/>		
Civil Cases Concluded.....	241	2,029
Jury Demand.....	142	1,196
Non-Jury	99	833
Divorce Cases Concluded	194	1,943
Domestic Petitions Concluded	210	2,182



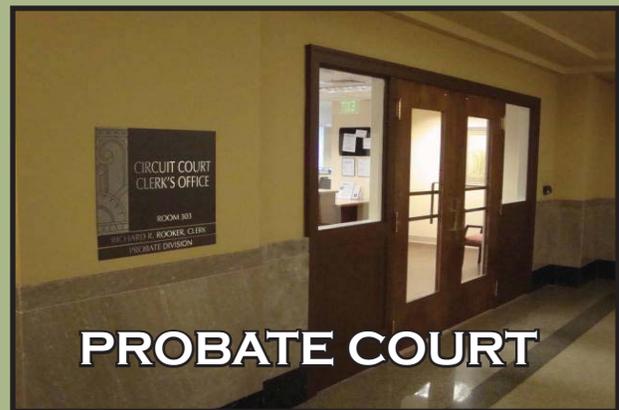
CIRCUIT COURT



**GENERAL SESSIONS
CIVIL**

	SEP	YTD
Total New Cases Filed	3,962	36,583
Civil Warrants	1,949	18,975
Detainer Warrants	1,000	8,753
Recovery Warrants.....	16	267
Pet for Order of Protection.....	257	2,121
Emergency Committals	636	5,507
Other.....	104	960
<hr/>		
Executions Issued.....	3,341	34,565
Garnishment Payments	4,770	39,408
Judgments Collected.....	\$997,512	\$8,443,988

	SEP	YTD
Total New Cases Filed	165	1,472
Total Cases Closed	181	1,387
<hr/>		
Probate Will	63	644
Probate Will for Muniment of Title.....	4	51
Letters of Administration.....	33	226
Small Estate Affidavits.....	29	215
Conservatorship.....	14	158
Guardianship of Minor	4	26
Name Change	10	88
Trust Matters.....	0	11
Other Miscellaneous	8	53



PROBATE COURT



**TRAFFIC
VIOLATIONS**

	SEP	YTD
Total Traffic Violations.....	11,055	107,689
Moving Citations	6,734	71,788
Parking Citations.....	4,321	35,901
Environmental Citations.....	169	2,432
<hr/>		
Total Fines Collected	\$420,304	\$4,245,085
Nullifications.....	967	9,118
Nullification Fees Collected	\$11,609	\$109,413
*Credit Card Payments	2,853	26,981

SEPTEMBER 2011



AUTO ACCIDENT

	SEP	YTD
Total Cases Tried	6	27
Plaintiff Verdicts	5	20
Defendant Verdicts	0	5
Other/Under Adv	1	2
Jury Trials	4	17
Non-Jury Trials	2	10
Appeal from G.S.	1	6
Plaintiff Verd.	0	4
Def. Verdict	1	2
Other/None	0	0

CONTRACT

	SEP	YTD
Total Cases Tried	3	43
Plaintiff Verdicts	3	38
Defendant Verdicts	0	5
Other/Under Adv	0	0

MEDICAL MALPRACTICE

	SEP	YTD
Total Cases Tried	1	5
Plaintiff Verdicts	1	2
Defendant Verdicts	0	2
Other/Under Adv/Hung	0	1

MISCELLANEOUS

	SEP	YTD
Total Cases Tried	6	45
Plaintiff Verdicts	4	27
Defendant Verdicts	2	16
Other/Under Adv	0	2



September 23rd - - The Metro Historic Courthouse serves as backdrop for the Inauguration Ceremony for Mayor, Vice Mayor and newly elected Metro Council

IN MEMORIAM

JUDGE LEON RUBEN

We note with sorrow the passing of General Sessions Judge Leon Ruben on October 7, 2011, after an extended illness. A more extensive profile and tribute is planned for the next edition of the Rooker Report.

QUOTES OF THE MONTH

Justice

At his best, man is the noblest of all animals; separated from law and justice he is the worst.

Aristotle

The administration of justice is the firmest pillar of government.

George Washington

In matters of truth and justice, there is no difference between large and small problems, for issues concerning the treatment of people are all the same.

Albert Einstein

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