

Rooker Report

October 1998

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Vol.6, No. 9

ALTERNATIVE DISPUTE RESOLUTION

Gayden to Kick Off Pilot Program

Beginning November 1, litigants whose cases are assigned to First Circuit Court will be asked to complete a questionnaire that will be used to determine possible alternative resolutions to their disputes.

The questionnaires will be sent out by Judge Hamilton Gayden, who is initiating a pilot alternative dispute resolution (ADR) program designed to provide more efficient case flow management, improve court productivity and increase the satisfaction level of the judicial process.

The test program, if successful, could later be extended to all civil matters in circuit and chancery courts at the local level as advocated by the state supreme court.

Gayden said the goals of a successful ADR program are to:

- ◆ Reduce money, time and other resources consumed by litigants;
- ◆ Free judicial resources for adjudicative functions;
- ◆ Increase certainty and predictability of trial calendars by having more cases settle before they are set for trial, and...
- ◆ Reduce the length of time from case filing to case disposition.

Under Gayden's pilot program, litigants whose cases are assigned to his court upon original filings will be asked to respond to a questionnaire containing a checklist of ADR alternatives. Attorneys for both sides will be charged with making the questionnaires available to their clients and ensuring the forms are completed, signed and returned to the court.

ON THE WEB

LOOKING FOR THE NEW LOCAL RULES?

LINK UP WITH WWW.NASHVILLE.ORG/CIR

For those who have inquired... yes, the revised local rules of procedure are available on our internet web site.

That address is: www.nashville.org/cir.

The new rules were posted on our web site on August 1, the date they went into effect.

Printed versions are available at each of the circuit, criminal and chancery clerk's office. The internet version can also be downloaded for printing, but offers a speedier reference with computer search capabilities.

If you haven't accessed our web site before, here are some other features that might be of service to you:

- ◆ Complete civil and domestic motion dockets, updated weekly.
- ◆ Current and back issues of the Rooker Report.
- ◆ A breakdown on filing fees in the civil courts.
- ◆ Biographical information on Circuit Court Clerk Richard Rooker.
- ◆ Answers to frequently asked questions, including useful telephone numbers and subscription information about "Dial-A-Case," our electronic case access service.

During the coming months, the web site will be expanded to include separate links to the Probate Court Clerk's Office. Rules of procedure, filing fees and current motion dockets will be among the added features.

Our internet site also provides cyber links to other judicial services, such as the Davidson County Criminal Courts, the Nashville Bar Association and the Tennessee Supreme Court.

The questionnaire will be styled as a "Notice of Availability of Alternative Dispute Resolution Procedures" and made a part of the litigants' permanent case file. The wording is comprehensive and merely requires a "yes" or "no" answer to the following list of possible options:

1. If all parties in a case elect to do so, a civil case in this Court can be referred to a judicial settlement conference in order to facilitate settlement in whole or part.

Q--Do you wish to use a judicial settlement conference in this case?

2. If all parties in a case elect to do so, a civil case in this Court can be referred to non-binding, confidential mediation in order to facilitate settlement in whole or part.

Q--Do you wish to use mediation in this case?

3. If all parties in a case elect to do so, a civil case in this Court can be referred to non-binding, confidential case evaluation (also called "early neutral evaluation") in order to facilitate settlement in whole or in part.

Q--Do you wish to use case evaluation in this case?

4. If all parties in a case elect to do so, a civil case in this Court can be referred to binding or non-binding arbitration. Its outcome can be binding or purely advisory, depending on the parties' agreement in advance. Note that the court cannot order the parties to participate in any form of arbitration without their consent.

Q--(a) Do you wish to consider such a procedure and for your lawyer to meet with opposing counsel and the judge to establish an arbitration plan for this case? (b) If you do wish to consider such a procedure, do you prefer binding or non-binding arbitration?

The intended purpose of the questionnaire, Gayden explains, "is that when ADR is checked as an option, that particular file will then be pulled and explored by me as a possible case for fast-track ADR."

Under existing rules governing judicial proceedings, the courts already have authority to order three types of alternative dispute resolution without the consent of the parties -- mediation, judicial settlement conference, and case evaluation. Other types of ADR, such as those offered in the questionnaire, can only be referred with the consent of the parties.

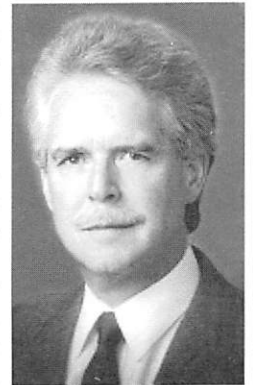
MEANWHILE, BACK IN THE COURTROOMS...

Circuit judges recorded one of their busiest months on record during September, disposing of 462 cases in the combined areas of civil, divorce, probate and settlement conferences.

The biggest contributing factor was the unusually high number of non-jury cases. Judges disposed of 55 trials without juries while managing to preside over 11 trials with jury panels and 14 in settlement conferences.

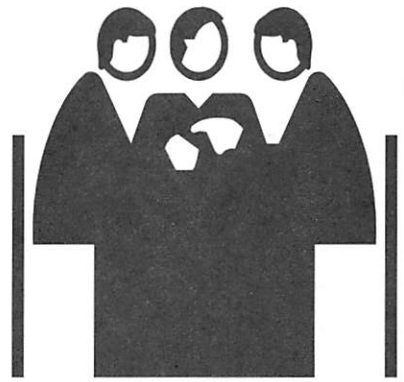
Another 286 divorce cases were brought to conclusion during the month, along with 96 cases in probate.

Because of the unusually high number of non-jury cases, our report on trial verdicts breaks from the norm in this report, beginning on Page 2 and continuing on the following page. Trial verdicts normally are contained on Page 3 in their entirety.



JUDGE HAMILTON GAYDEN
...DESIGNS QUESTIONNAIRE

JURY TRIAL VERDICTS



SETTLEMENT CONFERENCES

Week of September 14

CIRCUIT COURT

CASE	TYPE	COURT	VERDICT
90C-4158	MEDICAL MALPRACTICE	1ST (P)	\$4,361,700
97C-1159	MEDICAL MALPRACTICE	2ND	DEFENDANT
97C-1837	MALICIOUS PROSECUTION	8TH (CP)	\$85,000
97C-780	AUTO ACCIDENT	3RD*	UNDER ADVISEMENT
96C-1340	AUTO ACCIDENT/ST	6TH (P)	\$7,500
98C-160	AUTO ACCIDENT	3RD*	DEFENDANT
98C-1608	CRIMINAL	5TH	MISTRIAL

APPEALS

GENERAL SESSIONS

JUDGMENT	APELLANT
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Week of September 21

CASE	TYPE	COURT	VERDICT	JUDGMENT	APELLANT
98C-245	GSA/CONDITIONAL GIFT	6TH (P)	RTN RING	DISMISSED	(P)
94C-1419	FRAUD	2ND (P)	\$217,000		
94C-3848	SLIP/FALL	6TH	DEFENDANT		
96C-2150	PERSONAL INJURY	8TH (P)	\$155,000		

*WAIVED JURY

NON-JURY TRIAL RESULTS

Week of August 31

CASE	TYPE	COURT	VERDICT	JUDGMENT	APELLANT
97C-874	GSA/CONTRACT	6TH (P)	\$2,720	P-\$2,720	(D)
97C-4036-37	GSA/PROPERTY DAMAGE	1ST (P)	\$3,816	P-\$3,816	(D)
96C-4233	AUTO ACCIDENT	5TH (P)	\$3,700		
97C-3032	GS TRANSFER/CONTRACT	6TH	DISMISSED		
97C-1460	GSA/CONTRACT	1ST	DISMISSED	P-\$8,912	(D)
98C-381	GSA/CONTRACT	3RD (P)	\$2,400	P-\$2,360	(D)
98C-519	GSA/CONTRACT	1ST*	DISMISSED	DISMISSED	(P)
98C-2255	CONTRACT	8TH*	DISMISSED		
97C-2651	GS TRANSFER/CONTRACT	5TH (P)	\$7,800		
98C-383	GSA/CONTRACT	6TH* (P)	\$10+costs	P-\$300	(D)
98C-828	GSA CONTRACT	1ST (P)	\$6,148	P-\$6,148	(D)
97C-1004	WORKER'S COMP	6TH (D)	\$1,440		
98C-515	GSA/CONTRACT	1ST	DISMISSED	P-\$2,454	(D)
96C-504	DAMAGES	5TH (P)	\$20,973		
97C-2355	DAMAGES	5TH (P)	\$16,805		
97C-3693	DAMAGES	6TH (P)	\$20,000		
97C-3332	DAMAGES	6TH (P)	\$4,763		
96C-3553	ASSAULT DAMAGES	6TH (P)	\$20-MILLION		
98C-457	DAMAGES	1ST (P)	\$5,746		
96C-2139	TRESPASS	1ST (CP)	\$600		
96C-2461	WORKER'S COMP	5TH	PLAINTIFF		
98C-640	METRO APPEAL/CODES	6TH	DEFENDANT	P-\$91	(D)
95C-3167	WORKER'S COMP	5TH	UNDER ADVISEMENT		

Week of September 8

CASE	TYPE	COURT	VERDICT	JUDGMENT	APELLANT
98C-380	DAMAGES	6TH (P)	\$15,000	DISMISSED	(P)
95C-2495	DAMAGES	1ST (P)	\$9,080		
98C-1109	GSA/PROPERTY DAMAGE	6TH (P)	\$1,400	P-\$1,437	(P)
98C-1434	GSA/DETAINDER	8TH (P)	\$42	DISMISSED	(P)
97C-2878	GSA/CONTRACT	1ST	DISMISSED	P-\$4,866	(D)

Week of September 14

CASE	TYPE	COURT	VERDICT
98C-1433	CONTRACT	3RD	UNDER ADVISEMENT
97C-3176	CONTRACT	8TH (P)	\$28,050
97C-832	DAMAGES	8TH (P)	\$150,000
97C-676	CONTRACT	8TH (P)	\$7,905
95C-2623	ASSAULT	8TH (P)	\$1,000,000

ABBREVIATIONS

- P-PLAINTIFF
- D-DEFENDANT
- CP-COUNTER PLAINTIFF
- CD-COUNTER DEFENDANT
- ST-SOFT TISSUE
- REC-RECOVERY

	SEPT.	YTD
TOTAL CASES CONSIDERED	14	153
Auto Accidents	5	82
Negligence	2	5
Assault	0	1
Store Injury	0	1
Wrongful Death	0	2
Condemnation	0	9
Indecent Exposure	0	1
Contract Dispute	2	5
Slip & Fall	1	14
Defamation	0	2
Medical Malpractice	0	8
Sexual Harassment	0	3
Personal Injury	4	9
Torts	0	3
Outrageous Conduct	0	1
Fraud	0	1
Air Bag	0	1
Property Damage	0	1
Attorney Malpractice	0	2
Soft Tissue	0	1
Food Poisoning	0	1

DISPOSITIONS

	SEPT.	YTD
Settled	5	80
Partial Settlement	0	1
Pending settlement	0	5
No settlement reached	8	38
Trials with jury verdicts	0	1
Dismissals	0	3
Summary judgments	0	0
Pre-conference settlements	0	10
Post-conference settlements	1	5
Non-suits	0	0
Bankruptcies	0	0
Continued	0	9
Canceled	0	2

(Source: Megan Gregory, case coordinator)

DATES TO REMEMBER

OCTOBER 25--DAYLIGHT SAVINGS TIME ENDS AT 2 A.M. TURN CLOCKS BACK ONE HOUR.

OCTOBER 31--IT'S HALLOWEEN! BETTER STOCK UP ON TREATS IF YOU DON'T WANT TO BE TRICKED.

NOVEMBER 3--GO TO THE POLLS. IT'S GENERAL ELECTION DAY IN TENNESSEE.

NOVEMBER 11--CITIZENS PAUSE TO HONOR THOSE WHO SERVED IN BATTLE. VETERANS DAY WILL FIND OUR OFFICES AND THE COURTS CLOSED FOR OBSERVANCE.

Cheers...

There aren't enough glowing adjectives to describe the improvements made by the courthouse elevator renovation, which concluded a 16-month presence earlier this month and now is living up to its hype. Five state-of-the-art carriages are in perpetual motion, delivering the public to their destinations without the frustrations associated with the lengthy construction phase. Now that the inconvenience is behind us, we can truly say that it was worth the wait.

♦ Two members of our circuit court staff have left to pursue other employment. **Gregg Nicholson**, a longtime deputy clerk in our child support division, and deputy clerk **Rebecca Self** departed on Oct. 15. Nicholson, who is awaiting the birth of his first child, has joined the Metro Budget Department and Self is pursuing a full-time music career. We wish them both the best of luck.

♦ Retirement is not for everybody. Just ask **Jimmy King** and **Irene Dady**. King, who retired from the criminal court clerk's office in June, has returned on a part-time basis, working for his old boss **Harvey Owens** in the clerk's finance department. And Dady, more than a year into retirement from our General Sessions Civil Division office, is now a court officer for new General Sessions Judge **Mark Fishburn**.

♦ Longtime probate court officer **David Smith** has opted for a change of scenery. Smith is now a court officer for General Sessions Judge **Casey Moreland**, along with **Ronnie Crow**, who served in that capacity during Moreland's earlier stint on the bench.

♦ Congratulations to the latest crop of prospective lawyers who passed the state's July bar examinations.

In all, 404 persons successfully completed the testing -- 123 of them from the immediate Nashville area, including **Mary Beth Boone** and **Elizabeth Driver**, former law clerks to Probate Judge **Frank Clement**.

♦ Hats off to members of the Register of Deeds office for their tribute to **Felix Z. Wilson II**, who retired from that office after 36 years of elected service. Employees chipped in and bought billboard space on the Stahlman Building to express their appreciation for his service. The sign read: "Thank You, Felix Z. Wilson II for 36 Years as Register-of-Deeds...With Love, Your Staff."

♦ After reading about Circuit Judge **Muriel Robinson's** experience of serving on a criminal jury, General Sessions Judge **Leon Ruben** figured his chances of being accepted were pretty good when he was summoned to duty a few weeks later. He actually reached the voire dire phase of a criminal stalking case before being booted at the last minute by the attorneys trying the case. "I really thought they were going to keep me," he said. "I was looking forward to being on a jury."

♦ **Jan Yearwood** has returned to her circuit court accounting job following an extended illness precipitated by earlier surgery. Meantime, circuit filing clerk **Mark Herring** is recovering from leg surgery while awaiting the birth of his first child, scheduled to arrive before the month is up.

November Birthdays

Traffic Violations
 5 Bo Frenslley
 12 Beverly Estes
 Dixie Gibson
 13 Patsy Jackson
 24 Dinah Williams
 26 Rhonda Hall
 Nick Lane

Probate
 1 Ruth Lester
General Sessions
 none
Circuit Court Clerk
 5 Carol Ashmore
 11 Bill Riggs



...Tears



R. H. COWAN

Attorney **Robert Hays Cowan**, 73, died September 25 at Centennial Medical Center of cancer. He received his law degree from Vanderbilt in 1951 and began his legal career as a clerk in Chancery Court. He later would help found the firm of **Gracey, Buck, Maddin and Cowan**. In his later years he was associated with the firm of **King and Ballow**. He was known nationally for his work in labor relations. His two surviving children, **Wade Cowan** and **Lisa Cowan**, are both Nashville attorneys.

♦ Deepest sympathy to Court Security Director **Norman Robinson** in the tragic death of his wife **Wendy** at the age of 35.

♦ Condolences also to traffic warrant officer **Joe Foster** in the untimely death of his sister, **Shelain Boyd**, 45, who passed away Sept. 9 in Birmingham as a result of thyroid complications. She was married and the mother of two children.

CONTINUED FROM PAGE 2

NON-JURY TRIAL RESULTS

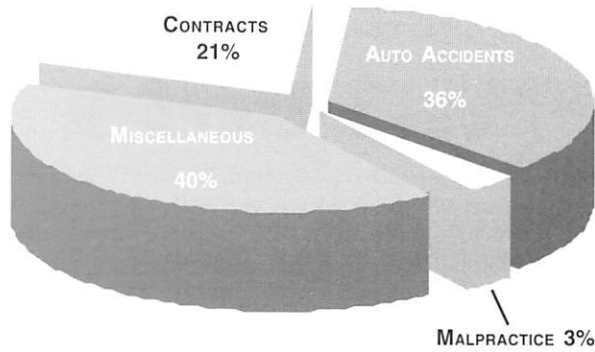
Week of September 14					CIRCUIT COURT		APPEALS	
CASE	TYPE	COURT	VERDICT	JUDGMENT	APPELLANT	GENERAL SESSIONS		
98C-910	GSA/CONTRACT	8TH (P)	\$1,740	DISMISSED	(P)			
97C-3357	GSA/RECOVERY WARRANT	8TH	DISMISSED	P-\$305	(D)			
97C-3457	GSA/CONTRACT	8TH	UNDER ADVISEMENT	DISMISSED	(P)			
Week of September 21					CIRCUIT COURT		APPEALS	
98C-1815	GSA/CONTRACT	8TH (P)	\$1,618	P-\$1,238	(D)			
98C-980	GSA/CONTRACT	8TH (P)	\$13,013	DISMISSED	(P)			
98C-914	GSA/DETAINER	8TH (P)	\$4,941	P-\$2,570	(D)			
Week of September 28					CIRCUIT COURT		APPEALS	
98C-975	CONTRACT	1ST (P)	\$1,977					
98C-909	GSA/CONTRACT	6TH (P)	\$588	P-\$2,420	(D)			
98C-625	SLIP/FALL	6TH	DEFENDANT					
97C-1227	CONTRACT	1ST* (P)	\$7,080					
98C-832	GSA/CONTRACT	1ST*	DISMISSED	P-\$600	(D)			
98C-274	DAMAGES	6TH (P)	\$150,000					
98C-1198	GSA/CONTRACT	1ST (P)	\$1,100	P-\$2,771	(D)			
97C-2281	GSA/CONTRACT	5TH	DISMISSED	DISMISSED	(D)			
98C-752	GSA/CONTRACT	1ST (P)	\$14,096	P-\$1,364	(D)			
97C-873	GSA/CONTRACT	6TH (P)	\$7,913	P-\$9,224	(D)			
97C-2045	WORKERS COMP	1ST (P)	90%					
97C-2276	GSA/CONTRACT	8TH (P)	\$11,390	P-\$2,600	(P)			
96C-2789	WORKERS COMP	5TH	UNDER ADVISEMENT					
96C-2724	WORKERS COMP	6TH	400 WEEKS					
98C-250	GSA/POSS. WARRANT	3RD*	RETURN PROPERTY	POSSESSION	(D)			
97C-916	CONTRACT	8TH (P)	\$790					

*HEARD BY SPECIAL MASTER MARSH NICHOLS

TRENDS

Jury Trials by Classification

(JANUARY THROUGH SEPTEMBER COMPOSITE)



DATA BANK

Statistics compiled for the month of September

CASE INFORMATION

Circuit Court

New Civil Cases Filed	237
Civil Cases Concluded	302
New Divorce Cases Filed	299
Divorce Cases Concluded	286

General Sessions Civil

New Cases Filed	2,633
Executions Issued	2,609
Garnishment Payments	3,427
Judgments Collected	\$520,714
Order of Protection Petitions	203

Probate Court

New Cases Filed	154
Cases Closed	96

Traffic Violations

Moving Citations	23,544
Parking Violations	7,728
Total Fines Collected	\$352,723
Nullifications	2,913
Nullification Fees Collected	\$26,217

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Internet @ www.nashville.org/cir/

Established by George L. Rooker (1929-1993),
(Circuit Court Clerk, 1968-1993)

Richard R. Rooker Circuit Court Clerk
Gene Baker Editor

CASE ANALYSES



AUTO ACCIDENTS

PLAINTIFFS 58
DEFENDANTS 20

RATIO: PLAINTIFFS 2.8-1

MONTH-BY-MONTH

MONTH	TOTALS	JURY	NON-JURY	PLAINTIFF	DEFENDANT	NONE
JANUARY-MAY	50	40	10	33	15	2
JUNE	10	9	1	7	1	2
JULY	12	6	6	11	0	1
AUGUST	13	13	0	7	4	2
SEPTEMBER	4	3	1	2	1	0
YEAR-TO-DATE	89	71	18	60	21	7

JURY AWARDS

MONTH	TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	26,190	200-12,168	2,303
FEBRUARY	107,955	1.00-50,000	19,318
MARCH	100,419	364-57,669	14,124
APRIL	525,000	NO RANGE	NO MEAN
MAY	167,638	3,206-103,777	15,163
JUNE	36,545	1,616-15,000	4,982
JULY	2,039,240	915-2,000,000	12,741
AUGUST	63,277	200-27,000	7,294
SEPTEMBER	7,500	NO RANGE	NO MEAN

NON-JURY AWARDS

MONTH	TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	NO REPORT	NO REPORT	NO REPORT
FEBRUARY	53,500	4,500-34,000	15,000
MARCH	126,855	4,300-92,750	9,935
APRIL	NO CASES	NO CASES	NO CASES
MAY	5,198	NONE	NONE
JUNE	210,000	NONE	NONE
JULY	22,728	2,750-6,300	4,559
AUGUST	NO CASES	NO CASES	NO CASES
SEPTEMBER	3,700	NONE	NONE

*GENERAL SESSIONS APPEALS

MONTH	TOTALS	PLAINTIFF	DEFENDANT	NONE
JANUARY-MAY	9	5	4	0
JUNE	3	3	0	0
JULY	4	4	0	0
AUGUST	3	1	2	0
SEPTEMBER	0	0	0	0
YEAR-TO-DATE	19	13	6	0

RATIO: 2.1-1

*INCLUDED IN ABOVE TRIAL TOTALS

THE OTHERS

CONTRACTS



54
PLAINTIFFS 34
DEFENDANTS 5
NO VERDICT 15

RATIO: PLAINTIFFS 6.4-1

TOTAL AWARDS

YEAR TO DATE: \$238,129

SEPTEMBER DOLLAR RANGE

\$10-28,050

MALPRACTICE



8
PLAINTIFFS 2
DEFENDANTS 4
NO VERDICT 2

RATIO: DEFENDANTS 2-1

MISCELLANEOUS

100



PLAINTIFFS 71
DEFENDANTS 19
NO VERDICT 10

RATIO: PLAINTIFFS 3.7-1