

ROOKER REPORT

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6TH ANNIVERSARY ISSUE



Welcome to the first issue of our seventh year as a monthly publication.

The Rooker Report has now gone to press 73 times without interruption, bridging the communications gap between the civil judicial system and the people it serves.

From a rather simplistic beginning in February 1993 to the technology enhanced product you are now holding, continuous efforts have been made to improve coverage and presentation of judicial topics relevant to our readership.

Strides have been made toward improving the typography of our publication. And, while total satisfaction has not yet been realized in that area, we are encouraged by the prospects ahead. We anticipate a time when graphics can be reproduced with greater clarity...when more first generation photo-

graphs can be obtained and reproduced in near-perfect definition...when the occasional use of color will be tone-true and properly registered.

We will continue to strive for improvement in our story content, seeking out and reporting on issues that have a bearing on the operations of the courts and presenting them in a comprehensive manner for our reader base as a whole.

Each year since our inception, new features have been added in an effort to provide useful information for judges, attorneys and the public alike. Our statistical coverage has grown extensively over the years from a mere charting of new case filings to complete listings of jury and non-jury trial results, as well as monthly updates of settlement conference outcomes. Our special "Trends" section provides an analytical overview of jury activity, offering

See ROOKER REPORT, Page 4

Soft Tissue Dilemma:

A Pain in the Neck That Won't Go Away

Auto accident victims who escape broken bones but allegedly suffer ongoing pain from soft tissue strains are getting very little monetary relief from juries in Davidson County.

A random sampling of typical litigation during the past calendar year reflects an attitude of general cynicism toward plaintiffs seeking compensation for pain and suffering and reimbursement of expenses related to therapeutic treatment.

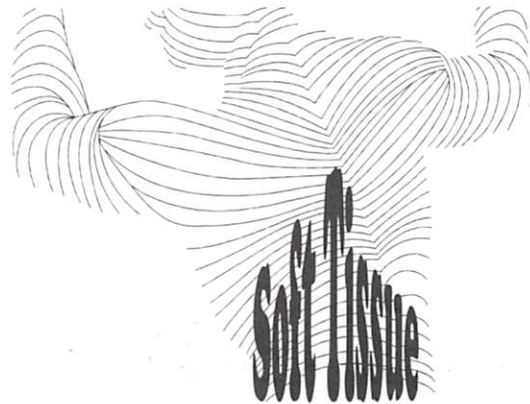
In many instances, judgment amounts would appear less than adequate to cover legal fees necessary to the pursuit. Others fall well short of recovering documented medical costs.

More times than not, soft tissue plaintiffs leave the courtroom with less than five-figure awards--some as low as a few hundred dollars; some nothing at all.

The rub, so to speak, lies in the fact that the majority of such cases rely solely on chiropractic evidence rather than more traditional medical forms of treatment.

Because of a general lack of understanding of chiropractics, combined with skepticism over the long-term effectiveness of such treatments, jurors tend to give less weight to so-called expert testimony of chiropractors in the absence of supporting medical evidence.

The majority of plaintiffs in soft tissue cases seek out chiropractic help after prescribed pain medications fail to provide relief. Often, they are referred to chiropractors by their physicians when other forms of physical



therapy also fail. Since most health insurance policies do not cover chiropractics, soft tissue patients must foot the bill for numerous treatments over an extended period of time--generally three times per week for three-to-six weeks or six months in some cases.

In theory, the expense will be recovered once their case is settled or goes to trial. Realistically, the odds are stacked against them on both counts.

Defendants in soft tissue cases, relying on low-dollar judgments awarded by juries in recent years, are reluctant to make settlement offers, opting for a shot at a lower payout--if any--at the trial level. Their hunch is strongly supported by percentages.

And while statistics show that most plaintiffs in such cases receive some compensation for their injuries, judgments often fall short of totally covering their treatments.

Chiropractic involvement in soft tissue cases usually adds between \$2,500-5,000 to the victim's total medical expense, observes Circuit

See SOFT TISSUE, Page 2

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STEVE ROSE

Rose Named Warrant Chief

MILTON STEVE ROSE HAS BEEN NAMED SUPERVISOR OF THE TRAFFIC VIOLATIONS BUREAU WARRANT OFFICE, FILLING A VACANCY CREATED BY THE RECENT PROMOTION OF BILL CARTWRIGHT TO CHIEF CLERK.

Story on Page 2.

E-mail Clean-Up

NEW POLICIES DESIGNED TO CURTAIL SPACE WASTE BY JIS SUBSCRIBERS.

Story on Page 3

Cheers...

Remember how excited Chancellor **Ellen Hobbs Lyle** became a few months back when she was summoned for jury duty? Well, her time of service finally rolled around in January and she showed up ready to do her duty, which she did when attorneys accepted her as a panelist in a DUI case. The trial was held in Probate Judge **Frank Clement's** courtroom, however--not in Fifth Circuit where her husband is Judge **Walter Kurtz**. Shucks! We wanted to see how that would have turned out. The DUI trial, by the way, resulted in a hung jury. But the chancellor isn't telling how she voted. ...Another jurist, Judge **William Koch** of the state court of appeals, fulfilled his civic duty two weeks later.

♦ Hats off to attorney **Sidney Bennett** for accepting the short-lived job of special prosecutor in the county's domestic courts, realizing at the time that the position could be abolished. Shortly after Bennett assumed her duties, the state supreme court ruled that the position wasn't necessary because there was nothing wrong with private attorneys pursuing contempt of court sanctions against spouses on the other side of cases in which they are involved. That was the general practice before a state court of appeals got into the act last year. Before the higher court overturned that decision, Bennett served the courts for 2.5 months.

♦ Deputy circuit clerk **Betty Murray** underwent foot surgery earlier this month and is expected to return to work in a few weeks following recuperation at home where hubby **John Murray** (retired chief circuit court clerk) is providing TLC.

♦ Other "foot" patients in recent weeks were **Diane Clark**, administrator of the Probate Court probation department, who fell victim to that ice storm that hit the area last month, and **Diana Reed** of our General Sessions civil division, who had corrective surgery. Both have returned to work.

...Tears

Attorney **Dick Lansden**, who founded the law firm **Waller Lansden Dortch and Davis**, passed away on Feb. 12 after a long illness precipitated by a stroke in 1990. He was 89 years old. His father, **D.L. Lansden**, was a former chief justice of the Tennessee Supreme Court where his brother **David Lansden** served as clerk for many years.

Condolences to Metro Property Assessor **Jo Ann North**, whose father, **Don McClendon**, passed away on Feb. 14 in Marshall, Texas where he lived. He was 80.

Soft Tissue Cases: Hard-Sell, Low Returns

(FROM PAGE 1)

Judge Marietta Shipley, who presided over a share of the 100-plus trials during the past year.

"It is distressing when the plaintiff gets referred for treatment only to be disappointed by having to pay the bill," said Judge Shipley, citing current jury verdict trends reflecting such cases to be excessive.

Retired Davidson County Chancellor Robert S. Brandt, now specializing in case mediation, avoids personal injury cases other than those in which treatment has been provided by a medical doctor.

"During my year as a senior judge," he said, "I presided over a few soft tissue cases in Franklin and Murfreesboro. Sometimes the plaintiff went to the chiropractor because the medical doctor had said that there is nothing more to be done and the plaintiff thought the chiropractor could help.

"Sometimes, though, the plaintiff went to the chiropractor at the request

March Birthdays

General Sessions

13 Jan Yearwood

Circuit Court Clerk

10 Penny Hubbell
17 Deanna Alexander
28 Betty Murray
29 Cheryl Kennedy

Probate

none

Traffic Violations

2 Dana McGregor
12 Roy Bohannon
21 Candace Baron
24 Lisa Jones



STEVE ROSE NAMED TRAFFIC WARRANT OFFICE SUPERVISOR

Circuit Court Clerk Richard Rooker this month named Milton Steve Rose as supervisor of the Traffic Violation Bureau's warrant office operations.

Rose, an 18-year veteran of the department, succeeds Bill Cartwright, who was elevated to chief clerk of the bureau in January following the retirement of Ed Chauvin.

For the past 15 years, Rose has handled lease company accounts.

Rose joined the warrant office staff in 1981 and shortly thereafter was promoted to night supervisor, a position he held for almost two years before being placed in charge of lease company accounts.

Rooker said Rose was selected for the supervisor's post based on years of service, overall knowledge of the department's operations, management skills and leadership qualities.

The selection also was in keeping with Rooker's policy of promoting from within his own staff whenever possible.

"I feel like we have an outstanding management team in the Traffic Violations Bureau," said Rooker in reference to Cartwright and Rose, as well as business manager Phil York.

The warrant office plays a vital role in the collection of both moving and parking fines that have been ignored by offending motorists.

During the past calendar year, more than 87,000 judgments and warrants were turned over to the office for collection. The combined efforts of the 25-employee staff brought closure to almost 30,000 of that number, resulting in \$975,656 in recovered revenue.

Because of the staff's high efficiency standards, Rose said he doesn't anticipate the need for operational changes in the near future.

Rose and his wife Rosemary reside in Goodlettsville.

of the plaintiff's lawyer just to try to get a bigger award. Jurors aren't dumb; they know that when they see it."

"The flood of minor impact soft tissue injury cases in court, the skepticism of jurors, the energy and resources consumed by litigation are all factors that lead many observers to believe that the civil justice process in the United States is seriously broken," Brandt opined, adding that "only time will tell whether mediation and other forms of dispute resolution catch on in Nashville as they have in other places."

To help gauge jury reaction, the Rooker Report last March began identifying auto accidents involving soft tissue claims in its monthly grid on trial verdicts. During the 10-month period ending in December, juries rendered verdicts in 37 cases, finding in favor of 32 plaintiffs with a judgment mean of only \$17,598 when eliminating the highest and lowest awards.

JURY TRIAL VERDICTS



APPEALS

GENERAL SESSIONS

Week of January 4

CIRCUIT COURT

CASE	TYPE	COURT	VERDICT	JUDGMENT	APPELLANT
98C-753	GSA/AUTO ACCIDENT	2ND	DEFENDANT	DISMISSED	(P)
95C-3530	AUTO ACCIDENT/ST	5TH	(P)	\$18,000	
97C-802	AUTO ACCIDENT/ST	6TH*	DEFENDANT		
97D-2756	CRIMINAL	5TH	GUILTY		

Week of January 25

CASE	TYPE	COURT	VERDICT
93C-2856	MEDICAL MALPRACTICE	5TH	DEFENDANT
96C-3730	AUTO ACCIDENT/DEATH	1ST	DEFENDANT
97C-1179	AUTO ACCIDENT/ST	2ND	(P) \$681.50
97C-2114	PERSONAL INJURY/DEATH	6TH	HUNG JURY
97C-1805	NEGLIGENCE	8TH**	(P) \$15,840
95C-4115	AUTO ACCIDENT/ST	2ND	(P) \$13,082
96C-3151	SLIP/FALL	3RD	DEFENDANT

NON-JURY TRIAL RESULTS

Week of January 19

CASE	TYPE	COURT	VERDICT
97C-1979	AUTO ACCIDENT	8TH	(P) \$3,724
98C-511/594	GSA/CONTRACT	6TH	(P) \$2,250 DISMISSED (P)
96C-980	WORKERS COMP	6TH	(P) 22%
97C-2709	CONTRACT	8TH	(P) \$5,000
98C-2159	GSA/RECOVERY WARRANT	8TH	DISMISSED P-\$9,000 (D)
97C-3054	DAMAGES	6TH	(P) \$25,000
98C-1324	GSA/CONTRACT	8TH	(P) \$2,000 DISMISSED (P)

*HEARD BY SPECIAL MASTER MARSH NICHOLS

**WAIVED JURY

Unauthorized Software Storage Also Curbed

JIS Cracks Down On E-mail Abuse

E-mail abusers beware!

Justice Information Systems, which administers the electronic mail system for the local court system, says it will no longer tolerate the transmission of chain letters and unsolicited bulk mailings.

The new policy, which went into effect on Feb. 8, was announced in the February issue of "JIS on Line," a periodical circulated among the department's participating members.

In a front page article, which reminded members that "the use of e-mail is a privilege, not a right," the agency used stern language to drive home its point:

"The use of e-mail to transmit chain letters and unsolicited bulk mail is expressly forbidden. No individual e-mail message of any kind may have more than one hundred and fifty (150) recipients unless authorized by JIS to transmit business related information."

Violations of this policy, the article continued, "will result in the immediate suspension of e-mail privileges." First-time offenders, the agency announced, will lose the ability to send e-mail for five business days and subsequent violations will result in permanent suspension of e-mail privileges.

JIS also noted that network disk drive storage areas, provided to accommodate work-related documents and files, are being filled with non-work related software, restricting space for critical work documents.

A new policy now in effect prohibits use of the network storage areas for any files not created in a JIS Standard Software application. The agency said it would conduct regular scans of all server disk drives to detect unauthorized files. Violators will be reported to their supervisors and given an allotted amount of time to remove the files or face sanctions.

JANUARY

TOTAL CASES CONSIDERED	12
Auto Accidents	4
Fraud	1
Wrongful Death	1
Contract Dispute	4
Medical Malpractice	1
Condemnation	1

DISPOSITIONS

Settled	6
No settlement reached	6

(Source: Megan Gregory, case coordinator)

ABBREVIATIONS:

P-PLAINTIFF

D-DEFENDANT

CP-COUNTER PLAINTIFF

CD-COUNTER DEFENDANT

ST-SOFT TISSUE

REC-RECOVERY

GSA-GENERAL SESSIONS APPEAL

THE TOOTH FAIRY WANTED CHANGE

When criminal attorney Tommy Overton's six-year-old daughter lost her first tooth recently, the thoughtful father appropriately provided for the "Tooth Fairy" to leave six one-dollar bills under her pillow--a dollar for each of her birthdays.

It was several days later when he learned that one of the dollar bills was actually a one-hundred-dollar bill.

As any good attorney would do, he devised a way to successfully replace the large bill with the intended smaller one without the child's knowledge.

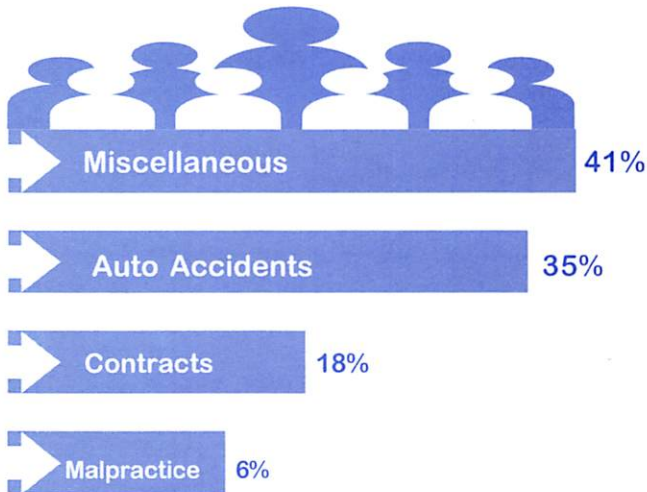
He reportedly was quite pleased with his sly maneuver but made the mistake of sharing the story with friends.

When he showed up later for a case in General Sessions Court, he was confronted by Judge John Brown, who jokingly informed Overton that he could be arrested for defrauding a minor. "I believe that's a felony, Mr. Overton," Brown cautioned, leaving bystanders to wonder if the judge's joshing would stir the attorney to re-evaluate his conscience.

Only the Tooth Fairy knows for sure.

TRENDS

Jury Trials by Classification



DATA BANK

Statistics compiled for the month of January

CASE INFORMATION

Circuit Court

NEW CIVIL CASES FILED	221
CIVIL CASES CONCLUDED	286
NEW DIVORCE CASES FILED	218
DIVORCE CASES CONCLUDED	250

General Sessions Civil

NEW CASES FILED	2,778
EXECUTIONS ISSUED	2,992
GARNISHMENT PAYMENTS	3,481
JUDGMENTS COLLECTED	\$527,916
ORDER OF PROTECTION PETITIONS	208

Probate Court

NEW CASES FILED	144
CASES CLOSED	128

Traffic Violations

MOVING CITATIONS	22,477
PARKING VIOLATIONS	5,903
TOTAL FINES COLLECTED	\$311,739
NULLIFICATIONS	2,628
NULLIFICATION FEES COLLECTED	\$23,652

CASE ANALYSES



AUTO ACCIDENTS

PLAINTIFFS	4
DEFENDANTS	3

RATIO: PLAINTIFFS 4-3

MONTH-BY-MONTH

MONTH	TOTALS	JURY	NON-JURY	PLAINTIFF	DEFENDANT	NONE
JANUARY	7	6	1	4	3	0

JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	31,763	681-18,000	13,082

NON-JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	3,724	N/A	N/A

SOFT TISSUE CASES

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	31,763	681-18,000	13,082

*GENERAL SESSIONS APPEALS

MONTH	TOTALS	PLAINTIFF	DEFENDANT	NONE
JANUARY	1	0	1	0

*INCLUDED IN ABOVE TRIAL TOTALS

ROOKER REPORT ENTERS 7TH YEAR

(From Page 1)

an insight into juror sentimentality toward particular types of cases.

For the past 25 months, computer owners have accessed the report over the internet as a part of our general web site. Not only can they check out the latest edition, they can link up to back issues as well.

Hardcopy originals of all 73 issues also are available upon request. The Metro Archives maintains a file as well, preserving possible historical value.

In current paper form, the report is available through countertop distribution in each of the departments under jurisdiction of Circuit Court Clerk Richard Rooker --Circuit Court Clerk's Office and Probate Clerk's Office in the courthouse, General Sessions Civil Division Office in the Stahlman Building and the Traffic Violations Bureau in the Ben West Building.

The report is not offered through subscription mailings, but can be obtained by providing a self-addressed stamped envelope.

E-mail inquiries should be addressed to: circuit@jis.nashville.org.

Rooker Report

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

Richard R. Rooker Circuit Court Clerk
Gene Baker Editor

THE OTHERS



CONTRACTS	TOTAL	PLAINTIFFS	DEFENDANTS	NO VERDICT
	3	3	0	0

RATIO: PLAINTIFFS 3-0 TOTAL AWARDS TO DATE: \$9,250
JANUARY DOLLAR RANGE: \$2,000-5,000



MISCELLANEOUS
6
PLAINTIFFS 3
DEFENDANTS 1
NO VERDICT 2



MALPRACTICE
1
PLAINTIFFS 0
DEFENDANTS 1
NO VERDICT 0