

ROOKER REPORT

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Pilot Program Responses:

Plaintiffs Favor ADR Over Trials



JUDGE GAYDEN

A large majority of plaintiffs in civil actions here favor some type of alternative dispute resolution over traditional courtroom trials while defendants are divided on the issue, according to responses in a circuit court pilot program designed to gauge litigant preferences.

Of 89 plaintiffs responding to questionnaires mailed out over a seven-month period, only seven were opposed to alternative options while exactly half of the 68 responding defendants favored either mediation or settlement conference resolution.

Judge Hamilton Gayden, who initiated the pilot program last November, said he was encouraged by the overall response to questionnaires mailed out only to those litigants whose cases are assigned to his court.

Other circuit and chancery judges were said to be evaluating the results to determine whether to adopt the program for their own courts as advocated by the state supreme court.

Although defendants found alternative methods less appealing than did plaintiffs, 16 of the 34 non-positive responses left open the door to conditional acceptance pending various forms of discovery.

All parties agreed to mediation in 13 cases and to settlement conferences in four cases while another three cases resulted in court-ordered mediation.

Gayden designed the pilot program to provide more efficient case flow management, improve court productivity and increase the satisfaction level of the judicial process. Goals of the 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.

PARENTING PLAN NEARS STATEWIDE ADOPTION

Children whose lives face disruption by divorcing parents may soon realize a greater degree of stability in coping with their unwanted situations.

A pilot program currently being utilized by selected domestic courts in the state has proven to be so effective over the past 18 months that the state legislature is on the cusp of implementing it statewide. The program could be on its way to the books before you can spell irreconcilable differences.

It is predicated on a concept similar to programs already being administered with positive results in 17 other states.

(See PARENTING, Page 3)

FINE TUNING



Stiffer Penalties for Lead-Footed Drivers Just Around the Corner

Errant drivers beware! The penalty for breaking county traffic laws is about to become detrimental to your pocketbooks--especially for repeat offenders.

The Metro Council has approved dramatic fine increases for many moving violations and is only a formality away from imposing higher fees for minor offenders seeking nullification of their citations.

It's all part of bringing the traffic fine structure here in line with cities of comparable size and, theoretically, inspiring better driving habits by a motoring public that is growing faster than an unleashed air bag.

You might be wondering: "Just how dramatic an increase are we talking about here?" Well, get ready to lighten your loafers, lead foot. Here it comes.

First the soft news.

If you are caught violating the county's driver's license or bumper laws, expect to get off easy. The fine amounts for those violations will not change from their relatively low amounts. But other moving violations, all classified as "hazardous," might give you a case of financial whiplash.

With the exception of reckless driving (which already carries a \$500 penalty for each offense) the fine for first-time violations will elevate to \$50 in all categories, including careless driving, lane restrictions and failing to heed a traffic light or stop sign--all of which currently carry a \$25 fine.

That will seem like chump change, compared with what you will be shelling out if that experience fails to sink in. Get caught a second time and your tab will no longer be \$50 as it is now. The new fine amount will be \$125.

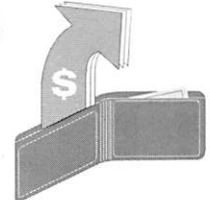
(See FINES, Page 2)

Moving Violations Fine Schedule

(New Fine Amounts in Parenthesis)

OFFENSE	FIRST	SECOND	THIRD [±]
RECKLESS DRIVING	\$500	\$500	\$500
CARELESS DRIVING	\$25 (\$50)	\$50 (\$125)	\$50 (\$500)
PASSING SCHOOL BUS	\$50	\$50	\$50
*SPEEDING	\$50	\$50 (\$125)	\$500
TRAFFIC LIGHT, STOP SIGN	\$25 (\$50)	\$50 (\$125)	\$50 (\$500)
LANE RESTRICTION	\$25 (\$50)	\$50 (\$125)	\$50 (\$500)
DRIVER'S LICENSE LAW	\$20	\$40	\$50
BUMPER LAW	\$25	\$50	\$50

*INCLUDES ALL CODES VIOLATIONS REGARDING SPEEDING



Cheers...

Assistant Chief Deputy Circuit Court Clerk **Tracy Cartwright** has joined a growing list of **Richard Rooker** employees who have earned certification as a public administrator. Cartwright, an 11-year employee, became the sixth current staff member to complete a three-level, 115-hour course earlier this month at Henry Horton State Park.



CARTWRIGHT

The certification program is administered by the University of Tennessee Center for Government Training to promote increased efficiency through professional development. Other staffers who have earned certification are **Carole Garrett, Karen Rooker, Jeff Filson, Gay Parker** and **Mike Garrett**.

◆ **Brenda Osborne** of our General Sessions Civil Division office welcomed a new member to her family this month. Son **Brian Best**, an employee of the Metro Property Assessor's Office, took **Leslie Shelton** as his bride on May 1 in ceremonies at the Fairview Baptist Church.

◆ The new face at the reception desk in the General Sessions Court's civil division belongs to **Suzette Wells**, who joined the court staff in mid-April.

◆ There were two retirements of note this month--both court officers and both taking down their shingles on the same day..."**Kayo**" **Smith**, long-time court officer to Criminal Court Judge **Randall Wyatt**, was given a courthouse reception while **Irene Dady** opted for a low-key exit from her service to General Sessions Judge **Mark Fishburn**. Both events took place on May 14. Dady, you might recall, retired two years ago from the General Sessions Civil Division clerk's office, but joined Fishburn's staff when he was elected judge with the understanding that it would be a temporary assignment. Fishburn has hired **Chris Austin** as Dady's replacement.

◆ Congratulations to Metro Postal Service supervisor **Terry Adkins** upon his marriage to **Donna Mitchell**. The couple were wed in a private ceremony on May 22. Once again, Terry proves that he can deliver the mail!



HIGGINS

◆ General Sessions Judge **Bill Higgins** scored a hole-in-one in the Capital City Golf Association's annual tournament, held in Mississippi in April. His Honor registered the ace with a seven-iron on the third hole with three playing partners as witnesses. And, in case you're wondering...yes, it was a regulation golf course--not putt putt. We didn't get a report on how the judge came out in the tournament standings, but anybody who can sink a golf ball off a tee is a winner in our books.

◆ Since we're on the subject of sports, congratulations to bossman **Richard Rooker** upon being selected to officiate in the **Ohio Valley Conference** after many years of service on the TSSAA gridirons. Rooker thus becomes an officiating colleague of General Sessions Judge **Casey Moreland**, who already has OVC experience under his belt. Both Rooker and Moreland will continue to referee high school games as well, but their heavy schedules will come with sacrifice. They'll miss the excitement of watching the UT Vols defend their national championship.

◆ **Carolyn Davis** has returned to work in the circuit court clerk's office following thyroid surgery, while two other staffers remain on the infirmary list...**Denise Dill** of our General Sessions civil division is on bed rest as a result of complications she suffered from a broken ankle several weeks ago. And internal auditor **Jan Yearwood** continues to recover from that heart valve replacement surgery in April.

◆ Best wishes for a speedy recovery to Insurance and Safety Director **Robert Wiseman**, who underwent hip replacement surgery this month.

◆ All government offices will be closed May 31 for Memorial Day.

June Birthdays

Circuit Court Clerk

- 2 Dan Vincent
- 14 Skyla Carnahan
- 17 Mary Stephens
- 21 Virginia Laarz
- 24 Ronnell Griffin
- Virginia Rowland

Probate

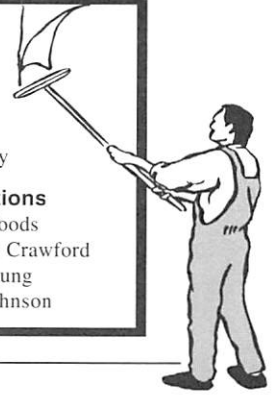
- 14 Kim Clary

Traffic Violations

- 6 Stacey Woods
- 13 Samantha Crawford
- 27 Joanie Young
- 29 Teresa Johnson

General Sessions

- 3 Sandra Perryman



...Tears

Our thoughts and prayers are with three of our employees and General Sessions Judge **William Faimon** in the recent passing of family members.

◆ Judge Faimon's father, **Joseph E. Faimon** of Old Hickory, succumbed to a stroke on May 6 at Summit Medical Center. He was 91, a retired pharmacist and lieutenant colonel in the U.S. Air Force.

◆ **Jeroy Dunn**, 57, father of traffic warrant office employee **Sarah Dunn**, passed away on April 8 following an extended illness. He was a resident of Pegram.

◆ **David Prater**, 43, brother of traffic data entry clerk **Nancy Capps**, died April 21, one day after undergoing quadruple heart bypass surgery at St. Thomas Hospital.

◆ **John A. Jackson**, grandfather of Traffic Violations Bureau deputy clerk **Kim Smith**, passed away from natural causes on April 26. He was 80.

Fines Going Up

(From Page 1)

Should that happen, you might want to start a little reserve fund, just in case the blue lights get you again. Your third trip before a judge will cost you a whopping \$500, or ten times the current fine rate.

Just when will these new fine amounts go into effect? Sorry, we can't tell you. The new fine schedules must first be added to the tickets themselves, a procedure that depends on the working time frame of the printer.

Meantime, the amounts listed on the citations will be honored.

Then there are the less serious offenses the government defines as "correctable" where motorists are given an opportunity to fix their problems and avoid paying fines. Once proof of conformity is shown, the cited driver may have his ticket nullified by the clerk simply by paying a nominal service fee.

When the fee was first instituted back in 1993 as a means of recovering a portion of the associated expense of providing the service, there was debate over how much the charge should be. Although many thought the charge should be \$15, the council finally settled on \$9 and the amount has remained the same ever since.

An ordinance now making its way through the council process will increase the fee to \$12, generating about \$85,000 per year in additional revenue. That increase, too, has an undetermined effective date at this point, but is expected to become a reality on third reading the first week in June.

It could be joined by a companion bill imposing an administrative fee on defendants who repeatedly request continuances of their traffic school dates. After a third continuance request, enrollees would be required to pay a reinstatement fee in addition to their enrollment amount.

If you find these increases disturbing, take matters into your own hands. Obey the laws and you'll never know the difference.

PARENTING PLAN PROMOTES HARMONY IN DIVORCE

Educational Classes Focus on Organizing Equal Relationships With Children

(From Page 1)

The thrust of the program requires divorcing parents to attend a four-hour parental education class on the effects of divorce on children. A parenting "plan" then is assembled, setting out the role of each parent in caring and supporting the children until they reach adulthood. It also effectively does away with the customary concepts of custody and visitation.

In cases where a parenting plan can't be agreed upon, mediation can be requested by the couple or ordered by the court.

Circuit Judge Marietta Shipley, who handles 25 percent of all divorce cases in Davidson County, is a strong proponent of the program after participating in the pilot program since its inception. She encouraged lawmakers to extend the program statewide, citing statistical improvements and general reactions from participants in 171 parenting plans filed with her court.

Since instituting the pilot program in January 1998, she wrote legislators, 67 percent of couples (both parents) attended the educational program while another 22 percent of individual spouses participated on their own.

Shipley noted that 90 percent of those who attended the program said the information was helpful to them; 82 percent claimed it helped them better deal with a spouse or ex-spouse; 91 percent said it helped them understand their children; 97 percent said it influenced their behavior or attitude toward their children; and 89 percent said they would recommend the program to others.

It should be noted that couples with a history of domestic violence or abuse are not eligible for the parenting plan.

In an earlier editorial endorsement of the plan, The Tennessean put the issue in layman's terms:

"The Parenting Plan requires a divorcing couple to think about things involving their children which might not occur to them in the heat of divorce. Where will the children spend each holiday? Who is responsible for transportation? Who will decide whether little Johnny can get his nose pierced? And how will the divorced couple settle disputes over their children when they no longer live in the house?"

"When the process is complete, both parents know what is expected of them."

More importantly, it allows the children to remain involved with both parents, promoting healthier, happier and better adjusted lives from what fate has dealt them.

If the program is that good, why hasn't the state already adopted it?

Nothing of value comes without a price. In this case, it equates to \$2.5 million a year. There must be a source of revenue to fund the plan; salaries for coordinators, operational costs for conducting classes and fees associated with mediation.

After all, Tennessee has a reputation for divorce, i.e., about 40,000 per year -- 35 percent of which involve children.

But lawmakers have hit on what would appear to be the perfect solution: advance payment by those who might someday use the service.

Once the plan becomes law, the fee for obtaining a marriage license will be increased to help defray the cost.

JURY TRIAL VERDICTS

ABBREVIATIONS:

- P-PLAINTIFF
- D-DEFENDANT
- CP-COUNTER PLAINTIFF
- CD-COUNTER DEFENDANT
- ST-SOFT TISSUE
- GSA-GENERAL SESSIONS APPEAL
- REC-RECOVERY



SETTLEMENT CONFERENCES

APRIL

TOTAL CASES CONSIDERED	1
Auto Accidents	1
Contract Dispute	0
Breach of Contract	0
Medical Malpractice	0

DISPOSITIONS

Settled	1
Did Not Settle	0
Continued	0

(Source: Megan Gregory, case coordinator)

Week of April 12

CIRCUIT COURT

CASE	TYPE	COURT	VERDICT
97C-845	MEDICAL MALPRACTICE	6TH	DEFENDANT
97C-2900	PERSONAL INJURY	1ST (P)	\$95,000
98C-1576	GSA/AUTO ACCIDENT/ST	8TH (P)	\$8,000
96C-3590	AUTO ACCIDENT/ST	3RD	DEFENDANT
97C-1901	AUTO ACCIDENT/ST	2ND (P)	\$1,145
97C-2824	AUTO ACCIDENT/ST	8TH (P)	\$13,780
95C-1918	CRIMINAL	5TH	GUILTY

APPEALS GENERAL SESSIONS

JUDGMENT	APPELLANT
P-\$3,500	(D)

Week of April 19

CASE	TYPE	COURT	VERDICT
97C-3725	AUTO ACCIDENT	3RD (P)	\$953
96C-1263	GSA/ASSAULT	1ST	DEFENDANT
96C-1104	AUTO ACCIDENT/ST	2ND (P)	\$2,208
96C-1952	ASSAULT	8TH	DEFENDANT
98C-122	DEFAULT	3RD (P)	\$48,000
98C-1955	GSA/AUTO ACCIDENT	5TH (P)	\$180
98C-184	AUTO ACCIDENT/ST	1ST (P)	NO AWARD

APPEALS GENERAL SESSIONS

JUDGMENT	APPELLANT
P-\$9,961	(D)
TRANSFERRED	

Week of April 26

CASE	TYPE	COURT	VERDICT
98C-2015	GSA/INS. CONTRACT	1ST (P)	\$2,114
96C-2554	AUTO ACCIDENT	8TH	DEFENDANT
95C-4012	AUTO ACCIDENT	6TH (P)	\$15,000
98C-2059	CRIMINAL	5TH	GUILTY

APPEALS GENERAL SESSIONS

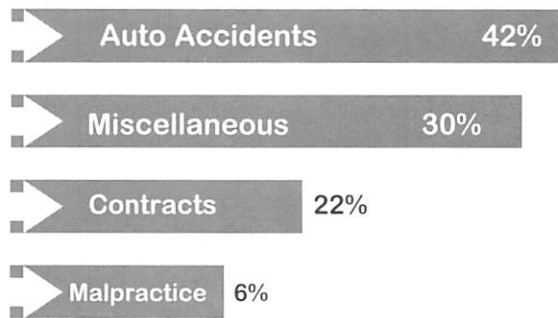
JUDGMENT	APPELLANT
P-\$1,946	(P)

Non-jury trials were not held in April

TRENDS



Jury Trials By Classification



CASE ANALYSES



AUTO ACCIDENTS

PLAINTIFFS 34
DEFENDANTS 8

RATIO: PLAINTIFFS 4.2-1

MONTH-BY-MONTH

MONTH	TOTALS	JURY	NON-JURY	PLAINTIFF	DEFENDANT	NONE
JANUARY	7	6	1	4	3	0
FEBRUARY	10	9	1	7	2	1
MARCH	17	9	8	15	1	1
APRIL	10	10	0	8	2	0
YEAR-TO-DATE	44	34	10	34	8	2

JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	31,763	681-18,000	13,082
FEBRUARY	48,554	1,000-15,000	8,126
MARCH	66,130	0-44,000	5,532
APRIL	41,266	180-15,000	5,217

NON-JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	3,724	N/A	N/A
FEBRUARY	830	N/A	N/A
MARCH	120,286	500-85,000	5,797
APRIL	N/A	N/A	N/A

SOFT TISSUE CASES

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	31,763	681-18,000	13,082
FEBRUARY	31,404	1,000-15,000	7,707
MARCH	47,952	452-44,000	3,500
APRIL	25,133	0-8,000	5,711

*GENERAL SESSIONS APPEALS

MONTH	TOTALS	PLAINTIFF	DEFENDANT	NONE
JANUARY	1	0	1	0
FEBRUARY	3	3	0	0
MARCH	9	8	0	1
APRIL	2	2	0	0
YEAR-TO-DATE	15	13	1	1

*INCLUDED IN ABOVE TRIAL TOTALS



DATA BANK

Statistics compiled for the month of April

CASE INFORMATION

Circuit Court

NEW CIVIL CASES FILED	242
CIVIL CASES CONCLUDED	311
NEW DIVORCE CASES FILED	297
DIVORCE CASES CONCLUDED	302

General Sessions Civil

NEW CASES FILED	2,870
EXECUTIONS ISSUED	3,159
GARNISHMENT PAYMENTS	3,603
JUDGMENTS COLLECTED	\$551,760
ORDER OF PROTECTION PETITIONS	202

Probate Court

NEW CASES FILED	188
CASES CLOSED	89

Traffic Violations

MOVING CITATIONS	24,257
PARKING VIOLATIONS	8,752
TOTAL FINES COLLECTED	\$314,458
NULLIFICATIONS	2,535
NULLIFICATION FEES COLLECTED	\$22,815

THE OTHERS:



CONTRACTS	YTD	PLAINTIFFS	DEFENDANTS	NO VERDICT
	23	21	2	1

RATIO: PLAINTIFFS 10-1 TOTAL AWARDS TO DATE: \$207,173
APRIL AWARDS: \$2,114



MISCELLANEOUS	
	32
PLAINTIFFS	22
DEFENDANTS	6
NO VERDICT	4



MALPRACTICE	
	6
PLAINTIFFS	2
DEFENDANTS	3
NO VERDICT	1

Rooker Report

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