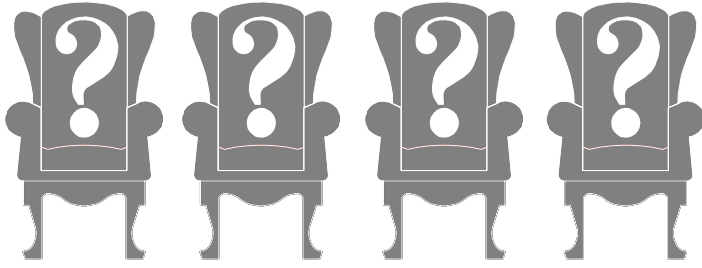


# ROOKER REPORT

August 2003

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## Who Will Fill Seats As Newest Judges?

### Two Sitting Jurists Among 33 Seeking New Posts

Two General Sessions judges are among a dozen candidates vying for two newly created criminal court judgeships while another 21 applicants are hopeful of landing one of two chancery court posts to be filled by Gov.Phil Bredesen by the first of September.

Judge Mark Fishburn became a late entry in the field of criminal court applicants, joining fellow General Sessions Judge John Brown in quest of a state trial court position.

The state legislature earlier this year approved the creation of two additional criminal courts and one chancery court. A second new chancery judge also will be appointed to complete the term of Chancellor Irvin Kilcrease, who will retire on Oct. 1.

A judicial selection committee must reduce the large field of applicants to three for each of the vacant judgeships. It is from those selections that the governor will make his choices.

Here is the list of applicants being considered:

**CHANCERY:** Larry D. Ashworth; Claudia Bonnyman, Chancery Clerk and Master; Paul C. Ney, Jr., John M. L. Brown; Richard H. Dinkins; Charles H. High, Jr., Board of Professional Responsibility; Donald Hildebrand; Renard Astaire Hirsch, Sr.; Alan D. Johnson; David Randall Kennedy; Stanley A. Kwellner; David Lyons; Amanda J. McClendon; John Randolph Miles; Mary Ashley "Marsh" Nichols, Special Circuit Master; Lee Ramsey; Rachel L. Steele; Sarah Stein; Matthew Sweeney, former Circuit Court judge; Irwin Venick, and Paul R. White.

**CRIMINAL COURT:** John P. Brown, General Sessions judge; C. Dawn Deaner, Metro Department of Law staff attorney; Laura Clift Dykes, Metro assistant public defender; Mark J. Fishburn, General Sessions judge; Robert Ray Galbreath; Andrei Ellen Lee, Juvenile Court referee; Carlton M. Lewis, Juvenile Court referee; Roger D. Moore, assistant district attorney; Kathy Morante, assistant district attorney; Thomas T. Overton; Jon P. Seaborg, assistant district attorney, and Monte Dwight Watkins.

## Change of Plans: Satellite Office to Remain Open

An earlier decision to cut back operating hours en route to closing the satellite clerks' office in the Ben West Building has been reversed.

Beginning Sept. 2, the office will maintain 8:30 a.m. to 4 p.m. business hours Monday through Friday, according to Circuit Court Clerk Richard Rooker and Chancery Court Clerk & Master Claudia Bonnyman, who made the joint decision based on reaction from downtown law firms.

Notices earlier were posted in all civil clerks' offices stating that the satellite office would discontinue morning hours of operation through Aug. 29 and would close permanently as of Sept. 2.

## Moreland Elected General Sessions Presiding Judge

Judge Casey Moreland has been elected by fellow judges to preside over the General Sessions Court, effective Sept. 1.

Moreland will succeed Judge John Aaron Holt, who has presided over the 11-division court for the past two one-year terms.

Moreland claimed a seat on the court in 1995 when he was appointed by the Metro Council to complete the term of the late Judge Donald Washburn. Three years later he would successfully run for election to the court's Division X seat, the first judge of the newly created division.



CASEY MORELAND

In accepting the job as presiding judge, a position that includes directing the court's business operations, Moreland said: "It is always an honor to be recognized by ones peers. The next year will be one of great change and challenge, given the move to MetroCenter and the construction of the new courthouse. My goals are to make these transitions as smooth as possible for the public as well as members of the Bar."

Moreland is a native Nashvillian. He graduated from Goodpasture High School in 1975 and five years later received a BS degree from the University of Tennessee at Martin where he also played football. He received his law degree in 1984 from the Nashville School of Law.

For 13 years, Moreland has been a TSSAA high school football official and

[See MORELAND, Page 2](#)

## Mental Health Award to Fishburn

General Sessions Judge Mark Fishburn has been awarded the "Mental Health Professional of the Year" award by the Mental Health Association of Middle Tennessee.

The honor was announced at the association's annual awards banquet at the Hillwood Country Club in July.

The award was in recognition of Fishburn's outstanding services being provided by the Davidson County Mental Health Court for persons who are arrested and are suffering from a serious and persistent mental illness, retardation or a traumatic brain injury.



FISHBURN

That decision had been based a lack of utilization of the downtown stamp filing service for circuit, chancery, probate and general sessions civil courts. But objections from attorneys who said they plan to use the downtown facility at times when it is not convenient to travel to the MetroCenter locations caused reconsideration of the proposed closure.

Since the satellite office was established in July, only a small number of filings have been recorded there. It is believed that the office will be better utilized once summer has made its departure.



RAY AKERS

# Akers Succeeds Gregory As Civil Case Coordinator

Ray Akers has assumed the position of civil case coordinator for the circuit courts, succeeding Megan Gregory, who has accepted a position with the federal court system.

Akers, who previously served as assistant to Special Master Marsh Nichols, began his new duties on Aug. 18 following Gregory's departure on Aug. 15.

Gregory, a 16-year Metro employee who spent the past seven years as case coordinator, accepted the position of legal administrator under U. S. District Judge William Haynes Jr. She, too, began her new assignment on Aug. 18.

Gregory previously worked with the juvenile court system and the sheriff's department before becoming case coordinator.

The duties of the case coordinator are many, including regular reports to judges on the status of jury cases set for trial, setting up family law cases ordered to mediation, compiling statistical data on divorcing parents and serving as a liaison between the courts and the Administrative Office of the Courts regarding parenting plan legislation and parenting seminars.

Akers has been involved in the local court system since 1996 when he joined the staff of Criminal Court Clerk David Torrence. In that position he clerked for the late Criminal Court Judge Thomas H. Shriver and Circuit Court Judge Walter Kurtz, as well as Probate Judge Frank Clement Jr. Following a nine-month stint with County Clerk Bill Covington's office, he became assistant to Nichols in Nov. 2000.

Akers is a graduate of Cumberland University and currently is in his final year at the Nashville School of Law. He and wife Virginia have three children.



MEGAN GREGORY

## Moreland

From Page 1

has been a college official for the Ohio Valley Conference the past seven years. In 2001, he was inducted into the National Football Foundation Hall of Fame as "Football Official of the Year."

Moreland also has coached youth baseball for 14 years. He is a member of the local and state bar associations, the Tennessee General Sessions Judges Conference, the Lawyers Association for Women and the American Judges Association.

Moreland and his wife Jackie have been married for 19 years and have two children, Jay, 17, and Kelsey, 13.

## 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



ADA coordinator, Gene Baker (880-3309)

## BIRTHDAYS

## SEPTEMBER

### Circuit Court Clerk

- 3 Annetcia Donigan
- 23 Candy Rucker

### General Sessions

- 21 Stephanie Phillips

### Probate Clerk

- 5 Anita Carter
- 18 Bob Bradshaw
- Ricky Deatherage
- 23 Sandra Trotter

### Traffic Violations

- 5 Annette Wheeler
- 7 Steve Leary
- 9 Joey Torrence
- 11 Bill Cartwright
- 20 Nancy Capps
- 21 Tony Eden
- 22 Elaine Howell
- 26 Tracy Wilkerson
- 27 Leslie Preston
- Don Rosso

## F Y I

**General Sessions Court will be in recess from Sept. 23-26 to allow judges to attend the annual fall judicial conference. Regular dockets will resume on Monday, Sept. 29.**

\*\*\*

**All judicial offices will be closed on Monday, Sept. 1 in observance of Labor Day. Normal business hours will resume on Tuesday, Sept. 2. Have a safe holiday.**

## CHEERS...

Former General Sessions civil docket clerk **Ronny Noller** and wife **Chandra** became parents of a son on July 31. **Garrett Lee Nollner** made his entrance at Baptist Hospital weighing 9 pounds, 11 ounces and striking the tape at 21 inches. Big sister is **Haley Jo Nollner**, who celebrated her 4th birthday on Aug. 15. As it turns out, the newborn came as a timely birthday gift to daddy Ronny, who turned 28 just two days after the blessed event.

\*\*\*

Deputy circuit court clerk **David Callahan** has returned to the workaday world after spending his honeymoon in exotic Jamaica. David, who joined the clerk's office staff on July 16, took **Jennifer Clement** to be his bride in an August 2 ceremony. She is the daughter of Probate Judge **Frank Clement Jr.** Our congratulations to the happy couple.

\*\*\*

After suffering a mild stroke earlier this month, **George Brissette** reportedly is making tremendous progress in rehab. He is the husband of deputy circuit court clerk **Mickey Brissette**, who is receiving loads of moral support from coworkers.

## ...TEARS

Deepest sympathy to deputy circuit court clerk **Deborah Hennessee** in the passing of her grandfather **Isaac Lane Eller**, 89, who died on July 27. Mr. Eller's death came just two days after the passing of her uncle, **Isaac Lane Eller**, who passed away, also in Sparta, Tenn. on July 20. Deborah is the daughter of **James Hennessee**, former General Sessions Clerk. **Jennifer Eller** is the daughter of **Isaac Lane Eller**, who passed away on Aug. 8. Mrs. Be...

# Soft Tissue Cases Still Hard Sell to Juries

Juries continued to be unsympathetic toward plaintiffs in soft tissue cases during the fiscal year ending June 30.

Of 19 automobile accident trials involving soft tissue injuries, not one plaintiff was awarded the amount prayed for in the complaint and the 14 plaintiffs who prevailed received only a fraction of what they had sought.

Four plaintiffs failed to carry their burden of proof, resulting in defendant verdicts, while another who had sought \$50,000 received a favorable verdict but was awarded zero damages.

Soft tissue cases are generally based on pain and suffering and reimbursement of medical expenses related to therapeutic treatment resulting from automobile accidents. In most cases, plaintiffs rely solely on chiropractic evidence rather than more traditional forms of treatment.

In the absence of supporting medical evidence, jurors tend to give less weight

to so-called expert testimony of chiropractors, to whom patients usually turn after prescribed pain medications fail to provide relief.

Since most health insurance policies do not cover chiropractic treatments, soft tissue patients must foot the bill for numerous treatments over an extended period of time.

Recovering their out-of-pocket expense then becomes a legal tussle that normally goes against them at the mercy of their peers.

There is no way of knowing if prayer amounts are inflated as trial strategy. But jurors tend to fit awards to the raw evidence presented to them. In trials where the amounts of \$245,000 and \$150,000 were being sought, defendants won both cases. Another \$150,000 claim netted the plaintiff only \$3,859. The largest award during the examined period was \$178,903. The plaintiff had sought \$700,000.



## JURY TRIAL VERDICTS

## ABBREVIATIONS:

<b>P</b>	PLAINTIFF	<b>CP</b>	COUNTER PLAINTIFF
<b>D</b>	DEFENDANT	<b>CD</b>	COUNTER DEFENDANT
<b>TCPA</b>	TN. CONSUMER PROTECTION ACT	<b>GSA</b>	GENERAL SESSIONS APPEAL
<b>ST</b>	SOFT TISSUE	<b>PUN</b>	PUNITIVE

### APPEALS

Week of July 21

### CIRCUIT COURT

### GENERAL SESSIONS

CASE	TYPE	COURT	VERDICT	PCT. FAULT	JUDGMENT	APPELLANT
99C-1417	MEDICAL MALPRACTICE	3RD	DEFENDANT			
02C-2588	GSA/AUTO ACCIDENT	1ST	D-DIRECTED VERDICT		DISMISSED	PLAINTIFF
03C-737	GSA/AUTO ACCIDENT	6TH	\$1,002		P-\$7,500	DEFENDANT

## NON-JURY TRIAL RESULTS

Week of July 7

### CIRCUIT COURT

### GENERAL SESSIONS

CASE	TYPE	COURT	VERDICT	PCT. FAULT	JUDGMENT	APPELLANT
01C-462	CONTRACT	6TH	\$16,148			
02C-3253	GSA/TCPA	1ST	UNDER ADVISEMENT		DEFENDANT	PLAINTIFF
02C-103	WORKERS COMPENSATION	1ST	25% Voc. DISABILITY			
02C-1646	DECLARATORY JUDGMENT	5TH	UNDER ADVISEMENT			
03C-1197	GSA/CONTRACT	8TH	TRANS/ WILLIAMSON Co.		P-\$3,000	DEFENDANT
01C-3282	WORKERS COMPENSATION	1ST	UNDER ADVISEMENT			
02C-3597	GSA/CONTRACT	5TH	\$1,414		P-\$1,445	DEFENDANT
03C-421	GSA/CONTRACT	8TH	\$12,032		P-\$11,570	DEFENDANT

Week of July 28

CASE	TYPE	COURT	VERDICT	PCT. FAULT	JUDGMENT	APPELLANT
02C-3406	GSA/CONTRACT	1ST	D-\$400		P-\$1,010	DEFENDANT
03C-762	DAMAGES	6TH	\$29,904			
02C-634	DAMAGES	6TH	\$26,200			
02C-328	GSA/CONTRACT	1ST	\$850		P-\$2,000	DEFENDANT
02C-1962	GSA/CONTRACT	5TH	P-\$30,000		TRANSFERRED	
02C-1962	" "	"	CP-\$10,000		"	
02C-3685	GSA/CONTRACT	6TH	\$325 + COSTS		P-\$1,223	DEFENDANT
02C-2739	GSA/DETAINER	6TH	DEFENDANT		P-POSSESSION ONLY	PLAINTIFF
01C-1666	CONTRACT	1ST	\$3,020			
03C-1080	GSA/DETAINER	5TH	UNDER ADVISEMENT		DISMISSED	PLAINTIFF

# TRENDS



## CASE ANALYSES

### AUTO ACCIDENTS

PLAINTIFFS 22  
DEFENDANTS 4

RATIO: PLAINTIFFS 6.2-1

#### MONTH-BY-MONTH

MONTH	TOTALS	JURY	NON-JURY	PLAINTIFF	DEFENDANT	NONE
JANUARY	3	2	1	3	0	0
FEBRUARY	4	3	1	2	1	1
MARCH	7	6	1	6	0	1
APRIL	3	2	1	3	0	0
MAY	5	2	3	5	0	0
JUNE	4	4	0	2	2	0
JULY	2	2	0	1	1	0

#### JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	19,098	9,098-10,000	N/A
FEBRUARY	14,291	2,000-12,291	N/A
MARCH	239,801	2,952-165,382	17,866
APRIL	141,500	16,500-125,000	N/A
MAY	182,762	3,859-178,903	N/A
JUNE	18,384	7,491-10,893	N/A
JULY	1,002	N/A	N/A

#### NON-JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	5,770	N/A	N/A
FEBRUARY	NONE	N/A	N/A
MARCH	800	N/A	N/A
APRIL	13,843	N/A	N/A
MAY	17,530	1,530-14,000	2,000
JUNE	N/A	N/A	N/A
JULY	N/A	N/A	N/A

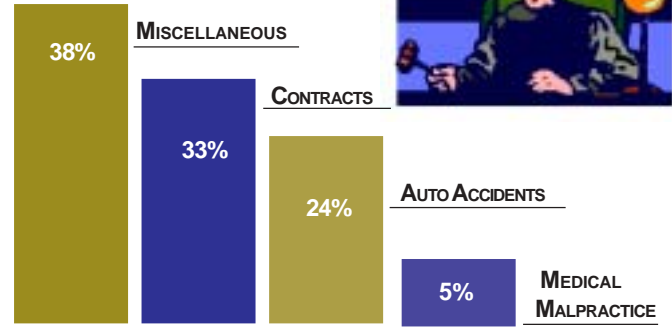
#### SOFT TISSUE CASES

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	NONE	N/A	N/A
FEBRUARY	14,291	2,000-12,291	N/A
MARCH	67,597	9,847-26,155	15,797
APRIL	125,000	N/A	N/A
MAY	182,762	3,859-178,903	N/A
JUNE	7,491	N/A	N/A
JULY	N/A	N/A	N/A

#### \*GENERAL SESSIONS APPEALS

MONTH	\$TOTALS	PLAINTIFF	DEFENDANT	NONE
JANUARY	24,798	3	0	0
FEBRUARY	NONE	0	0	1
MARCH	3,752	2	0	0
APRIL	13,843	1	0	0
MAY	17,530	3	0	0
JUNE	N/A	3	1	0
JULY	\$1,002	4	2	0

## CIVIL TRIALS BY CLASS



## DATA BANK

Statistics compiled for the month of July

### CASE INFORMATION

#### Circuit Court

NEW CIVIL CASES FILED .....	227
JURY .....	117
NON-JURY .....	161
CIVIL CASES CONCLUDED .....	277
JURY .....	149
NON-JURY .....	128
NEW DIVORCE CASES FILED .....	238
DIVORCE CASES CONCLUDED .....	219

#### General Sessions Civil

NEW CASES FILED .....	3,155
EXECUTIONS ISSUED .....	2,949
GARNISHMENT PAYMENTS .....	3,505
JUDGMENTS COLLECTED .....	\$597,154
ORDER OF PROTECTION PETITIONS .....	271

#### Probate Court

NEW CASES FILED .....	177
CASES CLOSED .....	203

#### Traffic Violations

MOVING CITATIONS .....	25,367
PARKING VIOLATIONS .....	5,611
TOTAL FINES COLLECTED .....	\$315,495
NULLIFICATIONS .....	2,292
NULLIFICATION FEES COLLECTED .....	\$27,504

## Other Classes



<b>CONTRACTS</b>	<b>YTD</b>	<b>PLAINTIFFS</b>	<b>DEFENDANTS</b>	<b>NO VERDICT</b>
	38	25	7	6

**JULY AWARDS: \$74,189—TOTAL AWARDS TO DATE: \$395,090**



#### MISCELLANEOUS

44
PLAINTIFFS 22
DEFENDANTS 12
NO VERDICT 10

#### MALPRACTICE

6
PLAINTIFFS 2
DEFENDANTS 3
NO VERDICT 1

