

ROOKER REPORT

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Briley Rising

ANATOMY OF A SUIT

FROM FILING TO CONCLUSION, AND BUMPS ALONG THE WAY

When someone owes you money but refuses to pay, the laws of the land offer a legal remedy.

Take them to court.

"But how does that work?" you ask.

Well, the rules are somewhat different for various levels of the judicial system, depending on the type of case and the amount of money involved.

The most widely used tribunal for settling monetary disputes is the General Sessions Court, often called "the court of first resort." It is there that landlords stake their claims to unpaid rents and ordinary citizens find quick resolution to complaints without the expense of a jury trial.

If you are like the 50,000-plus who avail themselves of the court's services each year, chances are your knowledge of how the system works is somewhat limited.

To help prepare you for that experience, the following information sets out the "how to" and possible elements you could encounter on your way toward achieving a successful conclusion to your claim:

1. FILE COMPLAINT (WARRANT) WITH CLERK.

(a) Provide all pertinent information relative to your claim, including the nature of the case, the amount you wish to recover and name and address of the person(s) you are suing.



(The jurisdictional limit on General Sessions lawsuits is \$15,000, plus attorney fees and court costs.)

(b) Be prepared to pay clerk's filing fee, which is required by state law. The amount could vary, depending on the number of persons you are asking to appear in court.

(c) Retain documentation you feel necessary to prove your claim once the case gets to court.

You have now originated your lawsuit and

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PUTTING ON A FACE

The Beverly Briley Courts Building, scheduled to open next year, shows off a large portion of its facade as progress becomes more visible. Photo at right was taken just eight months earlier. When completed, the new building will house all General Sessions and Criminal Court operations for the county, currently located at temporary locations in the Metro Center.



September 2004



Photo at right shows a cut-out view of what will be the new underground parking garage in front of the Metro Courthouse, compared with the project's beginning at left. Workers are putting finishing touches on the fourth of five levels that will be topped by a landscaped park plaza for the general public.

CHEERS...



KENNEDY

Seventh Circuit Court Judge Randy Kennedy has been awarded a State Justice Institute scholarship to attend a 10-day general jurisdiction course at the National Judicial College in Nevada. He joins Chancellor Claudia Bonnyman as a scholarship recipient for the course on courtroom management. Topics include both jury and non-jury trials, docket management, judicial discretion and judicial ethics.

Kennedy formerly served as a senior attorney at Kennedy and Brown before being appointed to the circuit judgeship in 2003 and being elected the following year. He is a graduate of Middle Tennessee State University and the Nashville School of Law. He has 26 years of courtroom experience and presides over probate matters.

Circuit Court Clerk Richard Rooker has been named to the board of directors of Morningstar, a Christian shelter for victims of domestic violence. The 14-member board directs the organization's mission of providing "refuge, sanctuary and hope for a better life to women and children who are victims of domestic violence."



ROOKER

Congratulations to Paul Gaffney, son of Chancery Court calendar clerk Michael Gaffney, upon his decision to attend Belmont Abbey College in North Carolina. Paul has been a three-year starter for the Father Ryan High School soccer team.

It was a happy day for Connie Rawls when she was chosen to be the foster parent of a newborn baby girl who was only 24 hours old. It was an even happier day on May 3 when her petition for adoption was granted just 23 days short of the child's first birthday. Annagrace Elizabeth Rawls thus became the daughter of single mom Connie Rawls and the first grandchild of Lanier Rawls and wife Beverly Rawls, a deputy clerk in the Circuit Court Clerk's office. Is Beverly proud of the new family addition? Check out the number of pictures at her work station. Expect even more photos from Annagrace's first birthday party on May 24.

...TEARS

MARY ALICE MOODY, 81, grandmother of Traffic Violations Bureau Chief Clerk Bill Cartwright, passed away on April 26 at Tennessee Christian Hospital. She was a resident of Madison.

RONALD DOUGLAS SOWELL, SR., father of chief Probate Court clerk Kyle Sowell, passed away on May 4 after an extended illness. He was 65.

JOHN R. (RO) CHEADLE, III, son of prominent Nashville attorney John R. Cheadle, Jr., was killed in a tragic private plane crash on May 16, along with a friend, Trevor Yarbrough, son of a Nashville physician. Cheadle was 19 and Yarbrough was 18. The two young men were on a pleasure flight when their single-engine Piper Super Cub lost altitude and crashed in a wooded area near the John C. Tune Airport.

Attorneys Get Extra Time to Seek Pay In Indigent Cases

Citing instances of confusion and hardship, the Administrative Office of the Courts has granted an extension for filing claims of compensation by attorneys representing indigent clients.

The "window of opportunity" will be open from May 16-July 1 for claims that appear to have a disposition date beyond the 180-day time limit and provides for the refiling of previously denied claims that exceeded the 180-day time limit but met other requirements of Supreme Court Rule 13.

All approved compensation is paid from the state's Indigent Defense Fund. Since January 1 of this year, required attorneys' fee claims seeking compensation for legal services provided to indigent parties must be submitted no later than 180 days after disposition of the case in each court in which representation was provided. Claims submitted outside the 180-day period would be deemed waived and not paid.

Since the implementation of that provision, the AOC reported, there have been "many instances of confusion and some instances of claimed hardship caused by the new procedures."

Upon discussing the issues involved, the Supreme Court decided to delay implementation of the 180 day submission requirement and authorize payment of claims that otherwise would have been deemed waived and unpaid.

The reprieve applies only to matters through July 1, after which "no exceptions will be granted," the court declared.

A memorandum from the AOC set out the procedure:

--All attorney fee claims must be filed with the clerk of the court in which representation was provided on forms approved by the AOC. In order to be paid during this grace period, the fee claim must contain a July 1 or earlier file stamp date of the clerk of the court or it will be returned for proper filing with the clerk.

--Attorney fee claims containing itemized activities which appear to exceed the 180-day submission requirement but are in compliance with all other requirements of Rule 13, shall be processed without regard to the date of the final disposition or last activity.

--Attorneys whose fee claims have previously been returned by the Indigent Defense staff in the application of the 180 day provision shall be permitted to resubmit those attorney fee claims. Those claims "must" be resubmitted because the AOC no longer has the claims. Any attorney fee claim not previously submitted, but for which the attorney is otherwise entitled to receive compensation, shall be permitted to submit such fee claims up to and including July 1.

JUNE BIRTHDAYS

BIRTHSTONE: PEARL, MOONSTONE, ALEXANDRITE

Circuit Court Clerk

- 2 Dan Vincent
- 8 Jill Oliverius
- 17 Mary Stephens
- Debi Butzler
- 24 Ronnell Griffin

Traffic Violations

- 5 Shannon Gift
- 8 Stacey Plummer
- 29 Teresa Johnson

Warrant Office

- 26 Daniel Pigue
- 27 Joanie Young

General Sessions

- 3 Sandra Perryman
- 14 Kim Clary

Probate Clerk

None

APRIL JURY TRIALS

APPEALS

GENERAL SESSIONS

Week of April 11

CIRCUIT COURT

CASE	TYPE	COURT	PRAYER	VERDICT	PCT. FAULT	JUDGMENT	APPELLANT
04C-328	WRONGFUL DEATH	3RD		NON-SUIT			
04C-2566	GSA/PROPERTY DAMAGE	2ND		DEFENDANT		P-\$19,000	DEFENDANT
03C-2112	GSA/AUTO ACCIDENT	6TH		\$2,250	D-65/P-35	P-\$271	PLAINTIFF

Soft Tissue

CASE	TYPE	COURT	PRAYER	VERDICT	PCT. FAULT	JUDGMENT	APPELLANT
01C-3023	AUTO ACCIDENT/ST	6TH	\$250,000	\$108,262			
02C-766	AUTO ACCIDENT/ST	1ST	\$75,000	DEFENDANT	P-50/D-50		
04C-802	AUTO ACCIDENT/ST	6TH	\$100,000	\$1,133	D-51/P-49		

NON-JURY TRIAL RESULTS

Week of April 18

CIRCUIT COURT

GENERAL SESSIONS

CASE	TYPE	COURT	VERDICT	PCT. FAULT	JUDGMENT	APPELLANT
03C-1166	DAMAGES	3RD	\$90,000			
05C-210	GSA/AUTO ACCIDENT	5TH	\$2,500		P-\$2,500	DEFENDANT
04C-3369	GSA/CONTRACT	1ST	PENDING		DISMISSED	
02C-2079	GSA/AUTO ACCIDENT	1ST	DEFENDANT		DISMISSED	
04C-1502	DAMAGES	2ND	PENDING			

ANATOMY OF A GENERAL SESSIONS SUIT

(From Page 1)

must wait for the following procedures to take place before moving to the next step:

(a) A hearing date is set by either the clerk, attorney or the sheriff's office and a copy of the complaint is served on the defending party, notifying them of the date and time the case will be heard in court.

(b) The case will be assigned to one of three judges scheduled to hear civil matters on that particular date.

(c) The defending party or an attorney acting on his/her behalf must appear on the court date to answer the complaint. Otherwise, a default judgment may be rendered in your favor.

Should you receive a favorable judgment, be prepared to wait 10 days for it to become a "final" disposition. That is the amount of time required by state law for an appeal to be filed.

If no appeal is filed, you are entitled to the amount awarded by the court. Depending on the defendant's ability or willingness to pay, there are legal procedures available for collecting the judgment.

ATTACHMENT--If the judgment has not been satisfied within 10 days following the court order, you may obtain an execution from the clerk allowing garnishment of wages or levies on bank accounts or personal property.

Certain restrictions and specific procedures determine application of the execution process:

--An employer is compelled to deduct specific amounts from the debtor's paycheck and pay that amount through the clerk's office for a period of six months or until the judgment has been satisfied, whichever comes first.

--A levy on a person's personal bank account can occur upon issuance of a bank levy and the amount of money obtainable via this method is subject to the amount of funds on hand at the time the attachment is served.

A bank levy is good for attaching funds only one time, but additional bank levies may be obtained by the judgment creditor to obtain additional funds that may become available in the account.

--A levy on personal property can only be executed if there is not a lien on the property in question. If it is determined that the personal property is "fair game," the sheriff schedules a date to auction off the items and the proceeds go toward the judgment debt.

There is a more palatable option available to those wishing to handle their obligation void of such extreme measures.

SLOW PAY--Defendants may file a motion asking the court to allow monthly payments on the judgment. Since this is deemed a "good faith" gesture, the courts are generally inclined to allow such a plan with an admonition that an execution will be issued should the defendant default on the payments.

So, this is how the system works. All of the elements should be taken into consideration if you feel legal action is the only way to recover a civil debt.





AUTO ACCIDENTS

2005 CASE ANALYSES

PLAINTIFFS 16
DEFENDANTS 7

RATIO: PLAINTIFFS 3-1

PERIODICAL OVERVIEW

	TOTALS	JURY	NON-JURY	PLAINTIFF	DEFENDANT	NONE
JANUARY '05	4	4	0	2	2	0
FEBRUARY	6	6	0	4	2	0
MARCH	8	8	0	7	0	1
APRIL	6	4	2	3	3	0

JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY '05	24,631	7,131-17,500	N/A
FEBRUARY	65,118	1,386-48,000	7,866
MARCH	431,049	5,997-243,500	36,310
APRIL	111,645	1,133-108,262	2,250

NON-JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY '05	N/A	N/A	N/A
FEBRUARY	N/A	N/A	N/A
MARCH	N/A	N/A	N/A
APRIL	2,500	N/A	N/A

SOFT TISSUE CASES

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY '05	24,631	7,131-17,500	N/A
FEBRUARY	N/A	N/A	N/A
MARCH	338,232	5,997-243,500	47,158
APRIL	109,395	1,133-108,262	N/A

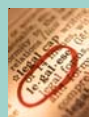
GENERAL SESSIONS AUTO CASE APPEALS

MONTH	\$TOTALS	PLAINTIFF	DEFENDANT	NONE
JANUARY '05	N/A	N/A	N/A	N/A
FEBRUARY	17,118	3	0	0
MARCH	0	0	0	0
APRIL	4,750	2	0	0



MISCELLANEOUS

YTD PLAINTIFFS 18 DEFENDANTS 13 NO VERDICT 2 3



CONTRACTS

YTD PLAINTIFFS 17 DEFENDANTS 11 NO VERDICT 1 5

April Cash Awards--Pending. Year to Date--\$76,603



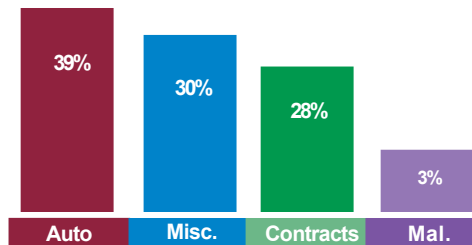
MEDICAL MALPRACTICE

YTD PLAINTIFFS 2 DEFENDANTS 0 NO VERDICT 2 0

Have a Safe Memorial Day Weekend

All courts and related offices will be closed on Monday, May 30 in observance of Memorial Day. Normal business hours will resume on Tuesday, May 31. The next holiday closing will be Independence Day on Monday, July 4.

Civil Trials By Class



DATA BANK

Statistics compiled for the month of April

CASE INFORMATION

Circuit Court

NEW CIVIL CASES FILED	225
JURY	105
NON-JURY	120
CIVIL CASES CONCLUDED	289
JURY	140
NON-JURY	149
NEW DIVORCE CASES FILED	218
DIVORCE CASES CONCLUDED	182
DOMESTIC PETITIONS FILED	379
DOMESTIC PETITIONS CONCLUDED	228

General Sessions Civil

NEW CASES FILED	3,896
EXECUTIONS ISSUED	3,040
GARNISHMENT PAYMENTS	3,072
JUDGMENTS COLLECTED	\$619,840
ORDER OF PROTECTION PETITIONS	239

Probate Court

NEW CASES FILED	155
CASES CLOSED	166

Traffic Violations

MOVING CITATIONS	37,139
PARKING VIOLATIONS	5,342
TOTAL FINES COLLECTED	\$439,580
NULLIFICATIONS	4,446
NULLIFICATION FEES COLLECTED	\$53,352

Rooker Report

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