



# ROOKER

JULY 2011

# REPORT

A MONTHLY PUBLICATION OF THE DAVIDSON COUNTY, TENNESSEE CIRCUIT COURT CLERK'S OFFICE

## IN THIS ISSUE

Page 2

Continuation New Tennessee Supreme Court Rule 52

The Late Ross Alderman Honored With Joint Resolution

General Assembly Adopts New Summary Judgment Standard

Page 3

July 2011 Circuit Court Trial Verdicts (Jury, Non-Jury, Specially Set)

Page 4

Statistical Numbers by Each Department for July 2011 and Year-to-Date (Circuit, Probate, Gen Sessions, Traffic)

Page 5

Overview of July 2011 Trials By Type of Case

In Memoriam -- Steve Rose Former Supervisor of the Traffic Warrant Division

Reminder of Upcoming Holiday Schedule

Quote of the Month



## NEW TENNESSEE SUPREME COURT RULE 52 ALLOWS HIGH COURT TO DESIGNATE CERTAIN FORMS AS UNIVERSALLY ACCEPTABLE

### 8 Plain-Language Forms for Use in Certain Divorce Cases Are the First Forms To Be Designated as Universally Accepted

On July 27th, the Tennessee Supreme Court adopted a new Rule that allows the high court to make certain court forms universally accepted in courts across Tennessee. The Court also filed a second order that same day approving eight plain-language forms that can be used in uncontested divorces without minor or dependent children.

The forms are written in plain language and come with a set of instructions to make it easy for Tennesseans to read and understand the information. The forms become effective for use in Tennessee courts on September 1, 2011.

The Court adopted Rule 52 and the corresponding divorce forms as part of its ongoing efforts to improve access to justice in Tennessee. The forms were proposed by the Court's Access to Justice Commission and were approved after the Commission made modifications based on feedback received from the public.

"The legal system should be accessible to all Tennesseans, regardless of income level," said Chief Justice Cornelia A. Clark. "The forms are not intended to replace the need for an attorney, but rather provide a helpful resource for

See FORMS page 2



INDEPENDENCE DAY FIREWORKS  
IN NASHVILLE AS SEEN FROM  
PUBLIC SQUARE PARK AT METRO  
HISTORIC COURTHOUSE

# FORMS

From Page 1

attorneys and also for Tennesseans who choose to file for a divorce on their own because they can't afford to hire an attorney."

Because the forms are approved by the Supreme Court, courts across the state are required to acknowledge and accept the submission of these forms if they are filled out properly.

Beginning September 1st, the forms will be available for download at [tncourts.gov](http://tncourts.gov) and on the Court's new Justice for All website, [justiceforalltn.com](http://justiceforalltn.com), which will be launched in September.

## STATED PURPOSE OF NEW TENNESSEE SUPREME COURT RULE 52

Section 1.01. Purpose. The Tennessee judicial system should be accessible to all litigants including those unable to pay for the assistance of counsel. As one means of increasing access to the Tennessee judicial system, the Court is providing greater resources for self-represented litigants, lawyers, and court personnel by approving forms that shall be universally acceptable as legally sufficient in all Tennessee courts. It is not the intent of this rule to mandate the use of court-approved forms; rather, the intent is to ensure that court-approved forms are accepted for filing by all Tennessee courts when litigants or attorneys choose to use them.



Ross Alderman

### THE LATE ROSS ALDERMAN HONORED WITH JOINT RESOLUTION

A ceremony was held Friday, July 22nd at the State Capitol to commemorate the adoption of a Senate Resolution honoring the life of Ross Alderman, former Nashville Public Defender and late husband of Court of Appeals Judge Patricia Cottrell.

The resolution acknowledged Alderman's longstanding service to the Tennessee legal community – most notably, his 20 years at the Nashville Public Defender's office. Prior to his time at the Public Defender's office, Alderman served as an Assistant United States Attorney and an Assistant Federal Public Defender. State Senator Douglas Henry presided over the ceremony. Nashville Mayor Karl Dean and Tennessee Supreme Court Chief Justice Cornelia Clark also offered remarks. Alderman passed away in August 2008 as a result of injuries sustained in a motorcycle accident.



Pictured: Mayor Karl Dean; Judge Patricia Cottrell; Noah and Dawn Alderman, son and daughter-in-law of Alderman and Cottrell; and Chief Justice Cornelia Clark. Noah works as a deputy clerk in the Traffic Warrant Division of the clerk's office.

*“at trial”*

### THESE TWO LITTLE WORDS MAKE A DIFFERENCE IN FORMULATING TENNESSEE'S NEW SUMMARY JUDGMENT STANDARD

Just about three years ago, in *Hannan v. Alltel Publishing Co.*, the Tennessee Supreme Court clarified for the bench and bar that to win a motion for summary judgment in state court in Tennessee, the moving party “must either (1) affirmatively negate an essential element of the nonmovant's claim, or (2) show that the nonmoving party cannot prove an essential element of its claim at trial.” Those two words — *at trial* — were added to signify that the Tennessee Supreme Court had not adopted the “put-up-or-shut-up” summary judgment standard applicable in federal court.

In essence, the *Hannan* case clarified that the movant had to show not only that there was a gap in the nonmovant's evidence at the time of the summary judgment motion, but also had to show that the nonmovant could not possibly fill that gap later at trial. In other words, the movant could not force the nonmovant to “put up or shut up” at the summary judgment stage. That could happen only “at trial.”

But that appears not to be the case any longer. For all civil actions filed on or after July 1, 2011, there is a new summary judgment standard which has been established by the Tennessee General Assembly through legislation signed into law by the Governor on June 16, 2011. It is codified at T.C.A. § 20-16-101.

The primary difference between the old standard and the new standard is that the two words “at trial” have been removed. The general consensus in the legal community is that if the courts apply the new statute according to its terms (and the legislative intent), then in cases brought after July 1st, summary judgment now becomes the put-up-or-shut-up moment in Tennessee litigation. Just as in federal court, you should be able to force your opponent, at the summary judgment stage and, of course, after adequate time for discovery, to show what evidence it has to support its case. If your opponent does not “put up” sufficient evidence to support any essential element of its claim (or defense), your Rule 56 motion should be granted it would seem.



# DEPARTMENTS BY THE NUMBER

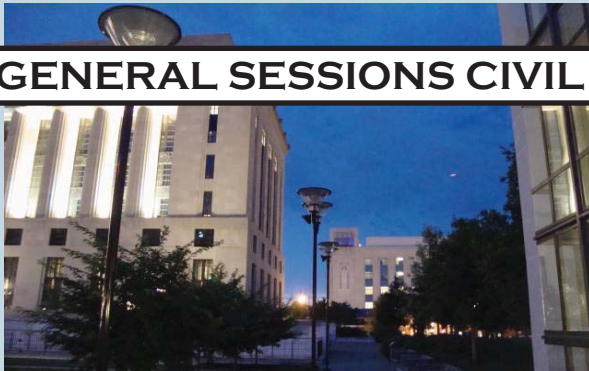
# July 2011

	JULY	YTD
New Civil Cases Filed.....	168	1,417
Jury Demand.....	74	656
Non-Jury.....	94	761
New Divorce Cases Filed .....	157	1,393
Domestic Petitions Filed .....	179	1,749
New Adoption Petitions .....	11	75
<hr/>		
Civil Cases Concluded.....	214	1,562
Jury Demand.....	112	918
Non-Jury .....	102	644
Divorce Cases Concluded .....	188	1,517
Domestic Petitions Concluded .....	162	1,764

## CIRCUIT COURT



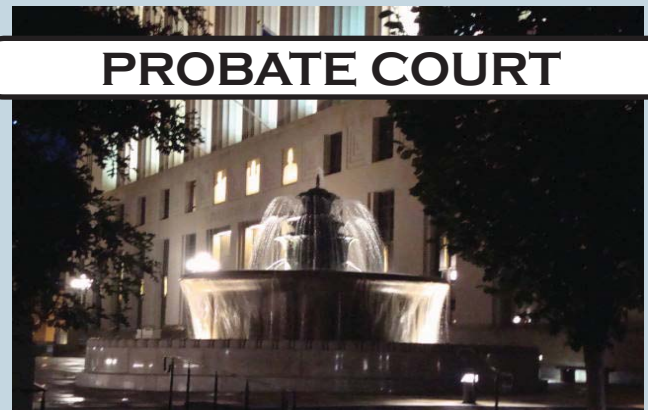
## GENERAL SESSIONS CIVIL



	JULY	YTD
Total New Cases Filed .....	4,131	28,101
Civil Warrants .....	1,949	14,807
Detainer Warrants .....	1,072	6,616
Recovery Warrants.....	43	212
Pet for Order of Protection.....	283	1,595
Emergency Committals .....	663	4,134
Other.....	121	737
<hr/>		
Executions Issued.....	4,369	26,999
Garnishment Payments .....	4,135	29,890
Judgments Collected.....	\$884,187	\$6,514,007

	JULY	YTD
Total New Cases Filed .....	137	1,151
Total Cases Closed .....	181	1,053
<hr/>		
Probate Will .....	66	515
Probate Will for Muniment of Title .....	4	38
Letters of Administration.....	22	170
Small Estate Affidavits.....	18	167
Conservatorship.....	16	125
Guardianship of Minor.....	1	22
Name Change .....	7	69
Trust Matters.....	2	11
Other Miscellaneous .....	1	34

## PROBATE COURT



## TRAFFIC VIOLATIONS



	JULY	YTD
Total Traffic Violations .....	14,202	84,030
Moving Citations .....	9,657	56,985
Parking Citations.....	4,545	27,045
Environmental Citations.....	415	2,028
<hr/>		
Total Fines Collected .....	\$415,991	\$3,389,983
Nullifications.....	1,001	7,111
Nullification Fees Collected ...	\$12,008	\$85,325
*Credit Card Payments .....	2,922	21,149

**JULY 2011**



**AUTO ACCIDENT**

	JULY	YTD
Total Cases Tried	6	16
Plaintiff Verdicts	5	11
Defendant Verdicts	1	5
Other/Under Adv	0	0
Jury Trials	3	9
Non-Jury Trials	3	7
Appeal from G.S.	1	4
Plaintiff Verd.	1	4
Def. Verdict	0	0
Other/None	0	0

**CONTRACT**

	JULY	YTD
Total Cases Tried	2	37
Plaintiff Verdicts	2	33
Defendant Verdicts	0	4
Other/Under Adv	0	0

**MEDICAL MALPRACTICE**

	JULY	YTD
Total Cases Tried	0	4
Plaintiff Verdicts	0	1
Defendant Verdicts	0	2
Other/Under Adv/Hung	0	1

**MISCELLANEOUS**

	JULY	YTD
Total Cases Tried	4	32
Plaintiff Verdicts	3	20
Defendant Verdicts	1	11
Other/Under Adv	0	1

**IN MEMORIAM**

**STEVE ROSE**

*Former Supervisor of the Traffic Warrant Division*



It is with sadness that we note the passing of Steve Rose on July 3rd after suffering a heart attack. Before retiring in July 2008, Rose served as supervisor of the Traffic Warrant Division for 12 years. His entire career with the office, however, spanned 27 years, having first joined the Division in 1981. The main responsibility of the warrant division is to collect unpaid traffic tickets, which often means locating absentee violators both in and out of state. Rose saw many changes in this regard during his career. When he first joined the office, warrant officers were required to hand deliver process and confiscate property to satisfy outstanding fines. As time went by though, new technology ushered in more civil methods, and Rose adapted to each change while helping to introduce more beneficial concepts. Along the way, he affirmed his credentials by completing a Certified Public Administrator course administered by the University of Tennessee. On learning of Rose's passing, Circuit Court Clerk Richard Rooker remarked that his "contributions and dedication to this office will always be remembered and he will be missed by all who knew him."

**REMINDER**

**THE OFFICES OF THE CIRCUIT COURT CLERK**

(Circuit, Probate, General Sessions Civil & Traffic Violations)

**WILL BE CLOSED ON MONDAY, SEPTEMBER 5TH  
IN OBSERVANCE OF THE LABOR DAY HOLIDAY**

**Quote of the Month**

Although James Madison, one of our Founding Fathers, lived long before the advent of modern technology, the internet and social networking, this quote from him seems relevant to current world events.

*Despotism can only exist in darkness, and there are too many lights now in the political firmament to permit it to remain anywhere, as it has heretofore done, almost everywhere.*

James Madison (1751-1836)

**ROOKER  
REPORT**

Published by the Davidson County  
Circuit Court Clerk's Office

1 Public Square, Suite 302, Nashville, TN 37201

Internet - - [circuitclerk.nashville.gov](http://circuitclerk.nashville.gov)

Established by George L. Rooker (1929-1993)

(Circuit Court Clerk, 1968-1993)

RICHARD R. ROOKER . . . . . Circuit Court Clerk

KYLE SOWELL . . . . . Editor



To request an ADA accommodation,  
please call 880-3309