



ROOKER

JULY 2012

REPORT

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

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PLAINTIFFS ARE NOW STATUTORILY LIABLE FOR COSTS UP TO \$10,000 IF THEIR CASE IS DISMISSED FOR FAILURE TO STATE A CLAIM

Pursuant to Public Chapter 1046, which took effect on July 1, 2012, if a trial court grants a motion to dismiss pursuant to Rule 12 of the Tennessee Rules of Civil Procedure for failure to state a claim upon which relief can be granted, the court "shall" award the party or parties against whom the dismissed claims were pending at the time the successful motion to dismiss was granted the costs and reasonable and necessary attorney's fees incurred in the proceedings. The new law does place a cap of \$10,000 on the total cumulative amount of costs which can be awarded under this new law regardless of the number of defendants; however, a court can exceed this amount if other statutory law or common law allows. Costs include all reasonable and necessary litigation costs actually incurred including, but not limited to, (1) court costs; (2) attorneys' fees; (3) court reporter fees; (4) interpreter fees; and (5) guardian ad litem fees.

The new law is codified at T.C.A. Section 20-12-119(c), and the award of costs can only be made after all appeals of the granting of the motion to dismiss have been exhausted and if the final outcome is the granting of the motion to dismiss.

EXCEPTIONS TO THIS NEW LAW

The new law does not apply to the following types of cases:

- Actions by or against the state, other governmental entities, or public officials acting in their official capacity;
- Any claim that is dismissed more than sixty (60) days after the moving party received service of the latest complaint, counter-complaint or cross-complaint in which the dismissed claim was made;
- Any claim where the party against whom the motion to dismiss is filed either withdrew the claim or in good faith amended their claim to state a claim upon which relief may be granted so long as a pleading setting forth the withdrawal or amendment is delivered to the opposing party at least three days before the date set for the hearing on the motion to dismiss or by the deadline for the filing of a response to the motion to dismiss, whichever is earlier;
- Actions by pro se litigants, except where the court also finds that the pro se party acted unreasonably in bringing, or refusing to voluntarily withdraw, the dismissed claim;
- Any claim which is a good faith, non-frivolous claim filed for the express purpose of extending, modifying, or reversing any existing precedent, law or regulation or for the express purpose of establishing the meaning, lawfulness or constitutionality of a law, regulation or right.

QUOTE OF THE MONTH

"By three methods we may learn wisdom: First, by reflection, which is noblest; Second, by imitation, which is easiest; and Third by experience, which is the bitterest."



CONFUCIUS

CIRCUIT COURT TRIAL VERDICTS

JULY 2012

JURY TRIALS

**IF CASE WAS
APPEALED FROM
GENERAL SESSIONS**

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
Week of July 9					
10C-2892	FRAUD	1	DEFENDANT (DIRECTED VERDICT)	N/A	
04C-2121	HEALTH CARE LIABILITY	2	PLAINTIFF \$13,623,000	N/A	
Week of July 30					
07C-112	BREACH OF CONTRACT	6	VERDICT FOR DEFENDANT	N/A	

NON-JURY TRIALS

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
Week of July 23					
10C-1366	AUTOMOBILE (GS TRANSFER)	8	PLAINTIFF \$11,815	N/A	
09C-1491	AUTOMOBILE	8	PLAINTIFF \$12,000	N/A	
12C-1597	CONTRACT (GS TRANSFER)	8	PLAINTIFF \$53,770	N/A	
11C-1045	CONTRACT/DEBT	2	PLAINTIFF \$10,524 (BY DEFAULT)	P - \$9,842	DEFENDANT
11C-2427	CONTRACT/DEBT	2	PLAINTIFF \$9,945 (BY DEFAULT)	P - \$1,000	PLAINTIFF
12C-680	CONTRACT/DEBT	2	PLAINTIFF \$3,823 + COSTS	P - \$695	PLAINTIFF
12C-1708	CONTRACT/DEBT	5	PLAINTIFF \$3,600	P - \$3,600	DEFENDANT
10C-806	CONTRACT/DEBT	5	COMPLAINT & COUNTER COMPLAINT DISMISSED (COSTS EQUALLY DIVIDED)	DISMISSED	PLAINTIFF
09C-3418	AUTOMOBILE	8	PLAINTIFF \$205,000		
12C-2079	CONTRACT/DEBT	8	GS DEFAULT JUDGMENT REINSTATED	P - \$2,757	PLAINTIFF
12C-1181	CONTRACT/DEBT	5	DEFENDANT (CASE DISMISSED)	P - \$1,300	DEFENDANT
11C-3657	CONTRACT/DEBT	2	PLAINTIFF \$11,735	P - \$1,097	PLAINTIFF
11C-2884	WORKERS' COMP	6	EMPLOYER VERDICT	N/A	
12C-885	CONTRACT/DEBT	6	DEFENDANT VERDICT	P - \$1,524	DEFENDANT
11C-1624	WORKERS' COMP	6	PLAINTIFF EMPLOYEE \$27,415	N/A	

SPECIALLY SET TRIALS (JURY & NON-JURY)

CASE	TYPE	COURT	CIRCUIT JUDGMENT	DATE OF TRIAL	JURY OR NON-JURY
10C-4048	AUTOMOBILE (DAMAGES HEARING)	5	PLAINTIFF \$16,092	7-12-12	NON-JURY
12C-2633	WORKERS' COMP	5	COMPENSABLE CLAIM	7-19-12	NON-JURY
10C-282	PERSONAL INJURY	8	DEFENDANT VERDICT	7-30-12	NON-JURY
2011-A-225	CRIMINAL (THEFT, ETC.)	5	GUILTY JURY VERDICT	7-30-12	JURY

DEPARTMENTS BY THE NUMBER

July 2012

CIRCUIT COURT

	JULY	YTD
New Civil Cases Filed.....	196	1,415
Jury Demand.....	90	634
Non-Jury.....	106	781
New Divorce Cases Filed	193	1,442
Domestic Petitions Filed	253	1,853
New Adoption Petitions	9	79
Civil Cases Concluded.....	208	1,557
Jury Demand.....	125	920
Non-Jury.....	83	637
Divorce Cases Concluded	176	1,262
Domestic Petitions Concluded	256	1,530

GENERAL SESSIONS CIVIL

	JULY	YTD
Total New Cases Filed	3,784	29,341
Civil Warrants	1,814	15,037
Detainer Warrants	858	6,842
Recovery Warrants.....	17	137
Pet for Order of Protection.....	350	2,090
Emergency Committals	725	4,668
Other.....	20	567
Executions Issued.....	5,032	29,415
Garnishment Payments	4,221	31,834
Judgments Collected.....	\$925,724	\$6,909,351

PROBATE COURT

	JULY	YTD
Total New Cases Filed	160	1,178
Total Cases Closed.....	143	1,197
Probate Will	63	505
Probate Will for Muniment of Title.....	4	50
Letters of Administration.....	33	167
Small Estate Affidavits.....	21	182
Conservatorship.....	27	141
Guardianship of Minor.....	2	20
Name Change	6	65
Trust Matters.....	0	15
Other Miscellaneous	4	33

TRAFFIC VIOLATIONS BUREAU

	JULY	YTD
Total Traffic Violations.....	9,550	72,465
Moving Citations	7,030	48,948
Parking Citations.....	2,520	23,517
Environmental Citations.....	154	1,464
Total Fines Collected	\$363,137	\$2,780,295
Nullifications.....	672	5,060
Nullification Fees Collected	\$8,067	\$60,719
Credit Card Payments.....	3,406	22,521

Providing Legal Services to Persons with Disabilities?

A New Training Video Can Help

An important training video is now available to help lawyers and legal agencies when they provide pro bono legal services to persons with disabilities. The project from the Tennessee Supreme Court's Access to Justice Commission raises awareness and reduces the barriers that persons with disabilities face when seeking legal services. The 12-minute video, titled *Providing Legal Services to Persons with Disabilities*, provides general etiquette tips on interacting with individuals with disabilities and highlights specific examples of common scenarios that people with disabilities encounter when seeking legal services. The Disability Law & Advocacy Center of Tennessee developed the video in collaboration with the Vanderbilt Kennedy Center. To view the video, visit:

<http://kc.vanderbilt.edu/legalservicesvideo>

Nashville General Sessions Judge Angelita Blackshear Dalton Appointed to New Board of Judicial Conduct

On July 9, the Administrative Office of the Courts released the full list of those named to the new Board of Judicial Conduct, which replaces the Court of the Judiciary. Among those named to the 16 member board is Nashville General Sessions Judge Angelita Blackshear Dalton. She will serve alongside 9 other judges from various levels of the state judiciary, 3 attorneys and 3 members of the general public. The Board of Judicial Conduct was created by the legislature to investigate and, when warranted, act on complaints against judges. Members are appointed by multiple appointing authorities, including the Governor, Lt. Governor, Speaker of the House and various judicial conferences.

All terms for the new board commenced on July 1, 2012, and run through June 30, 2015.

**JULY
2012**



AUTO ACCIDENT

	JULY	YTD
Total Cases Tried	4	27
Plaintiff Verdicts	4	18
Defendant Verdicts	0	9
Other/Under Adv	0	0
Jury Trials	0	16
Non-Jury Trials	4	11
Appeal from G.S.	0	1
Plaintiff Verd.	0	1
Def. Verdict	0	0
Other/None	0	0

CONTRACT

	JULY	YTD
Total Cases Tried	11	33
Plaintiff Verdicts	7	25
Defendant Verdicts	4	8
Other/Under Adv	0	0

HEALTH CARE LIABILITY

	JULY	YTD
Total Cases Tried	1	11
Plaintiff Verdicts	1	2
Defendant Verdicts	0	6
Other/Under Adv/Hung	0	3

MISCELLANEOUS

	JULY	YTD
Total Cases Tried	6	37
Plaintiff Verdicts	4	28
Defendant Verdicts	2	7
Other/Under Adv	0	2

**LARGE NASHVILLE LAW FIRMS PARTNER
WITH LEGAL AID SOCIETY IN UNIQUE
PROGRAM TO PROVIDE FREE LEGAL
SERVICES TO INDIGENT CLIENTS**

The Tennessee Supreme Court, through its Access to Justice Program, has made it a priority to enhance the ability of all Tennesseans, regardless of financial circumstances, to access legal services. In response, some of Nashville's largest law firms have partnered with the Nashville office of the Legal Aid Society to formulate a unique program which could very well serve as a statewide or national model going forward. Representatives from these firms knew that making a pro bono program succeed in a large law firm involved a different strategy than a strategy catered toward a smaller firm or sole practitioners. It soon became apparent to them that lawyers at large firms, generally speaking, have limited practical legal skills when it comes to helping poor people. Whenever Legal Aid would send them a list of pro bono clients in need of lawyers, these firms were generally uncomfortable with the subject matter of the legal services needed since most of the legal matters involved subjects outside their areas of expertise.

However, as large firm lawyers, they were comfortable with specialization. And they were comfortable working in teams within their office to handle legal matters. They valued having a lot of colleagues around with whom to consult. If one of them did not know the answer to a particular question, they had come to rely on the fact that someone else in their office usually would. So they had an idea. Why not create a pro bono program that's tailored to the way they practice law in large firms? So, each of these firms decided to pick a substantive area of law in which pro bono clients generally needed help. They then started training in those areas and developed a level of expertise. They each resolved to become the "go to" firm for Legal Aid for the particular subject matter they had chosen.

According to Lucinda Smith, Director of the Pro Bono Program of the Nashville Legal Aid office, the program has been quite successful so far. Although a variety of legal subject matters are being addressed as part of this initiative, Legal Aid hopes to incorporate a new focus area in the near future - - legal services for veterans and other military service members.

For now, the firms participating and their respective focus areas are:

- | | |
|-------------------|--|
| Baker Donelson | Parenting Plans in Divorce Cases |
| Bass Berry | Landlord / Tenant Cases and Adoptions |
| Bradley Arant | Appeals of Denial of Medicaid Benefits |
| Stites & Harbison | Appeals of Denial of Unemployment Benefits |
| Waller Lansden | Pro Se Divorce Clinics |

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REPORT**

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