



ROOKER OCTOBER 2012 REPORT

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

IN THIS ISSUE

Page 2

Continuation of Chancery Court
Feature Article

Maxims of Equity

Page 3

Continuation of Chancery Court
Feature Article

Page 4

October 2012 Circuit Court
Trial Verdicts
(Jury, Non-Jury, Specially Set)

Page 5

Statistical Numbers by Each
Department for
October 2012
and Year-to-Date
(Circuit, Probate,
General Sessions & Traffic)

Continuation of Chancery Court
Feature Article

Page 6

Overview of October 2012
Trials By Type of Case

Conclusion of Chancery Court
Feature Article

QUOTE OF THE MONTH

"All nations have equity. But some have law and equity mixed in the same Court, which is worse; and some have it distinguished in several Courts, which is better."



FRANCIS BACON

WHAT IS CHANCERY COURT? WHY DO WE HAVE THEM IN TENNESSEE? WHAT EXACTLY DO THEY DO?

If you don't know the answer to these questions, you are not alone. In fact, Chancery Courts are quite rare. Did you know that only three states even have separate and distinct Chancery Courts? Tennessee is one of them. Delaware and Mississippi are the only other two. So, in this edition of the Rooker Report, we will attempt to shed some light on this topic.

If you become involved in a civil lawsuit in Tennessee at the state trial court level, the case will either be filed in the Circuit Court or the Chancery Court. The Circuit Courts are generally referred to as "courts of law" and the Chancery Courts are generally referred to as "courts of equity."

Here in Nashville, Davidson County, which is otherwise known as the 20th Judicial District, the state trial court system is currently comprised of eight Circuit Courts, six Criminal Courts and four Chancery Courts. From a statewide perspective, Tennessee is divided into thirty judicial districts and

all of them maintain separate and distinct Circuit Courts and Chancery Courts.

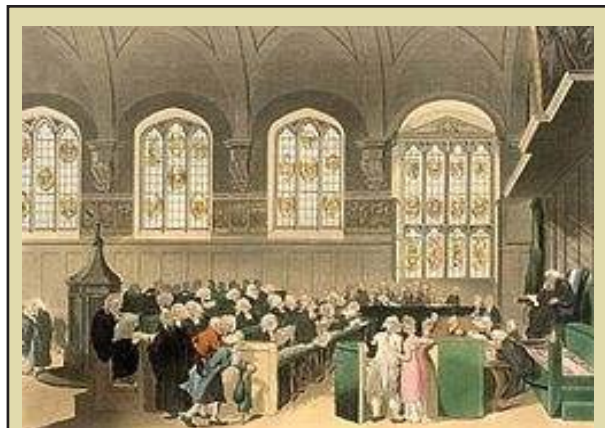
WHAT IS CHANCERY COURT?

"Chancery" is synonymous with "equity." To understand equity in the legal context, perhaps Justinian said it best: "To live honestly, to harm nobody, to render to every man his due." Equity is synonymous with justice and denotes fairness and that which is naturally right. To understand how this concept of equity gave

rise to a set of legal principles in jurisdictions which follow the English common law tradition, we must travel back in history to England in medieval times. Courts of "law" were already established by the King to enforce the King's laws. The King's Judges were educated

in the law rather than theology and administered the universal law of the realm. From this, a system of law evolved called "common law" which is law developed by judges through decisions of courts and other similar tribunals. In a common law system, great weight is given to precedent. In other words, if a

similar dispute has been resolved in the past, the court is bound to follow the reasoning used in the prior decision, based on the principle that it is unfair to treat similar facts differently on different occasions. In addition, common law courts could generally only award money damages and could only recognize the "legal" owner of property. As a result, the "law" courts were often deficient in the remedies which



The Court of Chancery, London, in the early 19th century

Continued Page 2 **CHANCERY COURT**

CHANCERY COURT Continued from Page 1

they could provide. For example, a vendor's lien could not be enforced, a fraudulent conveyance could not be set aside, specific performance could not be ordered, documents could not be reformed, the estates of deceased or disabled persons could not be administered, and so on, ad infinitum.

However, all was not lost. In England at that time, the King was regarded as the "foundation of justice," and when any person conceived that he had been wronged, either in court or out of court, he had the privilege of petitioning for redress. So, people started petitioning the King for relief against unfair legal judgments. Such appeals were usually phrased in terms of throwing oneself upon the king's mercy or conscience.

As the number of these petitions rapidly grew, the King was unable to hear and determine all of these complaints because of their number and complexity. Therefore, the King began to delegate the task of hearing and resolving these petitions to his Lord Chancellor, who served as the King's chief secretary and as an important member of the King's Council.

The early Chancellors were often clergymen or nobles, acting as the King's confessor and thereby literally as "keeper of the King's conscience." Soon the Chancery, the Crown's secretarial department, began to resemble a judicial body and became known as the "Court of Chancery". By the 15th century, the judicial power of Chancery was recognized in England. However, because the early Chancellors had no formal legal training and were not guided by precedent, their decisions were often widely diverse. Equity, as a body of rules, varied from Chancellor to Chancellor. This began to change, though, in 1529 when Sir Thomas More, a classically

trained lawyer, was appointed Lord Chancellor by King Henry VIII, marking the beginning of a new era. After this time, all future Chancellors were lawyers, and from approximately 1557 onwards, records of proceedings in the Courts of Chancery were kept, leading to the development of a number of equitable doctrines.

These equitable doctrines have evolved into twelve underlying principles which have come to be generally known as the "Maxims of Equity." These maxims are a major component of equity jurisprudence and are said to lie at the foundation of universal justice. It is said that these maxims are thoroughly incorporated into the Chancellor's judgment as they are used unconsciously in making a decision.

So, Chancery Courts are courts of equity, and Equity is the name given to the set of legal principles, in jurisdictions following the English common law tradition, that supplement strict rules of law where their application would operate harshly.

WHY DO WE HAVE CHANCERY COURTS IN TENNESSEE?

In the most simplistic of terms, we have Chancery Courts as part of our jurisprudence in Tennessee because we inherited them from North Carolina and North Carolina inherited them from England. To be more precise, the Chancery Court was part of the law our ancestors brought with them from England when they founded and settled the colonies in the New World. When the colony of North Carolina became a state, this equity jurisprudence from England was recognized in its Constitution and incorporated into its state legal system. In 1789, North Carolina ceded to the United States

Continued on Page 3

The Court of Chancery in the reign of George I



MAXIMS OF EQUITY

1. Equity acts upon the person, forcing him/her to do what conscience requires.
2. Equity will not suffer a wrong without a remedy.
3. Equity imputes an intention to fulfill an obligation.
4. Equity acts specifically, and not by way of compensation.
5. Equity regards that as done which ought to be done.
6. Equity requires those who seek Equity to do Equity.
7. Equity regards the beneficiary as the real owner.
8. Equity delights to do complete justice, and not by halves.
9. Equity acts for those disabled to act for themselves.
10. Equity looks to the intent rather than to the form.
11. Equity delights in equality.
12. Equity requires diligence, clean hands and good faith.

CHANCERY COURT Continued from Page 2

its territories west of the mountains, and in 1796 this territory became the state of Tennessee. Both the Deed of Cession and the Act of Admission by Congress made the laws of North Carolina our laws until we saw fit to change them. So, the old North Carolina system of jurisprudence was incorporated into the Constitution of the new state of Tennessee.

In all of our subsequent constitutions, Tennessee has expressly recognized the jurisprudence and procedure of the Chancery Court. In fact, the state constitution of 1834 expressly estab-



SIR THOMAS MORE
Lord Chancellor 1529 to 1532

lished the Circuit Court and the Chancery Court as distinct and separate courts, and they have continued as such to present day. Tennessee statutory law also fully acknowledges and recognizes the role of Chancery Courts in our system of jurisprudence. In 1984, the Tennessee Legislature undertook a re-organization of the trial court system but was careful to declare that nothing in its endeavor should be construed as altering, diminishing or abolishing Chancery Court or the constitutional and historical distinctions between Chancery and Circuit Court.

You will recall that we mentioned earlier that Delaware and Mississippi are the only other two states to maintain separate and distinct Chancery Courts. Why is that? Well, it seems that following the American Revolution, separate equity courts were widely distrusted in the northeastern United States due to their historic tie to England. Subsequently, in the mid-19th century, a serious movement began, led by New York in 1848, to merge law and equity into one system. In fact, in the United States today, most of the states have merged law and equity into one court system of general jurisdiction. Even though these other states do not have separate courts of equity operating side-by-side with separate courts of law, the judges in these other states still apply the principles of equity. They just do so within



WESTMINSTER HALL

Where the High Court of Chancery sat almost continuously from the reign of Edward III until its dissolution

the context of a single court of general jurisdiction. Even the federal court system abandoned the separation of law and equity when the Federal Rules of Civil Procedure were adopted in 1938. And, most surprisingly, England has even fused their separate courts of equity and common law into one unified court system.

WHAT DO THE CHANCERY COURTS IN TENNESSEE DO?

When we ask what the Chancery Courts in Tennessee do, we are really asking about their jurisdiction. In order to understand the jurisdiction of the Chancery Court, you need to know that there are two types of jurisdiction - - "equitable" jurisdiction and "statutory" jurisdiction. The equitable jurisdiction is the original jurisdiction derived through the Colony and State of North Carolina from the Equity jurisprudence of England. It is identical in kind and extent with the Equity powers, privileges and jurisdiction of the High Court of Chancery in England at the time of the American Revolution. This equitable jurisdiction is called the inherent jurisdiction of the Court to distinguish it from the statutory jurisdiction. The statutory jurisdiction of Chancery Court refers to the multitude of legal matters over which the Chancery Court has been given jurisdiction by the legislature even though the legal matter is not inherently equitable in nature.

Equitable or Inherent Jurisdiction

The equitable or inherent jurisdiction of the Chancery Court includes all cases of an equitable nature, where the debt or

CIRCUIT COURT TRIAL VERDICTS OCTOBER 2012

JURY TRIALS

IF CASE WAS
APPEALED FROM
GENERAL SESSIONS

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
Week of October 1					
11C-1096	AUTOMOBILE	6	PLAINTIFF \$13,107	N/A	
07C-2928	AUTOMOBILE	5	PLAINTIFF \$689,379	N/A	
12C-1501	BREACH OF FIDUCIARY DUTY, FRAUD & BREACH OF CONTRACT	1	PLAINTIFF \$180,242	N/A	
Week of October 29					
10C-3327	ASSAULT	5	PLAINTIFF \$3,200	N/A	
09C-1542	AUTOMOBILE	8	PLAINTIFF \$22,417	N/A	
10C-3873	AUTOMOBILE	6	PLAINTIFF \$47,500	N/A	

NON-JURY TRIALS

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
Week of October 22					
12C-2732	BAILMENT, CONVERSION, THEFT OF PROPERTY	2	PLAINTIFF \$2,000 + COSTS	P - \$4,250	DEFENDANT
10C-566	WRONGFUL DEMOTION	6	PLAINTIFF \$175,000	N/A	
11C-4979	CONTRACT / DEBT	2	PLAINTIFF \$562,810	N/A	
09C-672	NEGLIGENCE (GUNSHOT TO EYE)	2	PLAINTIFF \$50,000	N/A	
12C-2261	CONTRACT	5	PLAINTIFF \$13,534 + COSTS	DISMISSED	PLAINTIFF
12C-883	CONTRACT	2	PLAINTIFF \$775	P - \$3,000	DEFENDANT
10C-2334	AUTOMOBILE/DAMAGES	6	PLAINTIFF \$10,658 + COSTS	N/A	

SPECIALLY SET TRIALS (JURY & NON-JURY)

CASE	TYPE	COURT	CIRCUIT JUDGMENT	DATE OF TRIAL	JURY OR NON-JURY
12C-2306	AUTOMOBILE/DAMAGES	5	PLAINTIFF \$3,339	10-3-12	Non-Jury
10D-206	DIVORCE	2	DIVORCE GRANTED, JOINT CUSTODY, PROP SPLIT EQUALLY	10-22-12	Non-Jury
2012-A-812	CRIMINAL	5	GUILTY OF DISORDERLY CONDUCT	10-25-12	Non-Jury

DEPARTMENTS BY THE NUMBER

October 2012

CIRCUIT COURT

	OCT	YTD
New Civil Cases Filed	252	2,074
Jury Demand.....	114	932
Non-Jury.....	138	1,142
New Divorce Cases Filed	190	2,020
Domestic Petitions Filed	188	2,483
New Adoption Petitions	22	120
Civil Cases Concluded	210	2,141
Jury Demand.....	126	1,264
Non-Jury.....	84	877
Divorce Cases Concluded	190	1,891
Domestic Petitions Concluded	241	2,384

GENERAL SESSIONS CIVIL

	OCT	YTD
Total New Cases Filed	4,354	42,173
Civil Warrants	2,279	21,697
Detainer Warrants	1,087	10,002
Recovery Warrants.....	8	179
Pet for Order of Protection.....	288	2,959
Emergency Committals	652	6,621
Other.....	40	715
Executions Issued	4,493	41,961
Garnishment Payments	4,768	45,400
Judgments Collected	\$1,021,018	\$9,911,282

PROBATE COURT

	OCT	YTD
Total New Cases Filed	174	1,675
Total Cases Closed	173	1,729
Probate Will	71	741
Probate Will for Muniment of Title.....	9	72
Letters of Administration.....	24	223
Small Estate Affidavits.....	29	263
Conservatorship.....	14	186
Guardianship of Minor.....	2	25
Name Change	8	94
Trust Matters.....	2	20
Other Miscellaneous	15	51

TRAFFIC VIOLATIONS BUREAU

	OCT	YTD
Total Traffic Violations	10,248	103,320
Moving Citations	6,949	70,097
Parking Citations.....	3,299	33,223
Environmental Citations.....	145	1,988
Total Fines Collected	\$415,147	\$3,943,145
Nullifications.....	659	7,032
Nullification Fees Collected	\$7,902	\$84,376
Credit Card Payments.....	3,774	33,574

CHANCERY COURT Continued from Page 3

demand exceeds fifty dollars. These cases include, but are not limited to, the following: (1) all actions resulting from accidents and mistakes; (2) all actions resulting from frauds, actual and constructive; (3) all actions resulting from trusts, express, constructive and resulting; (4) all actions for the specific performance of contracts; (5) all actions for the reformation, re-execution, rescission, and surrender of written instruments; (6) all actions for an accounting; (7) all actions between partners and to wind up an insolvent partnership; (8) all actions for the administration and marshaling of assets; (9) all actions for subrogation; (10) all actions for the enforcement of liens created by mortgages, deeds of trust, sales of land on credit, or other equitable consideration; (11) all actions against minors in reference to their estates; (12) all actions by wards against guardians, executors or administrators; (13) all actions for the marshaling of securities; (14) all actions for relief against forfeitures; (15) all actions for the redemption of

land or other property; (16) all actions for the construction and enforcement of wills and trusts; (17) all actions where an injunction is a substantial part of the relief sought; (18) all actions to remove clouds and quiet titles to real property; (19) all actions for the establishment and execution of charities; (20) all actions for the administration of decedents' estates or the estates of incompetent persons; and (21) all other actions where the defendant has done, or is doing, or is threatening to do, some inequitable act to the injury of the plaintiff, and there is no adequate remedy therefore in any other court.

Statutory Jurisdiction

The Circuit Court is our court of general original jurisdiction of law actions, and the legislature has vested it with jurisdiction in all cases where the jurisdiction is not conferred upon another tribunal. Even with such a broad jurisdiction and grant of power by the legislature, it must be firmly remembered at all times that

Continued on Page 6

OCTOBER 2012



AUTO ACCIDENT

	OCT	YTD
Total Cases Tried	6	43
Plaintiff Verdicts	6	32
Defendant Verdicts	0	11
Other/Under Adv	0	0
Jury Trials	4	28
Non-Jury Trials	2	15
Appeal from G.S.	0	1
Plaintiff Verd.	0	1
Def. Verdict	0	0
Other/None	0	0

CONTRACT

	OCT	YTD
Total Cases Tried	4	43
Plaintiff Verdicts	4	34
Defendant Verdicts	0	9
Other/Under Adv	0	0

HEALTH CARE LIABILITY

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

MISCELLANEOUS

	OCT	YTD
Total Cases Tried	6	59
Plaintiff Verdicts	6	45
Defendant Verdicts	0	11
Other/Under Adv	0	3

CHANCERY COURT

Continued from Page 5

the Circuit Court has no Equity jurisdiction whatsoever in Tennessee, except that which is expressly conferred upon it by statute. The General Assembly has not attempted to assign the Circuit Court any Equity jurisdiction specifically, but it has provided that if an action of manifest equitable cognizance is brought in the Circuit Court, that Court may either transfer it to the Chancery Court or retain it and try it according to the principles of a Court of Equity.

The legislature has, however, assigned jurisdiction over many "law" actions to the Chancery Court concurrently with the Circuit Court. Specifically, the Chancery Court has, by special statutes, concurrent jurisdiction with the Circuit Court of the following specific actions: (1) all actions for divorce, alimony and separate maintenance; (2) all actions to enter judgment upon the award of arbitrators; (3) actions to recover specific personal property and incidental damages for its retention; (4) all actions for the abatement and recovery of usury; (5) all actions prosecuted in the name of the State against private corporations; (6) all actions for the enforcement of statutory liens; (7) all actions under the Uniform Declaratory Judgments Act; (8) all actions for the abatement of certain public nuisances; (9) all actions under the Workers' Compensation Act; (10) all actions for habeas corpus; (11) all actions for mandamus; (12) all actions for adoption; and (13) all actions of a civil nature triable in the Circuit Court, except for unliquidated damages for injuries to person or reputation, and except for unliquidated damages for injuries to property not resulting from a breach of oral or written contract. The Chancery Court under this last item (13) has been able to entertain nearly all actions which might be brought in the Circuit Court. Even the exception for unliquidated damages cases can be waived although most Chancery Courts refuse to do so.

The Davidson County Chancery Court also hears appeals from Metro agencies and boards and serves as the court of appeals for all state of Tennessee administrative agencies no matter where in the state the decision was rendered.

In conclusion, it may be stated that Tennessee statutory law places at the disposal of the Chancery Court all the powers and jurisdiction of its great sister system, the law; so that when an action is tried in Chancery, the Chancellor has all the weapons and machinery of justice contained in the armories of both systems, enabling the Chancellor to do full, complete and adequate justice, unhampered by the formalities and technicalities of the common law. In a sense, the statutory jurisdiction does not carry the Chancellor into a Law Court to try a lawsuit, but invites the lawsuit into the Chancery Court to be heard by the Chancellor whose judgment is enriched with all the powers of the Circuit Court in addition to those of the Chancery Court. The Chancellor is thereby enabled to administer the law applicable to the case, and to apply any powers or principles of equity necessary to determine all the questions involved in the controversy which renders any further litigation not only unnecessary but improper.

ROOKER REPORT

Published by the Davidson County
Circuit Court Clerk's Office
1 Public Square, Suite 302, Nashville, TN 37201
Internet - - 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 Dart Gore at 880-3309

