



# ROOKER

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## MAY 2013

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# REPORT

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

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## NEW LAW CHANGES TENNESSEE'S WORKERS' COMPENSATION SYSTEM IN MAJOR WAYS

LAW TAKES EFFECT JULY 1, 2014

A new law signed by Governor Haslam on April 29th will not become effective until July 1, 2014, but it will overhaul the workers' compensation system in Tennessee when it does take effect. The most prominent change moves the workers' compensation system from a court-based system to an administrative process. In other words, the law removes workers' compensation disputes from the trial courts by establishing a "Court of Workers' Compensation Claims" (Claims Court) in a new, independent workers' compensation division within the Department of Labor and Workforce Development.

The governor will appoint a workers' compensation "administrator" to a six-year term, and the administrator will appoint workers' compensation judges to six-year terms. The judges will be licensed attorneys with at least five years of workers' compensation experience. They will be based across the state, but will travel to court. They will be bound by the Tennessee Rules of Civil Procedure and the Tennessee Rules of Evidence. A chief judge will be appointed by the administrator, and he/she will also hear cases.

A Workers' Compensation Appeals Board will also be set up to hear appeals from the Claims Court. The Appeals Board will consist of three judges who are appointed by the governor. After a case has been heard by the Appeals Board, any final appeal will be made to the Tennessee Supreme Court.

In addition, the new law provides that an injury is only compensable if it arose "primarily" in the course and scope of the employment. This definition of "causation" is the same one that is being used in Arkansas, Florida, Mississippi and North Carolina. The doctrine of liberal construction in favor of the worker will be replaced with a mandate to construe the law "fairly" and "impartially" and not "in a manner favoring either the employee or the employer."

Under the new law, impairment ratings for permanent partial disability (PPD) benefits will be only to the body as a whole, and not scheduled members. The treating physicians must assign the impairment ratings and cannot consider pain in calculating the degree of impairment. The ratings provided by the treating physician will be presumed to be accurate.

An injured worker will be eligible for PPD benefits equal to his or her impairment rating if he or she returns to work for "any" employer, not just the pre-injury employer, making 100% of his or her pre-injury salary. The maximum total benefits an employee can receive will be increased to 450 weeks from the current 400 weeks.

In addition, if an employee does not return to work, the maximum he or she can receive will be 1.35 times his or her impairment rating. If the employee has no high school diploma or GED, the maximum will be 1.45 times the impairment rating. If the employee is over 40 years old,



### COMING IN THE NEXT ISSUE

Expansive Look at the New Changes in Tennessee Conservatorship Law

Innovative New Plan Implemented for DUI Cases

Nashville Financial Empowerment Centers Provide Free Assistance

CONT. PAGE 4 **WORKERS' COMP**

# CIRCUIT COURT TRIAL VERDICTS MAY 2013

## JURY TRIALS

**IF CASE WAS  
APPEALED FROM  
GENERAL SESSIONS**

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
<b>Week of May 6</b>					
07C-2117	NEGLIGENCE / DEATH	2	NON-SUIT ON DAY 3 OF TRIAL	N/A	
10C-2612	AUTOMOBILE	5	PLAINTIFF \$111,429 (DEFT 100% FAULT)	N/A	

## NON-JURY TRIALS

CASE	TYPE	COURT	CIRCUIT JUDGMENT	GEN. SESSIONS JUDGMENT	APPELLANT
<b>Week of May 13</b>					
12C-3449	SWORN ACCOUNT	2	PLAINTIFF NON-SUITED	P - \$1,606	DEFENDANT
12C-2105	WORKERS' COMP RECON	1	ADDITIONAL 7.5% + COSTS	N/A	
12C-3450	CONTRACT	2	PLAINTIFF \$24,000	DISMISSED	PLAINTIFF
13C-133	SWORN ACCOUNT	2	PLAINTIFF \$350 + COSTS	P - \$600	DEFENDANT
12C-4414	SWORN ACCOUNT	8	PLAINTIFF \$7,450	P - \$9,173	DEFENDANT
09C-2571	WORKERS' COMP	1	EMPLOYEE 51% PPD (2ND INJ FUND DISMISSED)	N/A	

## SPECIALLY SET TRIALS (JURY & NON-JURY)

CASE	TYPE	COURT	CIRCUIT JUDGMENT	DATE OF TRIAL	JURY OR NON-JURY
12C-2919	ASSAULT	5	PLAINTIFF \$175,000 COMP. & \$120,000 PUNITIVE	5-10-13	NON-JURY
12C-45	AUTOMOBILE	5	PLAINTIFF \$5,925	2-8-13 (RULING ON 5-14-13)	NON-JURY
12C-3608	ASSAULT	8	PLAINTIFF \$1,565,253 COMP. & \$1,500,000 PUNITIVE	5-10-13	NON-JURY

**USE CASELINK TO ACCESS MORE DETAILED INFORMATION  
ABOUT THESE CASES AND THOUSANDS MORE**

# DEPARTMENTS BY THE NUMBER

# May 2013

## CIRCUIT COURT

	MAY	YTD
New Civil Cases Filed.....	198	1,056
Jury Demand.....	88	455
Non-Jury.....	110	601
New Divorce Cases Filed .....	209	1,049
Domestic Petitions Filed .....	211	1,129
New Adoption Petitions .....	11	63
Civil Cases Concluded.....	234	1,187
Jury Demand.....	150	740
Non-Jury.....	84	447
Divorce Cases Concluded .....	326	1,187
Domestic Petitions Concluded .....	548	1,641

## GENERAL SESSIONS CIVIL

	MAY	YTD
Total New Cases Filed .....	3,955	18,951
Civil Warrants .....	1,893	9,203
Detainer Warrants .....	967	4,606
Recovery Warrants.....	19	111
Pet for Order of Protection.....	294	1,384
Emergency Committals .....	749	3,545
Other.....	33	102
Executions Issued.....	4,426	19,988
Garnishment Payments .....	4,590	22,923
Judgments Collected.....	\$1,060,848	\$5,281,420

## PROBATE COURT

	MAY	YTD
Total New Cases Filed .....	185	946
Total Cases Closed .....	174	836
Probate Will .....	66	421
Probate Will for Muniment of Title.....	10	40
Letters of Administration.....	30	145
Small Estate Affidavits.....	33	160
Conservatorship.....	28	99
Guardianship of Minor.....	4	9
Name Change .....	7	40
Trust Matters.....	0	6
Other Miscellaneous .....	7	26

## TRAFFIC VIOLATIONS BUREAU

	MAY	YTD
Total Traffic Violations.....	11,020	52,389
Moving Citations .....	6,195	32,301
Parking Citations.....	4,825	20,088
Environmental Citations.....	101	585
Total Fines Collected .....	\$398,181	\$2,162,959
Nullifications.....	477	3,240
Nullification Fees Collected .....	\$5,722	\$38,870
*Credit Card Payments .....	5,253	22,873

### Supreme Court Rule Change to Require Electronic Filing of Compensation Claims

The Tennessee Supreme Court has issued an order that will require electronic submission of all interpreter invoices as well as compensation claims for attorneys representing indigent clients. The Order changes several existing Supreme Court rules effective July 1, 2013, and requires that "all claims for attorney compensation and expenses shall be submitted utilizing the system established by the AOC for electronic submission." The Administrative Office of the Courts began development of the electronic filing system in 2010. Users have been phased in over several years and the system has been used on a routine basis since early 2012. The Order makes amendments to Supreme Court Rules 13, 15 and 42, concerning indigent counsel, mental health proceedings and standards for court interpreters.

### Nashville Bar Law Day Luncheon Celebrates Equality

On May 1, 2013, more than 500 Nashville lawyers gathered for the Annual Nashville Bar Association Law Day Luncheon with the theme "Realizing the Dream: Equality for All." U.S. Representative Jim Cooper proposed a 28th Amendment to the U.S. Constitution guaranteeing the right to vote in his Law Day remarks.

Nashville lawyer David Raybin was the recipient of the Jack Norman Award, the highest award the NBA can give to a lawyer who practices primarily in the criminal justice system. Former Nashville Juvenile Court Judge Andy Shookhoff received the Liberty Bell Award for his work in advancing juvenile justice.

You can read a copy of Congressman Cooper's Law Day speech at [www.nashvillebar.org](http://www.nashvillebar.org).

# MAY 2013



## AUTO ACCIDENT

	MAY	YTD
Total Cases Tried	2	14
Plaintiff Verdicts	2	11
Defendant Verdicts	0	3
Other/Under Adv	0	0
Jury Trials	1	12
Non-Jury Trials	1	2
Appeal from G.S.	0	4
Plaintiff Verd.	0	4
Def. Verdict	0	0
Other/None	0	0

## CONTRACT

	MAY	YTD
Total Cases Tried	4	23
Plaintiff Verdicts	3	17
Defendant Verdicts	1	6
Other/Under Adv	0	0

## HEALTH CARE LIABILITY

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

## MISCELLANEOUS

	MAY	YTD
Total Cases Tried	5	31
Plaintiff Verdicts	4	20
Defendant Verdicts	0	10
Other/Under Adv	1	1

# WORKERS' COMP Continued From Page 1

the maximum will be 1.2 times the impairment rating. If the employee is employed in a county where unemployment is higher than two points above the state average for the year prior to the initial period of compensation, the maximum will be 1.3 times the impairment rating.

With regard to temporary total disability (TTD) benefits for a mental injury, under current law the employee may receive up to 104 weeks of benefits. Under the new law, the employee will still be entitled to 104 weeks of TTD benefits if the mental injury is purely a mental injury, but if it is coupled with a physical injury, the employee will not be entitled to additional benefits for the mental injury.

The new law also creates an ombudsman program intended to provide help to injured employees, persons claiming death benefits, and employers

in navigating the claims process. This program will only be available to those who are not represented by attorneys. Otherwise, the new law calls for medical treatment guidelines to be adopted by 2016.

The law was originally slated to take effect on January 1, 2014, but was amended to push the effective date forward six months to July 1, 2014



## QUOTE OF THE MONTH

“In any situation, the best thing you can do is the right thing; the next best thing you can do is the wrong thing; the worst thing you can do is nothing.”

- Theodore Roosevelt



## ROOKER REPORT

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