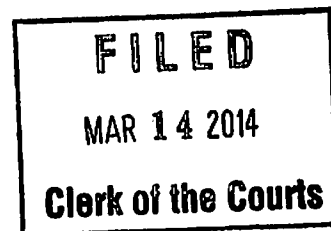


IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT

**IN RE: THE HONORABLE JOHN A. DONALD
GENERAL SESSIONS JUDGE
SHELBY COUNTY, TENNESSEE**



Docket No. M2013-02204-BJC-DIS-FC

File No. 11-4762

**RESPONSES OF DISCIPLINARY COUNSEL,
TENNESSEE BOARD OF JUDICIAL CONDUCT to
“REQUEST FOR DISCOVERY” of JUDGE JOHN A. DONALD**

Timothy R. Discenza, Disciplinary Counsel for the Tennessee Board of Judicial Conduct, for Responses to “Request for Discovery” heretofore filed by Judge John A. Donald, and pursuant to Rules 26-37, inclusive, Tennessee Rules of Civil Procedure, would state as follows:

1. The names, current addresses, and telephone numbers of all witnesses to be called to testify against the respondent, John Donald, at trial.

RESPONSE: Undecided at this point. This Response will be supplemented in a reasonably timely fashion preceding trial in a manner directed by the Tennessee Rules of Civil Procedure, and any Orders of the Court to be made relative to witness disclosure

2. Any information relevant to impeachment of any witness that the Disciplinary Counsel intends to call at the trial, including any past suspension, or basis therefore by the Tennessee Board of Professional Responsibility, past convictions for crimes of moral turpitude, and any threats, promises, inducements, offers of reward or immunity, affirmative representations made or implied, of any witness to be called to testify against the respondent, including any statements, written or orally, given to the Disciplinary Counsel by each witness relevant to each witness impeachment.

RESPONSE: As witnesses are undecided at this point, subject to any Motion for Protective Order filed or to be filed, this Response will be supplemented in a reasonably timely fashion preceding trial in a manner directed by the Tennessee Rules of Civil Procedure, and any Orders of the Board to be made.

In addition, Disciplinary Counsel is without knowledge or information as to any of the specific information sought by this Request or what is meant or defined as “impeachment.”

3. All written statements from all sources which the Counsel intends to seek introduction at the trial, including the names and addresses, telephone numbers of the witnesses through whom each statement is proposed to be introduced by the Disciplinary Counsel.

RESPONSE: The determination of any and all written statements, if any, to be introduced at trial has not been made at this point. This Response will be supplemented in a reasonably timely fashion preceding trial in a manner directed by the Tennessee Rules of Civil Procedure, and any Orders of the Board to be made.

To the extent any of the written documents submitted by Judge Donald to either the Board of Judicial Conduct, its predecessor, the Court of the Judiciary, and the Tennessee Board of Professional Responsibility, are “written statements,” such documents may be introduced at trial. All such documents, or copies thereof, are in possession of Judge Donald.

4. Copies of all statements received by the witnesses submitted by Judge Donald in his response to Mr. Gold’s complaint, said statements received as a result of the Counsel’s interviewing the witnesses presented by Judge Donald in his response to Mr. Gold’s complaint.

RESPONSE: There are no such “statements.”

5. The names and current addresses of the members of the investigative panel who authorized you to affix their signatures to the formal charges and any and all written correspondences between the Counsel and each of these members of the panel; in particular, the respondent requests a copy of all written statements to the panel members with regards to the Counsel’s investigation of the formal complaint of Mr. David Gold.

RESPONSE: Objection is made to this Request and is detailed in a Motion for Protective being concurrently filed by Disciplinary Counsel.

6. A copy of Mr. Gold’s complaint to the Board or Disciplinary Counsel accusing Judge Donald of retaliation.

RESPONSE: There is no written complaint specifically accusing Judge Donald of retaliation made by Mr. Gold.

With respect to the “requests (for) admission” also submitted by Judge John A. Donald, Disciplinary Counsel would state as follows:

1. That at the time he filed/published Mr. David Gold's complaint that he had not investigated the verity of Mr. Gold's charges and or rendered an opinion of same or interviewed the witnesses submitted by the respondent in his response to Mr. Gold's charges.

RESPONSE: At the time of the filing of the complaint of David Gold on or about October 20, 2011, Disciplinary Counsel had not investigated anything regarding the complaint, as the filing was the first notification of the complaint. Disciplinary Counsel has not "published" the complaint of David Gold beyond advising Judge John A. Donald of the complaint, and providing a copy to him, in accordance with the policies and practice of the Board of Judicial Conduct, and its predecessor the Board of Judicial Conduct.

2. That counsel had found no proof as to the veracity of Mr. Gold's complaint, respondent referencing specifically the only complaint of Mr. Gold submitted to Judge Donald.

RESPONSE: Denied.

3. That Judge Donald was the person who notified the Counsel of his complaint of Mr. Gold to the Tennessee Board of Professional Responsibility, copying to Counsel all correspondent of his to the Board, and not Mr. Gold.

RESPONSE: Admitted that Judge Donald advised Disciplinary Counsel of Judge Donald's complaint to the Board of Professional Responsibility. Thereafter, Judge Donald did in addition provide correspondence between he and the Board. Disciplinary Counsel is neither able to Admit or Deny that he received "all" correspondence between Judge Donald and the Board of Professional Responsibility.

4. That the counsel has no competent proof that will sustain a "hearsay" objection of how the TBPR had adjudicated Judge Donald's complaint against Mr. Gold at the time he would publish Mr. Gold's charges.

RESPONSE: Denied

5. That even as of date of this request, Counsel has no such competent proof of the TBPR's disposition and had indicated to Judge Donald that he does not intend to seek such information from the TBPR.

RESPONSE: Denied

6. That as of the date of these requests, the Disciplinary Counsel has yet to receive a copy of the disposition of Judge Donald's complaint from the TBPR.

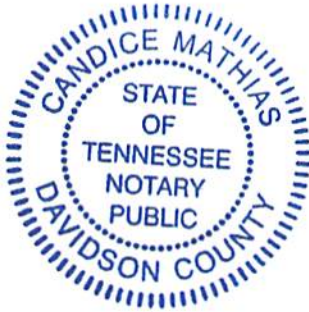
RESPONSE: Denied

After first being duly sworn, Timothy Discenza, Disciplinary Counsel, makes oath that the answers contained herein are true and correct to the best of his knowledge, information and belief.

Further, affiant saith not.

Timothy R. Discenza
Timothy R. Discenza

Sworn to and subscribed before me this 12 day of March, 2014.



Candice Mathias
Notary Public

My commission expires: _____

MY COMMISSION EXPIRES SEPTEMBER 11, 2017

Respectfully submitted,

Timothy R. Discenza
Timothy R. Discenza #008716
Disciplinary Counsel
Tennessee Board of Judicial Conduct
P.O. Box 50356
Nashville, Tennessee 37205

Patrick J. McHale by Timothy R. Discenza with permission
Patrick J. McHale, # 004643
Assistant Disciplinary Counsel
Tennessee Board of Judicial Conduct

Certificate of Service

I certify that a true and exact copy of the foregoing has been mailed, delivered, and/or sent via email to Honorable John A. Donald, 140 Adams Avenue, Suite 110, Memphis, Tennessee 38103, on this the 13 day of March, 2014.

Patrick J. McHale by Timothy R. Discenza with permission
Patrick J. McHale

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said County, this 1st day of January, 1911.

Notary Public for the State of Tennessee

My Commission Expires February 1, 1911



MY COMMISSION EXPIRES FEBRUARY 1, 1911

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said County, this 1st day of January, 1911.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said County, this 1st day of January, 1911.