

DEPOSITION OF JAMES T. LARUE

December 22, 2009

IN THE TENNESSEE COURT OF THE JUDICIARY

FILED  
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Clerk of the Courts

IN RE:

THE HONORABLE JOHN A. BELL  
JUDGE, GENERAL SESSIONS COURT  
COCKE COUNTY, TENNESSEE

Docket No.  
M2009-02115-  
CJ-CJ-CJ

COMPLAINT OF DAVID PLEAU

File No.  
08-3508

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APPEARANCES:

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David Pitman, Videographer

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## S T I P U L A T I O N

The deposition of JAMES T. LARUE, called as a witness at the instance of John A. Bell, pursuant to all applicable rules, taken by agreement on the 22nd day of December, 2009, beginning at approximately 9:00 a.m., at the law offices of Ball & Scott, 550 West Main Street, Suite 601, Knoxville, before Whitney Lofton, Court Reporter and Notary Public, pursuant to the stipulation of counsel.

It being agreed that Whitney Lofton, Court Reporter and Notary Public, may report the deposition in machine shorthand, afterwards reducing the same to typewriting.

All objections, except as to the form of the question, are reserved to on or before the hearing.

It being further agreed that all formalities as to notice, caption, certificate, transmission, etc., including the reading of the completed deposition by the witness and the signature of the witness, are waived.

1 JAMES T. LARUE,  
2 called as a witness at the instance of John A. Bell,  
3 having been first duly sworn, was examined and deposed  
4 as follows:

5 EXAMINATION

6 BY MR. BALL:

7 Q Mr. LaRue, how long have you been a  
8 special investigator for the court of the judiciary?

9 A This is my third year in that  
10 position.

11 Q Is that a full-time position?

12 A It's a contract position that  
13 requires work at the discretion of the disciplinary  
14 counsel. So it is not full-time.

15 Q Do you do any other work -- contract  
16 work outside your duties as an investigator for the  
17 court of the judiciary?

18 A Yes, sir, I do. I do some background  
19 work for the FBI. I have a contract with a firm that  
20 does some defense department work, and that's all that I  
21 do at this time.

22 Q Within the last three years, have you  
23 done -- actually done work -- background work for the  
24 FBI?

25 A Correct.

1 Q And have you, during the last three  
2 years, worked for this outside firm?

3 A Only in a very minor capacity; phone  
4 calls, advice.

5 Q Now, is that a local firm in East  
6 Tennessee?

7 A No. It's out of Fort Bragg, North  
8 Carolina.

9 Q It has no connection with your duties  
10 as an investigator for the court of the judiciary?

11 A None whatsoever.

12 Q Now, Mr. LaRue, Mr. Pleau -- do you  
13 know Mr. David Pleau?

14 A I met Mr. Pleau in February of this  
15 year, yes sir.

16 Q February of 2009?

17 A Correct.

18 Q Had you been aware of Mr. Pleau  
19 before February of 2009?

20 A No, sir.

21 Q And did you have any discussions with  
22 anyone about David Pleau before February of 2009?

23 A Probably in January, Judge Daniel  
24 notified me that there was a complaint filed by  
25 Mr. Pleau and I'd be required to do some work in

1 connection with that complaint.

2 Q So that would have been sometime in  
3 January 2009?

4 A Yes, sir.

5 Q But before that you're telling us  
6 that you had had no knowledge of the existence of David  
7 Pleau before that time?

8 A No, sir.

9 Q Okay. And so obviously you had done  
10 no work on his case before January 2009?

11 A No, sir.

12 Q And when you had this discussion in  
13 January 2009 with Mr. Daniel, what did Mr. Daniels tell  
14 you about Mr. Pleau at that discussion?

15 A Judge Daniel's operation is to inform  
16 me of things that I might be required to do, and he just  
17 mentioned offhand that there was a complaint and that  
18 there may be some activity required in conjunction with  
19 Mr. Pleau's complaint. He did not tell me the specifics  
20 of the complaint at that time.

21 Q Okay. Now, were you -- you were  
22 aware of Judge Bell before January 2009?

23 A Yes, sir.

24 Q And in fact you were the investigator  
25 on the former case against Judge Bell?

1 A Yes, sir.

2 Q And from the date that case was  
3 settled in September 2008, did you have any -- did you  
4 have any duties concerning any investigation concerning  
5 Judge Bell?

6 A Not that I recall.

7 Q Did you ever come and sit in his  
8 court after the settlement of the first case?

9 A No, sir.

10 Q In 2008? Never went back to his  
11 court?

12 A No, sir.

13 Q Never interviewed any witnesses on  
14 any kind of complaint against Judge Bell after the  
15 settlement of the first case?

16 A Not to my knowledge, Mr. Bell --  
17 Mr. Ball, excuse me.

18 Q And were you doing investigations on  
19 other cases against -- and I'm not going to ask you  
20 about any names -- but any other judges in East  
21 Tennessee from September 2008 to February 2009?

22 A Yes, sir, I was.

23 Q Now, when you talked to Mr. Daniel in  
24 January of 2009, was that by telephone or in person?

25 A I don't recall. It was probably by



1 telephone.

2 Q Now, you have -- you have notes of --  
3 do you take notes of your conversations with Mr. Daniel  
4 and when he discusses cases with you?

5 A If he gives me a specific tasking, I  
6 do take a note of that. But at that time, as I said, it  
7 was just a -- this is a heads up for you that in the  
8 next little bit we may have some tasks for you to do in  
9 regard to a complaint in Cocke County. So there was no  
10 specifics in January mentioned.

11 Q Did you have any discussions with  
12 Judge Daniel in January about the fact that here we go  
13 again, Judge Bell is doing things again?

14 A No.

15 Q Did you have any discussion with  
16 Judge Daniels in January of 2009 relative to the case  
17 that was settled in 2008 against Judge Bell?

18 A I don't recall it being mentioned.

19 Q Has it ever been mentioned between  
20 you two, you and Judge Daniels, how the case was  
21 settled?

22 A No, sir. I have a phone call. It's  
23 probably Mr. Pleau.

24 (Off-record discussion.)

25 MR. BALL: You may have to read the

1 last question again.

2 (Last question read.)

3 THE WITNESS: No we didn't discuss the  
4 case after the settlement of the previous issue  
5 nor did we have any discussion prior to January  
6 regarding Mr. Pleau's complaint.

7 BY MR. BALL:

8 Q Did you ever have any discussion with  
9 Judge Daniels or Joe Riley concerning their decision to  
10 settle the case in -- the first case in 2008?

11 A I did not.

12 Q Did you agree or disagree with the  
13 way that settlement was finalized?

14 A I have no opinion, as that is above  
15 my pay grade.

16 Q In January of 2009 when you had this  
17 discussion with Judge Daniel -- and I may have asked you  
18 this, and if I did I apologize. Did he, at that time,  
19 direct you to do anything concerning David Pleau or  
20 Judge Bell?

21 A No, sir, he did not. He just alerted  
22 me that there may be a tasking forthcoming regarding  
23 that complaint. I don't even recall him mentioning  
24 Mr. Pleau by name.

25 Q From January 2009 until February 2009

1 when you talked to David Pleau, did you do anything on  
2 his case or did you call him first or how did that  
3 happen?

4 A Judge Daniel, to the best of my  
5 knowledge, probably notified me about a week prior to a  
6 hearing that was scheduled in February and advised me  
7 that he wanted me to attend that and report to him the  
8 decision from the hearing.

9 Q And did you do that?

10 A I did, sir.

11 Q And where was the hearing and what  
12 happened?

13 A In general sessions court in Cocke  
14 County, and I met Mr. Pleau at that hearing for the  
15 first time.

16 Q Had you talked to Mr. Pleau before  
17 that time or had you read his complaint that had been  
18 filed with the court of the judiciary?

19 A No, sir, I did not.

20 Q I asked you two questions in one and  
21 I shouldn't have. Did you talk to Mr. Pleau before that  
22 hearing?

23 A No, I did not.

24 Q Had you read his complaint with the  
25 court of the judiciary before the hearing?

1           A           I did not. And I want to back up and  
2 say that I did speak to Mr. Pleau in the hallway just  
3 prior to the meeting -- to the hearing.

4           Q           Did you have any idea what -- you had  
5 not read the complaint. Did you have any idea what the  
6 purpose of the hearing was?

7           A           I did not.

8           Q           And did you have any discussion with  
9 Judge Daniels other than the fact that you were directed  
10 to go to Cocke County and attend the hearing?

11          A           And report to him the results of the  
12 hearing was my direction at the time.

13          Q           Did Judge Daniel tell you what the  
14 hearing was supposed to be about?

15          A           He did not.

16          Q           Did you find that to be a little  
17 unusual? You were just to go to a hearing and sit and  
18 listen and you not knowing what the hearing was going to  
19 be about.

20          A           I do that a lot.

21          Q           Did you take any notes of this  
22 instruction from Judge Daniel to you to go to the  
23 hearing when you had the conversation with Judge Daniel?

24          A           I did not.

25          Q           He just told you a time and a place

1 and you showed up. Is that what you are telling us?

2 A That is correct.

3 Q And you had never talked to Mr. Pleau  
4 beforehand. Had he given -- had Judge Daniel at that  
5 time that you had the discussion with him where he  
6 instructed you to go, did he tell you that Mr. Pleau was  
7 going to be there?

8 A He did not tell me Mr. Pleau was  
9 going to be there. It was my assumption.

10 Q Did he tell you that Mr. Pleau's case  
11 was going to be heard that day?

12 A He did tell me there was a hearing  
13 regarding Mr. Pleau's case in Cocke County, yes.

14 Q Did he tell you how he knew that?

15 A He did not.

16 Q Did Judge Daniel tell you that he had  
17 been in touch with Mr. Pleau?

18 A He did not.

19 Q Did you assume at that point in time  
20 that Judge Daniel had talked to Mr. Pleau?

21 A I made no assumption other than the  
22 fact that Judge Daniel was aware there was going to be a  
23 hearing in the general sessions court and he wanted me  
24 to attend.

25 Q And how did you know Mr. Pleau when

1 you met him in the courthouse? How did you know who he  
2 was?

3 A Sir, I presented myself to the clerk  
4 and asked about the docket and to where Mr. Pleau's case  
5 would be, having prior knowledge that I knew his name.  
6 And at that time, Mr. Pleau presented himself and said,  
7 "I'm David Pleau, why are you interested in my case?"  
8 And I introduced myself. That was my first contact with  
9 Mr. Pleau.

10 Q And what day in February was that?

11 A I believe it was February the 20th.

12 Q And Mr. Pleau -- is it your  
13 testimony, Mr. LaRue, that Mr. Pleau just happened to be  
14 standing close by when you were speaking to the clerk  
15 and he spoke up and said, "I'm David Pleau"?

16 A He was adjacent to the window when I  
17 inquired about the case.

18 Q And did you see Judge Bell prior to  
19 speaking to David Pleau?

20 A I did not.

21 Q And when you told Mr. Pleau who you  
22 were, what did you tell him you were going to do that  
23 day?

24 A I was here to observe the hearing and  
25 report to Judge Daniels the results of the hearing.

1 Q And did Mr. Pleau agree to that? I  
2 mean, what was Mr. Pleau's response?

3 A I don't recall that he had any  
4 response other than sort of shrugging his shoulders and  
5 said okay.

6 Q Did Mr. Pleau say anything to you  
7 about the fact that he had been -- he, Mr. Pleau, had  
8 been in the touch with Judge Daniel and expected you to  
9 be there?

10 A He did not.

11 Q And did you in fact go into -- and  
12 was there a hearing held?

13 A There was a hearing and I attended  
14 it.

15 Q And did you sit -- where did you sit  
16 in the hearing in the courtroom?

17 A I sat behind the bar on the first or  
18 second row of bench seats.

19 Q Now, you and Judge Bell knew each  
20 other from involvement in the prior case?

21 A I recognized Judge Bell.

22 Q And did Judge Bell recognize you that  
23 morning?

24 A He did not.

25 Q Did Judge Bell ever acknowledge your

1 presence there?

2 A He did not.

3 Q Now, was Mr. Pleau's case the first  
4 case called that morning?

5 A I don't recall the sequence of the  
6 cases.

7 Q Did you take notes that day?

8 A I did.

9 Q Do you have those notes, keep those  
10 notes?

11 A Those notes may be in a report that I  
12 forwarded to Judge Daniel. I'm not certain about that.

13 Q But did you file a written report  
14 with Judge Daniels concerning the February 20th hearing?

15 A On that occasion, I think I reported  
16 to Judge Daniel by telephone, Mr. Ball.

17 Q Do you -- did you retain those notes?

18 A If I made written notes, I have a  
19 record of them, yes, sir.

20 Q Would you check and report to your  
21 counsel whether or not you do have those notes  
22 available?

23 A Yes, sir.

24 MR. BALL: Make a note of that.

25



1 BY MR. BALL:

2 Q Did you review any notes or reports  
3 made in connection with this case by you in preparation  
4 for this deposition?

5 A I looked at some historical dates so  
6 that I could correctly reflect to you the dates of the  
7 February the 20th hearing and some other activities.

8 Q Okay. How many written reports have  
9 you made to Judge Daniel concerning this matter?

10 A I don't recall.

11 Q One, two, three?

12 A Two or three perhaps.

13 Q Now, let me hand you a notice of  
14 taking your deposition and ask you if you have ever seen  
15 this before.

16 A I don't recall having specifically  
17 seen this. I was informed of this deposition by Judge  
18 Daniel and he may have forwarded me a copy of that.

19 MR. BALL: Let's file this as exhibit  
20 1, a notice of Mr. LaRue's deposition.

21 (Thereupon, the respective  
22 document was marked  
23 Exhibit No. 1.)

24 MR. BALL: And counsel, obviously in  
25 exhibit 1 is the request to produce copies of

1 all documents relied upon in preparation. Can  
2 we have copies of those reports.

3 MR. DANIEL: Now?

4 MR. BALL: You didn't bring them?

5 MR. DANIEL: No. Is that the notice  
6 for the one that you noticed and then there was  
7 a hearing thereafter that rescheduled it?

8 MR. BALL: Yes, sir. Are you saying  
9 we should have renoticed you?

10 MR. DANIEL: We haven't brought that.

11 MR. BALL: Will you supply them and  
12 we will just continue the deposition?

13 MR. MCHALE: Can you get them faxed  
14 here?

15 MR. BALL: Can you fax them here?

16 MR. DANIEL: No.

17 MR. BALL: Well, I reserve the right  
18 to retake Mr. LaRue's deposition then.

19 BY MR. BALL:

20 Q So you think, Mr. LaRue, that you  
21 filed two or three written reports with Mr. Daniel  
22 concerning this matter; is that correct?

23 A I think so, yes, sir. That may have  
24 been -- a lot of the reports in this situation, because  
25 it was a little bit unique, have been by telephone.

1 Q Were those recorded?

2 A No, sir, not on my end.

3 Q Were they recorded on the other end?

4 A I would have no knowledge of that.

5 Q Has Mr. Daniel ever told you that he  
6 recorded your conversations?

7 A He has never advised me of that.

8 Q The reports that you have filed, you  
9 have copies at your home here in Knoxville, do you not?

10 A I would have copies, yes, sir.

11 Q Could you go get those copies after  
12 we take your deposition this morning and bring them back  
13 this afternoon?

14 A That's possible.

15 Q And while I'm taking Mr. Pleau's  
16 deposition?

17 A I live 60 miles from here.

18 Q Sixty?

19 A Yes, sir. It would be an  
20 inconvenience for me to do that today, but I will comply  
21 with whatever you order me.

22 Q I'm not going to order anybody to do  
23 anything. Why don't you do this. Why don't you bring  
24 me the reports this week sometime, and you're in  
25 Knoxville. So we can finish your deposition at any

1 point in time. I assume -- I don't want to burden  
2 counsel with coming back, but I do want to see these  
3 reports. So we'll arrange it.

4 MR. DANIEL: Maybe if we do it back  
5 in January, we won't be back over here.

6 MR. BALL: We can do that. What is  
7 our January date, by the way?

8 THE WITNESS: It is the 12th or 13th.

9 MR. MCHALE: It's the 12th and 13th,  
10 as I recall.

11 MR. DANIEL: That's right.

12 MR. BALL: I may have a real problem  
13 with the 13th date.

14 MR. MCHALE: I'm waiting for  
15 Mr. Daugherty to write me back.

16 MR. BALL: I have got to go to the  
17 hospital on the 13th, but the 12th I'll be  
18 fine.

19 MR. MCDONALD: For the record, the  
20 13th was only if we could not conclude things  
21 on the 12th, and we didn't have any reason to  
22 think that we wouldn't be able to.

23 MR. BALL: We can do it on the 12th.

24 BY MR. BALL:

25 Q On the morning of the 20th, was a

1 hearing held of some sort?

2 A Yes.

3 Q And what kind of hearing was that?  
4 What was the hearing about?

5 A The hearing was about a civil case  
6 between Mr. Pleau and his insurance carrier.

7 Q And was Mr. Pleau represented by  
8 counsel?

9 A He was not. He represented himself.

10 Q And his insurance company, were they  
11 represented by counsel?

12 A Yes, they were, sir.

13 Q And do you know who that counsel was?

14 A I do not know the attorney's name.

15 Q Would that be in your report?

16 A It would not. I did not record the  
17 attorney's name at that time.

18 Q And what did you see and what did you  
19 report to Judge Daniel about that hearing?

20 A I reported that the hearing did  
21 not -- the hearing took place, but there was no  
22 decision. It was continued by Judge Bell due to a  
23 deficiency and some subpoenas that had been issued by  
24 Mr. Pleau.

25 Q And was -- what was the deficiency

1 and the subpoenas that had been issued by Mr. Pleau?

2 A I did not see the subpoenas, but the  
3 conversation that ensued was that Mr. Pleau had put the  
4 wrong date on the subpoenas. And in fact, it was set  
5 for -- the subpoenas required the witnesses to be there  
6 on a Saturday.

7 Q And obviously this was not a  
8 Saturday?

9 A Obviously.

10 Q And did Judge Bell then continue the  
11 hearing to another date?

12 A He did.

13 Q And did you see anything unusual  
14 about that?

15 A Nothing.

16 Q And did the counsel for the insurance  
17 company object to that?

18 A They did not.

19 Q Were any -- did you report any  
20 unethical conduct to Judge Daniel concerning Judge Bell?

21 A No, sir.

22 Q About that hearing?

23 A No, sir.

24 Q Do you know February 20th of 2009 who  
25 the witnesses were that had been subpoenaed?

1           A           I do not know the names of the  
2 witnesses. The uninsured motorist that was involved in  
3 the claim, a Ms. Coleman, was present with -- at the  
4 hearing.

5           Q           Did she testify that day?

6           A           Not to my knowledge.

7           Q           Did anyone testify?

8           A           No, sir.

9           Q           And was Ms. Coleman represented by  
10 counsel at that hearing?

11          A           She was not.

12          Q           Was the case -- what was the style of  
13 the case? Was it against Ms. Coleman or was it against  
14 the insurance company or what was the style?

15          A           Mr. Pleau's claim against the  
16 insurance company and the uninsured motorist for damages  
17 resulting in a wreck.

18          Q           So it was the case against his own  
19 insurance company and Jo Ann Coleman?

20          A           Correct.

21          Q           How long did that hearing take,  
22 Mr. LaRue, would you say?

23          A           Approximately 10 to 15 minutes.

24          Q           Did you speak with Mr. Pleau after  
25 the hearing?

1 A I did.

2 Q And where did that conversation take  
3 place?

4 A In the hallway outside the courtroom.

5 Q And what did you say to him and what  
6 did he say to you?

7 A I advised him that I would be back to  
8 the next hearing when it was scheduled and that I would  
9 report what happened today to Judge Daniel.

10 Q Did you say anything else to him?

11 A I asked him if he would give me an  
12 affidavit regarding some remarks that he had made to me.

13 Q Now, when had he made these remarks  
14 to you?

15 A Just prior to the hearing.

16 Q Okay. And so you had a discussion  
17 with him prior to the hearing?

18 A Briefly.

19 Q But he made some remarks to you that  
20 caused you to want him to give you an affidavit?

21 A He made one remark to me and then we  
22 went into the courtroom. Yes, sir.

23 Q And what was that remark that he made  
24 to you?

25 A He advised me that he found it



1 strange that a local attorney would have called him and  
2 requested him to drop his complaint against Judge Bell  
3 with the court of the judiciary.

4 Q And what prompted him to say that to  
5 you, do you think?

6 A I have no idea.

7 Q Okay. Had you had any kind of -- any  
8 kind of discussion with Judge Daniel prior to going up  
9 for this hearing that anyone had asked Mr. Pleau to drop  
10 his case?

11 A None whatsoever.

12 Q So this came totally out of the blue?

13 A Totally.

14 Q And what else did Mr. Pleau say to  
15 you prior to going into that hearing?

16 A That was all. We went -- he made  
17 that remark and then we went into the courtroom.

18 Q And did you take notes about that  
19 remark?

20 A I did not.

21 Q And so after you came out of the  
22 courtroom, after the hearing, did he -- did Mr. Pleau  
23 make any other comments to you that caused you to ask  
24 him to make an affidavit?

25 A No. During the hearing, I had had

1 time to consider what he had said and I wanted to get  
2 that on record. So after the hearing, I again -- or I  
3 asked Mr. Pleau if he would give an affidavit to that  
4 subject.

5 Q And what did he say?

6 A He said he would.

7 Q And did you prepare an affidavit  
8 concerning that subject for Mr. Pleau to sign?

9 A Mr. Pleau prepared the affidavit.

10 Q And where did he prepare it?

11 A At the library.

12 Q At the Cocke County Library?

13 A Correct.

14 Q And did you go directly to the  
15 library from the courthouse?

16 A No. First we went to the office of  
17 the circuit court clerk.

18 Q Is that Ms. Peggy Lane?

19 A That is correct.

20 Q And what did you do there?

21 A I requested the use of a computer so  
22 that Mr. Pleau could prepare the statement.

23 Q And did you use a computer there?

24 A I did not.

25 Q Dir Mr. Pleau?

1           A           Mr. Pleau did not.

2           Q           And were you denied use of the  
3 computer?

4           A           Mr. Pleau expressed that he did not  
5 trust anyone in the courthouse and would not make the  
6 statement in the courthouse.

7           Q           So then what did you do?

8           A           We went to the library at his  
9 suggestion.

10          Q           Is it just you and Mr. Pleau?

11          A           Correct.

12          Q           Am I saying that correctly?

13          A           Yeah.

14          Q           So you and Mr. Pleau go to the  
15 library and he prepares -- or does he prepare his own  
16 affidavit?

17          A           He does.

18          Q           What did he say and do you have a  
19 copy of the affidavit? Did you bring that?

20          A           I don't have it with me, no, sir.

21          Q           Do you have that at your house also?

22          A           I have a copy, yes, sir.

23          Q           What does he say in the affidavit?

24          A           I don't recall specifically, but the  
25 general direction was that he was at home and received a

1 phone call from Tom Testerman, a local attorney, who  
2 introduced himself and advised that he was calling on  
3 behalf of Judge Bell, because Judge Bell knew he could  
4 not contact him directly and inquired if he would drop  
5 his complaint with the court of the judiciary.

6 Q And did Mr. Pleau include in his  
7 affidavit anything else other than the fact that  
8 Mr. Testerman called him and asked him to drop the  
9 complaint?

10 A I believe Mr. Pleau included in that  
11 that he advised Mr. Testerman that he was preparing for  
12 a hearing and had no time to consider that.

13 Q Now, how long did it take Mr. Pleau  
14 to make his affidavit -- prepare his affidavit that day  
15 at the library?

16 A From when he sat at the computer?

17 Q Yes, sir.

18 A Approximately 10 minutes.

19 Q And did he have that affidavit  
20 notarized?

21 A Yes.

22 Q And who notarized it?

23 A We went to the office of a local  
24 attorney. I'm not certain as to which one it was,  
25 because I'm not familiar with the Hoopers up there. It

1 was an attorney, Ben Hooper III.

2 Q Okay.

3 A I think that's where it was. We  
4 simply walked the streets until we found someone that  
5 Mr. Pleau had confidence in.

6 Q Well, let's talk about that a little  
7 bit. So Mr. Pleau, when he made his affidavit, did he  
8 put the place for the notary to sign or did the lawyer  
9 have to do that?

10 A I believe the attorney did that.

11 Q And Mr. Pleau picked out the lawyer?  
12 You had nothing to do with that?

13 A I suggested that we go back to the  
14 courthouse and have the document notarized. And  
15 Mr. Pleau, again, stated he didn't trust anyone at the  
16 courthouse. And then I said, "What should we do then?"  
17 And so then I -- we were adjacent to Mr. Hooper's office  
18 and I said, "What about this place? They probably have  
19 a notary." And in fact, it was Mr. Hooper's secretary  
20 or employee that did the notary.

21 Q Did you know Mr. Hooper, Ben Hooper  
22 III?

23 A I had never seen him before in my  
24 life.

25 Q Did you know Ben Hooper III's father

1 who is a circuit judge in Cocke County, Tennessee?

2 A I do know Judge Hooper.

3 Q And in fact you have talked to Judge  
4 Hooper -- you talked to Judge Hooper concerning Mr. Bell  
5 in the prior case, had you not?

6 A I did.

7 Q And had you talked to Judge Hooper at  
8 any point in time from September 2008 until the time you  
9 were back in Newport on February of 2009?

10 A No.

11 Q And had Mr. Daniel ever told you to  
12 call Judge Hooper any time between September 2008 and  
13 2009?

14 A No.

15 Q February 2009. When you went into  
16 Ben Hooper III's office, what did Mr. Pleau tell you  
17 about the fact that he trusted Ben Hooper III?

18 A He didn't indicate he trusted or  
19 distrusted Mr. Hooper III.

20 Q What did he -- what caused you to go  
21 into Mr. Hooper's office, then?

22 A Just happened to be the first place  
23 we went to.

24 Q And did Mr. Pleau know Ben Hooper  
25 III?

1 A He did not indicate to me he did.

2 Q And did Ben -- was Ben Hooper III  
3 present there that morning?

4 A He was.

5 Q And did Ben -- did you have a  
6 discussion with Ben Hooper III about preparing  
7 Mr. Pleau's affidavit?

8 A No.

9 Q You didn't?

10 A No.

11 Q Did Ben Hooper III read the affidavit  
12 before he put the place for the notary to sign it?

13 A He did not.

14 Q He just put a place for a notary to  
15 sign?

16 A I identified myself. And he  
17 requested -- the lady requested identification from  
18 Mr. Pleau and then the document was notarized.

19 Q And you identified yourself as who to  
20 Mr. --

21 A James LaRue, a special investigator  
22 with the court of the judiciary.

23 Q And did you tell Mr. Hooper that you  
24 were there investigating a complaint by Mr. Pleau  
25 against Judge John Bell?

1           A           Absolutely not.

2           Q           And is it your testimony that  
3 Mr. Hooper III never read the affidavit before he  
4 allowed his secretary to place a notary?

5           A           I do not recall Mr. Hooper III  
6 reading the document.

7           Q           Did you ever go back into Mr. Hooper  
8 III's office, inner office?

9           A           No.

10          Q           Is it your testimony that you and  
11 Mr. Pleau stayed out in the waiting room while the  
12 document was prepared?

13          A           We went inside, but not -- and I  
14 think it was like a conference room. It was not the  
15 personal office of anyone that I recall.

16          Q           Was Mr. Hooper III in the conference  
17 room with you and Mr. Pleau?

18          A           Mr. Hooper III was there and I  
19 explained that I needed the services of a notary, and  
20 he -- after I identified myself, he said that would be  
21 fine, and he called his employee who then performed the  
22 service.

23          Q           Does the affidavit that Mr. Pleau  
24 prepared have the style of the case or any style of any  
25 case on it?



1 A Not that I recall.

2 Q What did it say, affidavit of David  
3 Pleau?

4 A Correct.

5 Q And did it have -- the affidavit had  
6 Tom Testerman's name in it, I assume?

7 A I believe so.

8 Q Did Mr. -- so Mr. Hooper came into  
9 the conference room. Mr. Hooper III came into the  
10 conference room and all you told him was who you were  
11 and you needed a notary to sign Mr. Pleau's affidavit?  
12 Is that --

13 A That is correct.

14 Q And do you know who the notary was  
15 that actually signed the affidavit?

16 A I do not.

17 Q A secretary or whatever?

18 A An employee of Mr. Hooper.

19 Q Was Mr. Hooper paid for this service?

20 A No, sir.

21 Q Did you pay him?

22 A I did not.

23 Q Did Mr. Pleau pay him?

24 A He did not.

25 Q And was any other lawyer in

1 Mr. Hooper's firm involved in the signing of this  
2 affidavit, other than Mr. Hooper III?

3 A The only people present were  
4 Mr. Hooper III, his employee, myself, Mr. Pleau. To my  
5 knowledge, nobody else knew we were there.

6 Q Did you have any discussion with  
7 Mr. Hooper III other than what you have testified to  
8 before you left?

9 A No.

10 Q How long would you say that this  
11 whole scenario took in Mr. Hooper's office that day?

12 A Five to 10 minutes.

13 Q And let me be absolutely sure of your  
14 answer to this question. Is it your testimony that Ben  
15 Hooper III did not read the affidavit or there was no  
16 discussion with Ben Hooper III concerning the content of  
17 the affidavit before his employee notarized it?

18 A To the best of my knowledge,  
19 Mr. Hooper was not aware of the content. I simply  
20 requested the services of a notary and he complied.

21 Q Did Mr. Hooper require -- what kind  
22 of identification did Mr. Hooper require of you or  
23 Mr. Pleau before he instructed his employee to notarize  
24 the affidavit?

25 A I showed him my official

1 identification and I believe Mr. Pleau showed him a  
2 driver's license. Actually, he showed it to the  
3 employee who performed the service.

4 Q Have you had any discussion  
5 concerning this present case after that day with Ben  
6 Hooper III.

7 A I have never seen Mr. Hooper since  
8 that day.

9 Q Have you had any discussion of any  
10 kind with his father, Ben Hooper the circuit judge in  
11 Cocke County, Tennessee concerning this case?

12 A I have not.

13 Q Now, about what time was it when you  
14 arrived at Mr. Hooper's office, and what time was it  
15 when you left that day in February?

16 A I can't specifically remember. It  
17 would have been probably between 11 and 12.

18 Q And you left around 12?

19 A It would just be a guess.

20 Q Where did you go from leaving  
21 Mr. Hooper's office?

22 A I went to the office of the district  
23 attorney.

24 Q Did Mr. Pleau go with you?

25 A He did not.

1 Q What did you instruct -- or did you  
2 instruct Mr. Pleau to do anything after leaving  
3 Mr. Hooper's office?

4 A No, sir. I didn't instruct him to do  
5 anything.

6 Q Do you know where he went?

7 A I do not.

8 Q And why did you go to office of the  
9 district attorney?

10 A To use their fax machine.

11 Q And to do what?

12 A To fax the document to Judge Daniel.

13 Q Did the document -- did the affidavit  
14 say anything other than -- did it say anything about  
15 Judge Bell directing this attorney to call Mr. Pleau?

16 A Not to my knowledge.

17 Q Did the document just say that this  
18 attorney called him and asked him to drop the charges?

19 A The document said that he, Pleau, had  
20 received a call from Testerman on behalf of Judge Bell  
21 to inquire if Mr. Pleau would drop his charges with the  
22 court of the judiciary to the best of my knowledge.

23 Q And again, you have that affidavit  
24 with you at home or a copy of it in your notes?

25 A I have a copy, yes.

1 Q And did you talk to the district  
2 attorney about this?

3 A I did not.

4 Q And when you faxed it to Mr. Daniel,  
5 did you then -- what did you then do next?

6 A I returned home.

7 Q Did you talk to anyone in Cocke  
8 County before you left?

9 A No.

10 Q What was your next item that you did  
11 concerning this case after you returned home, next  
12 discussion you had with anyone, next instruction?

13 A Judge Daniel asked me to coordinate  
14 with the state attorney general investigator.

15 Q He asked you to coordinate what with  
16 him?

17 A To assist him in any inquiry that he  
18 had regarding the issue that had taken place with the  
19 affidavit.

20 Q And who was that person?

21 A Mr. Trey King.

22 Q Now, where is he located?

23 A I believe his office is in Nashville.

24 Q And what did you do concerning that?

25 A He called me and asked me how to

1 contact Mr. Pleau and if I would be willing to liaise  
2 with him in interviewing Mr. Pleau.

3 Q And did you agree to do that?

4 A I did.

5 Q And was there a meeting with  
6 Mr. Pleau?

7 A There was.

8 Q And where was that meeting?

9 A In Sevierville.

10 Q And when was the meeting?

11 A It would have been sometime in March.  
12 I don't specifically remember.

13 Q March of the 2009, obviously?

14 A Correct.

15 Q And where was the meeting and who was  
16 present?

17 A The meeting was in the district  
18 attorney's office conference room. Present were  
19 Mr. Pleau, myself, Mr. King, TBI agent Scott Lott, TBI  
20 agent J. J. Sipos, another TBI agent whose name I do not  
21 recall.

22 Q And do you know the date of this  
23 meeting? I apologize.

24 A I don't recall the date.

25 Q Do you have that in your notes?

1 A I have it recorded.

2 Q Did you record the meeting?

3 A I did not record the meeting. I made  
4 some notes and informed Judge Daniel.

5 Q Was there ever a recording of this  
6 meeting by anyone to your knowledge?

7 A Not to my knowledge.

8 Q And was anyone from the attorney  
9 general's office present?

10 A Mr. King.

11 Q That's the state attorney general.  
12 How about the local attorney general; I'm sorry?

13 A The district attorney was not there.

14 Q And what was the discussion at this  
15 meeting? What took place?

16 A Mr. King and the TBI agent  
17 interviewed Mr. Pleau about the circumstances regarding  
18 the phone call from Mr. Testerman.

19 Q Okay. Did you interview Mr. Pleau?

20 A I did not.

21 Q And what did Mr. Pleau say to the TBI  
22 agents concerning the phone call from Mr. Testerman?

23 A He simply related the circumstances  
24 that were reflected in the affidavit.

25 Q Did Mr. Pleau, in his affidavit or in

1 the meeting with the TBI agents, ever say that he was  
2 offered money or offered anything to drop his case?

3 A Not to my knowledge.

4 Q How long did this meeting take place?  
5 I mean, how long did this meeting last; I'm sorry?

6 A Approximately 30 to 45 minutes.

7 Q Were there any discussions about  
8 Mr. Pleau calling Mr. Testerman back and talking to  
9 Mr. Testerman again about this matter?

10 A Yes.

11 Q And what were those discussions?  
12 What was said?

13 A The agent asked Mr. Pleau if he would  
14 be willing to call Mr. Testerman and set up a meeting.

15 Q And the agent -- which agent asked  
16 him that?

17 A It would have been Mr. King or  
18 Mr. Lott.

19 Q Now, Mr. King was the lawyer; right?

20 A Mr. King is an investigator; I'm  
21 sorry.

22 Q And did they ask him to call  
23 Mr. Testerman and did they give him any instructions on  
24 what to say to Mr. Testerman?

25 A They asked if he would be willing to



1 call Mr. Testerman and set up an appointment to further  
2 discuss the situation where Mr. Testerman had requested  
3 he drop his complaint with the court of the judiciary.

4 Q Did they ask him to record either the  
5 phone call or any later discussions with Mr. Testerman?

6 A I don't recall about the phone call.  
7 And at that time, they did not discuss recording any  
8 subsequent contacts.

9 Q Did they ask that they be allowed to  
10 listen into the phone call when Mr. Pleau called  
11 Mr. Testerman?

12 A They did.

13 Q And Mr. Pleau agreed to that?

14 A He did.

15 Q And was it your understanding that  
16 that phone call was somehow going to be recorded by  
17 either Mr. King or the TBI agent or Mr. Pleau?

18 A I do not have that knowledge.

19 Q So did Mr. Pleau agree to do this?

20 A He did.

21 Q And did he, in fact, call  
22 Mr. Testerman and set up a time to go talk to  
23 Mr. Testerman?

24 A He did.

25 Q Do you know when that phone call was

1 made?

2 A That would have been in March.

3 Q Of 2009?

4 A Correct.

5 Q And what was Mr. Pleau instructed to  
6 say to Mr. Testerman by anyone at this meeting  
7 concerning the phone call to set up a later meeting with  
8 Mr. Testerman?

9 A As I recall, the discussion was  
10 simply would Mr. Pleau be willing to go further by  
11 calling Mr. Testerman and attempting to establish a  
12 meeting.

13 Q Did this request by the agents to set  
14 up this call -- did Mr. Pleau readily go along with that  
15 or did he have any apprehension about it?

16 A Mr. Pleau had some apprehension about  
17 it.

18 Q Okay. And what did Mr. Pleau say  
19 about doing that, making that call?

20 A Mr. Pleau was concerned about his  
21 health involved in this situation.

22 Q Tell me about that. Was  
23 Mr. Pleau sick or what was he --

24 A Mr. Pleau felt like he was making  
25 himself a target for retaliation.

1 Q By who?

2 A He didn't say who. He just indicated  
3 that he felt like that he was now a target of  
4 retaliation.

5 Q Did Mr. Pleau tell you that there had  
6 been any specific incident that caused him to think  
7 this?

8 A He did not. He just expressed his  
9 concern and that he also had a case still pending and  
10 how would that impact his case. He was concerned.

11 Q And did Mr. Pleau think that  
12 Mr. Testerman would somehow harm him or Judge Bell or  
13 anyone in the justice system harm him?

14 A He didn't indicate that directly to  
15 me. He indicated that he was concerned about the whole  
16 matter.

17 Q Prior to this meeting on March the  
18 20th, had Mr. Pleau expressed any displeasure or any --  
19 had Mr. Pleau expressed any sentiment to you concerning  
20 Judge John Bell one way or the other?

21 A No.

22 Q Did he express any sentiment  
23 concerning Judge John Bell at the March meeting in  
24 Sevierville with these agents and you?

25 A Not that I recall.

1 Q Now, where was the phone call to be  
2 made from to Tom Testerman?

3 A It was made by a cellular phone from  
4 the office of the district attorney.

5 Q In Sevierville?

6 A Correct.

7 Q And whose cell phone was used?

8 A I don't recall.

9 Q Was Mr. Pleau's cell phone used?

10 A I don't recall, Mr. Bell -- Mr. Ball.  
11 Excuse me again.

12 Q That's all right. Who was present  
13 when the phone call was made?

14 A The TBI agents that I have previously  
15 mentioned and the state attorney general investigator  
16 and myself.

17 Q And was the phone call made that same  
18 day?

19 A Correct.

20 Q And did Mr. Pleau -- was he able to  
21 actually speak with Mr. Testerman?

22 A I don't recall if he spoke with  
23 Mr. Testerman or with Mr. Testerman's employee.

24 Q Well, what was said by whoever was on  
25 the other line? Do you know?

1           A           That they would require a hundred  
2 dollars for Mr. Pleau to be able to speak to  
3 Mr. Testerman.

4           Q           Okay. And what did Mr. Pleau say in  
5 regard to that, to this person on the other line?

6           A           Mr. Pleau advised the person on the  
7 other line that he was calling because Mr. Testerman had  
8 requested him to get back in touch with him about the  
9 subject that they had previously discussed.

10          Q           And what was the other person's reply  
11 on the other end of the line?

12          A           To the best of my knowledge, it  
13 concerned the hundred dollars, but eventually she  
14 agreed -- the employee agreed to give Mr. Pleau an  
15 appointment with Mr. Testerman.

16          Q           And when was the appointment  
17 scheduled for?

18          A           I believe sometime in April.

19          Q           Did that end the conversation between  
20 Mr. Testerman's employee and Mr. Pleau?

21          A           To the best of my knowledge.

22          Q           And, again, you don't know whose cell  
23 phone that was made from? Do you know whether or not  
24 that call was recorded?

25          A           I don't recall. I recall two people

1 standing and attempting to listen to the conversation.

2 I don't recall it being specifically recalling.

3 Q Who were the two people who were  
4 attempting to listen to conversation?

5 A I believe it was Mr. King and  
6 Mr. Lott and Mr. Pleau.

7 Q Was there -- after the appointment  
8 was scheduled, was there discussion that day between the  
9 agents, you, Mr. Pleau about Mr. Pleau actually wearing  
10 a recording device and going to Mr. Testerman's office?

11 A I don't recall if that conversation  
12 took place at that time or not.

13 Q Did a conversation concerning  
14 Mr. Pleau wearing a recording device and going to  
15 Mr. Testerman's office occur sometime before Mr. Pleau  
16 actually went to Mr. Testerman's office?

17 A Yes.

18 Q And where was that conversation and  
19 how did that come about?

20 A That conversation I believe took  
21 place between the -- pardon me; the TBI, the attorney  
22 general investigator, and Mr. Pleau, and I was not privy  
23 to that conversation to the best of my knowledge.

24 Q Do you know where that conversation  
25 took place and when?

1           A           I do not, but I believe it was by  
2 telephone.

3           Q           Okay. Now, had Mr. Pleau, to your  
4 knowledge, had any previous experience in wearing a body  
5 wire and recording somebody's testimony?

6           A           Not to my knowledge.

7           Q           And did you ever actually give any --  
8 or were you present when any instruction was given to  
9 Mr. Pleau concerning how to wear a body wire and record  
10 somebody's conversation?

11          A           Yes, I was.

12          Q           And where did that happen?

13          A           I need to go to the restroom.

14                        (Recess taken.)

15                   MR. BALL: It is my understanding  
16 that counsel for the court of the judiciary  
17 wants to place a matter on the record.

18                   MR. MCHALE: This is Patrick McHale,  
19 assistant disciplinary counsel. During the  
20 break we had a discussion out in the hallway  
21 with Mr. Ball concerning some of the items that  
22 were addressed to us thus far in Mr. LaRue's  
23 deposition. And with respect to the notice, we  
24 had come here today believing all objections  
25 were waived, air to assert an objection to

1 certain material on the basis of the matters  
2 being prepared and in anticipation of  
3 litigation, work product and/or attorney  
4 investigator privilege.

5 In order to facilitate this matter  
6 hopefully and with knowledge that we have trial  
7 dates set in the not so distant future and with  
8 regard to that, we offered to provide the  
9 material that has been asked thus far regarding  
10 this witness and that is: All notes, if any,  
11 of the February 20th conversations or  
12 activities that Mr. LaRue gave that he may have  
13 sent to disciplinary counsel Daniel. And item  
14 number two would be an affidavit that Mr. LaRue  
15 testified about that had been prepared by  
16 Mr. Pleau on or about February 20th.

17 MR. DANIEL: Let me correct you. I  
18 think it's a report.

19 MR. MCHALE: The reports first and --  
20 yeah, that's right; the report rather than the  
21 notes; I'm sorry. And item two would be the  
22 aforementioned affidavit. Now, we maintain and  
23 continue to maintain and continue to assert the  
24 privileges and the work product issues  
25 indicated earlier. However again, owing to the



1 situation with respect to our docket, we will  
2 do this.

3 Disciplinary counsel, Daniel, will  
4 repair to the car and get his file and we will  
5 provide any and all documents that we came  
6 today prepared to provide, that even though  
7 technically we may be asserting those  
8 privileges and/or defenses to production, we  
9 will provide again both in response to specific  
10 questions that Mr. Ball may have of this  
11 witness -- and for that matter, I assume the  
12 next witness.

13 And that also we were willing to  
14 provide and had prepared to provide not  
15 withstanding that or in response to any further  
16 written discovery that comes without a  
17 discovery dispute in suing him. I guess I  
18 should then ask, Mr. Ball, have I fairly stated  
19 the nature and content of our conversation  
20 outside?

21 MR. BALL: The answer to your  
22 question counsel is I think you have fairly  
23 stated the nature and content of your  
24 conversation out in the hall, but let me say  
25 this: Certainly we had requested -- we feel --

1 and properly so in our notice of deposition --  
2 that Mr. LaRue bring these documents with him  
3 and no motion for a protective order or  
4 anything I don't believe has been filed on  
5 behalf of the disciplinary counsel concerning  
6 these documents.

7 But you tell us now you are  
8 prepared to give us some documents, but not all  
9 the documents. And so in that, we don't know  
10 what all the documents are until we actually  
11 see the file. We would request that you  
12 provide us and Judge Ash a copy of a privilege  
13 log or a privilege log asserting a privilege as  
14 to each specific document so we may be able to  
15 address in the correct order whether or not  
16 there is a privilege or not concerning these  
17 documents, but with the idea that we want to go  
18 forward with Mr. LaRue's deposition and that we  
19 don't waive any matters whatsoever and that we  
20 want to continue his deposition until such time  
21 as we do have a ruling from Judge Ash  
22 concerning the entire file.

23 MR. MCDONALD: May I add one thing,  
24 which is at the hearing that I think occurred  
25 by telephone on November the 30th, that there

1 was a representation made that you were going  
2 to advise our office of any items that you were  
3 going to be making such an objection to. And  
4 we have received nothing during the three  
5 weeks. Plus, that's been going on since the  
6 date of that hearing.

7 There has been a lot of  
8 communication back and forth about setting  
9 dates both for this deposition and other  
10 subsequent depositions, and you have not raised  
11 that issue at any time before now.

12 MR. BALL: So what we would like to  
13 do -- and we would file as we will get a copy  
14 of the file as exhibit 2 to Mr. LaRue's  
15 deposition, is a copy of the transcript of the  
16 hearing before Judge Ash. So with that said  
17 counsel, that's fine if you can give us those  
18 documents, we will go forward. We just want to  
19 get things properly before Judge Ash and I  
20 think that's way it should be done.

21 MR. MCHALE: Let me see the notice if  
22 I could please.

23 MR. BALL: That's exhibit 1. Would  
24 you mark this transcript as exhibit 2?  
25

1 (Thereupon, the respective  
2 document was marked  
3 Exhibit No. 2.)

4 MR. MCHALE: Well, we were -- there  
5 was no intention without it coming up today  
6 that we would respond to that type of inquiry,  
7 and then particularly under the facts of how  
8 this case has come because it's all documents  
9 because of its breath, and we made that  
10 objection today. So it's our position it's  
11 timely. Be that as it may, this is precisely  
12 the type of hassle we seek to avoid and we will  
13 then give you the material.

14 Well, first of all, we don't have  
15 Mr. LaRue's file here, but we can recreate  
16 what's in his file from what Judge Daniel has  
17 because he has nothing in his file to our  
18 knowledge without -- we haven't discussed with  
19 him.

20 But one of this things you asked  
21 about that we haven't discussed were did he  
22 make any notes about his original tasking, if  
23 I'm not mistaken, and of course we would  
24 provide those too. But we will provide -- we  
25 will do this. We will provide the material

1 today that we have discussed. We will prepare  
2 a specific privilege log as to what we are not  
3 willing to provide, and we will do that before  
4 January 5th.

5 MR. BALL: That's fine.

6 MR. MCHALE: And we will go from  
7 there.

8 MR. BALL: That's fine. Thank you  
9 counsel. Are we ready?

10 THE WITNESS: Yes, sir.

11 MR. DANIEL: I'm going to retire and  
12 see if I can find what you need.

13 MR. BALL: That will be fine.

14 BY MR. BALL:

15 Q Mr. LaRue, let me see if I can see  
16 where we were. I think we, Mr. LaRue, were up to the  
17 April call to Mr. Testerman's office and that call again  
18 was made from the local district attorney general's  
19 office in Sevierville; is that correct?

20 A That is correct.

21 Q And then tell me what you did after  
22 that call was made. What was the next thing you did  
23 concerning this Pleau matter?

24 A I requested that the state attorney  
25 general inspector, Mr. King, keep me advised if I could

1 be of assistance to him. And I requested the privilege  
2 of being able to attend any further meetings that he had  
3 with Mr. Pleau.

4 Q And did he in fact do that? Did  
5 Mr. King do that?

6 A He did.

7 Q And what was your next discussion  
8 with Mr. King concerning the Pleau matter -- what I will  
9 call the Pleau matter?

10 A The next discussion I had was I  
11 believe Mr. King informed me that they had arrived at a  
12 plan and that they would meet with Mr. Pleau prior to  
13 going into his scheduled meeting with Mr. Testerman.

14 Q Do you need to take that? Is that a  
15 call?

16 A It's my hearing aid.

17 DAVID PITMAN: We're off the record.

18 (Off-record discussion.)

19 BY MR. BALL:

20 Q Mr. King advised you that a plan had  
21 been devised and that they were going -- that they were  
22 going to meet with Mr. Pleau; is that correct?

23 A Correct.

24 Q And what was the plan? Were you  
25 informed of what the plan was by Mr. King?

1           A           They had indicated they wanted to  
2 record the meeting between Mr. Pleau and Mr. Testerman.

3           Q           Now who is they?

4           A           Mr. King and Scott Lott, the TBI  
5 investigator.

6           Q           To your knowledge, was Mr. Steve  
7 Daniel involved in devising this plan to record  
8 Mr. Pleau's conversation with Mr. Testerman?

9           A           No.

10          Q           Did you ever have any discussions  
11 with Mr. Steve Daniel about a plan to record Mr. Pleau's  
12 conversation with Mr. Testerman?

13          A           I informed Judge Daniel that I would  
14 attend the meeting as an observer if he gave his  
15 consent.

16          Q           Did he give his consent?

17          A           He did.

18          Q           And what did Mr. -- did Mr. Daniel  
19 say anything else about this plan and meeting with  
20 Mr. Pleau or give you any instruction?

21                   MR. MCHALE: Objection; privilege.  
22                   Go ahead and answer.

23                   THE WITNESS: Mr. Daniel, I believe,  
24 was first made aware of the meeting and the  
25 intent of the state attorney general and the

1 TBI when I informed him of that operation they  
2 had planned and then he gave his consent for me  
3 to go and observe.

4 Q And where did you go and what did you  
5 observe?

6 A We met Mr. Pleau, the TBI  
7 investigator Mr. Lott, state attorney general  
8 investigator, Mr. King, and I met Mr. Pleau in Newport  
9 where they outfitted him with the device to record his  
10 meeting with Mr. Testerman.

11 Q Where in Newport did you meet and on  
12 what day did you meet?

13 A The specific date I do not recall,  
14 but I probably have that. I can recover that.

15 Q In your report? Did you make a  
16 report about this meeting?

17 A I made probably a verbal report to  
18 Judge Daniel and I may have a constructed letter, a  
19 timeline of things that had happened, and I may have  
20 that. But we met adjacent to the Food City, between the  
21 Food City and the railroad track.

22 Q In a parking lot or a building?

23 A More of an alleyway.

24 Q And who actually placed the body  
25 recorder on Mr. Pleau's person, if in fact that was



1 done?

2 A Mr. Scot Lott.

3 Q And did Mr. Lott instruct Mr. Pleau  
4 on how to use the body recorder?

5 A He did.

6 Q And did you have anything to do --  
7 did you say anything?

8 A I was only an observer.

9 Q Have you ever used a body recorder?

10 A I have not.

11 Q Have you ever worn one?

12 A In a previous life I have.

13 Q Not in this life?

14 A No.

15 Q Did Mr. King give any instruction to  
16 Mr. Pleau concerning what he was to say or what he was  
17 to do with Mr. Testerman?

18 A Not that I recall.

19 Q Was Mr. Pleau ever instructed to try  
20 to get Mr. Testerman to say anything concerning John  
21 Bell?

22 A To the best of my knowledge, I think  
23 the TBI investigator asked Mr. Pleau to try to determine  
24 what connection Mr. Testerman had with Judge Bell.

25 Q Did the TBI investigator, Mr. King,

1 or yourself ever instruct -- ever say, instruct and/or  
2 say anything to Mr. Pleau about getting Mr. Testerman  
3 to -- or asking -- getting Mr. Testerman to try to get  
4 Mr. Testerman to offer him money to drop these charges  
5 against Mr. Bell?

6 A To my knowledge, that was never  
7 mentioned.

8 Q Is it not true that the purpose of  
9 Mr. Pleau going in to talk to Mr. Testerman was to try  
10 to get Mr. Testerman to say that there was a connection  
11 between Mr. Testerman talking to Mr. Pleau and Judge  
12 Bell?

13 A Mr. Pleau believed that there was  
14 already a connection when he advised me of the telephone  
15 call between himself and Testerman. But to my  
16 knowledge, I don't know what further instruction the TBI  
17 agent gave to Mr. Pleau regarding his meeting with  
18 Testerman.

19 Q Did you think that the TBI agent met  
20 Mr. Pleau outside your presence and gave him some other  
21 instruction?

22 A Not to my knowledge.

23 Q And so you were, to your knowledge,  
24 present during all the times that the TBI agent would  
25 have given or could have given Mr. Pleau instruction?

1           A           With the exception of some phone  
2 calls to set up the time and place.

3           Q           The TBI agent had done that or  
4 Mr. King had done that with Mr. Pleau?

5           A           It's my assumption.

6           Q           Did Mr. King ever tell you that?

7           A           He did not.

8           Q           Did the TBI agent ever tell you that?

9           A           He did not. I believe I stated  
10 Mr. King advised me of the time and place of the meeting  
11 and that was the only knowledge that I had of any  
12 contact between Mr. King and Mr. Pleau.

13          Q           So you go back to Newport, and this  
14 would have been April of 2009; is that correct? The day  
15 you put the body recorder on Mr. Pleau?

16                   MR. MCHALE: I'll object to the form.  
17 He didn't put it in. I don't think you meant  
18 that he specifically put it in.

19                   MR. BALL: I can rephrase the  
20 question.

21 BY MR. BALL:

22          Q           The day that the body recorder was  
23 placed on Mr. Pleau?

24          A           I believe that was in April, yes,  
25 sir.

1           Q           And were you able -- you, the TBI  
2 agent, or Mr. King -- were you able to actually listen  
3 to the actual conversation between Mr. Testerman and  
4 Mr. Pleau while it was going on?

5           A           It is my understanding the TBI agent  
6 and Mr. King did. I was in another vehicle and was not  
7 privy to that conversation.

8           Q           And how long did that conversation  
9 between Mr. Testerman and Mr. Pleau last?

10          A           I would guess 20 minutes.

11          Q           Is it your testimony that you were in  
12 another vehicle and could not actually hear the  
13 discussion that was being had?

14          A           That is correct.

15          Q           And did Mr. Pleau come out, leave  
16 Mr. Testerman's office and meet with you and Mr. King  
17 and the TBI agent again, after he left Mr. Testerman's  
18 office?

19          A           Mr. Pleau came out of the office, got  
20 in his own vehicle, and we all returned to the parking  
21 lot, the east end of the Food City where the agents  
22 recovered their equipment.

23          Q           And recovered the tape or was there a  
24 tape?

25          A           Whatever the device -- whatever the

1 mechanics of that device was, and I'm not familiar with  
2 what it was.

3 Q And has -- there was a recording made  
4 of the conversation between Mr. Testerman and Mr. Pleau?

5 A To the best of my knowledge.

6 Q And have you seen a transcription of  
7 that recording?

8 A I have not.

9 Q And were you told by anyone that  
10 Mr. Testerman said to Mr. Pleau or offered Mr. Pleau any  
11 consideration of any kind to drop those charges?

12 A The specifics of the conversation  
13 with were not discussed with me.

14 Q Was any of the conversation discussed  
15 with you that day as between Mr. Pleau and Testerman?

16 A No.

17 Q Were you not interested in what had  
18 taken place because you didn't hear it? Did you ask  
19 what was --

20 A I was of course interested, but they  
21 chose not to give me a briefing on the issue which I  
22 assumed because they were considering some criminal  
23 issue and I wasn't privy to that.

24 Q Well, did you not say guys, what  
25 happened? Did we get what we wanted? What happened?

1           A           Of course I said that, and they said  
2 we got a good recording and we'll go take it and analyze  
3 it.

4           Q           Well, do you know where --

5           A           Even though there were no specifics  
6 mentioned to me about it, as I said, I was in another  
7 vehicle and didn't hear the conversation at all. So  
8 they chose not to involve me in any of the specifics.

9           Q           So they told you they got a good  
10 recording and you just let it go at that?

11          A           I did.

12          Q           What did you take -- did you have any  
13 opinion as to what a, quote, good recording meant?

14          A           Good quality was my interpretation of  
15 what they said.

16          Q           Did you have a discussion with  
17 Mr. Pleau about the recording or the conversation with  
18 Mr. Testerman?

19          A           No. I may have asked him how did it  
20 go and he said it went well, meaning that he was  
21 satisfied with his performance.

22          Q           His performance. What was he  
23 supposed to have -- part was he supposed to have played?

24          A           Mr. Pleau was concerned about wearing  
25 the device and he was necessarily nervous because he

1 didn't have any experience in that arena at all and he  
2 was naturally concerned about what may happen if the  
3 device failed or, you know, a number of different  
4 concerns that he had.

5 Q About what time of day was it that  
6 Mr. Pleau finished his conversation with Mr. Testerman,  
7 approximately?

8 A I do not recall.

9 Q In the afternoon or in the morning?

10 A I believe it was afternoon.

11 Q And after the body recorder was taken  
12 off Mr. Pleau's person, what did you do? Did you leave  
13 Newport? What did you do?

14 A I called Judge Daniel and reported to  
15 him.

16 Q What did you say to Judge Daniel?

17 A That the TBI -- the state attorney  
18 general investigator had armed Mr. Pleau with a  
19 recording device. He had gone in and did his interview  
20 with Mr. Testerman, returned, and they indicated that  
21 they would take those files and analyze them. And that  
22 was the end of my report to Judge Daniel.

23 MR. BALL: Turn this off. We need to  
24 go to the bathroom.

25 (Recess taken.)

1 BY MR. BALL:

2 Q Mr. LaRue, you have been an  
3 investigator with the court of the judiciary for  
4 approximately three, three and a half years. Is that a  
5 fair statement?

6 A Yes, sir.

7 Q And as a private contractor with the  
8 court of the judiciary?

9 A Yes, sir.

10 Q And you have investigated a lot of  
11 different complaints against judges --

12 A Yes, sir.

13 Q -- in that time?

14 A Yes, sir.

15 Q Is it your understanding that when  
16 you -- when someone makes a complaint such as Mr. Pleau  
17 had made in this case, that when you are investigating  
18 that complaint, that you are actually representing that  
19 person who has made the complaint? Has that ever been  
20 your understanding?

21 A That is not my understanding.

22 Q What was your understanding of your  
23 role as an investigator, vis-à-vis the person who makes  
24 the complaint?

25 A His status is simply a complaint with



1 the court, and I use that person as a source of  
2 information.

3 Q As you would through the judge who  
4 the complaint is made against?

5 A I seldom talk to a judge, Mr. Ball.

6 Q But you certainly didn't think you  
7 were personally in your capacity the representative of  
8 Mr. Pleau in this matter?

9 A Absolutely not.

10 Q Did Mr. Daniel ever tell you that he  
11 was the lawyer for Mr. Pleau in the matter?

12 A No.

13 Q Has he ever told you that the counsel  
14 to the court of the judiciary was the lawyer for any  
15 complaint before the court of the judiciary?

16 A No, sir. He has not.

17 Q Have you ever had any discussion with  
18 him concerning the status of a complainant before the  
19 court of the judiciary as to whether or not counsel for  
20 the court of the judiciary would be considered that  
21 person's lawyer?

22 A No.

23 Q Now, let's go back. After you left  
24 Newport that day that Mr. Pleau had recorded  
25 Mr. Testerman's testimony, what was your next

1 involvement in the Pleau matter?

2 A Judge Daniel forwarded to me some  
3 telephone records and asked me to analyze them for a  
4 specific cause between Mr. Testerman and Mr. Pleau --  
5 Mr. Testerman, Judge Bell, and I did.

6 Q Okay. Now, telephone records --  
7 Judge Daniel sent you telephone records of conversations  
8 between -- or telephone records of Mr. Pleau?

9 A Correct.

10 Q Were they home telephone records or  
11 cell phone records of Mr. Pleau?

12 A Home telephone records.

13 Q Home telephone records of Mr. Pleau.  
14 Where did -- do you know where Judge Daniels got the  
15 home telephone records of Mr. Pleau?

16 A I believe he got them from the  
17 attorney general investigator, Mr. King.

18 Q And do you know where the attorney  
19 general got those records?

20 A I think he subpoenaed those records.

21 Q He subpoenaed the records of  
22 Mr. Pleau?

23 A Of Mr. Testerman and Judge Bell.

24 Q You subpoenaed the telephone records  
25 of Mr. Testerman's office and Judge Bell's office or

1 their residences or --

2 A All of those.

3 Q Residences and --

4 A To the best of my knowledge.

5 Q Do you know when that subpoena was  
6 issued?

7 A I do not.

8 Q Do you know what court that subpoena  
9 was issued from?

10 A I do not.

11 Q Do you know who signed the  
12 subpoena -- if anyone signed, any judicial officer  
13 signed the subpoena?

14 A I do not know that.

15 Q Were there any cell phone records  
16 involved?

17 A There were.

18 Q And again, do you know who signed the  
19 subpoena for cell phone records?

20 A I do not know.

21 Q Were there cell phone records of  
22 Judge Bell, Tom Testerman, and Mr. Pleau?

23 A I believe so.

24 Q Anyone else? Any records for any  
25 other person?

1 A No.

2 Q And you reviewed cell records and  
3 residential and business phone records for all three of  
4 those people?

5 A I reviewed the records that were sent  
6 me.

7 Q Well, were they sent for Judge Bell,  
8 Tom Testerman, and David Pleau, their cell, residence,  
9 and office phone records?

10 A I'm not certain about some of the  
11 cell records that were requested because I really don't  
12 recall whether or not all those were provided. But the  
13 records that they forwarded me, I did look at and  
14 perform an analysis of those records.

15 Q And when were those records forwarded  
16 to you, what date?

17 A I do not remember the specific date.

18 Q Were they forwarded sometime after  
19 April of 2009?

20 A I would only be guessing to say yes.

21 Q And did you review those in your home  
22 in eastern Tennessee?

23 A Yes.

24 Q And what did your review reveal?

25 A My review revealed phone calls

1 between Judge Bell's office and Testerman's office and a  
2 call from Testerman to Pleau. I do not remember the  
3 exact dates.

4 Q Did it reveal -- did your review of  
5 these records reveal anything else concerning Judge  
6 Bell, Mr. Testerman, and Mr. Pleau?

7 A My review indicated a telephone call  
8 between Mr. Testerman and Mr. Pleau placed by Testerman  
9 which coincided with the events that Mr. Pleau had made  
10 in his affidavit.

11 Q Anything else?

12 A No, sir.

13 Q And how long did that review take?  
14 How long did it take you?

15 A It was 306 pages. It took a  
16 significant amount of time.

17 Q Did you write a report on that?

18 A I don't believe I wrote a report. I  
19 think I isolated that document and furnished it to Judge  
20 Daniel.

21 Q Okay. Had Judge Daniel given you any  
22 instructions other than to review these records?

23 A No. He indicated that he didn't have  
24 the time to do it and requested that I do it.

25 Q Did these records that were sent to

1 you, they didn't have any kind of recording of the  
2 conversations?

3 A No, sir.

4 Q And again, you don't know what court  
5 the subpoena was issued from?

6 A I do not.

7 Q Do you have any knowledge that the --  
8 any subpoena issued from the court of the judiciary  
9 concerning this matter?

10 A None that I'm aware of.

11 Q Is Mr. King -- Agent King, what is  
12 his exact title? Do you know?

13 A He is an investigator for the state  
14 attorney general is how I know him. I have a card for  
15 him at my residence, but I don't -- I may have it in my  
16 truck, but I recall him as an investigator.

17 Q For the state attorney general and  
18 the state attorney general is -- I'm trying to think of  
19 his name.

20 A Mr. Cooper?

21 Q Yeah, Bob Cooper.

22 A I believe that's correct.

23 Q Do you know whether or not the state  
24 attorney general authorized a search of Mr. Judge Bell  
25 and Tom Testerman and Mr. Pleau's telephone records?

1 A I would not have that knowledge.

2 Q After your review of these telephone  
3 records, what did you do with the telephone records?

4 A Nothing.

5 Q Do you still have them?

6 A Yes, sir.

7 Q You have them?

8 A I have them. I have a copy. I  
9 really don't -- I have them on a PDF file.

10 Q Do you keep -- when you write a  
11 report or whatever, do you write that on the computer?

12 A I do.

13 Q So we could -- anything you report,  
14 you do it on your computer. So we could get a copy of  
15 it.

16 MR. MCHALE: Well, subject to --

17 MR. BALL: Subject to counsel's  
18 objections of course.

19 THE WITNESS: That is my normal mode  
20 of operation. As I said in this case, because  
21 of the peculiar issues that have gone on, we  
22 have had a lot of telephone conversations of  
23 the reports and then subsequent direction by  
24 Judge Daniel to follow up and things like that.

25 And I'm satisfied -- when he is

1 satisfied, I'm satisfied. And if he requires  
2 it to be documented, then I do. And normally  
3 there is a lot of documentation going on in an  
4 investigation, but because of the involvement  
5 of the TBI and the attorney general, I have  
6 not -- I have witnessed things, but I have not  
7 necessarily recorded them on paper.

8 BY MR. BALL:

9 Q After you reviewed the telephone  
10 records, what was the next thing you did concerning the  
11 Pleau matter?

12 A The next thing we did was Judge  
13 Daniel requested me to accompany him to Newport to  
14 interview Mr. Testerman.

15 Q When did Judge Daniel request that  
16 you accompany him?

17 A Sometime prior to July the 16th of  
18 this year.

19 Q Was July the 16th the date that you  
20 actually met with Mr. Testerman?

21 A Yes. To the best of my knowledge  
22 it's the 16th, to the best of my recall.

23 Q Had you known Tom Testerman prior to  
24 July the 16th, 2009?

25 A I met Mr. Testerman in the previous



1 issue with Judge Bell.

2 Q Now, that issue that was resolved in  
3 2008?

4 A Correct. And interviewed him because  
5 he was the attorney of record for East Tennessee  
6 Probation Incorporated.

7 Q When did Judge Daniel -- or  
8 Mr. Daniel ask you to accompany him? What was the date  
9 he actually requested?

10 A I don't recall. It was Judge  
11 Daniel's practice to inform me that he -- it was his  
12 desire to meet with Mr. Testerman and he would give me a  
13 couple to three days lead time so that I wouldn't be  
14 involved in anything.

15 Q Did he ask you to set up the meeting?

16 A No, sir, he did not.

17 Q Do you know who set it up?

18 A It was a cold meeting.

19 Q A cold meeting?

20 A In other words, we appeared  
21 unannounced.

22 Q In Mr. Testerman office?

23 A We did.

24 Q And how did you know he was going to  
25 be there?

1 A We didn't.

2 Q And who was with you besides  
3 Mr. Daniel?

4 A No one.

5 Q When you went to see Tom Testerman --  
6 you and Mr. Daniels went to see Mr. Tom Testerman in his  
7 office, would it be a fair statement to say that you  
8 believe that Mr. Testerman had been acting on behalf of  
9 Judge Bell in the Pleau matter prior to you going there  
10 that day?

11 A Yes.

12 Q And you believe that Mr. Testerman  
13 was acting in his capacity as a lawyer prior to going  
14 there that day on behalf of Judge Bell?

15 A Prior to that day, I had no knowledge  
16 of that.

17 Q You believed he -- you believe that  
18 Mr. Testerman had been acting -- making statements to  
19 Mr. Pleau on behalf of Judge Bell?

20 A Correct.

21 Q What capacity do you think  
22 Mr. Testerman would have been acting on behalf of Judge  
23 Bell in?

24 A I didn't have an opinion as to what  
25 the relationship between Mr. Bell -- or Judge Bell and

1 Mr. Testerman was. I mainly had focused on the  
2 statement that Mr. Pleau had given, and that it was my  
3 opinion that would have been inappropriate for an  
4 attorney to do that.

5 Q Prior to -- where did you meet  
6 Mr. Daniels -- or Daniel that day prior to going to  
7 Newport, Tennessee?

8 A At my residence.

9 Q And did you two drive there together  
10 to Newport?

11 A Yes, we did.

12 Q And did you discuss what was going to  
13 be said to Mr. Testerman if you found him in his office?

14 A Judge Daniel was going to inquire of  
15 him if in fact he had made such a telephone call to  
16 Mr. Pleau on behalf of Judge Bell. That was the purpose  
17 of his visit.

18 Q And anything else that Judge Daniel  
19 was going to inquire of Mr. Testerman about?

20 A No. That was the subject as far as I  
21 know.

22 Q Had you already listened to -- prior  
23 to going there on July the 16th to see Mr. Testerman,  
24 had you already listened to the recording conversation  
25 between Mr. Pleau and Mr. Testerman?

1           A           The recording conversation was never  
2 made available to me.

3           Q           Is it your testimony that you have  
4 never heard it to this day?

5           A           It is my testimony I have never heard  
6 it.

7           Q           Have you ever read a transcript --  
8 transcription of that?

9           A           No transcript has ever been provided  
10 me.

11          Q           So are you telling us you had no  
12 knowledge of what was said between Mr. Pleau and  
13 Mr. Testerman?

14          A           I have no specific knowledge of what  
15 occurred in the meeting between Testerman and Pleau.

16          Q           Do you have any general knowledge of  
17 what occurred?

18          A           Only that Mr. Testerman had offered  
19 to help Mr. Pleau with his case.

20          Q           The case that was pending before  
21 Judge Bell?

22          A           Correct.

23          Q           And what did Mr. Testerman -- what  
24 did Mr. Testerman -- how did Mr. Testerman offer to  
25 help?

1           A           The only specific thing that I recall  
2 was that apparently Mr. Pleau had indicated that he had  
3 had problems with subpoenas and Mr. Testerman had  
4 offered to help him with this subpoena situation.

5           Q           And that was it?

6           A           That's the only specific that I can  
7 recall.

8           Q           Anything generally, other than what  
9 you have just told me?

10          A           No, sir.

11          Q           When you went into Mr. Testerman's  
12 office the morning -- or was it the morning when you  
13 arrived?

14          A           It was at noon.

15          Q           When you went into the office, who  
16 was in Mr. Testerman's office?

17          A           Mr. Testerman's secretary or employee  
18 was there.

19          Q           And do you know who that person was?

20          A           I do not know her name.

21          Q           What did you or Mr. Daniel say to  
22 her?

23          A           Requested to see Mr. Testerman.

24          Q           And did she ask you what it was  
25 about?

1           A           She did not.

2           Q           Did Mr. Testerman -- did she go back  
3 and tell Mr. Testerman?

4           A           She said Mr. Testerman was not there.

5           Q           Then what happened?

6           A           I left the office of Mr. Testerman.  
7 We came outside, Judge Daniel remained at the street  
8 corner, and I went to the courthouse -- started to the  
9 courthouse in an attempt to locate Mr. Testerman and  
10 asked him to come back and be with us at his office.  
11 And I got across the bank building parking lot and my  
12 phone rang, and Judge Daniel advised me that  
13 Mr. Testerman had just drove up. He recognized  
14 Mr. Testerman. And then when I went back to the street  
15 corner, we both entered and Mr. Testerman showed us to  
16 his office.

17           Q           So you go back to Mr. Testerman's  
18 office and it's you, Mr. Testerman, and Mr. Daniel?

19           A           Correct.

20           Q           And what did Mr. Daniel say to  
21 Mr. Testerman?

22           A           Judge Daniel introduced himself and  
23 me, again, and Judge Daniel asked Mr. Testerman if he  
24 was aware that he was the disciplinary counsel and then  
25 they discussed --

1 Q Disciplinary counsel for --

2 A The court of the judiciary. And  
3 Mr. Testerman recognized both of us from the previous  
4 incident in 2008. Then Judge Daniel asked him some  
5 specific questions about the uninsured motorist  
6 situation, and they exchanged comments about that.

7 Q What did Mr. Daniel say about the  
8 uninsured motorist situation?

9 A He asked Mr. Testerman if he was  
10 aware that the plaintiff would have to sue the  
11 uninsured prior to seeking recovery from the insurance  
12 company.

13 Q Now, Mr. Testerman wasn't the lawyer  
14 for the uninsured motorist, was he?

15 A Not to my knowledge. Judge Daniel  
16 was simply asking him if he was familiar with that  
17 circumstance.

18 Q The general circumstance or the  
19 specific case of Mr. Pleau?

20 A General circumstance.

21 Q And Mr. Testerman said he was?

22 A Said that he was familiar and he had  
23 participated in such.

24 Q And did Mr. Daniel ever tell  
25 Mr. Testerman that -- or did Mr. Daniels ever say

1 anything about Mr. Pleau during this conversation?

2 A Yes.

3 Q And what did he say?

4 A He asked Mr. Testerman if he had  
5 placed a phone call to Mr. Pleau.

6 Q Did he ask him -- and what was  
7 Mr. Testerman's response?

8 A Yes. He had called Mr. Pleau.

9 Q And did Mr. Daniels ask him why he  
10 had called Mr. Pleau?

11 A Mr. Daniels asked him why and  
12 Mr. Testerman replied that he called at the request of  
13 Judge Bell.

14 Q Now, were you or Mr. Daniel, either  
15 one, wearing a recorder?

16 A No, sir.

17 Q Do you have any record of this  
18 conversation between you and Mr. Daniel and  
19 Mr. Testerman?

20 A I have a record of my notes.

21 Q And did you file a report concerning  
22 this conversation?

23 A I sent that record to Judge Daniel.

24 Q And did -- prior to the discussion  
25 with Mr. Testerman, prior to any mention of Mr. Pleau,



1 did Judge Daniel ask Mr. Testerman whether or not he  
2 represented Judge Bell?

3 A He did not.

4 Q In the Pleau matter?

5 A Nor did Testerman indicate that he  
6 did.

7 Q Okay. After Judge Daniel asked  
8 him -- asked Mr. Testerman, had he placed a telephone  
9 call to Mr. Pleau at Judge Bell's request? What did  
10 Mr. -- tell us again what Mr. Testerman said.

11 MR. MCHALE: I'm going to object to  
12 the form.

13 BY MR. BALL:

14 Q What did Mr. Testerman say in  
15 response?

16 A Mr. Testerman said in the request of  
17 Judge Bell and he informed us of the circumstances of  
18 that request that he had placed a call to Mr. Pleau to  
19 request that he discontinue his complaint with the court  
20 of the judiciary.

21 Q You say Mr. Testerman informed you of  
22 the circumstances of the request?

23 A Yes.

24 Q And what did he tell you about the  
25 circumstances of the request?

1           A           He said that he had encountered Judge  
2 Bell in the hallway of the courthouse of Cocke County,  
3 and Judge Bell had informed him that he was again the  
4 subject of a complaint and requested that Testerman call  
5 Mr. Pleau. And it is my assumption he informed him of  
6 how to get in touch with Mr. Pleau and request if he  
7 would not discontinue that complaint.

8           Q           Did Mr. Daniel ever say anything to  
9 Mr. Testerman about charges being brought against  
10 Mr. Testerman before the board of professional  
11 responsibility?

12           A           Judge Daniel advised or stated  
13 several statutes, which I did not record nor can I  
14 remember, that would involve improper conduct on the  
15 part of an attorney and a violation of the canon of  
16 ethics for the court of the judiciary and made  
17 Mr. Testerman aware that he was responsible or obligated  
18 to report the incident to the board of professional  
19 responsibility.

20           Q           That he, Mr. Daniels, was obligated?

21           A           As an attorney, he was obligated to  
22 make that report.

23           Q           Did Mr. Daniel -- those several  
24 statutes, were any of those statutes that Mr. Daniel  
25 cited to Mr. Testerman criminal statutes that involved

1 illegal or criminal conduct?

2 A Mr. Testerman stated that he was not  
3 familiar with the statutes although he could look them  
4 up, but that he -- it was his assumption there was some  
5 criminal exposure and that he, at that time, would  
6 decline to continue with the interview.

7 Q Now, you had already asked him about  
8 the circumstances. Is it after he related the  
9 circumstances that Mr. Daniel told Mr. Testerman about  
10 the criminal statutes and the canons of ethics?

11 A I don't recall the sequence.

12 Q After the statement by Mr. Daniel  
13 concerning the criminal statutes and the canons of  
14 ethics, is that when Mr. Testerman declined any further  
15 comment?

16 A Prior to that, Mr. Testerman had gone  
17 into some explanation of how he was a small town  
18 attorney who tried to get along with everyone, him and  
19 Judge Bell had practiced law and opposed each other  
20 previously, and that he had assented to do the phone  
21 call on behalf of Judge Bell because he was just trying  
22 to get along, and that everyone had a wonderful  
23 Christmas party up there, and that all the bar attempted  
24 to get along, and -- you know, it was just a small town,  
25 he had to pay the rent, faced a litany of those types of

1 things and explaining why he made the telephone call.

2 Judge Daniel, at some point in time,  
3 advised him that he knew of a complaint that Mr. Pleau  
4 had filed and that his actions on behalf of Judge Bell  
5 may have been a violation. I do not recall whether or  
6 not he specifically said there are criminal implications  
7 or not, but at that time, Mr. Testerman stated that if  
8 there was criminal exposure, he would not give an  
9 affidavit nor would he continue the interview.

10 Q And prior to going to Mr. Testerman's  
11 office, did you ever have a discussion with Judge Daniel  
12 that if in fact you found Mr. Testerman and interviewed  
13 him and Judge Daniel interviewed him or discussed with  
14 him that Judge Daniel, himself, would be placing himself  
15 as a witness in this case?

16 A No.

17 Q Have you ever gone on an -- in the  
18 three years that you have been an investigator in this  
19 matter, have you ever gone on an investigation with  
20 Mr. Daniel where you actually interviewed a very  
21 important witness in the matter?

22 A Oh, yes.

23 Q Now, how long did this discussion  
24 with you and Mr. Daniel and Mr. Testerman last?

25 A Thirty to 45 minutes.

1 Q Did you tell Mr. Testerman at any  
2 point in time during this discussion that Mr. Pleau at  
3 the request of TBI agents had recorded a conversation  
4 with Mr. Testerman earlier?

5 A No.

6 DAVID PITMAN: We're off the record.  
7 (Off-record discussion.)

8 BY MR. BALL:

9 Q Why did you never tell Mr. Testerman  
10 that a recorded conversation had been -- had occurred  
11 between -- a recording had occurred between Mr. Pleau  
12 and Mr. Testerman? Why didn't you tell him that?

13 A The subject never came up. I didn't  
14 volunteer that information.

15 Q When Mr. Testerman was informed of  
16 these several statutes and canons of ethics -- and he  
17 declined to give you an affidavit; is that correct?

18 A He did.

19 Q And he declined to be interviewed any  
20 further?

21 A He did.

22 Q Have you ever had occasion to  
23 interview Mr. Testerman since?

24 A No, sir.

25 Q Have you been in a discussion with

1 Mr. Daniel where you discussed filing a complaint with  
2 the board of professional responsibility with the State  
3 of Tennessee against Mr. Testerman?

4 A Mr. Daniel has not discussed that  
5 with me specifically.

6 Q Have you ever raised it with  
7 Mr. Daniel?

8 A I have not raised it with him.

9 Q Have you sought to bring any criminal  
10 charges with the state attorney general's office against  
11 Mr. Testerman?

12 A My position is to inform Judge Daniel  
13 of the circumstances and he makes any decisions on  
14 criminal issues, but informs me that if a criminal issue  
15 is present, then I'm to cease my involvement for the  
16 court.

17 Q Would you tell me that again?

18 A Judge Daniel tells me that if a  
19 criminal issue is uncovered in our investigation, then  
20 he handles the matter by making proper referrals. And  
21 in this instance, I was asked to be a liaison with  
22 Mr. Pleau and the state investigators. And that has  
23 really been the only involvement in criminal activities  
24 in this case that I have participated.

25 Q You realize part of the charges in

1 this case are that Judge Bell violated criminal  
2 statutes, are you not?

3 A I have read that, but it's not my  
4 position in a criminal issue. As I said, Judge Daniel  
5 makes those determinations and informs the proper  
6 authority. That's my opinion.

7 Q Have you ever asked Judge Daniels why  
8 in fact there are criminal violations alleged in the  
9 civil complaint?

10 A I would never ask Judge Daniel that.

11 Q Now, after you left Mr. Testerman's  
12 office on July the 16th, 2009, where did you go -- you  
13 and Mr. Daniel go?

14 A We returned to Knoxville.

15 Q Did you talk to anyone else in Cocke  
16 County that day before you returned?

17 A We did not.

18 Q Did you have a discussion with Judge  
19 Daniel about what had occurred in Mr. Testerman's office  
20 on the way back to Knoxville?

21 A In general terms we did.

22 Q And what did you discuss in general  
23 terms?

24 A I cannot believe Mr. Testerman would  
25 admit that he called Mr. Pleau on behalf of Judge Bell.

1 Q And why did you say that?

2 A Because it would have been my opinion  
3 that that would have been improper.

4 Q And what do you base that opinion on?

5 A That Testerman would be involved in  
6 an issue regarding Judge Bell and Mr. Pleau in an  
7 attempt to influence Mr. Pleau to drop a complaint.

8 Q Is that opinion based on a violation  
9 of a criminal statute or a violation of a canon of  
10 ethic?

11 A Just based on common sense.

12 Q Based on your common sense?

13 A Correct.

14 Q No specific statutory, canon of ethic  
15 or otherwise?

16 A No.

17 Q It didn't feel good to you?

18 A I just figured that was wrong.

19 DAVID PITMAN: We're off the record.

20 (Off-record discussion.)

21 MR. MCHALE: With respect to the  
22 matter discussed earlier about documentation,  
23 disciplinary counsel Daniel has located his  
24 file in an effort to determine what he has that  
25 Mr. LaRue may have forwarded him, and I will



1 address matters that I have made notes on that  
2 follow the subject to correction or  
3 supplementation. There are no notes in Judge  
4 Daniel -- Mr. Daniel's file with respect to a  
5 February 20th meeting or event that has been  
6 testified about, that being when Mr. LaRue went  
7 to observe a hearing in Cocke County.

8 The second item is, I believe that  
9 I have made a note, is an affidavit of  
10 Mr. Pleau --

11 MR. DANIEL: No. It's reports of  
12 Mr. LaRue to me.

13 MR. MCHALE: That's part of number  
14 one. Number two that I wrote down is a report  
15 of an affidavit -- I'm sorry; an actual  
16 affidavit by Mr. Pleau made on February 20th,  
17 and I am placing that in the middle of the  
18 table right now as our first document provided.  
19 The next item --

20 MR. BALL: Counsel, could we mark the  
21 affidavit as exhibit 3?

22 MR. MCHALE: Sure.

23 MR. BALL: Is that all right?  
24  
25

1 (Thereupon, the respective  
2 document was marked  
3 Exhibit No. 3.)

4 MR. DANIEL: That's a copy, by the  
5 way.

6 MR. BALL: I understand.

7 MR. MCHALE: And certainly we'll let  
8 you examine the original if you want to. The  
9 next item is any documentation regarding a  
10 meeting of -- we have been working on a  
11 timeline that is not a completed document. And  
12 I think Mr. LaRue -- I know he doesn't have it  
13 with him now. I don't know if he has it in his  
14 file, but it's just to refresh his  
15 recollection. I think he testified about that.

16 We don't have such a timeline with  
17 us -- I'm sorry; we have a timeline, but it's  
18 not a finished product, and we would not want  
19 to vouch for its accuracy and have it be used  
20 accordingly. It's notes we have made in  
21 anticipation of trying to get a sketch of when  
22 we are going on. We can talk about that if you  
23 want to. The next item, which you have not  
24 specifically asked for, but we presume -- and  
25 it's always dangerous to presume -- would be

1 the phone records about which Mr. LaRue  
2 testified that were forwarded to him by  
3 Mr. Daniel for his review, and I then pass  
4 those to be the next exhibit.

5 MR. DANIEL: Those were originals.  
6 You can copy those.

7 MR. MCHALE: That would be, I guess,  
8 number 4; is that right?

9 MR. BALL: Yes.

10 (Thereupon, the respective  
11 document was marked  
12 Exhibit No. 4.)

13 MR. MCDONALD: The testimony was that  
14 there was 306 pages and --

15 MR. MCHALE: That's what he said,  
16 yeah. And I have noticed on the top, there was  
17 something about 329 in there. I don't know  
18 where these numbers are coming up from and I  
19 assume you are free to ask about that. I just  
20 know that there is a title up there that says  
21 something about 329, but my reaction was the  
22 same. It didn't feel like 329 when I picked it  
23 up.

24 MR. BALL: Counsel, do you have the  
25 actual -- in your file, the actual search

1 warrant to get these --

2 MR. MCHALE: May I consult? We do  
3 not. It did not emanate from our office.

4 MR. BALL: I understand that. And  
5 can you tell us -- maybe Mr. Daniel can.  
6 Mr. LaRue testified that there were 329 pages  
7 and there is probably 30 here.

8 THE WITNESS: I can clear that up.  
9 The documents that you have, without me looking  
10 at them, would be the ones that I had gleaned  
11 from the 300 and some pages because of the  
12 volume of calls between the courthouse and  
13 Mr. Testerman and all the phone records that  
14 are provided. These -- it is my assumption --  
15 are the ones I determined were pertinent.

16 MR. MCHALE: Do you want to -- do you  
17 still have the remaining balance of the 300 and  
18 however many?

19 THE WITNESS: I only have a PDF file  
20 which was forwarded to me, which I reviewed and  
21 then printed off these pertinent documents.

22 MR. MCHALE: Well, we could provide  
23 the whole PDF file if they want; correct?

24 MR. BALL: We do.

25 MR. MCHALE: Why don't we make the

1 whole PDF file, then, exhibit 4A.

2 MR. BALL: That's fine.

3 (Thereupon, the respective  
4 document was marked  
5 Exhibit No. 4A.)

6 MR. MCHALE: The next item that -- I  
7 don't know if you specifically asked about and  
8 if you have, that's fine. If you haven't,  
9 that's fine and I've got it denominated as a  
10 record or an interview with Testerman or a  
11 statement prepared by Mr. LaRue. And I would  
12 identify that has a three-page statement that I  
13 would tender as exhibit number 5 to Mr. LaRue's  
14 deposition, and that's only copy we have today.

15 (Thereupon, the respective  
16 document was marked  
17 Exhibit No. 5.)

18 MR. MCHALE: And that is it. We do  
19 not -- Judge Daniel -- Mr. Daniel advises me  
20 that he does not have any handwritten notes  
21 from Mr. LaRue for anything. Mr. LaRue -- I  
22 noticed last night and he can speak for  
23 himself -- there has been a one-page yellow pad  
24 with some scrawlings on it. I have no idea  
25 what that was or how it pertained to this case.

1                   And I don't know if he has got any  
2 raw notes that later transformed into something  
3 else. And certainly you feel free to ask him  
4 about that, but we do not -- I don't -- we  
5 don't have any knowledge about that. We have  
6 no other formal written typed or computer  
7 generated or regular data reports from  
8 Mr. LaRue to Mr. Daniel that we have been able  
9 to locate. However, we will represent on the  
10 record, we will continue to search for the same  
11 and certainly have no objections to those.

12                   At this point, we are not aware  
13 that we are failing to provide anything that  
14 would have complied with the subpoena, but we  
15 will review again with the continuing  
16 understanding before about raising objections  
17 and so forth. But in preparation for today, we  
18 focussed on the phone -- in no particular  
19 order -- the phone records, the documentation  
20 or memorialization of the interview with  
21 Mr. Testerman and the affidavit of Mr. Pleau as  
22 being the germane documents that would be  
23 addressed.

24                   Let's see. Can I get Mr. LaRue --  
25 a copy of his statement back? And then are

1 they making the phone records, a copy of those  
2 also?

3 MR. BALL: They will. Give me a copy  
4 of LaRue's statement.

5 MR. MCHALE: Now, we have got an  
6 original of this. Is this our copy to keep?

7 MR. BALL: Yeah.

8 MR. MCHALE: Have you each got the  
9 copies you need relative to --

10 MR. BALL: I think.

11 MR. MCHALE: And that's all I have,  
12 again, subject to additions, correction,  
13 supplementation, and otherwise.

14 THE WITNESS: The only raw notes that  
15 I have that are on what he says --

16 MR. MCHALE: This is Mr. Ball's  
17 deposition, if he wants to --

18 MR. BALL: Go ahead.

19 MR. MCHALE: Go ahead; I'm sorry.

20 THE WITNESS: All those notes  
21 regarding something else and the only notation  
22 that was there was when I recorded the dates of  
23 the next depositions and the dates of trial,  
24 which I used for my planning purposes.

25 MR. MCHALE: Why don't you send us a

1 copy of those in the next week or so and we'll  
2 look them over and probably forward them on as  
3 needed or raise the objections if that's okay.  
4 I assume it's like directions to places and  
5 things?

6 THE WITNESS: Sure.

7 MR. MCHALE: Is that all right,  
8 Mr. Ball?

9 MR. BALL: Yes.

10 MR. MCHALE: And will you represent  
11 on today's record that you will look on your  
12 computer to see if there are any other  
13 formal-type documents that pertain to this case  
14 and will you then forward those to us?

15 THE WITNESS: Yes, I will review.

16 MR. MCHALE: We have identified -- I  
17 think the only thing on your computer being the  
18 PDF file of the phone records.

19 THE WITNESS: Correct.

20 MR. MCHALE: And I'm going to excuse  
21 myself for a moment. Please feel free to start  
22 back without me. Judge Daniel, if it's okay  
23 with you, will handle our end of things.

24 MR. BALL: Very good. Thank you  
25 counsel.



1 BY MR. BALL:

2 Q Mr. LaRue, during the conversation  
3 that you and Mr. Daniel had with Mr. Testerman in  
4 Mr. Testerman's office in July, 2009, did Judge Daniel  
5 tell Mr. Testerman that he represented Mr. Pleau?

6 A I don't recall that. I don't recall  
7 that specifically.

8 Q Did Judge Daniel tell Mr. Testerman  
9 that after he identified himself as special counsel to  
10 the court of the judiciary -- or counsel to the court of  
11 the judiciary, what did he tell them he was there for?

12 A I think he got right to the subject  
13 of the -- after talking about Mr. Testerman's  
14 background, his education and his practice of law for 18  
15 or so years and some background information that was  
16 volunteered by Mr. Testerman, I think he very early on  
17 asked him specifically about the telephone call after  
18 explaining that he was the disciplinary counsel and was  
19 looking into the matter of a complaint by Mr. Pleau.

20 Q You say in your report, which has  
21 been marked exhibit 5 here -- and you can look at it.

22 A May I look at it?

23 Q Yes. Can we staple that together or  
24 put it together? On the last page of your report in the  
25 second paragraph you say that Judge Daniel then made

1 Testerman aware of several rules under the code of  
2 professional conduct and asked Testerman if he was aware  
3 of these rules; is that correct?

4 A Yes.

5 Q And then you go on further and you  
6 say Testerman replied that he did not know the specific  
7 citations, but was aware, I assume, of the rules of  
8 professional conduct. Judge Daniel advised Testerman  
9 that he was required to make a report to the board of  
10 professional responsibility and his counterpart, Nancy  
11 Jones. Did Judge Daniel specifically identify Nancy  
12 Jones as a person he would make a complaint to?

13 A I believe he asked Mr. Testerman if  
14 he knew Nancy Jones to which Mr. Testerman replied he  
15 did not, but he knew Lance Bracey.

16 Q And did Mr. Daniels tell  
17 Mr. Testerman that he, Mr. Daniels, was required to  
18 report this matter to the board of professional  
19 responsibility?

20 A I believe he did.

21 Q And do you know whether that has been  
22 done or not by Mr. Daniel?

23 A Yes.

24 Q And did Mr. Daniel in fact do that?

25 A To the best of my knowledge.

1           Q           And did Judge Daniel inform Testerman  
2 that he was not accused or indicted in any criminal  
3 acts?

4           A           He did.

5           Q           And did he inform Testerman of the  
6 criminal implications of his alleged acts?

7           A           Testerman assumed there may be some  
8 criminal liability into it and stated that at which time  
9 he then declined to answer any more specific questions.  
10 Judge Daniel was clear with him that he was not a  
11 criminal investigator.

12          Q           Judge Daniel was very clear to  
13 Mr. Testerman that he was the lawyer for Mr. Pleau and  
14 counsel for the disciplinary board?

15          A           That he was the disciplinary counsel  
16 for the court of the judiciary. I do not recall him  
17 specifically saying anything about Mr. Pleau.

18          Q           "Pleau." I keep calling him "Pleau."

19          A           I do too.

20          Q           Did you talk to anyone else or tell  
21 them that you had the phone records of Judge Bell other  
22 than Mr. Daniel?

23          A           No.

24          Q           You didn't tell Mr. Testerman you had  
25 his phone records?

1 A Not that I recall.

2 Q Do you know who Mr. J.J. Stambaugh  
3 is?

4 A I do not know Mr. J. J. Stambaugh.

5 Q Do you know the name J. J. Stambaugh?

6 A His mother and I were classmates, and  
7 I had a social relationship with, I think, his father.

8 Q Jim Stambaugh?

9 A Jim Stambaugh, yes.

10 Q Attorney from Morristown?

11 A Many years ago now. I haven't seen  
12 him in over 20 years.

13 Q You know that Mr. Pleau gave  
14 Mr. Stambaugh an interview on or about October 21, 2009  
15 concerning the Bell matter and Pleau matter?

16 A I receive a daily synopsis that is  
17 put out by the AOC and I recall reading something in  
18 that I believe, but I'm not -- I'm not familiar with the  
19 whole article, no.

20 Q Has Mr. Pleau ever told you that  
21 anyone has ever offered him any money or any kind of  
22 consideration concerning his civil case that was pending  
23 before Judge Bell to drop the complaint.

24 A He has not told me that. He has  
25 asked me why would they do that.

1 Q Asked you -- I don't understand. Ask  
2 you why -- that anyone would offer him money?

3 A Why would they attempt to get him to  
4 try to drop the complaint?

5 Q How did you respond to that?

6 A I had no response for him.

7 Q You say you have read the official  
8 charges in this case, have you not, the formal charges?

9 A I have reviewed them.

10 Q And count three, paragraph eight of  
11 the formal charges, your office says in late  
12 January 2009 or early February 2009, Judge Bell  
13 initiated -- and upon information and belief directed a  
14 scheme designed to influence the aforementioned  
15 Mr. Pleau to dismiss his complaint in the court of the  
16 judiciary.

17 On what basis do you say that Judge  
18 Bell initiated and directed a scheme designed to  
19 influence the aforementioned Mr. Pleau?

20 MR. MCHALE: I'll object to the form.  
21 He didn't make that statement, you're reading  
22 from the complain. Other than the form, go  
23 ahead and answer.

24 BY MR. BALL:

25 Q Go ahead.

1           A           It would be my assumption that the  
2 act that occurred, if it were successful, would result  
3 in a favorable ruling in the general sessions court for  
4 Mr. David Pleau. I believe that would be his position.

5           Q           Mr. Pleau's position?

6           A           That is my opinion.

7           Q           Now, when did the result -- strike  
8 that. Were you present in April 2009 at a hearing where  
9 a decision was made by Judge Bell in this matter?

10          A           Yes.

11          Q           And tell me about that.

12          A           If that was the final hearing and I'm  
13 not familiar with the date that they -- Mr. Pleau  
14 presented his case, Merastar presented their case, Judge  
15 Bell took it under advisement, this was late in the  
16 week, and would render a decision the following week.

17          Q           And I believe that hearing was --  
18 excuse me; I didn't mean to interrupt you.

19          A           That's really all that I know about  
20 it.

21          Q           I believe that hearing occurred on  
22 April 24th and the judgment came down April 27th; is  
23 that correct?

24          A           I believe that's correct.

25          Q           And in Mr. Pleau's favor?

1 A In Mr. Pleau's favor.

2 Q And tell me again when the initial  
3 phone call from Mr. Testerman to Mr. Pleau occurred?

4 A I believe that would be February.

5 Q Of 2009?

6 A Correct, January or February.

7 Q And you and Mr. Daniel waited until  
8 that judgment came down and then you met with  
9 Mr. Testerman on July the 16th, 2009; is that correct?

10 A We did.

11 Q On the April 24th hearing, was  
12 that -- were you there in your official capacity as  
13 investigator for the court of judiciary?

14 A Yes, I was.

15 Q And was that hearing recorded by a  
16 court reporter if you remember?

17 A Not specifically, I do not remember.  
18 It is the normal practice of the sessions court clerk to  
19 make a record of that.

20 Q And were there witnesses who actually  
21 testified at that hearing?

22 A Yes, sir.

23 Q And Ms. Coleman testified?

24 A Ms. Coleman participated. I don't  
25 know if she testified.

1           Q           Who actually testified if you know?  
2 Did Mr. Pleau?

3           A           Mr. Pleau stated his case and I  
4 believe he did have a couple of witnesses. I would not  
5 know their names.

6           Q           In paragraph 16 of the formal  
7 charges, your office states that Judge Bell's conduct is  
8 a violation of Tennessee Code Annotated section 39 dash  
9 16 dash 107 as A; a person commits an offense who  
10 offers, confers, or agrees to confer anything of value  
11 upon a witness or person that the defendant believes  
12 will be called as a witness in any official proceeding.

13                       Do you have any evidence whatsoever  
14 that Judge Bell or Tom Testerman offered to give or do  
15 anything for Mr. Pleau in the proceeding that was  
16 pending before Judge Bell? Do you have any evidence of  
17 that?

18           A           The only -- I have no evidence of  
19 that. I have Mr. Pleau's opinion.

20           Q           Okay.

21           A           Is that it would be favorable to him  
22 if he were to drop that complaint. That's been the  
23 whole vein of the matter.

24           Q           Okay. So you have no evidence, other  
25 than Mr. Pleau's opinion, that he was going to get a



1 favorable result if he dropped the matter; is that  
2 correct?

3 A I do not have any documents or  
4 statements reflecting that.

5 Q But Mr. Pleau had to drop the charge  
6 against Judge Bell to get a favorable opinion; is that  
7 correct? If he didn't drop the charge, he wasn't going  
8 to get a favorable opinion.

9 A That's not my opinion, because the  
10 first decision that was rendered was in his favor.

11 Q The decisions have always been in his  
12 favor, have they not?

13 A The initial decision was in his  
14 favor.

15 Q And the final decision was in his  
16 favor.

17 A The final decision was in his favor.  
18 I don't understand or know the direction of why the call  
19 was made to attempt to influence Pleau to drop the court  
20 of the judiciary hearing.

21 Q Because Mr. Pleau always got a  
22 favorable decision. On every time Judge Bell had a  
23 hearing, Mr. Pleau got a favorable decision, did he not?

24 A On one previous occasion he did.

25 Q But there were only two; is that

1 correct?

2 A At the time Mr. Testerman called him,  
3 there was only one.

4 Q But eventually there were only two  
5 and the decisions were exactly the same. Mr. Pleau got  
6 a favorable decision?

7 A He did.

8 Q And he never dropped the charges.  
9 They are still pending against Mr. Bell -- still pending  
10 today, are they not?

11 A As far as I know.

12 Q How did you have any evidence that  
13 Judge Bell or Tom Testerman corruptly influenced the  
14 testimony of any witnesses in the Pleau matter -- civil  
15 matter, pending before Judge Bell?

16 A I have no knowledge of any of the  
17 witnesses.

18 Q Do you have any evidence to offer?

19 A I did not explore that.

20 Q Do you have any evidence to offer  
21 that Judge Bell or Tom Testerman induced Mr. Pleau or  
22 any witness to avoid or attempt legal process to come  
23 and testify?

24 A Referring to the witnesses?

25 Q Yes, or Mr. Pleau.

1           A           I have no knowledge of the witnesses  
2 in this case.

3           Q           Do you have any knowledge or evidence  
4 to offer that Judge Bell or Tom Testerman induced a  
5 witness to be absent from an official proceeding?

6           A           I have no knowledge of any of the  
7 witnesses.

8           Q           Do you have any evidence or knowledge  
9 that Tom Testerman or Judge Bell offered a witness or  
10 solicited any witness to agree to accept anything of  
11 value for their testimony?

12          A           I have no knowledge of any contact  
13 with Judge Bell or Tom Testerman with any of the  
14 witnesses.

15          Q           Do you have knowledge or testimony or  
16 evidence that Judge Bell or Tom Testerman corruptly  
17 influenced Mr. Pleau or any other witness to testify in  
18 Mr. Pleau's hearing before Judge Bell?

19          A           I have only the knowledge of the  
20 attempt of Mr. Testerman to influence Mr. Pleau to drop  
21 the court of the judiciary charges. I have no  
22 information regarding any of the other witnesses or  
23 evidence.

24          Q           Do you have any knowledge -- and I  
25 apologize if I have asked you this before -- that

1 Mr. Pleau was offered anything of any kind in this  
2 entire world to drop the charges against Judge Bell that  
3 were pending?

4 A Mr. Pleau has not stated that to me.

5 Q Has Mr. Pleau stated that to Judge  
6 Daniels to your knowledge?

7 A Not to my knowledge.

8 Q Did you know that after the  
9 April 27th, 2009 order entered by Judge Bell that the  
10 insurance company appealed that decision to the circuit  
11 court of Cocke County?

12 A Yes.

13 Q And do you know what happened in that  
14 case after the appeal went to the circuit court?

15 A Mr. Pleau informed me that he settled  
16 that case.

17 Q Mr. Pleau was never represented by  
18 counsel throughout this entire matter, was he?

19 A Not to my knowledge.

20 MR. BALL: Can we take a break?

21 Counsel, I think I may be through or very close  
22 to it.

23 (Recess taken.)

24 BY MR. BALL:

25 Q I want to go back with you -- go back

1 to the meeting with Mr. Daniel and Tom Testerman in his  
2 office in, I believe, July of 2009, Mr. LaRue, and ask  
3 you: Did Mr. Daniel tell Tom Testerman or state to Tom  
4 Testerman that day that it was improper and/or unethical  
5 for Tom Testerman to contact his client, Mr. Pleau,  
6 without first going through Mr. Daniel? Do you remember  
7 that?

8 A I do not specifically remember that.  
9 I remember him discussing that in general terms if it  
10 would be improper for someone to contact a client who  
11 was represented.

12 Q Well, you knew at that point in time  
13 that Mr. Pleau was not represented by counsel, didn't  
14 you?

15 A Not in the hearings he was not.

16 Q Well, that's what you were there  
17 talking about, Mr. Pleau's case?

18 A We were there talking about -- we had  
19 covered Mr. Pleau's case. Mr. Testerman had informed us  
20 that he was aware of it, having had conversations with  
21 him. Then Judge Daniel asked him a general question  
22 about that. I do not recall it being specific, to which  
23 Mr. Testerman replied yes, it would be a violation.

24 Q Mr. Daniel told Mr. Testerman that  
25 because Mr. Pleau had a complaint pending with the court

1 of the judiciary, it was improper for he, Mr. Testerman,  
2 to contact Mr. Pleau without first going through  
3 Mr. Daniel. Did he not say that?

4 A I do not specifically recall him  
5 saying that.

6 Q Okay. You do recall Mr. Daniel  
7 saying generally it would be improper for a lawyer to  
8 contact a person who has a complaint lodged -- presently  
9 lodged with the court of the judiciary without calling  
10 the lawyer for the court of the judiciary?

11 A I think they spoke in general terms.  
12 I don't recall specifically Judge Daniel representing  
13 himself as the lawyer for Mr. Pleau, but he was the  
14 disciplinary counsel.

15 Q Are you telling me, sir, that in your  
16 own mind that it's -- it would be improper for a lawyer  
17 to contact a person who had a present complaint filed  
18 against a judge, any judge, before the court of the  
19 judiciary and for any lawyer to contact that person to  
20 discuss that complaint without going through the special  
21 counsel of the court of the judiciary? Is that what  
22 you're saying?

23 A That's not a determination that I  
24 would make.

25 Q Is that what you're saying,

1 Mr. LaRue? You've expressed opinions here all morning  
2 long. Now, in your opinion, is that -- what is improper  
3 about a lawyer calling a person who has lodged a  
4 complaint against a judge and discussing that complaint  
5 with him without calling the special counsel first.

6 MR. MCHALE: Object to the form. Go  
7 ahead.

8 BY MR. BALL:

9 Q What is improper about that?

10 A Well, it would -- I can't -- number  
11 one; I can't imagine why he would do that, but what  
12 would be improper about it would be if he was attempting  
13 to gain an advantage.

14 Q What would be improper about me  
15 picking up the phone and calling you and saying Jim, you  
16 have a complaint pending before the board -- the  
17 judiciary against Judge Bill Swann and I want to talk to  
18 you about it. Why do I have to call Steve Daniel and  
19 talk to him first if you don't want to talk to me?

20 A I don't know why. I really don't  
21 know why.

22 MR. BALL: Thank you. I believe  
23 that's all.

24  
25

## EXAMINATION

1  
2 BY MR. MCHALE:

3 Q Mr. LaRue, Patrick McHale, again.  
4 Are you aware or have you heard that actually the first  
5 general sessions case brought by Mr. Pleau was dismissed  
6 with the ruling against him before your involvement in  
7 this case?

8 A I'm aware of that.

9 Q Would that alter your prior testimony  
10 about any adverse decisions?

11 A Yes, it would. And I was remised  
12 because I did not recall that the first case was  
13 dismissed against him.

14 Q And that was before your involvement?

15 A That occurred before I was asked to  
16 do any work on this.

17 MR. MCHALE: That's all I have.

18 MR. BALL: I have a question in that  
19 regard.

## EXAMINATION

20  
21 BY MR. BALL:

22 Q Are you aware, Mr. LaRue, that the  
23 first case was dismissed eventually after some months  
24 against Mr. Pleau or "Pleau" because Judge Bell was  
25 concerned that he was not represented by counsel and the



1 defense lawyers didn't file a motion pretrial in the  
2 first hearing and didn't file a motion to dismiss the  
3 case until the witness was sworn?

4 MR. MCHALE: I'll object to the form.

5 MR. BALL: Jeopardy attaching.

6 MR. MCHALE: Go ahead and answer.

7 BY MR. BALL:

8 Q Are you aware of the answer?

9 A I am not aware of any concern of  
10 Judge Bell about Mr. Pleau representing himself. I have  
11 read that decision that was rendered by Judge Bell  
12 reflecting the conduct of the attorneys for Merastar.

13 Q And that decision reflects that Judge  
14 Bell knew that Mr. Pleau was not represented by counsel  
15 and the lawyers for Merastar lay and wait for him and  
16 ambushed him?

17 MR. MCHALE: I'll object to the form.  
18 Go ahead.

19 MR. BALL: Him being Mr. Pleau.

20 MR. MCHALE: I'm sorry; I'll still  
21 object to the form. Go ahead and answer.

22 MR. MCHALE: And Judge Bell wasn't  
23 going to have any of it.

24 MR. MCHALE: I'll object to the form  
25 as it is continued. Go ahead and answer.

1 MR. BALL: I withdraw that.

2 MR. MCHALE: Do you want him to  
3 answer or not, or do you want him to answer the  
4 first part?

5 MR. BALL: I'll rephrase it.

6 MR. MCHALE: Thank you, counsel.

7 BY MR. BALL:

8 Q Are you aware, sir, that Judge Bell  
9 was very concerned or concerned in his -- and expressed  
10 it in his ruling that the insurance lawyer had not been  
11 totally forthcoming in filing his motion to dismiss?

12 A I have read the decision by Judge  
13 Bell and I am aware of what he stated in the decision.

14 Q And that speaks for itself, does it  
15 not?

16 A It's of the record, yes, sir.

17 MR. BALL: That's all.

18 MR. MCHALE: Nothing further from us.

19 FURTHER THE DEPONENT SAITH NOT  
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C E R T I F I C A T E

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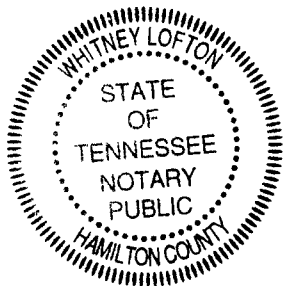
STATE OF TENNESSEE:

COUNTY OF KNOX :

I, Whitney Lofton, Court Reporter and Notary Public, do hereby certify that I administered the oath to the deponent, that I reported in machine shorthand the above testimony, that the foregoing pages, numbered 1 to 115, inclusive, were typed under my personal supervision and constitute a true and accurate record of the proceedings, and that there has been no request made by the deponent to review the transcript.

I further certify that I am not an attorney or counsel for any of the parties, nor an employee or relative of any attorney or counsel connected with the action, nor financially interested in the action.

Witness my hand and official seal this 4th day of December, 2009.



*Whitney Lofton*

Whitney Lofton  
Court Reporter and Notary Public  
My Commission Expires 10/09/13

IN THE TENNESSEE COURT OF THE JUDICIARY

COPY

IN RE: THE HONORABLE JOHN A. BELL  
JUDGE, GENERAL SESSIONS COURT  
COCKE COUNTY, TENNESSEE

Docket No. M2009-02115-CJ-CJ-CJ

COMPLAINT OF DAVID PLEAU  
FILE NO. 08-3508

---

NOTICE OF TAKING DEPOSITION

---

TO: JAMES T. LaRUE  
20 Willow Lane  
Kingston, Tennessee 37765

**TAKE NOTICE** that pursuant to Rule 30 of the Tennessee Rules of Civil Procedure, the deposition of Mr. James T. LaRue will be taken before a Notary Public or other officer authorized by law to take depositions, at the Offices of Ball & Scott, Suite 601, 550 Main Street, Knoxville, TN 37902 on December 2, 2009, commencing at 9:00 a.m. and will continue from day to day thereafter until completed.

The testimony of the witness will be video-taped and will be recorded and transcribed by a court reporter. Counsel are invited to attend and participate.

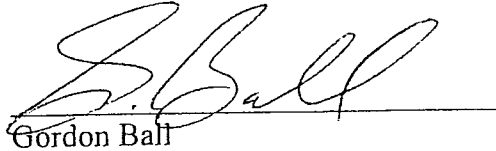
The deponent is instructed to produce at the deposition copies of any and all documents reviewed or relied upon in preparation for the deposition and any and all documents or tangible things related to or referring to the subjects listed in this notice and contained in the deponent(s) files, or other materials.

EXHIBIT

1

see-e

Respectfully submitted, this 19<sup>th</sup> day of November, 2009.

A handwritten signature in black ink, appearing to read "G. Ball", written over a horizontal line.

Gordon Ball

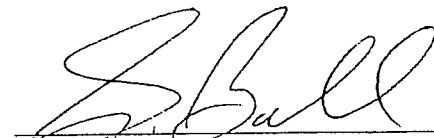
Ball & Scott Law Offices  
550 W Main Street, Suite 601  
Knoxville, TN 37902  
Telephone: (865) 525-7028

**CERTIFICATE OF SERVICE**

A copy of the foregoing was served upon the following by United States Mail,  
first class postage prepaid, upon:

Joseph S. Daniel  
Disciplinary Counsel  
Court of the Judiciary  
503 North Maple Street  
Murfreesboro, Tennessee 37130

This 19<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Gordon Ball

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IN THE TENNESSEE COURT OF THE JUDICIARY

IN RE: THE HONORABLE JOHN A. BELL  
JUDGE, GENERAL SESSIONS COURT  
COCKE COUNTY, TENNESSEE

Docket No. M2009-02115-CJ-CJ-CJ

COMPLAINT OF DAVID PLEAU  
FILE NO. 08-3508

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TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE DON R. ASH

November 30, 2009  
-----

APPEARANCES:

Hon. Patrick J. McHale  
ASSISTANT DISCIPLINARY COUNSEL  
503 North Maple Street  
Murfreesboro, Tennessee 37130

Hon. William Gordon Ball  
Hon. Allen McDonald  
BALL & SCOTT  
550 West Main Street, Suite 601  
Knoxville, Tennessee 37902

Also Present: Don Daugherty.

Reported by: Robin Avery

-----  
ACCREDITED COURT REPORTING  
608 North Walnut Street  
Murfreesboro, Tennessee 37130  
(615) 890-5993

ACCREDITED COURT REPORTING



Board of Judiciary-Bell 11-30-09

TRANSCRIPT OF PROCEEDINGS

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THE COURT: My name is Don Ash. I'm a Circuit Court Judge. I'm the Presiding Judge for the Court of the Judiciary. I think I heard Mr. McHale there, who is our Assistant Disciplinary Counsel. I think I heard Mr. Gordon Ball there as well. And is Judge Bell here as well?

14:58:18 10

MR. BALL: No, he is not, Judge Ash.

11

THE COURT: So, is he waiving his presence?

12

MR. BALL: Pardon me. I'm waiving his

13

presence. And I have at my office Don Daugherty and Allen McDonald.

15

THE COURT: And who are they?

16

MR. BALL: Mr. McDonald is a lawyer in my

17

office. And Mr. Daugherty is a paralegal.

18

THE COURT: Okay. All right. Well, looking at

19

your all's various documents, Mr. Ball, the first issue

14:58:44 20

you raise was that you didn't have adequate notice. In

21

looking at the rules, I agree with you on that. Do you

22

want to go ahead and proceed today or do you want me to

23

reset this later on in the week?

24

MR. BALL: I think we can go ahead and proceed

25

today. I mean, we have filed a response. I hope Your

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1

Honor has had a chance --

2

THE COURT: No. I have read everything. I



3 just need to know -- so, you are withdrawing any  
4 complaint that you have got in regard to notice? Is  
5 that a fair statement?

6 MR. BALL: We prepared it over the weekend, our  
7 response.

8 THE COURT: Okay. Very good. Now, it looks  
9 like our Disciplinary Counsel here has filed, it looks  
14:59:18 10 like three motions. One is a motion to compel various  
11 answers to interrogatories, request for admissions. And  
12 then -- and I think one other thing. And, Mr. Ball, I  
13 appreciate you sending me the case of Floyd versus, I  
14 think, Prime Succession.

15 MR. BALL: Yes, Your Honor.

16 THE COURT: Which is a westlaw case, which I  
17 read. And, in fact, strange enough, I had pulled that  
18 up over the weekend and read it over the weekend. So, I  
19 reviewed that as well.

14:59:50 20 So, Mr. McHale, I'll let you go first in regard  
21 -- I think you request that they answer a number of  
22 these interrogatories and request for admissions and  
23 request for production of documents. Do you want to  
24 address that issue first?

25 MR. MCHALE: Well, I would rather not, Your

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1 Honor. If you please, the most pressing matter is the  
2 purported notice of depositions for this coming  
3 wednesday, December 2nd. And our third motion is the  
4 motion for a protective order. And I suspect that

5 things would flow more easily if we can address that  
6 first. But I'll defer to the Court and --

7 THE COURT: Okay. All right. Let's do the  
8 motion to compel then.

9 MR. MCHALE: Pardon?

15:00:28 10 THE COURT: Let's do the motion to compel.

11 MR. MCHALE: The motion to compel is fairly  
12 simple. And as I read their response on the motion to  
13 compel, frankly, I tend to find more agreement than  
14 disagreement.

15 We are not, under any circumstances,  
16 maintaining that Judge Bell is to be denied his rights  
17 to assert his Fifth Amendment privilege. We do believe  
18 that the assertion of the Fifth Amendment privilege has  
19 to be related to either criminal activity that's alleged  
15:01:02 20 or could reasonably be expected to be alleged.

21 He, on the other hand, refuses to admit certain  
22 facts that under no circumstances could be under any  
23 beliefs elicited to provide any basis for a fundamental  
24 criminal activity. For example --

25 THE COURT: No. That's okay. I got the for

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1 example. Let me ask you this, though. So, really what  
2 you want me to do, based upon the case, I think, that  
3 Mr. Ball sent me, instead of doing a blanket denial of  
4 his -- or request for the privilege, you're asking, I  
5 think, the Court to go through question by question  
6 using the test, I think, adopted by that case and

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7 determine whether or not those should be answered or  
8 not?

9 MR. MCHALE: Yes, Your Honor.

15:01:54 10 THE COURT: Is that a fair statement?

11 MR. MCHALE: Yes, Your Honor.

12 THE COURT: Okay.

13 MR. MCHALE: We set forth in our motion to  
14 compel specific questions that we believe fall outside  
15 the Fifth Amendment privilege.

16 THE COURT: Okay. And, Mr. Ball, do you agree  
17 that that procedure, based upon the case you sent me,  
18 going through that and applying that test, that would be  
19 the appropriate procedure?

15:02:14 20 MR. BALL: Well, first off, the short answer to  
21 that is yes. And that we answered every interrogatory,  
22 every request to admit individually.

23 THE COURT: Yeah. But you claimed the  
24 privilege on every one of them.

25 MR. BALL: We did.

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1 THE COURT: Okay. Right.

2 MR. BALL: We did. And the reason for that, I  
3 think is in our response. And I know Your Honor has  
4 read that.

5 THE COURT: I have.

6 MR. BALL: Is that the allegations are that we  
7 committed Class C, D, and E felonies which would subject  
8 Judge Bell not only to possible removal from office, but

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9 may very well subject him to incarceration. And, so, we  
15:03:02 10 would ask the Court to go through each one of those and  
11 also -- and a major portion of this is going to be not  
12 only his Fifth Amendment right to remain silent, but his  
13 attorney, client privilege with a Mr. Tom Testerman.

14 THE COURT: Yeah. So, did he hire him?

15 MR. BALL: well, again --

16 THE COURT: Oh, you can't answer that?

17 MR. BALL: I can't answer that --

18 THE COURT: Okay.

19 MR. BALL: -- at this point in time.

15:03:36 20 THE COURT: All right.

21 MR. BALL: Because any evidence that would  
22 flow, as Your Honor knows, would be subject to the  
23 privilege, both the right to remain silent under the  
24 Fifth Amendment and the attorney, client privilege.

25 THE COURT: Right.

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1 MR. BALL: what I think, Judge Ash, that this  
2 boils down to is going to be a situation where there's  
3 not going to be more than five witnesses maximum in this  
4 case.

5 THE COURT: well, let's get back to the Fifth  
6 Amendment then. So, basically, you want me to go  
7 through and go through each one of these answers and  
8 make a determination, is that correct? Is that correct,  
9 Mr. Ball?

15:04:14 10 MR. BALL: Yes.

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11 THE COURT: Okay. Good.

12 MR. BALL: It's the only thing to do. With one  
13 notation --

14 THE COURT: Sure.

15 MR. BALL: -- Judge. And it would seem to me  
16 that whoever is appointed as the Trial Judge in this  
17 case --

18 THE COURT: That's me.

19 MR. BALL: Oh, that's you?

15:04:34 20 THE COURT: Yeah. You get me.

21 MR. BALL: Oh, I didn't know that.

22 THE COURT: Yeah. Since I'm the Presiding  
23 Judge of the Court of the Judiciary, it's my  
24 responsibility to preside unless I have some kind of  
25 conflict. And the reason I didn't preside over the last

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1 one with Judge Bell was that I was on the investigative  
2 panel.

3 MR. BALL: Right. I --

4 THE COURT: So, now I don't know anything -- to  
5 be honest, I know nothing about these allegations except  
6 what I have read in the answer -- I mean, in the charges  
7 and the answer.

8 MR. BALL: Our position is very -- I think very  
9 clear that we believe that asserting the Fifth Amendment  
15:05:10 10 right is a sufficient answer to trigger the 60 day  
11 requirement, and that --

12 THE COURT: well, you switched on me there.  
Page 7

13 Because we're going to have to get to that in a moment.

14 MR. BALL: I'm sorry.

15 THE COURT: Right now I'm doing the  
16 interrogatories and request for admissions.

17 MR. BALL: Interrogatories and request for  
18 admissions.

19 THE COURT: Now, I guess my concern is, reading  
15:05:30 20 your brief, you put in here about claiming the Fifth.  
21 The privilege afforded not only extends to answers that  
22 would in themselves support a conviction under a federal  
23 criminal statute but likewise embraces those which would  
24 furnish a link in the chain of evidence needed to  
25 prosecute the claimant for a federal crime.

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1 MR. BALL: And that may well -- you know, that  
2 may well be considering the allegations in the formal  
3 charges that we have suborned perjury some way or  
4 tampered with a witness.

5 THE COURT: And that's the reason you won't  
6 answer even if he is a judge or not a judge?

7 MR. BALL: That's true.

8 THE COURT: Okay. well, what you left out of  
9 your brief was the next sentence that said, but this  
15:06:12 10 protection must be confined to instances where the  
11 witness has reasonable cause to apprehend danger from a  
12 direct answer.

13 MR. BALL: well, and I think Your Honor has to  
14 make that decision --

15 THE COURT: Right.

16 MR. BALL: -- clearly with all those factors in  
17 mind. And I think the cases say that one should take a  
18 liberal approach in protecting the Fifth Amendment right  
19 to remain silent and, of course, the attorney, client.  
15:06:42 20 And this is really going to come up because we expect at  
21 some point in time after we take Mr. LaRue and the  
22 complaining civil witness deposition, filing motions to  
23 suppress --

24 THE COURT: Sure. Absolutely. Okay. I think  
25 I understand it. Okay. In regard to the motion to

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1 compel, I have reviewed the test set out in the case  
2 that was given me by Mr. Ball. And I do appreciate him  
3 doing that. And based upon that, I'm going to order the  
4 following questions be answered.

5 First of all, in regard to the -- I think this  
6 is the request for admissions. And I'm just going to  
7 give you the numbers. 1, 2, 3, 4, 5, 6. On Number 7,  
8 I'm going to reserve that until a later hearing. 8, 9,  
9 10, 11. I'm going to reserve 12 until we have a later  
15:07:58 10 hearing.

11 And then in regard to the interrogatories, 1,  
12 2, 3. I don't think Number 4 is relevant. It asks  
13 about judicial ethics and whether he's been to class or  
14 not. I guess there's really not been a motion to do  
15 that. But I'm going find 4 is not relevant. 5, 6, 7,  
16 8, 9. I'm going to reserve 10. 11, 12. I'm going to  
Page 9

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17 reserve 13. 14, 15, 16. I'm going to reserve 17.

18 MR. BALL: Your Honor, can we go back? I got  
19 lost.

15:08:56 20 THE COURT: Sure. I'm sorry. Tell me where to  
21 go back to.

22 MR. BALL: Back to Number -- I got to I think  
23 we had to answer Number 9.

24 THE COURT: Okay. Number 10, reserved.

25 MR. BALL: Okay.

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1 THE COURT: Number 11, answer. Number, 12  
2 answer. 13, reserve. 14, answer. 15, answer. 16,  
3 answer. 17, reserve. 21, answer. 22, reserve. 23,  
4 reserve. 24 I don't think is relevant based upon this  
5 complaint. And I don't think 25 is relevant either.

6 Then let's go on to the next one. Then on  
7 production of documents, Number 1, answer. Number 2 I  
8 don't think is relevant. Number 3, I'll reserve.  
9 Number 4, I'll reserve. Number 5, I'll reserve.

15:10:12 10 So, I think that takes care of -- and all the  
11 other ones there, I think Mr. McHale agrees that you can  
12 claim the privilege on those. So, I'm going to grant --  
13 I'm going to reserve all those other ones that I didn't  
14 -- if I didn't list it, then it's reserved, and Judge  
15 Bell does not have to answer those.

16 MR. BALL: Is that on the production of  
17 documents?

18 THE COURT: That's on all -- yes, sir.



19 MR. BALL: All others.

15:10:42 20 THE COURT: Uh-huh (Affirmative). Okay. Now,  
21 let's see. The next motion I have got is the motion for  
22 the protective order. And, basically, Mr. McHale says  
23 in here that Steve Daniel is ill. I think that's a true  
24 statement. I do think Mr. Ball has the right to take  
25 these depositions. And then I have already addressed

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1 the issues to comply with discovery.

2 So, Mr. Ball, when would you like to take --  
3 and I understand we're going to have to come back and  
4 talk about this 60 day matter in just a moment. But  
5 when would you like to take the depositions of Mr. LaRue  
6 and the other fellow, understanding that I think former  
7 Judge Daniel may be out for another four weeks?

8 MR. MCHALE: Well, may I interject something?

9 THE COURT: Sure. Go ahead, sir.

15:11:38 10 MR. MCHALE: Mr. Ball raises in his motion  
11 response -- and I'm paraphrasing, you know, that's  
12 unfortunate about Judge Daniel, but we have rights, too.  
13 Speedy trial included among them.

14 THE COURT: Sure.

15 MR. MCHALE: I want to say that, you know,  
16 people get sick, and life goes on. And Judge Daniel --  
17 and I realize I should be judicious, if you will -- and  
18 I'm sorry, first of all -- I vowed before this hearing  
19 not to refer to him as judge. I don't think that's  
15:12:16 20 appropriate in this context. Please forgive me. It is

21 a misstatement if I say it. He is Disciplinary Counsel  
22 Daniel for purposes of this. I have known him for  
23 almost 30 years as Judge Daniel, and it's at best a slip  
24 of the tongue. And I apologize retrospectively and  
25 prospectively.

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1 Now, to continue, in speaking for him that's  
2 difficult. But I have been able to make enough contact  
3 with him to where I feel comfortable in saying we'll  
4 just have to go on. And we cannot put justice on hold,  
5 if you will, while we await the uncertainties of his  
6 very, very difficult situation.

7 The other day I reached out to Assistant  
8 Disciplinary Counsel Riley to check on his availability,  
9 and he's not available much the rest of this month. But  
10 15:13:10 in terms of a potential trial, I think we can line  
11 somebody up.

12 Finally, if I have to try this myself -- and I  
13 have been to court before. I'm not particularly  
14 intimidated by that. Although the preference would be  
15 to have some backup. Now, that's for the ultimate  
16 trial, and that's in general.

17 As far as the depositions goes, all I want --  
18 and I say this in the -- or I attempt to say it in the  
19 motion. All I want is the opportunity to meaningfully  
20 15:13:40 consult with Judge Daniel and let him participate to the  
21 extent he is able in the preparation process.

22 He is just now being released today, we think,  
Page 12

23 from his most recent hospitalization which commenced two  
24 weeks ago today. We sent a timeline, and that speaks  
25 for itself.

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1 I don't particularly care to put these  
2 depositions off forever, respecting the position the  
3 Defense appears to be taking, as well as, you know,  
4 other issues. So, I'm not asking -- and that's a long  
5 way to say, Judge Ash, we don't need four weeks for  
6 these depositions if we can squeeze them in around the  
7 holiday or understanding the holiday.

8 THE COURT: Okay. All right.

9 MR. MCHALE: If we could have a couple of  
15:14:32 10 weeks, that would be more than enough.

11 THE COURT: Sure. So, Mr. Ball, when do you  
12 want to do these?

13 MR. BALL: Judge, I can do these -- and I  
14 appreciate Counsel's remarks. I can do these -- and I  
15 don't think they are going to take more than half a day  
16 for both of them. And I can do them the 21st, 22nd, or  
17 23rd of December.

18 THE COURT: well, what about the week after  
19 that?

15:15:00 20 MR. MCHALE: I would rather do it that 21st,  
21 22nd if that's okay.

22 THE COURT: Oh, okay. All right. Okay.

23 MR. BALL: I would, too, Judge. I would sort  
24 of like to be gone.

25

THE COURT: Okay. All right. So, what day do

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1 you all want?

2 MR. MCHALE: I recommend that we have an  
3 agreement expressed by the order that we will consult --  
4 I will consult with Mr. LaRue who is my contact with Mr.  
5 Pleau, I believe is the pronunciation, a gentleman with  
6 whom I have never spoken. And we will select, and we  
7 will be ordered to select in conjunction with Mr. Ball  
8 some time at his office in Knoxville the 21st, 22nd, or  
9 23rd.

15:15:34 10 MR. BALL: That's very agreeable.

11 THE COURT: Okay. That's good. That sounds  
12 fine to me. So, what I'm going to do is, I'm going to  
13 grant the protective order and reschedule those dates  
14 until the 21st, 22nd, 23rd based upon agreement of  
15 Counsel. That's a positive thing, so thank you.

16 And then last, but not least, motion to set and  
17 scheduling order. And let me pull out my notes for  
18 that. I think -- and I guess I'll let Mr. Ball jump in  
19 here first, and then we'll go -- then I'll let Mr.  
15:16:12 20 McHale jump in second.

21 I think if you read the rule, which is T.C.A.  
22 17-5-308, it says it shall be set within 60 days from  
23 and after the filing of the answer. The answer was  
24 filed on 11-16. So, that means, if I treat this answer  
25 as appropriate, that we would have our trial on January

1 the 16th.

2 MR. BALL: Yes, Your Honor.

3 THE COURT: So, Mr. Ball, is that when you want  
4 to do this?

5 MR. BALL: Yes.

6 THE COURT: Okay. And I assume -- Mr. McHale,  
7 I assume you disagree with that -- having it set on the  
8 16th of January, which by the way, I think is on a  
9 Saturday.

15:17:02 10 MR. MCHALE: To the extent that there's been  
11 noncompliance with Rule 8.02. To the extent they have  
12 made denials, they have not, in our judgment, been  
13 denials that, quote, fairly meet the substance of the  
14 averments denied.

15 THE COURT: But that rule says, doesn't it, Mr.  
16 McHale, that they can make a general denial?

17 MR. MCHALE: Well, they can make a general  
18 denial. But I'm not so sure they have made a general  
19 denial. I think they have made objections. And I don't  
15:17:30 20 think a general denial under either the letter or the  
21 spirit constitutes the good faith that the rule also  
22 requires.

23 THE COURT: Okay. And, Mr. Ball, what do you  
24 think about Rule 8.02?

25 MR. BALL: Well, I think certainly we can make

1 a general denial. Obviously, if we are -- and we could  
2 have said that we don't have sufficient information to  
3 form a belief one way or the other. We could have very  
4 easily have said that. But, specifically, we plead our  
5 Fifth Amendment right. And we believe that that  
6 triggers any running from the date we filed that to  
7 January 16th of '10.

15:18:20

8 THE COURT: Okay. All right. Based upon my  
9 reading of 8.02, it says, a party shall state in short  
10 and plain terms his or her defenses to each claim  
11 asserted and shall admit or deny the averments upon  
12 which the adverse party relies. And this is what Mr.  
13 Ball just said. If the party is without knowledge or  
14 information sufficient to form a belief as to the truth  
15 of an averment, he or she shall so state that, and that  
16 will have the effect of a denial. Denials shall fairly  
17 meet the substance of the averments denied.

18 And then it goes, when a pleader intends in  
19 good faith to deny only a part or a qualification of an  
20 averment, the pleader shall specify so much of it as is  
21 true and material and shall deny only the remainder.  
22 Unless the pleader intends in good faith to controvert  
23 all the averments of the preceding pleading, the pleader  
24 may make denials as specific denials of designated  
25 averments or paragraphs, or may generally deny all the

1 averments except such designated averments or paragraphs  
2 as he or she expressly admits; but, when the pleader  
3 does so intend to controvert all its averments, he or  
4 she may do so by general denial subject to the  
5 obligations set forth in Rule 11.

6 And then if you look down there at the  
7 comments, it says, if the defendant intends to  
8 controvert every averment of the complaint, the  
9 defendant may do so by a general denial with the  
10 signature of the defense attorney as required by Rule  
11 11. It is the certificate of the attorney that there is  
12 good ground to support the pleading. General denials  
13 under these circumstances should be rare.

14 Based upon my review of the answer, I'm going  
15 to find that it does not adequately conform with Rule  
16 8.02. That if you want to make those specific denials  
17 or to claim that privilege, I would rather that you do  
18 it by paragraph instead of however you did it in this  
19 other.

15:20:00 20 And once you file that amended answer and I  
21 have got the time to review that, then I'll make best  
22 efforts, regardless of Judge Daniel's health, which I  
23 hate to say -- or former Judge Daniel's health. And  
24 when I say that, I don't mean to be offensive to him in  
25 any way.

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1 And, Mr. McHale, if you need to hire Assistant  
2 Disciplinary Counsel, I think the Court of Judiciary

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3 certainly would be under an obligation to help you in  
4 regard to doing that.

5 MR. MCHALE: Well, to the extent this case is  
6 going to be as simple as Mr. Ball suggests, I doubt  
7 we'll have to go to that expense. And I doubt Governor  
8 Bredesen would let us.

9 THE COURT: Well, let me get back to where I  
10 was. So, under Rule 8.02, I'm going to find that the  
11 answer is not adequate to start the time period running.  
12 And once you file that, Mr. Ball, then I'll make best  
13 efforts to organize the Court and get them up there to  
14 comply with the statute.

15 Now, let me look at my notes and see if I have  
16 forgotten anything else. And I'm not telling you, Mr.  
17 MCHale, how to organize your case or how to run your  
18 case. But if we're going to be taking depositions -- I  
19 don't know if there are any depositions you want to take  
20 up there. But in order to speed this thing along, since  
21 we're going to be in pretty tight limits, I think that  
22 would be a good thing as well.

23 Mr. Ball does, though -- and I agree with him  
24 completely. He says -- in his response he says that he  
25 wants to set deadlines for discovery, motions, just like

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1 all good attorneys do. So, I really like scheduling  
2 orders.

3 But we are in such a compressed period, Mr.  
4 Ball, would you mind -- and I'll do whichever one you



5 like. Would you like to get with Mr. McHale and see if  
6 you all can put down a pretty tight scheduling order on  
7 this so I can sign that? Or do you want me to do it and  
8 try to, you know, guess when you all want to do things?  
9 Or what would be the most appropriate or easiest thing  
15:21:52 10 for you, Mr. Ball?

11 MR. BALL: I think the most appropriate thing  
12 is for our folks to get with Mr. McHale and try to -- if  
13 he wants to depose anyone, we could probably do it all  
14 on the same day we are going to do Mr. Pleau and Mr.  
15 LaRue I would think. But we'll try to get together and  
16 present Your Honor with a scheduling order.

17 I would want to say one thing. Judge Bell is  
18 an Officer -- and I believe a General in the National  
19 Guard.

15:22:30 20 THE COURT: Sure. My son is in the Marine  
21 Reserve. In fact, he's gotten back from his second tour  
22 in Iraq. So, I certainly understand the obligations of  
23 military service. So, whatever I can do to assist Judge  
24 Bell in that, I'll be more than happy to.

25 MR. BALL: I appreciate that. He's going to

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1 e-mail me today, and he will be -- I don't think we'll  
2 need to worry about this. But he will be in South Korea  
3 the entire month of March.

4 THE COURT: Really? Wow.

5 MR. BALL: Yes, sir. So --

6 THE COURT: That might put us off until April

7 then. I mean, obviously, I'm not going to contradict --  
8 depending on when you file your answer.

9 MR. BALL: Well, we're going to file the answer  
10 fairly quickly. Probably this week. And, so, the time  
11 will hopefully start running from that to maybe sometime  
12 in February.

13 THE COURT: February, March. Sure. Okay. So,  
14 are you telling me, Mr. Ball, that you and Mr. McHale  
15 will get together and try to do a tight scheduling order  
16 for me so that we won't have problems with discovery  
17 being turned over or motions being filed or anything  
18 like that? It's just been my practice that works a lot  
19 better.

15:23:40 20 MR. BALL: Well, certainly if we can do that.  
21 And we will make every attempt.

22 THE COURT: And if you can't, just let me know,  
23 and I'll do it. I have got a form. All I've got to do  
24 is fill in some times. But, like I said, I'll have to  
25 compress some things that I normally give people

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1 additional time.

2 MR. BALL: And as I understand it, we have also  
3 requested that the trial be held in Cocke County.

4 THE COURT: Granted. I'll be more than happy  
5 to do that.

6 MR. BALL: Great. If Your Honor would order  
7 the court reporter to type this up and get us an  
8 immediate transcript.

9 THE COURT: And I'll get her to send you a bill  
15:24:14 10 with it, is that okay?

11 MR. BALL: Well, that's fine.

12 THE COURT: Okay.

13 MR. MCHALE: Court reporter, we want one also.  
14 Judge Ash, before you hang up, I do have one observation  
15 on the trial date.

16 THE COURT: Okay. Go ahead.

17 MR. MCHALE: I have every reason to believe we  
18 can do this in February. And I am mindful, anecdotally,  
19 of the difficulties of summoning the probable Court of  
15:24:34 20 the Judiciary Members who are going to be sitting in  
21 this case and organizing them. And I am being arrogant  
22 enough to suggest that that's going to fall on you and  
23 your office staff in trying to work out those logistics.

24 And I would suggest, subject to Mr. Ball's  
25 input, that indeed we target the first couple of weeks

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1 of February. The only date I appear to be out is --  
2 among my other duties that I didn't sign on for that I'm  
3 now doing and enjoying, as with this, I am giving Judge  
4 Daniel's conflicts of law class at the Nashville School  
5 of Law, their final exam on Thursday, February 4th. But  
6 other than that, my February is clear.

7 And if it is -- and I'm understanding it to be  
8 the goal of the Defense to try to do this in February,  
9 subject to the Court's ability to do those logistical  
15:25:32 10 duties. I would rather point toward that than April,

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frankly.

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THE COURT: well, when you all visit with each other -- and I agree with you. And like I said, I hate to put additional burdens on you all. But if you all can get some week in February -- I will tell you that I have a murder trial the second week of February. The third week of February, I have got a trial, but I really don't want to hear that one anyway, so I can put that one off. The fourth week of February, I have an attempted murder trial. But you all are my priority.

So, really the second -- and I want to fall within that 60 days. So, I want to be fair to everybody on that. Or I think we could agree. But if you all will go ahead and get a date for me. Give me about three days -- I think just to exaggerate saying that it

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would take three days. And I kind of agree with Mr. Ball, I don't think it will.

But if I could have three days and I could have those pretty soon, then I could go ahead and send out the notice to the Members of the Court to see who all is available. And then if I don't have enough people available, then I can get substitute judges based upon the -- I think the statute provides I can do that.

MR. BALL: I think we should be able to accomplish that this week, Judge.

THE COURT: Okay. well, that would really help me if I could get that notice out. And I don't mind --

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13 if you all can agree for somebody to have an ex parte  
14 communication with me to tell me, Judge Ash, we like the  
15 dates of such and such, such and such, and such and  
16 such, then I can send those out.

17 MR. BALL: Okay. And may I draw this order  
18 or --

19 THE COURT: I think I'm going draw it.

15:27:10 20 MR. BALL: You're going to draw it?

21 THE COURT: Yeah. And so --

22 MR. BALL: That takes care of that then.

23 THE COURT: Yeah. So, what I'll do is, I'm  
24 going to get the court reporter to make me a copy of it  
25 as well. And I'll make my best efforts to get this out

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1 -- let's see. Today, I think, is Monday. I'll make by  
2 best efforts depending on when she gets it to me. She's  
3 awfully busy. But if she gets it to me this week, then  
4 I'll try to have it out by next Monday or Tuesday.

5 MR. MCHALE: But we're definitely off for this  
6 coming Wednesday.

7 THE COURT: Right. No depositions this  
8 Wednesday.

9 MR. MCHALE: And I wanted to suggest to Mr.  
15:27:38 10 Ball that -- and I want to do this in the context of  
11 today's hearing so that we're again respecting the  
12 compression of time we're dealing with. We're going to  
13 have some items prepared in anticipation of litigation  
14 as part of what Mr. LaRue would be testifying about.

15 And I will try to get you a list of what that is that we  
16 would be objecting to at the deposition so maybe we can  
17 hash that out.

18 MR. BALL: I'm afraid I don't really understand  
19 what items we would be talking about.

15:28:12 20 MR. MCHALE: Well, I don't know either until I  
21 talk to him and sit down and get an inventory of what he  
22 has in terms of mental impressions, the statements he's  
23 taken, investigative material, matters that are  
24 available to you from other sources, things like that.  
25 For example, he talked to Mr. Testerman.

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1 THE COURT: Okay. Well, wait a second, guys.  
2 And I love being involved in this conversation, but I've  
3 got a docket. They're waiting for me.

4 MR. MCHALE: We'll get that out.

5 THE COURT: Okay. Is there anything else I can  
6 do for you all?

7 MR. BALL: There was one other thing.

8 THE COURT: Sure.

9 MR. BALL: I'm trying to remember what it was.

15:28:46 10 THE COURT: Well, I'll say this. Mr. McHale  
11 and Mr. Ball, I want to tell you I really appreciate the  
12 pleadings that you all sent me. And, Mr. Ball, your  
13 brief was really excellent, and I enjoyed reading it. I  
14 have discovered during my 15 years on the bench good  
15 lawyers make better judges. So, I want to tell you I  
16 really appreciate your work on that.

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17 MR. BALL: Along with Mr. Daugherty. He writes  
18 everything. I can't take the credit for anything.

19 THE COURT: Mr. Daugherty, I want to tell you  
15:29:14 20 thank you. You did a very nice job. All right. I'll  
21 draw the order and get back to you all. And like I  
22 said, if you all can get me those dates pretty quick,  
23 that would be great. Hope you all have a wonderful  
24 Christmas.

25 MR. BALL: Thank you. You too.

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1 THE COURT: Thanks, guys.

2 MR. MCHALE: Thank you.

3 THE COURT: See you all.

4 MR. MCHALE: Mr. Ball and staff, we'll be in  
5 touch.

6 END OF PROCEEDINGS

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REPORTER'S CERTIFICATE

STATE OF TENNESSEE        )  
COUNTY OF RUTHERFORD    )

I, ROBIN AVERY, Court Reporter and Notary Public in and for the State of Tennessee at Large,

DO HEREBY CERTIFY that the foregoing proceedings were taken at the time and place set forth in the caption thereof; that the proceedings were stenographically reported; and that the foregoing proceedings constitute a true and correct transcript of said proceedings to the best of my ability.

I FURTHER CERTIFY that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of events of this action.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of office this 1st day of December, 2009.

\_\_\_\_\_  
Robin Avery  
Notary Public at Large  
State of Tennessee



Board of Judiciary-Bell 11-30-09

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My commission Expires: 11/20/2011

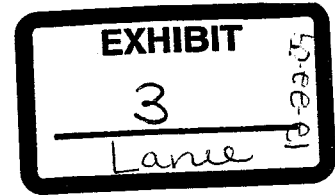
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David Pleau

P.O. Box 204

Bybee, Tn. 37713

February 20, 2009

Court of the Judiciary

Attn. Joseph S. Daniel

Dear Sir,

My name is David J. Pleau, age 52. I make the following statement of my own free will.

Roughly toward the end of January or possibly early February, 2009, in late afternoon, I received a telephone call on my home telephone number which is 423-613-8832 from a person who identified himself as Attorney Tom Testerman. He stated that he was calling in behalf of Judge John Bell. He began with "the judge realizes that it would be inappropriate to call you himself". . . He went on to state (Mr. Testerman) that he would like me to stop by his office and sign a document for the purpose of discontinuing my complaint against Judge Bell, which I lodged with the Tennessee Court Of The Judiciary. I informed Mr. Testerman during that very conversation that my focus was on my upcoming civil suit and would not at that time be available to dismiss any pending action.

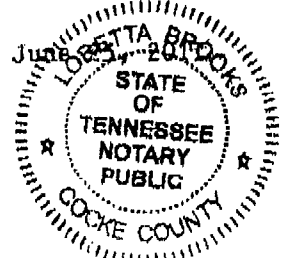
*David J. Pleau*

David J. Pleau

Sworn and subscribed to before me  
this 20th day of February, 2009

*Loretta Brooks*  
Notary Public

My Commission Expires June 1, 2011



TESTERMAN CALLS BELL

13:19 FRIDAY

1-30-09



TESTERMAN RECORD

**Call Detail/Toll Records: BST09068235**

CALL DETAILS FOR TARGET NUMBER: 4236230375 (times are eastern)

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Svc Feat
#2431	01/30/09	11:54:07	423-623-0375	423-623-7271	0:21	Yes		001		
#2432	01/30/09	11:57:45	423-623-0375	423-625-8798	1:39	Yes		001		
#2433	01/30/09	12:00:37	865-803-0202	423-623-0375	1:22	Yes		066		023
#2434	01/30/09	12:07:44	423-623-0375	423-625-0951	0:14	Yes		001		
#2435	01/30/09	12:12:15	423-623-0375	423-625-9440	0:34	Yes		001		
#2436	01/30/09	12:38:04	423-623-0375	423-623-6004	7:07	Yes		001		
#2437	01/30/09	12:45:12	865-256-7600	423-623-0375	0:19	Yes		066		023
#2438	01/30/09	12:57:35	423-625-0951	423-623-0375	0:59	Yes		001		
#2439	01/30/09	13:06:46	423-613-8141	423-623-0375	1:32	Yes		001		
#2440	01/30/09	13:09:59	423-623-3965	423-623-0375	1:19	Yes		001		
#2441	01/30/09	13:13:08	865-919-8950	423-623-0375	0:18	Yes		066		023
#2442	01/30/09	13:19:03	423-623-0375	423-465-3007	0:11	Yes		001		
#2443	01/30/09	13:21:50	423-623-0375	423-587-2800	0:43	Yes	BSL	060		
#2444	01/30/09	13:22:31	423-623-0375	423-587-2800	0:44	Yes	BSL	119		
#2445	01/30/09	13:22:31	423-623-0375	423-587-2800	0:43	Yes	BSL	110		
#2446	01/30/09	13:23:31	423-623-0375	423-623-1575	1:46	Yes		001		
#2447	01/30/09	13:25:39	423-623-0375	423-625-8977	0:12	Yes		001		
#2448	01/30/09	13:28:15	423-623-0375	423-613-9128	0:17	Yes		001		
#2449	01/30/09	13:28:44	865-919-8950	423-623-0375	1:50	Yes		066		023
#2450	01/30/09	13:31:39	423-623-3053	423-623-0375	2:08	Yes		001		
#2451	01/30/09	13:34:20	423-623-0375	423-623-6124	0:25	Yes		001		
#2452	01/30/09	13:37:51	423-613-8141	423-623-0375	0:53	Yes		001		
#2453	01/30/09	13:39:21	865-247-0000	423-623-0375	1:30	Yes		066		023
#2454	01/30/09	13:42:35	423-623-0375	423-623-6124	3:38	Yes		001		
#2455	01/30/09	13:47:21	865-919-8950	423-623-0375	0:40	Yes		066		023
#2456	01/30/09	13:53:02	423-623-0375	865-397-3939	0:56	Yes	BSL	060		
#2457	01/30/09	13:53:43	423-623-0375	865-397-3939	0:55	Yes	BSL	110		
#2458	01/30/09	13:53:44	423-623-0375	865-397-3939	0:56	Yes	BSL	119		
#2459	01/30/09	13:55:37	423-623-0375	865-548-9532	2:03	Yes	BSL	060		
#2460	01/30/09	13:56:18	423-623-0375	865-548-9532	2:03	Yes	BSL	110		
#2461	01/30/09	13:56:18	423-623-0375	865-548-9532	2:03	Yes	BSL	119		
#2462	01/30/09	14:00:59	423-623-6984	423-623-0375	2:28	Yes		001		
#2463	01/30/09	14:11:40	423-623-0375	423-623-3030	0:10	Yes		001		014
#2464	01/30/09	14:14:55	865-428-5787	423-623-0375	2:01	Yes	BSL	060		
#2465	01/30/09	14:15:28	865-428-5787	423-623-0375	1:59	Yes	BSL	110		
#2466	01/30/09	14:15:36	865-428-5787	423-623-0375	2:01	Yes	BSL	119		
#2467	01/30/09	14:24:52	423-487-3891	423-623-0375	0:46	Yes		001		
#2468	01/30/09	14:35:50	423-623-0375	423-721-5676	1:30	Yes		001		
#2469	01/30/09	14:40:01	865-919-8950	423-623-0375	0:20	Yes		066		023
#2470	01/30/09	14:44:03	865-919-8950	423-623-0375	0:14	Yes		066		023
#2471	01/30/09	14:52:06	423-587-0156	423-623-0375	0:07	Yes	BSL	060		
#2472	01/30/09	14:52:47	423-623-0375	423-623-3030	0:07	Yes		001		014
#2473	01/30/09	14:52:47	423-587-0156	423-623-0375	0:07	Yes	BSL	119		
#2474	01/30/09	14:52:48	423-587-0156	423-623-0375	0:06	Yes	BSL	110		
#2475	01/30/09	15:01:29	423-623-4444	423-623-0375	0:22	Yes		001		

**EXHIBIT**  
4  
 Lane

10-EE-01

TESTERMAN CALLS BELL



1-30-09

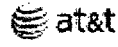
**Call Detail/Toll Records: BST09068235**

BELL RECORD

CALL DETAILS FOR TARGET NUMBER: 4234653007 (times are eastern)

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#316	01/26/09	13:55:33	423-623-3811	423-465-3007	0:37	Yes		001		
#317	01/26/09	14:06:50	423-623-3811	423-465-3007	0:49	Yes		001		
#318	01/26/09	14:14:06	423-623-7323	423-465-3007	0:54	Yes		001		
#319	01/26/09	14:21:03	865-712-4057	423-465-3007	0:29	Yes		066		023
#320	01/26/09	15:56:54	423-465-3007	865-637-5411	6:06	Yes	UTC	119		
#321	01/26/09	16:04:19	423-465-3007	865-637-5411	0:43	Yes	UTC	119		
#322	01/27/09	08:54:17	423-625-9183	423-465-3007	1:32	Yes		001		
#323	01/27/09	09:38:07	865-803-0202	423-465-3007	9:33	Yes		066		023
#324	01/27/09	12:19:40	251-422-5562	423-465-3007	0:44	Yes	WTL	060		
#325	01/27/09	12:19:40	251-422-5562	423-465-3007	0:44	Yes	AT&T	119		
#326	01/27/09	13:05:20	423-562-6020	423-465-3007	0:37	Yes	TQW	119		
#327	01/27/09	13:05:21	423-562-6020	423-465-3007	0:36	Yes	DLT	110		
#328	01/27/09	15:05:06	423-465-3007	251-626-5052	1:27	Yes	VLK	060		
#329	01/27/09	15:05:06	423-465-3007	251-626-5052	1:27	Yes	AT&T	119		
#330	01/27/09	15:19:12	865-803-0202	423-465-3007	1:19	Yes		066		023
#331	01/27/09	15:54:09	423-562-6020	423-465-3007	1:56	Yes	TQW	119		
#332	01/27/09	15:54:10	423-562-6020	423-465-3007	1:55	Yes	DLT	110		
#333	01/28/09	08:11:45	865-712-4057	423-465-3007	5:04	Yes		066		023
#334	01/28/09	09:39:36	4234653007%	%	0:41	No	IBO	194		
#335	01/28/09	09:40:19	423-465-3007	865-541-8000	0:00	No	IBO	192		
#336	01/28/09	11:24:22	423-623-2006	423-465-3007	0:18	Yes		001		
#337	01/28/09	11:46:41	865-712-4057	423-465-3007	1:05	Yes		066		023
#338	01/28/09	13:40:37	865-256-7600	423-465-3007	0:11	Yes		066		023
#339	01/28/09	15:23:43	423-623-0234	423-465-3007	2:12	Yes		001		
#340	01/29/09	11:41:31	865-774-3600	423-465-3007	2:18	Yes	LGT	110		
#341	01/29/09	11:41:39	865-774-3600	423-465-3007	2:20	Yes	AT&T	119		
#342	01/29/09	11:41:40	865-774-3600	423-465-3007	2:20	Yes	LGT	060		
#343	01/29/09	13:32:10	865-919-8950	423-465-3007	7:38	Yes		066		023
#344	01/29/09	15:06:11	423-623-7821	423-465-3007	2:36	Yes		001		
#345	01/30/09	09:06:32	423-465-3007	423-612-9300	0:40	Yes	VLK	060		
#346	01/30/09	09:12:37	865-712-4057	423-465-3007	0:21	Yes		066		023
#347	01/30/09	09:54:05	865-471-6000	423-465-3007	1:17	Yes	BSL	060		
#348	01/30/09	09:54:46	865-471-6000	423-465-3007	1:17	Yes	BSL	110		
#349	01/30/09	09:54:46	865-471-6000	423-465-3007	1:17	Yes	BSL	119		
#350	01/30/09	11:30:30	423-487-3601	423-465-3007	2:46	Yes		001		
#351	01/30/09	11:34:41	865-919-8950	423-465-3007	1:43	Yes		066		023
#352	01/30/09	11:50:27	865-919-8950	423-465-3007	0:10	Yes		066		023
#353	01/30/09	11:52:48	865-919-8950	423-465-3007	0:54	Yes		066		023
#354	01/30/09	12:18:43	423-613-5924	423-465-3007	1:30	Yes		001		
#355	01/30/09	13:19:03	423-623-0375	423-465-3007	0:11	Yes		001		
#356	01/30/09	13:58:20	423-625-9698	423-465-3007	6:13	Yes		001		
#357	01/30/09	14:24:00	423-465-3007	865-577-1644	1:14	Yes	LGT	119		
#358	01/30/09	15:13:23	865-919-8950	423-465-3007	2:07	Yes		066		023
#359	01/30/09	15:21:09	865-712-4057	423-465-3007	0:24	Yes		066		023
#360	01/30/09	15:30:19	423-839-0100	423-465-3007	3:00	Yes		066		023

5-13 TESTERMAN CALUS BELL  
WED 14:25



TESTERMAN RECORD

**Call Detail/Toll Records: BST09068235**

CALL DETAILS FOR TARGET NUMBER: 4236230375 (times are eastern)

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#10396	05/13/09	11:04:48	865-803-0202	423-623-0375	0:54	Yes		066		023
#10397	05/13/09	11:06:44	423-623-0375	423-798-1760	0:00	No	BSL	060		
#10398	05/13/09	11:06:52	423-623-0375	865-322-3017	0:05	Yes		001		
#10399	05/13/09	11:07:00	423-623-0375	423-798-1760	0:00	No	BSL	060		
#10400	05/13/09	11:07:24	423-623-0375	423-798-1760	0:00	No	BSL	110		
#10401	05/13/09	11:07:27	423-623-0375	423-798-1760	0:00	No	BSL	060		
#10402	05/13/09	11:07:40	423-623-0375	423-798-1760	0:00	No	BSL	110		
#10403	05/13/09	11:07:42	423-623-0375	423-798-1760	0:00	No	BSL	060		
#10404	05/13/09	11:07:56	423-623-0375	423-798-1760	7:00	Yes	BSL	060		
#10405	05/13/09	11:08:36	423-623-0375	423-798-1760	7:00	Yes	BSL	110		
#10406	05/13/09	11:08:37	423-623-0375	423-798-1760	7:01	Yes	BSL	060		
#10407	05/13/09	11:45:56	423-625-3654	423-623-0375	1:28	Yes		001		
#10408	05/13/09	11:46:06	865-919-8950	423-623-0375	0:31	Yes		066		023
#10409	05/13/09	11:47:28	423-613-8687	423-623-0375	0:41	Yes		001		
#10410	05/13/09	11:49:16	865-919-8950	423-623-0375	0:29	Yes		066		023
#10411	05/13/09	11:49:58	865-712-4057	423-623-0375	4:07	Yes		066		023
#10412	05/13/09	12:02:31	423-623-0375	865-594-5967	1:08	Yes	BSL	060		
#10413	05/13/09	12:03:13	423-623-0375	865-594-5967	1:10	No		815		
#10414	05/13/09	12:03:13	423-623-0375	865-594-5967	1:07	Yes	BSL	110		
#10415	05/13/09	12:03:13	423-623-0375	865-594-5967	1:07	Yes	BSL	119		
#10416	05/13/09	12:20:55	865-712-4057	423-623-0375	1:59	Yes		066		023
#10417	05/13/09	12:54:56	865-774-3600	423-623-0375	2:01	Yes	LGT	110		
#10418	05/13/09	12:55:04	865-774-3600	423-623-0375	2:02	Yes	LGT	119		
#10419	05/13/09	13:00:23	423-623-0375	423-487-4341	1:18	Yes		001		
#10420	05/13/09	13:01:49	423-487-3512	423-623-0375	1:19	Yes		001		
#10421	05/13/09	13:03:53	423-623-0375	423-586-9112	0:48	Yes	BSL	060		
#10422	05/13/09	13:04:33	423-623-0375	423-586-9112	0:48	Yes	BSL	119		
#10423	05/13/09	13:04:34	423-623-0375	423-586-9112	0:48	Yes	BSL	110		
#10424	05/13/09	13:16:19	423-839-0100	423-623-0375	0:49	Yes		066		023
#10425	05/13/09	13:54:28	423-623-0375	865-594-5964	1:38	Yes	BSL	060		
#10426	05/13/09	13:54:59	828-674-9578	423-623-0375	1:34	Yes	WTL	119		
#10427	05/13/09	13:55:09	423-623-0375	865-594-5964	1:38	Yes	BSL	110		
#10428	05/13/09	13:55:09	423-623-0375	865-594-5964	1:37	Yes	BSL	119		
#10429	05/13/09	13:57:01	423-623-8085	423-623-0375	0:25	Yes		001		
#10430	05/13/09	14:06:17	423-623-0375	423-623-3030	0:05	Yes		001		014
#10431	05/13/09	14:06:18	865-919-8950	423-623-0375	0:04	Yes		066		023
#10432	05/13/09	14:18:30	865-919-8950	423-623-0375	0:27	Yes		066		023
#10433	05/13/09	14:23:30	865-919-8950	423-623-0375	0:57	Yes		066		023
#10434	05/13/09	14:25:59	423-623-0375	423-465-3007	0:32	Yes		001		
#10435	05/13/09	14:29:31	423-623-4500	423-623-0375	0:34	Yes		001		
#10436	05/13/09	14:42:29	865-919-8950	423-623-0375	2:04	Yes		066		023
#10437	05/13/09	14:45:31	865-774-3600	423-623-0375	1:42	Yes	LGT	110		
#10438	05/13/09	14:45:38	865-774-3600	423-623-0375	1:44	Yes	LGT	119		
#10439	05/13/09	14:46:42	423-623-4495	423-623-0375	2:48	Yes		001		
#10440	05/13/09	14:50:58	423-623-0375	423-608-0134	0:35	Yes		001		

TESTERMANU CALLS BELL



5/13/09

**Call Detail/Toll Records: BST09068235**

BELL RECORD

CALL DETAILS FOR TARGET NUMBER: 4234653007 (times are eastern)

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#1531	05/08/09	11:14:04	423-839-0100	423-465-3007	2:45	Yes		066		023
#1532	05/08/09	11:17:44	423-623-9962	423-465-3007	1:51	Yes		001		
#1533	05/08/09	13:40:42	423-623-3393	423-465-3007	1:47	Yes		001		
#1534	05/08/09	13:50:52	865-251-0000	423-465-3007	4:07	Yes		066		023
#1535	05/08/09	13:57:56	423-623-3393	423-465-3007	2:14	Yes		001		
#1536	05/08/09	14:04:18	865-509-2361	423-465-3007	0:13	Yes		001		
#1537	05/08/09	14:51:15	865-712-4057	423-465-3007	0:23	Yes		066		023
#1538	05/08/09	15:35:04	423-623-1357	423-465-3007	0:30	Yes		001		
#1539	05/08/09	21:36:46	865-919-8950	423-465-3007	0:04	Yes		066		023
#1540	05/11/09	08:13:22	865-919-8950	423-465-3007	4:40	Yes		066		023
#1541	05/11/09	09:31:53	423-586-0831	423-465-3007	1:11	Yes	BSL	060		
#1542	05/11/09	09:32:34	423-586-0831	423-465-3007	1:11	Yes	BSL	119		
#1543	05/11/09	09:32:34	423-586-0831	423-465-3007	1:10	Yes	BSL	110		
#1544	05/11/09	10:53:43	423-623-8318	423-465-3007	0:24	Yes		001		
#1545	05/11/09	11:46:20	423-839-0100	423-465-3007	0:26	Yes		066		023
#1546	05/11/09	12:21:48	423-623-8718	423-465-3007	0:06	Yes		001		
#1547	05/11/09	12:22:52	423-623-8718	423-465-3007	0:56	Yes		001		
#1548	05/11/09	12:59:52	877-795-8485	423-465-3007	0:54	Yes	WTL	060		
#1549	05/11/09	12:59:52	877-795-8485	423-465-3007	0:54	Yes	AT&T	119		
#1550	05/11/09	13:01:20	865-919-8950	423-465-3007	0:30	Yes		066		023
#1551	05/11/09	13:20:10	423-465-3007	402-858-4689	11:08	Yes	VLK	060		
#1552	05/11/09	13:34:17	877-795-8485	423-465-3007	1:20	Yes	TQW	119		
#1553	05/11/09	14:57:30	423-623-3811	423-465-3007	0:17	Yes		001		
#1554	05/11/09	15:14:09	865-712-4057	423-465-3007	4:51	Yes		066		023
#1555	05/11/09	15:31:28	336-834-8874	423-465-3007	2:56	Yes	WTL	060		
#1556	05/11/09	15:31:28	336-834-8874	423-465-3007	2:56	Yes	AT&T	119		
#1557	05/12/09	10:08:18	423-487-5016	423-465-3007	1:15	Yes		001		
#1558	05/12/09	10:24:15	865-951-0002	423-465-3007	1:10	Yes		066		023
#1559	05/12/09	11:02:28	865-803-0202	423-465-3007	0:40	Yes		066		023
#1560	05/12/09	11:28:55	423-625-8072	423-465-3007	0:28	Yes		001		
#1561	05/12/09	13:17:12	865-919-8950	423-465-3007	0:45	Yes		066		023
#1562	05/12/09	16:29:40	865-940-5999	423-465-3007	0:08	Yes		066		023
#1563	05/12/09	17:14:28	423-487-5016	423-465-3007	0:10	Yes		001		
#1564	05/13/09	09:18:07	865-803-0202	423-465-3007	5:20	Yes		066		023
#1565	05/13/09	09:23:33	423-487-5016	423-465-3007	0:50	Yes		001		
#1566	05/13/09	09:46:24	865-919-8950	423-465-3007	0:36	Yes		066		023
#1567	05/13/09	09:49:29	865-919-8950	423-465-3007	1:28	Yes		066		023
#1568	05/13/09	10:34:47	423-487-5016	423-465-3007	0:05	Yes		001		
#1569	05/13/09	10:43:10	423-487-5016	423-465-3007	0:22	Yes		001		
#1570	05/13/09	11:53:51	423-623-0005	423-465-3007	0:29	Yes		001		
#1571	05/13/09	13:51:21	423-623-0005	423-465-3007	2:07	Yes		001		
#1572	05/13/09	14:08:31	423-623-1212	423-465-3007	0:41	Yes		001		
#1573	05/13/09	14:10:30	423-623-1212	423-465-3007	0:23	Yes		001		
#1574	05/13/09	14:25:59	423-623-0375	423-465-3007	0:32	Yes		001		
#1575	05/13/09	15:24:29	423-465-3007	615-399-0404	0:46	Yes	AT&T	119		



### Results for Subpoena BST09036506

#### Standard Results

##### Request 1

<u>Type</u>	<u>Number</u>	<u>Result</u>
List Name	4236138832 123	Pleau, David
List Address	4236138832 123	Bybee 37713
Billing Name	4236138832 123	DAVID PLEAU
Billing Address	4236138832 123	PO BOX 204 BYBEE TN 37713
Service Address	4236138832 123	1618 SCOTCHPINE WAY BYBEE TN
Service Type	4236138832 123	RESIDENCE

----- End Request -----

Call no.  
107

Judge Souiel  
Record of  
Testiman call  
to Pleau



**Call Detail/Toll Records: BST09036506**

**NOTE:**

**On an incoming call search, if the calling number is a cellular number, this is normally not the actual cellular customer's number; it is the cellular provider's trunk number. It is the trunk billing number AT&T uses to identify calls originating from a particular cellular telephone carrier. Please contact the cellular carrier to identify the actual originating cellular telephone number. The cellular carrier will have to conduct a search for all calls terminating to the target number. If you have questions on a carrier code, you can access the following web site for information: <http://davis-company.com/pic/dbsearch.html>**



**Call Detail/Toll Records: BST09036506**

CALL DETAILS FOR TARGET NUMBER: 4236138832 (times are eastern)

<u>#</u>	<u>Call Date</u>	<u>Call Time</u>	<u>Calling Number</u>	<u>Called Number</u>	<u>Call Duration</u>	<u>Answd</u>	<u>Carrier</u>	<u>Call Type</u>	<u>Billed Number</u>	<u>Srvc Feat</u>
#1	01/15/09	10:26:43	800-964-7365	423-613-8832	0:00	Yes	LGT	119		
#2	01/15/09	10:44:24	319-274-1904	423-613-8832	0:19	Yes	LGT	119		
#3	01/15/09	12:48:09	423-613-8832	423-623-2373	0:56	Yes		001		
#4	01/15/09	12:50:47	423-613-8832	423-623-2373	101:26	Yes		001		
#5	01/15/09	14:44:17	800-964-7365	423-613-8832	0:01	Yes	LGT	119		
#6	01/15/09	15:36:47	423-613-8832	877-573-3529	17:12	Yes	UTC	141	8775733529	
#7	01/15/09	19:28:19	800-964-7365	423-613-8832	0:29	Yes	LGT	119		
#8	01/15/09	19:45:30	800-818-1582	423-613-8832	0:03	Yes	LGT	119		
#9	01/16/09	07:49:18	865-256-7600	423-613-8832	0:30	Yes		066		023
#10	01/16/09	10:18:22	865-978-6199	423-613-8832	0:44	Yes		720		
#11	01/16/09	13:17:41	423-613-8832	423-721-5133	0:06	Yes		001		
#12	01/16/09	13:24:55	423-613-8832	423-721-5133	0:04	Yes		001		
#13	01/17/09	12:43:34	423-613-8832	423-721-5133	8:30	Yes		001		
#14	01/17/09	17:11:36	423-613-8832	423-721-5133	6:43	Yes		001		
#15	01/18/09	07:57:42	865-919-8950	423-613-8832	0:35	Yes		066		023
#16	01/18/09	08:12:53	865-919-8950	423-613-8832	0:24	Yes		066		023
#17	01/18/09	08:52:21	423-623-9743	423-613-8832	0:32	Yes		001		
#18	01/18/09	10:07:54	423-613-8832	423-721-5133	0:34	Yes		001		
#19	01/18/09	10:08:36	423-613-8832	423-721-5133	0:04	Yes		001		
#20	01/18/09	10:09:17	423-613-8832	423-721-5133	0:04	Yes		001		
#21	01/18/09	10:24:31	423-613-8832	423-721-5133	1:52	Yes		001		
#22	01/18/09	15:22:26	423-613-8832	423-623-9893	0:39	Yes		001		
#23	01/18/09	15:24:03	423-613-8832	423-237-2084	0:11	Yes		001		
#24	01/18/09	15:50:39	731-410-0457	423-613-8832	0:29	Yes	WTL	119		
#25	01/19/09	11:03:19		423-613-8832	0:32	Yes	LGT	119		
#26	01/19/09	11:37:23	865-978-6199	423-613-8832	0:09	Yes		720		
#27	01/19/09	12:56:15	423-613-8832	423-721-5133	1:11	Yes		001		
#28	01/19/09	19:15:17	423-613-8832	423-613-4575	42:26	Yes		001		
#29	01/20/09	09:24:30	865-256-7600	423-613-8832	0:11	Yes		066		023
#30	01/20/09	09:35:04	865-774-5800	423-613-8832	0:36	Yes	LGT	119		

#31	01/20/09	09:35:04	865-251-0000	423-613-8832	0:35	Yes	LGT	066	023
#32	01/20/09	09:35:04	865-251-0000	423-613-8832	0:35	Yes	LGT	110	023
#33	01/20/09	09:38:33	865-256-7600	423-613-8832	0:14	Yes		066	023
#34	01/20/09	12:43:39	423-613-8832	423-623-2373	112:08	Yes		001	
#35	01/20/09	15:11:29	423-613-8832	423-613-4575	0:18	Yes		001	
#36	01/20/09	20:03:19	865-978-6199	423-613-8832	0:00	No		720	
#37	01/21/09	10:29:37	800-964-7365	423-613-8832	0:36	Yes	ALN	119	
#38	01/21/09	15:23:22	423-613-8832	888-757-6500	8:50	Yes	BSO	141	8887576500
#39	01/22/09	09:38:50	800-964-7365	423-613-8832	0:34	Yes	LGT	119	
#40	01/22/09	11:08:31	423-613-8832	423-623-5605	1:08	Yes		001	
#41	01/22/09	11:52:09	865-978-6199	423-613-8832	0:40	Yes		720	
#42	01/22/09	11:54:36	913-871-8954	423-613-8832	0:02	Yes	ALN	119	
#43	01/22/09	11:57:50	800-818-1582	423-613-8832	0:03	Yes	LGT	119	
#44	01/22/09	12:04:41	423-613-8832	423-721-5133	0:09	Yes		001	
#45	01/22/09	12:05:40	423-613-8832	423-721-5133	2:22	Yes		001	

**Call Detail/Toll Records: BST09036506**

CALL DETAILS FOR TARGET NUMBER: 4236138832 (times are eastern)

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#46	01/23/09	10:37:49	423-613-8832	423-623-5605	1:06	Yes		001		
#47	01/23/09	11:46:01	423-613-8832	423-623-1080	0:08	Yes		001		
#48	01/23/09	12:57:46	423-613-8832	888-757-6500	11:52	Yes	BSO	141	8887576500	
#49	01/23/09	13:11:57	423-613-8832	423-623-2373	116:53	Yes		001		
#50	01/23/09	15:09:17	423-613-8832	423-623-2373	1:00	Yes		001		
#51	01/23/09	15:10:35	423-613-8832	423-623-2373	164:09	Yes		001		
#52	01/23/09	17:55:48	423-613-8832	423-623-2373	73:29	Yes		001		
#53	01/23/09	20:09:38	800-964-7365	423-613-8832	0:41	Yes	LGT	119		
#54	01/24/09	08:48:35	865-919-8950	423-613-8832	0:33	Yes		066		023
#55	01/24/09	09:16:29	800-964-7365	423-613-8832	0:00	Yes	LGT	119		
#56	01/24/09	12:08:10	423-613-8832	423-623-5605	0:00	Yes		001		
#57	01/24/09	12:37:58	423-613-8832	423-623-2373	0:25	Yes		001		
#58	01/24/09	12:38:52	423-613-8832	423-623-2373	66:14	Yes		001		
#59	01/25/09	14:04:32	423-623-5436	423-613-8832	59:05	Yes		001		
#60	01/25/09	20:02:57	866-598-9371	423-613-8832	1:03	Yes	WTL	119		
#61	01/26/09	09:21:14	865-862-8322	423-613-8832	0:26	Yes	UHC	119		
#62	01/26/09	11:39:56	423-625-9310	423-613-8832	0:40	Yes		001		
#63	01/26/09	16:39:02	423-613-8832	423-625-0426	0:08	Yes		001		
#64	01/26/09	17:13:51	866-940-7640	423-613-8832	0:47	Yes	LGT	119		
#65	01/26/09	17:28:39	423-613-8832	423-608-6638	1:16	Yes		001		
#66	01/26/09	18:24:21	319-274-1904	423-613-8832	0:20	Yes	LGT	119		
#67	01/27/09	10:02:23	423-613-8832	423-623-5605	0:43	Yes		001		
#68	01/27/09	11:07:22	423-613-8832	423-623-2373	27:22	Yes		001		
#69	01/27/09	11:48:30	423-613-8832	888-336-3318	8:03	Yes	WTL	141	8883363318	
#70	01/27/09	12:00:28	423-613-8832	888-336-3318	3:51	Yes	WTL	141	8883363318	
#71	01/27/09	12:06:26	423-613-8832	888-757-6500	13:34	Yes	BSO	141	8887576500	
#72	01/27/09	12:21:27	423-613-8832	800-467-5427	5:27	Yes		360	8004675427	
#73	01/27/09	12:21:30	423-613-8832	800-467-5427	5:23	Yes	AT&T	141	8004675427	
#74	01/27/09	12:29:16	423-613-8832	888-757-6500	3:24	Yes	BSO	141	8887576500	
#75	01/27/09	14:29:02	800-964-7365	423-613-8832	0:00	Yes	LGT	119		
#76	01/27/09	14:43:36	866-940-7640	423-613-8832	0:31	Yes	LGT	119		

#77	01/27/09	18:08:46	866-801-1163	423-613-8832	0:09	Yes	WTL	119	
#78	01/27/09	18:31:45	800-964-7365	423-613-8832	0:10	Yes	LGT	119	
#79	01/28/09	09:12:31	800-964-7365	423-613-8832	0:01	Yes	LGT	119	
#80	01/28/09	13:16:47	800-964-7365	423-613-8832	0:09	Yes	LGT	119	
#81	01/28/09	13:21:34	865-256-7600	423-613-8832	0:22	Yes		066	023
#82	01/28/09	15:48:44	866-598-9371	423-613-8832	0:38	Yes	WTL	119	
#83	01/28/09	15:53:14	866-940-7640	423-613-8832	0:22	Yes	LGT	119	
#84	01/28/09	18:40:35	717-920-5053	423-613-8832	0:43	Yes	LGT	119	
#85	01/29/09	12:22:29	865-978-6199	423-613-8832	0:32	Yes		720	
#86	01/29/09	14:35:53	800-964-7365	423-613-8832	0:01	Yes	LGT	119	
#87	01/29/09	16:40:30	203-446-4772	423-613-8832	0:03	Yes	LGT	119	
#88	01/29/09	16:53:04	319-274-1904	423-613-8832	0:58	Yes	LGT	119	
#89	01/29/09	18:16:42	865-919-8950	423-613-8832	3:06	Yes		066	023
#90	01/29/09	18:24:26	865-919-8950	423-613-8832	10:10	Yes		066	023

**Call Detail/Toll Records: BST09036506**

CALL DETAILS FOR TARGET NUMBER: 4236138832 (times are eastern)

#	Call	Call	Calling	Called	Call	Answd	Carrier	Call	Billed	Srvc
#91	01/29/09	19:15:58	386-427-6893	423-613-8832	0:21	Yes	LGT	119		
#92	01/30/09	09:48:23	865-862-8322	423-613-8832	0:19	Yes	OHC	119		
#93	01/30/09	10:05:34	615-656-5407	423-613-8832	0:02	Yes	VRT	119		
#94	01/30/09	11:01:17	800-964-7365	423-613-8832	0:27	Yes	LGT	119		
#95	01/31/09	14:25:09	865-919-8950	423-613-8832	1:38	Yes		066		023
#96	01/31/09	14:35:13	865-919-8950	423-613-8832	0:34	Yes		066		023
#97	02/01/09	12:49:27	949-000-0000	423-613-8832	0:46	Yes	LGT	119		
#98	02/01/09	15:11:36	423-613-8832	423-721-5133	14:36	Yes		001		
#99	02/01/09	18:42:54	865-256-7600	423-613-8832	3:22	Yes		066		023
#100	02/02/09	10:09:00	865-978-6199	423-613-8832	0:32	Yes		720		
#101	02/02/09	12:21:13	305-445-8932	423-613-8832	0:10	Yes	LGT	119		
#102	02/02/09	15:52:07	423-613-8832	423-623-5412	5:49	Yes		001		
#103	02/02/09	15:58:41	423-613-8832	423-623-6138	7:17	Yes		001		
#104	02/02/09	16:08:46	423-613-8832	423-613-4575	0:08	Yes		001		
#105	02/02/09	16:25:52	423-613-8832	423-623-1676	0:15	Yes		001		
#106	02/02/09	16:26:44	423-613-8832	423-623-1010	0:53	Yes		001		

#107	02/02/09	16:35:28	423-623-0375	423-613-8832	28:25	Yes		001	
#108	02/02/09	17:49:37	423-613-4575	423-613-8832	0:30	Yes		001	
#109	02/02/09	17:53:55	423-613-8832	423-613-4575	11:00	Yes		001	
#110	02/02/09	18:14:31	800-964-7365	423-613-8832	0:01	Yes	LGT	119	
#111	02/03/09	09:06:16	800-964-7365	423-613-8832	0:20	Yes	LGT	119	
#112	02/03/09	09:10:40	865-256-7600	423-613-8832	0:26	Yes		066	023
#113	02/03/09	10:22:43	423-613-8832	800-408-8377	1:32	Yes	MCI	141	8004088377
#114	02/03/09	11:04:32	622693827	423-613-8832	0:32	Yes	ALN	119	
#115	02/03/09	12:47:56	423-613-8832	423-721-5133	9:49	Yes		001	
#116	02/03/09	14:46:12	615-656-5407	423-613-8832	1:21	Yes	MCI	119	
#117	02/04/09	08:51:24	865-256-7600	423-613-8832	0:40	Yes		066	023
#118	02/04/09	10:29:36	850-432-3928	423-613-8832	0:20	Yes	LGT	119	
#119	02/04/09	10:52:55	423-613-8832	423-721-5133	5:24	Yes		001	
#120	02/04/09	11:50:32	423-613-8832	423-721-5133	1:06	Yes		001	
#121	02/04/09	15:39:17	800-964-7365	423-613-8832	0:33	Yes	LGT	119	
#122	02/05/09	09:00:54	423-613-8832	423-623-1798	0:11	Yes		001	
#123	02/05/09	09:01:28	423-613-8832	423-623-2800	2:34	Yes		001	
#124	02/05/09	09:44:00	423-613-8832	423-623-1676	0:11	Yes		001	
#125	02/05/09	09:44:43	423-613-8832	423-623-1010	0:55	Yes		001	
#126	02/05/09	14:09:43	865-978-6199	423-613-8832	0:31	Yes		720	
#127	02/05/09	17:38:45	800-964-7365	423-613-8832	0:24	Yes	LGT	119	
#128	02/06/09	09:04:41	865-256-7600	423-613-8832	0:25	Yes		066	023
#129	02/06/09	09:10:05	800-964-7365	423-613-8832	0:29	Yes	LGT	119	
#130	02/07/09	13:28:26	423-613-8832	800-708-7119	0:56	Yes	AT&T	141	8007087119
#131	02/07/09	13:28:27	423-613-8832	800-708-7119	0:56	Yes		100	8007087119
#132	02/07/09	14:08:06	866-940-7640	423-613-8832	0:19	Yes	LGT	119	
#133	02/08/09	10:03:42	423-613-8832	423-379-0995	31:23	Yes		001	
#134	02/08/09	19:29:36	423-613-4575	423-613-8832	3:22	Yes		001	

#135 02/09/09 13:57:53 423-613-8832 0:40 Yes WTL 119

**Call Detail/Toll Records: BST09036506**

CALL DETAILS FOR TARGET NUMBER: 4236138832 (times are eastern)

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#136	02/09/09	17:02:52	800-964-7365	423-613-8832	0:00	Yes	LGT	119		
#137	02/09/09	21:54:44	865-256-7600	423-613-8832	10:04	Yes		066		023
#138	02/10/09	09:03:57	800-964-7365	423-613-8832	0:29	Yes	LGT	119		
#139	02/10/09	11:12:36	866-940-7640	423-613-8832	0:36	Yes	LGT	119		
#140	02/10/09	14:20:18	423-613-4575	423-613-8832	0:36	Yes		001		
#141	02/10/09	15:19:46	423-613-4575	423-613-8832	0:12	Yes		001		
#142	02/11/09	10:22:15	305-222-1966	423-613-8832	0:08	Yes	LGT	119		
#143	02/11/09	11:35:35	772-336-8160	423-613-8832	0:07	Yes	LGT	119		
#144	02/11/09	13:23:14	423-613-8832	423-608-0870	1:03	Yes		001		
#145	02/11/09	14:11:57	866-705-9580	423-613-8832	0:27	Yes	LGT	119		
#146	02/11/09	14:17:44	423-613-8832	423-721-5133	6:49	Yes		001		
#147	02/11/09	14:32:45	800-964-7365	423-613-8832	0:00	Yes	LGT	119		
#148	02/11/09	18:53:05	800-964-7365	423-613-8832	0:22	Yes	LGT	119		
#149	02/12/09	13:35:30	865-978-6199	423-613-8832	0:00	No		720		
#150	02/13/09	10:50:07	865-978-6199	423-613-8832	0:00	No		720		
#151	02/13/09	14:01:40	386-763-2880	423-613-8832	0:46	Yes	AT&T	110		
#152	02/13/09	14:01:44	386-763-2739	423-613-8832	0:48	Yes	AT&T	119		
#153	02/13/09	14:01:45	386-763-2880	423-613-8832	0:47	Yes	AT&T	060		
#154	02/13/09	19:12:32	423-613-4575	423-613-8832	12:27	Yes		001		
#155	02/14/09	09:04:47	800-964-7365	423-613-8832	0:29	Yes	LGT	119		
#156	02/14/09	10:38:42	866-705-9580	423-613-8832	0:30	Yes	LGT	119		
#157	02/14/09	13:14:02	423-613-4575	423-613-8832	0:23	Yes		001		

### Call Detail/Toll Records: BST09036506

#### Call Codes:

001 Detailed Message Rate, Timed, with MBI  
060 AT&T Station Paid  
066 Cellular Mobile Carrier (CMC) Terminating Type 2A  
100 Direct Services Dialing Capability (DSDC)  
110 InterLATA Station Paid  
119 Terminating Access Record  
141 IC Number Service Call  
360 OSO Recording/HICAP  
720 Connecting Network Access Incoming Record

Service Features:

023 Cellular Mobile Carrier - Type 2A

Carriers:

0222 MCI MCIWorldCom  
0288 AT&T AT&T Communications  
0333 UTC Sprint  
0432 LGT Qwest Communications  
0444 ALN Global Crossing Telecommunications, Inc.  
0555 WTL WorldCom Inc.  
0811 VRT VarTec Telecom, Inc.  
5230 UHC US LEC of North Carolina, L.L.C.  
6110 BSO BellSouth Telecommunications, Inc.



**James T. LaRue**

RECORDS SHOW TESTERMAN  
CALLED BELL ON FRIDAY,  
1-30-09

TESTERMAN CALLED PLEAU  
ON MON, 2-2-09





**James T. LaRue**

423-623-0375

TESTERMAN  
OFFICE

423-465-3007

BELL  
OFFICE

TESTERMAN CALL PLEAU

2-2-09



**Call Detail/Toll Records: BST09068235**

TESTERMAN RECORD

16:35 TALKS 28.25 min

CALL DETAILS FOR TARGET NUMBER: 4236230375 (times are eastern)

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#2611	02/02/09	15:13:57	865-256-7600	423-623-0375	0:54	Yes		066		023
#2612	02/02/09	15:21:36	866-831-4847	423-623-0375	0:24	Yes	MCI	119		
#2613	02/02/09	15:26:51	423-613-4563	423-623-0375	0:16	Yes		001		
#2614	02/02/09	15:33:37	423-623-0375	423-623-1935	1:11	Yes		001		
#2615	02/02/09	15:35:29	423-623-0375	423-623-2601	1:02	Yes		001		
#2616	02/02/09	15:37:11	865-484-1277	423-623-0375	1:12	Yes	BSL	060		
#2617	02/02/09	15:37:45	423-623-0375	423-721-5034	0:05	Yes		001		
#2618	02/02/09	15:37:49	865-484-1277	423-623-0375	1:12	Yes	BSL	110		
#2619	02/02/09	15:37:52	865-484-1277	423-623-0375	1:13	Yes	BSL	119		
#2620	02/02/09	15:39:52	423-623-0375	423-608-6890	0:19	Yes		001		
#2621	02/02/09	15:40:11	423-487-2691	423-623-0375	3:03	Yes		001		
#2622	02/02/09	15:40:27	423-623-4551	423-623-0375	1:42	Yes		001		
#2623	02/02/09	15:45:24	423-623-0375	423-487-2691	1:40	Yes		001		
#2624	02/02/09	15:45:53	423-625-0885	423-623-0375	0:33	Yes		001		
#2625	02/02/09	15:56:11	423-623-0386	423-623-0375	0:52	Yes		001		
#2626	02/02/09	16:01:57	423-487-4341	423-623-0375	1:21	Yes		001		
#2627	02/02/09	16:06:39	865-712-4057	423-623-0375	0:57	Yes		066		023
#2628	02/02/09	16:17:31	423-623-0375	423-625-1436	1:26	Yes		001		
#2629	02/02/09	16:20:06	423-623-0375	423-721-5034	1:54	Yes		001		
#2630	02/02/09	16:24:41	865-919-8950	423-623-0375	1:33	Yes		066		023
#2631	02/02/09	16:24:42	865-712-4057	423-623-0375	0:26	Yes		066		023
#2632	02/02/09	16:35:28	423-623-0375	423-613-8832	28:25	Yes		001		
#2633	02/02/09	16:35:52	865-712-4057	423-623-0375	0:27	Yes		066		023
#2634	02/02/09	16:38:09	865-803-0202	423-623-0375	0:10	Yes		066		023
#2635	02/02/09	16:39:08	423-623-4495	423-623-0375	1:24	Yes		001		
#2636	02/02/09	16:52:15	423-487-4341	423-623-0375	0:50	Yes		001		
#2637	02/02/09	16:56:49	865-712-4057	423-623-0375	1:20	Yes		066		023
#2638	02/02/09	17:04:28	865-712-4057	423-623-0375	0:33	Yes		066		023
#2639	02/02/09	17:06:04	423-623-0375	423-623-4495	0:31	Yes		001		
#2640	02/02/09	17:11:53	423-623-0375	423-608-6356	0:43	Yes		001		
#2641	02/02/09	17:38:00	865-686-2751	423-623-0375	0:42	Yes	MWZ	060		
#2642	02/02/09	17:38:42	423-623-0375	423-623-3030	0:42	Yes		001		014
#2643	02/02/09	17:38:42	865-686-2751	423-623-0375	0:42	Yes	BSL	119		
#2644	02/02/09	17:52:16	423-623-0375	423-623-3030	0:07	Yes		001		014
#2645	02/02/09	17:52:16	719-232-9059	423-623-0375	0:07	Yes	AT&T	119		
#2646	02/02/09	17:52:17	719-232-9059	423-623-0375	0:06	Yes	WCG	306		
#2647	02/03/09	08:56:16	423-839-0100	423-623-0375	0:27	Yes		066		023
#2648	02/03/09	09:19:38	423-487-5248	423-623-0375	0:46	Yes		001		
#2649	02/03/09	09:19:38	423-623-0375	423-623-3030	0:46	Yes		001		014
#2650	02/03/09	09:21:10	423-487-5248	423-623-0375	0:34	Yes		001		
#2651	02/03/09	09:24:26	423-623-0375	423-623-3030	5:53	Yes		001		
#2652	02/03/09	09:25:57	423-613-8445	423-623-0375	0:35	Yes		001		
#2653	02/03/09	09:37:34	865-724-9990	423-623-0375	1:51	Yes		066		023
#2654	02/03/09	09:43:19	423-487-4341	423-623-0375	0:32	Yes		001		
#2655	02/03/09	09:49:40	423-625-9150	423-623-0375	0:45	Yes		001		

David Pleau

P.O. Box 204

Bybee, Tn. 37713

February 20, 2009

Court of the Judiciary

Attn. Joseph S. Daniel

Dear Sir,

My name is David J. Pleau, age 52. I make the following statement of my own free will.

Roughly toward the end of January or possibly early February, 2009, in late afternoon, I received a telephone call on my home telephone number which is 423-613-8832 from a person who identified himself as Attorney Tom Testerman. He stated that he was calling in behalf of Judge John Bell. He began with "the judge realizes that it would be inappropriate to call you himself". . . He went on to state (Mr. Testerman) that he would like me to stop by his office and sign a document for the purpose of discounting my complaint against Judge Bell, which I lodged with the Tennessee Court Of The Judiciary. I informed Mr. Testerman during that very conversation that my focus was on my upcoming civil suit and would not at that time be available to dismiss any pending action.

*David J. Pleau*

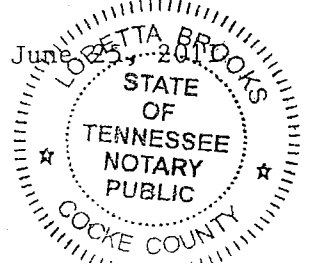
David J. Pleau

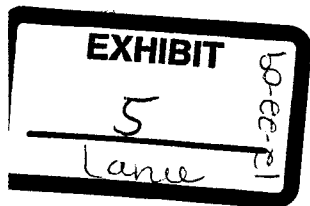
Sworn and subscribed to before me  
this 20th day of February, 2009

*Loretta Brooks*

Notary Public

My Commission Expires: June 25, 2010





STATEMENT OF TOM V. TESTERMAN

On July 16, 2009, Joseph S. Daniel, Disciplinary Counsel for the Court of the Judiciary and James T. LaRue, Investigator for the Court of the Judiciary met with Tom V. Testerman, Attorney, 301 East Broadway, Newport, TN 37821, Telephone number 423-623-0375. We did not have an appointment with Testerman but had previously determined he would be in his office during the afternoon of July 16, 2009. Testerman was in his office and the interviewed started at 12:07 PM EDT.

Judge Daniel introduced himself and me to Testerman and started the interview by asking about Testerman's representation of East Tennessee Probation, Inc. Testerman advised that he did and still does represent the probation service but they do not required much time and he answers questions from them from time to time. Testerman recalls the events regarding Judge Bell and the probation service.

Testerman stated that he had been in private law practice for over twenty (20) years and was a graduate of the University of Tennessee Law School, class of 1982 or 1983 ( he did not remember specifically).

Judge Daniel asked Testerman about his relationship with Judge Bell and Testerman replied they were social friends and had known each other for several years he does not remember exactly how long. Testerman stated they were opponents in private practice and had many heated trials. Testerman further stated that he practiced in Judge Bell's court on a regular basis. Judge Daniel inquired of Testerman if he received appointments from Judge Bell. Testerman responded by stating that he had one (1) appointment within the last year and a half for a criminal matter. He had in the past taken Juvenile appointment but could not remember the last time. Testerman advised that he does practice Juvenile matters in Judge Bell's court.

Testerman stated he had visited in Bell's home on two occasions but at two different residences and these were during the holiday season. They were also members of the local Kiwanis club until Testerman became inactive in this organization.

Testerman advised Judge Daniel that he was also friends with Judge Ogle, Hooper and other judges who sit in Cocke County.

Judge Daniel then asked Testerman about the specifics of uninsured motorist cases. Testerman replied that he was familiar with the circumstances of uninsured motorist cases, had worked several and understood the law. He further stated the suit must be directed to the uninsured motorist before a suit is valid against the insurance carrier.

Judge Daniel asked Testerman if he was aware that an ex parte communication by a Judge would disqualify him as the Judge in that particular incident, to which Testerman replied he thought the communication would disqualify a Judge.

Judge Daniel asked Testerman if he knew David Pleau and if Testerman had represented Pleau. Testerman replied that he did know Mr. Pleau and had several conversations with him but did not represent him. Testerman advised that he knew some of the specifics of Pleau's case resulting from his conversations with Pleau.

Judge Daniel asked Testerman how he came into contact with Pleau. Testerman replied that he had been asked by Judge Bell, who had told Testerman that he (Bell) could not contact Pleau and requested Testerman to contact Pleau on his behalf. Judge Bell's desire was for Testerman to inquire of Pleau if he would abandon his complaint to the Court of the Judiciary. Testerman explained that Judge Bell initiated the conversation that took place in the hallway of the Cocke County Court house in January of 2009. Testerman stated that Judge Bell had told him on that occasion of the Complaint by Pleau.

Testerman advised that it was a small town, he tried to accommodate Judge Bell and other members of the bar. He advised that he did not know it was inappropriate for him to contact Pleau. He made the contact and inquiry of Pleau because he felt obligated to accommodate Judge Bell's request. Testerman does not remember the date he called Pleau and discussed the case and Pleau's complaint. He further stated that he advised Judge Bell, in person, within a day or two that Pleau was going to continue his complaint. Testerman further stated that he made his living in the local community and he tried to maintain a good relationship with members of the local judiciary and bar.

Judge Daniel asked Testerman if he had any further contact with Pleau. Testerman replied that Pleau had visited his office on March 20, 2009, (Testerman consulted his appointments) and they discussed the lawsuit with no decisions reached. Testerman advised that he had also seen Pleau in the courthouse on another occasion and they spoke but did not have further conversation.

Judge Daniel then made Testerman aware of several rules under the Code of Professional Conduct and asked Testerman if he was aware of these rules. Testerman replied that he did not know the specific citations but was aware of the rules of professional conduct. Judge Daniel advised Testerman that he was required to make a report to the Board of Professional Responsibility and his counterpart Nancy Jones. Testerman did not know Nancy Jones but did know of Lance Bracy and his previous position.

Judge Daniel then informed Testerman of the criminal implications of this case and Testerman replied that he did not think of the criminal aspects of his actions. Judge Daniel informed Testerman that he was not accused or indicated in criminal acts. Testerman became wary of answering any more questions but stated that he would tell the truth under oath. Testerman was asked if he would give an affidavit to which he answered he would not due to the criminal aspects.

Testerman was then asked if he had other information regarding the issue and he replied he was just trying to do a favor for a friend and did not realize the trouble it would cause.

Judge Daniel advised Testerman of our contact information and I left a card with him and asked for him to contact us if he has any other information.

Interview concluded at 12:48 EDT, July 16, 2009.