

IN THE TENNESSEE COURT OF THE JUDICIARY

Fed Ex 2-1

2010 FEB -2 AM 8:54

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

APPELLATE COURT CLERK  
NASHVILLE

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

COMPLAINT OF DAVID PLEAU  
FILE NO. 08-3508

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MOTION FOR SUMMARY JUDGMENT

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**NOW INTO COURT** comes The Honorable John A. Bell, Judge, General Sessions Court, Cocke County, Tennessee ("Judge Bell"), and pursuant to Rule 56.02 of the Tennessee Rules of Civil Procedure, moves the Court for summary judgment on the Formal Charges made against him on October 13, 2009 because there are no genuine issues of material fact and he is entitled to judgment as a matter of law. For grounds, Judge Bell would show unto the Court as follows:

1. Judge Bell is entitled to summary judgment because the summary judgment record demonstrates that there is no genuine issue of material fact for trial and that he is entitled to judgment as a matter of law. The undisputed material facts (1) affirmatively negate essential elements of each of the three (3) counts contained in the Formal Charges, and (2) show that Disciplinary Counsel cannot prove essential elements of each of those counts at trial by clear and convincing evidence, as required.

2. **Count I.** As to Count I of the Formal Charges, the undisputed material summary judgment evidence demonstrates that Judge Bell did not violate Canon 3(B)(8), which requires a judge to "dispose of all judicial matters promptly, efficiently and fairly;" Canon 2(A), which requires

a judge to “respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;” or Canon 3(B)(2), which requires a judge “to be faithful to the law and maintain professional competence in it and requiring a judge not to be swayed by partisan interest, public clamor or fear of criticism.”

3. Specifically, cases and commentators construing Canon 3(B)(8) make clear that to constitute a violation of Canon 3(B)(8) warranting disciplinary action, a judge must fail to render decisions in multiple cases for a lengthy period of time. Here, not only does Disciplinary Counsel fail to allege such multiple or lengthy failures by Judge Bell in the Formal Charges, but Disciplinary Counsel’s charge of decisional delay is clearly isolated to the delay by Judge Bell in making a decision in Mr. Pleau’s original General Sessions Court case. *See* Formal Charges, ¶¶ 1-5.

4. As to Count I’s charge that Judge Bell violated Canon 2(A) by not respecting and complying with the law and by acting in a manner that “promotes public confidence in the integrity and impartiality of the judiciary,” the undisputed material facts demonstrate that Judge Bell ultimately and correctly entered a judgment for the defendant insurer in *Pleau v. Merastar*, 2007-CV-869 (Cocke Gen. Sessions), as Disciplinary Counsel admits Tennessee law requires. In other words, while his decision was delayed, Judge Bell followed Tennessee law by dismissing Mr. Pleau’s complaint and Merastar has never complained – to this Court or to Judge Bell – of any prejudice or other injury. Plainly, Mr. Pleau suffered no palpable prejudice or injury from Judge Bell’s non-merits dismissal of his action, which he re-filed. *See* Statement of Undisputed Facts, ¶¶ 5-17.

5. Insofar as Disciplinary Counsel’s charge in Count I relies upon the service upon or transmission to the parties of the entered judgment, the undisputed material facts and applicable

Tennessee law show that Judge Bell was neither responsible for such transmission nor aware of a failure in such transmission. *See* Statement of Undisputed Facts, ¶¶ 14-17. Nor is there clear and convincing evidence that either Mr. Pleau or Meristar was harmed by the Clerk's failure to provide service, since Mr. Pleau re-filed his action without objection by Meristar or Ms. Coleman. *See* Statement of Undisputed Facts, ¶¶ 29-37.

6. Under the undisputed material facts which exist in this matter, Disciplinary Counsel cannot establish a violation of Canon 2(A) or Canon 3(B)(8) by clear and convincing evidence.

7. **Count II.** As to Count II of the Formal Charges, Disciplinary Counsel alleges that Judge Bell "was prejudiced against Jo Ann Coleman in the hearing of this matter as he had previously expressed an opinion on the responsibility and damages in this exact controversy" in violation of Canon 3(B)(1), which requires a judge to hear and decide matters assigned to the judge "except for those in which disqualification is required," and Canon 3(E)(1)(a), which disqualifies a judge from hearing a case in which he has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceedings. Here, nothing alleged in the Formal Charges can conceivably demonstrate, by clear and convincing evidence, that Judge Bell was biased or prejudiced or otherwise required to enter an order of disqualification or recusal in Mr. Pleau second lawsuit.

8. Under Supreme Court precedent, such a decision rests within the sound discretion of the trial judge. Neither Mr. Pleau nor Ms. Coleman, nor Meristar for that matter, asked Judge Bell to take such drastic action. *See* Statement of Undisputed Facts, ¶¶ 34-37. The inquiry called for under Canon 3(E)(1) requires more than speculation based upon suspicion.<sup>1</sup>

9. To the extent that Disciplinary Counsel implies that Judge Bell should have disqualified himself following Mr. Pleau's disciplinary complaint, even the "Frequently Asked Questions" section on the Court of Judiciary's website states that "[a]n allegation of misconduct is not a substitute for recusal procedures." *See* Statement of Undisputed Facts, ¶ 35.

10. Further, while a judge should take appropriate action to withdraw from a case where he or she deems himself or herself biased or prejudiced, the judge has an equally strong duty to sit, as here, where there is no valid reason for recusal.

11. **Count III.** Disciplinary Counsel alleges that Judge Bell is guilty of "multiple violations of law, Tennessee statutes and of the Code of Judicial Conduct," alleging a broad array of misconduct purportedly stemming from making contact with Mr. Pleau, through counsel, regarding resolution of Mr. Pleau's disciplinary complaint. Disciplinary Counsel alleges that Judge Bell: (A) failed to uphold the integrity and independence of the judiciary (Canon I(A)); (B) failed to "respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary" (Canon II(A)); (C) initiated *ex parte* communications (Canon III(B)); (D) was guilty of obstructing justice and governmental administration; (E) was guilty of obstructing or interfering with evidence or witnesses and witness

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<sup>1</sup>Judge Bell's hearing of Mr. Pleau's second lawsuit is analogous to a trial judge re-hearing a case after setting aside a judgment, or after reversal on appeal, or upon request for post-conviction relief.

tampering; (F) was guilty of engaging in a “conspiracy to subvert justice and the operation of the statutory Court of the Judiciary as well as the just and proper administration of the judicial system;” (G) was guilty of tampering with or improperly influencing a witness in violation of Tenn. Code Ann. § 39-16-107; (H) was guilty of official misconduct under Tenn. Code Ann. § 39-16-402; (I) was guilty of violating Tenn. Code Ann. § 17-5-302(1) because the alleged misconduct was willful; (J) was guilty of violating Tenn. Code Ann. § 17-5-302(2) because of an alleged willful or persistent failure to perform the duties of the office; (K) was guilty of violating Tenn. Code Ann. § 17-5-302 because the alleged conduct represents “a persistent pattern of intemperate, irresponsible or injudicious conduct;” and (L) was guilty of violating Tenn. Code Ann. § 17-5-302(8) in that the alleged conduct was “calculated to bring the judiciary into public disrepute and adversely affects the administration of justice.” *See* Formal Charges, ¶¶ 8-19.

12. Contrary to Disciplinary Counsel’s charges in Count II that Judge Bell was guilty of misconduct for having his attorney, Mr. Testerman, contact Mr. Pleau, Judge Bell’s statement of undisputed material facts unequivocally demonstrates that there was no offer or discussion of a *quid pro quo*. *See* Statement of Undisputed Facts, ¶¶ 54-60. In fact, not only does Mr. Pleau admit that at no time did Mr. Testerman offer him anything of any kind to drop the complaint against Judge Bell, but Mr. Pleau twice asked Mr. Testerman if dropping the charges against Judge Bell would make a difference in how Judge Bell would rule in his lawsuit and both times, Mr. Testerman explicitly said it would not make a difference. *See* Statement of Undisputed Facts, ¶ 83.

13. Finally, after Disciplinary Counsel referred the charges against Judge Bell to the Tennessee Bureau of Investigation, Agent Lott of the TBI, who presided over the TBI’s investigation, stated unequivocally that he “has no knowledge of how Judge Bell may have violated

any of the criminal statutes referenced in the Formal Charges.” *See* Statement of Undisputed Facts, ¶¶ 101.

14. As Count III is based upon the facts alleged in the Formal Charges, the accuracy of which have been contradicted by the summary judgment evidence now before the Court, including Mr. Pleau’s own statements in direct conflict with Disciplinary Counsel’s charges of misconduct by witness tampering, among others, there is no genuine issue of material fact that Disciplinary cannot establish misconduct in this case, much less do so by clear and convincing evidence.

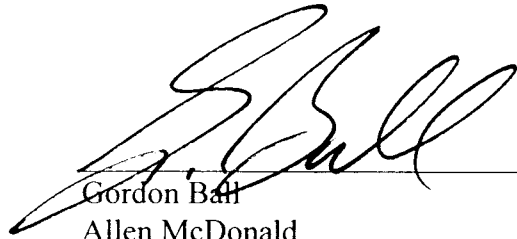
15. **Notice.** The undisputed material facts demonstrate that Disciplinary Counsel failed to provide Judge Bell notice pursuant to Tennessee Code Annotated §17-5-304(c) that he was being investigated for any other alleged action or inaction than those recounted in Count I with respect to decisional delay and service of a copy of the judgment on the parties. *See* Statement of Undisputed Facts, ¶ 53. Consequently, Counts II and III should be summarily dismissed.

16. Judge Bell relies upon the entire record in this case, including the Statement of Undisputed Material Facts, the Exhibits thereto, the Depositions filed with this Court on February 1 and/or 2, 2010, and the pleadings heretofore filed in this matter.

17. Judge Bell also relies upon his Memorandum in Support of his Motion for Summary Judgment, which will be filed forthwith.

**WHEREFORE**, because there are no genuine issues of material fact and he is entitled to judgment as a matter of law, Judge Bell respectfully asks the Court to grant summary judgment in his favor on each of the three (3) Counts asserted against him in the Formal Charges of October 13, 2010.

Respectfully submitted, this 1<sup>st</sup> day of February, 2010.



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Gordon Ball

Allen McDonald

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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, and by electronic mail, upon:

Joseph S. Daniel  
tlawdaniel@comcast.net  
Disciplinary Counsel  
Patrick J. McCall  
patrickjmchale@gmail.com  
Assistant Disciplinary Counsel  
Court of the Judiciary  
503 North Maple Street  
Murfreesboro, Tennessee 37130

This 1<sup>st</sup> day of February, 2010.

  
Gordon Ball



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

APPELLATE COURT CLERK  
NASHVILLE

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

**COMPLAINT OF DAVID PLEAU  
FILE NO. 08-3508**

**JUDGE BELL'S STATEMENT OF UNDISPUTED MATERIAL FACTS IN  
SUPPORT OF MOTION FOR SUMMARY JUDGEMENT**

NOW INTO COURT comes Defendant Judge John A. Bell ("Judge Bell"), by and through undersigned counsel, pursuant to Rule 56.03 of the Tennessee Rules of Civil Procedure, and submits this Statement of Undisputed Material Facts Memorandum in Support of the foregoing Motion for Summary Judgment, which demonstrates the lack of genuine issues of material fact for trial on any of the three (3) counts listed in the Formal Charges and that each of the three (3) counts listed in the Formal Charges are unfounded, entitling Judge Bell to judgment as a matter of law.

These undisputed facts are supported by the following evidence:

1. Deposition Testimony

- Deposition of David Pleau ("Pleau Deposition")<sup>1</sup>
- Deposition of James LaRue ("LaRue Deposition")
- Deposition of TBI Special Agent Jon Scott Lott ("Lott Deposition")
- Deposition of Attorney Tom Testerman ("Testerman Deposition")
- Deposition of Judge John A. Bell ("Bell Deposition")

<sup>1</sup> Deposition transcripts (including exhibits) of Pleau, LaRue, Lott, Testerman, and Bell have been provided to the Court pursuant to the Court's Order January 27, 2010.

## 2. Exhibits (or portions thereof) to Depositions<sup>2</sup>

- February 25, 2009 letter from J.S. Daniel to Mark Gwyn, Director of Tennessee Bureau of Investigation, contained in exhibit 1 to the Lott Deposition (“Exhibit C”)
- Subpoena for Phone Records of David Pleau, issued by the Special Agent Lott; contained in exhibit 1 to the Lott Deposition (“Exhibit D”)
- Compilation of TBI Investigation Reports; contained in exhibit 1 to the Lott Deposition (“Exhibit E”)<sup>3</sup>
- Statements of Tom Testerman, prepared by J.S. Daniel and James LaRue; contained in exhibit 1 to the Lott Deposition (“Exhibit F”).
- Subpoenas issued by Special Agent Lott of the TBI for phone records of Judge John A. Bell and attorney Tom Testerman, with related memo; contained in exhibit 1 to the Lott Deposition (“Exhibit G”)
- Transcript of December 23, 2008 Hearing, late filed exhibit 12 to Bell Deposition (“12/23/08 Transcript”)
- Transcript of February 20, 2009 Hearing, late filed exhibit 13 to Bell Deposition (“2/20/09 Transcript”)
- Affidavit of David Pleau, dated February 20, 2009, prepared at the request of James LaRue; exhibit 3 to the Larue Deposition (“Pleau Affidavit”)

## 3. Affidavits and Other Material<sup>4</sup>

- Affidavit of Judge John A. Bell, prepared in support of Motion for Summary Judgment (“Bell Affidavit”)
- Compilation of Correspondence Between J.S. Daniel and Judge Bell between July 17, 2008 and February 6, 2009 (“Exhibit A”)<sup>5</sup>
- Court of the Judiciary Pamphlet (“Exhibit B”)

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<sup>2</sup> For the Court’s convenience, additional copies of these are included herewith.

<sup>3</sup> Investigative Reports (IR’s) 30-38. Reports 1-29 concern the prior investigation of Judge Bell regarding East Tennessee Probation Services – see ¶¶69-74.

<sup>4</sup> The original of Judge Bell’s Affidavit and copies of the correspondence between Daniel and Judge Bell and the Court of the Judiciary Pamphlet are included herewith.

<sup>5</sup> Excluded from Exhibit A are attachments to Judge Bell’s February 6, 2009 letter, specifically (1) a letter from Judge Bell’s physician describing his medical condition and treatment after his automobile accident on April 19, 2008, and (2) copies of 496 appellate cases in Tennessee in which the court took longer than 6 months to issue an opinion.

**I. UNDISPUTED MATERIAL FACTS REGARDING BACKGROUND INFORMATION CONCERNING JUDGE BELL**

1. Judge Bell is a judge in Cocke County, Tennessee, having been duly elected in 1998 and reelected in 2006. Bell Deposition, Page 21 and 22.

2. Not only is Judge Bell a general sessions court judge handling civil and criminal matters, he is also a juvenile judge in Cocke County. He also handles mental health matters. Bell Deposition, Page 23, Line 21.

3. In addition to his work as a lawyer and judge, Judge Bell is a decorated member of the armed services, having received 3 Meritorious Service Medals, and 5 or 6 Army Commendation Medals. Bell Deposition, Page 15, Lines 3-23.

4. Currently, Judge Bell holds the rank of Lieutenant Colonel in the United States Army Reserve. Bell Deposition, Page 11, Line 20.

**II. UNDISPUTED MATERIAL FACTS REGARDING DAVID PLEAU'S UNINSURED MOTORIST LAWSUIT AGAINST MERASTAR FILED ON OR ABOUT AUGUST 9, 2007 ("PLEAU I")**

A. Pleau I Trial and Motion to Dismiss

5. On September 18, 2007, Judge Bell was the presiding judge in the trial of *David J. Pleau v. Merastar*, 2007-CV-869 ("Pleau I") concerning an automobile accident David J. Pleau ("Pleau") and an uninsured driver in Cocke County, Tennessee on or about December 29, 2006. Formal Charges, ¶¶1 and 2.

6. Judge Bell did not know Pleau or the insured driver (Jo Ann Coleman or "Ms. Coleman") before the automobile accident. Bell Deposition, Page 26, Line 2.

7. After the close of proof, Merastar's attorney moved to dismiss the case, arguing that under Tennessee Code Annotated 56-7-1206, the action was improperly brought against Merastar without including Ms. Coleman as a defendant. Formal Charges, ¶1.<sup>6</sup>

8. Judge Bell's general practice, after he takes a case under advisement, is to tell parties to check back in a week. Bell Deposition, Page 51, Line 3-19.

9. Pleau understood Judge Bell to say that he should have a decision back in a week. Pleau Deposition, Page 20, Line 9; Page 60, Line 8.

10. While the case was under advisement, Judge Bell researched the applicable statutes and whether any available statutory defenses available had been waived by Merastar. Bell Deposition, Page 55, Line 10; Page 59, Line 17.

11. Judge Bell worked on the file on about a weekly basis. Bell Deposition, Page 63, Line 11.

12. Between September 18, 2007 and June 27, 2008, according to records obtained from the clerk's office in Cocke County, Judge Bell disposed of 12,123 cases. Exhibit A; Bell Deposition, Page 116, Lines 12-24.

13. On June 27, 2008, Judge Bell issued an order granting Merastar's motion to dismiss. Bell Deposition, Exhibit 3.

14. The order was signed by Judge Bell. Joyce Clark signed a Certificate of Service affirming that the order was mailed to the parties. Bell Deposition, Page 73, Line 23.

15. Joyce Clark does not work for Judge Bell. She is a full time employee for the Clerk's office. Bell Deposition, Page 74, Line 3.

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<sup>6</sup> The Motion to Dismiss filed by Merastar is Exhibit 1 to Judge Bell's Deposition.

16. Moreover, the court offices are not allowed to have stamps. All outgoing mail from the clerk's office is taken the office of the County Mayor, where it is stamped and put in the mail. Bell Deposition, Page 110, Lines 7-18.

17. Mr. Pleau did not receive a copy in the mail<sup>7</sup>. Merastar's counsel mailed a copy to Mr. Pleau who received the Order on July 10, 2007 (Pleau Deposition, Page 57, Line 11 through Page 58, Line 15).

B. Pleau was advised that his time to Appeal to Circuit Court has expired.

18. Upon receipt of the Order, Pleau went to Cocke County General Sessions with the intention to appeal the matter to Circuit Court. Pleau Deposition, page 62, line 2.

19. Mr. Pleau was advised by General Sessions Court personnel that the time to appeal had expired. Pleau Deposition, page 62, line 6.

20. Judge Bell was not involved in advising Pleau that his time to appeal had expired, and in fact Judge Bell had signs posted that General Sessions Court personnel should not provide legal advice. Bell Deposition, Page 108, Lines 6-15. Judge Bell has told court clerks they are not to give legal advice. Bell Deposition, Page 115, Line 15, Page 116, Line 6.

C. Pleau files a Complaint against Judge Bell in the Court of the Judiciary.

21. Immediately thereafter, Pleau filed a complaint against Judge Bell with the Tennessee Court of the Judiciary. Pleau deposition, Page 62, line 22.

22. On July 17, 2008, Disciplinary Counsel J.S. Daniel ("Mr. Daniel") notified Judge Bell of the complaint by Pleau via letter. See Exhibit A.

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<sup>7</sup> At this time, it appears clear that the Order was not received by either party in the mail. Rather, after inquiry by Merastar's counsel, the Clerk faxed them copy of the Order, and Merastar's counsel, in turn, sent Mr. Pleau a copy.

23. Mr. Daniel and Judge Bell also spoke at least once during that time via telephone. Mr. Daniel told Judge Bell that he should consider Rule 60 of Tennessee Rule of Civil Procedure and its application to general sessions court to address the issues regarding service of Judge Bell's June 27, 2008 order. Bell Affidavit, ¶6. Bell Deposition, Page 131, Line 17.

24. Judge Bell wrote Mr. Daniel a letter dated December 15, 2008, which included the following proposal from Judge Bell regarding correcting the service issue with the June 27, 2008 order:

Unless you object, I am going to correct the mistake by the clerk's office. I am giving the parties 5 days Notice of Hearing for the purpose of correcting the clerk's mistake Sua Sponte. The authority for correcting the mistake of the clerk's office is Tennessee Rules of Civil Procedure 60.01 as made applicable to General Sessions Court through TCA section 16-15-727 as amended 18 June 2007. I will give notice on 15 December 2008 for a hearing on 23 December 2008.

See attached Exhibit A.

25. Upon Judge Bell's instruction, on December 15, 2008 a Notice of Hearing for December 23, 2008 was sent to Pleau and Merastar's counsel. See attached Exhibit A.

26. Mr. Daniel responded to Judge Bell's Dec. 15 '08 letter on December 23, 2008. Mr. Daniel did not object to Judge Bell's proposal. See attached Exhibit A.

27. Consistent with his December 15, 2008 letter to Mr. Daniel, on December 23, 2008 Judge Bell held a hearing in Pleau I. The hearing was attended by attorney Brad Fraser on behalf of Merastar as well as Pleau.<sup>8</sup> 12/23/08 Transcript.

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<sup>8</sup> It is this hearing wherein Disciplinary Counsel alleges that Judge Bell "encouraged Mr. Pleau to file a new action against 'the other driver' whose name is Jo Ann Coleman. Formal Charges, ¶6. However, this allegation is impossible. Pleau filed the second action (Pleau II) against Ms. Coleman on October 8, 2008. See ¶29. Pleau II is discussed in the transcript of the 12/23/08 hearing.

28. Contrary to the allegation in the Formal Charges that “[O]n December 23, 2008 Judge Bell thereupon entered an order which vacated the previous dismissal” the transcript of the December 23, 2008 hearing contains no reference to “vacating” the prior order of dismissal. See 12/23/09 Transcript. Further, no order vacating the June 27, 2008 order was ever entered.

**III. UNDISPUTED MATERIAL FACTS REGARDING DAVID PLEAU’S UNINSURED MOTORIST LAWSUIT AGAINST MERASTAR FILED ON OR ABOUT OCTOBER 8, 2008 (“PLEAU II”)**

29. On October 8, 2008 (76 days before the aforementioned hearing on December 23, 2008), Pleau filed a second lawsuit (2008-CV-1168), this time naming Jo Ann Coleman as a defendant (“Pleau II”). Pleau Deposition, Page 26, Line 19.

30. Mr. Pleau was not encouraged by anyone to file the second complaint. He did it on his own. Pleau Deposition, Page 50, Line 12.

31. At the December 23, 2008 hearing referenced above, Pleau and counsel for Merastar agreed to a trial date of Friday, February 20, 2009. 12/23/08 transcript, page 12, Line 15.

32. Judge Bell notified Mr. Daniel of the February 20, 2009 trial date via letter dated December 29, 2008. See attached Exhibit A.

33. The parties all appeared on February 20, 2009 for trial, and the proceedings were transcribed. Because he had mistakenly subpoenaed witnesses for Saturday February 21, 2009, Pleau requested a continuance (2/20/09 transcript page 6, lines 16-20) and the matter was reset to April 24, 2009 (2/20/09 transcript page 11, lines 12-16). No party objected to the continuance.

34. Nor did any party object to Judge Bell continuing to be the judge in the case. 2/20/09 transcript.

35. In fact, recusal by Judge Bell in Pleau II would have been contrary to the position of the Court of the Judiciary. The quotation below is taken directly from a pamphlet distributed by the Court of the Judiciary (copy attached as Exhibit B), as well as information on the Court of the Judiciary's website:

**Can I get a judge off my case if I make a complaint against the judge?**

No. An allegation of judicial misconduct is *not* a substitute for recusal procedures. You should seek the advice of your attorney about the procedure for attempting to remove a judge from your case.

36. The trial in Pleau II occurred on Friday, April 24, 2009 as planned. Judge Bell issued an opinion on the next business day, April 27, 2009. Judge Bell found in favor of Mr. Pleau, and Merastar appealed the decision to Circuit Court, after which, the parties settled.

37. None of the parties in Pleau II have made any complaint to the Court of the Judiciary regarding Judge Bell's handling of any part of Pleau II (up to and including the final order).

**IV. UNDISPUTED MATERIAL FACTS REGARDING DISCIPLINARY COUNSEL'S INVESTIGATION INTO PLEAU'S COMPLAINT AGAINST JUDGE BELL**

A. The Initial Investigation is Limited to the Delay and Service Issues

38. On July 14, 2008 David Pleau signed a complaint in the Court of the Judiciary alleging judicial misconduct by Judge Bell. See attached Exhibit A.



39. The allegations of the complaint concerned the delay by Judge Bell in not issuing his opinion until June 27, 2008, and the fact that Mr. Pleau did not receive a copy of the order until July 10, 2008.

40. On July 17, 2008, Mr. Daniel sent Judge Bell a copy of the Complaint. See attached Exhibit A.

41. In relevant part, Mr. Daniel's 7/17/08 letter states:

It is claimed that Mr. Pleau's case was tried September 18, 2007. He says you took the matter under advisement and did not render a decision until June 27, 2008. These facts if proven **would constitute judicial delay**, a violation of canon 3(B) (8) of the Code of Judicial Conduct. (emphasis added).<sup>9</sup>

The letter goes on to state:

Pursuant to our standard procedures, I merely request that you submit a response to the complaint. It is not necessary for your response to be under oath.

42. Judge Bell responded to the complaint via letter dated August 14, 2008 (including 9 separate paragraphs and 10 subparts to paragraph 3), a copy of which is attached. Judge Bell response is sworn to under oath. In his response, as explanation for the delay, Judge Bell explains (1) that the motion to dismiss filed by the defendant insurance company required "extensive legal research,"<sup>10</sup> (2) that during the period between 9/18/07 and 6/27/08, he had disposed of 1,926 civil cases, 2,576 juvenile cases, and 7,621 criminal cases (through May 13, 2008) for a total of 12,133 cases, and (3) that he had been in an automobile accident which caused him to be temporarily totally disabled for a week, and temporarily partially disabled for 3 months. See Exhibit A.

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<sup>9</sup> Daniel's letter does not appear to leave open even the possibility that any set of circumstances might have justified the delay.

<sup>10</sup> Judge Bell has no law clerk to perform research or otherwise to assist him.

43. Via letter dated August 19, 2008, and consistent with the prior position that no set of circumstances could justify the Judge Bell's delay in rendering a decision, Mr. Daniel wrote back to Judge Bell, in relevant part stating:

Your response fails to address the delay issue... This complaint alleges that Mr. Pleau's case was tried September 18, 2007, and you failed to render a decision until June 27, 2008. Your response is inadequate.

44. Judge Bell responded to Mr. Daniel August 19, 2008 with a letter dated August 29, 2008 (attached). In that letter, Judge Bell elaborates on the reasons for the decision in the Pleau case was not issued until June 27, 2008:

... I do not have any designated office time to do research. My regular work schedule has me holding court every day Monday through Friday. I have office time to do research only when the cases finish early. I did office work and research on this case when I was finished with court. The second reason was because I was in a car wreck, the victim of a drunk driver.

45. On October 26, 2008, Mr. Daniel wrote Judge Bell advising him that an Investigative Panel of the Court of the Judiciary had authorized a full investigation of the Pleau complaint, and purported to give notice under Tennessee Code Annotated §17-5-304(c). See attached Exhibit A.

46. Judge Bell responded to the October 26, 2008 letter on December 15, 2008.

47. Mr. Daniel responded on December 23, 2008, stating that Judge Bell had "refused to respond to [the] allegation" that there was a delay from the September 18, 2007 to June 27, 2008.

48. In fact, Judge Bell had never denied the delay between September 18, 2007 and June 27, 2008, but had attempted numerous times to explain the reasons for the delay. See attached Exhibit A.

49. Judge Bell responded to Mr. Daniel's December 23, 2008 letter on December 31, 2008. Judge Bell requested that all of his communication be send to the investigative panel for their consideration. See attached Exhibit A.

50. On January 5, 2009, Mr. Daniel responded to Judge Bell's December 31, 2008 letter. See attached Exhibit A.

51. On February 6, 2009, Judge Bell responded to Mr. Daniel's January 5, 2009 letter. See attached Exhibit A.

52. The only allegations against Judge Bell that he was aware of by Mr. Daniel were limited to (1) the ruling from Pleau I was not issued by Judge Bell until June 24, 2008, and (2) the ruling was not mailed by the Court to Mr. Pleau. Bell Affidavit, ¶¶3,5 and 7.

53. Judge Bell never received notice pursuant to Tennessee Code Annotated §17-5-304(c) from Disciplinary Counsel that he was being investigated for any other alleged action or inaction. Bell Affidavit, ¶7.

B. Tom Testerman's Phone Call to Pleau

54. Despite the purported confidentiality of the Court of the Judiciary, many persons in Cocke County were aware that Judge Bell was being investigated concerning Pleau's complaint. Bell Deposition, Page 78, Line 20.

55. In mid-late January 2009, Judge Bell received an anonymous phone call during which the caller stated that Pleau was going to drop his disciplinary complaint. Bell Affidavit, ¶8. Judge Bell has never learned the identity of the anonymous caller. Bell Affidavit, ¶9.

56. Shortly thereafter, Judge Bell engaged the professional services of Attorney Tom Testerman of the Cocke County Bar. Bell Affidavit, ¶10.

57. On February 2, 2009, Testerman contacted Pleau. Testerman identified himself as an attorney calling on behalf of Judge Bell. Testerman asked Pleau if he was going to drop the charges against Judge Bell. Testerman also said that he would like Pleau to come to Testerman's office to sign a document for the purpose of discontinuing the complaint against Judge Bell.<sup>11</sup> Pleau depo, Page 31, line 19 through Page 32, line 2. Pleau Affidavit.

58. There was no quid pro quo. At no time did Testerman offer Pleau anything of any kind to drop the complaint against Judge Bell. Pleau deposition, Page 43, line 8.

59. Specifically, Testerman did not tell Pleau that Judge Bell would find in his favor if Pleau dropped the charges. Pleau deposition, Page 31, line 15; Page 43, Line 9. Nor, did Testerman threaten Pleau if he did not drop the charges.<sup>12</sup>

60. Pleau told Testerman he was focusing on his civil trial and would not drop the charges at that time. Pleau Affidavit.

#### C. Disciplinary Counsel's Investigations Turns to the Testerman-Pleau Call

61. Despite Mr. Daniel's representation to Bell that the decision on whether or not to proceed was going to be decided by the Investigative Panel based upon facts gathered through January 5, 2009, Mr. Daniel sent private investigator James LaRue to attend the trial set for February 20, 2009. LaRue Deposition, Page 11, Line 4.

62. LaRue met Pleau there, and Pleau told him about Testerman's call. LaRue "jumped all over the issue". Pleau deposition, Page 49, Line 15.

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<sup>11</sup> Tennessee law provides that it is the duty of Disciplinary Counsel to recommend a full investigation when there is evidence supporting allegations. No law in Tennessee provides the complaining party with the authority to drop charges. There are no documents available to the general public for the purpose of dropping a complaint against a judge.

<sup>12</sup> See Exhibit E, described below.

63. LaRue asked Pleau to sign an affidavit regarding the call from Testerman, which Pleau agreed to do. LaRue Deposition, Page 26, Line 2.

64. On February 20, 2009, Pleau prepared and signed an affidavit regarding his 2/2/09 conversation with Testerman. Pleau Affidavit.

65. Pleau's affidavit is directed to the "Court of the Judiciary, Attn. Joseph S. Daniel". Id.

66. Pleau's affidavit specifically states that Testerman identified himself as an attorney who was calling on behalf of Judge Bell. Id.

67. Upon obtaining the Pleau Affidavit, LaRue immediately faxed the affidavit to Mr. Daniel. LaRue Deposition, Page 36, Line 12.

68. Nowhere in the Pleau's affidavit does he state that he was offered consideration to drop the charges against Judge Bell, or that he was in any way threatened if he did not drop the charges.

D. Mr. Daniel Seeks Assistance from the TBI<sup>13</sup>

69. On February 25, 2009, Mr. Daniel sent a letter to Mark Gwyn, Director of the Tennessee Bureau of Investigation. See Exhibit C. In the letter, Mr. Daniel not only references the Pleau complaint, and the call from Testerman, but also a past complaint about Judge Bell regarding East Tennessee Probation Services – a matter which had been settled in September 2008 (copy of Order, signed by Mr. Daniel attached).

70. Despite Testerman's failure to offer Pleau any consideration at all to drop the charges, in his letter Mr. Daniel advised Mr. Gwyn:

The statements that Mr. Pleau has made under oath<sup>14</sup> will constitute a conspiracy<sup>15</sup> by Judge Bell acting through

---

<sup>13</sup> As set forth below, the Tennessee Attorney General's Office also became involved. Discovery has not yet revealed how, when or why the AG became involved.

Testerman to interfere with an official investigation and suppress the formal presentation of these charges.<sup>16</sup>

71. In the letter to Mr. Gwyn, Mr. Daniel sought to have the TBI obtain the phone records of Judge Bell, Testerman, and Pleau. *Id.*

72. Mr. Daniel further sought to have Mr. Gwyn utilize the resources of the TBI to “wire Mr. Pleau and help facilitate Mr. Testerman’s further involvement”. *Id.*

73. Special Agent Scott Lott of the TBI was assigned to the case. Lott, Page 8, Line 9.

74. Lott was also an investigator on the prior matter involving East Tennessee Probation Services. He did not open a new file on the Pleau matter, but rather continued the same file involving East Tennessee Probation Services. Lott, Page 6 Line 8 through Page 7 Line 8.

75. Within two days of Mr. Daniel’s letter to Gwyn, a subpoena was issued for Pleau’s phone records, without Pleau’s knowledge. See Exhibit D (Subpoena for phone records of David Pleau).

76. On March 4, 2009, Lott and others including LaRue interviewed Pleau. Pleau confirmed that during the February 2 call to Pleau “Testerman did not promise him anything nor threaten him in any way”. See Exhibit E.

E. Pleau is Asked Arrange a Meeting with Testerman and “Wear a Wire”

77. On March 4, 2009, at the request of LaRue, Pleau called Testerman to arrange for a meeting. Pleau deposition, Page 44, Lines 13-23.

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<sup>14</sup> Referring only to the affidavit regarding the phone call from Testerman.

<sup>15</sup> Daniel’s letter does not at any time indicate that the facts “may constitute” misconduct, rather he is definitive that the facts “will constitute” actionable wrongdoing by both Judge Bell and Testerman. As with the allegations of delay, Daniel appears foreclosed to the possibility of any justification for Testerman’s call to Pleau.

<sup>16</sup> The decision of whether to proceed with formal charges had not yet been made by the Investigative Panel; or if that decision had been made Daniel had failed to advise Bell as promised.

78. The telephone call was recorded by the TBI.<sup>17</sup>

79. In relevant part, the TBI's Investigative Report summarizes the call as

follows:

Pleau told Testerman he wanted to review the paperwork and Testerman asked him what kind of paperwork. Pleau told Testerman it was the paperwork about dropping the judicial review. Testerman told Pleau that it was up to him and Testerman wasn't trying to strong arm him on that. Testerman then asked Pleau if he wanted him to assist in prosecuting the lawsuit...

Pleau explained that the issue he was concerned with was dropping that investigation and that Testerman said he had some papers he wanted Pleau to review. Testerman began his reply by saying, "If you were not of a mind to do that we would not..." and Pleau explained that the court date had gone by and he just wanted to go over what Testerman had proposed and see what his options are.

See Exhibit E.

80. Pleau made an appointment to meet Testerman at his office on March 20, 2009 at 2:30 p.m. See Exhibit E.

81. The TBI outfitted Pleau with an audio/video recording device for his meeting with Testerman.<sup>18</sup> In addition, TBI agents were able to hear the conversation between Pleau and Testerman in real time. Lott, Page 13, Lines 7-16.

82. Pleau understood that Testerman was acting as Judge Bell's attorney. Lott Deposition, Page 31, Line 16.

F. Again, Testerman Explicitly Tells Pleau There is No Consideration for Dropping the Charges Against Judge Bell

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<sup>17</sup> A DVD containing the TBI recording is attached as an exhibit. A transcript of the call will be provided as a late filed exhibit.

<sup>18</sup> A DVD containing video/audio recording of the Pleau/Testerman meeting on March 20, 2009 is attached.

83. Twice during the meeting on March 20, 2009, Pleau asked Testerman if dropping the charges against Judge Bell would make a difference in how Judge Bell would rule in Pleau's lawsuit against his insurance company (Pleau II – which was set to be heard on April 24, 2009). Both times, Testerman confirmed that it would not make a difference. See Exhibit E.

G. Neither Disciplinary Counsel Nor Its Investigator Bother to Get the Real Facts

84. LaRue, the investigator employed by Mr. Daniel and Disciplinary Counsel's office did not listen to the meeting between Pleau and Testerman. LaRue Deposition, Page 60, Line 11.

85. LaRue never listened to the recording or watched the video. No one even discussed with LaRue any part of the conversation between LaRue and Testerman. LaRue Deposition, Page 61, Line 14.

86. Despite Mr. Daniel seeking the assistance of the Attorney General's Office and TBI, neither Mr. Daniel nor Patrick J. McHale (Assistant Disciplinary Counsel, working under Mr. Daniel) ever spoke with Lott regarding his investigation. Lott Deposition, Page 19, Line 10.

87. None of the records provided to Judge Bell's counsel suggest that anyone investigating this matter on behalf of the TBI, Attorney General's office or the Court of the Judiciary has spoken with Pleau since March 20, 2009.

H. Mr. Daniel Continues the "Investigation" into Testerman and Judge Bell

88. On June 1, 2009, Lott subpoenaed phone records relating to Judge Bell and Testerman. These were issued only after approval from Mr. Daniel. See Exhibit G.

I. Mr. Daniel Intimidates Testerman into Violating the Attorney-Client Privilege



89. On July 16, 2009, Mr. Daniel and LaRue went to Testerman's office unannounced. See Exhibit F. See also, Exhibit E.

90. Mr. Daniel told Testerman that he had violated the rules of professional conduct by communicating directly with Pleau. See Exhibits E and F.

91. Testerman was intimidated by Mr. Daniel. Testerman Deposition, Page 50, Line 12.

92. After intimidating Testerman, Mr. Daniel pressed him for information regarding Testerman's conversations with Judge Bell. Exhibit F.

93. In response to the intimidation, Testerman revealed information to Mr. Daniel, which Testerman believes were protected under the attorney-client privilege. Testerman deposition, Page 50 line 7 through Page 51 line 16.

94. Mr. Daniel also suggested that Judge Bell had violated canons of judicial ethics. Exhibit F.

95. Mr. Daniel further stated that he would have to report Testerman's conduct to the Board of Professional Responsibility. Exhibit F.

96. Following threatening Testerman with being reported to BPR, Mr. Daniel "then informed Testerman of the criminal implications of this case". Exhibit F.

97. After having been threatened by ethics charges and accused of being involved in criminal activity, "Testerman became wary of answering any more questions". Exhibit F.

98. Mr. Daniel sought an affidavit from Testerman, but Testerman refused. Exhibit F.

99. Both Mr. Daniel and LaRue provided reports of their meeting with Testerman to the TBI. Exhibit E. See also, Lott Deposition, Page 17, Line 16 through Page 18, Line 4.<sup>19</sup>

100. On August 6, 2009, Lott and Investigator Trey King of the Tennessee Attorney General's Office met with Testerman in an attempt to interview him.<sup>20</sup> Lott and King spent 15-20 minutes "negotiating" with Testerman, including suggesting the possibility of criminal immunity for Testerman. However, Testerman refused to give a statement to them. Exhibit E.

101. After all of his investigation, Lott has no knowledge of how Judge Bell may have violated any of the criminal statutes referenced in the Formal Charges. Lott, Page 44, Line 18 through Page 46, Line 15.

J. The "Investigation" Ends and Formal Charges Filed – Still With No Evidence of Any Offer of Consideration to David Pleau for Dropping the Charges Against Judge Bell

102. No further investigation was undertaken after August 6, 2009 by Disciplinary Counsel, LaRue, or the TBI.

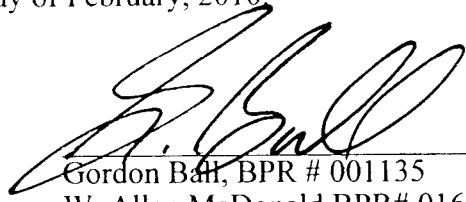
103. Formal Charges were filed by Disciplinary Counsel against Judge Bell in the Court of the Judiciary on October 13, 2009. See Formal Charges.

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<sup>19</sup> Lott is uncertain whether he obtained the reports directly or indirectly from Daniel and LaRue.

<sup>20</sup> This was another "cold call" on Testerman. He did not know Lott and King were coming to his office that day. Lott, Page 30, Line 12.

Respectfully submitted this 1<sup>st</sup> day of February, 2010

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

Gordon Bell, BPR # 001135  
W. Allen McDonald BPR# 016210  
BALL & SCOTT  
550 West Main Street, Suite 601  
Knoxville, Tennessee 37902  
Telephone: (865) 525-7028  
Facsimile: (865) 525-4679  
Attorneys for Judge John A. Bell

**CERTIFICATE OF SERVICE**

A copy of the foregoing was served upon the following via overnight delivery:

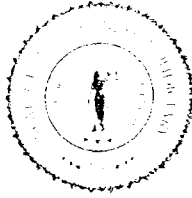
Patrick J. McHale  
Joseph S. Daniel  
Disciplinary Counsel  
503 North Maple Street  
Murfreesboro, Tennessee 37130

This 1<sup>st</sup> day of February, 2010.

  
Gordon Ball

**EXHIBIT A**  
**To Judge Bell's Statement of**  
**Undisputed Material Facts**  
**M2009-02115-CJ-CJ-CJ**

Compilation of Correspondence Between J.S. Daniel and Judge Bell between July 17, 2008 and February 6, 2009



503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

July 17, 2008

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave. Room 200  
Newport, TN 37821

RE: Complaint of David J. Pleau v. Judge John A. Bell  
File No.: 08-3508

Dear Judge Bell,

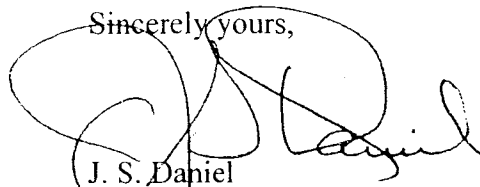
This office serves as Disciplinary Counsel for the Tennessee Court of the Judiciary to investigate complaints alleging judicial misconduct. The duties and responsibilities of the Court of the Judiciary and Disciplinary Counsel are set forth in Tennessee Code Annotated section 17-5-301 et. seq. (Supp. 2003). I am enclosing a complaint recently filed with the Court of the Judiciary. Based upon this office's review of the complaint, it alleges judicial delay. It is claimed that Mr. Pleau's case was tried September 18, 2007. He says you took the matter under advisement and did not render a decision until June 27, 2008. These facts if proven would constitute judicial delay, a violation of canon 3B (8) of the Code of Judicial Conduct.

It is Disciplinary Counsel's statutory responsibility, pursuant to Tennessee Code Annotated section 17-5-304(a), to conduct a preliminary investigation in order to evaluate the merits of the complaint. No determination has been made at this time as to whether this matter should proceed further.

Pursuant to our standard procedures, I merely request that you submit a response to the complaint. It is not necessary for your response to be under oath. If you cannot respond within twenty (20) days of the date of this letter, please advise us by letter as to when a response will be forthcoming. A copy of your response will be provided to the complainant, who will then have twenty (20) days to reply pursuant to our standard procedures. I will send you a copy of any reply. Upon receipt of all information, this office will forward this information to a panel of the Court as required by statute. The panel will then determine whether this matter should proceed further.

I realize this may be time-consuming and want to assure you that this office will undertake to promptly handle this matter. I also want you to know that I appreciate your understanding and cooperation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. S. Daniel". The signature is written in a cursive style with large, sweeping loops.

J. S. Daniel  
Disciplinary Counsel

08-3508

TENNESSEE COURT OF THE JUDICIARY

Steve Daniel, Disciplinary Counsel  
503 North Maple Street  
Murfreesboro, TN 37130  
(615) 898-8004

COMPLAINT AGAINST JUDGE UNDER CODE OF JUDICIAL CONDUCT

Your Name: DAVID J. PLEAK  
(please type or print)

Address: P.O. Box 204  
Hybee, Tennessee  
37713

Phone: Daytime (615) 721-5651 Evening (615) 721-8822

I have information of possible misconduct or disability on the part of Judge John Bell  
(name of judge or acting judge) of the SESSIONS  
Court in Newport (city) Cocke  
(county), Tennessee.

STATEMENT OF FACTS

(You may attach additional pages if necessary)

1. When and where did this happen?  
Date(s): September 18, 2007 Time: 9 AM Location: Cocke County Courthouse, Newport, TN

2. If your information arises out of a court case, please answer these questions:

a) What is the name and number of the case?  
Case name: David J. Pleak vs Memphis Ins Co Case No. 2007-CV-869

b) What kind of case is it?  
 criminal     domestic relations     general sessions     probate  
 civil     juvenile     other (specify) \_\_\_\_\_

c) What is your relationship to the case?  
 plaintiff/petitioner     defendant/respondent  
 attorney for \_\_\_\_\_  
 witness for \_\_\_\_\_  
 other (specify): \_\_\_\_\_

d) If you were represented by an attorney(s) in this matter at that time, please identify the attorney(s):  
Name(s): \_\_\_\_\_  
Address(es): \_\_\_\_\_  
Phone: ( ) \_\_\_\_\_

e) Identify any other attorney(s) who represented other parties involved in the case:  
Name of attorney: \_\_\_\_\_  
Address: \_\_\_\_\_



Phone: ( ) \_\_\_\_\_ Represented: \_\_\_\_\_

3. List documents that help support your information that the judge or acting judge has engaged in misconduct or has a disability, noting which documents you have attached.  
My enclosed document is a copy of the order, dated June 27, 2008.

4. Identify, if you can, any other witnesses to the conduct of the judge or acting judge:  
Name(s): \_\_\_\_\_  
Address(es): \_\_\_\_\_  
Phone: ( ) \_\_\_\_\_

5. Specify below the details of what the judge or acting judge did that you think constitutes misconduct or indicates disability. (Please type or print legibly; attach additional pages if necessary.)  
I entered my concerns pre-hearing, and then the hearing date of my concern was September 18, 2007. The judgement date was June 27, 2008. On September 18, 2007, Judge Ball stated that he would render a decision within one week. My complaint isn't so much that the decision rendered instead took more than ~~MONTHS~~ months, but that I was not told that I had ten days in which to file an appeal on this issue. Upon filing this claim against Merastar Insurance Company, Chattanooga, TN, I did not retain an attorney, being that the case was heard in "Small claims court." Enclosed, please find a copy of the judgement of this case, which was dismissed on a legal technicality, of which I, as small claim plaintiff, was knowledgeable of such technical issues, became the "ambushed" victim. I arrived at "Sessions Court Office" on July 10, 2008, with the intention to appeal the dismissal of this case, but was told that I had ten days to appeal by TN Law. My issue is that I received the judgement on the 10th of July, and was not informed of the time limit allowed in which to appeal, which was expired upon reception.

I UNDERSTAND THAT STATE LAW PROVIDES THAT THE COURT OF THE JUDICIARY'S PROCEEDINGS ON THIS REQUEST FOR INVESTIGATION ARE CONFIDENTIAL PRIOR TO THE FILING OF ANY FORMAL CHARGES BY DISCIPLINARY COUNSEL. I've been told that I am unable to appeal the ruling, based on the ten day limit, but I received the order after the 10th day.  
UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THESE STATEMENTS AND INFORMATION CONTAINED IN ANY ATTACHED DOCUMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND CONSTITUTE ALL OF MY COMPLAINTS AS OF THIS DATE AGAINST THE ABOVE-NAMED JUDGE OR ACTING JUDGE.

SIGNATURE: David G. Perea DATE: 7-14-2008  
If this appeal to you is acceptable, then I am now 10 business days from the order.  
DGP

STATE OF Tennessee  
COUNTY OF Cocke  
SWORN TO AND SUBSCRIBED \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**LEITNER, WILLIAMS,  
DOOLEY & NAPOLITAN, PLLC**  
*Attorneys at Law*

**Brad A. Fraser, Member**

180 Market Place Boulevard  
Knoxville, Tennessee 37922  
Main 865.523.0404 • Fax 865.673.0260  
Direct 865.342.4904 • Direct Fax 865.934.4904  
Toll-Free 800-421-8148  
brad.fraser@leitnerfirm.com

July 9, 2008

4390-00054

**VIA CERTIFIED MAIL R.R.R.**

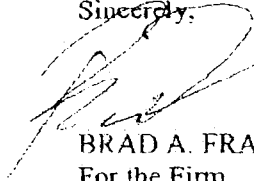
David Pleau  
1618 Scotch Pine Way  
Bybee, Tennessee 37713

RE: David Pleau v. Merastar Insurance Company  
Cocke County General Sessions Court No.: 2007-CV-869

Dear Mr. Pleau:

Enclosed please find a copy of the Order from the trial heard on September 18, 2007 regarding the above-referenced matter.

Sincerely,

  
BRAD A. FRASER  
For the Firm

BAF/jn

Enclosure

cc: Angela Grime

July 11, 2008  
please note that the  
date of this document  
is two days after  
the allotted per days  
with which Fam  
allowed to appeal. DF

Supreme Court of Tennessee  
Administrative Office of the Courts  
Nashville City Center, Suite 600  
Nashville, Tennessee 37219

David Pleau  
P.O. Box 204  
BYBee, TN, 37713

July 11, 2008

Tennessee Court of the Judiciary

Dear ~~Supreme~~ Court of Tennessee Representatives,

Enclosed, please find the completed form concerning my complaint concerning Judge John Bell, Sessions Court, Newport, Tennessee. In my own words, my issue is that upon the hearing of my complaint on September 18, 2007, Judge Bell stated in open court that he would have rendered a decision within one week. In fact, according to the copy of the court's order concerning this matter, dated June 27, 2008, this issue's decision was decided upon more than nine months later than what Judge Bell stated in open court. But what really irks me is that I tried my best to exercise forbearance and exercise patience in this matter, trusting in Judge John Bell's handling of this matter, and when I received the "order" concerning this case, I was not informed that I had only ten days to appeal. From the beginning of due processes according to Tennessee law, and this being a small claim,

pg 2

I felt confident that as a citizen of Tennessee, I would be informed in advance of court date of any issues pertinent to my issues. From the standpoint of the attorney for the Defense, firm: "Leitner, Williams, Dooley & Napolitan, PLLC," and according to Judge John Bell's analysis of this very case, "the Defendant knew of the law well before the trial (motion had been typed before trial,) and did not reveal the error to the plaintiff nor to the court until after the close of the plaintiff's case."

How can I, as a small claim plaintiff be expected to be aware of the law # TCA 56-7-1206? I spent \$130. to file this claim in sessions court, and now that the case has been dismissed, I suffer a reversal of fortunes of my filing fee as well as the cost of the damages to my vehicle, as well as interest on the monies concerning my claim over nine months elapsed before judgement, as well as much mental and emotional anguish. In short, I received this judgement without being informed of the time constraints concerning appeal, as well as not being informed of legal technicalities in advance of court date by Defense counsel. In the spirit of fair play, I position my case before you, The Supreme Court of Tennessee.

David Pleau  
P.O. Box 284  
Bobbinsville, TN  
37713

# JOHN A. BELL, JUDGE

111 Court Avenue, Suite 200  
Cocke County Courthouse  
Newport, Tennessee 37821

Phone: (423)-465-3007

FAX: (423)-465-3008

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J.S. Daniel  
Disciplinary Council  
503 North Maple Street  
Murfreesboro, TN 37130

14 August 2008

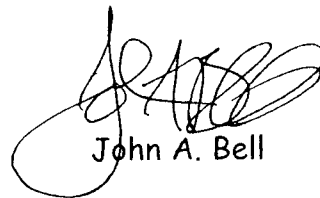
RE: Complaint of David J. Pleau  
File No.: 08-3508

Honorable J.S. Daniel,

This letter is written in response to your letter dated 17 July, 2008 concerning the above styled matter. Enclosed you will find my sworn statement in response.

If you need any additional information, please contact me at your convenience.

Sincerely,



John A. Bell

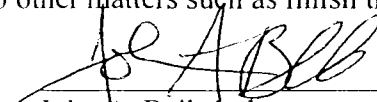
1. I am John A. Bell, General Sessions Court Judge for Cocke County Tennessee. I have done nothing wrong or improper in this matter. I make the following statements under oath concerning the Complaint filed by David J. Pleau.
2. The court case involved the filing of a civil complaint concerning an automobile accident. David J. Pleau represented himself and filed a civil complaint against his own insurance company. At trial, David J. Pleau was pro se and his insurance company was represented by their counsel. Further, at court, to observe, was additional counsel, who represented the insurance carrier for the driver of the other automobile. But, neither the other driver nor their insurance carrier was made a party to the action. At the close of the proof by the Plaintiff, the Defendant insurance carrier filed a motion to dismiss and rested. The case was over. The motion to dismiss is attached as enclosure 1 hereto. The motion to dismiss is based purely on an issue of law. The facts were easy to determine. I resolved all facts in favor of the Plaintiff, David J. Pleau. The legal issue however required research.
3. The motion to dismiss was based on T.C.A. section 56-7-1206 and was purely a question of law. I was required to do extensive legal research<sup>1</sup> to determine the question of law. I researched generally the following:
  - a. T.C.A. section 56-7-1206 in Tennessee and all Federal jurisdictions.
  - b. The language in TCA 56-7-1206 in all state and all federal jurisdictions.
  - c. Similar statutes in all states and all federal jurisdictions.
  - d. Ben W. Hooper, II v State Farm Mutual Automobile Insurance Company 682 S. W. 2d 505, in Tennessee, all other states and Federal jurisdictions.
  - e. The language in Ben W. Hooper, II v State Farm Mutual Automobile Insurance Company 682 S. W. 2d 505, in Tennessee, all other states and all Federal jurisdictions.
  - f. Similar cases in all states and all federal jurisdictions.
  - g. Whether the Defendant has waived the right to bring the motion by waiting until after the trial has started and after the close of the plaintiff's case in chief (i.e. did the defense waive the issue by not making the motion pretrial?) I researched this issue in Tennessee, all states and federal jurisdictions.
  - h. T.C.A. section 56-7-1206 is essentially a mandatory indispensable party statute. Therefore, I researched mandatory indispensable party in Tennessee, all states and all federal jurisdictions.
  - i. When motions for mandatory indispensable party must be raised. (I.e. Must the motions be raised pretrial or can they be raised in the Defense case in chief?) I researched this issue in Tennessee, all states and federal jurisdictions.
  - j. Which motions must be made pretrial or they are considered waived. I researched this issue in Tennessee, all states and federal jurisdiction.
4. Mr. Pleau complains that he was not told he had 10 days to appeal. I admit that I did not give him legal advice on the issue of appealing his case. When I was a

---

<sup>1</sup> It is my practice to dispose of all judicial notes and research once a final order is completed. I wish I had retained the stack of research so you could have seen the work I put into this case.

lawyer I gave advice on the time for appeals in cases. However, as judge I do not give advice to litigants.

5. The real basis for Mr. Pleau complains that his case was dismissed on a "...legal technical." and that I should have given him advice to keep his case from being dismissed. I admit that I was required by both statutory law and case law to dismiss the case on a legal technicality. I did not want to dismiss his case based on a legal technicality that is why I spent so much time researching the legal issues in the case. I was trying to find a way not to dismiss his case. But, when I could not find legal authority on behalf of the Plaintiff, I followed the law and did my duty and dismissed his case as required to by law.
6. Mr. Pleau complains he thought he "...would be informed in advance of court of any issues pertinent to my issues." I did not give him legal advice on his issues. My job, as judge, is to rule on the issues as presented. I do not give advice I give rulings based on the facts and the law.
7. Mr. Pleau complains he got the judgment on the 10<sup>th</sup> of July 2008 and went to file an appeal on the same day he received the judgment. He further complains that "...I received this judgment without being informed of the time constraints concerning appeal..." I do not mail judgments to litigants nor do I advise of time constraints concerning appeals. The clerk of the court mails judgments to litigants and so did the defense council in this case. Had he filed his appeal on the 10<sup>th</sup> of July when he went to the clerk's office his appeal would have been perfected. However, instead of doing an appeal, he chose to file a judicial complaint. The Court of the Judiciary does not hear appeals.
8. During this period of time, I disposed of approximately 12,123<sup>2</sup> other cases. This is more work than most judges do in a full year.
9. In addition, I was the victim of a DUI driver who ran into my car in April. I was temporally totally disabled for a week (I stayed at home with medical issues unable to get up and down as before.). I was temporally partially disabled for approximately three months (April - July). I had numerous medical visits. I was treated in the emergency room, treating doctor and for physical therapy. I was in severe pain and only did the cases on the docket. I had difficulties in hearing cases due to the pain. I was unable to do other matters such as finish the research in this case until my pain got better.

  
\_\_\_\_\_  
John A. Bell, Judge  
General Sessions Court  
Cocke County, Tennessee

Sworn to and subscribed to before me this the 14 day of August 2008.

  
\_\_\_\_\_  
Deputy Clerk, Sessions Court Cocke County, Tennessee

<sup>2</sup>During this period I disposed of 1,926 civil cases (9/18/07 – 6/27/08), 2,576 juvenile cases (9/18/07 – 6/27/08), and 7,621 criminal cases (9/18/07 – 5/13/08) for a total of cases of 12,123.

IN THE GENERAL SESSIONS COURT FOR COCKE COUNTY, TENNESSEE

DAVID J. PLEAU, )  
 )  
 )  
 Plaintiff, )  
 v. ) No. 2007-CV-869  
 )  
 MERASTAR INSURANCE )  
 COMPANY, )  
 )  
 Defendant. )

---

MOTION TO DISMISS

---

Comes the Defendant, Merastar Insurance Company, by and through counsel, and moves this Honorable Court for an Order Dismissing, with prejudice, the Plaintiff's Complaint. As grounds, the Defendant would show the Court as follows:

1. Plaintiff filed a Complaint in the above-captioned matter on August 9, 2007. The Complaint alleges that Defendant failed to "pay damages resulting from accident [sic] with an uninsured motorist on 12/29/07 [sic]."
2. Plaintiff has not filed a lawsuit against the alleged uninsured motorist.
3. Under Tennessee Code Annotated § 56-7-1206, Plaintiff must file a lawsuit against the uninsured motorist before naming the uninsured motorist carrier in any subsequent or contemporaneous action.
4. Plaintiff has failed to comply with the statutory requirements for recovery under the uninsured motorist endorsement of an automobile liability insurance policy.

Exhibit 1

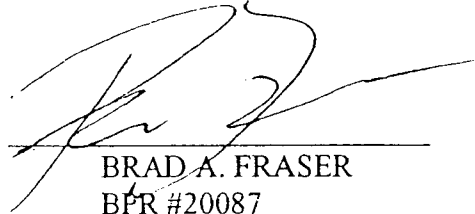


**WHEREFORE**, the Defendant requests that this Honorable Court enter an Order  
Dismissing the Plaintiff's Complaint with prejudice.

*Respectfully submitted,*

LEITNER, WILLIAMS, DOOLEY  
& NAPOLITAN, PLLC

BY:



BRAD A. FRASER

BFR #20087

Counsel for Defendant

180 Market Place Boulevard

Knoxville, TN 37922

(865) 523-0404



503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

August 19, 2008

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave, Ste. 200  
Coffee County Courthouse  
Newport, TN 37821

RE: Complaint of David J. Pleau  
File No. 08-3508

Dear Judge Bell:

This letter acknowledges receipt of your letter dated August 14, 2008, which attempts to respond to the complaint filed against you by Mr. Pleau. I have reviewed and evaluated your response. Your response fails to address the delay issue which I have set forth in the letter of July 17, 2008. This complaint alleges that Mr. Pleau's case was tried September 18, 2007, and you failed to render a decision until June 27, 2008. Your response is inadequate. Please amend your response to address this issue. You are given 20 additional days to submit a letter which is responsive.

It is our standard practice to forward the response to the complainant for review and possible rebuttal. What material that you have furnished today will be forwarded to the complainant. In addition the complainant will be given an opportunity to see the response which you ultimately file in this case.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J.S. Daniel".

J.S. Daniel  
Disciplinary Counsel

# JOHN A. BELL, JUDGE

111 Court Avenue, Suite 200  
Cocke County Courthouse  
Newport, Tennessee 37821

Phone: (423)-465-3007

FAX: (423)-465-3008

August 29, 2008

J.S. Daniel  
503 North Maple Street  
Murfreesboro, TN 37130

RE: Complaint of David J. Pleau  
File No. 08-3508

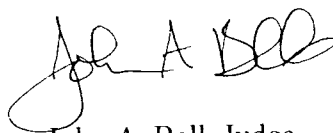
Dear J. S. Daniel,

This letter is written in response to your letter dated August 19, 2008.

The delay in rendering a judgment was justified based on two reasons. First, the case had legal issues that needed to be researched before I could render a legal opinion. The key case in Tennessee is one that involved our Circuit Judge Hooper II personally; see *Ben W. Hooper, II v State Farm Mutual Automobile Insurance Company* 682 S. W. 21d 505. I have previously detailed what needed to be researched. I wanted to leave no stone unturned since, now, as Circuit Judge, Ben Hooper II would hear any appeal. I wanted to make doubly sure I got the answer correct in this matter. I do not have any designated office time to do research. My regular work schedule has me holding court every day Monday through Friday. I have office time to do research only when the cases finish early. I did office work and research on this case when I was finished with court. The second reason was because I was in a car wreck, the victim of a drunk driver. During the last three months of the relevant time period, I was unable to perform my duties as usual. As soon as I was able to resume my full duties, I completed the last portion of the research and typed the order in this matter.

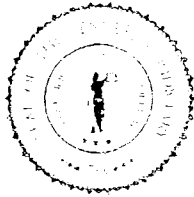
If you have any further questions, please let me know.

Sincerely,



John A. Bell, Judge

c:jl



503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

September 5, 2008

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave, Suite 200  
Cocke County Court House  
Newport, Tennessee 37821

RE: Complaint of David J. Pleau  
File No. 08-3508

Dear Judge Bell,

This letter acknowledges receipt of your response to the complaint filed against you by Mr. Pleau. I have reviewed and evaluated your response.

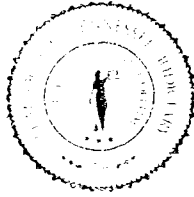
It is our standard practice to forward the response to the complainant for review and possible rebuttal. This is being done today. The complainant was given twenty (20) days to respond, and you will hear from us shortly after that time.

At this time, no further reply is requested of you. You will be promptly notified of any further action. I greatly appreciate your cooperation regarding this matter.

Sincerely, yours,

A handwritten signature in black ink, appearing to read "J. S. Daniel".

J. S. Daniel  
Disciplinary Counsel



503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

October 26, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave, Room 200  
Newport, Tennessee 37821

RE: Complaint of David J. Pleau v. John A. Bell  
File No. 08-3508

Dear Judge Bell,

Pursuant to Tennessee Code Annotated section 17-5-304(c)(1), it is our duty as Disciplinary Counsel for the Tennessee Court of the Judiciary to advise you that an Investigative Panel of the Court has authorized a full investigation of the complaint filed against you by David J. Pleau.

Pursuant to Tennessee Code Annotated section 17-5-304(c)(1), notice is given of the following:

- (1) The name of the complainant is David J. Pleau of Bybee, Tennessee.
- (2) The complaint alleges that you tried Mr. Pleau's case September 18, 2007, and took that matter under advisement. You did not render a decision until June 27, 2008. The judgment announcing the decision was not sent to the parties until after the appeal period had expired.
- (3) The Canons or rules allegedly violated are Canon 3B (8) as to the judicial delay and Canon 2 A requiring a judge to follow the law. Tennessee Rules of Civil Procedure 58 requires that notice of the judgment entry be provided to the parties and this was not followed. This investigation can be expanded if appropriate.

(4) You must file a written response with this office within thirty (30) days after receipt of this letter.

(5) You have the opportunity to meet with Disciplinary Counsel to discuss this matter. If you desire to do so, please call or write. I will accommodate your request as quickly as possible.

I appreciate your cooperation in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. S. Daniel". The signature is written in a cursive style with a large initial "J" and "S".

J. S. Daniel  
Disciplinary Counsel

cc: Investigative Panel

# JOHN A. BELL, JUDGE

111 Court Avenue, Suite 200  
Cocke County Courthouse  
Newport, Tennessee 37821

Phone: (423)-465-3007

FAX: (423)-465-3008

December 15, 2008

J. S. Daniel  
503 North Maple Street  
Murfreesboro, Tennessee 37130

Re: Complaint of David J. Pleau File #08-3508

Dear J. S. Daniel

This letter is written in response to your letter dated October 26, 2008. I will try to address each of the issues raised in your letter.

I have previously filed a sworn statement outlining the reasons for the length of time it took to do the research and my medical condition following my car wreck as the Victim of a drunk driver. I will be glad to provide you medical documentation if necessary. I would also inform you that I have cases set for trial every day Monday through Friday. My case schedule does not have any administrative time scheduled to allow time for research and drafting orders. My caseload was extremely high, more than one judge should be required to handle. I have been doing the job of two judges<sup>1</sup> for about 10 years. I did my job, as best I could, doing the research on this case as time allowed.

When finalizing the order on 27 June 2008 I amended the normal Certificate of Service I used for the Sessions Court Clerk/Deputy Clerk to sign and modified it to require the clerk to "...forward a true and exact copy of the foregoing order to the counsel of for the parties **and the unrepresented parties** at their address of record with postage pre-paid." It was my intention, by this amendment to the normal Certificate of Service, to make sure Mr. Pleau, who was unrepresented, was mailed a copy of the order by the clerk's office. I gave the finalized order to my secretary, Joy Large on 27 June 2008, to take to the clerk's office for filing and serving by the clerk's office.

After receiving your letter, I talked to Joy concerning this matter. She informed me that she took the order the same day to the clerk's office. The order shows it was filed at the clerk's office on "06-27-08" by "Joyce S. Clark" and the certificate of service was also signed by Joyce S. Clark. I talked to Joyce and she told me she does not have any recollection concerning this particular case.

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<sup>1</sup> When I was elected, I replaced both Judge Mooneyhan and Judge Owens.

I called the office of the attorney for the Defendant to inquire as to when they received their mailed copy from the clerk's office. I spoke only to his paralegal and found out that they did not receive a mailed copy from the clerk's office. It appears that they called and got a faxed copy from the clerk's office after they called. It appears that the clerk's office may have made a mistake and failed to mail a copy to either Mr. Pleau or to the attorney for the Defendant.

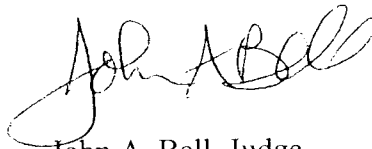
Unless you object, I am going to attempt to correct the mistake by the clerk's office. I am giving the parties 5 days Notice of Hearing for the purpose of correcting the clerk's mistake Sua Sponte. The authority for correcting the mistake of the clerk's office is Tennessee Rules of Civil Procedure 60.01 as made applicable to General Sessions Courts through T.C.A. section 16-15-727 as amended 18 June 2007. I will give notice on 15 December 2008 for a hearing on 23 December 2008.

I would also note that the order I entered on 27 June 2008 dismissing the case was based on a procedural issue/error. I did not enter an order based on the merits of the case. I made it a point to make specific findings based on the evidence presented. However, the order adjudged and decreed section of the 27 June order only makes reference to the procedural error/mistake "...this case is dismissed for failure to comply with T.C.A. 56-7-1206." Therefore, the case was dismissed without prejudice as to the merits of the case without a res judicata effect. The Plaintiff, Mr. Pleau is therefore not barred from re-filing his action within the statute of limitations.

If there is other information you need in this matter please let me know.

I appreciate your cooperation in this matter and respectfully request that this complaint be dismissed. Also, I would like to meet with you to discuss this matter at your earliest convenience.

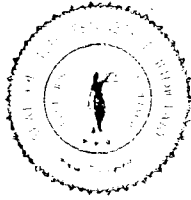
Sincerely,

A handwritten signature in black ink that reads "John A. Bell". The signature is written in a cursive style with a large, looping initial "J".

John A. Bell, Judge

c:jl





503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

December 23, 2008

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave., Suite 200  
Cocke County Courthouse  
Newport, Tennessee 37821

RE: Complaint of David J. Pleau  
File No. 08-3508

Dear Judge Bell:

This letter acknowledges receipt of your letter dated December 15, 2008, in response to the notice of full investigation.

A great deal of this letter is dedicated to an explanation as to why the parties were not properly noticed when you ultimately rendered a decision in this case. You have failed to address the complaint as it relates to the untimely decision of this General Sessions trial. The Full Investigative Notice indicates that the delay was from the hearing of the trial September 18, 2007, until June 27, 2008, a period of better than nine (9) months. Since you have refused to respond to that allegation, I will forward your letter with my recommendation to the panel for their consideration. As you know from past experience, the panel will determine at this point whether to file former charges against you or what proposed resolution of this matter may be had.

I am available for your requested meeting with Disciplinary Counsel on the following days; January 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, or 16<sup>th</sup>. Please notify my office not later than January the 2<sup>nd</sup> as to the date and times that you have selected.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J.S. Daniel", written over the typed name.

J. S. Daniel  
Disciplinary Counsel

**IN THE GENERAL SESSIONS COURT**  
**FOR COCKE COUNTY, TENNESSEE**

DAVID J. PLEAU  
PLAINTIFF

VS.

No. 2007-CR-869

MERAWSTAR INSURANCE COMPANY  
DEFENDANT

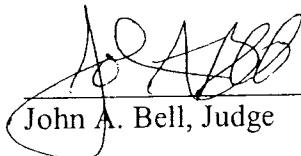
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NOTICE

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This Court will sua sponte (on It's own motion) take up this matter on the 23<sup>rd</sup> day of December 2008 at 9:00 AM at the Cocke County General Sessions courtroom. The Court will take action on said date to address the issue involving the Certificate of Service and such other matters in the case as the Court deems necessary in accordance with Tennessee Rules of Civil Procedure 60.01 and T.C.A. section 16-15-727 as amended 18 June 2007.

Entered this the 15th day of December 2008.

  
\_\_\_\_\_  
John A. Bell, Judge

**CERTIFICATE OF SERICE**

I hereby certify that I have called and mailed a true and exact copy of this NOTICE to the Plaintiff, DAVID J. PLEAU and I have called, faxed and mailed a copy of this notice to the Attorney for the Defendant, Brad A. Fraser postage pre-paid at their addresses of record in this matter. This the \_\_\_\_ day of December 2008.

\_\_\_\_\_  
JOY LARGE, ADMINISTRATIVE  
ASSISTANT TO JUDGE BELL

IN THE GENERAL SESSIONS COURT  
FOR COCKE COUNTY, TENNESSEE

DAVID J. PLEAU  
PLAINTIFF

VS.

No. 2007-CR-869

MERA STAR INSURANCE COMPANY  
DEFENDANT

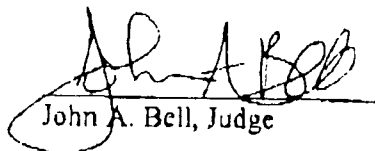
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NOTICE

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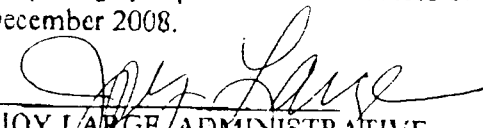
This Court will sua sponte (on It's own motion) take up this matter on the 23<sup>rd</sup> day of December 2008 at 9:00 AM at the Cocke County General Sessions courtroom. The Court will take action on said date to address the issue involving the Certificate of Service and such other matters in the case as the Court deems necessary in accordance with Tennessee Rules of Civil Procedure 60.01 and T.C.A. section 16-15-727 as amended 18 June 2007.

Entered this the 15th day of December 2008.

  
John A. Bell, Judge

CERTIFICATE OF SERICE

I hereby certify that I have called and mailed a true and exact copy of this NOTICE to the Plaintiff, DAVID J. PLEAU and I have called, faxed and mailed a copy of this notice to the Attorney for the Defendant, Brad A. Fraser postage pre-paid at their addresses of record in this matter. This the 15<sup>th</sup> day of December 2008.

  
JOY LARGE, ADMINISTRATIVE  
ASSISTANT TO JUDGE BELL

FILED

Dec 15 2008  
Brenda Ramsey  
COCKE COUNTY SESSIONS COURT

# JOHN A. BELL, JUDGE

111 Court Avenue, Suite 200  
Cocke County Courthouse  
Newport, Tennessee 37821

Phone: (423)-465-3007

FAX: (423)-465-3008

J.S. Daniel  
Disciplinary Council  
503 North Maple Street  
Murfreesboro, TN 37130

29 December 2008

RE: Complaint of David J. Pleau  
File No.: 08-3508

Honorable J.S. Daniel,

This letter is written as an update to you concerning the above styled matter.

On the 23<sup>rd</sup> day of December 2008 at 9:00 AM at the Cocke County General Sessions courtroom I held a sua sponte hearing in DAVID J. PLEAU VS MERA STAR INSURANCE COMPANY No. 2007-CV-869. Both Mr. Pleau and the attorney for Mera Star, Brad A. Fraser were present based on the NOTICE<sup>1</sup> I sent to them. I had the hearing taped in case you wanted a copy. I gave a public, on the record, apology for the delay in finishing the order and they accepted my apology.

I also apologized on behalf of the General Sessions Clerk's Office for the clerical error in failing to mail the order as prescribed in the Certificate of Service. I also on the record gave them a copy of the order for formal service. I deemed this action necessary and in accordance with Tennessee Rules of Civil Procedure 60.01 and T.C.A. section 16-15-727 as amended 18 June 2007.

The attorney for Mera Star, Brad A. Fraser at the hearing advised the court that he gave notice of the procedural error to Mr. Pleau well in advance of the trial date. Therefore, while the court may have been surprised by the motion, the Plaintiff, Mr. Pleau was not.

As I stated in writing to you previously, the dismissal in the case of DAVID J. PLEAU VS MERA STAR INSURANCE COMPANY No. 2007-CV-869 was based on a procedural error and was not an on the merits decision. Please be advised that Mr. Pleau has on November 21, 2008 cured the procedural error by filing a new action against Mera Star Insurance Company and Joann Coleman, the uninsured driver. The style of the new case<sup>2</sup> is DAVID J. PLEAU VS JOANN COLEMAN and MERA STAR INSURANCE COMPANY No. 2008-CV-1186. The parties have been served with process and this new case has been set by agreement of the parties for trial on the 20<sup>th</sup> day of February 2009 at 1:30 pm.

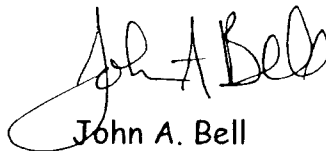
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<sup>1</sup> See copy attached exhibit 1.

<sup>2</sup> See copy attached exhibit 2.

I hope this information will be helpful to you and if you need any additional information, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink that reads "John A. Bell". The signature is written in a cursive style with a large, sweeping initial "J".

John A. Bell

IN THE GENERAL SESSIONS COURT  
FOR COCKE COUNTY, TENNESSEE

DAVID J. PLEAU  
PLAINTIFF

VS.

No. 2007-CR-869

MERA STAR INSURANCE COMPANY  
DEFENDANT

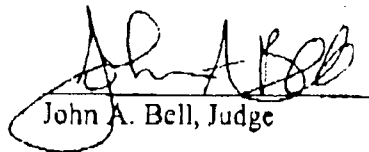
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NOTICE

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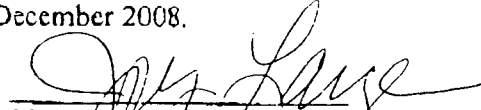
This Court will sua sponte (on It's own motion) take up this matter on the 23<sup>rd</sup> day of December 2008 at 9:00 AM at the Cocke County General Sessions courtroom. The Court will take action on said date to address the issue involving the Certificate of Service and such other matters in the case as the Court deems necessary in accordance with Tennessee Rules of Civil Procedure 60.01 and T.C.A. section 16-15-727 as amended 18 June 2007.

Entered this the 15th day of December 2008.

  
John A. Bell, Judge

CERTIFICATE OF SERICE

I hereby certify that I have called and mailed a true and exact copy of this NOTICE to the Plaintiff, DAVID J. PLEAU and I have called, faxed and mailed a copy of this notice to the Attorney for the Defendant, Brad A. Fraser postage pre-paid at their addresses of record in this matter. This the 15<sup>th</sup> day of December 2008.

  
JOY LARGE, ADMINISTRATIVE  
ASSISTANT TO JUDGE BELL

FILED 15 Dec 2008  
Frenda K...  
COCKE COUNTY SESSIONS COURT

STATE OF TENNESSEE, COUNTY OF Cocke

To Any Lawful Officer to Execute and Return:

CIVIL SUMMONS

Summon JOHN COLEMAN & MEESTER  
INSURANCE COMPANY  
To appear before the General Sessions Court of

Cocke County, Tennessee, on the 6 day  
of JAN, 2013, at 9:00 (a.m./p.m.),

then and there to answer in a civil action brought by  
David Pleau For

UNINSURED MOTORIST CLAIM  
DATED 12-29-2006, VEHICLE  
DAMAGE INTEREST. Under \$ 5700.

Judgment for \_\_\_\_\_ against \_\_\_\_\_ for

\$ \_\_\_\_\_ plus interest at the rate of \_\_\_\_\_ % and cost of  
suit, for which execution may issue.

Judgment entered by:  Default  Agreement  Trial

Dismissed:  Without prejudice  With prejudice

Costs taxed to:  Plaintiff  Defendant

Defendant(s) \_\_\_\_\_

in court and admitted to jurisdiction of court.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_, Judge, Div. \_\_\_\_\_

ORDER

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_, Judge

NOTICE

TO THE DEFENDANT(S):

Tennessee law provides a four thousand dollar (\$4,000.00) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

AFFIDAVIT

To the best of my information and belief, after investigation of Defendant's employment, I hereby make affidavit that the Defendant is/is not a member of a military service.

Attorney for Plaintiff or Plaintiff

Refused to Sign

David J Pleau  
P.O. Box 204, Bybee  
TN 37713 ph# 423-613

Docket Number 000-CV-1130

David J Pleau Plaintiff(s)

JOHN COLEMAN vs. Defendant.  
155 ROCKY BLUFF  
WAY, NEWBART, TN 37821 Address

MEESTER Insurance Co. Defendant.  
P.O. Box 181101, Chattanooga Address

TN. 37714-6101 Defendant.

FOR APPOINTMENT CALL \_\_\_\_\_ Address

CIVIL WARRANT

Court of General Sessions  
(preprinted name), Clerk

By John Lee Cook, Deputy Clerk

Issued Nov 21, 2012

Sol for John Lee Cook At 9:00

Resol for \_\_\_\_\_

Served Upon:  All Named Defendants

All Defendants except:

SERVICE

Served \_\_\_\_\_

Sheriff/Constable \_\_\_\_\_

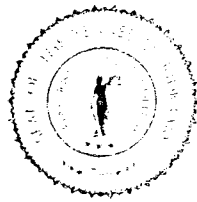
Attorney for Plaintiff \_\_\_\_\_

Telephone \_\_\_\_\_

Attorney for Defendant \_\_\_\_\_

Telephone \_\_\_\_\_

STATE OF TENNESSEE, COCKE COUNTY  
CLERK OF GENERAL SESSIONS  
I, \_\_\_\_\_, do hereby certify that this is a true and correct copy of the original bill filed in the above captioned case.  
\_\_\_\_\_  
Clerk



503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

January 5, 2009

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave., Room 200  
Newport, Tennessee 37821

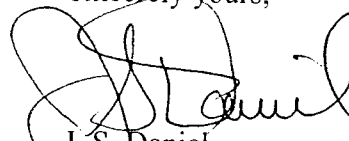
RE: Complaint of David J. Pleau v. John A. Bell  
File No. 08-3508

Dear Judge Bell,

This letter is to acknowledge the receipt of both your letters dated December 29, 2008, and December 31, 2008. In my letter to you dated December 23, 2008, I indicated to you that I was willing to meet with you and honor your request to discuss this matter with Disciplinary Counsel on certain days in January. I gave you until January 2, 2009, in which to respond to which day that you would prefer to meet. I take it from the correspondence that I have received that you have abandoned that request, and I will consider that request as now being waived. Your letters, which I have currently received, will now be forwarded to the Investigative Panel for their consideration and ultimate determination as to how this matter will proceed.

You will be informed of their determination as soon as I receive their votes.

Sincerely yours,

  
J. S. Daniel  
Disciplinary Counsel



# JOHN A. BELL, JUDGE

111 Court Avenue, Suite 200  
Cocke County Courthouse  
Newport, Tennessee 37821

Phone: (423)-465-3007

FAX: (423)-465-3008

J.S. Daniel  
Disciplinary Council  
503 North Maple Street  
Murfreesboro, TN 37130

31 December 2008

RE: Complaint of David J. Pleau  
File No.: 08-3508

Honorable J.S. Daniel,

This letter is written as a response to your letter of 23 December 2008 concerning the above styled matter. I respectfully submit to you that I have not refused to respond to the issue concerning the time which I took to render a decision.

I respectfully submit to you that I have not refused to respond to the issue concerning the time which I took to render a decision in the DAVID J. PLEAU VS MERA STAR INSURANCE COMPANY No. 2007-CV-869. I have responded to you by letter dated December 15, 2008 and also previously by sworn affidavit. Those reasons which I outlined for you were as follows:

- a. The length of time it took to do the research.
- b. My medical condition following my car wreck as the victim of a drunk driver. (I even offered to provide you medical documentation if necessary.)
- c. My caseload was extremely high, more than one judge should be required to handle. I would also inform you that I have cases set for trial every day Monday through Friday. My case schedule does not have any administrative time scheduled to allow time for research and drafting orders.

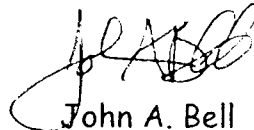
- d. I have been doing the job of two judges<sup>1</sup> for more than 10 years.
- e. I did my job, as best I could, doing the research on this case as time allowed.
- f. I also gave a public, on the record, apology for the delay in finishing the order and they accepted my apology.

Your letter of 23 December indicates you have already made your mind concerning this matter and have already sent your recommendation to the panel for their consideration. I thought I would get the opportunity to talk to you before you made up your mind on this matter. I do not see how my meeting with you would be of any benefit to either of us now.

I respectfully request that you submit this letter, my previous letters to include but not limited to the letters dated 15 December and 29 December and my sworn affidavit to the panel for their consideration.

I hope this information will be helpful to you and if you need any additional information, please contact me at your convenience.

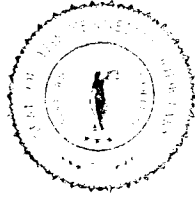
Sincerely,



John A. Bell

---

<sup>1</sup> When I was elected, I replaced both Judge Mooneyhan and Judge Owens.



503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

January 5, 2009

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave., Room 200  
Newport, Tennessee 37821

RE: Complaint of David J. Pleau v. John A. Bell  
File No. 08-3508

Dear Judge Bell,

This letter is to acknowledge the receipt of both your letters dated December 29, 2008, and December 31, 2008. In my letter to you dated December 23, 2008, I indicated to you that I was willing to meet with you and honor your request to discuss this matter with Disciplinary Counsel on certain days in January. I gave you until January 2, 2009, in which to respond to which day that you would prefer to meet. I take it from the correspondence that I have received that you have abandoned that request, and I will consider that request as now being waived. Your letters, which I have currently received, will now be forwarded to the Investigative Panel for their consideration and ultimate determination as to how this matter will proceed.

You will be informed of their determination as soon as I receive their votes.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. S. Daniel".

J. S. Daniel  
Disciplinary Counsel

# JOHN A. BELL, JUDGE

111 Court Avenue, Suite 200  
Cocke County Courthouse  
Newport, Tennessee 37821

Phone: (423)-465-3007

FAX: (423)-465-3008

---

February 6, 2009

J. S. Daniel  
503 North Maple Street  
Murfreesboro, Tennessee 37130

Re: Complaint of David J. Pleau File #08-3508

Dear J. S. Daniel

This letter is written in response to your most recent correspondence.

I asked my doctor, Thomas W. Conway, M.D. to prepare a statement for you concerning my injuries as a result of being in an automobile accident with a drunk driver on 4/19/2008. Attached as exhibit A is his statement. Please note that based on a reasonable degree of medical certainty my doctor finds that I was temporarily totally disabled from 19 April 2008 until 28 April 2008. Further, that I was temporarily partially disabled from 28 April 2008 until 10 July 2008. It is my position that but for the automobile accident with the drunk driver the research would have been done in April.

I acknowledge that orders which only involve factual determinations can be determined much quicker than those which require legal research. However, those involving legal research require much more time to be completed.

There were no complicated factual issues to be resolved in the Pleau case. In the Pleau case, there were legal issues which required legal research. The research was to be done by myself since the Plaintiff, David Pleau was pro se. The legal issues involved the question of whether the Defendant is required to raise the defense of TCA 56-7-1206 pre-trial. Next, research was required concerning statutorily mandated indispensable party statutes. These were/are issues of first impression for the court. I did not find any case law on this subject in Tennessee. Therefore, the research was expanded to other jurisdictions. I maintain that the time used to do the research was necessary and within the normal range of time involving unique legal issues.

I maintain that the time used to do the research was within the normal range involving unique legal issues and submit exhibits B and C as examples.

Exhibit B is a listing of 463 cases from the Courts of Appeal for Tennessee where it took more than 6 months to get an order filed. Of particular interest are the following 41 cases from the Courts of Appeal for Tennessee where it took approximately 1 year or longer to get an order filed:

<u>Exhibit # of case</u>	<u>Length of time before order filed</u>
1. B-3	June 1, 2007 - December 29, 2008
2. B-21	November 27, 2007 – November 21, 2008
3. B-22	September 21, 2007-November 20, 2008
4. B-25	December 13, 2007-November 7, 2008
5. B-27	November 8, 2007-October 29, 2008
6. B-34	November 7, 2007-October 1, 2008
7. B-39	September 7, 2007-September 24, 2008
8. B-50	July 10, 2007-August 11, 2008
9. B-52	August 7, 2007-July 31, 2008
10. B-56	January 10, 2007-July 25, 2008
11. B-64	May 9, 2007-May 30, 2008
12. B-83	January 10, 2007-July 29, 2008
13. B-85	January 10, 2007-January 22, 2008
14. B-93	December 5, 2006-December 14, 2007
15. B-100	November 16, 2006-November 27, 2007
16. B-102	February 21, 2006-November 20, 2007
17. B-123	August 15, 2006-August 14, 2007
18. B-125	August 18, 2006-August 13, 2007
19. B-126	August 15, 2006-August 13, 2007
20. B-127	August 15, 2006-August 7, 2007
21. B-129	May 26, 2006-July 26, 2007
22. B-131	April 25, 2006-July 11, 2007
23. B-133	February 8, 2005-June 29, 2007
24. B-134	September 12, 2006-June 28, 2007
25. B-137	May 23, 2006-May 30, 2007
26. B-150	April 25, 2006-April 11, 2007
27. B-151	April 26, 2006-April 4, 2007
28. B-185	October 24, 2005-September 25, 2006
29. B-218	September 7, 2004-May 3, 2006
30. B-226	November 2, 2004-March 24, 2006
31. B-228	May 4, 2005-February 14, 2006
32. B-230	February 9, 2005-January 30, 2006
33. B-231	February 8, 2005-January 27, 2006
34. B-233	January 6, 2005-January 23, 2006
35. B-242	January 29, 2008-January 14, 2009
36. B-252	December 18, 2007-December 29, 2008
37. B-255	December 18, 2007-December 19, 2008
38. B-269	November 14, 2007-November 5, 2008
39. B-280	October 2, 2007-October 8, 2008
40. B-313	July 17, 2007-July 3, 2008

41. B-432

February 14, 2006-February 8, 2007

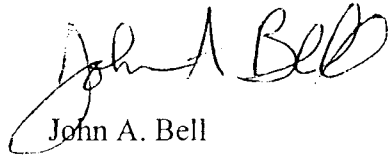
Exhibit C is a listing of 33 cases from the Tennessee Supreme Court where it took 6 months or more to get an order filed.

I maintain that the time used by me to do the research was/is within the normal range of cases involving unique legal issues. Further, it is within the range as established by the Courts of Appeal in the 463 cases of exhibit B and the range established by the Tennessee Supreme Court in the 33 cases in exhibits C.

As to the mistake by the clerk in not sending copies of the order, it is simply that, a mistake by a clerk. Judges and clerk's are human and both will make mistakes. However, not every mistake rises to the level of an ethical violation. This mistake by the clerk does not equate to an ethical violation by me.

It appears to me that you are not treating me the same as you would other judges. I have not committed any ethical violation. Therefore, I cannot in good conscience accept your offer in this matter.

Very Respectfully,

A handwritten signature in cursive script that reads "John A. Bell". The signature is written in dark ink and is positioned above the printed name.

John A. Bell

**EXHIBIT B**  
**To Judge Bell's Statement of**  
**Undisputed Material Facts**  
**M2009-02115-CJ-CJ-CJ**

Court of the Judiciary Pamphlet

The judge may appeal to the Tennessee Supreme Court. The decision of the Supreme Court is final in all cases except those concerning removal from office. Cases involving removal from office must be reviewed by the legislature. Judges may only be removed upon 2/3 vote of both houses of the legislature.

**Does the Court of the Judiciary have jurisdiction to review a judge's rulings?**

No. The Court of the Judiciary is not an appellate court. It does not have authority to review, revise or correct the legal or factual validity of any judge's decision. Those rulings may be appealed to a higher court and must be pursued through the legal process.

**Can I get a judge off my case if I make a complaint against the judge?**

No. An allegation of judicial misconduct is not a substitute for recusal procedures. You should seek the advice of your attorney about the procedure for attempting to remove a judge from your case.

**Can I delay my case or an appeal until my complaint for judicial misconduct is concluded?**

No. You must proceed with whatever remedy is available to you within the court system to correct any judicial errors you believe were committed in your case. Usually you must appeal within 30 days of the date of the decision about which you complain. Your complaint of judicial misconduct is a matter totally separate and independent of your litigation.

**How long does it take to resolve a complaint for judicial misconduct?**

The Court of the Judiciary meets at the times and places it deems necessary. Final disposition may take several months, depending on the complexity of the matter. You will receive written notice of the final disposition at the appropriate time. The Tennessee Court of the Judiciary has no emergency powers and cannot, under any circumstances, interfere with pending or ongoing litigation. However, the Court may immediately place a judge on suspension if the judge is charged with a felony.

**Does the Court of the Judiciary give legal advice?**

No. The Court is not authorized to give legal advice to citizens or to represent clients.

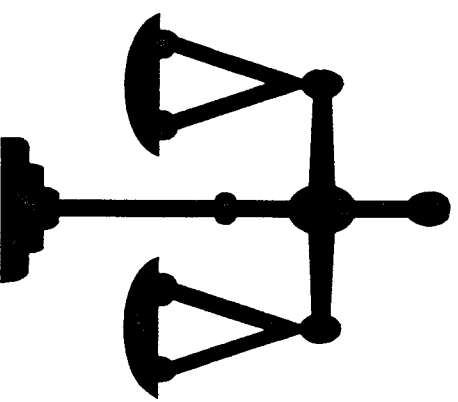
**Specifically, over what judges does the Tennessee Court of the Judiciary have jurisdiction?**

All Tennessee judges, to include, but not limited to, appellate, trial, general sessions, probate, juvenile, municipal and any other judge sitting on or presiding over any court created by the general assembly or by the express or implied authority of the general assembly. It also has jurisdiction over judicial candidates but does not have jurisdiction over federal judges.

**Does the Tennessee Court of the Judiciary have jurisdiction over attorneys?**

No. The Court does not have jurisdiction over attorneys. If you desire to file a complaint against an attorney, please address your complaint to Mr. Lance B. Bracy, Board of Professional Responsibility, 1101 Kermit Drive, Nashville, Tennessee 37217.

STATE OF  
TENNESSEE



COURT OF  
THE  
JUDICIARY



## What is the Tennessee Court of the Judiciary?

The Tennessee Court of the Judiciary was created by the legislature to:

- (1) Provide an orderly and efficient method for making inquiry into:  
The physical, mental and/or moral fitness of any Tennessee judge;  
Whether the judge committed judicial misconduct;  
or  
Whether the judge committed any act calculated to reflect unfavorably upon the judiciary of the state or bring it into disrepute or which may adversely affect the administration of justice in the state.
- (2) Provide a process by which appropriate sanctions may be imposed.
- (3) Implement constitutional provisions by providing a procedure for the removal of judges.

It is composed of 16 members -- 10 judges, 3 attorneys, and 3 lay people, who, after investigation, may recommend removal, suspension or other discipline of a judge.

## I believe a judge has violated the Code of Judicial Conduct. How should I file a complaint?

Forms are available upon request from the Administrative Office of the Courts. Call or write:

Administrative Office of the Courts  
511 Union Avenue  
Suite 600 Nashville City Center  
Nashville, Tennessee 37219-1768  
(615) 741-2687

The complaint must be typed or legibly hand-printed, dated and sworn to before a notary public.

You may file a written complaint directly with the Disciplinary Counsel. If you do not have that address, it may be sent to:

Disciplinary Counsel  
Court of the Judiciary  
511 Union Street  
Suite 600 Nashville City Center  
Nashville, TN 37219-1768

## What is judicial misconduct?

Judicial misconduct generally is "willful misconduct" that is in violation of the Code of Judicial Conduct. The Code of Judicial Conduct proscribes various rules relating to how a judge should conduct himself or herself in the performance of the duties of office. Also, any disability, physical or mental, of a judge that substantially interferes with his or her judicial duties may be considered.

## What are some things that the Court of the Judiciary may not consider?

The Court of the Judiciary is not an appeals court. It does not have the authority to change any rulings of a judge. For example, the Court of the Judiciary may not change rulings relating to domestic relations or child custody matters, change a sentence in a criminal case, or consider whether trial witnesses were believable. A complaint which generally alleges that the judge was unfair or biased is insufficient. A complaint must specifically state exactly what the judge did that you believe was unfair or biased.

## What will the Tennessee Court of the Judiciary do with my complaint?

Disciplinary Counsel will review your complaint. Disciplinary Counsel must dismiss the complaint if it does not allege grounds for judicial misconduct, and you as well as the judge will be notified. Upon your request, any dismissal is subject to review by a three-judge Investigative Panel of the Court of the Judiciary. If it is not dismissed by Disciplinary Counsel, Disciplinary Counsel will send a copy of your complaint to the judge and ask the judge to respond. A full investigation can only be authorized by an Investigative Panel of the Court of the Judiciary. If this occurs, the judge will be required to respond in writing. The possible actions at that point might include a dismissal, a private reprimand or censure, a public reprimand or censure, a deferred discipline agreement, referral to an appropriate agency, or the filing of formal charges.

If the Investigative Panel directs Disciplinary Counsel to file formal charges, the Hearing Panel will consist of all other members of the Court who were not on the Investigative Panel. The Hearing Panel can hold a full hearing on the charges. It is only when formal charges are filed that the matter becomes public.

## What kinds of sanctions can be imposed?

If the Hearing Panel of the Court of the Judiciary finds that the charges have been established by clear and convincing evidence, it has the power to impose a wide variety of sanctions ranging from private reprimand all the way to recommending removal from office.

**EXHIBIT C**  
**To Judge Bell's Statement of**  
**Undisputed Material Facts**  
**M2009-02115-CJ-CJ-CJ**

February 25, 2009 letter from J.S. Daniel to Mark Gwyn, Director of Tennessee Bureau of Investigation, contained in exhibit 1 to the Lott Deposition



503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8074  
Fax (615) 898-5187

## THE TENNESSEE COURT OF THE JUDICIARY

J. STEVE DANIEL  
Disciplinary Counsel

February 25, 2009

Mr. Mark Gwyn, Director  
Tennessee Bureau of Investigation  
901 R. S. Gass Blvd.  
Nashville, TN 37216-2639

In re: Request by the Court of the Judiciary for T.B.I. assistance in the investigation  
of General Sessions Judge John Bell

FAXED TO: 615-744-4599

Dear Director Gwyn:

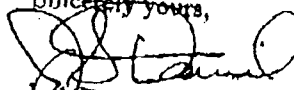
The Tennessee Court of the Judiciary has an ongoing official investigation of Judge John Bell in relationship to a charge of judicial delay. This charge deals with a complaint by Mr. David Pleau. Mr. Pleau's complaint was that Judge Bell heard a civil case in which he was a pro se plaintiff on September 18, 2007 and failed to decide the case until July 15, 2008. When the case was decided, Judge Bell claimed to have his clerk send a copy of the judgment to both Mr. Pleau and the defense attorney. Neither the attorney nor Mr. Pleau received a copy of the judgment until well after the ten days authorized by law for appeal. Mr. Pleau then complained of judicial delay, a violation of Canon 3 B (8) of the Tennessee Code of Judicial Conduct.

Mr. Pleau filed a sworn complaint setting forth these allegations. Judge Bell filed an answer in which he denied the charge of delay and insisted that the nine months between his hearing the case and deciding the case were dedicated to research of legal issues in the case. The Court of the Judiciary is in the process of filing a formal complaint against Judge Bell for this ethical misconduct. In that process my investigator visited with Mr. Pleau last Friday and was informed by Mr. Pleau that attorney Tom Testerman of Newport, Tennessee called Mr. Pleau in late January or early February of 2009 and identified himself as a local attorney. Mr. Testerman indicated in this telephone call that he was calling on behalf of Judge Bell who knew and realized that it would be

This letter has been authorized by a panel of the Court of the Judiciary. As these events have just occurred, it is imperative that this be expeditiously acted upon to preserve and develop this evidence.

I sincerely appreciate your cooperation in this matter. After you have reviewed this letter please call me or have one of your assistants call me as to your determination as to whether you can aid us in this investigation. In addition to my telephone which is listed on this stationary, my cell phone number is 615-849-6794. Please feel free to call me at any of these numbers. Thank you for your consideration of this matter.

Sincerely yours,



J. S. Daniel  
Disciplinary Counsel

Enclosure:

inappropriate for him to call Mr. Pleau directly. Mr. Testerman indicated that he would like for Mr. Pleau to come by his office and sign a document for the purpose of discontinuing his complaint in the Tennessee Court of the Judiciary against Judge Bell. Mr. Pleau was asked by my Investigator to make these statements under oath and submitted an affidavit to me, a copy of which I am furnishing to you.

Some background information should be pointed out to you concerning Judge Bell. Last year the Court of the Judiciary ultimately sued Judge Bell in a formal complaint over his persistent exclusive use of his brother-in-law's private probation company for all probation in General Sessions Court. This private probation company was named East Tennessee Probation, Inc. The principal, who is Judge Bell's brother-in-law, was one Tommy Large. East Tennessee Probation was incorporated by Mr. Testerman. A part of our investigation and proof dealt with inappropriate conduct by Judge Bell in making speeches and accepting speaker's fees which he failed to report. In the preparation for trial one or more witnesses which had initially given statements favorable to the Court of the Judiciary's position ended up making sworn affidavits recanting their position. These affidavits were either drafted by or signed at Mr. Testerman's office. The state Attorney General's office commenced an investigation into Judge Bell that included T.B.I. agents interviewing many of the witnesses in the probation case last year.

I request T.B.I. assistance in this investigation to develop these facts. The statements that Mr. Pleau has made under oath will substantiate a conspiracy by Judge Bell acting through Mr. Testerman to interfere with an official investigation and suppress the formal presentation of these charges. This type of conduct by Judge Bell will constitute a violation of Tennessee Code Annotated §39-16-403, Official Misconduct. It would also meet the statutory definition of official oppression under the provisions of Tennessee Code Annotated §39-16-403. These statutes are directly related to acts or conduct by Judge Bell which need to be linked to acts of Mr. Testerman. Mr. Testerman has no basis of knowledge or relationship with Mr. Pleau and his complaint against Judge Bell. Mr. Testerman did not represent Mr. Pleau nor did he represent anyone in the court proceeding. The only source of information that he would have as to the complaint against Judge Bell by Mr. Pleau would be from Judge Bell. All complaints with the Tennessee Court of the Judiciary are confidential until formal charges are filed against the judge and at this point no formal charges have yet been filed. The acts and conduct of Mr. Testerman are both conspiratorial and criminal responsibility for the conduct of another. It would be my desire to have the T.B.I. obtain the telephone records of Mr. Pleau, Mr. Testerman and Judge Bell to substantiate the telephone conversations and the linkage between these parties. I would also like to see the T.B.I. in this investigation wire Mr. Pleau and help facilitate Mr. Testerman's further involvement in this conspiratorial and illegal act and tie Judge Bell to this conduct. Judge Bell is located in Cocke County, Newport, Tennessee. For many years this particular judge has been under scrutiny for highly questionable conduct and this investigation could greatly aid in developing a criminal as well as an ethical case against Judge Bell which would result in his removal from office.

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 discouraging 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.

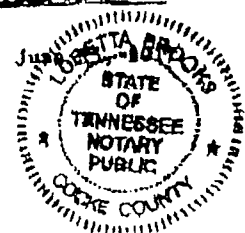
*David J. Pleau*

David J. Pleau

Sworn and subscribed to before me  
this 20th day of February, 2009

*Loisetta Brooks*  
Notary Public

My Commission Expires June 30, 2011



**EXHIBIT D**  
**To Judge Bell's Statement of**  
**Undisputed Material Facts**  
**M2009-02115-CJ-CJ-CJ**

Subpoena for Phone Records of David Pleau, issued by the Special Agent Lott;  
contained in exhibit 1 to the Lott Deposition

State of Tennessee

18630



Tennessee Bureau of Investigation

SUBPOENA

CocKE County

TO ANY SPECIAL AGENT-CRIMINAL INVESTIGATOR OR ANY OTHER LAWFUL OFFICER OF SAID COUNTY

You are hereby commanded to summon THE CUSTODIAN OF RECORDS FOR BEUSOUTH DBA AT:IT to personally appear before the undersigned Special Agent of the Tennessee Bureau of Investigation on ASAP, 20, at OFFICE FAX, Johnson City, Tennessee and from day to day hereafter until discharged and bring all papers, books, records, agreements, documents and ALL VERBATIM DATA FOR PHONE CALLS, LOCAL AND LONG DISTANCE, MADE TO AND FROM TELEPHONE NUMBER 423-613-8832 FOR THE TIME PERIOD OF JAN. 15, 2009 - FEB 15, 2009

to be sworn and questioned by the undersigned Special Agent for the purpose of giving a written statement, delivering aforementioned items and obtaining evidence by said agent in an investigation conducted by the Tennessee Bureau of Investigation pertaining to ONGOING CRIMINAL INVESTIGATION

Issued this 27th day of FEBRUARY, 20 09, pursuant to Section 38-6-102 Tennessee Code Annotated.

SA Scott Lott, TBI Special Agent-Criminal Investigator

EXECUTED this 27th day of FEBRUARY, 20 09

by serving the same upon FAX # 248-395-4398 Officer or Special Agent: SA Scott Lott, TBI



**EXHIBIT E**  
**To Judge Bell's Statement of**  
**Undisputed Material Facts**  
**M2009-02115-CJ-CJ-CJ**

Compilation of TBI Investigation Reports 30-38; contained in exhibit 1 to the Lott  
Deposition

**TENNESSEE BUREAU OF INVESTIGATION  
INVESTIGATIVE REPORT**

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<b>Case #:</b>	JC-82A-000050
<b>I.R.#:</b>	30
<b>Description:</b>	Investigative Lead - Pleau Complaint
<b>Office of Origin:</b>	Johnson City Field Office
<b>Case Agent:</b>	Lott, Jon Scott
<b>SAC/ASAC:</b>	Morton, Shannon J.

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(S) John A. Bell (W/M, DOB 12/01/1958)  
(S) Tommy S. Large (W/M, DOB 10/10/1962)  
(V) State of Tennessee

On 02/26/2009, the attached complaint was received through the Tennessee Court of the Judiciary, Judge J.S. Daniel. According to the complaint, David Pleau had a pending civil suit in Judge John Bell's court and eventually filed a complaint against Bell to the Tennessee Court of the Judiciary. In Pleau's affidavit, taken by Inv. Jim Larue, he stated that Tom Testerman, an attorney in Newport, TN, contacted him by telephone and told him he was contacting him on behalf of Bell and asked Pleau to come into his office to sign some paperwork dismissing the complaint.

As a result of this complaint, TBI Subpoena 18630 was issued to AT&T for phone records on Pleau's phone and a meeting was set up with Pleau, through Larue, at the DA's office in Sevierville, TN on 03/04/2009.

JSL/dh

Attachment: Complaint and Pleau Affidavit (RI #19)  
TBI Subpoena 18630 (RI#20)

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This confidential document is the property of TBI.  
Its contents are not to be distributed outside of your agency.

**TENNESSEE BUREAU OF INVESTIGATION  
INVESTIGATIVE REPORT**

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<b>Case #:</b>	JC-82A-000050
<b>I.R.#:</b>	31
<b>Description:</b>	Interview - Oral - David Pleau - 03/04/2009
<b>Office of Origin:</b>	Johnson City Field Office
<b>Case Agent:</b>	Lott, Jon Scott
<b>SAC/ASAC:</b>	Morton, Shannon J.

---

(S) John A. Bell (W/M, DOB: 12/01/1958)  
(S) Tommy S. Large (W/M, DOB: 10/10/1962)  
(V) State of Tennessee

On 03/04/2009, an oral interview was conducted with David Pleau at the DA's Office in Sevierville, TN. Others attending this interview were: SA Scott Lott and SA J.J. Sipos, TBI; Inv. Jim Larue, TN Court of the Judiciary; Inv. Trey King and Inv. Roy Copeland, TN Attorney General's Office. After proper identification and explanation of the purpose for the interview, Pleau voluntarily provided the following information:

Pleau stated on 12/29/2006 he was involved in an auto accident and was cited for failure to yield. He advised he went to court in front of Judge Bell and Bell told him options, one of which was to waive the case to the action of the Grand Jury, which he opted to do. After exercising this option, Bell took Pleau into custody and made him post a bond in order to be released. Pleau explained he was indicted by the Grand Jury and later won his case in Circuit Court, receiving a "not guilty verdict."

Pleau advised before he was acquitted he had sued his insurance company, Meristar, because they had paid off the other uninsured motorist's claim and had not paid his claim. He advised he did not know the law and was not using an attorney and in Bell's court found out he had to also sue the other motorist along with his claim and must have been found not guilty or not at fault in the accident. He stated Bell dropped the case on that technicality. Pleau stated Bell did not make the decision in court and was to notify him when he made the decision. Pleau stated that Bell did not inform him of his decision within the ten days to make an appeal and Pleau therefore file a complaint on Bell.

Pleau stated he later found out he had a two-year statute of limitations and after being found not guilty, he again sued both the insurance company and the motorist. He advised the case was continued on 12/23/2008 because he did not have all his witnesses there and again continued on 02/20/2009 until April 24, 2009.

Pleau stated that sometime in late February or early January 2009 Tom Testerman, an attorney from Newport, TN, called him on his home phone and told him he was calling on behalf of

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This confidential document is the property of TBI.  
Its contents are not to be distributed outside of your agency.

Judge Bell because Bell thought it would not be appropriate for him to call Pleau directly. He advised Testerman asked him to drop the complaint he had made with the court of the Judiciary because Bell was a good guy and all the issues Pleau brought up against Bell had been taken care of. Pleau stated Testerman had some paperwork for him to sign to drop the complaint and to stop by his office some time to review it. Pleau stated that Testerman did not promise him anything nor threaten him in anyway. He also advised that Testerman did not state he was representing Bell but only calling on Bell's behalf.

Based on observation and information provided, the following descriptive data was noted:

Name: David Pleau  
Address: 1618 SCOTCH PINE WAY  
Bybee, TN  
Phone: 423/613-8832  
Race/Sex: W/M  
DOB: 05/25/1956  
SSN: 006-56-8661

JSL/dh

**TENNESSEE BUREAU OF INVESTIGATION  
INVESTIGATIVE REPORT**

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<b>Case #:</b>	JC-82A-000050
<b>I.R.#:</b>	32
<b>Description:</b>	Audio Recording - Pleau and Testerman - 03/04/2009
<b>Office of Origin:</b>	Johnson City Field Office
<b>Case Agent:</b>	Lott, Jon Scott
<b>SAC/ASAC:</b>	Morton, Shannon J.

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(S) John A. Bell (W/M, DOB: 12/01/1958)  
(S) Tommy S. Large (W/M, DOB: 10/10/1962)  
(V) State of Tennessee

On 03/04/2009, David Pleau called Tom Testerman and the conversation was recorded. The following is a brief synopsis of the conversation:

Testerman clarified that the insurance agency tried to cheat Pleau and Pleau had sued the insurance company. Pleau explained to Testerman that there had been a continuance in his case because some witnesses didn't show up and the case was continued until April 24. Pleau told Testerman he wanted to review the paperwork and Testerman asked him what kind of paperwork. Pleau told Testerman it was the paperwork about dropping the judicial review. Testerman told Pleau that that was up to him and Testerman wasn't trying to strong arm him on that. Testerman then asked if Pleau wanted him to assist in prosecuting the lawsuit. Pleau told Testerman that he did not need help but Testerman had asked Pleau to stop by his office. Testerman asked Pleau if he had subpoenas and things done. Pleau explained that the issue he was concerned with was dropping that investigation and that Testerman said he had some papers he wanted Pleau to review. Testerman began his reply by saying, "If you were not of a mind to do that we would not..." and Pleau explained that the court date had gone by and he just wanted to go over what Testerman had proposed to see what his options are. At that time Testerman referred Pleau to his secretary and a appointment was made for March 20 at 2:30 p.m.

The recorded conversation will be kept in the custody of this agent.

**Agent's note:** Due to the memory of the recorder being full, a small portion of the conversation was not recorded and the recorder was reset in order to record the remainder of the conversation.

JSL/dh

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**TENNESSEE BUREAU OF INVESTIGATION  
INVESTIGATIVE REPORT**

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<b>Case #:</b>	JC-82A-000050
<b>I.R.#:</b>	33
<b>Description:</b>	Subpoenas for Phone Records - 06/01/2009
<b>Office of Origin:</b>	Johnson City Field Office
<b>Case Agent:</b>	Lott, Jon Scott
<b>SAC/ASAC:</b>	Morton, Shannon J.

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(S) John A. Bell (W/M, DOB: 12/01/1958)  
(S) Tommy S. Large (W/M, DOB: 10/10/1962)  
(V) State of Tennessee

On 06/01/2009, the attached subpoenas for phone records were faxed to AT&T, AT&T Wireless, and Verizon Wireless for phone records requested by Judge Daniels, Tennessee Board of Professional Responsibility, and Inv. Trey King, Tennessee Attorney General's Office. At this time the only records received were from AT&T and there has been no response from the other two providers. The AT&T records have been forwarded to Inv. King. The subpoenas are as follows (RI #21):

TBI Subpoena 18361 – AT&T  
TBI Subpoena 18362 – Verizon Wireless  
TBI Subpoena 18363 – AT&T Wireless

JSL/dh

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**TENNESSEE BUREAU OF INVESTIGATION  
INVESTIGATIVE REPORT**

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<b>Case #:</b>	JC-82A-000050
<b>I.R.#:</b>	34
<b>Description:</b>	Interview - Attempted - Tom Testerman - 08/06/2009
<b>Office of Origin:</b>	Johnson City Field Office
<b>Case Agent:</b>	Lott, Jon Scott
<b>SAC/ASAC:</b>	Morton, Shannon J.

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(S) John A. Bell (W/M, DOB: 12/01/1958)  
(S) Tommy S. Large (W/M, DOB: 10/10/1962)  
(V) State of Tennessee

On 08/06/2009, SA Scott Lott met with Inv. Trey King, Tennessee Attorney General's Office, in Newport Tennessee in an attempt to interview Tom Testerman. Previously, two reports were received from Joseph S. Daniel and Jim LaRue, Tennessee Court of the Judiciary in which they had interviewed Testerman on 07/16/2009. According to their report, Testerman admitted that Judge Bell had approached him at the Cocke County Courthouse and asked him to contact David Pleau in order to determine if he was going to pursue his complaint to the Court of the Judiciary against Bell for not deciding on a civil case Pleau had presented in a timely fashion. Testerman told Daniel's and LaRue that Bell knew it would be unethical for him (Bell) to contact Pleau. Testerman advised that he did, in fact, call Pleau on Bell's behalf and reported his conversation to Bell within a couple of days. At this time Daniel's advised Testerman that he may be in violation of certain canons and laws and asked Testerman for an affidavit. Testerman then told Daniel's that he would not provide and affidavit but he would testify honestly if compelled.

On 08/06/2009, after proper identification and explanation of the purpose for the interview, Testerman provided the following information: Testerman advised that he was instructed by Daniel's that he could be civilly and criminally liable for his conduct and at that time he was concerned about his rights. He advised that he would provide testimony on this case if he was served judicial process (subpoena) and provided his testimony in a deposition. Inv. King advised Testerman that he was not the target of the investigation and asked if it would ease his mind if he was offered a proffer of criminal immunity and Testerman replied that he would entertain the idea, however he would still only provide a statement under subpoena and in a deposition. This agent asked if providing a sworn statement to the TBI would suffice as a deposition and Testerman again declined. Approximately 15 to 20 minutes were spent negotiating with Testerman, which ultimately resulted in Testerman not providing a statement on this date.

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The purpose for the interview was to ask Testerman specifically when Bell approached him to speak to Pleau on his behalf, did Bell indicate that he would rule favorably in Pleau's favor if he would drop the complaint Pleau had made to the Court of the Judiciary.

JSL/dh

Attachment:

Document - Statement of Tom Testerman - By: Joseph S. Daniel, Disciplinary Counsel for the Court of the Judiciary - 07/16/09 (RI #22)

Document - Statement of Tom Testerman - By: James T. LaRue, Investigator for the Court of the Judiciary - 07/16/09 (RI #23)



# TENNESSEE BUREAU OF INVESTIGATION INVESTIGATIVE REPORT

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Case #:	JC-82A-000050
I.R.#:	35
Description:	Video/Audio Recording - Pleau and Testerman - 03/20/2009
Office of Origin:	Johnson City Field Office
Case Agent:	Lott, Jon Scott
SAC/ASAC:	Morton, Shannon J.

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- (S) John A. Bell (W/M, DOB: 12/01/1958)
- (S) Tommy S. Large (W/M, DOB: 10/10/1962)
- (V) State of Tennessee

On 03/20/2009, David Pleau was equipped with a covert video/audio recorder in order to record a meeting between him and Tom Testerman. The meeting took place at Testerman's office in Newport, TN and the following are notes of relevant parts of the conversation that took place in the meeting:

Pleau asked Testerman what the nature of Testerman's previous call was due to Testerman stating that he was representing Judge Bell and Pleau stated that Judge Bell would appreciate it if he dropped the investigation against Bell. Testerman responded by saying that he didn't think that was Judge Bell's concern but rather if Judge Bell would be in a position to hear Pleau's civil case in Bell's court. Testerman went on to say that in any event it would have been inappropriate for Judge Bell to contact Pleau.

Pleau asked if it would enhance his ability to win his civil case if he ended the investigation and Testerman responded by saying that it would not affect Judge Bell's decision at all and he was not sure how comfortable Judge Bell was with hearing the case. Testerman added that it would not help nor hurt Pleau.

Pleau asked about paperwork that Testerman referred to in a previous conversation concerning dropping the investigation and Testerman stated he did not have the papers but he could get them prepared. Again Pleau asked if there would be a difference if he dropped the investigation and Testerman again denied that it would make a difference to Judge Bell. Testerman stated there would be no incentive for Pleau to drop the investigation.

When Pleau asked Testerman if he wanted him to review the paperwork Testerman stated he had not prepared anything but he would have if Pleau would have asked him to do so. Testerman told Pleau that if he did not feel comfortable dismissing something then he would not pressure Pleau into doing so.

The video/audio recording is being retained in the custody of this agent.

JSL/dh

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## TENNESSEE BUREAU OF INVESTIGATION INVESTIGATIVE REPORT

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<b>Case #:</b>	JC-82A-000050
<b>I.R.#:</b>	36
<b>Description:</b>	List of Exhibits
<b>Office of Origin:</b>	Johnson City Field Office
<b>Case Agent:</b>	Lott, Jon Scott
<b>SAC/ASAC:</b>	Morton, Shannon J.

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(S) John A. Bell (W/M, DOB 12/01/1958)  
(S) Tommy S. Large (W/M, DOB 10/10/1962)  
(V) State of Tennessee

The following is a List of Exhibits for TBI Case JC-82A-000050:

1. Tennessee Court of Judiciary Complaint 06-2741 (RI #2)
2. ETPI Advertisement from Local Newspaper (RI #4)
3. Recording of Shelton interview – 06/17/2008
4. Memorandum of Agreement – From Shelton (RI #5)
5. Cocke County Case Filing Report – 01/01/1999 – 06/18/2008 (RI #6)
6. Letter from Bell to Acuff – 11/23/1999 and Sessions Court Documents (RI #7)
7. Memorandums of Agreement - From Ervin (RI #8)
8. Recording of Large Interview – 06/18/2008
9. Miscellaneous Subpoenas (RI #9)
  - Judicial Subpoena – National Bank of Tennessee – John A. Bell and Vida Bell
  - Judicial Subpoena – National Bank of Tennessee – East Tennessee Probation, Inc.
  - Judicial Subpoena – National Bank of Tennessee – Tommy S. Large and Waynella Large
  - Judicial Subpoena – Newport Federal Bank - John A. Bell and Vida Bell
  - Judicial Subpoena – Newport Federal Bank - Tommy S. Large and Waynella Large
  - TBI Subpoena 12422 – East Tennessee Probation, Inc.

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10. Register of Deeds Records

- Bell, John A Etux Vida Ivy 1209 Piney Mtn. Rd, Newport, TN (RI #10)
- Large, Tommy Scott Etux Waynella Ivy 119 McSween Ave, Newport, TN (RI #11)
- Large, Tommy Scott Waynella Ivy 1254 Piney Mtn. Rd, Newport, TN (RI #12)
- Large, Waynella Ivy and Joy Large, 1254 Piney Mtn Rd, Newport, TN RI #13)
- Large, Waynella Ivy and Joy Large, 1254 Piney Mtn Rd, Newport, TN - 2 (RI #14)
- Large, Waynella Ivy and Joy Large, 1254 Piney Mtn Rd, Newport, TN - 3 (RI #15)

11. Recorded Conversation between Love and Large – 06/17/2008

12. ETPI Bond Documentation from McMahan (RI #16)

13. Juvenile Court Documents – Suzanna Gorrell (RI #17)

14. Affidavit of Jennifer Shelton – 06/19/2008 (RI #18)

15. Complaint and Pleau Affidavit (RI #19)

16. Recorded Conversation – Pleau and Testerman – 03/04/2009

17. TBI Subpoena 18630 (RI#20) and Phone Records from AT&T

18. TBI Subpoena 18361 – AT&T Phone Records

19. TBI Subpoena 18362 – Verizon Wireless

20. TBI Subpoena 18363 – AT&T Wireless Phone Records

21. Recorded Meeting - Pleau and Testerman – 03/20/2009

22. Statement of Tom Testerman - By: Joseph S. Daniel, Disciplinary Counsel for the Court of the Judiciary - 07/16/09 (RI #22)

23. Statement of Tom Testerman - By: James T. LaRue, Investigator for the Court of the Judiciary - 07/16/09 (RI #23)

JSL/dh

**TENNESSEE BUREAU OF INVESTIGATION  
INVESTIGATIVE REPORT**

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**Case #:** JC-82A-000050  
**I.R.#:** 37  
**Description:** List of Witnesses  
**Office of Origin:** Johnson City Field Office  
**Case Agent:** Lott, Jon Scott  
**SAC/ASAC:** Morton, Shannon J.

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(S) John A. Bell (W/M, DOB 12/01/1958)  
(S) Tommy S. Large (W/M, DOB 10/10/1962)  
(V) State of Tennessee

The following is a List of Witnesses for TBI Case JC-82A-000050:

1. Michael Arthur McCarter  
825 Morrell Springs Road  
Newport, TN  
423/608-7098
2. Melinda Love Henderson  
1517 DePaul Road  
Newport, TN  
423/237-5353
3. Jennifer Shelton  
953 Phinwood Drive  
Newport, TN  
423/608-4101
4. Iliff McMahan  
131 Tretham Hollow Road  
Parrottsville, TN  
423/237-0928
5. Dr. Benjamin L. Brooks  
4107 Sioux Drive  
Johnson City, TN  
423/773-3153

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6. Peggy Lane  
266 Bogard Road  
Newport, TN  
423/623-8113 – Home  
423/623-6124 – Office
7. Frankie "Peachy" Cody  
424 Woodlawn Avenue  
Newport, TN  
423/623-8619 – Office  
423/623-6271 – Home
8. Fletcher Ervin  
319 E. Broadway  
Newport, TN  
423/623-1389
9. The Custodian of Records for  
National Bank of Tennessee  
Newport, TN
10. The Custodian of Records for  
Newport Federal Bank  
Newport, TN
11. The Custodian of Records for  
Register of Deeds  
Cocke County, TN  
Newport, TN
12. Dr. Craig Ward  
358 North Street  
Newport, TN  
423/608-4324
13. Deborah Tracy  
377 Apache Drive  
Newport, TN  
423/625-9893
14. Patsy Gail McNabb  
454 Sequoyah Drive  
Newport, TN  
423/625-1240 - Home  
423/623-8447 - Work
15. Connie Fowler  
2929 Sparrow Way  
Newport, TN  
423/613-5416

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16. Bonnie Dastolfo King  
103 Moore's Hollow Road  
Newport, TN  
423/613-4743 – Home  
423/608-4377 – Cell
17. Gordon Acuff  
9111 Cross Park Drive, Suite D-100  
Knoxville, TN  
423/691-2551
18. Judy Brewer  
9111 Cross Park Drive, Suite D-100  
Knoxville, TN  
423/691-2551
19. David Pleau  
1618 Scotch Pine Way  
Bybee, TN  
423/613-8832
20. Custodians of Records for  
AT&T  
AT&T Wireless  
Verizon Wireless
21. Thomas V. Testerman  
301 E. Broadway  
Newport, TN  
423/623-0375
22. Tennessee Comptroller of the Treasury  
County Audit  
Nashville, TN
23. Inv. Trey King  
Tennessee Attorney General Office  
Nashville, TN
24. Inv. James Larue  
Tennessee Court of the Judiciary  
Nashville, TN
25. Judge Joseph Daniels  
Tennessee Court of the Judiciary  
Nashville, TN
26. SA J.J. Sipos  
Tennessee Bureau of Investigation  
Knoxville, TN

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27. SA Scott Lott  
Tennessee Bureau of Investigation  
Johnson City, TN  
Case Agent

JSL/dh

**TENNESSEE BUREAU OF INVESTIGATION  
INVESTIGATIVE REPORT**

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<b>Case #:</b>	JC-82A-000050
<b>I.R.#:</b>	38
<b>Description:</b>	Summation of Investigation
<b>Office of Origin:</b>	Johnson City Field Office
<b>Case Agent:</b>	Lott, Jon Scott
<b>SAC/ASAC:</b>	Morton, Shannon J.

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(S) John A. Bell (W/M, DOB 12/01/1958)  
(S) Tommy S. Large (W/M, DOB 10/10/1962)  
(V) State of Tennessee

This case was predicated by a request from the Attorney General, Robert E. Cooper, Jr., State of Tennessee Office of the Attorney General, on 05/27/2008. According to a complaint through the Disciplinary Counsel for the Tennessee Court of the Judiciary, Cocke County, TN General Sessions Judge John A. Bell has been engaged in possible illegal activities in respect to office.

Judge Bell was first elected in August 1998 and took office on September 1, 1998. He was re-elected in August 2006 and took office on September 1, 2006. On April 29, 2005, the Tennessee Supreme Court amended a rule that, in part, requires judges to only make referrals to probationary services impartially and based on merit. The rule forbids nepotism and favoritism. The rule went into effect on July 1, 2005. Bell was given notice of this rule change prior to the August 2006 election. In 1999, Tommy S. Large created a probationary service called East Tennessee Probation, Inc. (ETPI) He has always been listed as the Executive Director and CEO of ETPI. Shortly after ETPI was created Bell signed a contract with ETPI where they were the exclusive probationary service for Bell's court. Large is married to Judge Bell's sister.

ETPI works on a fee basis and the fees are set by the court. As a condition of probation the probationer must pay the fees. According to the complaint, Large sits with Bell on the bench during probation hearings and they often confer with each other prior to probation sentences being made. It is alleged that Judge Bell often finds technical violations toward the end of the probation in order to extend the probation for a year or longer. Also, Bell will violate a probationer if the defendant is unable to pay the probation fees regardless if the probationer is financially unable to pay the fee or if the nonpayment is willful. It has also been alleged that ETPI requires an abnormally high amount of drug tests on probationers, even though the probationer has no history of drug use or continually passes the drug tests. An allegation is that Bell could be receiving a personal benefit from his relationship with ETPI.

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A second allegation is that although Bell is aware of the 2005 rule from the Tennessee Supreme Court, he avoided the rule by entering into an agreement with Cocke County Mayor, Illiff McMahan, creating a position of Director of Probationary Services and the mayor would have full control of the position. Shortly after the position was created, Bell recommended his Juvenile Court Probation Officer, Jennifer Shelton, to the position. Shelton is still currently Bell's Juvenile Court Probation Officer. Shortly after Shelton was appointed to the position, Shelton awarded the probation services contract to ETPI. It also been alleged that for ETPI to complete probation services with the state, it must be accredited. To be accredited, a probation service must be administered by a person with a minimum B.S. Degree in Criminal Justice. Large only has a GED and to satisfy the requirement, Melinda Love Henderson was placed on the corporate paperwork as the President and CEO of ETPI. It is believed that Henderson is only a probation officer with ETPI and was only given that title to satisfy the accreditation requirements.

A third allegation of the complaint was that Bell reprimanded Dan A. Metcalf, a former bail bond bondsman, in open court. According to the complaint, a probationer, Scottie Ellison, overheard Metcalf complaining that probation and Judge Bell were crooked and expressed that to an ETPI employee during a conversation. Bell was informed of the comment and called Metcalf into court, swore him in and threatened Metcalf with contempt of court if he ever heard it again. Metcalf was not given an opportunity to defend himself.

The fourth allegation is that Bell spoke at the Grace Missionary Baptist Church in Newport, TN and was paid \$100.00 but made no report as required.

The final allegation is that David Pleau had a pending civil suit in Judge John Bell's court and eventually filed a complaint against Bell to the Tennessee Court of the Judiciary. In Pleau's affidavit, taken by Inv. Jim Larue, he stated that Tom Testerman, an attorney in Newport, TN, contacted him by telephone and told him he was contacting him on behalf of Bell and asked Pleau to come into his office to sign some paperwork dismissing the complaint.

On 06/17/2008, Michael McCarter advised that while serving as the jail administrator for the sheriff's office in 1998, he began questioning Bell about his sentencing of offenders and the fact that Tommy Large, owner of ETPI and Bell's brother-in-law, completed judgment forms on violation of probation warrants, rather than the court or the court clerk. McCarter advised that Bell is consistent with giving very high sentences and he stated that when he confronted Bell about his strict sentencing of offenders, Bell replied, "Let me introduce you to Bell Law." McCarter stated that he believed Bell has a vested interest in ETPI, and that Bell had asked him to go to work for ETPI at one time. McCarter further stated that he believed Bell started ETPI, and that it has always been said that Bell wrote the first rent check(s) for the company. McCarter advised that Melinda Love Henderson is a school teacher, county commissioner, former correctional officer, and former juvenile probation officer for ETPI from 1999 through 2007. Henderson has served as president of ETPI without drawing a salary because they needed a president with a Bachelor's Degree in Criminal Justice in order to be qualified to do probation services for the court. McCarter stated that Henderson has nothing to do with the day-to-day operations of ETPI.

McCarter advised that Jennifer Shelton was Bell's Juvenile Probation Officer, and that she was supposed to go to work for Judge Ogle as his administrative assistant. McCarter advised that Shelton was promoted to Director of Court Services, and was given an \$8,000 pay raise. McCarter stated that Shelton's position was created through a Memorandum of Agreement between Bell and Mayor Illiff McMahan. Also, Shelton handles youth services for the courts.

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McCarter advised that nothing has changed with Shelton's responsibilities, and that her position as Director of Court Services was a way for Bell to create an appearance of separation, thus, minimizing an improper relationship with Large and ETPI.

McCarter provided investigators with examples of how Judge Bell misuses his authority, which benefits ETPI. One example was that of Johnny Ray Coleman serving 1092 days in jail under a sentence given by Bell. Another was where Bell sentenced Kelly Millington to one year in jail and serve 12 years supervised probation. McCarter reported that in 2006, Jody Ford had been on probation since 1998 on an original 11-29 sentence for fishing without a license. McCarter reported that Bell issued a warrant for Freddie Hazelwood knowing that Hazelwood was deceased. McCarter gave an example of a Carroll subject who had been charged with driving on a suspended license and was ordered to pay \$45.00 for a drug test and also pay a \$45.00 monthly probation fee.

McCarter advised the purchase price for drug tests are very low and Bell will not accept Bendell A&D Services drug test results, referring only to test results from ETPI. McCarter further stated that everyone placed on probation must take a weekly drug test, regardless if they were charged with a drug related offense or have passed other drug tests in the past. McCarter stated as part of "Bell Law," everyone must "pay or stay," explaining if people don't pay all their fees and costs, then they are made to serve jail time. McCarter advised if a person cannot pay their fees and costs and the person has money in their commissary account then Bell would seize the accounts for the payment of the fees and costs. McCarter stated that Bell will turn sentences of 11-29 into 2 year sentences or more by charging probationers with Failure to Appear. McCarter advised that Bell also "stacks" charges (gives consecutive sentences), and does not give concurrent sentences on multiple charges.

McCarter stated that Large would also remove 2 for 1 credit, good time given by the jail, and then would violate a probationer for not remaining on probation for that required time. McCarter provided the name of Jerry Thomas for being violated for this 2 for 1 credit removal is a man as an example. McCarter explained the only person that can remove good time from an offender is the jail administrator, sheriff, or the parole board could make a recommendation for removal of such time.

McCarter stated that when Bell was elected in 1998, Bell met with Judy Brewer and Gordon Acuff with East Tennessee Human Resources Agency (ETHRA), who was providing probation services for the court at that time, and told them that he (Bell) was pleased with the services ETHRA was providing. McCarter advised that Bell asked Brewer to hire Large, and that Large was hired and worked for ETHRA for approximately six weeks; enough time for Large to copy ETHRA's policies and procedures and file a charter for ETPI. In November 1999, Bell sent a letter to ETHRA advising them that he (Bell) would no longer use ETHRA's services, and for them to surrender all their probation files to ETPI.

McCarter advised in March 2006, Dr. Benjamin Brooks, who runs Bendell A&D Services, was told by Bell that if McCarter came back into the Cocke County Courthouse, then Bell would quit sending clients to Bendell. McCarter added that Bell told Brooks that he would only send Bendell clients from his court if McCarter was transferred out of Cocke County but Bell never elaborated or provided a proper explanation as to why he wanted McCarter removed from any association with Bell or his court.

On 06/17/2008, Love Henderson was interviewed and she advised she was serving as a Cocke County Commissioner, a criminal justice teacher for Cocke County, and the President and CEO

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of ETPI. Henderson stated after the County Legislative Body (CLB) meeting on 06/16/2008, she spoke to a county attorney, and he recommended she resign her position with ETPI, which she did. Henderson advised she worked as a part time probation officer for ETPI from 12/16/2002 through September 2006 and previously for ETHRA as a probation officer. She received her Criminal Justice Degree and shortly thereafter, in May or June 2006, she was approached by Large and asked to be the president and CEO of ETPI. Henderson stated that Large told her that ETPI needed someone with a degree in criminal justice to keep the company approved by the state. Henderson explained she did not receive any compensation for the position. She went on to say she only attended one board meeting in two years, which lasted only 15 minutes. Henderson reported that Large actually runs the day-to-day operations of ETPI and she did not think she could have any influence on how ETPI operated. Henderson felt she had been used by Large and ETPI. Henderson stated Large worked for ETHRA in Cocke County for a short time and he actually got a position with them that he wanted although Large only had a GED. Henderson advised that when Large started ETPI in 1999, he asked her to work for him but she declined his offer at that time.

Henderson stated that she asked Ginger Summers, the secretary for ETPI, if Judge John Bell has ever received a check from ETPI and Summers told her no. Henderson stated she has also asked Large the same question and Large also denied it. Henderson stated when Bell was deployed to Iraq through the Tennessee National Guard, the money coming into ETPI "dried up" and she had to be laid off (Henderson was working as a part-time employee during this time frame). Henderson advised when Bell came back to the bench, ETPI started making money again. Henderson stated she has spoken with Large concerning violating probations based on non-payment of fees and Large was aware that probations could not be violated based solely on non-payment of fees. Henderson explained some people had been on probation for years because of violations of their probations and running consecutive sentences. Henderson stated she was not aware of any sentences imposed by Bell that exceeded 11 months and 29 days but added she mostly dealt with juveniles.

Henderson stated she did not know much about Jennifer Shelton's position as Director of Court Services but she did think the money for Shelton's raise had been placed in the budget prior to Shelton receiving the position.

On 06/17/2008, Henderson met with Tommy Large and covertly recorded the conversation. She submitted her resignation and he stated that he wanted her to change the date on the resignation letter for 06/18/2008 so that they could meet with Tom (Testerman) and sign some paperwork. Large told Henderson that he would try to get Loretta (Grooms) because she was qualified because if he did not have anyone in that position then the state could shut the doors. Large added that he runs day-to-day operations of ETPI and there is no compensation for the position of President and CEO.

Henderson stated she met with the board members of ETPI on the evening of 06/19/2008 in order to present her resignation as the president of ETPI. Henderson stated the meeting lasted about ten minutes and all members were present with Dr. Craig Ward attending by telephone. Henderson stated she also resigned as a board member and her resignation was accepted and Loretta Grooms was elected president in her place. She advised that Tommy Large handled explaining to the board members the reason for her resignation.

On 06/17/2008, Jennifer Shelton stated that in 2006 she was contemplating on leaving her position as a Youth Services Officer (YSO) for Cocke County and taking a job as the secretary for Judge Ogle in Sevierville. She explained that it was hard finding a person to take her

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position because it did not pay well. Shelton stated that supposedly Judge Bell wrote a letter to the Finance Committee of the CLB to get a pay increase of \$8,000 for the lead YSO. She stated she didn't know about an agreement between Judge Bell and Mayor Iliff McMahan about creating the position of Director of Court Services until Bell approached her and gave her a copy of the memorandum between him and Mayor McMahan. Shelton stated she is not paid any extra for the Director of Court Services and all her pay is derived from being the lead YSO. She explained that, other than another job title, she has very little responsibility, although the memorandum states that she is the one to decide who is awarded probation services for the court. Shelton went on to say that as Director of Court Services she is supposed to provide a separation between court and probation services but she felt that if she recommended any other agency to conduct probation services for Judge Bell's court her job would have been in jeopardy. Shelton advised that she felt used by Judge Bell in order to make an appearance of separation between the court and ETPI, when in actuality there is not a separation. Shelton went on to say that if she resigned her position of Director of Court Services, she felt that her job as YSO would be in jeopardy because Judge Bell signs her time sheets.

Shelton stated that she feels there is a large amount of probation violations on people for the sole reason that they are unable to pay costs and fines. She advised violation of probation is ultimately up to the judge because he has to sign off on it, although the violation may be as a result of a probation officers recommendation. She stated she felt it would be unfair for a probationer to have to submit and pay for a drug test on a weekly basis after their first initial visits if the drug tests were clean.

Shelton advised that she knew that Judge Bell was not satisfied with ETHRA handling probation for his court. She stated that Tommy Large went to work for ETHRA for a short period of time before ETPI was started and then all of the probation matters were given to ETPI by Judge Bell and ETHRA was no longer used. Shelton stated that ETHRA is still used in criminal court. She stated that Large does sit to the right of Judge Bell on the bench but that is due to the close quarters of the courtroom and it is also where the ETHRA probation officer sat before. Shelton stated that she does not think that there is any money changing hands from ETPI to Bell but with Large being Bell's brother-in-law there is an appearance of inappropriateness. She advised that she knows that Love Henderson is being used as the President and CEO of ETPI without compensation because she has a Criminal Justice Degree, which is required by the state but that Tommy Large actually runs the business.

Shelton stated on 06/19/2008 she provided an affidavit at Bell's attorney's office, Gordon Ball. Shelton advised during the questioning Bell was there and allowed to ask questions. Shelton stated she did not feel comfortable with the situation and didn't feel she was in a position to refuse. Shelton advised that things that were in the affidavit were misconstrued and there were some things that were not put in the affidavit that she felt should be. Shelton explained that one sentence says she did choose the probation company for General Sessions Court but Bell told her that by not making a choice then she made a choice and he brought up the subject about meeting with Probation Services, Inc. (PSI) who wanted to provide probation services. Shelton stated she may not have verbalized it but she wanted there to be something in the affidavit that said she did not feel she would be allowed to make a choice of anything that Bell did not agree with. Shelton added there was a part about Tommy Large creating ETPI and it being legal but she felt, although she did not know the law, it was not right.

On 06/17/2008, Iliff McMahan the Mayor for Cocke County, TN was interviewed and he stated that in late September 2006, he received a phone call from Fletcher Ervin, the county attorney,

stating that Judge Bell wanted to have a meeting on 10/02/2006. At the meeting McMahan advised Bell stated that as of July 1 2006, the old law had "sunsetting or changed" and explained the law prohibited Bell to take care of juvenile services. Bell said the position could go to the General Sessions Clerk, Peachy Cody, but she did not want it. McMahan went on to say that Bell told him they could create the position under the county mayor and that Jennifer Shelton was currently doing the job but could not continue it because she was prohibited by the new law from reporting to Bell. McMahan explained that in August 2006, Bell, with Shelton at his side, went to the Finance Committee who approved an \$8,200 pay raise for Shelton as YSO. McMahan stated that it is now clear that Bell was guiding the conversation the way he wanted it to go. Bell then stated to McMahan that the additional responsibilities should go to Shelton and that Shelton would report to McMahan. McMahan stated he told Bell he was not comfortable with Shelton reporting to him because he did not know what she did. McMahan advised that Bell told him that that was not the point, but by doing it this way, the position would satisfy the law administratively. According to McMahan, Ervin was okay with it. Bell told McMahan that Shelton would report to McMahan instead of Bell. McMahan stated he again voiced his concern with being Shelton's immediate supervisor and Ervin re-iterated that it would satisfy the law administratively. McMahan then asked what kind of paperwork would it take and Bell produced a memorandum of agreement. McMahan stated that Bell had drawn up the agreement and McMahan and Bell signed it, backdating the memo to 09/01/2006. McMahan stated Jennifer Shelton has never reported to him. McMahan advised that in the meeting he told Bell and Ervin that he didn't feel comfortable with Shelton reporting to him and if this move was meant to fill the letter of the law then she could still get direction from Bell because McMahan did not know what Shelton did and Bell agreed.

McMahan stated nothing was ever said in the meeting about probation or probation services and it never became an issue until Bell's election when Bell was running as Tommy Large's brother-in-law. McMahan advised, now after looking back on the meeting, he was being used by Bell to create the appearance of a separation between Bell and Large. McMahan stated that if there had ever been anything said about the possibility of the memorandum of agreement being used for that purpose he would have obviously not agreed with it.

McMahan stated on May 19, 2008, the day Bell asked the CLB to fund his defense, Ann, McMahan's secretary, received a call from the insurance agency and they stated they were sending out a letter advising that they were not going to cover the cost of the Bell's defense. He advised that the CLB voted to back Bell's defense but on 05/20/2008 he was served with a restraining order to keep from paying Bell's attorney. A special meeting of the CLB was called on June 09, 2008, to discuss the restraining order and to vote on paying for Bell's defense. McMahan stated during the meeting the insurance carrier spokesperson explained they would not cover the cost of Bell's defense for two reasons: 1.) Technicality, no damages were sought, and 2.) they felt Bell exceeded the scope of the insurance company's services; that a nepotism law had been violated after Bell had been previously reprimanded by the Court of the Judiciary.

On 06/18/2008, Benjamin L. Brooks was interviewed. Brooks operates Bendell Alcohol and Drug Dependency Counseling Services in Newport, TN. Brooks advised in March 2006, Michael McCarter began working at Bendell and shortly thereafter, Brooks was approached by Judge John Bell advising Brooks that he (Bell) did not want McCarter in his courtroom. Brooks advised that Bell implied that if McCarter came back to his courtroom, then he would not send any business to Bendell as part of sentencing of offenders. As a result, Brooks moved McCarter to Morristown, TN. Brooks advised, some time later, Bell called him on his cell phone and said, "I thought I told you not to have Michael McCarter in my courtroom." Apparently McCarter had gone to the Cocke County Courthouse on some other business. Brooks stated he tried to

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defend McCarter but Bell would not listen. As a result, Brooks stated his business went downhill on referrals from Bell's court, which cost Bendell from \$15,000 to \$20,000 a month in business. Brooks stated that Bell placed more financial pressure on Bendell by putting rules into effect of having to hire guards to transport prisoners to Bendell for treatment sessions. Brooks stated that he caught flack due to McCarter not having the authority to have prisoners released for court ordered treatment sessions. Brooks advised that one time the jail sent two girls who, unknown to the personnel at Bendell, were flight risks and when they got to the facility they ran away. Brooks called this a set-up. Brooks advised that he thought Bell was retaliating against Bendell by Bell starting to send prisoners for treatment in Kingsport, TN when Bendell operates an inpatient facility in Newport.

On 06/18/2008, Peggy Lane, the Criminal Court Clerk for Cocke County, TN was interviewed and stated it appears some people are left on probation forever in Judge Bell's court. Lane further stated that the biggest problem is that people's probations are violated mostly because they just don't have the money to pay court costs, probation fees, drug tests, and jail fees. Lane stated that she believes Bell's relationship with ETPI is for Bell's benefit. Lane further stated that it was not appropriate for Tommy Large to sit beside Bell on the bench during open court. Lane stated that ETPI does not handle any probations from criminal court and that the probations in criminal court are handled by State Probation and ETHRA, who subsequently has been banned from Bell's court. According to Lane, Bell advised everyone in his court that they are going to be drug tested if they are placed on probation, and in comparison to criminal court, only people with alcohol or drug problems are drug tested. Lane stated that she has also heard that Bell stacks charges, giving consecutive sentences rather than concurrent sentences. Lane reported as a result of Bell's sentences, people are trying to avoid being placed on probation with ETPI, and are now waiving their misdemeanor cases to criminal court, which has overloaded the Grand Jury meetings.

On 06/18/2008, Frankie "Peachy" Cody, the General Sessions Court Clerk for Cocke County, TN, was interviewed. Cody was very reluctant in answering investigators questions, and when asked why, she stated she did not think her opinion mattered. Cody thought the investigation was a waste of time, and she does not expect anything to come out of it. Cody stated she has never been directly threatened by Judge John Bell and does not feel intimidated by him; however, she did say if she answered questions she was sure Bell would retaliate against her. Cody stated Bell uses ETPI exclusively. Cody provided investigators with a copy of the letter Judge Bell sent to Gordon Acuff, ETHRA, dated November 23, 1999, where Bell informed ETHRA that he would be using ETPI instead of ETHRA. Cody stated that she rarely looks at Violation of Probation warrants and does not really know why people are violated. Cody advised that Bell has stated in court that some charges must run consecutively. For example: Violation of Probation and Failure to Appear. Cody stated that she has heard that some people have had their probations violated for failure to pay fines and costs and described this as being in arrears. Cody advised that after Bell was served by the Court of the Judiciary on 06/09/2008, he called her into his office and told her he had not done anything wrong. Cody stated that Bell told her that Tommy Large was not his brother-in-law but when she looked it up in the dictionary she determined that Bell was wrong.

On 06/18/2008, Fletcher Ervin, the county attorney for Cocke County, TN, was interviewed and he advised that on 10/15/2006, he received a phone call from Judge Bell stating that a law had changed and that Bell had requested Ervin to set up a meeting with Mayor McMahan to discuss this new change in the law. Ervin stated that a meeting was held in McMahan's office the next day. Ervin stated that during the meeting, Bell quoted TCA §37-1-210 and said the county must take action in order to be in compliance with this new change in the law. Ervin went on to say

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that Bell advised them that there were certain activities of the probation department that could no longer be under the judicial branch and needed to be placed under the executive branch of the county government. Ervin stated that Bell explained that if probation stayed under the judicial branch, it would be like the judge was bringing charges of Violation of Probation. Ervin advised that Bell wanted to place Jennifer Shelton in the position of Director of Court Services and that she would take on the responsibility without any additional pay. Ervin explained that Shelton, the current YSO, had just received a considerable pay increase with Bell's recommendation. Ervin stated that he received the impression from Bell that Bell had already discussed this position with Shelton and that she had already indicated that she was willing to accept the position if it was approved. Ervin advised that Bell stated the only other option was to hire someone new for the position, which they all agreed would be difficult to sale to the CLB since they had just approved a budget for the upcoming year. Ervin stated that Bell told them by appointing Shelton to this position they will have addressed the problem with the new law. Ervin advised that McMahan initially opposed the position because McMahan did not want to have the added responsibility of supervising someone that McMahan did not fully understand what she did. Ervin stated that Bell told them it was simply a means by which the county could comply with the law because Shelton would be under the county mayor but nothing else would actually change.

Ervin advised that Bell produced all the documentation referred to in the meeting and that Bell even referred to a copy of the judicial ethics opinion on YSO's. Ervin provided three copies of the memorandum of agreement that was signed by Bell and McMahan. Ervin stated that Bell never mentioned any rules about nepotism or familial relationships with probation services provided to the court and if Bell would have mentioned anything about that, or the fact that Bell was trying to keep Tommy Large and ETPI in business, then he would have looked at the situation differently. Ervin stated, at the time of the meeting, he was not aware of the nepotism rule and, in hindsight, he feels Bell was using the meeting and the memorandum of agreement as a means of getting around the nepotism rule.

On 06/18/2008, Tommy Large was interviewed in the presence of his attorney, Tom Testerman, and Large stated that he worked for ETHRA for a few months and decided to start ETPI on his own. Large confirmed that without the assurance from Bell that he would get some of the probation business from Bell's court he would have never started the business. He advised that he discussed at length with Bell about what Bell wanted from a probation company. Large also confirmed that everyone on probation was expected by Bell to be drug tested at least monthly and sometimes weekly. He stated that most of the probationers are required to report on a weekly basis and the probation fees are set by the state, with restitution being collected first. He explained that as the probationer continues to stay on probation then the reports and tests may be conducted on a monthly basis or longer toward the end of the probation period. Large stated that he has never recommended violating anyone solely for non-payment of fees but he did state that if a person is violated then he will place as many charges on that person as possible. He stated that in some cases where someone could not pay their fees then the judge would have them do trustee work around the courthouse and give them \$10.00 per hour of credit toward what they owe.

Large stated that Bell has never been paid anything by ETPI and ETPI or Large has never borrowed any money from Bell. He stated that Love Henderson is the President and CEO of ETPI but it is not a paid position. He explained that Henderson has a degree in Criminal Justice, which is required by the state. He stated that the president has the ability to fire him and hire others but Henderson is basically a sounding board for him. Knowing that Henderson had already spoken to him about resigning her position, Large was asked if he had heard that

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Henderson was resigning and Large denied it. Large stated that prior to Jennifer Shelton being appointed the position of Director of Court Services, Bell told him that a new law had come down and he would have to answer to Shelton. Large explained that Bell told him that it was just something that they had to do to comply with a new law and Bell never told him it had to do with nepotism.

On 07/09/2008 Craig Ward, the pastor of Lincoln Avenue Baptist Church in Newport, TN, was interviewed and he stated he has been the pastor since 2001 and Judge Bell and Tommy Large are members of his church. Ward stated in 2005 Large asked him to serve on the board of ETPI as president and he accepted. Ward claimed he never received any compensation for the appointment and the appointment was based mostly on him having a doctorate degree, although his degree is in administrative church work. Ward stated he has never had any conversations with Bell regarding ETPI and as far as he knows, ETPI has never made any donations to the church as a company. Ward advised when he was removed as president and Love Henderson was placed as the president, he assumed it was because Henderson had a degree in criminal justice. Ward stated he is still on the board for ETPI. Ward advised the board for ETPI meets once a year and the meeting lasts about five to ten minutes and involves him signing documents produced by ETPI's attorney, Tom Testerman, signing over the day-to-day operations to Large. He stated the board met a couple of weeks prior to this interview and voted on appointing the newest board member as president because Henderson had resigned. Ward advised that Bell has spoken for the church in regards to his military activities but he does not know if Bell was compensated for his speaking.

On 07/10/2008, Patsy Gail McNabb, owner of McNabb's Jewelry in Newport, TN stated she rented office space to ETPI when it first started. McNabb stated she always received rent payments by check written by Tommy Large and has never received any rent payments made by Judge Bell.

On 07/11/2008, Connie Fowler, manager for ETPI, was interviewed and she stated she worked for ETHRA for approximately 8 years and has worked for ETPI for eight years after that. Fowler advised that Tommy Large worked for ETHRA for four to six months and then quit to start ETPI and Large asked her if she would be interested in working for ETPI while he was still waiting for the ETPI paperwork to be approved through Nashville. Fowler was told by Large prior to ETPI being completely formed that all the ETHRA clients would be transferred to ETPI.

Fowler stated her duties included checking out the files to make sure they were right and to make sure no one was on probation for more than three years. Fowler stated that misdemeanor probation can be extended by 11 months and 29 days, twice. Fowler advised that ETHRA was not doing the job that Judge Bell wanted and that Bell could trust Large to do the job he wanted.

Fowler reported that Bell has not received any monetary benefit from ETPI. Fowler advised that everyone placed on probation is ordered drug testing unless it was determined in court that they did not have to, which was very rare. Fowler justified everyone being required to take drug tests because most crimes originate for a drug problem. Fowler stated there is a policy with ETPI if a probationer passed their first drug screen then they would be required to take one test a month for four months and if they continued passing the tests then they would only have to take one test per two months. Fowler reported, on the other hand, if a person failed a drug screen then they would have to take drug tests more often. Fowler advised if that person began passing the screens then they would have to take tests less often. Fowler advised that she has been told by Large to not violate people on the only condition that they owe money to ETPI, however, if a person is violated for any other reason, then they would place as many charges that are



applicable on the violation warrant. Fowler contended that if anyone was ever violated based solely on the fact that they owed money, then she would be the one responsible due to carelessness.

On 07/11/2008, Gordon Acuff and Judy Brewer, Executive Director and Probation Manager for ETHRA, were interviewed and Brewer stated in 1999 Judge Bell called her and told her he knew they were being overloaded and recommended Tommy Large as a probation officer. Acuff advised they hired Large as an emergency fill-in probation officer due to Bell's recommendation and he added he did not know of the familial or any other relationship between Bell and Large. Brewer stated, only later did she find out that Large was the brother-in-law to Bell. Brewer advised that Large worked for ETHRA for six to eight months. Acuff stated, as far as a probation company is concerned, if a judge doesn't work with you then you will not get business. Brewer advised about six months after Large quit working for ETHRA, she and Acuff received a letter from Bell stating that he would no longer use ETHRA for probation and ordered their clients be transferred to ETPI. Acuff claimed that Connie Fowler went to work for ETPI and was one of ETHRA's best employees but Fowler probably would have been laid off from ETHRA because they lost all their clients to ETPI. Brewer advised she feels the situation with ETPI and Bell was a well thought out plan and that Large did not have the experience and education to start ETPI on his own. Acuff advised that ETPI always had the appearance of being Bell's company and he added that although ETHRA could change counties for probation, ETPI could not because it could only be successful in Cocke County. Brewer stated since ETPI started, there was a lot of violation of probations and it seems when a person was ordered to be in violation of probation a warrant is already in Large's hand and the person is taken into custody immediately.

On 07/10/2008, Deborah Tracy was interviewed and Tracy alleged that Judge Bell misused his authority to have her arrested, drug tested and custody of her children taken away from her. She claimed her ex-husband went to school with Bell and Bell's secretary and sister-in-law, Joy Large is good friends with her ex-husband's wife. Tray advised an unruly child petition was filed against her daughter in 2001 and when her daughter had contact with a boy that she was ordered to not have contact with Bell had Tracy arrested and both her and her daughter drug tested and awarded custody to her ex-husband. She alleged that Bell had the hearing without allowing her to consult with an attorney. Afterwards, Bell allowed her daughter to have contact with the boy he had previously ordered her to not have contact with.

On 07/11/2008, Bonnie Dastolfo King was interviewed and King stated in 2001 she was arrested for domestic violence in Cocke County because the officers knew her former husband and when she was taken to court she was hyperventilating because she had never been arrested before and was scared and Judge Bell told her that she was on drugs. She advised Bell made her take a drug test and then she was told she tested positive for cocaine. King advised she was placed on six months supervised probation and had to serve 12 hours in jail and lost her job. King stated she was on supervised probation with ETPI from August 1, 2005 until July 31, 2006 and during that time her probation was violated on February 1, 2006 because she was told she failed three drug tests. King advised that Connie Fowler was continually telling her she had to pay and King paid the money requested for fear of being put in jail by Bell. King produced a file with receipts she had paid ETPI and according to the receipts, she had paid \$863.25 to ETPI. King alleged she was made to take a drug test once a week. King advised she had to take out a loan to pay off the amount she owed ETPI in order to get off probation.

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On 06/18/2009, appointments were attempted to be made with Judge Bell, Vida Bell, and Waynella Large, however they declined to be interviewed.

Subpoenas were issued for bank records for Judge Bell, Tommy Large, and ETPI for various records and the proceeds were turned over to the State of Tennessee Comptrollers Office to be reviewed. After reviewing the records, the comptroller's office did not find any financial relationship between Bell with ETPI and Large.

On 03/04/2009, David Pleau was interviewed and he stated on 12/29/2006 he was involved in an auto accident and was cited for failure to yield. He advised he went to court in front of Judge Bell and Bell told him options, one of which was to waive the case to the action of the Grand Jury, which he opted to do. After exercising this option, Bell took Pleau into custody and made him post a bond in order to be released. Pleau explained he was indicted by the Grand Jury and later won his case in Circuit Court, receiving a "not guilty verdict." Pleau advised before he was acquitted he had sued his insurance company because they had paid off the other uninsured motorist's claim and had not paid his claim. He advised he did not know the law and was not using an attorney and in Bell's court found out he had to also sue the other motorist along with his claim and must have been found not guilty or not at fault in the accident. He stated Bell dropped the case on that technicality. Pleau stated Bell did not make the decision in court and was to notify him when he made the decision. Pleau stated that Bell did not inform him of his decision within the ten days to make an appeal and Pleau therefore filed a complaint on Bell through the Court of the Judiciary.

Pleau again sued both the insurance company and the motorist. He stated that sometime in late February or early January 2009 Tom Testerman called him on his home phone and told him he was calling on behalf of Judge Bell because Bell thought it would not be appropriate for him to call Pleau directly. He advised Testerman asked him to drop the complaint. Pleau stated Testerman had some paperwork for him to sign to drop the complaint and to stop by his office some time to review it. Pleau stated that Testerman did not promise him anything nor threaten him in anyway. He also advised that Testerman did not state he was representing Bell but only calling on Bell's behalf.

Records were subpoenaed for phone calls made to and from Pleau's telephone number and a call was made to Pleau's phone number from Testerman's office number on 02/02/2009 at 04:35 p.m. and lasted for approximately 28 minutes.

On 03/04/2009, Pleau called Tom Testerman and the conversation was recorded. Pleau told Testerman he wanted to review the paperwork about dropping the judicial review. Testerman told Pleau that that was up to him and Testerman wasn't trying to strong arm him on that. Pleau explained that he was concerned with dropping the investigation and that Testerman had said in their previous conversation that he had some papers he wanted Pleau to review. Testerman began his reply by saying, "If you were not of a mind to do that we would not..." and Pleau explained that the court date had gone by and he just wanted to go over what Testerman had proposed to see what his options are. At that time Testerman referred Pleau to his secretary and an appointment was made for March 20 at 2:30 p.m.

On 03/20/2009, Pleau met with Testerman at Testerman's office and the conversation was recorded. Pleau asked Testerman what the nature of Testerman's previous call was due to Testerman stating that he was representing Judge Bell and Pleau stated that Judge Bell would appreciate it if he dropped the investigation against Bell. Testerman responded by saying that

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he didn't think that was Judge Bell's concern but rather if Judge Bell would be in a position to hear Pleau's civil case in Bell's court. Testerman went on to say that in any event it would have been inappropriate for Judge Bell to contact Pleau. Pleau asked if it would enhance his ability to win his civil case if he ended the investigation and Testerman responded by saying that it would not affect Judge Bell's decision at all and he was not sure how comfortable Judge Bell was with hearing the case. Testerman added that it would not help nor hurt Pleau. Pleau asked about paperwork that Testerman referred to in a previous conversation concerning dropping the investigation and Testerman stated he did not have the papers but he could get them prepared. Again Pleau asked if there would be a difference if he dropped the investigation and Testerman again denied that it would make a difference to Judge Bell. Testerman stated there would be no incentive for Pleau to drop the investigation. Testerman told Pleau that if he did not feel comfortable dismissing something then he would not pressure Pleau into doing so.

On 08/06/2009, an interview was attempted with Testerman. Previously, two reports were received from Joseph S. Daniel and Jim LaRue, Tennessee Court of the Judiciary, in which they had interviewed Testerman on 07/16/2009. According to their report, Testerman admitted that Judge Bell had approached him at the Cocke County Courthouse and asked him to contact David Pleau in order to determine if he was going to pursue his complaint to the Court of the Judiciary against Bell. Testerman told Daniel and LaRue that Bell knew it would be unethical for him (Bell) to contact Pleau. Testerman advised that he did, in fact, call Pleau on Bell's behalf and reported his conversation to Bell within a couple of days. At this time Daniel advised Testerman that he may be in violation of certain canons and laws and asked Testerman for an affidavit. Testerman then told Daniel that he would not provide an affidavit but he would testify honestly if compelled. As a result of this interview with Daniel and Larue, Testerman refused to give a statement on 08/06/2009.

For more detailed information on the content of this Summation of Investigation, refer to TBI Case File JC-82A-000050.

JSL/dh

**EXHIBIT F**  
**To Judge Bell's Statement of**  
**Undisputed Material Facts**  
**M2009-02115-CJ-CJ-CJ**

Statements of Tom Testerman, prepared by J.S. Daniel and James LaRue;  
contained in exhibit 1 to Lott Deposition

## STATEMENT OF TOM TESTERMAN

July 18, 2009

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 Mr. Tom Testerman at his office in New Port, Tennessee for the purpose of taking a statement concerning Mr. Testerman's knowledge of and actions in a Court of Judiciary complaint which is styled Pleau v. Judge John A. Bell. Mr. Testerman was unaware that we would attempt to interview him and we arrived unannounced at his office at 12:01 p.m. and found him to be in his office.

At the commencement of my interview I explained to Mr. Testerman my name and position as Disciplinary Counsel with the Court of the Judiciary. I introduced Mr. LaRue and we exchanged pleasantries. I asked Mr. Testerman if he still represented East Tennessee Probation. I inquired about his representation of that organization as it had been a part of a previous complaint against Judge Bell.

I asked Mr. Testerman if in fact he practiced both civil and criminal law. He indicated that he did. I asked if he practiced in Juvenile Court, General Sessions Court, Criminal General Sessions Court, and Probate Court; all of which he agreed that he did practice in. Mr. Testerman also was asked if he appeared in Judge Bell's court on a regular basis and if he had received appointments from Judge Bell. Mr. Testerman stated in the affirmative that this had occurred. Mr. Testerman indicated that he had been practicing law for twenty years and that he was a graduate of the University of Tennessee, College of Law.

In my discussions with Mr. Testerman I asked him if in his practice he had been engaged in bringing a civil lawsuit for the purpose of recovering property damages for individuals who had been involved in automobile collisions. Mr. Testerman indicated that he had done that. I then asked if Mr. Testerman had been involved in bringing such lawsuits where the plaintiff was bringing a lawsuit against a person who had caused damage to their vehicle who was uninsured with the anticipation of recovering the damages from their own, i.e. plaintiff's own, insurance company. I explained this would be an uninsured motorist claim. Mr. Testerman indicated that he had brought such a claim. I asked if it was not true that to bring such a claim it was necessary for the plaintiff to sue the individual

uninsured motorist as opposed to his or her own insurance carrier. Mr. Testerman indicated that it was his understanding that before you could name your own insurance carrier that you would have to sue the individual uninsured driver giving notice to your insurance carrier and perhaps naming them in that capacity only.

After this discussion I asked Mr. Testerman if he was of the opinion that it would be inappropriate and unethical for a judge to have a private communication with a litigant concerning his or her litigation. Mr. Testerman agreed that this would be an inappropriate and unethical act.

I asked Mr. Testerman if he had knowledge of one David Pleau. Mr. Testerman indicated that did know Mr. Pleau. I asked him if he had ever represented Mr. Pleau and he indicated that he had not. I asked Mr. Testerman how he knew Mr. Pleau and Mr. Testerman indicated that he had had one or more telephone conversations with Mr. Pleau. I asked him to explain how those conversations came about. Prior to him answering that question I asked Mr. Testerman also if he understood that it would be inappropriate and unethical for a lawyer to contact an individual litigant represented by another attorney without the permission of the attorney representing the individual. He indicated that that was his understanding of the ethics rules. I then asked him how it was that he had come into contact with Mr. Pleau. Mr. Testerman indicated that he had called Mr. Pleau earlier in the year. The purpose of this call was to determine for Judge Bell whether or not Mr. Pleau would continue in his complaint with the Court of the Judiciary against Judge Bell for failing to decide Pleau's case on a timely basis. Mr. Testerman was asked if in fact he recognized that I as Disciplinary Counsel represented Mr. Pleau in the complaint against Judge Bell. Mr. Testerman was of the opinion that he had not thought of it in that respect and did not mean anything inappropriate by making the contact with Mr. Pleau. I asked Mr. Testerman if in fact he understood that it would have been inappropriate for Judge Bell to contact Mr. Pleau. Mr. Testerman stated that when he called Mr. Pleau, he indicated to Mr. Pleau that Judge Bell had asked him to call him and that Judge Bell knew that it was inappropriate for him to call and discuss the matter with Mr. Pleau. However, Mr. Testerman indicated that he called as an accommodation to Judge Bell to see if Mr. Pleau would abandon his complaint with the Court of the Judiciary. Mr. Testerman did not know the date in which he made this call. He was informed by me that the call had occurred on February 2, 2009. I asked Mr. Testerman how it came to pass that he called Mr. Pleau since he

did not know Mr. Pleau and did not know that Mr. Pleau had a complaint against Judge Bell in the Court of the Judiciary. Mr. Testerman indicated that shortly before his call which was on Monday, February 2, 2009 that he had had a conversation with Judge Bell in the courthouse in a hallway adjacent to Judge Bell's office in which Judge Bell had informed him, Testerman, that Mr. Pleau had a complaint against him in the Court of the Judiciary and that Judge Bell knew it would be inappropriate for him to contact Mr. Pleau and asked Mr. Testerman if he would contact Mr. Pleau to determine whether he would continue in pursuing his complaint with the Court of the Judiciary. I pressed Mr. Testerman as to when this would have been and he indicated that this occurred shortly before his call and if he made the call on February 2, 2009 then more than likely he had been in contact with Judge Bell in the latter part of the week prior to his telephone call. I then asked if Mr. Testerman reported the results of his call to Judge Bell. Mr. Testerman indicated that he did report to Judge Bell the results of his efforts within two days of his conversation with Mr. Pleau.

Mr. Testerman then tried to explain his conduct and why he had engaged in this effort. He explained that he was a solo practitioner in a small rural community and that he and all of his fellow lawyers and judges were friends, that they disagreed in the courtroom but had good working relations outside the courtroom. That they from time-to-time had social interactions at Christmas parties and that Mr. Testerman had been a social guest in Judge Bell's home on one or more occasions, in his current home and the previous home that he had owned. He indicated that he thought that these actions were simply to assist a local judge. He pointed out that he and other lawyers needed to get along and be harmonious with each other. He explained that he had to appear in Judge Bell's court and that's the way he paid his rent and light bill is to be able to have cases in front of Judge Bell and have a good working relationship with the judge.

Mr. Testerman also attempted to mitigate his involvement by explaining that he felt an obligation to try to assist Mr. Pleau who had a number of legal questions about representing himself and to provide him some assistance.

Mr. Testerman was then asked if he had had any subsequent conversations with Mr. Pleau and he admitted that Mr. Pleau had come in and talked with him in March, 2009. On this occasion Mr. Pleau talked about his lawsuit and the fact that he was unrepresented and Mr. Testerman

indicated that he tried to assist him in providing him information to assist him in his self-representation.

I pointed out to Mr. Testerman that under the Code of Professional Conduct, Rule 4.2, that it was inappropriate conduct for a lawyer to communicate with a person represented by an attorney without permission. I also pointed out that under Rule 8.1 that in disciplinary matters an attorney has an obligation not to make any false statements or fail to disclose facts that are necessary to correct misapprehension of the facts. I pointed out that under Rule 8.3(b) that a lawyer has an obligation to report judicial misconduct. I also pointed out that Rule 8.4(a) prohibits the violation of or attempt to violate a rule of professional conduct and that subpart 3 prohibits conduct that is prejudicial to the administration of justice and that subpart (f) prohibits an attorney from knowingly assisting a judge in violating the Rules of Judicial Conduct or any other law. I explained to him that his conduct in this matter would have to be reported to the Board of Professional Responsibility and I asked if he knew Nancy Jones who was my counterpart. I also disclosed to him that in my opinion that the conduct of Judge Bell constituted official misconduct under Tennessee Code Annotated § 39-16-402.

I asked then if Mr. Testerman would give an affidavit as to his conduct and that of the conduct of Judge Bell. Mr. Testerman refused to make such an affidavit. He indicated that he would testify truthfully under oath, however, he at that time had questions about whether he had criminal culpability as one who is criminally responsible for the conduct of another, "aiding and abetting" Judge Bell in the commission of official misconduct. I assured Mr. Testerman that he was not the target of a criminal investigation by me. He said he understood that but feared that this statement could potentially be incriminating to him and therefore he declined to give an affidavit. He also pointed out again that he had an obligation to get along with the judges that he appeared before and that they were all friends and colleagues and that he would be uncomfortable in making such a statement. I once again asked Mr. Testerman how he came to know of Mr. Pleau and Mr. Pleau's complaint against Judge Bell. He once again stated that he had no knowledge of Mr. Pleau or the complaint in the Court of the Judiciary until Judge Bell approached him at the courthouse and told him about the complaint and asked him to call Mr. Pleau.



I indicated to Mr. Testerman that if he thought of any other information that I should have that he should call me. I left my telephone number and Mr. LaRue left his card. I did not have an unsoiled card to leave and therefore my telephone number was written on Mr. LaRue's card. I explained to Mr. Testerman that I would end up being required to disclose this to the Board of Professional Responsibility and that we would be proceeding with our case against Judge Bell. As we were leaving Mr. Testerman's office he said "I never guessed that I could get in so much trouble for just helping a friend." The interview concluded at approximately 12:45 p.m. to 12:47 p.m. July 16, 2009.

This recitation of the events and statements made at the interview of Mr. Testerman was dictated July 16, 2009 at 4:00 p.m.

[Note to file: In this particular investigation there will be a recorded telephone conversation between Mr. Pleau and Mr. Testerman setting up an appointment for Mr. Pleau to come to Mr. Testerman's office. This telephone conversation took place on or about February 20, 2009. A recording of the actual conversation between Mr. Pleau and Mr. Testerman in which Mr. Pleau after agreeing to cooperate with authorities was wired and had a second meeting with Mr. Testerman in March 2009 in an attempt to obtain Mr. Testerman's actions in furthering the efforts to advance Judge Bell's effort in terminating the Court of Judiciary Complaint by Mr. Pleau. This tape is in the possession of the Tennessee Bureau of Investigation.]

[Note to file: Mr. Testerman is the author of a letter which Judge Bell submitted to the author of this memo in the fall of 2008 in an effort to get myself to agree that Judge Bell could continue to use the East Tennessee Probation Service. Mr. Testerman is the attorney who represents East Tennessee Probation Service and its formal director, Tommy Large, who is Judge Bell's brother-in-law.]

[Note to file: The gravity of the statements of Mr. Testerman goes to the heart of the principle that requires judges to act impartially and ethically. At the heart of the system of the judicial system is the requirement that judges decide issues based on fact and law and not use ex parte communications or other methods of deciding issues. In this case, Judge Bell compounds his judicial misconduct in failing to decide the case into an effort to use ex parte communications. His authority as a judge to influence a lawyers to wittingly or unwittingly violate both the Board of Professional

Responsibility rules and the Canons of judicial ethics to advance his selfish independent needs; those needs to be freed from a valid complaint of Mr. Pleau.]

[Note to file: The Bell v. Metcalf file should be examined and each of the affidavits submitted by Judge Bell should be examined particularly the affidavits dealing with church officials who presented affidavits indicating that Judge Bell had not accepted speaker fees to speak at their respective churches in the Metcalf case. My recollection is that there are at least two affidavits from church secretaries or treasurers who having first given statements to Mr. LaRue about these compensation matters being speaker fees, changing their statements and giving affidavits which were contrary to their prior expressions. These statements should be used to confront Mr. Testerman at his deposition and he be required to testify as to who drafted them.]

## 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.

**EXHIBIT G**  
**To Judge Bell's Statement of**  
**Undisputed Material Facts**  
**M2009-02115-CJ-CJ-CJ**

Subpoenas issued by Special Agent Lott of the TBI for phone records of Judge John A. Bell and attorney Tom Testerman, with related memo; contained in exhibit 1 to Lott Deposition ("Exhibit G")

State of Tennessee

18631



Tennessee Bureau of Investigation

SUBPOENA

Cooke County

TO ANY SPECIAL AGENT-CRIMINAL INVESTIGATOR OR ANY OTHER LAWFUL OFFICER OF SAID COUNTY

You are hereby commanded to summon THE CUSTODIAN OF RECORDS FOR BELL SOUTH DBA AT&T to personally appear before the undersigned Special Agent of the Tennessee Bureau of Investigation on ASAP, 20, at M at OFFICE, JOHNSON CITY, Tennessee and from day to day hereafter until discharged and bring all papers, books, records, agreements, documents and ALL VERBATIM DATA FOR LOCAL AND LONG-DISTANCE PHONE CALLS MADE TO AND FROM TELEPHONE NUMBERS 423-623-0375, 423-623-9597, 423-465-3007, FOR THE TIME PERIOD OF JANUARY 2009 THROUGH MAY 2009, PROCEEDS MAY BE FAXED OR E-MAILED,

to be sworn and questioned by the undersigned Special Agent for the purpose of giving a written statement, delivering aforementioned items and obtaining evidence by said agent in an investigation conducted by the Tennessee Bureau of Investigation pertaining to ONGOING CRIMINAL INVESTIGATION

Issued this 1st day of JUNE, 20 09, pursuant to Section 38-6-102 Tennessee Code Annotated

SA Scott Lott, TBI Special Agent-Criminal Investigator

EXECUTED this 1st day of JUNE, 20 09

by serving the same upon FAX # 248-395-4398

Officer or Special Agent SA Scott Lott, TBI

State of Tennessee

18632



Tennessee Bureau of Investigation

SUBPOENA

COCKE County

TO ANY SPECIAL AGENT-CRIMINAL INVESTIGATOR OR ANY OTHER LAWFUL OFFICER OF SAID COUNTY

You are hereby commanded to summon THE CUSTODIAN OF RECORDS FOR VERIZON WIRELESS DBA CELLCO

to personally appear before the undersigned Special Agent of the Tennessee Bureau of Investigation on ASAP, 20, at M at OFFICE, JOHNSON CITY, Tennessee and from day to day hereafter until discharged

and bring all papers, books, records, agreements, documents and VERBATIM DATA FOR ALL LOCAL AND LONG-DISTANCE PHONE CALLS MADE TO AND FROM TELEPHONE NUMBER 423-600-3549 FOR THE TIME PERIOD OF JANUARY 1, 2009 THROUGH MAY 31, 2009, PROCEEDS MAY BE FAXED OR E-MAILED

to be sworn and questioned by the undersigned Special Agent for the purpose of giving a written statement, delivering aforementioned items and obtaining evidence by said agent in an investigation conducted by the Tennessee Bureau of Investigation pertaining to ONGOING CRIMINAL INVESTIGATION

Issued this 1ST day of JUNE, 20 09, pursuant to Section 38-6-102 Tennessee Code Annotated

SA Scott Lott, TBI Special Agent-Criminal Investigator

EXECUTED this 1ST day of JUNE, 20 09

by serving the same upon FAX # 888-867-0028

Officer or Special Agent SA Scott Lott, TBI



State of Tennessee

18633



Tennessee Bureau of Investigation

SUBPOENA

Cocke County

TO ANY SPECIAL AGENT-CRIMINAL INVESTIGATOR OR ANY OTHER LAWFUL OFFICER OF SAID COUNTY

You are hereby commanded to summon THE CUSTODIAN OF RECORDS FOR AT&T WIRELESS

to personally appear before the undersigned Special Agent of the Tennessee Bureau of Investigation on ASAP, 20, at M at OFFICE, JOHNSON CITY, Tennessee and from day to day hereafter until discharged

and bring all papers, books, records, agreements, documents and VERBATIM DATA FOR ALL LOCAL AND LONG-DISTANCE PHONE CALLS MADE TO AND FROM TELEPHONE NUMBER 865-322-1279 FOR THE TIME PERIOD OF JANUARY 2009 THROUGH MAY 2009, PROCEEDS MAY BE FAXED OR E-MAILED

to be sworn and questioned by the undersigned Special Agent for the purpose of giving a written statement, delivering aforementioned items and obtaining evidence by said agent in an investigation conducted by the Tennessee Bureau of Investigation pertaining to ONGOING CRIMINAL INVESTIGATION

Issued this 1ST day of JUNE, 20 09, pursuant to Section 38-6-102 Tennessee Code Annotated.

SA SCOTT LOTT, TBI Special Agent-Criminal Investigator

EXECUTED this 1ST day of JUNE, 20 09

by serving the same upon FAX # 888-938-4715

Officer or Special Agent SA SCOTT LOTT, TBI

## Scott Lott - Judge Bell - Subpoenas

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**From:** Trey King <Trey.King@ag.tn.gov>  
**To:** Scott Lott <scott.lott@tn.gov>  
**Date:** 5/29/2009 11:22 AM  
**Subject:** Judge Bell - Subpoenas

---

Scott,

After speaking to Judge Daniel, I think it would be fine for us to issue subpoenas for toll/cellular records relating to Judge Bell and Tom Testerman. Here is the info (phone numbers) that I have for both Judge Bell and Testerman, and the time frame to include on the subpoenas. That information is as follows:

January, February, March, April and May 2009.

Tom Testerman

Cell Phone: 423-608-3549 - VERIZON  
Office Phone: 423-623-0375 - BELLSOUTH - AT&T  
Address: 301 E. Broadway, Newport, TN 37821

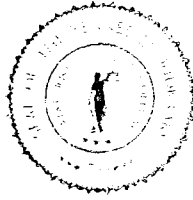
John Bell

Cell Phone: 865-322-1279 - CINGULAR - BS MOBILITY - AT&T WIRELESS  
Office Phone: 423-465-3007 - BELLSOUTH - AT&T  
Home Phone: 423-623-9597 - BELLSOUTH - AT&T

Let me know if you need anything else, or would like to discuss further. Thanks.

**Trey King, CFE**  
**Investigator**  
**Office of Investigative Services,**  
**Tennessee Attorney General's Office**  
615-741-1020 (o)  
615-351-4892 (c)  
615-532-4892 (f)

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503 NORTH MAPLE STREET  
MURFREESBORO, TN 37130  
Phone (615) 898-8004  
Fax (615) 848-5125

## THE TENNESSEE COURT OF THE JUDICIARY

J.S. "STEVE" DANIEL  
Disciplinary Counsel

January 5, 2009

### PERSONAL/CONFIDENTIAL

The Honorable John A. Bell  
111 Court Ave., Room 200  
Newport, Tennessee 37821

RE: Complaint of David J. Pleau v. John A. Bell  
File No. 08-3508

Dear Judge Bell,

This letter is to acknowledge the receipt of both your letters dated December 29, 2008, and December 31, 2008. In my letter to you dated December 23, 2008, I indicated to you that I was willing to meet with you and honor your request to discuss this matter with Disciplinary Counsel on certain days in January. I gave you until January 2, 2009, in which to respond to which day that you would prefer to meet. I take it from the correspondence that I have received that you have abandoned that request, and I will consider that request as now being waived. Your letters, which I have currently received, will now be forwarded to the Investigative Panel for their consideration and ultimate determination as to how this matter will proceed.

You will be informed of their determination as soon as I receive their votes.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J.S. Daniel".

J. S. Daniel  
Disciplinary Counsel

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IN THE GENERAL SESSIONS COURT OF COCKE COUNTY, TENNESSEE  
AT NEWPORT

DAVID J. PLEAU )  
Plaintiff, )  
)  
)  
)  
)  
)  
)  
MERASTAR INSURANCE CO., )  
Defendant. )  
)

CAUSE NO. 15GS1-2007-CV-869

TRANSCRIPT

HONORABLE JOHN A. BELL, SESSIONS JUDGE

DECEMBER 23, 2008

(ONE VOLUME)

APPEARANCES:

FOR THE PLAINTIFF: (PRO SE)

FOR THE DEFENDANT:

BRAD A. FRASER, ESQUIRE  
180 MARKET PLACE BOULEVARD  
KNOXVILLE, TENNESSEE 37922

1                   **THE COURT:**     David J. Pleau, 2007-CV-869, and  
2 there's also a new case of 2008-CV-1186.

3                   The 2008 case, 869, is just the, is it Merastar,  
4 is that the way it's pronounced?

5                   **MR. FRASER:**       Yes, Your Honor.

6                   **THE COURT:**       Merastar Insurance Company, and  
7 then the 2008-CV-1186, is the Jo Ann Coleman and Merastar.

8                   I wanted to do a couple of things today, just  
9 concerning the Merastar case, which was the 2007-869 case.

10                  It's been, well, I should say it this way. First,  
11 I want to apologize for the length of time that it took to  
12 do an Order. And I'll just be frank with you, the reason  
13 is, is because I spent so much time doing research,  
14 especially as to the timing of the Motion.

15                  And as a, to me it's essentially a statutory  
16 mandated indispensable party rule that requires the case to  
17 be dismissed if that party is not part of the action. And I  
18 spent a lot of time, not just in this jurisdiction, because  
19 this jurisdiction had very limited information in cases  
20 concerning the statute.

21                  But there are similar type statutes in other  
22 states and similar type rules in other states. But I, and I  
23 wanted to apologize for taking the time that I did to do  
24 that.

25                  The second thing is, is that it's come to the

1 Court's attention that although there was a Certificate of  
2 Service that was done on the same day in which it was filed  
3 and the same day in which I finished it, from the 18th of  
4 September, it's now come to the Court's attention that due  
5 to some type of clerical error the copies were not sent to  
6 the parties.

7 In fact, as best I could determine, they have  
8 never been sent to the parties except for, it's my  
9 understanding from I think it's Merastar's Insurance  
10 Company's Attorneys Office, is that although they did not  
11 receive a copy from the Court, they did call the Court and  
12 the Court did fax a copy to them, but have never been served  
13 with a copy of the Order.

14 And so I wanted to at this time go ahead and  
15 formally give both sides a copy of the Order, so that there  
16 is actual service.

17 The reason is this, is that there can be a  
18 question, there can be an issue as to when time starts  
19 running for appeal and those type things, and of course Rule  
20 60 does apply to this Court, and Rule 60 applies to this  
21 Court through TCA 16-727.

22 But the other Rules of Civil Procedure did not  
23 apply to this Court, and so, and I should say it this way.

24 Years ago they amended the Rules of Civil  
25 Procedure so that it would be clear as to when an Order and

1 | the time starts running and that's why they have different  
2 | ways in which an Order can be filed. But it's clear that  
3 | just the Judge signing the Order does not mean that your  
4 | time starts running.

5 |           And what I wanted to do is just to make sure and  
6 | make clear for the record that now both sides have been  
7 | served with a copy of the Order and I'm not trying to make  
8 | any decision as to when the time will start running, but  
9 | just to make sure that that step had been completed. Okay.

10 |           Now, there is the other case, which is  
11 | 2008-CV-1186, which is pending and is set for hearing on the  
12 | 6th. And what I wanted to do while we were here is to ask  
13 | if everyone is going to be ready on the 6th.

14 |           **MR. FRASER:**       Your Honor, first I do want to  
15 | apologize, in reading your Order I believe the Court was of  
16 | the impression that we had delayed in filing our Motion to  
17 | Dismiss, and that was not our intention at all.

18 |           **THE COURT:**       No, no, I. No, I saw it as a trial  
19 | strategy on doing that.

20 |           **MR. FRASER:**       Okay. Well, we had advised Mr.  
21 | Pleau of that problem and that deficit for quite sometime  
22 | before that.

23 |           **THE COURT:**       Okay.

24 |           **MR. FRASER:**       But actually I did want to explain  
25 | that.

1           **THE COURT:**       No, no, I..

2           **MR. FRASER:**       The only issue..

3           **THE COURT:**       No, no, I thought it was strictly  
4 trial strategy, you know, what strategy somebody uses is  
5 their decision, that..

6           **MR. FRASER:**       Okay.

7           **THE COURT:**       No problem with that, it's just  
8 that it would seem to me is that it should be something that  
9 would, well, it's not required to be done pre-trial.

10          **MR. FRASER:**       Right.

11          **THE COURT:**       And so, I mean it's just, it is  
12 what it is.

13          **MR. FRASER:**       Okay. Well, we had advised him  
14 that that was our problem, that we believed Your Honor ruled  
15 correct on that.

16                 With regard to the February, excuse me, January  
17 6th issue. The only issue we would have is that we can't  
18 see from the record that Ms. Coleman has personally been  
19 served with this, and that's a critical step.

20          **THE COURT:**       It is. And it does show that she  
21 has been served. I went through the file this morning.

22          **MR. FRASER:**       The only service that the Court  
23 Clerk told me about was that the State Department of  
24 Insurance, which would not be the proper service address for  
25 her. Do you have one where she was served personally?



1                   **THE COURT:**           Yes.

2                   **MR. FRASER:**           Okay.

3                   **THE COURT:**           Does it say in person, and then  
4 there's some officer's, on your right hand side near the  
5 bottom.

6                   **MR. FRASER:**           "In person, 12/2."    Okay, now  
7 this is the one that went directly to Ms. Coleman?

8                   **THE COURT:**           I would.. That's the way I read  
9 that.

10                  **MR. FRASER:**           Well, the way that the Court  
11 Clerk indicated it, it was served upon Merastar on 12/2.  
12 And I got a letter from CT here that says it was served on  
13 Merastar on that day.   Right, in person.

14                  **THE COURT:**           Right.

15                  **MR. FRASER:**           Well, from that I guess the Court  
16 is concluding that there has been sufficient service.

17                  **THE COURT:**           Well..

18                  **MR. FRASER:**           I don't want to deal with this  
19 issue on the 6th if we can resolve it today.   For me to  
20 properly defend I need her to be here on that date, if she's  
21 not been served I can't depend on that.

22                  **THE COURT:**           Okay.   I, the way it reads, well,  
23 I can just tell you what it says, it says "In person."

24                  **MR. FRASER:**           Okay.

25                  **THE COURT:**           And it only has her name on this

1 one.

2 MR. FRASER: Okay.

3 THE COURT: Okay. And so there is one that  
4 has her name and has Merastar's on it. Okay.

5 MR. FRASER: Okay.

6 THE COURT: But on this one, this appears to  
7 be one that was just for her.

8 MR. FRASER: Okay.

9 THE COURT: Because it only has her name as  
10 defendant here.

11 MR. FRASER: Alright.

12 THE COURT: And then it shows it's served.

13 MR. FRASER: Okay.

14 THE COURT: So when I read that I assumed she  
15 had been served.

16 MR. FRASER: Okay.

17 THE COURT: But I mean, if you have to have,  
18 if you think she's not been I don't know..

19 MR. FRASER: I don't know that, that's why  
20 I'm..

21 THE COURT: Do you know who..

22 MR. FRASER: Andy Tritt.

23 THE COURT: Okay. That is our Sheriff  
24 Department's Service Officer. Of course I didn't know who  
25 the initials were.

1                   **MR. FRASER:**           I'm presuming you would be  
2 hearing all the proof issues..

3                   **THE COURT:**           Yes, that's why I want to find out  
4 if you all are going to be ready on the 6th and if not then  
5 to see about setting a firm date that would be at a time  
6 that would not be with a bunch of other cases. That way it  
7 could all be heard at the same time.

8                   **MR. FRASER:**           Actually, I would prefer a  
9 separate setting. I don't know about yourself, but if we do  
10 it on the 6th we're going to sit around and wait for  
11 everything else. If we had a special setting we can just  
12 opt for that trial date.

13                   Why don't we look at those days and see if we can  
14 get a date.

15                   **THE COURT:**           Okay. Let me go back. Is there  
16 anything else I need to address with the 2007-CV-869 case?

17                   **MR. FRASER:**           Not to my knowledge, Your Honor.

18                   **THE COURT:**           Anything?

19                   **MR. PLEAU:**           Yes, Your Honor.

20                   **THE COURT:**           Okay. Go ahead.

21                   **MR. PLEAU:**           Will the Judgment that was  
22 rendered in that case, being that the plaintiff was zero  
23 percent responsible and the other driver a hundred percent  
24 still stand, or is that aspect still going to be tried.

25                   And I ask this because if that's not going to

1 stand I'll have to re-subpoena all the witnesses.

2 THE COURT: I will explain it this way. The  
3 Findings of Fact that I made that there was, it was  
4 dismissed on a procedural issue, okay. I would have to say  
5 that because Jo Ann Coleman was not a party. You will need  
6 to have her here because.. She was not a party to that  
7 action.

8 MR. PLEAU: The action to dismiss?

9 THE COURT: Well, the whole case. She was not  
10 a party. I..

11 MR. PLEAU: I want you to explain..

12 THE COURT: It was dismissed without prejudice  
13 because it does not reach the merits of the case because  
14 their motion and the way the statute is written prohibits me  
15 from reaching the merits of the case. And that's what by  
16 law I was required to do.

17 But I guess the best way of answering your  
18 question is, sir, you'll need to get your witnesses  
19 subpoenaed and have them here.

20 MR. PLEAU: Now, she was one of my witnesses on  
21 the previous step as to the reason why Merastar didn't want  
22 to or didn't feel held responsible to pay my, what do they  
23 call that, I'm not sure.

24 They assumed I was at fault on the previous  
25 accident and she was one of my witnesses and that led to me

1 being found Not Guilty, not at fault on that accident.

2 So, see, I don't..I don't.. Again she's right in  
3 the middle of this issue. You know, she's a witness for me  
4 and I don't know, he's wanting to talk to her. If he's  
5 going to try to use her as a witness to his ends I don't  
6 know how to proceed with her, whether she's going to be a  
7 witness for me or whether I need to leave that witness  
8 alone.

9 THE COURT: I cannot tell you what to do on  
10 that. My.. I would assume that she had insurance..

11 MR. FRASER: I don't know. Your Honor, I have  
12 no idea. I've not been able to contact.. The only thing I  
13 have is a phone number and I've not been able to get hold of  
14 her at the phone number on the Accident Report.

15 THE COURT: Well, the reason I say that is  
16 because I thought there was an insurance carrier  
17 representative who was here that did not participate.

18 MR. FRASER: I'm not aware of that.

19 MR. PLEAU: No. She had no insurance, that's  
20 what I understood from somebody.. From C.J. Ball..

21 THE COURT: I don't know. I guess, sir, what  
22 I'm saying is, is that if you want her to be a witness you  
23 need to subpoena her.

24 MR. PLEAU: I've got one more question.

25 THE COURT: She can choose, and some people

1 do choose not to come to Court. And just whatever happens,  
2 happens, you know.

3 MR. PLEAU: He's planning on contacting her,  
4 he's got her phone number now. But I personally feel if I  
5 tried to contact her and, you know, address the issue it  
6 kind of in my mind might border a tampering with a witness.  
7 I really am reluctant to contact her.

8 THE COURT: You do whatever you deem best.  
9 But what I'm saying is, if you need to have her here on that  
10 date as a witness you will need to issue a subpoena for her.

11 MR. PLEAU: Okay.

12 THE COURT: And that's part of the reason I  
13 wanted to find out and to discuss it today was because if  
14 you all are going to be ready on the 6th, you know, or  
15 you're going to have your witnesses ready and subpoenaed and  
16 to be ready to go.

17 Or, I mean there's no sense in just coming on the  
18 6th and saying we need another date. You understand what  
19 I'm saying.

20 MR. FRASER: I think a special setting is a  
21 good idea and I think he agrees.

22 THE COURT: Okay. Just about any Tuesday  
23 afternoon or any Friday afternoon I could find a date to put  
24 you on so that it would be a special setting.

25 Now, I have lots of days that I have conflicts on

1 as far as having things already set for those. But if you  
2 have dates that are either on a Friday afternoon or a  
3 Tuesday afternoon, then I could tell you, never on a Monday,  
4 never on a Wednesday, never on a Thursday.

5 So, that only leaves Tuesday and Friday, because  
6 the way our docket is, is I don't have any non-jury or  
7 non-trial days. All my days are trial, I have no days that  
8 are non-trial.

9 MR. FRASER: Are you saying afternoons?

10 THE COURT: Yes.

11 MR. FRASER: The first Tuesday afternoon I  
12 have is February 10th, which..However, though, that  
13 conflicts with my schedule, Friday is always better for me.

14 THE COURT: Okay.

15 MR. PLEAU: I have the 20th of February.

16 MR. FRASER: That will be fine, if it falls on  
17 Friday. It does, according to my calendar.

18 THE COURT: Could you go ask Joy if I have  
19 anything set on February 20th.

20 MR. PLEAU: Your Honor, if I may ask a  
21 question while he's gone?

22 THE COURT: Yes.

23 MR. PLEAU: The last time when we were having  
24 a hearing as to the responsibility concerning Merastar, in  
25 relation to my case, I tried to submit this in Court. I got

1 | this copy from the District Attorney General's Office right  
2 | over on Broadway.

3 |           Mr. Fraser, here, Attorney Fraser, didn't want it  
4 | and it did get ruled as non-admissible because he didn't  
5 | have a copy. And I'd like to make sure that either he goes  
6 | over to the US District Attorney's Office.

7 |           What this is, is it's the State Police who covered  
8 | the accident, and you know, how they've got a little camera  
9 | mounted on their windshield, and he pulled in behind her  
10 | vehicle, which was dead on the road. And on this CD there  
11 | is evidence, a little puddle underneath her vehicle and  
12 | she's in the extreme right, let's see, she's in the  
13 | extreme..

14 |           THE COURT:           Is it a photograph?

15 |           MR. PLEAU:           ..almost a.. It's a running video.  
16 | The vehicles are dead on the road, I mean you can see the  
17 | officer walking around.

18 |           BAILIFF:           Your Honor, you have nothing on the  
19 | 20th.

20 |           THE COURT:           Okay. So the 20th should be good.  
21 | Is it good?

22 |           MR. FRASER:           Yes.

23 |           THE COURT:           Okay.

24 |           MR. PLEAU:           What time?

25 |           THE COURT:           1:30. Is it such that we could do



1 | it in four hours or so?

2 |           MR. PLEAU:       I certainly hope so, Your Honor.

3 |           THE COURT:       Okay. I was going to move it up

4 | earlier if we could not do it within that time.

5 |           MR. PLEAU:       Well, I'm trying to remember how

6 | long it took us..

7 |           MR. FRASER:       It took us about an hour.

8 |           THE COURT:       Well, then we'll show that for

9 | February the 20th at 1:30. Anything else that we need to

10 | take up?

11 |           MR. PLEAU:       I want to make sure that Attorney

12 | Fraser and his accomplice get a copy of this. Is there any

13 | procedure that I need to follow. Because this is going to

14 | be pertinent to who was at fault in the accident.

15 |           MR. FRASER:       If you want to give me a copy,

16 | that's fine, is that what you're asking?

17 |           MR. PLEAU:       Yeah, but I don't want to run one

18 | off.

19 |           MR. FRASER:       Oh okay.

20 |           MR. PLEAU:       I mean, I think it would be more

21 | suitable to get one right from the District Attorney, which

22 | is right nearby, that way there's no question that..

23 |           MR. FRASER:       If you have something you want me

24 | to look at I'm happy to look at it. I just, I don't have

25 | it, so..

1           **MR. PLEAU:**       I mean, if I give him this copy the  
2 question remains, is it legit or did I doctor it. That's  
3 why I feel it's best for you to go to the Attorney General.  
4 I can direct you over there.

5           **MR. FRASER:**       That's fine, we can take care of  
6 that.

7           **MR. PLEAU:**       It's the District Attorney.

8           **THE COURT:**       Is there anything else we need to  
9 take up?

10          **MR. FRASER:**       I don't think so, Your Honor.

11          **THE COURT:**       Again I apologize for the delay in  
12 doing that, spending a significant amount of time in  
13 research, and it is not usual for me to have time to do  
14 that, because we just try cases all day. Okay.

15               And then I want to also apologize for not having  
16 the Clerk's Office, and of course it was signed, I went  
17 through the process. But, you know, people make mistakes  
18 and the Clerk's Office made a mistake and didn't get it  
19 served to the people and I want to apologize to both on that  
20 and correct that by giving you both a copy.

21               Anything else that we need to take up? Okay.  
22 Then I'll see you here on the 20th at 1:30.

23          **MR. FRASER:**       Thank you, Your Honor.

24          **BAILIFF:**       This Court will be adjourned.

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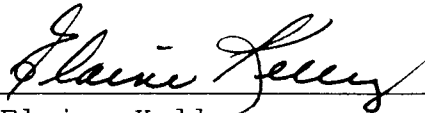
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CERTIFICATE

I, the undersigned, Elaine Kelley, Court Reporter, do hereby certify that the foregoing is a true, accurate and complete transcript, to the best of my knowledge and ability, of all the proceedings had at the hearing in this cause on the 23rd day of December, 2008, which was heard before the Honorable John A. Bell, Judge of the General Sessions Court for Cocke County, Tennessee.

This being transcribed from the CD from General Sessions Court of Cocke County, Tennessee.

This the 5th day of January, 2010.



Elaine Kelley  
Court Reporter

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IN THE GENERAL SESSIONS COURT OF COCKE COUNTY, TENNESSEE  
AT NEWPORT

DAVID J. PLEAU )  
Plaintiff, )  
)  
)  
)  
)  
)  
)  
VS )  
)  
)  
)  
)  
JO ANN COLEMAN and )  
MERASTAR INSURANCE CO., )  
Defendants. )  
\_\_\_\_\_ )

CAUSE NO. 15GS1-2008-CV-1186

TRANSCRIPT

HONORABLE JOHN A. BELL, SESSIONS JUDGE

FEBRUARY 20, 2009

(ONE VOLUME)

APPEARANCES:

FOR THE PLAINTIFF: (PRO SE)

FOR THE DEFENDANT JO ANN COLEMAN: (PRO SE)

FOR THE DEFENDANT MERASTAR:

BRAD A. FRASER, ESQUIRE  
180 MARKET PLACE BOULEVARD  
KNOXVILLE, TENNESSEE 37922

1           THE COURT:    Are you ready on your case?  
2           MR. PLEAU:     I am.  
3           THE COURT:    Are you ready on the case?  
4           MR. FRASER:    Yes, Your Honor.  
5           THE COURT:    And who do you represent?  
6           MR. FRASER:    Merastar Insurance Company, Your  
7 Honor.  
8           THE COURT:    Is Jo Ann Coleman here?  
9           MS. COLEMAN:    Yes.  
10          THE COURT:    Ma'am, if you would also come around.  
11 We will need to move a seat for her over to the side.  
12          Ma'am, do you have an attorney to represent you in  
13 this matter?  
14          MS. COLEMAN:    They told me I didn't need one.  
15          THE COURT:    Okay. Now who told you that?  
16          MS. COLEMAN:    Some lady that I called, down  
17 here.  
18          THE COURT:    Okay. Well, it is a civil matter,  
19 you can choose to represent yourself or you could choose to  
20 have an attorney to represent you. Are you ready to go  
21 today in this case?  
22          MS. COLEMAN:    I guess.  
23          THE COURT:    Okay. Any preliminary matters from  
24 the plaintiff that we need to take up?  
25          MR. PLEAU:     No, Your Honor.

1                    THE COURT:            From either Merastar..

2                    MR. FRASER:            None other than my opening

3 statement, Your Honor.

4                    THE COURT:            Okay. Ma'am, any preliminary

5 matters?

6                    MS. COLEMAN:            No.

7                    THE COURT:            There is one preliminary matter I

8 do want to take up. I was looking through the subpoenas and

9 I think there was a mistake made on some of the subpoenas

10 that were sent out.

11                    Mr. Pleau, I think some of your subpoenas..

12                    MR. PLEAU:            That's what I was.. I was noticing

13 that, I submitted to my knowledge four, five counting Ms.

14 Combs, and only she showed up. There was four that didn't

15 show up.

16                    THE COURT:            What I was going to say though, I

17 had looked through these subpoenas and some of the subpoenas

18 that were issued, the date that you put on there for them to

19 be here was the 21st, which is tomorrow.

20                    MR. PLEAU:            Which would be a Saturday, so that

21 was an error on my part?

22                    THE COURT:            Yes, I mean, and so I want to know

23 what you wish to do about that.

24                    MR. PLEAU:            Are we re-trying this whole case?

25                    THE COURT:            Let me tell you which subpoenas you

1 issued. The one for Gary Mack..

2 MR. PLEAU: They were after the fact. Every  
3 one of those witnesses was after the collision.

4 THE COURT: But I understand, but what I'm  
5 just..I want to tell you is, that that one, it was just a  
6 mistake and it was you putting it down for the 21st and then  
7 the one for Ms. Coleman, you put it for the 21st but she is  
8 here.

9 And then Mandy Morrow, she's also subpoenaed for  
10 the 21st.

11 MR. PLEAU: What about the Macks, they were for  
12 the 21st, too?

13 THE COURT: Well, now that's what I was going  
14 to tell you. Gary Mack is for the 21st, Charles Mack is for  
15 today. Okay.

16 MR. PLEAU: Okay.

17 THE COURT: Do you understand what I'm saying?

18 MR. PLEAU: I do. So that means one doesn't  
19 show, most likely.. They traveled together the last time.

20 THE COURT: But what I wanted to say to you is  
21 that you made a mistake on issuing subpoenas and because of  
22 that if these witnesses are necessary for you, because of  
23 the mistake, then I, if you wanted a continuance to try to  
24 subpoena those people again and to have them here I would  
25 take that up, if that's what you want to do.

1           If you want to go forward, that's up to you and  
2 what you wish to do.

3           MR. PLEAU:       Are they legally bound to appear by  
4 subpoena though?

5           THE COURT:       Yes.

6           MR. PLEAU:       One of the Macks was subpoenaed,  
7 correct?

8           THE COURT:       Yes.

9           MR. PLEAU:       He's not here.

10          THE COURT:       Yes. But see, I have no idea what  
11 proof you want from these witnesses, and I don't know if  
12 these witnesses, you want to go forward with them, or  
13 without them.

14          What I'm saying is, you made a mistake on it, it's  
15 no big deal. But you set it for tomorrow at 1:30, and so  
16 those three, there's nothing that I can..

17          MR. PLEAU:       Well, if I may. The last time we  
18 appeared over this issue, the opposing attorney, Mr. Fraser,  
19 requested that the tape from the State Police Officer who  
20 covered the accident be dismissed, because he didn't have a  
21 copy..

22          THE COURT:       Okay. Let me just go back to  
23 this. I need to know what you want to do about this.

24          MR. PLEAU:       Okay.

25          THE COURT:       You have four witnesses



1 subpoenaed, three are subpoenaed for tomorrow, one is set  
2 for today. The one that is subpoenaed for today, well, if  
3 you would, go ask in the hallway for this witness.

4 **BAILIFF:** Charles Mack.

5 **THE COURT:** And what I want..

6 **MR. PLEAU:** I'll settle for one witness.

7 **THE COURT:** Yeah, but I can't, I can't do that.  
8 I need to know what you wish to do.

9 **MR. PLEAU:** Okay. All these witnesses are  
10 after the fact, and whatever they're going to testify is  
11 already borne out by the evidence contained in this case, in  
12 this DVD from the State Police.

13 It shows the point of impact of the collision  
14 clearly being in my lane of travel. I think I can prove  
15 this case without the witnesses.

16 **THE COURT:** Okay. All I want to know is, what  
17 you wish to do. If you want to go forward we'll go forward.  
18 If you want a continuance because of the mistake on the  
19 subpoenas then..

20 **MR. PLEAU:** I had better go with the sure  
21 thing. That means I'd like to have a continuance.

22 **THE COURT:** You would rather have a  
23 continuance. Okay. Let me just pass these up so that you  
24 can see them. He did have them issued, they were issued.  
25 And he did made a mistake on the dates. And in fact, the

1 one for Ms. Coleman, he made a mistake on the date. And the  
2 fact about this one, too, this one has the correct date.

3 MR. FRASER: Your Honor, if you agree to a  
4 continuance then I certainly don't have a reason to  
5 disagree. I'm fully prepared to try this case today.

6 THE COURT: Well, I understand that. But he  
7 has four witnesses he wants to be here and three of them  
8 were subpoenaed for a wrong day.

9 And, you know, mistakes happen, and he made a  
10 mistake on filling these out and you know, things like that  
11 happen, and what I'm saying is, if he wants a continuance to  
12 have his witnesses here I'm going to grant him a continuance  
13 and give him an opportunity to reissue subpoenas.

14 I will say this. He issued subpoenas the first  
15 time and he issued subpoenas this time and the best I could  
16 tell, this time most of them, well, there's indication of  
17 service on these. But it would not matter with this case  
18 because they're for tomorrow and not for today.

19 MR. FRASER: Will we be able to obtain a  
20 special setting again?

21 THE COURT: We will do that now.

22 MR. FRASER: Okay.

23 THE COURT: And I just would not, I would not  
24 want him to be in a position of having to go forward with  
25 witnesses that he had subpoenaed that have a wrong date.

1           And they may not even realize it until tomorrow,  
2 if they show up.

3           And so we can have a special setting time, that  
4 whatever can meet both your schedules.

5           MR. FRASER:           Okay.

6           THE COURT:           Do you know what your schedule is  
7 like?

8           MR. FRASER:           I actually do. I have a pretty  
9 good idea over the next few months.

10          THE COURT:           Okay.

11          MR. FRASER:           Two months or so. All but one  
12 day..

13          THE COURT:           Okay.

14          MR. FRASER:           ..I know for sure.

15          THE COURT:           Well, we'll need time, so that the  
16 subpoenas can be reissued with the correct date on them, so  
17 the people can make sure and be here. Okay. And so we  
18 probably need at least three weeks. Get your subpoena now,  
19 and then, you know, we've got the downstairs or the  
20 Sheriff's Office, that'll give them a couple of weeks to try  
21 to get them served.

22          MR. PLEAU:           Okay.

23          THE COURT:           And do what is your..

24          MR. FRASER:           Friday is a good day for me,  
25 once again, as was today.

1           MR. PLEAU:           Friday is good for me. So we're  
2 looking at in March sometime, I can do it any time but March  
3 20th, that Friday.

4           THE COURT:           Okay. Would you ask Joy to come  
5 back in. Do you have anything else?

6           MR. PLEAU:           No, Your Honor.

7           THE COURT:           Ma'am, do you have anything else?

8           MS. COLEMAN:         No.

9           THE COURT:           Okay. Let me ask this. Is there,  
10 I just want to find out as far as, is there going to be any  
11 agreements, he was asking earlier, is there going to be any  
12 agreements concerning insurance?

13          MR. FRASER:           No.

14          THE COURT:           Okay. And so he'll need to prove  
15 up the insurance, you're saying.

16          MR. FRASER:           Oh, prove that he had a policy?

17          THE COURT:           Yes.

18          MR. FRASER:           Oh, no, Your Honor. I mean he  
19 won't have to prove that.

20          THE COURT:           So he's not going to have to  
21 prove up the policy?

22          MR. FRASER:           No, Your Honor.

23          THE COURT:           You're going to stipulate that  
24 there was insurance?

25          MR. FRASER:           Yes.

1                   **THE COURT:**            Okay.    And then..Okay, there's  
2 the issue of fault, which you will have to prove up, of  
3 course, and then there will be the issue of damages to the  
4 vehicle.  Is that something that's going to be stipulated or  
5 something that he's going to have to prove up?

6                   **MR. FRASER:**            That's going to be disputed.

7                   **THE COURT:**            Okay.  And do you understand  
8 what he was saying?

9                   **MR. PLEAU:**                I'll have to prove, if I may,  
10 Your Honor, who was at fault on the accident, as well as the  
11 damages.

12                   **THE COURT:**            Yes, and he is agreeing to  
13 stipulate concerning the insurance coverage.

14                   **MR. PLEAU:**            Meaning that I've got the proof,  
15 but it won't be contested.

16                   **THE COURT:**            Right.  No, he's saying that you  
17 don't have to even introduce that, he's stipulating that you  
18 did have insurance coverage.  Okay.

19                   Ma'am, do you understand that?

20                   **MS. COLEMAN:**            Yes.

21                   **THE COURT:**            Okay.  Anything else to do in this  
22 matter?

23                   **MR. PLEAU:**            Not at this time, Your Honor.

24                   **THE COURT:**            Ma'am, anything else?

25                   **MS. COLEMAN:**            No.

1                   **THE COURT:**           Sir, anything else?  
2                   **MR. FRASER:**           No, sir.  
3                   **THE COURT:**           Then we'll be back here on the  
4 24th at 1:30, giving you time to reissue your subpoenas for  
5 the people that you need, and Ms. Coleman, your subpoena was  
6 issued and it is issued for tomorrow, okay.  
7                   I'm going to tell you now, that this subpoena that  
8 was issued for you to be here will still be continuing and  
9 will still be good, and although it says tomorrow, it will  
10 be continued and you'll need to be here on the 24th at 1:30.  
11                   **MS. COLEMAN:**           Okay.  
12                   **THE COURT:**           You know, parties sometimes  
13 choose to come and sometimes they don't. If they don't come  
14 it's a default, but in this case you're not only a party but  
15 you're subpoenaed as a witness. So, you will have to be  
16 here on April the 24th at 1:30. Do you understand?  
17                   **MS. COLEMAN:**           Yeah.  
18                   **THE COURT:**           Okay. And so you do not need to  
19 re-subpoena her, because she's been given notice to be here.  
20 Just re-subpoena your other witnesses. Okay.  
21                   **MR. FRASER:**           Thank you, Your Honor.  
22                   **THE COURT:**           Okay. You all have a good day.  
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CERTIFICATE

I, the undersigned, Elaine Kelley, Court Reporter, do hereby certify that the foregoing is a true, accurate and complete transcript, to the best of my knowledge and ability, of all the proceedings had at the hearing in this cause on the 20th day of February, 2009, which was heard before the Honorable John A. Bell, Judge of the General Sessions Court for Cocke County, Tennessee.

This being transcribed from the CD from General Sessions Court of Cocke County, Tennessee.

This the 5th day of January, 2010.



Elaine Kelley  
Court Reporter

**PLEAU AFFIDAVIT  
Judge Bell's Statement of  
Undisputed Material Facts  
M2009-02115-CJ-CJ-CJ**

Affidavit of David Pleau, dated February 20, 2009, prepared at the request of James LaRue; exhibit 3 to Larue Deposition



3  
Lane

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.

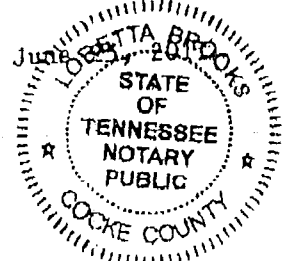
*David J. Pleau*

David J. Pleau

Sworn and subscribed to before me  
this 20th day of February, 2009

*Loetta Brooks*  
Notary Public

My Commission Expires June 20, 2011



**IN THE TENNESSEE COURT OF THE JUDICIARY**

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**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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**AFFIDAVIT OF JUDGE JOHN A. BELL  
IN SUPPORT OF MOTION FOR SUMMARY JUDGEMENT**

---

STATE OF TENNESSEE  
COUTY OF KNOX

Judge John A. Bell ("Judge Bell"), after being duly sworn, deposes and states as follows:

1. My name is John Alton Bell. I am General Sessions Court Judge for Cocke County, Tennessee, over the age of eighteen and otherwise competent to make this affidavit.
2. This affidavit is made in support of a motion for summary judgment filed by my attorneys on my behalf in the captioned matter.
3. I received a letter dated July 17, 2008 from J.S. Daniel, Disciplinary Counsel for the Tennessee Court of the Judiciary, concerning a complaint made against me by David J. Pleau. Mr. Daniels' July 17, 2008 letter refers only to "judicial delay" and "violation of canon 3(B) of the Code of Judicial Conduct".
4. Mr. Daniel and I corresponded regarding Mr. Pleau's complaint on numerous occasions through February 6, 2009.

5. On October 26, 2008, Mr. Daniel informed me that pursuant to TCA §17-5-304(c)(1), it was Disciplinary Counsel's duty to advise me that the Investigative Panel of the Court of the Judiciary had authorized a full investigation of the complaint filed against me by Mr. Pleau. The letter continued as follows:

Pursuant to Tennessee Code Annotated section 17-5-304(c)(1), notice is given of the following:

(1) The name of the complainant is David J. Pleau of Bybee, Tennessee.

(2) The complaint alleges that you tried Mr. Pleau's case September 18, 2007, and took that matter under advisement. You did not render a decision until June 27, 2008. The judgment announcing the decision was not sent to the parties until after the appeal period had expired.

(3) The Canons or rules allegedly violated are Canon 3B(8) as to the judicial delay and Canon 2 A requiring a judge to follow the law. Tennessee Rules of Civil Procedure 58 requires that notice of the judgment entry be provided to the parties and this was not followed. This investigation can be expanded if appropriate.

(4) You must file a written response with this office within thirty (30) days after receipt of this letter.

(5) You have the opportunity to meet with Disciplinary Counsel to discuss this matter. If you desire to do so, please call or write. I will accommodate your request as quickly as possible.

6. Mr. Daniel and I also had a telephone conversation in which he suggested that I consider Rule 60 of Tennessee Rule of Civil Procedure and its application to general sessions court to address the issues regarding service of the June 27, 2008 order. I am reasonably certain that this phone conversation was initiated by me when I requested additional time to respond to Mr. Daniel's October 26, 2008 letter. In that letter, Mr. Daniel stated that I had only 30 days to respond, but I did

not respond until December 15, 2008. In my December 15, 2008 reply, I refer the TRCP 60 and its applicability to general sessions court under TCA §16-15-727.

7. I never received notice pursuant to Tennessee Code Annotated §17-5-304(c) from Disciplinary Counsel that I was being investigated for any alleged action or inaction by me other than as set forth in the October 26, 2008 letter quoted above.

8. In late December 2008 - mid January 2009, I received an anonymous phone call during which the caller stated that Mr. Pleau was going to drop his complaint.

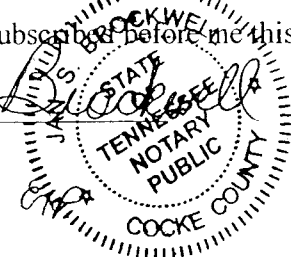
9. I have never learned the identity of the anonymous caller.

10. Shortly after receiving the anonymous call, I engaged the professional services of Attorney Tom Testerman of the Cocke County Bar.

11. I intended and understood that my conversations with Mr. Testerman were privileged as attorney-client communication. I have never authorized Mr. Testerman to reveal to anyone our communications with each other.

  
John A. Bell

Sworn to and subscribed before me this 1 day of Feb, 2010.

  
Jan S. Blackwell  
Notary Public  
10-22-12

**EXCERPTS OF DEPOSITION OF  
JUDGE JOHN A. BELL  
Cited in Judge Bell's Statement of  
Undisputed Material Facts  
M2009-02115-CJ-CJ-CJ**

- 1 Q. Did you pass it the first time?
- 2 A. Yes.
- 3 Q. What's your BPR number?
- 4 A. I believe it's 10200.
- 5 Q. Were you or are you in the military  
6 service in any capacity?
- 7 A. I was. I was out, and I'm back.
- 8 Q. What branch?
- 9 A. Both -- do you mean as between the  
10 services or --
- 11 Q. Yes, sir.
- 12 A. Army Reserve, also Army active duty, also  
13 Army National Guard.
- 14 Q. Do you have a singular service number or  
15 several?
- 16 A. Only a Social Security number.
- 17 Q. You don't have a service number for the  
18 military?
- 19 A. No.
- 20 Q. What rank are you currently?
- 21 A. Lieutenant Colonel.
- 22 Q. Is that the highest rank you've ever  
23 been?
- 24 A. Yes.
- 25 Q. Which branch are you with now, or which

1 Q. No combat?

2 A. No.

3 Q. Ever had any honors, awards or  
4 commendations in the military?

5 A. Yes, sir.

6 Q. Tell me about those.

7 A. I have essentially every award that you  
8 can get up through the Bronze Star. I have three MSMs. I  
9 don't know the count of how many ARCOMs I have, five or  
10 six. I really don't know. I couldn't tell you off the  
11 top of my head.

12 Q. I'm probably the only person on this side  
13 of the table who has no idea what you just said. What is  
14 an MSM, or what does it stand for?

15 A. It's a Meritorious Service Medal. It is  
16 as -- other than a Bronze Star, it is the highest award  
17 that can be given to a soldier.

18 Q. What about ARCOM, what does that stand  
19 for?

20 A. That's the Army Commendation Medal, which  
21 is the one underneath the -- if you're going down in  
22 pecking order, it would be the second one down from the  
23 Bronze Star.

24 Q. Have you ever gotten a Purple Heart?

25 A. I was in a situation, in multiple

1           A.           I worked with a law firm in Greeneville of  
2 Kidwell, King, Kyle King, and I became a partner there  
3 also.

4           Q.           How long were you there?

5           A.           Five or six years.

6           Q.           What year does that take us up to?

7           A.           Around '92.

8           Q.           What did you do next?

9           A.           Myself and my wife, we opened a law firm  
10 together.

11          Q.           Where?

12          A.           Newport.

13          Q.           What type of practice?

14          A.           I did primarily personal injury, workers'  
15 comp, criminal, domestic, and she did primarily things  
16 with real estate.

17          Q.           How long did you do that?

18          A.           I did that until I was elected judge.

19          Q.           That was in 1998?

20          A.           Yes.

21          Q.           Was that the first time you had ever run  
22 for judge?

23          A.           No.

24          Q.           When was the first time you ran?

25          A.           Eight years prior to that.



1 Q. So 1990?

2 A. Yes.

3 Q. And that was for General Sessions judge in  
4 Cocke County?

5 A. Yes.

6 Q. And then you ran again and prevailed in  
7 2006; is that correct?

8 A. Yes.

9 Q. Who is your current employer actually?  
10 Are you county or state?

11 A. County.

12 Q. That's Cocke County?

13 A. Uh-huh.

14 Q. And your official job title is General  
15 Sessions judge?

16 A. General Sessions and Juvenile judge.

17 Q. Tell us what your practice, if you will,  
18 or responsibilities in general are as General Sessions and  
19 Juvenile judge.

20 A. I'm not sure what you're asking. Are you  
21 asking the type of cases?

22 Q. Yes, sir.

23 A. Okay. On Mondays I do, Monday mornings I  
24 have a criminal docket. Sometimes I run a double docket  
25 and also do child support at the same time. Monday

1 that.

2 Q. Before the automobile accident involving  
3 Mr. Pleau and Ms. Coleman, had you ever met or did you  
4 know Ms. Coleman?

5 A. No.

6 Q. I assume you had never represented either  
7 of these folks?

8 A. Not to my knowledge.

9 Q. Now, after the automobile accident in late  
10 2006 and before Mr. Pleau filed his original General  
11 Sessions suit, he testified, and you are telling me you  
12 verified that you may have been involved in binding him  
13 over to the grand jury?

14 A. There is a, in the Circuit Court clerk's  
15 office, a summons for court, for General Sessions Court,  
16 where he had a charge, I guess the best way to describe it  
17 is failure to yield, in which he did waive it on to the  
18 grand jury.

19 Q. And the document, you're satisfied, waived  
20 it?

21 A. Yes.

22 Q. You didn't hold a hearing?

23 A. No. Well, we went through the rights of  
24 advisal. He was sworn in. I explained to him his  
25 options, and he chose that, would be my standard procedure

1 have a decision?

2 A. No.

3 Q. Did you mention the time period?

4 A. I generally tell people to check back  
5 after a week.

6 Q. Do you suppose you may have said that in  
7 this case?

8 A. Generally I will tell people to check back  
9 after a week.

10 Q. Did you use any other language such as a  
11 short period or anything like that?

12 A. No. If it is a matter of just typing and  
13 getting an order done, I will tell them when it will be  
14 ready. If it is a matter where I have to do the work, I  
15 tell them generally to check back after a week.

16 Q. And is that, do you suspect, where  
17 Mr. Pleau got his belief that you told him a week, that he  
18 testified to earlier?

19 A. Yes.

20 Q. Now, Ms. Coleman was not at the trial?

21 A. I did not know who Ms. Coleman was, so I  
22 -- there were people there. I could not say whether she  
23 was there or not. I would assume she was not. She did  
24 not participate.

25 Q. How did you deduce or speculate that the

1 it.

2 MR. MCHALE: All right. Can we make that  
3 an exhibit, then, and that would be Number 2?

4 THE WITNESS: Yes.

5 (Whereupon, the respective document was  
6 marked Exhibit Number 2.)

7 BY MR. MCHALE:

8 Q. What caused you to have to take this  
9 matter under advisement in the first place?

10 A. Because it had a situation where one side  
11 is represented by an attorney who has done research on  
12 what they think the law is, and they have filed that with  
13 the Court. You have another side which has no attorney  
14 and would not have any idea of what the law is or how to  
15 do research on providing information to the Court about  
16 what the law is concerning the legal issue in the case.

17 Q. And by legal issue, do you mean the  
18 matters contained in the motion, or were there other legal  
19 issues that had to be determined?

20 A. I would say it would be a combination of  
21 the two.

22 Q. What was it, as you sat there at the  
23 conclusion of the hearing in September of 2007, that you  
24 felt had to be decided specifically by you?

25 A. You're talking about once they filed their

1 to your research, other than the Lexis-Nexis we've talked  
2 about?

3 A. No.

4 Q. Did you write any memos or drafts of memos  
5 or orders that were retained on a computer?

6 A. The only one would be the order that I  
7 did.

8 Q. After the first day or the day of trial,  
9 when do you recall, if you recall, when you next accessed  
10 this file?

11 A. I accessed this file on about a weekly  
12 basis.

13 Q. When did you next -- first of all, did you  
14 next have any contact with Mr. Pleau after the day of the  
15 trial directly?

16 A. Yes and no.

17 Q. All right. Please explain your answer.

18 A. I do not talk to litigants. He came to my  
19 office. I have a half window. He talked with my  
20 secretary. He asked questions of her concerning the  
21 case. He wanted to set up an appointment to see me. I  
22 was in -- of course she could see me, and I shook my head  
23 no. She did not set up an appointment. He asked if he  
24 could see me today. I shook my head no, and she told him  
25 no. He asked for the status on the case. She just told

1 A. No.

2 Q. What is your purpose in keeping orders  
3 such as that?

4 A. I guess I keep it as opposed to keeping a  
5 file. It has my final thing on what the research and what  
6 the answer I gave on the issue.

7 Q. Is that your routine practice?

8 A. Generally, yes.

9 Q. How long has that been your routine  
10 practice?

11 A. I don't know.

12 Q. Did you, or through your administrative  
13 assistant or secretary or anybody in your office,  
14 communicate this decision to anyone? By this decision, I  
15 mean Exhibit 3.

16 A. My secretary took it down to the clerk's  
17 office for filing and service.

18 Q. Who is supposed to do service, or who was  
19 supposed to do the service in June of 2008?

20 A. Whoever the person is who signs the  
21 certificate of service.

22 Q. Who is that in this instance?

23 A. Joyce Clark.

24 Q. Is she your secretary, your assistant or  
25 works in the clerk's office?

1 A. Both.

2 Q. Tell me about that.

3 A. She is supposed to be working part for me,  
4 but she does not. She works fully for the clerk's  
5 office. I have her to pull items and research items and  
6 provide files to me, but I do no direct supervision of  
7 her.

8 Q. Was the practice of communicating  
9 decisions on cases in 2007 and 2008 for the clerk's office  
10 to do that, or did your office directly do that at all?

11 A. I'm not sure what you're talking about.

12 Q. Was the clerk's office supposed to  
13 communicate decisions to litigants in 2007 and 2008, or  
14 did your office do that under the policies you have?

15 A. No, my office does not do that.

16 Q. How long has that been the case under your  
17 tenure?

18 A. I have only done it by exception, had my  
19 secretary do anything like that.

20 Q. How many times have you made that  
21 exception?

22 A. I do not know.

23 Q. What reasons have you had for making that  
24 exception?

25 A. In the notice that I gave to Pleau and

1 A. Yes.

2 Q. Is there any other evidence that you have  
3 or have knowledge of as to the initiation of this  
4 complaint?

5 A. Yes.

6 Q. What is that?

7 MR. MCDONALD: Except that might have come  
8 through counsel.

9 THE WITNESS: Mr. Daniel's office does not  
10 keep matters which are supposed to be confidential  
11 confidential, and over periods of time I've received  
12 different information from different individuals  
13 about the case.

14 BY MR. MCHALE:

15 Q. About what case?

16 A. Pleau.

17 Q. Let me limit my question to before the  
18 Pleau complaint was filed.

19 A. Nothing.

20 Q. Since the Pleau case was filed, what  
21 information have you received that the case was not  
22 confidential, other than through your attorney?

23 A. I received information concerning the  
24 telephone issues. I received information concerning  
25 investigation by the TBI. I received information from a



1 clerks if any of them gave legal advice in contravention  
2 of your directions, you would not get any solid response?  
3 Would that be a fair characterization?

4 MR. MCDONALD: I object to that question.

5 THE WITNESS: I don't know. I've not  
6 asked them. I've told them they're not to give  
7 advice. They're not to tell people when their time  
8 for appeal passes, or when they have -- of their time  
9 limitations, I told them not to do that, because it's  
10 just not a good thing.

11 BY MR. MCHALE:

12 Q. If I recall correctly, you told us last  
13 time about item number eight. Let me ask you a couple of  
14 things about item number nine.

15 A. Now, on this, you referred to this as  
16 12,123 cases during a year. This is not during a year.  
17 This is only during this time frame.

18 Q. Okay. Did you acquire that information  
19 exclusively from the clerk's office, or do you maintain  
20 independent records of that?

21 A. With this I obtained the information from  
22 the clerks and youth services officers with the juvenile  
23 cases, and that is the information that they provided me  
24 at that time.

25 Q. I'm going to ask you about item number one

1           was also based on -- I did this because of his letter  
2           and because of what he told me on the phone.

3 BY MR. MCHALE:

4           Q.           What I specifically wanted to ask you, and  
5           perhaps did it inartfully, is in that letter that's been  
6           exhibited as Number 8, did you talk about a procedural  
7           remedy you had determined might be useful in addressing  
8           these issues?

9           A.           Based on Mr. Daniel's recommendation.

10          Q.           Did Mr. Daniel -- specifically now I'm  
11          referring to the second full paragraph on December 15th.  
12          Did Judge Daniel suggest to you using Tennessee Rule of  
13          Civil Procedure 60.01, as made applicable to the General  
14          Sessions Courts through TCA section 16-15-727?

15          A.           Yes and no.

16          Q.           All right. Please explain your answer.

17          A.           He told me to look at the rule, Tennessee  
18          Rules of Civil Procedure as is applied to General Sessions  
19          Court. He did not mention the statute.

20          Q.           Did you then do that?

21          A.           I did that.

22          Q.           As a result of that, what steps did you  
23          take?

24          A.           I did this letter, sent it to Judge  
25          Daniel, and that if he had any objection I was not going

**EXCERPTS OF DEPOSITION OF  
JON SCOTT LOTT  
Cited in Judge Bell's Statement of  
Undisputed Material Facts  
M2009-02115-CJ-CJ-CJ**

1 that's not contained in the written file?

2 A. No, sir.

3 MR. BALL: Okay. I believe that's all.

4 MR. DANIEL: I would like to have at least  
5 the report before we start.

6 MR. BALL: Okay. That's fine.

7 (Recess taken.)

8 EXAMINATION

9 BY MR. DANIEL:

10 Q. Mr. Lott, my name is J.S. Daniel. I'm  
11 disciplinary counsel, and I want to ask you a few  
12 questions about your report and your testimony. Prior to  
13 today, have you ever had a discussion with either myself  
14 or Mr. McHale directly?

15 A. No, sir.

16 Q. Prior to this deposition, had you ever  
17 furnished either a copy of the audio/video recording that  
18 you have brought to this deposition or provided a copy of  
19 your file to us?

20 A. As far as I know, not directly.

21 Q. I'm talking about from yourself.

22 A. That's correct.

23 Q. So this would be the first time we've seen  
24 this data as well; is that right, as far as you know?

25 A. As far as I know, yes, sir.

1 Q. Okay. Let me ask you this question. In  
2 the telephone conversation that you overheard -- I believe  
3 it was on March 1st -- where Pleau called Testerman and  
4 set up the meeting of March the 20th, at any time during  
5 that discussion or telephone conversation, did Testerman  
6 represent to Pleau that he was an attorney representing  
7 Judge Bell?

8 A. According to my notes, he never indicated  
9 that he was representing Judge Bell. Mr. Testerman never  
10 indicated that he was representing Judge Bell in the  
11 matter.

12 Q. In the March 20th wire where you recorded  
13 the conversation and monitored him, at any time did  
14 Mr. Testerman tell Mr. Pleau or say anything to the effect  
15 that he was an attorney representing Judge Bell?

16 A. Mr. Testerman didn't say he was  
17 representing Judge Bell. I think Mr. Pleau took it that  
18 Mr. Testerman was, but Mr. Testerman never indicated he  
19 was.

20 Q. On the occasion, I believe it's now, if I  
21 understand correctly, August the 6th, when you went and  
22 tried to interview Mr. Testerman about these events, did  
23 Mr. Testerman at any time, during your interview on that  
24 day, indicate that he was an attorney representing Judge  
25 Bell?

**EXCERPTS OF DEPOSITION OF  
JAMES LARUE  
Cited in Judge Bell's Statement of  
Undisputed Material Facts  
M2009-02115-CJ-CJ-CJ**

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 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 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 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?

**EXCERPTS OF DEPOSITION OF  
TOM TESTERMAN  
Cited in Judge Bell's Statement of  
Undisputed Material Facts  
M2009-02115-CJ-CJ-CJ**

1 Q. Did he in fact report you to the  
2 disciplinary committee?

3 A. I'm not sure if I'm allowed to disclose  
4 that, so I'm going to not answer that question. There's  
5 something about you're not supposed to disclose certain  
6 things, so -- it may be all right, but --

7 Q. Do you have an opinion as to whether or  
8 not Mr. Daniel tried to intimidate you that day, on July  
9 the 16th?

10 A. Yes, I think that was an interviewing  
11 witness he was attempting to intimidate.

12 Q. Were you in fact intimidated by  
13 Mr. Daniel that day?

14 A. Yes.

15 Q. Were you in fact intimidated by Mr. Daniel  
16 because of his position as the lawyer for the judicial  
17 committee, Court of the Judiciary?

18 A. That and the statements that were made,  
19 yes.

20 Q. And the statements made being those that  
21 he was going to report you to the board and that you had  
22 committed some -- did he make a statement -- strike that.  
23 Did he make a statement that you had violated any  
24 criminal statutes?

25 A. Yes, criminal activity was afoot. Not

**EXCERPTS OF DEPOSITION OF  
DAVID J. PLEAU  
Cited in Judge Bell's Statement of  
Undisputed Material Facts  
M2009-02115-CJ-CJ-CJ**

1 11th, 2008, you filed a complaint with the Tennessee  
2 Court of the Judiciary against Judge Bell?

3 A Yeah.

4 Q And why did you do that?

5 A Because I tried to be patient  
6 throughout the whole time after the rendering of that  
7 first decision, knowing that, you know, if it's a happy  
8 ending, then it's worth being patient. And then when --  
9 after he had said in court during that first trial that  
10 he should have a decision back in a week and then it  
11 takes nine months and it comes back and says that it is  
12 dismissed on that technicality, I got a bit upset.

13 Q So you got upset because it took so  
14 long?

15 A Right.

16 Q But you knew that Judge Bell was  
17 going to have to dismiss it on the technicality?

18 A I didn't know that. I figured he was  
19 working on various angles. I had optimism.

20 Q Did you think Judge Bell was -- when  
21 he dismissed it, not considering that it took a long  
22 time to get the opinion, did you think that he was  
23 unfair with you in dismissing it on the technicality on  
24 the reason that you sued --

25 A No. It wasn't a matter of being

1 limbo. So just the nature of having such a thing in  
2 limbo --

3 Q But you never went to a doctor or  
4 anything about it?

5 A Can't afford to.

6 Q "In short, I received this judgment  
7 without being informed of the time constraints  
8 concerning appeal as well as not being informed of legal  
9 technicalities in advance of court date by defense  
10 counsel. In the spirit of fair play, I position my case  
11 before you, the Supreme Court of Tennessee." Is that  
12 correct?

13 A Was that a mistake? I should have  
14 said before the Tennessee Court of the Judiciary.

15 Q I understand. But that's -- you said  
16 the Supreme Court of Tennessee. And is that the only  
17 complaint you have ever filed in this case?

18 A Yes. I do believe it is.

19 Q Now, let's go on. On October the  
20 8th, 2008, you filed your second lawsuit in the sessions  
21 court, did you not?

22 A Okay. Yes.

23 Q And in that one, you did name  
24 Ms. Coleman as a defendant?

25 A Yes, I did.



1 Q And you told him that you had no  
2 reason to believe that Testerman was acting in Judge  
3 Bell's discretion?

4 A No. I said I didn't think there was  
5 proof.

6 Q Do you have any proof that  
7 Mr. Testerman was acting at Judge Bell's direction?

8 A Do I have any proof?

9 Q Yes, sir.

10 A No.

11 Q Did you ever -- did Mr. Testerman  
12 ever offer you anything of any kind to drop the charges  
13 against Mr. Bell?

14 A No.

15 Q Did Mr. Testerman tell you that Judge  
16 Bell would find in your favor if you dropped the charges  
17 against him?

18 A No.

19 Q Would it be a fair statement to say  
20 that Tom Testerman asked you if you were going to drop  
21 the charges?

22 A It was more than just asking me if I  
23 was going to. He said he had forms available at his  
24 office so that I could drop the charges.

25 Q If you would?

1 2009 -- did he read this affidavit before?

2 A Did the attorney read it?

3 Q Yes.

4 A I don't know.

5 Q And did you pay Mr. Hooper for  
6 notarizing or having notarized this?

7 A No.

8 Q During the conversation that you had  
9 with Mr. Testerman -- and I may have asked you this,  
10 Mr. Pleau, and if I have, I'm sorry. Did Mr. Testerman  
11 offer you anything of any kind?

12 A You have asked me that and he has  
13 not.

14 Q Okay. Sometimes I tend to repeat  
15 myself. Let's go to after you had the conversation with  
16 Mr. Testerman and you have signed the affidavit in  
17 Mr. Hooper's office. Did you have a later meeting with  
18 Mr. LaRue and some other gentlemen in Sevierville,  
19 Tennessee?

20 A I did.

21 Q Before that meeting, in between the  
22 signing of the affidavit and before the meeting in  
23 Sevierville, did you have any contact whatsoever with  
24 Mr. Daniel or Mr. LaRue?

25 A Mr. LaRue.

1 Q And what was that contact?

2 A That was with the TBI agents, three  
3 of them, which I can't remember their names.

4 Q Okay. And where was that?

5 A That was in Newport.

6 Q And what did you do then?

7 A By then I had arranged a meeting with  
8 Mr. Testerman.

9 Q Let me -- did you meet first in  
10 Sevierville, Tennessee with the TBI agents and  
11 Mr. LaRue?

12 A I did.

13 Q And what was the purpose of that  
14 meeting?

15 A To call the office of Testerman and  
16 arrange for a meeting.

17 Q And who asked you to do that?

18 A It felt as though Mr. LaRue was  
19 behind the orchestration.

20 Q You think Mr. LaRue orchestrated  
21 that -- I mean, in your opinion? And did he ask you to  
22 do that?

23 A He did.

24 Q And did you tell him that when  
25 Mr. Testerman called you, he didn't offer you anything

1 unethical, immoral, illegal?

2 A Did anyone tell me that?

3 Q Did Mr. Daniel ever tell you that?

4 Just the fact that Mr. --

5 A I can't remember that he did.

6 Q Did Mr. LaRue ever tell you that?

7 A Yes, he did.

8 Q He did.

9 A And I don't know in so many words,  
10 but he did bring out that it was wrong. I mean, the  
11 very day that I mentioned it to Mr. LaRue, he saw to it  
12 that I made up that statement.

13 Q The affidavit?

14 A Uh-huh.

15 Q Yeah. Would it be a fair statement  
16 to say when you mentioned that Tom Testerman had called  
17 you, Mr. LaRue jumped all over that issue?

18 A Yes.

19 Q Prior to Mr. LaRue jumping all over  
20 that issue, did you think much about it one way or the  
21 other?

22 A Well, I didn't like it. You know --  
23 I mean, I wouldn't have liked it even if he would have  
24 offered me thousands of dollars because it's not right.  
25 I don't want to feel like I have dirty money.

1 Q Right. But do you know anything  
2 illegal about him just calling you and asking you --

3 A Unethical. I mean, it just -- it's  
4 none of his business what I do.

5 Q Right. I understand.

6 DAVID PITMAN: Can we take a minute?

7 MR. BALL: Sure.

8 DAVID PITMAN: I need just a second  
9 to change tapes here.

10 (Off-record discussion.)

11 BY MR. BALL:

12 Q Mr. Pleau, prior to you filing the  
13 second complaint, the one where you sued your insurance  
14 company and Jo Ann Coleman, did anyone encourage you to  
15 file that second complaint or did you just do it on your  
16 own?

17 A No. I mean, I wanted to do it again.  
18 I felt justified just as much as I did the first time  
19 around.

20 Q I mean, did Judge Bell ever call you  
21 and -- or have anybody call you and say you need to file  
22 a complaint or did he --

23 A We had a meeting in December of -- I  
24 don't even remember. Was it '08 -- December 23rd, and I  
25 can't remember the nature of that meeting. But he did

1 You go on and take a look at it. Yeah, take a second  
2 and look at it.

3 A That's my handwriting. I've got to  
4 read it in order to answer it.

5 Q Sure. Take your time.

6 A Okay.

7 Q First of all, are your statements  
8 correct as you have just read them and as are contained  
9 on that page?

10 A Yes.

11 Q Secondly, how did you learn of the  
12 decision in your case, the first decision?

13 A To the best of my memory, I got a  
14 letter from that legal organization of which Brad  
15 Fraizer at the time was representing Merastar through --

16 Q Now, this statement says the judgment  
17 date was June 27, 2008. Do you recall when you received  
18 notification of the judgment?

19 A No. I don't remember the exact date.

20 Q Upon receiving information about the  
21 judgment, what did you do next legally?

22 A I went to try to appeal it, but I  
23 don't know exactly the timeframe off of my memory. But  
24 it was after the time had expired with which I could  
25 legally appeal.

1           A           Okay.

2           Q           With the intention to -- you arrived  
3 at sessions court on July the 10th, 2008 with the  
4 intention to appeal the dismissal; is that right?

5           A           That's right.

6           Q           But was told that 10 days had lapsed  
7 and you couldn't appeal; is that right?

8           A           That is correct.

9           Q           Now, July the 10th was when you went  
10 to the sessions court to appeal. July the 11th, the  
11 very next day, you filed a complaint with the court --  
12 this complaint with the court of the judiciary?

13          A           Well, it looks like it was the 14th  
14 down here.

15          Q           I believe the letter was written on  
16 July the 8th, 2008, was it not?

17          A           Okay. Yes.

18          Q           But you later filed a form on July  
19 the 14th. Is that -- did they send you a form back to  
20 file?

21          A           Apparently they did.

22          Q           So you went -- did you go directly  
23 back home and fire off this letter to the Supreme Court  
24 of Tennessee?

25          A           Well, yes.