

IN THE COURT OF THE JUDICIARY FOR THE STATE OF
TENNESSEE

In the matter of John Bell, Judge
of the General Sessions Court of
Cocke County, Tennessee

FILED MAY 19 2010 Clerk of the Courts

Docket # M2009-02115-CJ-CJ-CJ

**MOTION FOR CONTINUANCE OF WITNESS DISCOVERY
DEPOSITION**

Comes Thomas Testerman and moves the Court for relief and would show:

1. Subpoena for deposition was delivered to Tom Testerman at approximately 1:15 pm on May 18, 2010 commanding him to discovery deposition in Knoxville at 3:00 pm on May 27, 2010. *(A true and exact copy of this subpoena is attached to this motion as an exhibit)* This was the first notice to Tom Testerman as to the date and time this deposition was to be scheduled and no apparent attempt was made to contact Tom Testerman about the date and time of this deposition prior to the delivery of this deposition subpoena.

2. Tom Testerman is an attorney and has a Sevier County, Tennessee Circuit Court jury trial scheduled for trial May 27, 2010 at 9:00 am. The defendant to be tried is charged with a felony criminal offense. This case for trial has been reset on a least two other occasions and will likely proceed to trial on this occasion. This criminal case was docketed by the Sevier County Circuit Court for trial on May 27th, 2010 several months ago. It is unlikely that trial in this matter will be concluded by 3:00 pm on May 27, 2010.

3. Thomas Testerman has contacted Joseph Daniels and advised him of these circumstances and advised as to alternative dates and times and received from Joseph Daniels the response, "We will insist that this deposition be held as scheduled". *(A true and exact copy of the correspondence to Joseph Daniels and his response is attached to this motion as an exhibit)*

4. Thomas Testerman is placed in a very difficult situation in that he is required to appear and represent his client at the scheduled jury trial and will find it very difficult to appear for deposition at the time scheduled in the subpoena.

WHEREFORE, Defendant prays the Court for order requiring counsel in this matter to make reasonable accommodation and reschedule the deposition for the afternoon of May 26th or May 28th of 2010.

Respectfully submitted,

Tom Testerman
Attorney at Law
301 East Broadway
Newport, Tennessee 37821
(423) 623-0375

CERTIFICATE OF SERVICE

I certify that I have mailed a true and exact copy of this pleading to the following:

Joseph S Daniel
503 North Maple Street
Murphreesboro, Tennessee 37130

Fax 615-848-5125

Gordon Ball
Attorney at Law
550 Main Street, Suite 601
Knoxville, Tennessee 37902

Fax 865-525-4679

This the 19 day of May, 2010.

Tom Testerman

STATE OF TENNESSEE COURT OF THE JUDICIARY	<h1 style="margin:0;">SUBPOENA</h1> <p>(Order To Appear)</p>	CASE FILE NUMBER M2009-02115-CJ-CJ-CJ
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PLAINTIFF COMPLAINT OF DAVID PLEAU	vs.	DEFENDANT THE HONORABLE JOHN A. BELL, JUDGE, GENERAL SESSIONS COURT COCKE COUNTY
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TO: (Name, Address & Telephone Number of Witness)
 Mr. Thomas Testerman, 301 E. Broadway, Newport, TN. 37821-3105, 423- 623-0375.

You are hereby commanded to appear at the time, date and place specified for the purpose of giving testimony. In addition, if indicated, you are to bring the items listed. Failure to appear may result in punishment by fine and/or imprisonment as provided by law.

TIME 8:00 AM 3:00 PM	DATE 2010 27 MAY 2010	ITEMS TO BRING:
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PLACE COCKE COUNTY Rm. # _____ CIRCUIT COURT NEWPORT, TN (OR) OFFICE OF BALL § 5071 555 MAIN STREET SUITE 601 Knoxville, TN 37902 465-525-7025	<input type="checkbox"/> Judicial Building <input type="checkbox"/> Court House <input type="checkbox"/> Judicial Annex <div style="text-align: center; font-size: 1.2em;">EXHIBIT TO MOTION OF Tom Testerman</div>
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This subpoena is being issued on behalf of
 plaintiff defendant
 Attorney: (Name, Address & Telephone Number)
 JOSEPH S. DANIEL
 503 NORTH MAPLE STREET
 MURFREESBORO, TN.
 615-898-8004

Additional List Attached
DATE ISSUED
 5-12-10

MICHAEL W. CATALANO, CLERK OF THE
APPELLATE COURTS

ATTORNEY'S SIGNATURE
DESIGNEE:

DESIGNEE'S SIGNATURE:

BY 
Deputy Clerk

RETURN ON SERVICE

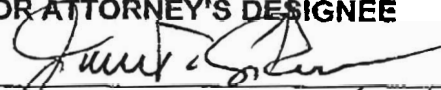
Check one, (1 or 2 are for the return of an authorized off officer or attorney; an attorney's return must be sworn to; 3. Is for the witness who will acknowledge service and requires the witness's signature.)

1. I certify that on the date indicated below I served a copy of this subpoena on the witness stated above by
 5/13/10 BY t @ 3:15

2. I failed to serve a copy of this subpoena on the witness because

3. I acknowledge being served with this subpoena on the date indicated below.

DESIGN
SIGNATURE

Sworn to and subscribed before me on this day of _____ Signature of <input type="checkbox"/> Notary Public or <input type="checkbox"/> Deputy Clerk Commission Expires:	DATE OF SERVICE 5-18-10 SIGNATURE OF WITNESS, OFFICER, ATTORNEY OR ATTORNEY'S DESIGNEE  120 Willow Lane Kuyper, TX 77265
--	--

2010

Sworn
 Signature
 Commission

Thomas V. Testerman
Attorney at Law

301 E Broadway
Nashport, Tennessee 37021
Telephone: 423-623-0878
Telefax : 423-623-7187

**EXHIBIT TO MOTION
OF Tom Testerman**

May 18, 2010

Joseph Daniels

Fax 615-843-8125

Fax only

Gordon Ball

Fax 865-525-4679

Fax only

Re: Complaint of David Pleau
scheduled May 27, 2010
Tennessee Court of Judiciary # M2009-021180C-J-CJ-CJ

Gentlemen:

Jim Lane just delivered a subpoena to deposition scheduling my discovery deposition for May 27, 2010 at 3:00 pm

I have a criminal jury trial scheduled that day in the Circuit Court of Sevier County, Tennessee. The judge is Richard Vance. This is the second or third setting for this criminal trial so I suspect that it will go.

I suspect that I cannot complete the criminal trial by the time the deposition is scheduled to begin.

What do you suggest? I am available on the afternoon of the 26th or 28th.

Please advise immediately.

Thanks,

Tom Testerman

We will insist that
this deposition be held
As scheduled


5-18-2010