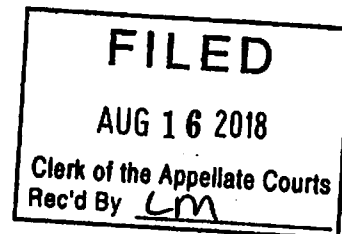


**IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT**

**IN RE: THE HONORABLE ROBERT S. WEISS  
CIRCUIT JUDGE, 30<sup>TH</sup> JUDICIAL DISTRICT  
SHELBY COUNTY, TENNESSEE**



**Docket No. M2018-01486-BJC-DIS-FC**

**File Nos. B17-7070 and B17-7284**

**FORMAL CHARGE**

Timothy Discenza, Disciplinary Counsel for the Tennessee Board of Judicial Conduct, at the direction of an investigative panel of three members of the Board of Judicial Conduct, in accordance with Tennessee Code Annotated § 17-5-301, *et. seq.*, hereby files formal charges against The Honorable Robert S. Weiss, Circuit Judge 30<sup>th</sup> Judicial District, Shelby County, Tennessee.

**Jurisdiction**

1. Following a full investigation authorized under the provisions of Tennessee Code Annotated § 17-5-304(b)(3), the three-member investigative panel composed of the Honorable Andy Brigham, Mr. Edward Phillips, and the Honorable Dee Gay found, pursuant to Tennessee Code Annotated § 17-5-304(d)(2)(A), that there is reasonable cause to believe that The Honorable Robert S. Weiss has committed judicial offenses alleged herein in violation of Tennessee Code Annotated § 17-5-302. A "full investigation" in accordance with Tennessee Code Annotated § 17-5-304(c)(1) was authorized and directed. The investigative panel then directed Disciplinary Counsel to file formal charges pursuant to Tennessee Code Annotated § 17-5-304(e)(2)(A).

2. The Honorable Robert S. Weiss at all times relevant herein, was a Circuit Judge, 30<sup>th</sup> Judicial District in Shelby County, Tennessee. Therefore, Judge Robert S. Weiss is

subject to judicial discipline by the Board of Judicial Conduct pursuant to Tennessee Code Annotated § 17-5-102.

### **Charges**

Disciplinary Counsel charges The Honorable Robert S. Weiss as follows:

#### **Count I**

3. During the course of his duties as a Judge of the Circuit Court, Judge Weiss was assigned to a domestic relations case No. CT-005136-13 that had originally been filed in another division of Circuit Court. Judge Weiss conducted a hearing on this case in November 2015 and Judge Weiss indicated to the parties that he would issue an order concerning this hearing. No order was issued granting a divorce in this matter or for any other matter in dispute in this cause. A party, in this case, made motions for entry of a final ruling on August 26<sup>th</sup>, 2017, and May 29<sup>th</sup>, 2018, and no order concerning this matter has been entered.

4. On February 21, 2018, Assistant Disciplinary Counsel to the Tennessee Board of Judicial Conduct wrote a letter to Judge Weiss asking for a response within twenty (20) days to the complaint that had been filed as No. B17-7070 dealing with the failure of Judge Weiss to enter an order in the divorce proceeding.

5. In response to the request of Disciplinary Counsel for a response, Judge Weiss requested, and was granted an extension until March 21, 2018, in which to file his original response to the allegation. No response was received from Judge Weiss.

#### **Count 2**

6. On or about June 15, 2018, Pursuant to Tennessee Code Annotated § 17-5-304(d)(1), Judge Weiss received official notice from the office of the Disciplinary

Counsel of the Tennessee Board of Judicial Conduct of the complaint filed in B17-7070, that complaint dealing with the subject matter of unreasonable delay in ruling on a divorce petition which was the subject matter of Count 1 of this Formal Charge. This notice advised him of the nature of the complaint, notified him that an Investigative Panel of the Board of Judicial Conduct had authorized a full investigation of the complaint, and required that he file a written response to the complaint within 30 days after receipt of the notice.

7. Judge Weiss failed to file a written response to the notice of the full investigation as required by the provisions of the Tennessee Code Annotated and the Code of Judicial Conduct.

### Count 3

8. In May of 2013, Judge Weiss presided over a jury trial in which the jury returned a verdict of \$3,705,000 in favor of the plaintiff in this motor vehicle accident case. After this verdict, Judge Weiss suggested a remitter of this verdict of \$1,605,000, leaving a new verdict of \$2,100,000. The case in question eventually was considered by the Tennessee Supreme Court, which remanded the case back down to the Circuit Court for the purpose of having Judge Weiss give an explanation of his reasons for the suggestion of the remittitur. On December 6, 2017, the parties to the litigation appeared in the court of Judge Weiss for a status conference and were told to return to Court on January 3, 2018, for a ruling. On this day, Judge Weiss told the parties that he would make a ruling by the

end of that day. When no ruling was forthcoming on that day, counsel for the plaintiff had a letter delivered to Judge Weiss on January 25, 2018, asking Judge Weiss to make a ruling by the end of January. A second letter was delivered to Judge Weiss by counsel for the plaintiff on February 8, 2018, again asking for a ruling pursuant to the Supreme Court remand. Judge Weiss has not yet entered an order on the case.

9. On February 17, 2018, Disciplinary Counsel to the Tennessee Board of Judicial Conduct wrote a letter to Judge Weiss asking for a response to the complaint that had been filed as No. B18-7284 dealing with the failure of Judge Weiss to enter the order as required by the remand of the Tennessee Supreme Court in the case.

10. In response to the request of Disciplinary Counsel for a response, Judge Weiss wrote a letter to Disciplinary Counsel on or about March 20, 2018, in which he stated that an Order had been entered on the matter on July 26, 2018. Upon learning that the Clerk of the Circuit Court had docketed no such order, Disciplinary Counsel again wrote Judge Weiss and requested a filed stamped copy of said order. No response was received from Judge Weiss.

#### Count 4

11. On or about June 15, 2018, Pursuant to Tennessee Code Annotated § 17-5-304(d)(1), Judge Weiss received official notice from the office of the Disciplinary Counsel of the Tennessee Board of Judicial Conduct of the complaint filed in B18-7284, that complaint dealing with the subject matter of unreasonable delay in entering an order which was required by the remand of the Tennessee Supreme Court was the subject

matter of Count 3 of this Formal Charge. This notice advised him of the nature of the complaint, notified him that an Investigative Panel of the Board of Judicial Conduct had authorized a full investigation of the complaint, and required that he file a written response to the complaint within 30 days after receipt of the notice.

12. Judge Weiss failed to file a written response to the notice of the full investigation as required by the provisions of the Tennessee Code Annotated and the Code of Judicial Conduct.

13. At all times described in the preceding paragraphs, the said Robert S. Weiss, as a Circuit Judge in the 30<sup>th</sup> Judicial District, in Shelby County, Tennessee was subject to the Code of Judicial Conduct, as set out in Rule 10, Rules of the Supreme Court of Tennessee.

In pertinent part, the Code of Judicial Conduct, by and through its Canons, at all times relevant herein, provided as follows:

**CANON 1 — A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.**

**RULE 1.1 Compliance with the Law**

A judge shall comply with the law, including the Code of Judicial Conduct.

**RULE 1.2 Promoting Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

**CANON 2 — A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.**

**Rule 2.5 Competence, Diligence, and Cooperation**

(A) A judge shall perform judicial and administrative duties competently, promptly and diligently.

**Rule 2.16 Cooperation with Disciplinary Authorities**

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

12. The above-described conduct and actions of Judge Robert S. Weiss, as heretofore set forth, constitute violations of the Code of Judicial Conduct as set forth in the preceding paragraph 11, and as such, subject him to the sanctions provided by the provisions of Tennessee Code Annotated § 17-5-301.

In addition, the failure by Judge Weiss to respond to notices of Full Investigation by the Board of Judicial Conduct as described herein, constitute violations of the Code of Judicial Conduct as expressed in Rule 2.16, above and further subject him to sanctions.

**NOTICE**

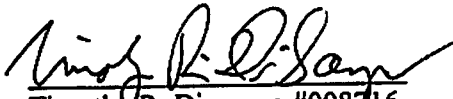
Judge Robert S. Weiss is hereby given written notice of the details of the Formal Charges brought against him pursuant to Tennessee Code Annotated § 17-5-307.

Pursuant to Tennessee Code Annotated § 17-5-307(c), Judge Roger S. Weiss shall have thirty (30) days from and after the date of receipt of these Formal Charges to file an Answer with the Court by filing the same at the Office of the Clerk of the Supreme Court, 100 Supreme Court Building, 401 Seventh Avenue North, Nashville, Tennessee 37219 and by serving a copy on Disciplinary Counsel at P.O. Box 50356, Nashville, Tennessee 37205.

Failure to answer these Formal Charges shall constitute an admission of the factual allegations not answered.

WHEREFORE, Disciplinary Counsel moves the Board to set this matter for hearing before a Hearing Panel of the Board of Judicial Conduct at such location where the Board of Judicial Conduct may convene by law, within sixty (60) days from and after the date the Answer is filed by Judge Weiss as required by Tennessee Code Annotated § 17-5-308(a), or, in the event no Answer is filed, to set the matter within ninety (90) days of the date these Formal Charges are filed with the Clerk of the Court, in order to comply with the statutory time limit, and upon the hearing of this action, to impose just and proper sanctions as provided by law, including the costs and discretionary costs as provided by law.

This the 6 day of August 2018.

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

APPROVED BY THE INVESTIGATIVE PANEL  
IN ACCORDANCE WITH RULE 6, SECTION 4  
OF THE RULES OF PRACTICE AND PROCEDURE  
OF THE TENNESSEE BOARD OF JUDICIAL CONDUCT:

BY: Andy Brigham by King D. Dilger with permission  
Judge Andy Brigham  
Investigative Panel Member

BY: Dee Gay by King D. Dilger with permission  
Judge Dee Gay  
Investigative Panel Member

BY: Edward Phillips by King D. Dilger with permission  
Edward Phillips  
Investigative Panel Member