

IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT

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

FILED  
2013 NOV -4 PM 1:43  
APPELLATE COURT CLERK  
NASHVILLE

DOCKET NO.: M2013-02204-BJC-DIS-FC  
File no.: 11-4762

RESPONSE TO FORMAL CHARGES  
AND MOTION TO DISMISS

Comes now Honorable John A. Donald (“Respondent”), by through the undersigned counsel, and responds to the Formal Charges filed in this cause on October 2, 2013 as follows:

I. MOTION TO DISMISS

Respondent moves to dismiss the formal charges filed in this cause for the following reasons:

1. The formal charges filed in this cause should be dismissed because the document captioned “Formal Charges” does not contain the signatures of the members of the investigative panel. Rule 6, Section 4 of the Rules of Practice and Procedure of the Board of Judicial Conduct states in pertinent part:

Sec. 4 Formal Charges

If an investigative panel determines that there is reasonable cause to believe that a judge committed a judicial offense and the investigative panel directs that disciplinary counsel file a formal charge the investigative panel shall review and approve the form and content of such formal charge such formal charge *shall* be signed by disciplinary counsel and the members of the investigative panel who directed that the formal charge be filed.

All signatures that appear on the formal charges have been affixed by disciplinary counsel Discenza. The signatures of the panel appear individually “by” counsel

Discenza. There is not even an indication that the signatures were affixed with the permission of the members of the investigative panel. Therefore, the Formal Charges do not comply with the Rules of Practice and Procedure of the Board of Judicial Conduct and should be dismissed.

2. The formal charges filed in this cause should be dismissed because Disciplinary Counsel has exceeded the scope of his authority in considering information not contained in the Complaint Against Judge Under Code of Judicial Conduct (“Complaint”). Count I, paragraph 6 of the Formal Charges states as follows:

On or about December 7, 2011, Judge Donald, **in retaliation** (emphasis added), for the filing of a complaint with the Tennessee Court of the Judiciary against him, wrote a letter of complaint to the Tennessee Board of Professional Responsibility, making a complaint against David Gold, and asking the Board to investigate another attorney who had been associated with David Gold and who was listed by David Gold as a witness to Mr. Gold’s complaint against Judge Donald.

Exhibit “A” to the Formal Charges is a copy of the Complaint filed by David A. Gold, and includes a three-page letter dated October 17, 2011, describing the alleged misconduct of Respondent. Nowhere in this document does there appear to be any allegation of retaliation by the Respondent in response to the filing of the complaint in this cause.

Rule 5, Section 2 of the Rules of Practice and Procedure of the Board of Judicial Conduct provides as follows:

Section 2. Other Sources

Disciplinary Counsel is authorized to investigate anonymous complaints or information coming from sources other than a written complaint, provided Disciplinary Counsel deems the information sufficiently credible or verifiable through **objective** sources.

Thus, the plain language of the rule would require that investigation of any allegations of retaliation by disciplinary counsel from sources other than the written complaint, would have to arise from information that is “sufficiently credible” and “verifiable through objective sources.” “Retaliation” implies that the Respondent filed a letter of complaint with the Tennessee Board of Professional Responsibility against Mr. Gold and an inquiry as to Mr. Grytdahl as a way of seeking revenge or pay back for his filing of the judicial complaint at issue in this case. Any such inference as to Respondent’s motives would be **subjective** and not based on any objective source. As such, allegations of retaliation cannot be a basis for Formal Charges and the charges should be dismissed.

There appears to be no authority under Tennessee law related to the appropriateness of a charge of retaliation as a basis for judicial misconduct. However the Board may look to rulings in other jurisdictions as persuasive authority and guidance in interpreting the application of the rules of Judicial Conduct in this case. *In the matter of Judicial Council Complaint no. DC013-90009*, a case before the Judicial Council for the District of Columbia, a complainant alleged that a judge’s decision to grant a motion to dismiss was made in retaliation for the complainant’s filing a misconduct complaint that charged improper delay. The complaint noted that the judge’s opinion was issued on February 27, 2013, the day after the complainant states that filed the judicial complaint. But the complaint was not received in the Circuit Executive’s Office until March 4, 2013, and that Office did not forward it to the subject judge until March 5, 2013. The presiding judge ruled that “in any event, the timing is insufficient by itself to raise an inference of retaliation ...” (See copy of ruling attached, Exhibit “E”).

3. The Formal Charges should be dismissed because the document does not give fair and adequate notice of the nature of the alleged misconduct. Exhibit “A” to the Formal Charges is a copy of the Complaint Against Judge Under Code of Judicial Conduct filed by David A. Gold, and includes a three-page letter dated October 17, 2011, describing the actions of the Respondent in the handling of a certain legal matter. However, the Formal Charges do not indicate which, if any, of the Respondent’s actions are violations of the Code of Judicial Conduct. The Complaint includes a recitation of three of the Canons but does not tie any of the Canon’s to any specific actions of the Respondent. Tennessee Code Annotated §17-5-307(b) states in pertinent part:

“The formal charges shall give fair and adequate notice of the nature of the alleged misconduct . . .”

Tenn. Code Ann. §17-5-307 (2013)

The Formal Charges do not provide even a hint as to what actions or conduct of Respondent is alleged to be misconduct. Respondent should not have to wade through the Complainant’s inaccurate and untrue recitation of events, and accusations of “hatred” and unfair treatment, intermingled with numerous admissions of his own inappropriate conduct, and unprofessional and unethical statements made to the litigants and to the Respondent to try to figure out what facts are alleged to be misconduct.

4. The Formal Charges should be dismissed because the Board has not acted “promptly” as required by the Rules of Practice and Procedure of the Board of Judicial Conduct.

The Complaint in this cause was received by the Board of Judiciary on October 20, 2011. Rule 2, Section 2(a) of the Rules of Practice and Procedure of the Board of Judicial Conduct provides as follows:

(a) Meetings of Investigative Panels. **Promptly** (emphasis added) upon receipt of a complaint, report and recommendations from the disciplinary counsel, the investigative panel shall review the matter.

Rule 2, Section 2(c) provides:

When an investigative panel has authorized a full investigation of a complaint or matter, then **promptly** (emphasis added) upon its receipt of the disciplinary counsel's report of the investigation and recommendation, the investigative panel shall review the report and recommendations . . .

The Formal Charges in the instant case have been filed almost two (2) years to the date of the filing of the Complaint. Such an inordinate delay can hardly be characterized as prompt, and the delay has prejudiced the rights of the Respondent, and delayed his opportunity to defend the charges prior to the eve of an election year.

## II. RESPONSE

1. Respondent admits that jurisdiction to pursue formal charges rests with the Board of Judicial Conduct pursuant to Tennessee Code Annotated 17-5-304(b)(3), but denies that there is reasonable cause to believe that he has committed judicial offenses alleged in the formal charges. Respondent has had no conversations with any members of the investigative panel, and has not been privy to any correspondence or communications between the investigative panel, and therefore is without sufficient knowledge to admit or deny whether the investigative panel directed Disciplinary Counsel to file formal charges pursuant to Tennessee Code Annotated 17-5-304(d)(2)(A).

2. Respondent admits the jurisdictional allegations contained in paragraph 2.

3. Respondent admits that on or about October 17, 2011, David Gold, an attorney practicing in Shelby County, Tennessee filed a complaint with the Tennessee Court of the Judiciary, the predecessor agency of the Tennessee Board of Judicial Conduct, against

Respondent, alleging violations of Respondent of the Tennessee Code of Judicial Conduct that was then in effect. Respondent admits that exhibit A is a copy of the Complaint forwarded to him by the Court of the Judiciary.

4. Respondent admits that on or about October 23, 2011, he received a copy of the Complaint and a request for response.

5. Respondent admits that he filed a written response to the Complaint on or about December 2, 2011, which included affidavits from the litigants involved in the matter complained of, affidavits from courtroom personnel and an attorney who was present during the exchange between Complainant and Respondent, and a letter from the Honorable David Kennedy, Judge of the United States Bankruptcy Court. A copy of the response and all exhibits are attached hereto as Exhibits "A -D".

6. Respondent admits that on or about December 7, 2011, Respondent wrote a letter of complaint to the Tennessee Board of Professional Responsibility ("Board") regarding the unethical and unprofessional conduct of the Complainant which occurred both in the Respondent's courtroom, as well as relating to the false allegations contained in the Complaint filed with the Tennessee Court of Judiciary by Mr. Gold. Respondent admits that he also requested the Board investigate Jay Grytdahl, the attorney of record in the pending litigation, to determine if Mr. Grytdahl had acted on behalf of Mr. Gold at a time when Mr. Gold's license had been suspended to determine if Mr. Gold had violated the terms of his suspension which prohibited Mr. Gold from maintaining a presence where the practice of law is conducted.

7. Respondent admits that he is aware that the Tennessee Board of Professional Responsibility dismissed the complaint against Mr. Gold, but is not aware of whether any

inquiry was made, any informal confidential discipline was imposed, and would aver that he was never contacted by the Board regarding his allegations.

8. Respondent admits the allegations of paragraph 8.

9. Respondent denies the allegations of paragraph 9, and would demand strict proof thereof, by clear and convincing evidence.

WHEREFORE, PREMISES CONSIDERED, Respondent prays:

1. That the Formal Charges filed in this cause be dismissed.
2. For such other and proper relief as is appropriate in this cause.

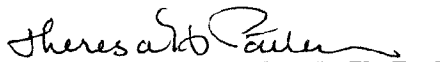
Respectfully submitted,



Theresa H. Patterson #14188  
100 N. Main, Suite 1025  
Memphis, TN 38103  
(901) 523-0177  
Attorney for Respondent

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been furnished via U.S. mail to Timothy R. Discenza, Disciplinary Counsel, Tennessee Board of Judicial Conduct, P.O. Box 50356, Nashville, TN 37205 this 30<sup>th</sup> day of October, 2013.



Theresa H. Patterson

The Judicial Council  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-13-90009

A Charge of Judicial  
Misconduct or Disability

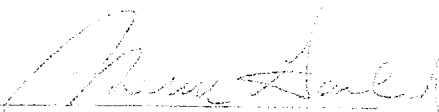
Before: GARLAND, Chief Judge of the Circuit

ORDER

Upon consideration of the complaint herein, and the supplement thereto, filed against a judge of the United States District Court for the District of Columbia pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 and the Judicial Conference of the United States Rules for Judicial-Conduct and Judicial-Disability Proceedings, it is

**ORDERED**, for the reasons stated in the attached Memorandum, that the complaint be dismissed. See 28 U.S.C. § 352(b)(1)(A)(i) & (ii); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(e)(1)(B) & (D).

The Clerk is directed to send copies of this Order and accompanying Memorandum to the complainant, the subject judge, and the Judicial Conference Committee on Judicial Conduct and Disability. See 28 U.S.C. § 352(b); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(g)(2).

  
Merrick B. Garland, Chief Judge  
District of Columbia Circuit

Date: 4-11-13

Exh. E

IN RE: THE HONORABLE JOHN A. DONALD

DOCKET NO. M2013-02204-  
BJC-DS-FR



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## M E M O R A N D U M

The complainant alleges that a judge of the United States District Court for the District of Columbia has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. Specifically, his complaint is that the subject judge improperly delayed ruling on motions in his client's Freedom of Information Act (FOIA) suit for seven months "for political and/or other non-judicial reasons," and that the judge ultimately granted a motion to dismiss in retaliation for the filing of the instant judicial misconduct complaint. For the following reasons, the complainant's allegations do not warrant action against the subject judge.

An "allegation about delay in rendering a decision" does not constitute cognizable misconduct "unless the allegation concerns an improper motive in delaying a particular decision" or "habitual delay in a significant number of unrelated cases." Jud. Conf. U.S., Rules for Judicial-Conduct and Judicial-Disability Proceedings 3(h)(3)(B). In this case, the complainant attributes an improper motive to the subject judge's delay. In this regard, however, the submissions merely state that "[it] has become apparent that [the subject judge], for political and/or other non-judicial reasons" intentionally delayed ruling, that the judge's final memorandum opinion "shows without question that [the subject judge] sought to delay this ruling," and that "on information and belief, political or some other extra-judicial motives also likely played a role." The complaint proffers no evidence in support of this information and belief, and the text of the judge's opinion does not reflect political or extra-judicial motives.

Accordingly, the allegation of delay in this “single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge -- in other words, assigning a low priority to deciding the particular case.” *Id.* at Rule 3 Commentary. The complaint of judicial conduct based on improper delay must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii) (providing for dismissal of a complaint that is “directly related to the merits of a decision or procedural ruling”); Jud. Conf. U.S., Rules for Judicial Conduct and Judicial Disability Proceedings 11(c)(1)(B) (“A complaint must be dismissed in whole or in part to the extent that the chief judge concludes that the complaint . . . is directly related to the merits of a decision or procedural ruling.”).

The complainant also charges that the subject judge’s decision to grant the motion to dismiss was made in retaliation for the complainant’s filing the misconduct complaint that charged improper delay. The complaint notes that the judge’s opinion was issued on February, 27, 2013, the day after the complainant states that he filed the complaint. But the complaint was not received in the Circuit Executive’s Office until March 4, 2013, and that Office did not forward it to the subject judge until March 5, 2013. In any event, the timing is insufficient by itself to raise an inference of retaliation, and no evidence has been proffered that would be sufficient. The statement in the judge’s opinion, that the complainant’s client “complained volubly by phone and by mail -- but has avoided complicating the docket” does not, as the complainant states, “show[] without question

that [the subject judge] . . . had a bias against [the complainant's client] for daring to question when a ruling would be made." And while the complaint does dispute the judge's conclusion that the complainant's client had failed to submit a proper FOIA request, that is an argument that goes directly to the merits of the judge's decision. It is therefore insufficient to state a claim of misconduct, although it may of course be raised in an appeal from that decision.

Because the complainant's allegations lack evidence sufficient to raise an inference that misconduct has occurred and are directly related to the merits of the subject judge's decisions, the complaint must be dismissed. *See* 28 U.S.C. § 352(b)(1)(A)(ii), (iii); Jud. Conf. U.S., Rules for Judicial-Conduct and Judicial-Disability Proceedings 11(c)(1)(B), (D).<sup>1</sup>

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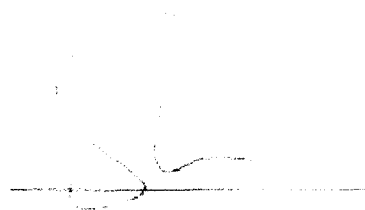
<sup>1</sup> Pursuant to 28 U.S.C. § 352(c) and JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL -DISABILITY PROCEEDINGS 18(a), the complainant may file a petition for review by the Judicial Council for the District of Columbia Circuit. Any petition must be filed in the Office of the Clerk of the Court of Appeals within 35 days of the date of the Clerk's letter transmitting the dismissal Order and this Memorandum. *Id.* R. 18(b).

merits, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii), and as unfounded, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(B), and 11(c)(1)(C), respectively.

There is likewise no support for the petitioner's remaining claims. The applicable local rules do not provide for the recording of pre-trial conferences, unless a party is pro se, absent advance request. Further, the number of jurors in a civil trial is within the court's discretion. Moreover, as explained, judicial error alone would not suggest misconduct. See Rules of Judicial-Conduct, Rule 3(b)(3)(A).

Finally, the judge's tone of voice and body language would not, as alleged, be remotely indicative of misconduct. See 28 U.S.C. § 352(b)(1)(A)(i), Rules of Judicial-Conduct, Rule 11(c)(1)(A). See also Beudin, C.C.J., Order, In Re: Complaint No. 444, January 23, 2007, at 4 ("[A]bsent extraordinary circumstances, the tone maintained by the judge during a proceeding is not a basis for a finding of misconduct."); and Beudin, C.C.J., Order, In Re: Complaint No. 385, September 27, 2004, at 3 (Nonverbal, impolite gesture is not judicial misconduct.).

For the reasons stated herein, the orders of dismissal issued in Judicial Misconduct Complaint No. 01-10-90013 is affirmed. See Rules of Judicial-Conduct, Rule 19(b)(1).



Susan Goldberg, Acting Secretary

Board of Judicial Conduct

In Re. Hon. Tenn. Donald

M2013-02204

FILED  
BJC-DS-FC

**EXHIBITS A, B, C & D**

2013 NOV -4 PM 1:43

APPELLATE COURT CLERK  
NASHVILLE

**EXHIBIT A**

FILED

2013 NOV -4 PM 1:43

APPELLATE COURT CLERK  
NASHVILLE

**EXHIBIT A**

11-4762

RECEIVED  
OCT 20 2011

**TENNESSEE COURT OF THE JUDICIARY**  
Timothy R. Discenza, Disciplinary Counsel  
P.O. Box 50356  
Nashville, Tennessee 37205  
Phone: (615) 649-8851

**COMPLAINT AGAINST JUDGE UNDER CODE OF JUDICIAL CONDUCT**

Your Name: David A. Gold  
Address: 2884 Walnut Grove Road (please type or print)  
Phone: Daytime (901) 322-6461 Evening (901) 692-0645

I have information of possible misconduct or disability on the part of John A Donald  
(name of judge or acting judge) of the General Sessions Civil Court in  
Memphis (city), Shelby (county), Tennessee.

**STATEMENT OF FACTS**  
(You may attach additional pages if necessary)

1. When and where did this happen?  
Date(s): 9/29/11, 10/6/11, 10/12/11 Time: 10:00 AM Location: 140 Adams, Memphis, TN 38103
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: Gridiron of Memphis Case No. 1319727, 1319715
  - 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     other (specify): \_\_\_\_\_  
 witness for
  - 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:

Exhibits A Judgement, Exhibit B Subpoena, Exhibit C Brief of Plaintiff, Exhibit D Letter from Judge Donald, Exhibit E Affidavit  
Exhibits A Judgement, Exhibit B Subpoena, Exhibit C Brief of Plaintiff, Exhibit D Letter from Judge Donald, Exhibit E Affidavit

4. Identify, if you can, any other witnesses to the conduct of the judge or acting judge:

Name(s): JAY GRYDAHL MICHAEL RUFFI  
Address(es): 2884 WALNUT GROVE, MEMPHIS, 38111 840 VALLEY BROOK, MEMPHIS, TN 38120  
Phone: (901) 489-3014 (901) 569-7646

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.)

SEE ATTACHED

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.

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: Daniel Adair

DATE: 10/17/2011

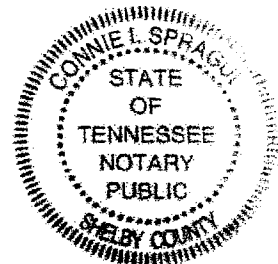
STATE OF TENNESSEE

COUNTY OF Shelby

SWORN TO AND SUBSCRIBED 17 day of OCTOBER, 2011.

Notary Public: Connie I Sprague

My Commission Expires: 6-10-14



October 17, 2011

Dear Court of the Judiciary:

I have a case before Judge John A. Donald of the Shelby County General Sessions Court. Along with Jay Grytdahl, we represent a Plaintiff, Gridiron of Memphis, LLC. Prior to our involvement, another attorney had taken a judgment against both Defendants for about \$15,000.00. (Exhibit A) After repeated attempts to get the two defendants, Tracey and Patrick Mathews to come to court, they finally showed on September 29, 2011. The Mathews had denied that they owed the money and insisted to me that the judgment was fraudulent.

When Judge Donald called the case, before I put the Defendants on the stand, I asked the Court to explain to them that the judgment was a valid and proper judgment and even had a copy of the judgment to show the Court. Judge Donald refused to explain that the judgment was valid and said "he was not here to help me collect (my) money" and told us to go in the hall to discuss it.

I was unable to persuade the Defendants that they owed the money. We came back into the court room. I knew that Patrick Mathews was in a bankruptcy (and Tracey Mathews was not) and that we had been sent money from the bankruptcy court to satisfy this judgment. I was not certain whether or not we had been granted relief from the stay since Mr. Grytdahl had handled many of the matters prior to September 29, 2011. Mr. Grytdahl filed subpoenas duces tecum (Exhibit B) for us to get Ms. Mathews to testify about her assets and for Mr. Mathews to testify about her assets and any joint assets that they may own together.

I had planned to question Ms. Mathews first, but she was in the rest room when the case was called. Judge Donald called Mr. Mathews. I began to question him and was reading from a standard script that I have used in other cases. I have attached that document. (Exhibit B). Mr. Mathews stated that he had not brought any of the documents I requested. He then showed the judge something proving that he was in a bankruptcy. At that point, Judge Donald got angry with me and said that I had no right to question Mr. Mathews at all. I explained to him that I did know he was in a bankruptcy but that my understanding was that he could testify as to her assets. He told me to come back with "case law" supporting my position. He also said in front of his court personnel that I had been "rude" and "disrespectful" to him.

Pursuant to the Judge's request, I called attorney Michael Bursi who has practiced in bankruptcy court for over 30 years. Armed with my research and the advice of Mr. Bursi, I returned to Court on October 6, 2011 with a written brief (Exhibit C) prepared by Mr. Grytdahl and myself detailing our position that a co-defendant in a bankruptcy could testify about the assets of a co-defendant and that the stay does not extend to the co-defendant who is NOT in the bankruptcy.

Because I knew that the Judge was still hostile towards me, I asked Mr. Grytdahl to argue it. Mr. Grytdahl provided the brief to the Judge who took it into his chambers for about 3 minutes. He returned and explained to us that he had spoken to Judge David Kennedy, a bankruptcy judge and even Judge Kennedy "agreed that we could not proceed against either defendant". He also spent a great deal of time criticizing my actions and my tone in his court. I sought permission to speak twice and both times he said that I was not allowed to speak. He ruled that because the Plaintiff had "unclean hands" he was dismissing both subpoenas and would issue a written order stating his grounds. The Judge retired to his chambers. I have provided an Affidavit of attorney Jay Grytdahl to confirm this. (Exhibit E).

On the way out of the Court room, the defendants began to curse at me and taunt me and also tore up the subpoena's that had been issues. I said to one of them, "Oh, I'll get you" in response to their shouting at me. I also told them to "get out of the court room" as they were physically blocking the door daring me to approach them. This was seen and heard by Judge Donald's court clerk who was still in the court room.

After this happened, I called attorney Michael Bursi and told him. He suggested that he and I visit Judge Donald on October 12, 2011 and try to smooth things over. When we got there, Judge Donald told Mr. Bursi that even his court officers, (who are evaluated by him yearly), agreed that I had been disrespectful to him. Mr. Bursi said that I was here to apologize. Judge Donald said that he would not accept my apology because it was not sincere. Mr. Bursi respectfully disagreed and said that it was apparent that I was sincere because I had contacted him and requested that he go with me to apologize. Nevertheless, Judge Donald said that he did not have a problem with Mr. Bursi but that he DID have a problem with me. I asked if I could say something. Judge Donald said No, I am may not speak. Judge Donald referenced the incident involving the taunts by the defendants to me and said that he was going to find out if I said "I'll get you" to the Defendants after court ended.

On October 14, 2011, Mr. Grytdahl received a letter from Judge Donald. (Exhibit D) In that letter, Judge Donald scheduled a hearing on October 27, 2011. Specifically, he is re-opening the Court's consideration of Plaintiff's right to depose Mrs. Mathews. Judge Donald sent this letter and gave notice to Mr. Grytdahl and both Defendants but failed to contact me or give me notice of the hearing even though I am the attorney of record on this case. It would appear to me that Judge Donald, again, does **NOT WANT TO HEAR FROM ME**.

I believe that Judge Donald has violated Canon 2 which states that a Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.

I believe that Judge Donald has violated Canon 2 (A) which states that a judge shall 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.

I believe that Judge Donald has violated Canon 3 (B) (2) which states that a judge shall be faithful to the law and maintain professional competence in it.

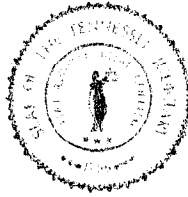
I believe that Judge Donald has violated Canon 3 (B) (4) which states that a judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

I believe that Judge Donald has violated Canon 3 (7) which states that a judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

I believe that by his own admission, Judge Donald has violated Canon 3 (7) (B) which states that a judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

I have never been spoken to or treated the way that Judge Donald treated me. I feel like he is in violation of the Judicial Code of Conduct. His attitude towards me was tyrannical. I fear that if I appear in his Court again, he will continue his path of hatred and dislike thereby prejudicing future cases I have before him.

What really surprises me is that he would not accept a show of remorse and then scheduled a hearing on MY case without giving me notice. Also the fact that he continues to refuse to let me speak, whether in Court or in Chambers is against public policy and is unfair to my client. I hope that you will investigate this claim and if necessary, ask Judge Donald to conform his future actions to the Code of Judicial Conduct.



## THE TENNESSEE COURT OF THE JUDICIARY

TIMOTHY R. DISCENZA  
Disciplinary Counsel

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NASHVILLE, TN 37205  
Phone (615) 925-2888  
E-Mail: patrickjmchale@gmail.com

June 5<sup>th</sup>, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

PERSONAL/CONFIDENTIAL

The Honorable John Donald  
140 Adams Avenue, Room 110  
Memphis, Tennessee 38103

RE: Complaint of David Gold  
File No. 11-4762

Dear Judge Donald:

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 Gold 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 Gold of Memphis, Tennessee.
- (2) The complaint alleges that you were discourteous to Mr. Gold, that you did not accord him the right to be heard on a matter in which he was the attorney of record, and there has arisen the further question of whether you filed a complaint against Mr. Gold with the Tennessee Board of Professional Responsibility in retaliation against Mr. Gold for the complaint filed by Mr. Gold against you with the Tennessee Court of the Judiciary.
- (3) The canons or rules allegedly violated are Canon 2 (A), Canon 3 (B)(4) and Canon 3(7) of the Code of Judicial Conduct as set forth in Rule 10 of the Rules of the Supreme Court of Tennessee, with the provision that the 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. You may rely upon the responses that you have already filed as part of this response. An additional response regarding the allegation that you filed a disciplinary complaint against Mr. Gold in retaliation against him is required.

(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,

  
Timothy R. Discenza  
Disciplinary Counsel

cc: Investigative Panel

**EXHIBIT B**

December 2, 2011

Mr. Timothy R. Discenza  
Disciplinary Counsel  
Tennessee Court of the Judiciary  
P.O. Box 50356  
Nashville, TN 37205

RE: Complaint of David Gold against John A. Donald  
File No. 11-4762

Dear Mr. Discenza:

**First, Mr. Gold has filed a knowingly false complaint against me, possibly, even, seeking my dismissal as the Judge presiding over issues then being considered by my Court.**

**Secondly, it also appears that Mr. Gold has knowingly, or with reckless disregard to the truth, falsely stated the facts of his affidavit; and**

**Thirdly, an investigation is warranted as to whether Mr. Gold, and Mr. Jay L. Grytdahl, in complicity, had practiced law or established a law firm, prior to Mr. Gold being authorized to practice law again by our state Supreme Court.**

**Fourthly, after my discussion with attorney Mike Mitchell, whose statement is attached hereto as, Attachment #1, and to be addressed again herebelow, it appears that if Mr. Gold is the attorney referenced in my Attachment #2, Mr. Gold's reinstatement to practice law or to establish a law firm, only "became effective December 20, 2010."**

Further, as shown below, it appears by Mr. Jay L. Grytdahl's own admission that, contrary to what I believed on September 29, 2011 he was a member, at all times a "member" of the Gold Law Firm. (See Attachment #3, Mr. Grytdahl's letter to me with the envelope in which it was enclosed.)

These concerns being first stated, I respond to Mr. Gold's complaint as follows:

First, nowhere in the file is Mr. Gold reflected as counsel of record, as he alleges in his complaint, but that the initial judgment was obtained by attorney Dwight T. Moore, and



the subpoena in aid of discovery were all issued by attorney Jay L. Grytdahl, (I enclose herewith the Court File, marked Attachment #4.)

I raise this as an issue as Mr. Gold's and Mr. Grytdahl's claims of judicial misconduct of my treatment of Mr. Gold by not allowing him to address the Court, and why Mr. Gold believes it necessary to assert himself as the plaintiff's attorney, when he initially presented himself as appearing on behalf of attorney Jay Grytdahl.

The first subpoena was issued on May 26, 2011, commanding the defendant's appearance on June 9, 2011. When the defendants failed to appear, out of courtesy to them, Judge Phyllis Gardner wrote to them advising them that the case had been reset for June 30, 2011.

On June 30, 2011, the defendants, again, did not appear whereupon a *Scire Facias* was issued by the Clerk on July 1, 2011, commanding the defendant's appearance on July 28, 2011.

On July 28, 2011 the defendants appeared as commanded. However, with the plaintiff's attorney failure to appear, the Special Judge, George Higgs, dismissed the *Scire Facias*.

On August 1, 2011, the clerk, at the request of Mr. Jay L. Grytdahl, counsel of record for the plaintiff, not Mr. Gold, issued another subpoena to the defendants commanding their appearance on August 12, 2011. On August 12, 2011 the matter was rescheduled for September 29, 2011.

On September 29, 2011, for the first time, the matter was assigned to my division and the following occurred:

When I called the case, determining that it involved a subpoena authorized by T.C.A. §16-15-712, as amended in 1999, Mr. Gold, who I had never met but assumed to be a young attorney appearing on behalf of Mr. Grytdahl, appeared on behalf of the plaintiff, as did the defendants, *Pro Se*, where as is customarily done, I suggested that the defendants and Mr. Gold discuss the subpoena outside of the courtroom to see if Mr. Gold could obtain the information requested in the subpoena filed by Mr. Grytdahl without the necessity of putting the defendants on the witness stand. All parties agreed to this request!

After a brief meeting outside my Courtroom, while I handled other matters before the Court, the parties returned to my Courtroom where I inquired if they considered the subpoena "satisfied."

At that point, before a Courtroom full of litigants and attorneys, Mr. Gold spoke as follows (Paraphrasing):

"Judge, **these people** don't believe that they owe the debt. **You need** to tell them that they owe the debit and need to pay it."

Then, Mr. Gold was very, very rude. (See Attachment #5, the statement of Mr. Matthews which accurately sets forth how Mr. Gold responded toward them and characterized them.) (See Attachment #1, attorney Mike Mitchell's letter and attachments, the statement of my court deputy, Attachment #9, and the clerk assigned to my Court on September 29, 2011, Attachment #6.)

Politely and courteously, I advised Mr. Gold that I had no authority to command a defendant to pay a debt and that all I was allowed to do was put the defendant on the witness stand for his examination.

Thereafter, Mr. Matthews was "sworn in" and directed to take the witness stand, which he did, with Mr. Gold's first and only inquiry if Mr. Matthews had brought with him the documents requested by the subpoena. When Mr. Matthews indicated that he had not brought the documents, I halted his examination, explaining to Mr. Matthews Mr. Gold's right to those documents. Then, when I asked Mr. Matthews if he had the documents requested, and proposed that I reset the case to another date for him to provide same, Mr. Matthews presented to me a copy of the enclosed "Order on Motion to Add Pre-Petition Unsecured Creditor to Chapter 13 Bankruptcy." (Attachment #7)

Thereafter, upon review of the "Court File," I discovered notice of Mr. Matthew's bankruptcy had been filed with the Clerk of our Court on June 2, 2011. (See Attachment #8). I then asked Mr. Gold if he was aware of Mr. Matthew's bankruptcy filing, where Mr. Gold indicated that he was and, further, that they were receiving payments under the plan!!! Believing that the U.S. Bankruptcy Court had exclusive jurisdiction over the estate of Mr. Matthews, at this point, I politely asked Mr. Gold if he had legal authority which allowed him and the court to require Mr. Matthew's examination, where Mr. Gold, in a very abrasive and disrespectful manner and tone responded, "Yes I do!" (See Attachment #9, statement of deputy Williams.)

With Mr. Gold indicating he had legal authority, I asked, not demanded, that he provide me with his legal authority, specifically advising him that I was not knowledgeable of our U.S. Bankruptcy laws and, as in the past, would seek to research the laws through Judge David Kennedy.

After Mr. Gold indicated that he had the legal authority, I asked him how long it would it take him to provide me with his authority. I was surprised when Mr. Gold requested only one week, as my time to research the law was limited.

Immediately upon leaving the Bench, on September 29, 2011, I wrote the September 29, 2011, letter to Judge Kennedy. And, as my letter to Judge Kennedy reflects, I did not identify the parties, the lawyer, or the case number but only requested his assistance in my research of applicable bankruptcy laws. (See Attachment #10.)

Thereafter, on or about October 5, 2011, Judge Kennedy and I discussed the legal issues that concerned me. Judge Kennedy then faxed to me applicable laws, with the cover letter's "memo" of the basis of his comments. Please note that Judge Kennedy did not

pass on issues of fact but only issues of law to be applied based on my findings of fact! (See Attachment #11, which also contains Judge Kennedy's response to my request of a statement from him to Mr. Gold's complaint.)

On October 6, 2011, Mr. Grytdahl, plaintiff's counsel of record, appeared before my Court where he presented to me his "Brief of the Plaintiff." I then took a recess to my chambers to read Mr. Grytdahl's "Brief."

Upon returning to the Bench, with only the defendants, Mr. Grytdahl, Mr. Gold and Court staff present, Mr. Grytdahl submitted arguments on his "Brief," beginning first by indicating that Mr. Gold was not familiar with our U.S. Bankruptcy laws. At that point, I noticed Mr. Grytdahl of Mr. Gold's claim that he was and, then, of Mr. Gold's conduct toward this Court, believing that Mr. Gold was his assistant, believing that Mr. Gold was his employee, not Mr. Gold being his employer.

I then noticed Mr. Grytdahl of my research on the legal issues, my conversation with Judge Kennedy, and the legal authority provided to me by Judge Kennedy.

Mr. Grytdahl's "Brief" and arguments addressed principally 11 USC §362, whereupon I shared with him my opinion of the law based on laws provided to me by Judge Kennedy, citing, in particular, 11 USC §362 (a)(i), and (k)(i); 11 USC §1327(a); 11 USC §1329(a)(i); 28 USC §1334(e); 11 USC §1306(a)(2); and Bankruptcy Rules 2004 (a) (b) (c); governing the examination of Mr. Matthews in the Bankruptcy Court, all set forth in Attachment #11, emphasizing the highlights/underlining made by Judge Kennedy for my particular consideration.

After these presents to Mr. Grytdahl, Mr. Grytdahl admitted that he, too, was not a bankruptcy attorney and then argued, professionally, I add, his right to examine Mr. Matthews as to the assets of Mrs. Matthews who was not under bankruptcy. I then questioned the veracity of his argument, indicating to him, again, Mr. Gold's comments on September 29, 2011, the unprofessional presentation of his comments and the fact that Mr. Gold, then sought examination of Mr. Gold only. I then noticed Mr. Grytdahl of what I believe to be inherent powers of a Court to "draw legal inferences based on its findings of fact!"

At that point, Mr. Gold would request to address the Court to which my response was, "No, Sir," considering that the issues under discussion were issues of law, of which he had previously indicated to the Court that he had no knowledge. I emphasize that I was most courteous in a two-word response. (See Attachment #12 and Attachment #6, the statement of Deon Allen, my clerk assigned to my Court on October 16, 2011, and that of Evelyn Perkins, previously submitted.)

After adjourning to my chambers with my Court deputy, within minutes my clerk, Ms. Allen, rushed to my door indicating that Mr. Gold had requested my deputy. When I asked why and/or what had happened, my clerk advised me that Mr. Gold had confronted Mr. Matthews inside my Courtroom, and Mr. Gold said, "We are going to get you!" and

he ordered Mr. Matthews to, "Leave Judge Donald's courtroom," provoking Mr. Matthews to anger with Mr. Matthews telling Mr. Gold, "Fuck you, boy!" (Reference made again to Ms. Allen's statement, Attachment #12.)

Thereafter, I wrote my October 11, 2011, letter to Mr. Grytdahl, Attachment #14. Query, what is written therein that constitutes improper judicial conduct? Was I not only respectful, but also accommodating to Mr. Grytdahl? Then, is it not within the powers of judges to "re-open" hearings on issues of fact?

After mailing the aforesaid letter, on or about a day later, October 12, 2011, Mr. Gold, with attorney Michael Bursi, made an unannounced and uninvited visit to my chambers while I ate my lunch, where I, first, advised them of my October 11, 2011, to Mr. Grytdahl. (I emphasize this fact not to object to their visit, but to submit that the visit was made because Mr. Gold wanted to apologize. Yet in his complaint, Mr. Gold "complains" of treatment toward him in my chambers.)

Let me emphasize, as my hereafter letter dated to Mr. Bursi reflects, I assumed that Mr. Bursi was intervening to explain what I regarded as unethical or unprofessional conduct of Mr. Gold!

At the meeting in my chambers, not in open Court, I had a "no-holds-barred" conversation with Mr. Bursi, advising Mr. Bursi in Mr. Gold's presence that I considered Mr. Gold's actions to be totally unprofessional and that he had serious disrespect of this Judge and the Matthews. All my dialogue was directed to Mr. Bursi.

After our meeting my deputy advised me and Mr. Bursi later acknowledged, of a meeting with Mr. Bursi, where he gave Mr. Bursi a descriptive account of Mr. Gold's conduct toward the Court and his concern of security when Pro Se litigants are provoked to anger.

It further appears, that immediately after Mr. Gold left my chambers on October 12, 2011, he prepared the complaint that I have been caused to address.

Indeed, I ask that you consider the date of Mr. Grytdahl's affidavit, submitted with Mr. Gold's complaint, the date sworn to being October 13, 2011

Subsequent to my October 12<sup>th</sup> meeting with Mr. Bursi and Mr. Gold, I received Mr. Grytdahl's October 14, 2011 letter, also notifying this Court that he had filed a "Motion to Withdraw" from the case, that he was leaving the Gold Law Firm, and that he had noticed the Matthews and their attorney, Tommy L. Fullen, Esq. (See Attachment #15)

For the first time, it appeared to me that Mr. Grytdahl was possibly a member of the Gold Law Firm or that he was employed by Mr. Gold.

After receipt of Mr. Grytdahl's letter, realizing that Mr. Gold would be left to continue to pursue the issues on the October 27<sup>th</sup> date scheduled, I wrote to Mr. Bursi my October 19, 2011 letter, enclosed herewith as Attachment #16.

Subsequently, on October 25, 2011, Mr. Bursi appeared in chambers where we discussed my October 19, 2011, letter and concluded that Tennessee law allowed a party to take “non-suits” at any time prior to a final ruling of the Court. I, then, agreed to allow Mr. Bursi to, by “Consent Announcement via Facsimile” to enter a “Voluntary Non-Suit at Plaintiff’s Cost,” (subpoena duces tecum,) on October 25, 2011. (See Attachment #17.)

Immediately thereafter, I wrote the Matthews advising them of the dismissal so as to avoid their leaving work to appear in Court on October 27, 2011. (See Attachment #18.)

It was on Friday, October 28, 2011, three days later, that I received Mr. Gold’s complaint against me. Because I did not believe that Mr. Bursi was aware of Mr. Gold’s complaint for if I were aware of Mr. Gold’s complaint, I made the requests of him by my letter dated November 15, 2011, with his response, enclosed as Attachment #19.

Further, I enclose, herewith, a copy of Judge Kennedy’s letter setting forth his account of our conversation. (See Attachment #20.)

Further, in unnumbered paragraph 3 on page 2 of his complaint, Mr. Gold obviously, as a “pre-emptive” attempt to discredit the sheriff deputy assigned to my Court, blatantly alleged what he knows not to be true – that they “are evaluated by him (me) yearly.” I enclose herewith a statement from the Shelby County Sheriff’s office which reflects what is of common knowledge. (See Attachment #21.)

Further still, Mr. Gold’s claim that my consulting Judge Kennedy rendered me in violation of Canon 3 (7)(B) is so absurd that obviously Mr. Gold’s motives must be considered. Ostensibly, Mr. Gold accuses not just me, but also Judge Kennedy of judicial misconduct, notwithstanding his being presumed knowledgeable of Canon 3 (B)(7)(c). Then, too, he is untruthful when he claims that I did not advise him that I was not a bankruptcy judge, and would seek legal authority from Judge Kennedy.

Indeed, members of our profession welcome a Judge who lacks knowledge of certain areas of laws seeking legal research by any means, especially by someone with superior knowledge of the law.

In conclusion, I submit that Mr. Gold has knowingly filed a false complaint against me and cite In Re Reed, 716 N.E.2d 426 (Ind. 1999). Mr. Gold evidences no respect for Judges and complete disrespect to our profession when he assumes he can use this tribunal to challenge the authority of Judges with whom he disagrees.

Respectfully submitted,

Judge John A. Donald

---

**ATTACHMENT #1**

**(Statement from attorney Mike Mitchell)**



November 15, 2011

To Whom it May Concern:

RE: court date September 29, 2011  
Shelby County General Sessions, Division 3, Honorable John A. Donald presiding

Dear Sirs:

This letter is being sent as I was a witness the events in Division 3 of the General Sessions Court of Shelby County Tennessee on September 29, 2011. I was in that court that day as I was the creditor's attorney on a case that needed to be dropped from the calendar, as the defendant was in a chapter 13 bankruptcy. I saw the events that transpired between Judge Donald and an attorney that I did not know, but later found to be David Gold.

Judge Donald took the bench, and as customary asked for announcements, then proceeded to call the docket. When he called the case with Mr. Gold, Mr. Gold arose and said he was ready. He then approached the lectern. At this point Mr. Gold proceeded to raise his voice and told Judge Donald that he had a judgment against the defendants and that the defendants did not want to pay. He then told Judge Donald that he was to tell the defendants that they had to pay and the judgment was valid and that the plaintiffs were entitled to their money. I might add the entire time he was talking Mr. Gold was waiving his arms about dramatically. Mr. Gold's behavior was certainly inappropriate and I have never seen an attorney literally tell a Judge what he was to do in his own court room. You could have heard a pin drop as it was obvious the clerk, the baliff, and all witnesses were stunned by Mr. Gold's behavior.

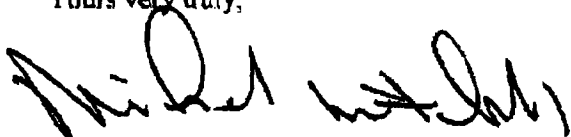
Judge Donald was obviously shocked as well. He didn't say anything for a few seconds, but then calmly told Mr. Gold that he had been on the bench for over 26 years and that no one had ever told him what he had to do and that he found Mr. Gold's demeanor "disrespectful to the court". Judge Donald didn't yell and was very polite, and in my opinion very restrained, given the circumstances. At that point Mr. Gold apologized to the court. Then Judge Donald went on to say that his job was set out by the legislature and that he was to be impartial and could not take sides. He commented to Mr. Gold that to do as Mr. Gold requested was tantamount to his enforcing a judgment for the plaintiff, and that was beyond the scope of his authority. Judge

Donald said the only thing before him that day was a subpoena in aid of judgment and all he could do as an impartial jurist was swear the defendants in and allow Mr. Gold to examine them under oath. He told Mr. Gold that if he was ready, that he would get back to his case at the end of the docket call. I emphasize that at no point did Judge Donald do anything even remotely inappropriate. Many Judges would have held Mr. Gold in contempt for his demeanor.

Shortly thereafter, my case was called and I left the courtroom. I was so flabbergasted by the behavior of this attorney, that I checked the docket outside the courtroom to ascertain this attorney's name. I then did a search online as I was not familiar with Mr. Gold. I checked the Board of Professional Responsibility's website ([www.tbpr.org](http://www.tbpr.org)) and found out Mr. Gold had practiced in Nashville previously prior to losing his license, and evidently has started a practice here in Memphis.

Please feel free to contact me if you need any further information.

Yours very truly,



Michael W. Mitchell

MWM/mm  
Enc.



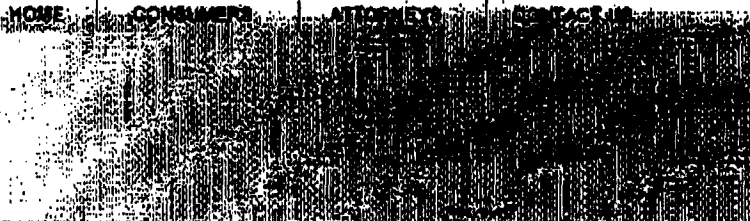
**ATTACHMENT #2**

**(Reference to Mr. Gold being reinstated)**



Board of Professional Responsibility  
of the Supreme Court of Tennessee

SiteMap | Search | Press Release Login | Attorney Portal



### Attorney Details

**Mr. David Alan Gold**  
2884 WALNUT GROVE RD  
MEMPHIS, TN 38111-2714  
BPR Number: 019088  
Status: Active  
Office County: SHELBY  
Year of Birth: 1969  
Licensed in TN Since: 1998  
Law School: NASHVILLE

States in which the Attorney is Licensed:  
(No Additional States Found)

Informational Releases for Public Discipline (distinguished by blue links on the date):

Date	Title
01/05/2011	Nashville Attorney Reinstated
12/20/2010	Supreme Court Order of Reinstatement
06/09/2010	Petition for Reinstatement filed (SG)
10/13/2009	Davidson County Lawyer Suspended
09/30/2009	Suspended 4 years 9 months retro to 1/7/05
01/13/2005	Nashville Lawyer Suspended
12/21/2004	Section 14 petition filed (SG).

Names Used:

Name
David Alan Gold
David Alan Gold

[\[Search Again\]](#)

\* Information accurate as of Friday, November 11, 2011 4:11 PM



**ATTACHMENT #3**

**(Attorney Jay Grytdahl's letter to Judge John  
Donald & the envelope)**



LAW OFFICE OF DAVID GOLD

JAY L. GRYTDAHL  
ATTORNEY AT LAW

October 14, 2011

Hon John A. Donald  
Shelby County Court of General Sessions  
140 Adams Street  
Memphis, TN 38103

Re: Gridiron of Memphis LLC v. Patrick and Tracy Mathew  
Case No. 1319727

Dear Judge Donald:

Thank you for your letter of October 11<sup>th</sup>, which I received on October 14<sup>th</sup>. I also want to thank you for your kind words. I have always tried my utmost to conduct myself professionally in and out of the courtroom.

As it so happens, my motion to withdraw from this case had already been placed in the file when I received your letter. I have been in the process of wrapping up my files with the Gold Law Firm in light of my acceptance of a position elsewhere. My last day in the office was October 14<sup>th</sup>. Accordingly, I will no longer be participating in this case.

I have provided a copy of your letter to Mr. Gold. I am sending a copy of this letter to Mrs. Mathew and to Mr. Fullen on behalf of Mr. Mathew.

With kindest regards, I remain

Sincerely,

Jay L. Grytdahl

cc: The Law Offices of Tommy L. Fullen  
5104 Stage Rd  
Memphis, TN 38134

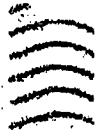
Tracy Mathew  
3111 S. Perkins  
Memphis, TN 38118



Law Office of David Gold  
2884 Walnut Grove Road  
Memphis, TN 38111

MEMPHIS TN 381

17 OCT 2011 PM 2 T



Hon John A. Donald  
Shelby County Court of General Sessions  
140 Adams Street  
Memphis, TN 38103

381 03#2093



**ATTACHMENT #4**

**(Court File)**

**IN THE SHELBY COUNTY  
COURT OF GENERAL SESSIONS**

Griction of Memphis, LLC  
Plaintiff )

Civil No. 1319727

VS. Patrick Matthews et al.  
Defendant s. )

Set On 10/27/11  
10:00 AM  
Div. III

**CONSENT ANNOUNCEMENT VIA FACSIMILE**

I hereby request, that the above case, by agreement of all the parties, and with permission of the court:

- 1. Be continued to \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M
- 2. Be dropped from the calendar
- 3. Be voluntarily non-suited at plaintiff's cost (BY SPONTANEOUS DUCESS TECHNIQUE)
- 4. Be dismissed with prejudice at plaintiff's cost
- 5. Be dismissed with prejudice at defendant's cost
- 6. Pursuant to Court Rule V have judgment entered as follows:

**SEE ATTACHED CONSENT ORDER**

By my signature I hereby certify to the court that I am licensed to practice law in the state of Tennessee and that the above announcement is made with the express consent of all the parties.

[Signature]  
Attorney for Plaintiff (Please sign)  
Plaintiff/defendant

10/25/11  
Date

F. Michael Bursi  
Please print of type attorney's name here

004351  
B.P.R. number

(Transmit facsimile to (901) 545-5062) Please see next page for important instructions



**GENERAL SESSIONS COURT**  
**COUNTY OF SHELBY, STATE OF TENNESSEE**  
COURTHOUSE, 140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103

**JOHN A. DONALD**  
JUDGE OF DIVISION III

October 25, 2011

Mr. & Mrs. Patrick Mathews  
3111 S. Perkins  
Memphis, TN 38118

Mr. & Mrs. Patrick Mathews  
3302 Ridge Cap Drive  
Memphis, TN 38115

RE: GRIDIRON OF MEMPHIS, INC. V PATRICK & TRACY  
MATHEWS d/b/a BEST WINGS IN TOWN  
GENERAL SESSIONS NO. #1319727

Dear Mr. & Mrs. Mathews:

As the enclosed announcement indicates, the Subpoena Duces Tecum against you has been voluntarily dismissed. Therefore, you need not appear in court on Thursday, October 27, 2011, as previously planned.

Respectfully requested,

*J. Donald* (JS)

Judge John A. Donald

cc: Mr. Michael Bursi  
Mr. Jay Grytdahl





Adams

IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE  
GENERAL SESSIONS COURT  
OTIS JACKSON, JR., CLERK

2011 AUG 10 10:58 RECUM  
SUBPOENA DUCES TECUM

2011 JUL 29 P 12:29

RETURNED

GRIDIRON OF MEMPHIS, LLC  
Plaintiff(s)  
  
vs  
  
Patrick and Tracey Mathew d/b/a  
Best Wings in Town  
Defendant(s)

1319727  
Docket No.

Issued day of 10-25-11

To the Sheriff of Shelby County,  
Greetings:

You are hereby commanded to summon, Patrick Mathew a/ka/ Patrick A. Matthews and Tracey Mathew a/k/a Tracy Matthews, d/b/a/ Allstars Hotwings f/k/a Best Wings in Town, 3111 S. Perkins Rd, Memphis (Bus. Loc 1); 7537 Hwy 64, Memphis, TN (Bus Loc. 2); 3302 Ridge Cap Drive, Memphis, TN (Home) personally to be and appear on Friday the 12th day of August year 2011 at 10:00 o'clock A M., before the Judge of the General Sessions Court of Shelby County, Division \_\_\_\_\_ now sitting at the Courthouse, 140 Adams, Memphis, Tennessee and there in open court to testify and give evidence for the plaintiff in the above styled case **AND BRING WITH YOU THE DOCUMENTS AND INFORMATION LISTED ON THE ATTACHED SHEET WITH REFERENCE TO THE ABOVE DEFENDANTS.** This you will in no wise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ.

AUG 01 2011, year \_\_\_\_\_ Otis Jackson Jr., General Sessions Court Clerk  
By A Matthews D.C.

Came to hand and executed as commanded on: Tracey Mathew (aka Tracey Matthews d/b/a Allstars Hotwings f/k/a Best Wings in Town)

This 9 day of August year 2011 9:45 AM

Sheriff/ Private Process Server  
By Barry McLeavelle

Attorney: Jay L. Grytdahl (G23449)  
Address: 2884 Walnut Grove Rd, Memphis, TN 38111  
Phone: 901.489.3014

For Assistance  
(ADA COORDINATOR)  
(901) 379-7890



IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE

ATTACHMENT TO SUBPOENA DUCES TECUM

GRIDIRON OF MEMPHIS, LLC

Plaintiff(s)

vs

Patrick and Tracey Mathew d/b/a  
Best Wings in Town

Defendant(s)

1319727

Docket No.

Issued \_\_\_ day of \_\_\_\_\_ 20 \_\_\_

1. Any and all documents which reflect the name, location, account number, or current balance of any bank accounts (individually and/or jointly, personally and/or commercially) on which you have been authorized to deposit to or draw funds from during 2009, 2010 and 2011 or into which it has been deposited any funds belonging to you at any time during said years.
2. Any and all financial statements which have been prepared by or for you, during 2007, 2008, 2009, 2010 and 2011, whether submitted in connection with any loans, business interests or otherwise.
3. Complete copies of all of your tax returns, for the years 2006, 2007, 2008 and 2009, 2010, including but not limited to, all federal, state, and other supporting documentation and schedules.
4. Any and all documents which reflect the name, location and account number of any investment account, money market account, or any type of cash builder account from which you have been authorized to draw funds or into which it has been deposited any funds for the years 2007, 2008, 2009, 2010 and 2011.
5. Any and all documents which reflect any stocks, bonds, savings bonds or other government issued bonds, certificates of deposit, debentures or other securities owned by you for the years 2007, 2008, 2009, 2010 and 2011.
6. Copies of any deeds reflecting any interest you have in any real property, wherever situated.
7. Copies of any titles reflecting any interest you have in any vehicle, wherever situated, or any vehicle that you have access to on a daily basis.
8. The name, local address and corporate address (if applicable) and phone number of your employer(s), or any organization which pays you on a regular basis (such as annuity payments, retirement payments, etc.).
9. A list of all tangible, personal property owned by you, including, but not limited to, furniture, appliances, audio/video equipment, boats, motors, tools, ATV's, sporting goods, guns, computer equipment etc., or that you have any interest in, wherever situated and their locations.
10. The names and addresses of all persons or organizations that you are currently doing business with, or have done business with, in any capacity, within the last six months, including, but not limited to vendors, customers, etc.

ADAMS PRIVATE PROCESS SERVICE  
6025 STAGE ROAD STE 42-284  
BARTLETT, TN 38134

(901) 487-8292

AFFIDAVIT OF PROCESS SERVER

STATE OF TENNESSEE

COUNTY OF SHELBY

I, **BARRY MARTINDELL** BEING FIRST DULY SWORN AND MAKE OATH AS  
FOLLOW. I HAVE SERVED THE DOCUMENT (S) ON THE RECIPIENT.

COURT: GS. DOCKET NO: 1319727

RECIPIENT: Patrick Mathew aka Patrick A. Mathew d/ba Allstars Hotwing f/k/a Boatwinger in Town

DOCUMENT: Subpoena

DATE & TIME OF SERVICE 8-9-11 945 AM

ADDRESS OF SERVICE: 3111 S. Parkers

I FURTHER STATE THAT I AM OVER THE AGE OF TWENTY ONE AND THAT I  
HAVE NO INTEREST IN THIS MATTER.

*Note: Mr. Mathew tore up subpoena and put it in trash can, and claimed  
He paid \$2,200.00 and all this had been "dismissed"*

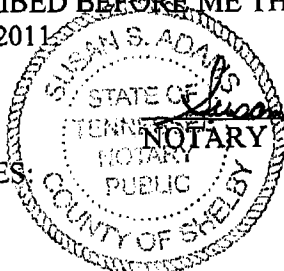
Barry Martindell  
PROCESS SERVER

STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 9<sup>th</sup> DAY OF  
August, 2011

MY COMMISSION EXPIRES:

Dec 16, 2013





IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE

2011 AUG 10 AM 10:15

GENERAL SESSIONS COURT  
OTIS JACKSON, JR. CLERK

SUBPOENA DUCES TECUM  
RETURNED

2011 JUL 29 P 12:29

GRIDIRON OF MEMPHIS, LLC  
Plaintiff(s)

VS

Patrick and Tracey Mathew d/b/a  
Best Wings in Town  
Defendant(s)

1319727  
Docket No.

Issued      day of AUG 01 2011

To the Sheriff of Shelby County,  
Greetings:

You are hereby commanded to summon, Patrick Mathew a/ka/ Patrick A. Matthews and Tracey Mathew a/k/a Tracy Matthews, d/b/a/ Allstars Hotwings f/k/a Best Wings in Town, 3111 S. Perkins Rd, Memphis (Bus. Loc 1); 7537 Hwy 64, Memphis, TN (Bus Loc. 2); 3302 Ridge Cap Drive, Memphis, TN (Home) personally to be and appear on Friday the 12th day of August year 2011 at 10:00 o'clock A M., before the Judge of the General Sessions Court of Shelby County, Division      now sitting at the Courthouse, 140 Adams, Memphis, Tennessee and there in open court to testify and give evidence for the plaintiff in the above styled case **AND BRING WITH YOU THE DOCUMENTS AND INFORMATION LISTED ON THE ATTACHED SHEET WITH REFERENCE TO THE ABOVE DEFENDANTS.** This you will in no wise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ.

AUG 01 2011, year     

Otis Jackson Jr., General Sessions Court Clerk

By A Matthews D.C.

Came to hand and executed as commanded on: Patrick Mathew a/ka Patrick A. Matthews d/b/a Allstars Hotwings f/k/a Best Wings in Town

This 9 day of August year 2011 9:45 AM

Sheriff/ Private Process Server

By Barry Martindell

Attorney: Jay L. Grytdahl (G23449)

Address: 2884 Walnut Grove Rd, Memphis, TN 38111

Phone: 901.489.3014



For Assistance

(ADA COORDINATOR)  
(901) 679-7890



**IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE**

**ATTACHMENT TO SUBPOENA DUCES TECUM**

GRIDIRON OF MEMPHIS, LLC  
Plaintiff(s)

vs

Patrick and Tracey Mathew d/b/a  
Best Wings in Town  
Defendant(s)

1319727

Docket No.

Issued \_\_\_ day of \_\_\_\_\_ 20 \_\_\_

1. Any and all documents which reflect the name, location, account number, or current balance of any bank accounts (individually and/or jointly, personally and/or commercially) on which you have been authorized to deposit to or draw funds from during 2009, 2010 and 2011 or into which it has been deposited any funds belonging to you at any time during said years.
2. Any and all financial statements which have been prepared by or for you, during 2007, 2008, 2009, 2010 and 2011, whether submitted in connection with any loans, business interests or otherwise.
3. Complete copies of all of your tax returns, for the years 2006, 2007, 2008 and 2009, 2010, including but not limited to, all federal, state, and other supporting documentation and schedules.
4. Any and all documents which reflect the name, location and account number of any investment account, money market account, or any type of cash builder account from which you have been authorized to draw funds or into which it has been deposited any funds for the years 2007, 2008, 2009, 2010 and 2011.
5. Any and all documents which reflect any stocks, bonds, savings bonds or other government issued bonds, certificates of deposit, debentures or other securities owned by you for the years 2007, 2008, 2009, 2010 and 2011.
6. Copies of any deeds reflecting any interest you have in any real property, wherever situated.
7. Copies of any titles reflecting any interest you have in any vehicle, wherever situated, or any vehicle that you have access to on a daily basis.
8. The name, local address and corporate address (if applicable) and phone number of your employer(s), or any organization which pays you on a regular basis (such as annuity payments, retirement payments, etc.).
9. A list of all tangible, personal property owned by you, including, but not limited to, furniture, appliances, audio/video equipment, boats, motors, tools, ATV's, sporting goods, guns, computer equipment etc., or that you have any interest in, wherever situated and their locations.
10. The names and addresses of all persons or organizations that you are currently doing business with, or have done business with, in any capacity, within the last six months, including, but not limited to vendors, customers, etc.

ADAMS PRIVATE PROCESS SERVICE  
6025 STAGE ROAD STE 42-284  
BARTLETT, TN 38134

(901) 487-8292

AFFIDAVIT OF PROCESS SERVER

STATE OF TENNESSEE

COUNTY OF SHELBY

I, **BARRY MARTINDELL** BEING FIRST DULY SWORN AND MAKE OATH AS  
FOLLOW. I HAVE SERVED THE DOCUMENT (S) ON THE RECIPIENT.

COURT: G.S. DOCKET NO: 131 9727

RECIPIENT: Tracey Mathew aka Tracy Matthews d/b/a Allstars Hotwing aka Best Burgers in Town

DOCUMENT: Subpoena

DATE & TIME OF SERVICE August 9, 2011 9:45 AM

ADDRESS OF SERVICE: 3111 S. Perkins

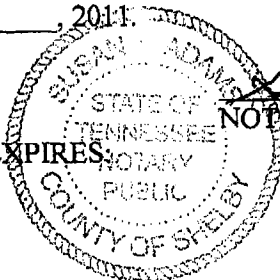
I FURTHER STATE THAT I AM OVER THE AGE OF TWENTY ONE AND THAT I  
HAVE NO INTEREST IN THIS MATTER.

Barry Martindell  
PROCESS SERVER

STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 9<sup>th</sup> DAY OF  
August, 2011.

MY COMMISSION EXPIRES  
Dec 16, 2013



Susan Adams  
NOTARY



IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE

SESSIONS COURT

GRIDIRON OF MEMPHIS

2011 JUL 12 AM 11:02

Plaintiff

RETURNED

Case No. **1319727**

VS.

Processor: Adams Susan

Patrick Mathew

Document Number: 11-018109

Defendant

SCIRE FACIAS CONTEMPT

TO ANY LAWFUL OFFICE TO EXECUTE AND RETURN:

You are here by commanded to summon

**Patrick Mathew, 3111 S PERKINS, 38118 7537 HWY 64, 38133 , MEMPHIS TN 38000**

to appear before the Court of General Sessions, 140 Adams Room 106, this date the **28th** day of **July, 2011** at **10:00 AM** to show cause, if any he has, why he should not be punished for contempt of court for his failure to appear and answer the lawful process of this Court on this date the **30th** day of **June, 2011**

**NOTICE**

**FAILURE TO APPEAR IN COURT ON THE ABOVE DATE WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST**

Issue Date: July 1, 2011

Attorney: DAVID GOLD, ATTY

Phone Number: 901-692-0645

Otis Jackson, Jr., Clerk

By: *Barkana Pace*

Deputy Clerk

Came to hand same day issued, and executed by serving a copy of the within Scire Facias on

And citing Patrick Mathew to appear before the named court of General Sessions  
For trial on the 28th day of July, 2011 at 10 o'clock  
A.M.



For Disability Assistance:

(901) 379-7890

Bill Oldham, Sheriff

By *Barkana Pace* D.S.

Date: July 11, 2011

ADAMS PRIVATE PROCESS SERVICE  
6025 STAGE ROAD STE 42-284  
BARTLETT, TN 38134

(901) 487-8292

AFFIDAVIT OF PROCESS SERVER

STATE OF TENNESSEE

COUNTY OF SHELBY

I, Barry Martindale II, BEING FIRST DULY SWORN AND MAKE OATH AS  
FOLLOW. I HAVE SERVED THE DOCUMENT (S) ON THE RECIPIENT.

COURT: GS DOCKET NO: 1319727

RECIPIENT: Tracy Mathew

DOCUMENT: Scire Facias

DATE & TIME OF SERVICE July 11, 2011 9:00 AM

ADDRESS OF SERVICE: 3111 S. Perkins

I FURTHER STATE THAT I AM OVER THE AGE OF TWENTY ONE AND THAT I  
HAVE NO INTEREST IN THIS MATTER.

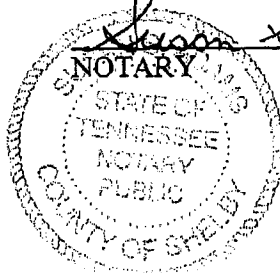
Barry Martindale II  
PROCESS SERVER

STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 11<sup>th</sup> DAY OF  
July, 2011.

MY COMMISSION EXPIRES:

My Commission Expires December 16, 2013







**IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE**

2011 JUL 12 AM 11:02

**GRIDIRON OF MEMPHIS**

Plaintiff

VS.

**Tracy Mathew**

Defendant

**RETURNED  
Case No. 1319727**

Processor: Adams Susan

Document Number: 11-018110

**SCIRE FACIAS CONTEMPT**

TO ANY LAWFUL OFFICE TO EXECUTE AND RETURN:

You are here by commanded to summon

**Tracy Mathew, 3111 S PERKINS, 38118 7537 HWY 64, 38133 , MEMPHIS TN 38000**

to appear before the Court of General Sessions, 140 Adams Room 106, this date the **28th** day of **July, 2011** at **10:00 AM** to show cause, if any he has, why he should not be punished for contempt of court for his failure to appear and answer the lawful process of this Court on this date the **30th** day of **June, 2011**

**NOTICE**

**FAILURE TO APPEAR IN COURT ON  
THE ABOVE DATE WILL RESULT IN  
A WARRANT BEING ISSUED FOR  
YOUR ARREST**

Issue Date: July 1, 2011

Attorney: DAVID GOLD, ATTY

Phone Number: 901-692-0645

Otis Jackson, Jr., Clerk

By: *Otis Jackson Jr.*

Deputy Clerk

Came to hand same day issued, and executed by serving a copy of the within Scire Facias on

And citing *Tracy Mathew* to appear before the named court of General Sessions  
For trial on the *28* day of *July*, 20*11* at *10* o'clock  
*A* .M.



For Disability Assistance:

(901) 379-7890

Bill Oldham, Sheriff

By *Bary M. Oldham* D.S.

Date: *July 11, 2011* *qy0Ae*

ADAMS PRIVATE PROCESS SERVICE  
6025 STAGE ROAD STE 42-284  
BARTLETT, TN 38134

(901) 487-8292

AFFIDAVIT OF PROCESS SERVER

STATE OF TENNESSEE

COUNTY OF SHELBY

I, Barry Martadell, BEING FIRST DULY SWORN AND MAKE OATH AS  
FOLLOW. I HAVE SERVED THE DOCUMENT (S) ON THE RECIPIENT.

COURT: GS DOCKET NO: 1319727

RECIPIENT: Patrick Mathew

DOCUMENT: Seize Facias

DATE & TIME OF SERVICE July 11, 2011 9:00 AM

ADDRESS OF SERVICE: 3115 Perkins

I FURTHER STATE THAT I AM OVER THE AGE OF TWENTY ONE AND THAT I  
HAVE NO INTEREST IN THIS MATTER.

Barry Martadell  
PROCESS SERVER

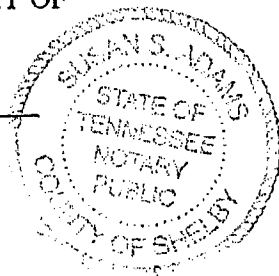
STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 11<sup>th</sup> DAY OF  
July, 2011.

Susan S Adams  
NOTARY

MY COMMISSION EXPIRES:

My Commission Expires December 18, 2013



Udams 11-

**IN THE SHELBY COUNTY COURT OF GENERAL SESSIONS**

08-756087  
08 756093

DETAINER WARRANT No. 1319727

GENERAL SESSIONS COURT  
OTIS JACKSON, JR. CLERK

To Any Lawful Officer to Execute and Return:

2008 OCT 22 A 11:02

STATE OF TENNESSEE, COUNTY OF SHELBY, TO THE SHERIFF OF SAID COUNTY

WHEREAS, Complaint has been made to me by the plaintiff(s) Gridiron of Memphis, LLC of a certain forcible entry and detainer, or an unlawful detainer, made by the defendant(s):

Patrick Mathew and Tracy Mathew #2 DEF.

unto certain lands or premises, in this county, described as follows, to wit:

3228 N. Thomas, Memphis, Tennessee

to which plaintiff(s) claims the right of possessions, and that defendant(s) unlawfully detain same. You are therefore commanded to summon the above named defendant(s) to appear before the Shelby County Court of General Sessions on a

TUESDAY at 10:00 A.M.,

to answer to the above complaint and further plea of debt in the amount of: \$4950.00

plus accrued rent, damages, and attorney fees, possession of the described real property and the cost of the cause, and any other sum which may become due before the hearing of this cause.

Issued 22 day of Oct, 2008

CLERK OF GENERAL SESSIONS By SH D.C.

OTIS JACKSON, JR.

**PLAINTIFF'S ATTORNEY INFORMATION**

B. David Sweetser (Name)

3225 Kirby Whitten Parkway, #6, Bartlett, TN 38134 (Address)

(G.S. Code No.)

012821 (B.P.R. No.)

(901) 628-8482 (Phone Number)

(901) 386-3605 (Fax)

**JUDGEMENT**

Judgment for the plaintiff that he/she be restored to the possession of the land or premises described in this warrant, and that a Writ of Possession issue therefore and also for \$ 14,367.65 and cost of the cause, for which let execution issue. Judgment is or is not based on a breach contract for failure to pay rent.

This 30 day of Sept, 2009

Judge, Division

**OFFICER'S RETURN**

Received 30th day of OCTOBER, 2007, Executed 1:00 PM 30th day of OCTOBER, 2008

OF AN ADULT PERSON FOUND IN POSSESSION OF PREMISES, WHO GAVE THE NAME OF

MR. PATRICK MATHEW

AND SERVING NOTICE THAT THE CASE IS SET FOR TRIAL BEFORE THE COURT OF GENERAL SESSIONS ON:

**COURT HEARING DATE AND TIME**

TUESDAY, THE 18th DAY OF NOVEMBER, 2008, AT 10:00AM

ROOM 106, SHELBY COUNTY COURTHOUSE, 140 ADAMS AVENUE, MEMPHIS TENNESSEE 38103

MARK LUTTRELL, SHERIFF By Richard [Signature] #175 SHELBY CO,

SERVED Ms. TRACY MATHEW DEF #2 AT 3111 S. PERKINS, MEMPHIS, TN ON 30TH OCTOBER 2008 AT 2:50 PM.

MAILED BY DEF #1

#1  
#1 DEFENDANT

## NOTICE

### NOTICE TO DEFENDANT(S):

Pursuant to Chapter 915 of the Public Acts of 1978 as amended by Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a four thousand dollar (\$4000.00) debtor's equity interest 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 property 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 a 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 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 be seized, you may have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek counsel of a lawyer.

### FAIR DEBT COLLECTION NOTICE

The Plaintiff named in this lawsuit has placed your account for collection and legal proceedings. Unless you dispute the debt or any portion thereof within thirty (30) days from the date you receive this summons, the debt will be assumed to be valid. If you notify the attorney for the Plaintiff within the thirty- (30) day period that you dispute the debt or any portion thereof and request verification, verification of the debt or a copy of the judgment will be forwarded. However, notwithstanding the claim for verification the lawsuit will be pursued at this time.



For Assistance  
TOM STONE  
(ADA COORDINATOR)  
(901) 379 - 7890  
Stone-1@co.shelby.tn.us

**ADAMS PRIVATE PROCESS SERVICE**  
**6025 STAGE ROAD STE 42-284**  
**BARTLETT, TN 38134**

**(901) 487-8292**

**AFFIDAVIT OF PROCESS SERVER**

STATE OF TENNESSEE

COUNTY OF SHELBY

I, **Richard Heen**, BEING FIRST DULY SWORN AND MAKE OATH AS FOLLOWS.

I HAVE SERVED THE DOCUMENT (S) ON THE RECIPIENT.

COURT: GEN. SESS DOCKET NO: 1319727

#1 RECIPIENT: MR. PATRICK MATHEW

DATE & TIME OF SERVICE 30 OCTOBER 2008 AT 1:00 P.M.

ADDRESS OF SERVICE 3228 N. THOMAS, MEMPHIS, TN

I am over the age of eighteen (18) and am not a party to or otherwise interested in this matter. 38127

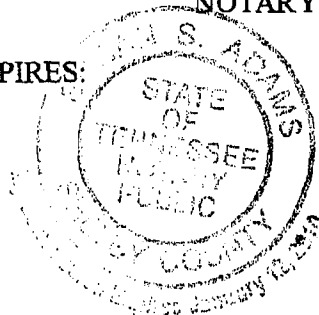
Richard Heen  
PRIVATE PROCESS SERVER

STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 31<sup>st</sup> DAY OF  
October, 2008.

Susan L. John  
NOTARY

MY COMMISSION EXPIRES:



**ADAMS PRIVATE PROCESS SERVICE**  
**6025 STAGE ROAD STE 42-284**  
**BARTLETT, TN 38134**

**(901) 487-8292**

**AFFIDAVIT OF PROCESS SERVER**

STATE OF TENNESSEE

COUNTY OF SHELBY

I, **Richard Heen**, BEING FIRST DULY SWORN AND MAKE OATH AS FOLLOWS.

I HAVE SERVED THE DOCUMENT (S) ON THE RECIPIENT.

COURT: GEN. SESS. DOCKET NO: 1319727

#2 RECIPIENT: MS. TRACY MATHEW

DATE & TIME OF SERVICE 30 OCTOBER 2008 AT 2:50 P.M.

ADDRESS OF SERVICE: 3111 S. PERKINS, MEMPHIS, TN 38118

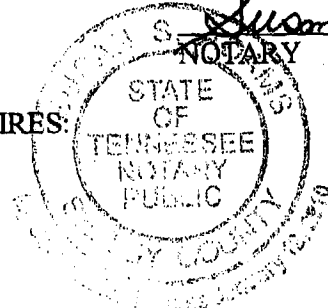
I am over the age of eighteen (18) and am not a party to or otherwise interested in this matter.

Richard Heen  
PRIVATE PROCESS SERVER

STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 31<sup>st</sup> DAY OF  
October, 2008.

MY COMMISSION EXPIRES:





IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE

Plaintiff(s) Gridiron of Memphis, LLC

VS.

Case ID: 1319727

Tracy Mathew  
&  
Defendant(s) Patrick Mathew

NOTICE OF CASE SETTING

OTIS JACKSON, JR.  
CLERK

COURT OF GENERAL SESSIONS  
140 ADAMS AVE., ROOM 106  
MEMPHIS, TN 38103

*sent on both  
on 10-30-08*

NOTICE TO LITIGANTS:

You are hereby notified to appear in the General Sessions Court, Civil Division, 140 Adams, Room 106,  
Memphis, Tennessee 38103 on Wednesday July 29, year 2009 at  
10:00 A.m.

I have given the defendant(s) a minimum of two weeks notice by sending a copy of this letter to the following address:

Patrick & Tracy Mathew

3302 Ridge Cap Drive / 3111 South Perkins  
Memphis, TN 38115 Memphis, TN 38118

Dwight T. Moore  
Attorney or Plaintiff's Signature  
Dwight T. Moore (#10813)  
901-377-0344

THIS CASE WAS PREVIOUSLY  
DROPPED FROM THE COURT  
CALENDAR. CIRCLE ONE.

Yes

No

CERTIFICATE OF MAILING

As the attorney or plaintiff, I hereby certify that a true and exact copy of the forgoing notice has been served upon the defendant or upon the defendant's attorney by this date placing the same in a properly addressed, stamped envelope and depositing for delivery with the United States Postal Service.

This the 13th day of June, year 2009



3816

IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE

GENERAL SESSIONS COURT  
OTIS JACKSON, JR., CLERK

Plaintiff(s) Gridiron Of Mphs LLC

2009 OCT -8 A 9: 22

VS.

Case ID: 1319727

Defendant(s) Tracy Matthews  
Patrick Matthews

NOTICE OF APPEAL

NOTICE OF APPEAL:

I, Tracy Matthews, Appellant do hereby give notice that I desire to appeal the decision rendered in this case on 1319727 to the Circuit Court, Shelby County, Tennessee.

Filing Fees Paid  Filed as Indigent

Appellant Signature: [Signature]

Otis Jackson, Jr., Clerk

By: [Signature]  
Deputy Clerk-General Sessions Court, Shelby County Tennessee

Date: Oct. 8, 2009

PARTY INFORMATION:

Name: Gridiron Of Memphis LLC  
Address: PO Box 341698 38184  
761 S. Buckley St Mphs TN 38104  
Phone No: 901 774 0482

Name: Tracy & Patrick Matthews  
Address: 3M S. Perkins Rd South  
Mphs TN 38118  
Phone No: 901 369 0504

Name: Dwight T. Moore  
Address: \_\_\_\_\_  
Phone No: 901. 377-0344



IN THE CIRCUIT COURT OF TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

---

GRIDIRON OF MEMPHIS, LLC  
Plaintiff/Appellee,

v.

NO.: CT-004903-09  
Division II

TRACY MATHEW and  
PATRICK MATHEW,  
Defendants/Appellants.

*W*

---

ORDER DISMISSING APPEAL AND REMANDING CASE TO SHELBY COUNTY  
GENERAL SESSIONS COURT

---

This appeal from the September 30, 2009 Shelby County General Sessions Court judgment (#1319727), filed by the defendants, Tracy Mathew and Patrick Mathew, came to be heard for trial on July 8, 2010 before this honorable court. Present was the representative of the plaintiff, Steve Makris, and the plaintiff's counsel, Dwight T. Moore; the defendants did not appear, nor did counsel appear in their behalf. Therefore, the court determined that said appeal shall be dismissed, and the cause is remanded to the Shelby County General Sessions Court for execution relative to said general sessions court judgment.

IT IS THEREFORE ORDERED AND ADJUDGED that the appeal filed by the defendant Tracy Mathew and Patrick Mathew from the Shelby County General Sessions Judgment (#1319727) entered on September 30, 2009 is hereby dismissed, and the cause is remanded to said general sessions court for execution if necessary relative to said judgment. Court costs of these proceedings are assessed to the appellants, for which execution may proceed if needed to collect.

**A TRUE COPY ATTEST**

**JIMMY MOORE, Clerk**

*[Signature]*  
D.C.

*James J. Russell*  
*Aug. 24, 2010*

\_\_\_\_\_  
JUDGE JAMES RUSSELL

DATE: \_\_\_\_\_

APPROVED FOR ENTRY:

Dwight T. Moore  
DWIGHT T. MOORE (# 010813)  
ATTORNEY FOR PLAINTIFF  
5100 Stage Road, Suite 4  
Memphis, TN 38134  
(901) 377-0344

CERTIFICATE OF SERVICE

I, Dwight T. Moore, do certify that an exact copy of the foregoing Order was mailed first class U.S. postage prepaid to Tracy Mathew and Patrick Mathew, 3111 South Perkins, Memphis, TN 38118 and to 3302 Ridge Cap Drive, Memphis, TN 38115, this \_\_\_\_\_ day of August, 2010.

Dwight T. Moore  
Dwight T. Moore



AD/ PRIVATE PROCESS SERVICE

IN THE COURT OF GENERAL SESSIONS COURT  
SHELBY COUNTY, TENNESSEE

SUBPOENA DUCES TECUM **21 JUN 26 P 11**

GENERAL SESSIONS COURT  
2011 JUN 6 AM 8:29  
RETURNED

Gridiron of Memphis, LLC  
Plaintiff

vs.

Patrick Mathew and Tracey Mathew, d/b/a  
Best Wings in Town

Defendants

Docket Nos. 1319727

Issued 26 day of May, 2011

To the Sheriff of Shelby County,

Greetings:

You are hereby commanded to summon Patrick Mathew and Tracey Mathew, 3302 Ridge Cap Drive, Memphis, TN, 38115 (home); 3111 S. Perkins, Memphis, TN 38118 (business); 7537 Hwy 64, Memphis, TN 38133 (biz)

personally to be and appear on Thurs., the 9<sup>th</sup> day of June year 2011, at 10:00 clock A M., before the Judge of the General Sessions Court of Shelby County, Division     , now sitting at the Courthouse, 140 Adams, Memphis, Tennessee and there in open court to testify and give evidence for the plaintiff in the above styled case **AND BRING WITH YOU THE DOCUMENTS AND INFORMATION LISTED ON THE ATTACHED SHEET WITH REFERENCE TO THE ABOVE DEFENDANTS.**

This you will in no wise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ.

May 26, year 2011

Otis Jackson Jr., General Sessions Court Clerk

By n. Pan D.C.

Came to hand and executed as commanded on:

Patrick Mathew and Tracy Mathew  
at 3111 S. Perkins

This 2 day of June year 2011 409<sup>th</sup>

Sheriff/ Private Process Server

By Barry Marshall

Attorney: Jay L. Grytdahl (G23449)

Address: 2884 Walnut Grove Rd, Memphis, TN 38111

Phone: 901.489.3014



IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE

ATTACHMENT TO SUBPOENA DUCES TECUM

COMMERCIAL COURT  
ONE JAYSON, JR. BLVD  
MEMPHIS, TN 38117

2011 JUN 26 P 0 191

James J. Skefos  
Plaintiff

Docket Nos. 1319715  
1319727

vs.

Patrick Matthew and Tracey Mathew, dba  
Best Wings in Town

Defendants

1. Any and all documents which reflect the name, location, account number, or current balance of any bank accounts (individually and/or jointly, personally and/or commercially) on which you have been authorized to deposit to or draw funds from during 2009, 2010 and 2011 or into which it has been deposited any funds belonging to you at any time during said years.
2. Any and all financial statements which have been prepared by or for you (individually and/or jointly, personally and/or commercially), during 2007, 2008, 2009, 2010 and 2011, whether submitted in connection with any loans, business interests or otherwise.
3. Complete copies of all of your tax returns, for the years 2006, 2007, 2008 and 2009, 2010, including but not limited to, all federal, state, and other supporting documentation and schedules (individually and/or jointly, personally and/or commercially).
4. Any and all documents which reflect the name, location and account number of any investment account, money market account, or any type of cash builder account from which you have been authorized to draw funds or into which it has been deposited any funds for the years 2007, 2008, 2009, 2010 and 2011, (individually and/or jointly, personally and/or commercially)
5. Any and all documents which reflect any stocks, bonds, savings bonds or other government issued bonds, certificates of deposit, debentures or other securities owned by you for the years 2007, 2008, 2009, 2010 and 2011, (individually and/or jointly, personally and/or commercially)
6. Copies of any deeds reflecting any interest you have in any real property, wherever situated (individually and/or jointly, personally and/or commercially)
7. Copies of any titles reflecting any interest you have in any vehicle, wherever situated, or any vehicle that you have access to on a daily basis, (individually and/or jointly, personally and/or commercially).
8. The name, local address and corporate address (if applicable) and phone number of your employer(s), or any organization which pays you on a regular basis (such as annuity payments, retirement payments, etc.), (individually and/or jointly, personally and/or commercially).
9. A list of all tangible, personal property owned by you, including, but not limited to, furniture, appliances, audio/video equipment, boats, motors, tools, ATV's, sporting goods, guns, computer equipment etc., or that you have any interest in, wherever situated and their locations, (individually and/or jointly, personally and/or commercially)
10. The names and addresses of all persons or organizations that you are currently doing business with, or have done business with, in any capacity, within the last six months, including, but not limited to vendors, customers, etc, (individually and/or jointly, personally and/or commercially)

ADAMS PRIVATE PROCESS SERVICE  
6025 STAGE ROAD STE 42-284  
BARTLETT, TN 38134

(901) 487-8292

GENERAL  
SESSIONS COURT

2011 JUN -6 AM 8:29

RETURNED

AFFIDAVIT OF PROCESS SERVER

STATE OF TENNESSEE

COUNTY OF SHELBY

I, Barry Martindale, BEING FIRST DULY SWORN AND MAKE OATH AS  
FOLLOW. I HAVE SERVED THE DOCUMENT (S) ON THE RECIPIENT.

COURT: GS DOCKET NO: 1319727

RECIPIENT: Patrick Mathew #B/A Bestwingsin Town

DOCUMENT: Subpoena Duces Tecum

DATE & TIME OF SERVICE 5-2-11 4:04 pm

ADDRESS OF SERVICE: 3111 S. Perkins Mem TN (Bestwingsin Town)

I FURTHER STATE THAT I AM OVER THE AGE OF TWENTY ONE AND THAT I  
HAVE NO INTEREST IN THIS MATTER.

Barry Martindale  
PROCESS SERVER

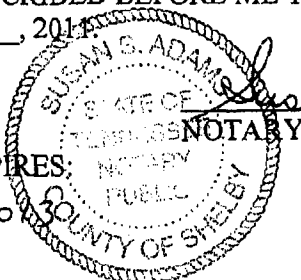
STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 2<sup>nd</sup> DAY OF

June, 2011

MY COMMISSION EXPIRES:

December 16, 2013



ADAMS PRIVATE PROCESS SERVICE  
6025 STAGE ROAD STE 42-284  
BARTLETT, TN 38134

(901) 487-8292

GENERAL  
SESSIONS COURT

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COURT: CS DOCKET NO: 1319727

RECIPIENT: Tracy Mathew D/B/A Bestwings in Town

DOCUMENT: Subpoena Duces Tecum

DATE & TIME OF SERVICE 5-2-11 4:04 pm

ADDRESS OF SERVICE: 3111 S. Perkins Mem TN (Bestwings in Town)

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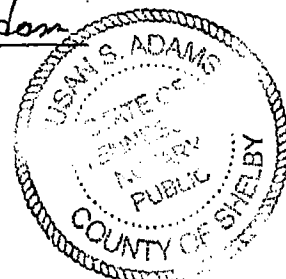
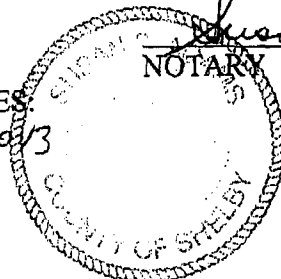
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COUNTY OF SHELBY

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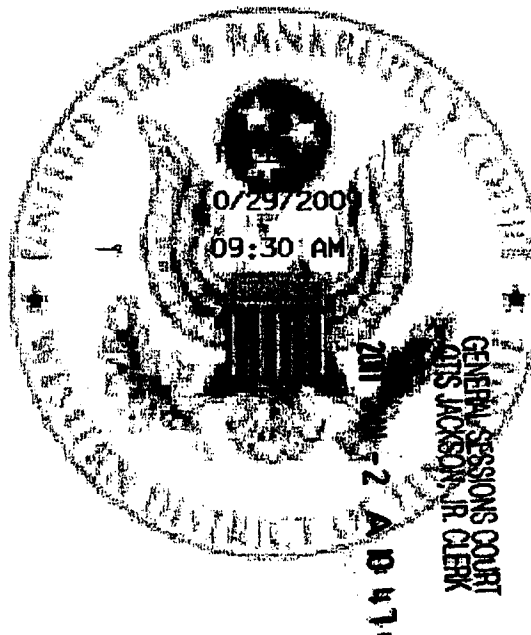
Gridiron of Memphis  
US Patrick A. Matthews  
Doc # 1319727

United States Bankruptcy Court  
Western District of Tennessee

**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 13 of the United States Bankruptcy Code, entered on 10/29/2009 at 09:30 AM and filed on 10/29/2009.

**Patrick Antonio Matthews**  
3302 Ridge Cap Drive  
Memphis, TN 38115  
SSN / ITIN: xxx-xx-8126  
*aka*  
**Patrick Wooten**  
*dba*  
**All Stars Hot Wings**



The case was filed by the debtor's attorney:

**Tommy L. Fullen**  
5104 Stage Road  
Memphis, TN 38134  
(901) 386-1647

The case was assigned case number 09-32056.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.tnwb.uscourts.gov/> or at the Clerk's Office, 200 Jefferson Avenue, Suite 413, Memphis, TN 38103.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Jed G. Weintraub**  
Clerk, U.S. Bankruptcy  
Court



**GENERAL SESSIONS COURT**  
**COUNTY OF SHELBY, STATE OF TENNESSEE**  
COURTHOUSE, 140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103

**PHYLLIS B. GARDNER**  
JUDGE OF DIVISION II

June 9, 2011

Mr. & Ms. Patrick Mathew  
3302 Ridge Cap Drive  
Memphis, TN 38115

Re: **GRIDIRON OF MEMPHIS V PATRICK MATHEW &  
TRACY MATHEW**  
GENERAL SESSIONS NO. 1319727

Dear Mr. & Mrs. Mathew:

There was a subpoena for your appearance in court on June 9, 2011, at 10:00 a.m. and you failed to appear.

This letter is an opportunity for you to appear in court to answer the subpoena without being arrested and is a courtesy to you. The above mentioned case has been reset to Thursday, June 30, 2011, at 10:00 a.m.

Please be advised that if you elect not to appear for the above court setting, you may be held in contempt of court and a warrant for your arrest can be issued. Please check the docket posted outside of Room 106 on your court date for your name, to determine in which division of General Sessions Court your case is set. Should you need assistance in finding your name and/or division, please inquire with the Clerk in Room 106.

Sincerely,

*Phyllis Gardner* (13)

Judge Phyllis Gardner

cc: Dwight Moore



IN THE COURT OF GENERAL SESSIONS  
SHELBY COUNTY, TENNESSEE

Gridiron of Memphis  
PLAINTIFF

VS.

Docket No. 1319727

Patrick E. Tracey Matthews  
DEFENDANT

**Scire Facias Issued JUL 01 2011**

FIAT

TO THE CLERK OF THE COURT:

Issue the Writ of Scire Facias as prayed for citing Patrick E. Tracey Matthews  
<sup>3818</sup> 7537 Hwy 64, 38133  
~~3111 S Perkins 3302 Ridge Cap Dr 38115~~ to appear before the Court of General Sessions,

Division \_\_\_\_\_ on the \_\_\_\_\_ next following the execution of said Writ  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M. to show cause, if any he has, why he should not be punished for contempt of court for

his failure to appear and answer the lawful process of this court on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

This the 30 day of June, 2011.

*Dismissed for  
failure to prosecute  
& appeared.*

*[Signature]*  
JUDGE DIVISION

*sp Judge George Hoff 7/28/11*

*7-28-11  
10  
BWH*

**ATTACHMENT #5**

**(Statement of Mr. Matthews)**

November 2, 2011

Mr. Tommy Fullen  
Attorney and Counselors  
5104 Stage Road  
Memphis, TN 38134

Re: Gridiron of Memphis, Inc. v Patrick and Tracy Matthews dba Best Wings in Town  
General Sessions No #1319727

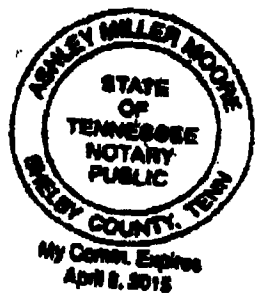
Dear Mr. Fullen:

Per your request from the Judge in regards to above referenced case, on October 6, 2011, my wife and I appeared in Judge Donald's courtroom under his specific orders to have him continue the case from October 6, 2011. When we arrived to court on the 6<sup>th</sup> we were put on the docket to appear in Judge Moore's courtroom. My wife and I could not understand why we were in her courtroom Judge Donald ordered myself, my wife and attorney Gold, representing Gridiron of Memphis to appear before him to allow him (Mr. Gold) to explain to him his law that allows him to question me since I am under the protection of Chapter 13. Well, Judge Donald has to send his Sherriff around to Judge Moore's courtroom to get us since somehow we ended up in her division.

Well, when we arrived in his courtroom Judge Donald called the case to be heard and after back and forth conversing between Mr. Grythdahl (the original attorney for Gridiron of Memphis) and Judge Donald explaining his ruling and findings of the case and Mr. Gold blatant disrespect in his courtroom, Mr. Gold shouted very angrily and adamantly that they could get me and for me to get out of Judge Donald's courtroom. Prior to Mr. Grythdahl telling me to get out and that they would get me, my wife heard Mr. Gold telling Mr. Grythdahl when Judge Donald went to his chambers to retrieve some papers that he must be getting paid for hearing this case. She was very sure that his Sherriff heard the comment because he got up from behind his desk and wrote something on a sticky note. On September 29, 2011, Mr. Gold was very disrespectful to Judge Donald by throwing his hand in the air at him and insisting that he tell these people, (meaning me and my wife) that we owe the money. I couldn't believe his actions and tone seeing that he was talking to an appointed Judge.

Should you need anything else feel free to contact me @ 901-848-9179.

Sincerely,   
Mr. Matthews



STATE OF TENNESSEE  
COUNTY OF SHELBY

BEFORE ME, the undersigned Notary Public in and for the County and State aforesaid, personally appeared PATRICK MATTHEWS, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself/himself to be the person within named and that she/he executed the foregoing instrument for the purpose therein contained.

WITNESS my hand and seal this 22<sup>nd</sup> day of November, 2011.

Lillian Elise Moore  
NOTARY PUBLIC

My Commission Expires:

April 8, 2015

**ATTACHMENT #6**

**(Statement from clerk, Evelyn Perkins)**

**Interview of Mrs. Evelyn Perkins  
Substitute Clerk in Division 3  
On September 29, 2011  
Conducted by Suzette Mink  
On November 9, 2011**

- **Question** – What do you recall about an incident that occurred on September 29, 2011 during the 10:00 a.m. docket, as you were substituting for the regular clerk.

**Answer:** During the court session on September 29, 2011 at 10:00 a.m. I was at the clerk's desk entering data and I heard Judge Donald tell the young attorney that I cannot do anything else with this case due to a bankruptcy. The young attorney proceeded to argue with Judge Donald and stated that under the law Judge Donald could do something. He was very persistent in arguing that Judge Donald could hear it. Judge Donald was very calm, did not raise his voice, but kept repeating to the attorney that as the defendant was in bankruptcy he could not proceed in General Sessions. When I heard Judge Donald say he couldn't do anything, I stopped everything to listen. I continued to listen because the attorney just kept going on and on, and I was completely shocked that he continued to argue with the Judge even though the Judge told him he couldn't do anything. Judge Donald continued to remain very calm and collected.

I believe that there were two other attorneys in there at the time who observed this confrontation. Those attorneys were Mr. Felix Bean and Mr. Larry Weisman.

- **Question:** Was the attorney rude or disrespectful?

**ANSWER:** Yes, he was very loud, rude and disrespectful to the court. Everyone in the courtroom was in shock over his behavior.

- **Question:** What was Judge Donald's demeanor during this incident?

**ANSWER:** Judge Donald did not lose his temper, but remained very calm and courteous to the attorney, even though the attorney continued to argue. Again, I was in disbelief.

- **Question** – Do you recall the attorney telling Judge Donald that he needed to “tell these people that they owed the debt”.

**ANSWER:** Yes, I do recall the attorney saying that and again, I was in complete shock that the attorney continued to argue with the Judge even though the Judge told him he could not do anything.

**ATTACHMENT #7**

**(Order on Motion to Add Pre-Petition Unsecured  
Creditor to Chapter 13 Bankruptcy)**



Dated: June 17, 2011  
The following is SO ORDERED:

  
George W. Emerson, Jr.  
UNITED STATES BANKRUPTCY JUDGE

---

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

---

In Re:

Patrick Antonio Mathews,  
Debtor.

Case No. 09-32056-E  
Chapter 13

---

ORDER ON MOTION TO ADD PRE-PETITION UNSECURED CREDITOR TO  
CHAPTER 13 BANKRUPTCY

---

Based upon statements made by counsel in open court and upon the entire record,

**IT IS THEREFORE ORDERED** that:

1. The following creditor be added as a pre-petition unsecured creditor to the

Chapter 13 bankruptcy, case number 09-32056-E:

Gridiron of Memphis  
C/o David B. Sweeney  
2657 Appling Road  
Suite 102  
Memphis, TN 38133

Amount Owed \$ 12,846.15

General Sessions # 1319727

2. The wage earner plan payment shall increase as necessary;
3. The Wage Earner Trustee shall issue payment orders or make other plan

modifications as necessary to effectuate this order.



APPROVED FOR ENTRY:

/s/ Tommy L. Fullen  
LAW OFFICES OF TOMMY L. FULLEN  
TOMMY L. FULLEN #10225  
Attorney for Debtor  
5104 Stage Rd.  
Memphis, TN 38134  
(901) 386-1647

/s/ Sylvia Ford Brown  
SYLVIA F. BROWN  
Chapter 13 Trustee  
200 Jefferson Avenue, Suite 1113  
Memphis, TN 38103

cc:  
Debtor  
Debtor's Attorney  
Case Trustee  
Gridiron of Memphis, C/o David B. Sweeney, 2657 Appling Road, Suite 102, Memphis, TN 38133

**Certificate of Service**

The undersigned individual hereby certifies that he, upon filing this pleading on June 16, 2011, mailed, postage prepaid (or hand delivered), true and correct copies of the attached pleading to all parties as stated and evidenced by the mailing list additionally attached hereto.

/s/ Tommy L. Fullen  
LAW OFFICES OF TOMMY L. FULLEN  
TOMMY L. FULLEN #10225  
Attorney for Debtor  
5104 Stage Rd.  
Memphis, TN 38134  
(901) 386-1647

**ATTACHMENT #8**

**(Mr. Matthews' Bankruptcy filing)**

Gridiron of Memphis

US Patrick A. Matthews

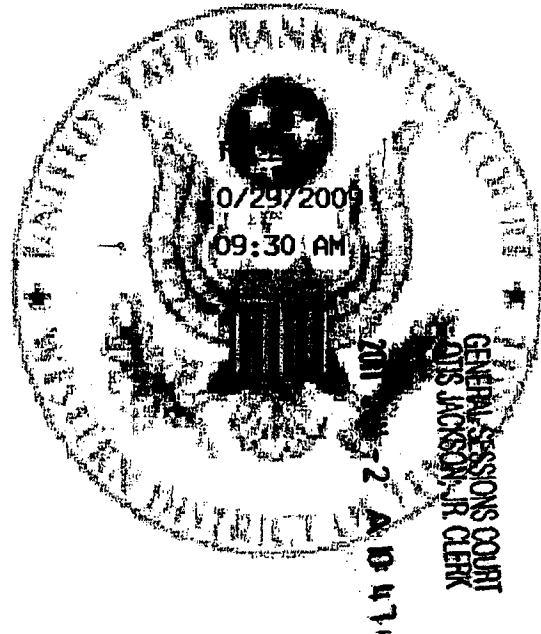
DOC # 1319727

United States Bankruptcy Court  
Western District of Tennessee

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**Patrick Antonio Matthews**  
3302 Ridge Cap Drive  
Memphis, TN 38115  
SSN / ITIN: xxx-xx-8126  
*aka*  
**Patrick Wooten**  
*dba*  
**All Stars Hot Wings**



The case was filed by the debtor's attorney:

**Tommy L. Fullen**  
5104 Stage Road  
Memphis, TN 38134  
(901) 386-1647

The case was assigned case number 09-32056.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.tnwb.uscourts.gov/> or at the Clerk's Office, 200 Jefferson Avenue, Suite 413, Memphis, TN 38103.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Jed G. Weintraub**  
Clerk, U.S. Bankruptcy  
Court

---

**ATTACHMENT #9**

**(Statement from deputy Darrin Williams)**

**Interview with Officer Darren Williams  
Conducted on November 8, 2011  
By Suzette Mink, Executive Assistant  
In Re: Incident of September 29, 2011 and subsequent events relating to that  
incident which occurred in Division III of General Sessions Civil Court**

**Officer Darren Williams responses to specific questions regarding the incident of  
September 29, 2011 and subsequent events:**

- **Question #1** - Does Officer Williams recall Mr. Gold referring to Mr. and Mrs. Matthews as "these people", and if so what specifically does he recall being said?

**ANSWER:** Yes. He said, "These people are lying."

- **Question #2** - Please describe Judge Donald's actions and statements toward Mr. Gold?

**ANSWER:** Judge Donald was nice and professional and trying to help the lawyer. Quite to my amazement, Judge Donald kept his cool and professionalism, speaking to Mr. Gold even though Mr. Gold was very irate and very unprofessional and had no respect for the court and what the court had to say.

- **Question #3** - Was Judge Donald courteous?

**ANSWER:** Yes, he was too nice in my opinion.

- **Question #4** - What was your impression of Mr. Gold's actions/statements. Did you comment to Judge Donald your opinion?

**ANSWER:** Mr. Gold was totally unprofessional and had no respect for the Court at all. As stated before I told Judge Donald he should report him to the Board of Professional Responsibility.

- **Question #5** - Describe what you considered to be offensive conduct by Mr. Gold.

**ANSWER:** Throwing up his hands when the Judge was talking, acting impatient while Judge Donald was talking, his body movement was offensive and I did not know what he was going to do so I was on alert as the Deputy Sheriff and just waited for proceedings to finish to make sure that everything was going to be calm from Mr. Gold.

- **Question #6** - What statements, if any, did you make to Judge Donald?

**ANSWER:** I advised Judge Donald of my opinion that Mr. Gold was totally disrespectful to him and the Court and that I felt Judge Donald should report him to the Board of Professional Responsibility, but Judge Donald said he was not going to.

- **Question #7** –Are there other deputies with knowledge of these events?

**ANSWER:** Officer Handy knew somewhat what was going on, he witnessed Mr. Gold trying to shake the Mathew's hand in a sarcastic manner and Mr. Matthews response of, "Fuck you" to Mr. Gold's attempt to do so, as he was leaving the court.

- **Question #8** –Describe what you recall after Judge Donald allowed Mr. Gold to examine Mr. Matthews, to wit, what was said?

**ANSWER:** He was still trying to get Mr. Matthews, even though Mr. Matthews was continuously saying, "I am under bankruptcy." Judge Donald kept asking why he continued to ask even though that debt was under bankruptcy. And he was acting very frustrated with what he felt was interference by the Judge as to his questioning of Mr. Matthews. Judge Donald told him once again, "He is under bankruptcy, why are you continuing to ask him?" The person you could be asking is Mrs. Matthews. But that did not happen.

- **Question:** With regard to the October 6, 2011 hearing when Mr. Grytdahl, the other attorney, appeared, what is your recollection of what occurred?

**ANSWER:** The next court reset date Mr. Gold came in with another attorney (cannot recall that attorney's name). Mr. Gold said that he was going to put Mrs. Matthews on the stand, who was not under bankruptcy to try to get information out of her, but that never took place. They brought some law but it was not the law pertaining to the bankruptcy. Judge Donald found out Mr. Gold did not practice bankruptcy law, as Mr. Gold's lawyer friend was trying to help Mr. Gold. That attorney said, "I was giving Mr. Gold law from whatever source he got it from, but they did not practice bankruptcy law." During the hearing Mr. Gold was still very disorderly, very disruptive, not necessarily vocally at the time, but his attitude, demeanor and body movement was as if he did not want to hear what the judge had to say. Mr. Gold tried to speak to Judge Donald. Judge Donald said, "I am not talking to you I am talking to Mr. \_\_\_\_\_." (the other attorney). Mr. Gold began pouting, his body movements were as if he did not want to hear what the Judge had to say, and he continued to try to interrupt the Judge.

After coming to some kind of conclusion, we recessed. I went in the back to talk to Judge Donald about what took place. I told the Judge that he should file a complaint to the Board of Professional Responsibility on that lawyer and his conduct. Judge Donald said he was not going to do that. That is just a young lawyer that didn't know what he was talking about and he was trying to help him. Deon, our Clerk, came in soon after and said that Mr. Gold told Mr. and Mrs. Matthews "I am going to get you".

---

**ATTACHMENT #10**

**(Judge Donald's letter to Judge Kennedy)**

September 29, 2011

Judge David Kennedy  
US Bankruptcy Court  
200 Jefferson, Suite 410  
Memphis, TN 38103

Dear Judge Kennedy:

I have another issue I need to discuss with you:

While a defendant was being questioned pursuant to a subpoena, he presented an Order from the Bankruptcy court indicating that the plaintiff had been added to his chapter 13 Plan.

The Plaintiff's attorney admitted knowledge of same and also that plaintiff had received funds the defendant's plan and the plan was still in effect and current. Further, plaintiff's attorney wanted the court to order the production of records.

Can the plaintiff still subpoena the defendant and subject him to an examination in state court?

Please call me at 545-4094.

Sincerely,

Judge John A. Donald



---

**ATTACHMENT #11**

**(Judge Kennedy's response to Judge Donald's  
questions regarding bankruptcy)**

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
200 JEFFERSON #950  
MEMPHIS, TENNESSEE 37103

David S. Kennedy  
Chief Judge

(901) 328-3522

TELECOPY TO: Hon. John A. Donald

FROM: Judge David Kennedy

DATE: October 5, 2011

NUMBER OF PAGES (INCLUDING COVER SHEET) 11

MEMO: My comments are based on the debt being incurred prior to bankruptcy and the judgment being obtained after bankruptcy.

Best wishes.

SHOULD YOU HAVE ANY PROBLEMS WITH THIS FAX OR DID NOT RECEIVE THE ENTIRE FAX, PLEASE CONTACT RUTH WEYMOUTH AT (901) 328-3522. OUR FAX NUMBER IS (901) 328-3527.

## BANKRUPTCY CODE

11 USC § 362

- (A) if the records are written, shredding or burning the records; or  
 (B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 41

West's Key Number Digest, Bankruptcy ⇨ 3008 to 3009; Records ⇨ 22

## SUBCHAPTER IV—ADMINISTRATIVE POWERS

## 11 USC § 361. Adequate protection

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

- (1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;
- (2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property; or
- (3) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 42

Rule References: 3012, 4001

West's Key Number Digest, Bankruptcy ⇨ 2430.1-2434, 3035.1, 3065, 3073

## 11 USC § 362. Automatic stay

(b)(1)

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

- (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;
- (2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;
- (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;
- (4) any act to create, perfect, or enforce any lien against property of the estate;
- (5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;
- (6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;
- (7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and
- (8) the commencement or continuation of a proceeding before the United States Tax Court concerning a ~~corporate debtor's~~ tax liability of a debtor that is a corporation for

OCT-05-2011 11:58

## BANKRUPTCY CODE

## 11 USC § 362

estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.

(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.

(k)(1) Except as provided in paragraph (2), an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.

(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.

(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under ~~nonbankruptcy~~ *nonbankruptcy* law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

## 11 USC § 1326

## BANKRUPTCY CODE

- (A) by prorating such amount over the remaining duration of the plan; and
- (B) by monthly payments not to exceed the greater of—
  - (i) \$25; or
  - (ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.
- (c) Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.
- (d) Notwithstanding any other provision of this title—
  - (1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and
  - (2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).

**Treatise References:** Norton Bankruptcy Law and Practice 3d, Chapters 145, 144, 146

**Rule References:** 3010(b), 3011

**West's Key Number Digest, Bankruptcy** ⇨ 3712, 3714

**Editor's Note:** The dollar amount shown in subsection (b)(3) remained at \$25 despite adjustments made pursuant to 11 U.S.C.A. § 104 on April 1, 2010, which applies with respect to cases commenced on or after April 1, 2010. See Federal Register, vol. 75, No. 37 (February 25, 2010) for the official notice of the 2010 dollar amount adjustments.

### **11 USC § 1327. Effect of confirmation**

(a) The provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan, and whether or not such creditor has objected to, has accepted, or has rejected the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) Except as otherwise provided in the plan or in the order confirming the plan, the property vesting in the debtor under subsection (b) of this section is free and clear of any claim or interest of any creditor provided for by the plan.

**Treatise References:** Norton Bankruptcy Law and Practice 3d, Chapter 151

**West's Key-Number Digest, Bankruptcy** ⇨ 3715(9.1)-3715(13)

### **11 USC § 1328. Discharge**

(a) Subject to subsection (d), as soon as practicable after completion by the debtor of all payments under the plan, and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan or disallowed under section 502 of this title, except any debt—

- (1) provided for under section 1322(b)(5);
- (2) of the kind specified in section 507(a)(8)(C) or in paragraph (1)(B), (1)(C), (2), (3), (4), (5), (8), or (9) of section 523(a);
- (3) for restitution, for a criminal fine, included in a sentence on the debtor's conviction of a crime; or

## 11 USC § 1328

## BANKRUPTCY CODE

of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 153

Rule References: 4006, 4007(d), 7001(6), 9034

West's Key Number Digest, Bankruptcy ⇨ 3718(1)-3718(10)

**11 USC § 1329. Modification of plan after confirmation**

(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—

(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

(2) extend or reduce the time for such payments;

(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan; or

(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

(A) such expenses are reasonable and necessary;

(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.

(b)(1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.

(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved.

(c) A plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under section 1325(b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 153

Rule Reference: 2002(a)(6)

West's Key Number Digest, Bankruptcy ⇨ 3713

**11 USC § 1330. Revocation of an order of confirmation**

(a) On request of a party in interest at any time within 180 days after the date of the entry

28 USC § 959

JUDICIAL CODE

(b) Except as provided in section 1166 of title 11, a trustee, receiver or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

West's Key Number Digest, Bankruptcy ⇨ 2153; Receivers ⇨ 174(5)-174(5)

28 USC § 960. Tax liability

(a) Any officers and agents conducting any business under authority of a United States court shall be subject to all Federal, State and local taxes applicable to such business to the same extent as if it were conducted by an individual or corporation.

(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless--

(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

(2) payment of the tax is excused under a specific provision of title 11.

(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if--

(1) the tax was not incurred by a trustee duly appointed or elected under chapter 7 of title 11; or

(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.

West's Key Number Digest, Internal Revenue ⇨ 3053; Taxation ⇨ 6

Part IV. Jurisdiction and Venue

Chapter 85

District Courts; Jurisdiction

28 USC § 1334. Bankruptcy cases and proceedings

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

(b) Except as provided in subsection (e)(2), and notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

(c)(1) Except with respect to a case under chapter 15 of title 11, nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction.

See 28 USC <sup>270</sup> 1334(e) and 157(a)

JUDICIAL CODE

28 USC § 1409

(d) Any decision to abstain or not to abstain made under subsection (c) (other than a decision not to abstain in a proceeding described in subsection (c)(2)) is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title. Subsection (c) and this subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 4

Rule References: 9027, 9030

West's Key Number Digest, Bankruptcy ⇨ 2041.1-2063; Federal Courts ⇨ 41-65, 973

Chapter 87  
District Courts; Venue

28 USC § 1408. Venue of cases under title 11

Except as provided in section 1410 of this title, a case under title 11 may be commenced in the district court for the district—

(1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or

(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 6

Rule Reference: 9030

West's Key Number Digest, Bankruptcy ⇨ 2058.1-2059, 2081-2082, 2341; Federal Courts ⇨ 71-157

28 USC § 1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11

(a) Except as otherwise provided in subsections (b) and (d), a proceeding arising under title 11 or arising in or related to a case under title 11 may be commenced in the district court in which such case is pending.

(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than ~~\$1,100~~ \$1,175 or a consumer debt of less than ~~\$16,425~~ \$17,575, or a debt (excluding a consumer debt) against a noninsider of less than ~~\$10,950~~ \$11,725, only in the district court for the district in which the defendant resides.



## 11 USC § 1305

## BANKRUPTCY CODE

of this section shall be allowed or disallowed under section 502 of this title, but shall be determined as of the date such claim arises, and shall be allowed under section 502(a), 502(b), or 502(c) of this title, or disallowed under section 502(d) or 502(e) of this title, the same as if such claim had arisen before the date of the filing of the petition.

(c) A claim filed under subsection (a)(2) of this section shall be disallowed if the holder of such claim knew or should have known that prior approval by the trustee of the debtor's incurring the obligation was practicable and was not obtained.

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 146

West's Key Number Digest, Bankruptcy ⇨ 2830, 2832.1

11 USC § 1306. Property of the estate

(a) Property of the estate includes, in addition to the property specified in section 541 of this title—

(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first; and

(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first.

(b) Except as provided in a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.

Treatise References: Norton Bankruptcy Law and Practice 3d, Chapter 147

Rule Reference: 1007(h)

West's Key Number Digest, Bankruptcy ⇨ 2558

11 USC § 1307. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.

(b) On request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

(c) Except as provided in ~~subsection (e)~~ *subsection (f)* of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including—

- (1) unreasonable delay by the debtor that is prejudicial to creditors;
- (2) nonpayment of any fees and charges required under chapter 123 of title 28 [28 USC §§ 1911 et seq.];
- (3) failure to file a plan timely under section 1321 of this title;
- (4) failure to commence making timely payments under section 1326 of this title;
- (5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan;
- (6) material default by the debtor with respect to a term of a confirmed plan;
- (7) revocation of the order of confirmation under section 1330 of this title, and denial of confirmation of a modified plan under section 1329 of this title;
- (8) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan;

## BANKRUPTCY RULES

## RULE 2004

of equity security holders pursuant to § 341(b) of the Code, the United States trustee shall fix a date for the meeting and shall preside.

(3) **Right to Vote.** In a chapter 7 liquidation case, a creditor is entitled to vote at a meeting if, at or before the meeting, the creditor has filed a proof of claim or a writing setting forth facts evidencing a right to vote pursuant to § 702(a) of the Code unless objection is made to the claim or the proof of claim is insufficient on its face. A creditor of a partnership may file a proof of claim or writing evidencing a right to vote for the trustee for the estate of a general partner notwithstanding that a trustee for the estate of the partnership has previously qualified. In the event of an objection to the amount or allowability of a claim for the purpose of voting, unless the court orders otherwise, the United States trustee shall tabulate the votes for each alternative presented by the dispute and, if resolution of such dispute is necessary to determine the result of the election, the tabulations for each alternative shall be reported to the court.

(c) **RECORD OF MEETING.** Any examination under oath at the meeting of creditors held pursuant to § 341(a) of the Code shall be recorded verbatim by the United States trustee using electronic sound recording equipment or other means of recording, and such record shall be preserved by the United States trustee and available for public access until two years after the conclusion of the meeting of creditors. Upon request of any entity, the United States trustee shall certify and provide a copy or transcript of such recording at the entity's expense.

(d) **REPORT OF ELECTION AND RESOLUTION OF DISPUTES IN A CHAPTER 7 CASE.**

(1) **Report of Undisputed Election.** In a chapter 7 case, if the election of a trustee or a member of a creditors' committee is not disputed, the United States trustee shall promptly file a report of the election, including the name and address of the person or entity elected and a statement that the election is undisputed.

(2) **Disputed Election.** If the election is disputed, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. No later than the date on which the report is filed, the United States trustee shall mail a copy of the report to any party in interest that has made a request to receive a copy of the report. Pending disposition by the court of a disputed election for trustee, the interim trustee shall continue in office. Unless a motion for the resolution of the dispute is filed no later than 14 days after the United States trustee files a report of a disputed election for trustee, the interim trustee shall serve as trustee in the case.

(e) **ADJOURNMENT.** The meeting may be adjourned from time to time by announcement at the meeting of the adjourned date and time without further written notice.

(f) **SPECIAL MEETINGS.** The United States trustee may call a special meeting of creditors on request of a party in interest or on the United States trustee's own initiative.

(g) **FINAL MEETING.** If the United States trustee calls a final meeting of creditors in a case in which the net proceeds realized exceed \$1,500, the clerk shall mail a summary of the trustee's final account to the creditors with a notice of the meeting, together with a statement of the amount of the claims allowed. The trustee shall attend the final meeting and shall, if requested, report on the administration of the estate.

Code References: §§ 341, 343, 344, 521

West's Key Number Digest, Bankruptcy ☞ 3040.1-3048; Criminal Law ☞ 42; Witnesses ☞ 292-310

**Rule 2004. Examination**

**(a) EXAMINATION ON MOTION.** On motion of any party in interest, the court may order the examination of any entity.

RULE 2004

## BANKRUPTCY RULES

**(b) SCOPE OF EXAMINATION.** The examination of an entity under this rule or of the debtor under § 343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a family farmer's debt adjustment case under chapter 12, an individual's debt adjustment case under chapter 13, or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.

\* **(c) COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS.** The attendance of an entity for examination and for the production of documents, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial. As an officer of the court, an attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be held if the attorney is admitted to practice in that court or in the court in which the case is pending.

**(d) TIME AND PLACE OF EXAMINATION OF DEBTOR.** The court may for cause shown and on terms as it may impose order the debtor to be examined under this rule at any time or place it designates, whether within or without the district wherein the case is pending.

**(e) MILEAGE.** An entity other than a debtor shall not be required to attend as a witness unless lawful mileage and witness fee for one day's attendance shall be first tendered. If the debtor resides more than 100 miles from the place of examination when required to appear for an examination under this rule, the mileage allowed by law to a witness shall be tendered for any distance more than 100 miles from the debtor's residence at the date of the filing of the first petition commencing a case under the Code or the residence at the time the debtor is required to appear for the examination, whichever is the lesser.

Code References: §§ 341, 343, 344, 521

West's Key Number Digest, Bankruptcy ⇨ 3040.1-3048; Criminal Law ⇨ 42; Witnesses ⇨ 292-310

**Rule 2005. Apprehension and Removal of Debtor to Compel Attendance for Examination**

**(a) ORDER TO COMPEL ATTENDANCE FOR EXAMINATION.** On motion of any party in interest supported by an affidavit alleging (1) that the examination of the debtor is necessary for the proper administration of the estate and that there is reasonable cause to believe that the debtor is about to leave or has left the debtor's residence or principal place of business to avoid examination, or (2) that the debtor has evaded service of a subpoena or of an order to attend for examination, or (3) that the debtor has willfully disobeyed a subpoena or order to attend for examination, duly served, the court may issue to the marshal, or some other officer authorized by law, an order directing the officer to bring the debtor before the court without unnecessary delay. If, after hearing, the court finds the allegations to be true, the court shall thereupon cause the debtor to be examined forthwith. If necessary, the court shall fix conditions for further examination and for the debtor's obedience to all orders made in reference thereto.

**(b) REMOVAL.** Whenever any order to bring the debtor before the court is issued under this rule and the debtor is found in a district other than that of the court issuing the order, the debtor may be taken into custody under the order and removed in accordance with the following rules:

Bank Rule 9016 adopts Rule 45 F.R.  
 Civ. P. regarding 372 subpoenas.

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**ATTACHMENT #12**

**(Clerk, Deon Allen's statement of the events)**

**Interview with Ms. Deon Allen  
Clerk for Division III  
Conducted on November 9, 2011  
By Suzette Mink, Executive Assistant  
In Re: Incident of October 6, 2011 which occurred in  
Division III of General Sessions Civil court**

**Part I:**

- **Question #1** – Please confirm the court date was October 6, 2011 at 10:00 a.m. (confirm from file).

**ANSWER:** Yes, the date was October 6, 2011 at 10:00 a.m. per the Court jacket

- **Question #2** – Because there were two defendants, Mr. and Mrs. Matthews, please identify who the defendant was?

**ANSWER:** The part I heard was the defendant Mr. Matthews having an altercation with the attorney, Mr. Gold.

- **Question #3** – There were two lawyers; Mr. Grytdahl who argued the case, and Mr. Gold, the small “younger” attorney. Please answer the following:
- **3a:** Which lawyer made the statements referenced in your memo (which is typed below for reference)?

**“I, Deon Allen, was preparing to leave court and observed the attorney saying to the defendant, “We are going to get you” in a very outraged tone. The defendant responded saying, “Fuck you, boy.” This made the attorney upset and shouted to me to get the deputy in a very aggressive tone. I went into Judge Donald’s chambers and explained to him what happened and what was said between the attorney and defendant.[sic]”**

**ANSWER:** That was the smaller, younger attorney, Mr. Gold

- **3b:** Was the other lawyer present when the statement was made, i.e., did the other lawyer hear what was said? And, what exactly did the other lawyer do after hearing the statement, if he was present when the statement was made?

**ANSWER:** Yes, he was standing right next to the other attorney and I am sure he must have heard it. If I heard it then he should have. And, he didn’t really do or say anything except look shocked.

**Interview**

**Ms. Deon Allen**

**November 9, 2011**

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- **Question #4:** What happened next? That is, after the statements were made. And then, what did you do?

**ANSWER:** The attorney said go get the bailiff, the defendant left, I went back to Judge's chambers and told Judge what I had heard. When I came back out everybody was gone.

- **Question #5-** What was your opinion of the conduct of both the lawyer and the defendant?

**ANSWER:** I felt that the lawyer was rude and very aggressive toward the defendant. I felt that the defendant was right to act the way he did, given the treatment he received from the lawyer.

- **Question #6-** Was Mrs. Matthews present? If so, what, if anything, did she do or say?

**ANSWER:** Mrs. Matthews was out in the hallway as the confrontation took place, I really couldn't see her to know what her reaction was.

- **Question #7 -** Again, if the "other" lawyer was present what, if anything, did he do or say?

**ANSWER:** He was present but didn't do or say anything.

**Part II: The Hearing**

- **Question #1** –What was your understanding of the issues that Judge Donald was seeking to address?

**ANSWER:** It was about a subpoena. The way I understand it the subpoena was for the husband to come in and testify about something about his wife.

- **Question #2** – Which lawyer addressed Judge Donald on the issues? Was it Mr. Grytdahl or Mr. Gold?

**ANSWER:** Mr. Grytdahl was doing the talking.

**Interview**

**Ms. Deon Allen**

**November 9, 2011**

**Page 3**

- **Question #3-** Do you recall what statements were made by Mr. Grytdahl to Mr. Gold's knowledge of bankruptcy laws?

**ANSWER:** No, I don't remember that.

- **Question #4** – Do you recall any apologies made by Mr. Grytdahl for Mr. Gold? If so, what?

**ANSWER:** If I recall I think that I heard Mr. Grytdahl apologizing for Mr. Gold as to what happened.

- **Question #5** – During the hearing, do you recall anything that Judge Donald did that was disrespectful to either attorney?

**ANSWER:** No

- **Question #6-** Do you recall Mr. Gold requesting to address the Court? And, if so, do you recall Judge Donald's response being no more than, "No, Sir"?

**ANSWER:** I think at one time he tried to say something but Judge told him he was talking to the other attorney Mr. Grytdahl. Judge said, "No, Sir, I am talking to Mr. Grytdahl."

- **Question #7** –Do you recall the name of the bankruptcy Judge Kennedy being mentioned at the hearing? If so, what do you recall was said of Judge Kennedy?

**ANSWER:** No, I know that something was said about the bankruptcy, but I cannot recall exactly what it was.

- **Question #8** -Did Judge Donald have any discussions with Mr. Gold, or only with Mr. Grytdahl?

**ANSWER:** No, only with Mr. Grytdahl.

- **Question #9** –Was Judge Donald courteous or mean-spirited?

**ANSWER:** Very courteous.

**Interview**  
**Ms. Deon Allen**  
**November 9, 2011**  
**Page 4**

- **Question #10** – Finally, what was your opinion of the hearing? Was it conducted in a professional manner? And, as a citizen, what was your opinion of Mr. Gold's conduct?

**ANSWER:** I believe the hearing was conducted professionally. You could see that Mr. Gold was angry and he wanted to say something. I was very amazed and wondered what was wrong with that man (Mr. Gold).

**Question #11** – Is this the written statement you wrote at Judge Donald's request?

**ANSWER:** Yes, it is.



**ATTACHMENT #13**

**(Statement from clerk, Evelyn Perkins, previously  
submitted)**

**Interview of Mrs. Evelyn Perkins**  
**Substitute Clerk in Division 3**  
**On September 29, 2011**  
**Conducted by Suzette Mink**  
**On November 9, 2011**

- **Question** – What do you recall about an incident that occurred on September 29, 2011 during the 10:00 a.m. docket, as you were substituting for the regular clerk.

**Answer:** During the court session on September 29, 2011 at 10:00 a.m. I was at the clerk's desk entering data and I heard Judge Donald tell the young attorney that I cannot do anything else with this case due to a bankruptcy. The young attorney proceeded to argue with Judge Donald and stated that under the law Judge Donald could do something. He was very persistent in arguing that Judge Donald could hear it. Judge Donald was very calm, did not raise his voice, but kept repeating to the attorney that as the defendant was in bankruptcy he could not proceed in General Sessions. When I heard Judge Donald say he couldn't do anything, I stopped everything to listen. I continued to listen because the attorney just kept going on and on, and I was completely shocked that he continued to argue with the Judge even though the Judge told him he couldn't do anything. Judge Donald continued to remain very calm and collected.

I believe that there were two other attorneys in there at the time who observed this confrontation. Those attorneys were Mr. Felix Bean and Mr. Larry Weisman.

- **Question:** Was the attorney rude or disrespectful?

**ANSWER:** Yes, he was very loud, rude and disrespectful to the court. Everyone in the courtroom was in shock over his behavior.

- **Question:** What was Judge Donald's demeanor during this incident?

**ANSWER:** Judge Donald did not lose his temper, but remained very calm and courteous to the attorney, even though the attorney continued to argue. Again, I was in disbelief.

- **Question** – Do you recall the attorney telling Judge Donald that he needed to “tell these people that they owed the debt”.

**ANSWER:** Yes, I do recall the attorney saying that and again, I was in complete shock that the attorney continued to argue with the Judge even though the Judge told him he could not do anything.

**ATTACHMENT #14**

**(Letter from John Donald to Jay Grytdahl)**

October 11, 2011

Mr. Jay L. Grytdahl, Esq.  
2884 Walnut Grove Rd.  
Memphis, TN 38111

RE: GRIDIRON OF MEMPHIS, INC. V PATRICK & TRACY  
MATHEWS d/b/a BEST WINGS IN TOWN  
GENERAL SESSIONS NO. #1319727

Dear Mr. Grytdahl:

First, I hasten to state that you have presented yourself as "an officer of the Court."

Secondly, after my ruling from the Bench in the afore-referenced cause and my promise to render it in writing, my clerk advises me in chambers that Mr. Gold, of your office, after telling the defendants to leave my Courtroom, also told Mr. Mathews that "...we're going to get you!"

Obviously, if this statement was made, it would be contrary to your arguments on October 6, 2011, that Mr. Mathews was not your objective.

Accordingly, I am re-opening this Court's consideration of your right to depose Mrs. Mathews. I have set this inquiry for hearing on Thursday, October 27, 2011 at 10:00 a.m. If this date and time is inconvenient, please call my secretary at 545-4050, Ms. Jennifer Sigan, and give her at least three times that I can pass by the Mathews as to their convenience.

By copy of this letter to the defendants, the defendant's appearance is also requested.

Respectfully requested,

Judge John A. Donald

cc: Mr. & Mrs. Mathews  
3111 S. Perkins  
Memphis, TN 38118  
3302 Ridge Cap Drive  
Memphis, TN 38115

**ATTACHMENT #15**

**(Mr. Grytdahl's October 14, 2011 letter)**



LAW OFFICE OF DAVID GOLD ✱

JAY L. GRYTDAHL  
ATTORNEY AT LAW

October 14, 2011

Hon John A. Donald  
Shelby County Court of General Sessions  
140 Adams Street  
Memphis, TN 38103

Re: Gridiron of Memphis LLC v. Patrick and Tracy Mathew  
Case No. 1319727

Dear Judge Donald:

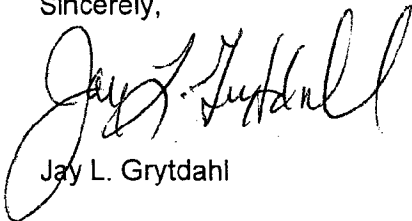
Thank you for your letter of October 11<sup>th</sup>, which I received on October 14<sup>th</sup>. I also want to thank you for your kind words. I have always tried my utmost to conduct myself professionally in and out of the courtroom.

As it so happens, my motion to withdraw from this case had already been placed in the file when I received your letter. I have been in the process of wrapping up my files with the Gold Law Firm in light of my acceptance of a position elsewhere. My last day in the office was October 14<sup>th</sup>. Accordingly, I will no longer be participating in this case.

I have provided a copy of your letter to Mr. Gold. I am sending a copy of this letter to Mrs. Mathew and to Mr. Fullen on behalf of Mr. Mathew.

With kindest regards, I remain

Sincerely,



Jay L. Grytdahl

cc: The Law Offices of Tommy L. Fullen  
5104 Stage Rd  
Memphis, TN 38134

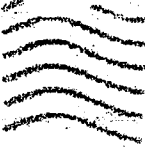
Tracy Mathew  
3111 S. Perkins  
Memphis, TN 38118



Law Office of David Gold  
2884 Walnut Grove Road  
Memphis, TN 38111

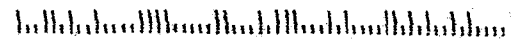
MEMPHIS TN 381

17 OCT 2011 PM 2 T



Hon John A. Donald  
Shelby County Court of General Sessions  
140 Adams Street  
Memphis, TN 38103

381 03#2093



**ATTACHMENT #16**

**(Letter from John Donald to Mr. Bursi)**



November 15, 2011

Mr. Mike Bursi  
840 Valleybrook  
Memphis, TN 38120

RE: Mr. Gold's Complaint

Dear Mr. Bursi:

Will you confirm in writing only, the following?

1. That at the time you entered the "Voluntary Nonsuit" of Gridiron's *subpoena duces tecum* on October 25, 2011, you were unaware that Mr. Gold had filed his complaint against me?  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. That my meeting with you and Mr. Gold in my chambers on October 12, 2011 was during my lunch hour, not at my request, was for the purpose of Mr. Gold offering apologies to me, which you indicated was at your suggestion?  
Yes \_\_\_\_\_ No \_\_\_\_\_
3. That at our November 8, 2011 meeting, after I had noticed you that in his complaint Mr. Gold had also complained of how I treated him in my chambers, you, then, without suggestion from me, stated that the discussions in my chambers were between you and me, with Mr. Gold only being a bystander?  
Yes \_\_\_\_\_ No \_\_\_\_\_
4. That after first advising you of Mr. Gold's conduct at his initial appearance before me on September 29, 2011, I then advised you, in Mr. Gold's presence that I had written a day earlier, a letter to Mr. Jay Grytdahl, noticing him that I was re-opening my hearing on issues of fact, indicating, specifically, that it was based on conduct by Mr. Gold after I left the Bench on October 6, 2011, specifically how Mr. Gold had allegedly "provoked" the then *Pro Se* defendant, Mr. Mathews, by telling him that, "We are going to get you..." with Mr. Mathews then responding, "Fuck you, boy?"  
Yes \_\_\_\_\_ No \_\_\_\_\_
5. That after you left my chambers you interviewed my Court deputy, Darrin Williams, who corroborated all that I had represented to you, and advised you of his concerns for having to defend Mr. Gold, a young man of slight "stature," compared to that of Mr. Mathews?  
Yes \_\_\_\_\_ No \_\_\_\_\_

**ATTACHMENT #17**  
**(Voluntary Non-Suit)**

IN THE SHELBY COUNTY  
COURT OF GENERAL SESSIONS

Grigolon of Memphis, LLC  
Plaintiff )

Civil No. 1319727

VS. PATRICK MATTHEWS, ET AL.  
Defendant s. )

Set On 10/27/11  
10:00 AM  
DIV- III

CONSENT ANNOUNCEMENT VIA FACSIMILE

I hereby request, that the above case, by agreement of all the parties, and with permission of the court:

- 1. Be continued to \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M
- 2. Be dropped from the calendar
- 3. Be voluntarily non-suited at plaintiff's cost
- 4. Be dismissed with prejudice at plaintiff's cost
- 5. Be dismissed with prejudice at defendant's cost
- 6. Pursuant to Court Rule V have judgment entered as follows:

(BY JOENA DUCES  
TECHN)

SEE ATTACHED CONSENT ORDER

By my signature I hereby certify to the court that I am licensed to practice law in the state of Tennessee and that the above announcement is made with the express consent of all the parties.

[Signature]  
Attorney for Plaintiff (Please sign)  
Plaintiff/defendant

10/25/11  
Date

F. MICHAEL BUCSI  
Please print of type attorney's name here

004361  
B.P.R. number

(Transmit facsimile to (901) 545-5062) Please see next page for important instructions

**ATTACHMENT #18**

**(Letter from John Donald to the Mathews)**

October 25, 2011

Mr. & Mrs. Patrick Mathews  
3111 S. Perkins  
Memphis, TN 38118

Mr. & Mrs. Patrick Mathews  
3302 Ridge Cap Drive  
Memphis, TN 38115

RE: GRIDIRON OF MEMPHIS, INC. V PATRICK & TRACY  
MATHEWS d/b/a BEST WINGS IN TOWN  
GENERAL SESSIONS NO. #1319727

Dear Mr. & Mrs. Mathews:

As the enclosed announcement indicates, the Subpoena Duces Tecum against you has been voluntarily dismissed. Therefore, you need not appear in court on Thursday, October 27, 2011, as previously planned.

Respectfully requested,

Judge John A. Donald

cc: Mr. Michael Bursi  
Mr. Jay Grytdahl

**ATTACHMENT #19**

**(Responses from Mr. Bursi)**

6. That at our meeting on October 12, 2011, in extending apologies on Mr. Gold's behalf, you clearly indicated that Mr. Gold was not familiar with our U.S. Bankruptcy laws?  
Yes \_\_\_\_\_ No \_\_\_\_\_
7. Further, did I direct or engage in any direct talks with Mr. Gold on October 12, 2011?  
Yes \_\_\_\_\_ No \_\_\_\_\_
8. Did Mr. Gold prepare the "Brief" argued in Court by Mr. Grytdahl on October 6, 2011?  
Yes \_\_\_\_\_ No \_\_\_\_\_
9. At our October 12, 2011 meeting, did I not advise you that on September 29, 2011, I had noticed Mr. Gold that I would be seeking legal authorities on our U.S. Bankruptcy laws from Judge Kennedy?  
Yes \_\_\_\_\_ No \_\_\_\_\_
10. Finally, were you aware that after our meeting on October 12, 2011, Mr. Gold, one day later, obtained an affidavit from Mr. Grytdahl in preparation of his complaint against me?  
Yes \_\_\_\_\_ No \_\_\_\_\_

I have drafted this request so as to allow you to respond "yes" or "no," but if such an answer would not correctly reflect our conversations, will you consider responding in your own way?

Respectfully requested,

Judge John A. Donald  
General Sessions, Division III

November 15, 2011

1. Yes.
2. Yes.
3. Yes, but agreeing with your assertion of such, not initiating it.
4. Yes.
5. Yes.
6. No, I indicated that perhaps Mr. Gold was not on as strong a legal footing as he could have been; but I do not personally believe he violated the automatic stay in Bankruptcy by proceeding as he did--others may disagree with me and I would perhaps have handled the matter differently myself.
7. No.
8. I have no personal knowledge of the author of the brief, other than Mr. Gold contacted me as to some potential legal authorities for such.
9. Yes.
10. No.

FMB



**ATTACHMENT #20**

**(Letter from Judge Kennedy)**

United States Bankruptcy Court  
Western District of Tennessee

Chambers  
David S. Kennedy  
Chief U.S. Bankruptcy Judge

November 16, 2011

200 Jefferson  
Suite 950  
Memphis, Tennessee 38103  
(901) 328-3522  
Fax 328-3527

Honorable John A. Donald  
Judge of Division III  
General Sessions Court  
Shelby County Courthouse  
140 Adams Avenue  
Memphis, Tennessee 38103

RE: Requested Response Concerning Our October 5,  
2011 Conversation Per Your September 29, 2011  
Request

Dear Judge Donald,

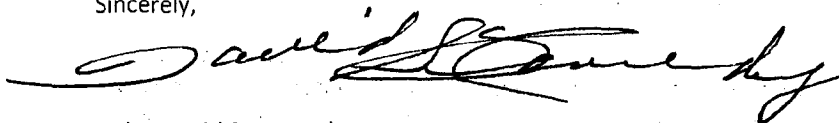
In response to your November 14, 2011 letter informing me that a complaint has been filed against you, I have reviewed our prior written communications and also the applicable Canon of the Tennessee Code of Judicial Conduct. As I recall, we also had a telephone conversation; and my recollection is that you referenced the legal issues but never identified the party litigants in the matter before your Court. I considered your September 29, 2011 request to be similar in nature to all your prior requests over the years and treated it no differently. My response to you made no mention of the parties before you as I did not know who they were; I provided you with copies of the applicable sections of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure and relevant comments.

In my review and interpretation of Canon 3(B)(7)(b) of the Tennessee Code of Judicial Conduct, a judge may obtain the advice of "a disinterested expert on the law" if proper notice is given to the parties and an opportunity for response is afforded. However, more apt is Canon 3(B)(7)(c), which provides: "A judge may consult . . . with other judges." Canon 3(B)(7)(c) does not impose on the court the same notice and opportunity for response requirements as Canon 3(B)(7)(b). Clearly, it seems to me, the Tennessee Canon distinguishes communication between "a disinterested expert on the law" and "a judge;" and this distinction serves a vital role to the judicial system because it, among other things, allows judges to confer with other judges in order to, for example, attempt to maintain uniformity amongst the courts, to make correct and well-conceived legal decisions on issues before the court, and promotes and fosters the doctrine of comity between the state and federal benches. As such, I strongly believe our communication did not violate the Canons of the Tennessee Code of Conduct and, in fact, believe the Tennessee Code of Conduct encourages such communication among judges as a vital responsibility of the court.

I hope all is otherwise well in our State Court and also that our informal communications concerning our nation's substantive bankruptcy laws and procedural rules can continue as they have for many years to come.

Best wishes to you for a safe, happy, and enjoyable Thanksgiving.

Sincerely,



Judge David S. Kennedy  
Chief United States Bankruptcy Judge

cc: Hon. Timothy R. Discenza  
Disciplinary Counsel

**ATTACHMENT #21**

**(Shelby County Sheriff's Office Evaluations)**



**Shelby County Sheriff's Office  
Courts/Civil Field/Levy Division**

**Memorandum**

**TO: Judge John Donald**  
**FROM: Lt. E. L. Long**  
**DATE: November 14, 2011**  
**SUBJECT: Evaluations of Court Deputies**

This memo is submitted as per the request of Mrs. Mink, General Sessions Court Secretary.

All Evaluations of Court Deputies are performed by and the responsibility of the Shelby County Sheriff's Office Supervisory staff. Each Deputy's Evaluation is completed by his immediate supervisor on a yearly basis as per the Shelby County Government and Shelby County Sheriff's Office Policy.

Cc: Suzette Mink

**EXHIBIT C**

December 7, 2011

Tennessee Board of Professional Responsibility  
10 Cadillac Drive  
Suite 220  
Brentwood, Tennessee 37027

**RE: A request of inquiry as to attorneys David Gold and Jay  
L. Grytdahl, as follows:**

**I complain of Mr. David Gold as follows:**

First, I request your determination of whether Mr. Gold has willfully, and/or with total disregard for truth and/or knowledge of the Canons governing judicial conduct, falsely accused me of improper judicial conduct. I cite, In Re Reed, 716 N.E. 2<sup>nd</sup> 426 (Ind. 1999), as authority for the filing of this charge.

I enclose herewith Mr. Gold's complaint against me, and ostensibly against the Chief Judge of the U.S. Bankruptcy Court, Judge David Kennedy, and my response to Mr. Gold's complaint. Specifically, I ask that you note that this complaint of Mr. Gold was made after my letter to Mr. Jay L. Grytdahl, who I also complain of, after I noticed Mr. Grytdahl, not Mr. Gold, of my decision to re-open proof in a case then pending before me, and before my promised written ruling. And, that in his complaint, Mr. Gold would not only challenge my authority to re-open proof, but also alleged facts that are totally untruthful. (My response to Mr. Gold's complaint is contained in these documents.)

Further, the objectives of Mr. Gold, and his untruthfulness, can in no better way be shown by his falsely stating that I, "yearly evaluate" my assigned sheriff deputy, a fact clearly known as being untrue.

Secondly, referencing, again, my "response" and supporting documents, I accuse Mr. Gold of conduct toward this Court, totally disrespectful and subject to this Court's contempt powers, and that Mr. Gold's conducts renders our profession to public disrepute. Indeed, note the affidavit of Mr. Matthews, a *Pro Se* litigant and that of Mr. Mike Mitchell, Esq., and my deputy and clerks!

Thirdly, I accuse Mr. Gold's conduct toward Mr. Matthews as being possibly racist, or at the very least, totally disrespectful. I ask you to note my account of the events and the statement of the litigant, Mr. Matthews. Mr. Gold only approximately nine (9) months ago was re-instated to practice law after having been suspended by our Supreme Court,

effective 2005, and returns with an attitude towards Judges and litigants, which is totally inconsistent with what is expected of members of our profession, and possibly, even, with racist attitudes which would inure to render our profession to public disrepute. (Again, note Mr. Matthew's emphasis of how Mr. Gold characterized him and his wife as, "these people.")

Further, consider the statement of my clerk, Ms. Deon Allen.

Fourthly, I respectfully request your inquiry as to when Mr. Gold established his law firm in Memphis. Indeed, it now appears that Mr. Grytdahl was a member of Mr. Gold's law firm. (When did Mr. Gold secure a lease on his building? When did Mr. Grytdahl join Mr. Gold's firm?)

**As to Mr. Jay L. Grytdahl, who supports Mr. Gold's complaint, I request an inquiry as follows:**

First, are the facts stated in my response true, to-wit, that I regarded him only as the attorney for Gridiron; that I noticed him of Mr. Gold's prior conduct; that while I refused to allow Mr. Gold to respond to arguments, I did so politely and courteously; my acknowledging him, Mr. Grytdahl, as the attorney of record?

Further, I respectfully request that you inquire of Mr. Grytdahl if it was a fact that I had promised a written ruling; and further, whether the other facts set forth in my response are true? Then, I request that Mr. Grytdahl as to the specific Canon, and supporting facts, which is the basis of his opinion that I was guilty of judicial misconduct.

Further still, Mr. Grytdahl should be questioned as to when he joined the Gold Law Firm, and as to when the firm was established.

Finally, Mr. Grytdahl, I submit, should be questioned as to the veracity of the statements of my clerk, Ms. Deon Allen, and Mr. Matthews. And if these statements are true, did he acquiesce in Mr. Gold's conduct, or if not, why did he not report such conduct to you, the Tennessee Board of Professional Responsibility? Indeed, if what was said by Mr. Gold, in Mr. Grytdahl's presence, is true, it appears that my conduct in not allowing Mr. Gold to address issues, of which he had no credible knowledge, is regarded by Mr. Grytdahl as being more egregious than that of Mr. Gold!

Respectfully requested,

Judge John A. Donald

cc: Mr. Timothy R. Discenza  
Disciplinary Counsel of Tennessee Court of the Judiciary



**EXHIBIT D**

January 19, 2012

Mr. Timothy R. Discenza  
Disciplinary Counsel  
Tennessee Court of the Judiciary  
P.O. Box 50356  
Nashville, TN 37205

RE: Complaint of David Gold against John A. Donald  
File No. 11-4762

Dear Mr. Discenza:

I respectfully submit these presents as my “closing statement” and “arguments” with regard to the presents previously submitted to you by Mr. David Gold in his response to my response to his maliciously false claim against me. Also, I present my opinion of the facts as they would address the Canons of which I am accused as being in violation.

Further, I would emphasize that as a member of the Bar since 1975 and a Judge since 1986, I find the timing of Mr. Gold’s complaint troubling as it was made while I, as promised to him and Mr. Grytdahl, was preparing a written finding of facts and conclusions of law. Yet, these gentlemen would, apparently, believe that my ruling would be adverse to them, and pursued the drastic act of falsely accusing me of judicial misconduct in violation of the Canons referenced herein below. Surely, it seems to me that they could have awaited my ruling, and not ask you to speculate on same. Then, is it appropriate for lawyers to use the Court of the Judiciary to complain of a Judge’s “anticipated” ruling? Again, this is truly troubling! Indeed, I also submit that this is what awaits our Judiciary and legal profession with the debates now taking place in the Legislature Branch of our government. While my integrity is now at issue, I suggest that this is just the beginning! And, I respectfully request that you and the “Court” provide me the “substantive due process” that I have sought to provide all litigants who have appeared before my Court and offer the following as “closing arguments” to Mr. Gold’s charges.

### Issues of Facts

First, I respectfully request that you consider the time frame in which Mr. Gold files his complaint: (1) the record clearly reflects that Mr. Gold's accusations against me were submitted to you as a "complaint," while I yet was adjudicating the issues before this Court! Indeed, in his "complaint," Mr. Gold would predicate his complaint upon my letter dated October 11, 2011 to Mr. Jay L. Grytdahl, the attorney of record, for Gridiron of Memphis, Inc., "re-opening" proof, that letter clearly indicating that I had promised "to render (my ruling) in writing."

Query, did my aforesaid letter render me in violation of Canon 2, and its subsections, and Canon 3(B)(2)?

With regard to Canon 2(A), what facts are alleged that would sustain Mr. Gold, unless this Court ignores the "public confidence in the integrity and impartiality" of the Judiciary, "by doing what Mr. Gold demanded: "tell these people" they owe the debt? (Further, I am shocked at Mr. Grytdahl's affidavit submitted with Mr. Gold's response, to-wit, that I embolden Mr. Matthews to display "aggressive behavior" toward Mr. Gold, which is clearly disputed by Ms. Allen's statement.

Query, was Mr. Matthew's emboldened by my efforts to assure to him, a member of the public, "confidence in the integrity and impartiality of the Judiciary?" Further, how can Mr. Grytdahl assert me as having been in violation of Canon 2(A) when he witnessed what was presented by my Clerk as reprehensible conduct, and which I intended to address on October 27, 2011? I can only suggest that if what Ms. Allen alleges is true, then Mr. Grytdahl now furthers his complicity in Mr. Gold's false complaint. (However, these are issues to be determined by the Tennessee Board of Professional Responsibility.)

Next, Mr. Gold accuses me of having violated Canon 3(B)(2) which states that a Judge shall be faithful to the law and maintain professional competence in it," and, further, of violating Canon 3(7). **Just consider how absurd Mr. Gold's position is: In the case at bar, I sought legal authority (not advice) from the Chief U.S. Bankruptcy Judge, the best source I know who can provide a Judge, without the means of law clerks, who voluntarily offers such research. Was I not attempting to "be faithful to the law and maintain professional competence in the law of bankruptcy?"**

Yet, Mr. Gold would complain of these efforts of mine accusing me of being in violation of Canon 3(7)(B) for my consultation with Judge Kennedy, apparently having no regard of Canon 3(B)(7)(C), addressed to you by Judge Kennedy in his November 16, 2011 letter. Query, why? I enclose herewith a copy of my letter to Judge Kennedy, copied to Attorneys Tim Thompson and Blair Evans, of the Donelson Law Firm, which evidences only my reliance on Judge Kennedy when I have issues of bankruptcy law before me. I suggest, as further shown hereinafter, Mr. Gold or Mr. Grytdahl had no concern for the veracity of his complaint, but was blinded by a sense of "entitlement," and that he was in

“attack mode” when he filed his complaint against me. (Consider Mr. Gold’s use of the word “armed!”)

Now I address Mr. Gold’s charges of my violating Canon 3(B)(4) and Canon 3(7):

With regard to Canon 3(B)(4), I begin with September 9, 2011, you have before you the statements of not only Deputy Williams, Ms. Evelyn Perkins, the supervisory clerk who served as my Clerk the date the statement of Mr. Matthews, which is, I submit, is of the ultimate importance, as you consider Mr. Gold would cite Canon 2(A) and this Court’s duty to “promote public confidence in the integrity and impartiality,” and most importantly, the statement of attorney Mike Mitchell, a member of the Memphis Bar.

Mr. Gold alleges that never had he experienced “hatred” toward him more than that exhibited on September 29, 2011, October 6<sup>th</sup> and October 12<sup>h</sup> (in my chambers.) Query, while Mr. Gold would falsely represent my authority over Mr. Williams, the deputy assigned by the Sheriff to my Court, purposefully lying that I evaluated Mr. Williams on a yearly basis, how can he refute the statement of Mr. Mike Mitchell as to his conduct on September 29<sup>th</sup>.

Does this not go to Mr. Gold’s integrity and credibility?

Further, consider unnumbered paragraph 5 of page 2 of Mr. Gold’s response to my response: Does he acknowledge what Mr. Williams and attorney Mitchell allege as being his conduct?

But the issue is: it is my conduct at issue! Mr. Gold asserts that on September 29, 2011, I exhibit “much hatred toward him.”

Mr. Gold’s next appearance before me was on October 6, 2011. As indicated in my previous response, the attorney of record was Mr. Grytdahl! (Reference is made again to the file previously submitted, and the subpoena pursuant to which I proposed to authorization examination. Nowhere is it shown that this subpoena was issued by the “Gold Law Firm,” by only of Mr. Grytdahl.

When Mr. Gold appeared on September 29, 2011, as Mr. Williams, my deputy who whose statement reflects, because I had never met nor ever heard of Mr. Gold, I considered him as a young attorney substituting for Mr. Grytdahl. (Had I known Mr. Gold was, in fact, the head of the firm and that Mr. Grytdahl worked for him, I possibly would have then considered holding him in contempt for his conduct, and then filing the complaint I have filed against him with the Tennessee Board of Professional Responsibility. Instead, I honestly considered Mr. Gold as a young attorney and “over zealous.”)

The issue before you is whether or not I was obligated to allow both Mr. Grytdahl and Mr. Gold to present oral arguments.

Further, Mr. Gold cited Canon 3(7) as asserting him with a "legal interest" in the proceeding, or that he was the plaintiff's lawyer. Query, if Mr. Gold was the plaintiff's lawyer in a lawsuit that went back beyond the day he was suspended from practicing law, why had he not reflected same on the pleadings? (Indeed, I just note, for informational purposes only, that the file previously submitted to you reflect the attorney who first is shown as being plaintiff's lawyer named Dwight T. Moore, is cited in Tennessee Board of Professional Responsibility "Reference of Information," and published in Tennessee Law Institute 37<sup>th</sup> Annual Review Seminar, as being censored in the Shelby County Probate Court for violation of Rule 33, "Candor toward the Tribunal." It would be interesting to determine whether this Mr. Moore was the same who procured the judgment sought to be enforced by Mr. Gold and, if so, what, if any, relationship he had with the Gold Law Firm. (I copy an excerpt from the book presented to those of us who attended the aforementioned seminar.)

Then, Mr. Gold cites October 12, 2011 as another instance in which I rendered "hatred" and/or improper judicial misconduct toward, when he visited my chambers unannounced, with Mr. Mike Bursi, esquire. You have before you Mr. Bursi's response to my inquires, attachment #19, and I reference you to Mr. Bursi's response to my "request" #3, that my discussions were with him, with Mr. Gold being only a bystander. Obviously, Mr. Gold considers "hatred" toward him because I failed to accept his apologies.

If I am to be found guilty of improper judicial conduct, pursuant to the Canons presented, or any other Canons, it appears that it will rest only on Mr. Gold's statement and/or the affidavits of Mr. Grytdahl.

I assure this "court," however, that my actions were always consistent to what is expected by judges, and further, Officer Williams' statement reflects how I had no desire to complain of Mr. Gold because I actually believed him to be a young attorney, unaware of his past history of disgrace to our profession, until noticed by Mr. Mike Mitchell.

Respectfully submitted,

Judge John A. Donald