

ORIGINAL

IN THE TENNESSEE COURT OF THE JUDICIARY

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

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

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

**RESPONSES AND OBJECTIONS TO
REQUESTS FOR PRODUCTION OF DOCUMENTS**

NOW INTO COURT comes The Honorable John A. Bell, Judge, General Sessions Court, Cocke County, Tennessee (“Judge Bell”), pursuant to Tennessee Rule of Civil Procedure 34, and amends his responses to Disciplinary Counsel’s Requests for Production of Documents as follows:

I. PRELIMINARY OBJECTIONS

A. Privilege Against Self-Incrimination – Fifth Amendment of the United States Constitution and Article I, §9 of the Tennessee Constitution. The Formal Charges filed against Judge Bell charge him, among other things, with “obstructing justice and governmental administration,” “obstructing and interfering with evidence or witnesses and witness tampering,” and engaging in a conspiracy to subvert justice and the operation of the statutory Court of the Judiciary.” Specifically, the Formal Charges allege that Judge Bell is guilty of Class C, D and E felonies, as set forth in Tenn. Code Ann. § 39-16-107 (the “witness tampering” statute) and Tenn. Code Ann. § 39-16-402 (the “Official Misconduct” statute). Based upon those allegations and the delineated charges

of criminal offenses, Judge Bell has been advised by counsel to assert and invoke, and hereby does respectfully assert and invoke, his privilege against self-incrimination guaranteed by the Fifth Amendment of the United States Constitution and under Article I, Section 9 of the Tennessee Constitution. Upon motion by Disciplinary Counsel, the Court has ordered Judge Bell to amend his response to request for production #1. The Court determined that request for production #2 is not relevant and Judge Bell does not have to respond further. The Court reserved ruling on requests for production 3, 4, and 5. Disciplinary Counsel did not object to Judge Bell's response to request for production #6.

B. Attorney-Client Privilege. Insofar as any of the Requests for Production of Documents seek information relative to any communications between Judge Bell and his counsel, including attorney Tom Testerman, of the Cocke County bar, Judge Bell respectfully asserts and invokes the attorney-client privilege.

II. GENERAL OBJECTIONS

A. Judge Bell objects to the Requests to the extent they purport to impose obligations and require procedures beyond those set forth in the Tennessee Rules of Civil Procedure and all other applicable laws and rules.

B. Judge Bell objects to the Requests to the extent they purport to require the disclosure of information protected from disclosure by the attorney-client privilege, the work-product doctrine or any other applicable privilege, law or rule. Judge Bell hereby claims such privileges and protections to the extent implicated by each of the Requests and will exclude such privileged information from its responses. Any inadvertent disclosure of such privileged or protected information is not intended to waive those privileges or protections.

C. Judge Bell objects to the Requests to the extent they purport to require the disclosure of information that is not presently in the possession, custody or control of Judge Bell.

D. Judge Bell objects to the Requests to the extent they are overbroad, unduly burdensome and are not reasonably calculated to lead to the discovery of relevant information.

E. Judge Bell's failure to object on any particular ground shall not be construed as a waiver of his right to object on any additional ground.

F. In making these objections, Judge Bell does not in any way waive or intend to waive, but rather preserves and intends to preserve:

1. all rights to object on any ground to the competency, relevancy, materiality and admissibility of any information that may be provided in response to the Requests or the subject matter thereof;

2. all rights to object on any ground to the use of any information or document that may be provided in response to the Requests or subject matter thereof; and

3. all rights to object on any ground to any request for further responses to this or any other discovery request.

III. REQUESTS FOR PRODUCTION:

REQUEST NO. 1: Produce any documents identifying you as Judge of the General Sessions Court of Cocke County, Tennessee.

AMENDED RESPONSE: Subject to Objections, Judge Bell has admitted that he is Judge of the General Sessions Court of Cocke County, Tennessee. Therefore,

production of documents on this issue is overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant information.

REQUEST NO. 2: Produce any documents evidencing or establishing any and all training, education, and seminars you have received or attended in Judicial Ethics, or involving Judicial Ethics from and during your tenure as Judge of the General Sessions Court of Cocke County, Tennessee.

AMENDED RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground. Further, this Interrogatory has been deemed irrelevant by the Court, and is not being amended.

REQUEST NO. 3: Produce any and all documents and/or records, in any form, concerning court dockets and your attendance at court dockets you have maintained or which have been maintained by any person, firm, or entity, concerning your duties as Judge of the General Sessions Court of Cocke County, Tennessee, including but not limited to computer records, calendars, diaries, files, notes, schedules, memoranda, and for each such record identify its location or locations, from September 18, 2007 through and including June 28, 2008.

RESPONSE: In accordance with the Court's Order, Judge Bell's response to this request is not being amended or answered further at this time, pending further ruling from the Court on Disciplinary Counsel's motion to compel.

REQUEST NO. 4: Produce any and all documents or records relating to any and all vacation days, personal days, military days, holidays, sick days, leave days or any and all other absences provided to you or sanctioned for you in your capacity as Judge of the

General Sessions Court of Cocke County, Tennessee, from September 18, 2007 through and including June 28, 2008.

RESPONSE: In accordance with the Court's Order, Judge Bell's response to this request is not being amended or answered further at this time, pending further ruling from the Court on Disciplinary Counsel's motion to compel.

REQUEST NO. 5: Produce any and all records, in any form, concerning the case or cases described in the Complaint filed in this action to which reference is hereby made, including but not limited to computer records, calendars, diaries, files, notes, schedules, memoranda, research, and for each such record identify its location or locations, at all times since September 18, 2007.

RESPONSE: In accordance with the Court's Order, Judge Bell's response to this request is not being amended or answered further at this time, pending further ruling from the Court on Disciplinary Counsel's motion to compel.

REQUEST NO. 6: Produce any and all records, in any form, concerning any contact of any nature with a Mr. Testerman, relating to, involving or addressing in any fashion the case or cases described in the Complaint filed in this action, to which reference is hereby made, including but not limited to computer records, calendars, diaries, files, notes, schedules, memoranda, and for each such record identify its location or locations, at all times since September 18, 2007.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this Request on that ground. Judge Bell also objects to this request on the grounds that any confidential communications between Judge Bell and his counsel, including Mr. Testerman, are subject to the attorney-client privilege.

Respectfully submitted, this 23rd day of December, 2009.



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

CERTIFICATE OF SERVICE

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

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

This 23rd day of December, 2009.


Gordon Ball