

IN THE TENNESSEE COURT OF THE JUDICIARY

FILED

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Clerk of the Courts

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 ADMISSIONS

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 36, and responds to Disciplinary Counsel’s request for admissions 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, and therefore, must respectfully refuse to answer the Request for Admissions propounded unto him.

B. Attorney-Client Privilege. Insofar as any of the Request for Admissions 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:

1. That you were at all times relevant herein (as described in the original Complaint in this action), a full time judge of the General Sessions Court of Cocke County, Tennessee, as described in TCA Section 16-15-502.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

2. That at all times relevant to the Complaint filed in this action, the Judicial Canons of Ethics or Code of Judicial Conduct applied to you.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

3. That in your capacity as General Sessions Judge you heard a case assigned docket number 2007–CV–869 on September 18, 2007 at 9:00 a.m., being a civil action brought by David J. Pleau, “policy #TNA11181953 for failure to pay damages resulting from accident with an uninsured motorist on 12-29-07 under \$5,000.”

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

4. That on the 18th day of September, 2007, the case described in previous Request No. 3 was, following the hearing, taken under advisement.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

5. That at the hearing of the case described in previous Request No. 3, the defendant insurance company, through counsel, moved the court to dismiss the complaint as a result of the fact that Mr. Pleau was in this complaint suing directly his own uninsured motorist carrier as opposed to suing the uninsured motorist.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

6. That at the hearing of the case described in previous Request No. 3, that you announced that you would have a decision in one week.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

7. That following the hearing of the case described in previous Request No. 3, the plaintiff Mr. Pleau asked you on more than one occasion to rule on the case and that you assured him that the decision would be forthcoming immediately.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

8. That following the hearing on September 18, 2007 of the case described in previous Request No. 3, on June 27, 2008, you ruled in the case.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

9. That your ruling described herein in the preceding Request No. 8 made findings of fact as to the cause of the underlying automobile collision and the related damages, and that these findings demonstrated your finding and opinion as to the responsibility or the cause of the accident as well as the amount of damages and ascribed the negligent conduct to the driver of the “other vehicle.”

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

10. That on December 23, 2008, in your capacity as General Sessions Judge, you entered an order which vacated the previous dismissal and further encouraged Mr. Pleau to file a new action against “the other driver” whose name is Jo Ann Coleman, and that David J. Pleau filed a second complaint concerning the subject automobile accident which was styled David Joseph Pleau vs. Jo Ann Coleman, Docket No. 2008–CV–1186.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

11. That on April 27, 2009, you rendered a decision in favor of Mr. Pleau and against Jo Ann Coleman and Merastar Insurance Company which basically recited the same findings of facts and conclusions as had previously been determined by Judge Bell. On this occasion these findings were made against Jo Ann Coleman who was pro se at these proceedings and was found to be one hundred percent at fault for the collision and a judgment was rendered against her in the sum of \$4,726.78.

RESPONSE: Judge Bell hereby invokes his privilege against self-incrimination and objects to this request on that ground.

12. That in January, 2009, or early February, 2009, you initiated a meeting and/or met with a local attorney, a Mr. Testerman and at that time, discussed the complaint of Mr. Pleau which had been filed in the Court of the Judiciary.

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.

13. That any time since 2008 you have asked, encouraged, or enlisted Mr. Testerman in any fashion, to approach Mr. Pleau on your behalf, to make a direct and unequivocal effort to induce Mr. Pleau to cease the pursuit of his complaint in the Court of the Judiciary.

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.

14. That at any time in 2009 you have had dialogue, contact, verbal conversations, or written communications, or any of the foregoing, with Mr. Testerman, in addition to any previously described, pertaining to, relating to or in any way and for any portion of the contact the complaint of Mr. Pleau against you, in the Court of the Judiciary.

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 13th day of November, 2009.

A handwritten signature in cursive script, appearing to read "G. Ball", is written over a horizontal line.

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 13th day of November, 2009.



Gordon Ball