

ORIGINAL

FILED

IN THE TENNESSEE COURT OF THE JUDICIARY

2009 NOV 23 PM 12: 13

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

APPELLATE COURT CLERK
NASHVILLE

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

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

**MOTION FOR PROTECTIVE ORDER and
MOTION TO QUASH NOTICES OF DEPOSITION**

COMES NOW Joseph S. Daniel, Disciplinary Counsel for the Tennessee Court of the Judiciary, pursuant to Rules 26-37, Tennessee Rule of Civil Procedure, and would respectfully move the Court for an Order directing that depositions heretofore set by Notice by counsel for The Honorable John A. Bell to occur on December 2, 2009, in Knoxville, Tennessee, not be held and that the Notices of Deposition setting same be quashed. As grounds therefore Movant would state as follows:

1. Joseph S. Daniel, Disciplinary Counsel for the Tennessee Court of the Judiciary, and lead counsel for said Court of the Judiciary in this action, underwent a surgical procedure in Cleveland, Ohio on November 2, 2009.

2. Following the surgery, and release from the Cleveland Clinic facility, Joseph S. Daniel was again hospitalized in Murfreesboro, Tennessee on November 17, 2009. As of the preparation of this Motion, J.S. Daniel remains hospitalized with no certain date for release, or for the reasonable resumption of any level of activity upon release.

3. Counsel for The Honorable John A. Bell has issued two (2) Notice of Deposition documents, both on their face appearing to Notice one James LaRue for depositions in Knoxville Tennessee on December 2, 2009 at 9:00 a.m. (It is perceived by Movant that the intention may have been to Notice Mr. Larue and Mr. David Pleau, however, the language in either Notice mentions only Larue).

4. It has been the intention of Movant that Joseph S. Daniel be actively involved in this action in all significant aspects. His current health situation compromises that involvement.

5. The depositions are premature, and unreasonable particularly given the nature of The Honorable John A. Bell's Answer and Responses to written discovery. Those matters are the subject of a Motion to Compel being simultaneously filed. By way of illustration and not limitation, the sequencing of discovery would appear to be severely out of balance when the party deposing by notice has refused to confirm, *inter alia*, their name and occupation in their original Answer and discovery responses.

6. Also being simultaneously filed is a Motion to Set and/or for a Scheduling Order which, in addition to this Motion and the Motion to Compel, would be just and proper environments to determine a meaningful direction of the litigation at this stage.

7. In the event the medical condition and prognosis of Disciplinary Counsel J. S. Daniel precludes his anticipated involvement in this action, the office of Disciplinary Counsel will need to obtain another of the assistant Disciplinary Counsel to participate, and a reasonable time for that counsel to become familiar with the action will be necessary.

8. Reasonable opportunity for Disciplinary Counsel to adequately prepare for the Noticed deposition or depositions should also be afforded to Movant, an undertaking complicated not only by the aforementioned health issues but the intervening holiday

9. Movant is unable at this moment to obtain a supporting affidavit of J.S. Daniel supporting the statements concerning his medial condition, and his de facto quarantine, however as soon as medically permissible, and if necessary, that information is perceived capable of being obtained.

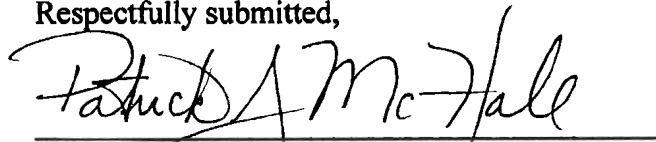
Wherefore, Movant prays as follows:

That this Motion be filed and that the deposition or depositions noticed for December 2, 2009 be quashed.

That the Motions being simultaneously filed, to wit, a Motion to Set and for Scheduling Order, and the Motion to Compel be heard and addressed in the context of one another and this Motion.

NOTICE is hereby given that the undersigned will appear before the Honorable Don R. Ash, Presiding Judge, Court of the Judiciary, at his courtroom, 4th Floor, Judicial Bldg., Public Square, Murfreesboro, Tennessee on the 30th day of November, 2009, at 3:00 p.m. central standard time, for a hearing on this Motion.

Respectfully submitted,



JOSEPH S. DANIEL #002799

Disciplinary Counsel

PATRICK J. McHALE, #004643

Assistant Disciplinary Counsel

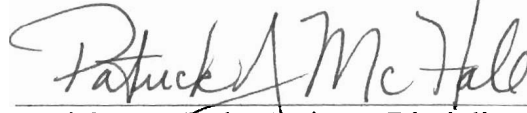
503 North Maple Street

Murfreesboro, TN 37130

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Certificate of Service

I certify that a true and exact copy of the foregoing has been mailed, delivered, and/or transmitted by facsimile to Mr. Gordon Ball, BALL & SCOTT Law Offices, Attorneys at Law, Attorney for The Honorable John A. Bell, 550 W. Main Street, Suite 601, Knoxville, Tennessee 37902, on this the 23rd day of November, 2009.

A handwritten signature in cursive script that reads "Patrick J. McHale". The signature is written in black ink and is positioned above a horizontal line.

Patrick J. McHale, Assistant Disciplinary Counsel