

ORIGINAL

FILED

IN THE TENNESSEE COURT OF THE JUDICIARY

2009 DEC 28 AM 7:59

**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**

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**AMENDED RESPONSES AND OBJECTIONS  
TO REQUESTS FOR ADMISSIONS**

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**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 amends his prior responses 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. Upon motion by Disciplinary Counsel, the Court has order Judge Bell to respond to requests 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11. The Court reserved ruling on requests 7 and 12. Disciplinary counsel's motion did not object to Judge Bell's prior responses to requests 13 and 14.

**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.

**AMENDED RESPONSE:** Subject to Objections, admit.

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.

**AMENDED RESPONSE:** Subject to Objections, admit.

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.”

**AMENDED RESPONSE:** Denied as to exact time of hearing and accuracy of quoted caption. As to remainder, subject to Objections, admit.

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

**AMENDED RESPONSE:** Subject to Objections, admit.

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.

**AMENDED RESPONSE:** Objection. The motion to dismiss referenced in the Request 5 was made in writing, and the written motion speaks for itself. As to the subject of the insurance company’s motion, subject to Objections, admit. Denied that the aforementioned subject of the motion completely sets forth all the legal and factual issues before the court regarding that motion.

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.

**AMENDED RESPONSE:** Denied.

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:** Objection. 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.

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.

**AMENDED RESPONSE:** Subject to Objections, admitted that an Order was issued on or about June 27, 2008.

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:** Objection. The Order speaks for itself.

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:** Objection. 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.

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:** Subject to Objection, Judge Bell admits he issued a decision in favor of Mr. Pleau against Jo Ann Coleman and Merastar Insurance Company, and the written decision speaks for itself. Otherwise, Denied.

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:** Objection. In accordance with the Court's prior order, this Request is not being answered at this time, pending further ruling from the Court on Defendant's objection.

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 23<sup>rd</sup> day of December, 2009.



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**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 23<sup>rd</sup> day of December, 2009.

  
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Gordon Ball