



## 1 APPEARANCES:

2 FOR JOHN A. BELL:

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11 FOR THE TENNESSEE COURT OF THE JUDICIARY:

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18 David Pitman, Videographer  
19 James T. LaRue  
20  
21  
22  
23  
24  
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## S T I P U L A T I O N

1  
2 The deposition of DAVID J. PLEAU,  
3 called as a witness at the instance of John A. Bell,  
4 pursuant to all applicable rules, taken by agreement on  
5 the 22nd day of December, 2009, beginning at  
6 approximately 9:00 a.m., at the law offices of Gordon  
7 Ball, 550 W. Main Street, Suite 601, Knoxville, before  
8 Whitney Lofton, Court Reporter and Notary Public,  
9 pursuant to the stipulation of counsel.

10 It being agreed that  
11 Whitney Lofton, Court Reporter and Notary Public, may  
12 report the deposition in machine shorthand, afterwards  
13 reducing the same to typewriting.

14 All objections, except as to the  
15 form of the question, are reserved to on or before the  
16 hearing.

17 It being further agreed that all  
18 formalities as to notice, caption, certificate,  
19 transmission, etc., including the reading of the  
20 completed deposition by the witness and the signature of  
21 the witness, are waived.

22  
23  
24  
25

1 DAVID J. PLEAU

2 called as a witness at the instance of John A. Bell,  
3 having been first duly sworn, was examined and deposed  
4 as follows:

5 EXAMINATION

6 BY MR. BALL:

7 Q Would you tell me your name.

8 A David J. Pleau, Joseph is the middle  
9 name.

10 Q Mr. Pleau, my name is Gordon Ball. I  
11 represent Judge Bell on this matter. I'm going to be  
12 asking you a few questions this morning. And if at any  
13 time you don't understand my question, just stop me and  
14 say Mr. Ball, I don't understand and would you explain  
15 it to me again. Is that fair enough?

16 A Yes.

17 Q Would you give me your address,  
18 Mr. Pleau?

19 A 1618 Scotchpine Way, Bybee,  
20 Tennessee.

21 Q And how long have you lived at that  
22 address, sir?

23 A Since 2000.

24 Q And where did you live before that?

25 A Hartford, Tennessee.

1 Q You and I have a little something in  
2 common. I grew up in Hartford.

3 A Did you really?

4 Q I really did. How long did you live  
5 in Hartford, Tennessee?

6 A Two years.

7 Q Now, my accent is a little more  
8 southern than yours. So you obviously lived somewhere  
9 else.

10 A I am from Maine.

11 Q Okay. And did you move from Maine to  
12 Hartford, Tennessee?

13 A No.

14 Q Where did you live before Hartford?

15 A From Maine, I got married in '86 and  
16 I moved to North Conway, New Hampshire.

17 Q And from New Hampshire, you moved  
18 where?

19 A To Florida on business.

20 Q And how long did you live in Florida  
21 and where?

22 A I live in Sarasota from July of '94  
23 until late November of '94.

24 Q And then where did you move to?

25 A To Tennessee. I got an invitation

1 from my friend. I moved to Seymour that time and then  
2 from Seymour to Jefferson City and from there to here.

3 Q Seymour to Jefferson City to Hartford  
4 to Bybee?

5 A Correct.

6 Q And what do you -- what is your  
7 educational background, Mr. Pleau?

8 A I got 11 years of formal education  
9 and then I got a GED.

10 Q From which state?

11 A Maine. And now I am attending  
12 Walters State.

13 Q And what are you majoring in at  
14 Walters State?

15 A Medical information technology  
16 management and mass communications.

17 Q And what year are you in?

18 A Sophomore.

19 Q And could you tell me your age, sir?

20 A I'm 53.

21 Q And are you married?

22 A I am married, yes.

23 Q To who and for how long?

24 A To Bettina Pleau.

25 Q And how long have you all been

1 married?

2 A Since '86.

3 Q Do you have children?

4 A No.

5 Q Did she have children prior to --

6 A No.

7 Q Did you have children prior to the  
8 marriage?

9 A No.

10 Q And where have -- are you a full-time  
11 student?

12 A I am.

13 Q And what kind of work have you done,  
14 say, between '86 and --

15 A Primarily commercial window cleaning.

16 Q Is that what you did in Cocke County?

17 A It is.

18 Q And do you work for yourself?

19 A Yeah, self-employed.

20 Q And does your wife work?

21 A She does.

22 Q Where does she work?

23 A Talbots. She is a fashion

24 consultant.

25 Q Prior to August the 9th, 2007, had



1 you ever been involved in a court proceeding, sir?

2 A In a court proceeding of what kind?

3 Q Either criminal or civil, either one.

4 A Yeah. I have been involved in a  
5 criminal.

6 Q And what is that?

7 A Huh?

8 Q What kind of involvement have you had  
9 in a criminal proceeding?

10 A From the time I was 18 until I was  
11 like 20, I believe, I had a few altercations with the  
12 law.

13 Q And where were those altercations and  
14 what were they? Did they result in a conviction of any  
15 kind?

16 A Yeah.

17 Q And what were those?

18 A I had one cultivation of marijuana.

19 Q Where was that?

20 A In Maine.

21 Q In Maine?

22 A Maine.

23 Q What else?

24 A Unauthorized use of a motor vehicle  
25 without the owner's consent.

1 Q Were you charged with stealing it?

2 A No, just riding in it.

3 Q And did you actually end up with a  
4 felony conviction on any one of those?

5 A No, misdemeanor.

6 Q Misdemeanor. Any other criminal --

7 A The last thing was I had just got  
8 back from Hawaii and my friend was going to sell me his  
9 class C motor home. He picked me up at the airport and  
10 I was suffering from jet lag, and he took me back to his  
11 home in Concord, New Hampshire. And he went out and did  
12 some things with his family and I stayed home.

13 So I decided to go to the local gas  
14 station and fill up the motor home so I could travel a  
15 couple of miles -- a couple hours north to my home, and  
16 he hadn't told me that there was a leak in the top of  
17 that gas tank. So as I topped up the tank, it started  
18 leaking on the garage's driveway or, you know, the  
19 pavement.

20 And the man came out really angry and  
21 says, "Get that thing out of here." So I took it -- you  
22 know, it was only about a block or two to my friends  
23 house. And then I was taking a nap and there was a  
24 knock on the door, and there was a policeman. And he  
25 said, "You just left without paying for that gas." And

1 I said, "Yeah. The guy ordered me to get it out of  
2 here." And I was going to go back anyways when my  
3 friend got back home, but I got charged with -- I even  
4 forget what the name of thing was.

5 Q Driving away without paying?

6 A Yeah. And I fell short this time. I  
7 didn't plead guilty. I took it to trial and the judge,  
8 you know, fined me \$500. So that was the last episode  
9 of trouble that I have had.

10 Q Okay. And that was approximately  
11 what year would you say?

12 A That was exactly '94.

13 Q In what state?

14 A New Hampshire.

15 Q Have you ever had any criminal  
16 problems since you have been in Tennessee?

17 A No.

18 Q Let's turn to the civil side of the  
19 justice system. Had you been involved in the civil  
20 side? Did anybody sue you or did you ever get sued?

21 A No, sir.

22 Q Ever been a witness or anything like  
23 that?

24 A No.

25 Q Did you ever have -- prior to you

1 filing suit back in August of 2007 over your car wreck,  
2 did you have any legal education of any kind?

3 A No, just what I had seen in TV.

4 Q Some of that's probably not true.

5 A True.

6 Q You had a car wreck sometime prior to  
7 August the 9th, 2007?

8 A Is that the one with Jo Ann Coleman?

9 Q Yes.

10 A Yes, sir.

11 Q And you had insurance on your car?

12 A On my -- it was a jeep.

13 Q A jeep. A Jeep Wrangler, I believe.

14 A Yes.

15 Q And who did you have insurance with?

16 A Merastar out of Chattanooga.

17 Q And were you familiar with the term  
18 uninsured motorist?

19 A I sure was.

20 Q Prior to the wreck?

21 A I knew what the application is.

22 Q Right. When you filed suit  
23 against -- and you filed suit in August of 2007. You  
24 filed suit directly against your own uninsured  
25 motorist -- I mean, your own insurance company?

1           A           Yeah. Because as you say, I don't  
2 have a legal background. It was a mistake.

3           Q           And when were you -- had you talked  
4 to Jo Ann Coleman prior to you filing suit and realized  
5 she didn't have insurance?

6           A           I knew the very night we got into the  
7 wreck that she didn't have insurance. She admitted that  
8 to me.

9           Q           And did you talk -- prior to filing  
10 suit the first time, did you talk to any lawyer or have  
11 any legal advice about who you technically had to sue?

12          A           No. I figured it would be like small  
13 claims court. I didn't figure that the plaintiff in  
14 small claims court -- just based on what I saw from TV,  
15 that they don't usually have any legal experience at  
16 all, but the --

17          Q           The judge hears the dispute and  
18 decides what's right?

19          A           That's what I thought.

20          Q           Now, your claim I think was for  
21 about --

22          A           It was \$4,700 and some change.

23          Q           And that's ultimately -- is that  
24 ultimately after all these years what you got and  
25 finally settled for or was it less than that?

1           A           Well, the way this thing got -- and  
2 my estimation concluded -- is I took -- I asked around  
3 Newport to various lawyers if they would take the case  
4 on a percentage base --

5           Q           Right.

6           A           -- being that I cannot afford to pay  
7 outright, and no one seemed --

8           Q           Let me ask you time-wise on this.  
9 Did you ask any lawyer before you filed suit?

10          A           Not that first one. Not that first  
11 suit.

12          Q           You just thought you could do that  
13 yourself?

14          A           I hoped I could.

15          Q           Okay. Go ahead; I'm sorry.

16          A           So finally after the first suit got  
17 dismissed due to a technicality in which I didn't sue  
18 Jo Ann Coleman, I sued Merastar instead. I brought the  
19 second suit up and it was pending. No, that got found  
20 in my favor by Judge Bell. And then when I knew that  
21 Merastar would appeal to circuit court, I then didn't  
22 have the confidence that I could, you know, pull this  
23 off on my own successfully.

24                       And I decided I should go for legal  
25 counsel. And that was when I got a discovery in the

1 mail from the law firm which Merastar had retained.

2 Q What was that?

3 A They wanted me -- they repeated all  
4 the questions that came out in the first -- in the  
5 second trial. Didn't you deliberately go through a stop  
6 sign? Didn't you deliberately fail to yield? And I had  
7 to answer these -- I missed that I had to return that  
8 within 30 days.

9 Q They sent you discovery requests  
10 after it was in circuit court?

11 A When they appealed, they sent me that  
12 discovery, when they appealed to circuit court. So I  
13 brought it -- Bill Leibrock had insinuated, a local  
14 attorney, that he would help me out. He didn't say no,  
15 you know, and I stated that I would like him to  
16 represent me on a percentage basis.

17 Therefore, I took the discovery back  
18 to his office. And I don't know if he looked at it or  
19 not, but I knew quite a bit of time was elapsing. So I  
20 went back into his office and he said he wasn't going to  
21 represent me. He gave me the paperwork back and he said  
22 "Oh, I feel sorry for you. So I'm going to call Brad  
23 Frazier," who was the attorney representing Merastar.

24 And Brad Frazier made me an offer  
25 just so that you will go away, to quote him. "We will

1 offer you \$500 to drop the case." And I wouldn't have  
2 taken the \$500 if it wouldn't have been for noticing  
3 that I took the discovery. Once Leibrock said he  
4 wouldn't represent me and I went to Shelton -- I don't  
5 remember her first name, but she is a female attorney in  
6 Newport.

7                   And she said that because I didn't  
8 get this discovery back to Brad Frazier's company within  
9 the 30 days that I was allowed, then the case was going  
10 to be dismissed. So I thought to myself that I better  
11 take the \$500, which is better than nothing. And I  
12 don't know if Leibrock did that on purpose or not, but  
13 that's the way it happened.

14               Q           So after all this, you got \$500 out  
15 of this deal?

16               A           Right.

17               Q           Okay. Let's go back. When you went  
18 to court the first time after you filed in August of  
19 2007, the case was heard on September the 18th, 2007.  
20 Do you remember that? And I don't want to hold you to  
21 the dates.

22               A           Is that the second sessions court  
23 trial?

24               Q           No, the first one.

25               A           Oh, the first.



1 Q The first.

2 A Okay.

3 Q When you went there the first time,  
4 you weren't represented, obviously?

5 A Right.

6 Q And did you have a hearing that day?

7 A It was a trial, I thought.

8 Q Did you testify?

9 A I did.

10 Q Under oath?

11 A I did.

12 Q Did Jo Ann Coleman testify or was she  
13 there?

14 A Yeah, she was there.

15 Q And the insurance company was there  
16 with their lawyer, Mr. Fraizer?

17 A At that trial, it was Mr. Fraizer and  
18 his assistant. I believe he was a newly graduated  
19 lawyer.

20 Q Prior to that trial -- prior to that  
21 hearing that day, Mr. Pleau, did Brad Fraizer ever tell  
22 you or did anyone ever tell you from the insurance  
23 company that you had technically sued the wrong person?

24 A Well, that's what Judge Bell made an  
25 issue of. They waited, according to the transcripts of

1 that first trial, until after I concluded my, you know,  
2 presentation as the plaintiff, whereas Judge Bell made  
3 it an issue saying that if they were playing fairly,  
4 they would have let me know -- you know, I guess as a  
5 discovery that I needed to sue her. But then as soon as  
6 I concluded, they made a motion that the case be  
7 dismissed.

8 Q Were you made aware during that  
9 hearing that day that, in fact, once you were sworn and  
10 testified that what's called jeopardy might attach and  
11 the case could be dismissed for all time because you --

12 A They never told me that.

13 Q -- sued the wrong person?

14 A No.

15 Q But Judge Bell brought it up at some  
16 point in time. Do you remember that?

17 A Well, you know, he never brought it  
18 up that I could never sue them unless -- I don't know,  
19 unless that was the December meeting with the purpose of  
20 that. I don't know.

21 Q Anyway, at some point in time, they  
22 filed -- did they ever actually give you a copy of a  
23 written motion to dismiss the case, they being the  
24 insurance company?

25 A From Merastar?

1 Q Yes. Or did they just hand it to  
2 Judge Bell?

3 A They didn't hand me anything in  
4 court. They could have mailed me something to that  
5 effect.

6 Q They presented that motion to dismiss  
7 to Judge Bell at the end of everybody's testimony that  
8 day, though, did they not?

9 A They did.

10 Q Did they present it before the  
11 hearing started?

12 A No. And Judge Bell -- he made it an  
13 issue that they basically were not playing fairly. You  
14 know, they took somebody that didn't know the law and  
15 used that as a loophole to get out of -- or to win  
16 their --

17 Q Win their case?

18 A Right.

19 Q And were you upset at Judge Bell at  
20 that point in time?

21 A No. I could see he was incensed at  
22 their --

23 Q That they had --

24 A -- their tactics.

25 Q Now, let me ask you: On July the

1 11th, 2008, you filed a complaint with the Tennessee  
2 Court of the Judiciary against Judge Bell?

3 A Yeah.

4 Q And why did you do that?

5 A Because I tried to be patient  
6 throughout the whole time after the rendering of that  
7 first decision, knowing that, you know, if it's a happy  
8 ending, then it's worth being patient. And then when --  
9 after he had said in court during that first trial that  
10 he should have a decision back in a week and then it  
11 takes nine months and it comes back and says that it is  
12 dismissed on that technicality, I got a bit upset.

13 Q So you got upset because it took so  
14 long?

15 A Right.

16 Q But you knew that Judge Bell was  
17 going to have to dismiss it on the technicality?

18 A I didn't know that. I figured he was  
19 working on various angles. I had optimism.

20 Q Did you think Judge Bell was -- when  
21 he dismissed it, not considering that it took a long  
22 time to get the opinion, did you think that he was  
23 unfair with you in dismissing it on the technicality on  
24 the reason that you sued --

25 A No. It wasn't a matter of being

1 unfair. It was just a matter of how long it took.

2 Q And let me ask you, Mr. Pleau, how  
3 did you know -- or did you have any discussion with  
4 anyone about filing a complaint against Judge Bell  
5 before you actually did it?

6 A No. I just saw from the newspaper  
7 the controversy that Judge Bell had with Dan Metcalf,  
8 that in the newspaper the court of the judiciary got  
9 contacted. So that's why I got the idea to contact  
10 them.

11 Q Did you talk to Dan Metcalf?

12 A No.

13 Q Or anyone else before --

14 A I went on the internet and found out  
15 how to get ahold of them.

16 Q And did it yourself?

17 A I did.

18 Q Let me hand you a copy, I believe --  
19 if I can ask you if you can identify this, we will mark  
20 it. David, I believe this -- I represent to you that I  
21 think that's a true and accurate copy of your complaint,  
22 but take a look at it.

23 MR. MCHALE: For the record, what  
24 it's worth while Mr. Pleau is looking at that,  
25 it probably comes in with that form on top, and

1 the written part is more in the line of an  
2 attachment. That's a hypertechnical  
3 observation, not an objection.

4 MR. BALL: That's fine. Thank you.

5 THE WITNESS: So it's two-fold. Also  
6 that --

7 BY MR. BALL:

8 Q I'm going to go through it with you,  
9 but is that -- is this the --

10 A Is this a true copy?

11 Q -- true copy of the complaint and  
12 with the form attached?

13 A I believe so.

14 MR BALL: Okay. Let's mark that  
15 exhibit number 6.

16 (Thereupon, the respective  
17 document was marked  
18 Exhibit No. 6.)

19 BY MR. BALL:

20 Q I want to go through this with you  
21 David, if I might call you David.

22 A Yes.

23 Q And let's talk about this. You have  
24 before you exhibit 6. Okay?

25 A Okay.

1 Q And you say -- and you tell -- let's  
2 read along here. "Enclosed, please find the completed  
3 form concerning my complaint, concerning Judge John Bell  
4 sessions court, Newport, Tennessee. In my own words, my  
5 issue that upon the hearing of my complaint on  
6 September 18th, 2007 Judge Bell stated in open court  
7 that he would have rendered a decision within one week."  
8 Is that -- am I reading that correctly?

9 A Yes, you are.

10 Q "In fact, according to the copy of  
11 the court's order concerning this matter dated  
12 June 27th, 2008, this issue decision was decided upon  
13 more than nine months later than what Judge Bell stated  
14 in open court. But what really irks me is that I tried  
15 my best to exercise forbearance and exercise patience in  
16 this matter, trusting in Judge Bell's handling of this  
17 matter."

18 "And when I received the order  
19 concerning this case, I was not informed that I had only  
20 10 days to appeal." So although Judge Bell took nine  
21 months, nobody told you once you got it that you had 10  
22 days to appeal to circuit court?

23 A Correct.

24 Q And you wouldn't know that as being  
25 a -- not being lawyer. You wouldn't know that?

1 A Right.

2 Q Do you think that was Judge Bell's  
3 fault?

4 A No.

5 Q "From the beginning" -- and reading  
6 on. "From the beginning of due process" -- is that due  
7 process?

8 A Yes.

9 Q "According to Tennessee law and this  
10 being a small claim, I felt confident that as a citizen  
11 of Tennessee, I would be informed in advance of court  
12 date of any issues pertinent to my issues." Do you  
13 think, Mr. Pleau, that it was Judge Bell's duty to do  
14 that?

15 A I don't know who, but, you know,  
16 someone you would think. I would think. I'm not going  
17 to particularly lay the burden on him, but I thought  
18 someone should, you know, do that.

19 Q Well, you had paid the insurance  
20 company, had you not?

21 A Yes.

22 Q "From the standpoint of the attorney  
23 for the defense firm, 'Leitner, Williams, Dooley &  
24 Napolitan, PLLC', and according to Judge Bell's analysis  
25 of this very case, the defendant knew of the law well



1 before the trial, motion had been typed before trial",  
2 and that's true. They sort of lay and waited on you,  
3 did they not?

4 A Uh-huh.

5 Q "And did not" -- what's that word?

6 A Reveal.

7 Q "Reveal the effect -- the error to  
8 the plaintiffs nor to the court until after the close of  
9 the plaintiff's case. How can I as a" --

10 A Small.

11 Q -- "small claim plaintiff be expected  
12 to be aware of the law, TCA 56-7-1206? I spent \$130 to  
13 file this claim in sessions court and now the case has  
14 been dismissed. I suffered a reversal of fortunes  
15 of" -- not filing?

16 A My filing fee.

17 Q "My filing fee, as well as the cost  
18 of the damages to my vehicle, as well as interest over  
19 nine months elapsed before judgment, as well as much  
20 mental and emotional anguish. In short, I received this  
21 judgment without being" -- and I'm going to -- before I  
22 go further, you say mental and emotional anguish. And  
23 I'm sure you were upset about it taking nine months, but  
24 did you ever go --

25 A Well, it was just that it was in

1 limbo. So just the nature of having such a thing in  
2 limbo --

3 Q But you never went to a doctor or  
4 anything about it?

5 A Can't afford to.

6 Q "In short, I received this judgment  
7 without being informed of the time constraints  
8 concerning appeal as well as not being informed of legal  
9 technicalities in advance of court date by defense  
10 counsel. In the spirit of fair play, I position my case  
11 before you, the Supreme Court of Tennessee." Is that  
12 correct?

13 A Was that a mistake? I should have  
14 said before the Tennessee Court of the Judiciary.

15 Q I understand. But that's -- you said  
16 the Supreme Court of Tennessee. And is that the only  
17 complaint you have ever filed in this case?

18 A Yes. I do believe it is.

19 Q Now, let's go on. On October the  
20 8th, 2008, you filed your second lawsuit in the sessions  
21 court, did you not?

22 A Okay. Yes.

23 Q And in that one, you did name  
24 Ms. Coleman as a defendant?

25 A Yes, I did.

1 Q And you included -- you later amended  
2 that complaint to include your own insurance company, or  
3 did you?

4 A No. There was no amendment. That  
5 was the upfront presentation of the case, codefendants,  
6 her and the insurance company.

7 Q Did you ever receive from the court  
8 of the judiciary -- after you filed your July 11th, 2008  
9 complaint, did you ever receive a copy of Judge Bell's  
10 response to your complaint?

11 A I did.

12 Q And what did Judge Bell say in  
13 response, do you remember?

14 A Well, according to my memory, part of  
15 the reason why he delayed the nine months I believe was  
16 that he got into an automobile accident with a drunk  
17 driver being the responsible party. So I guess he was  
18 in a time and period of convalescence.

19 Q Anything else?

20 A I don't remember anything else off  
21 the top of my head.

22 Q Now, in the second lawsuit that you  
23 filed against both of the insurance companies and Judge  
24 Bell in November, 2008 --

25 MR. MCHALE: Rather than make an

1 objection to form, you probably need to clean  
2 that question up. You said filed against the  
3 insurance companies, plural, and Judge Bell.

4 MR. BALL: I'm sorry. I'm getting a  
5 little tired myself.

6 BY MR. BALL:

7 Q In your second lawsuit that you filed  
8 that included Ms. Coleman and your insurance company --

9 A My former.

10 Q Right. Did you prevail in that  
11 lawsuit before Judge Bell?

12 A I did.

13 Q And he awarded you damages of \$4,500?

14 A It was \$4,700 and some change.

15 Q And he had awarded you those damages?  
16 He had never awarded you those damages before?

17 A Well, he found, even in the first  
18 case, that I was zero percent responsible and she was a  
19 hundred percent responsible, with the damages being  
20 \$4,700 and some change.

21 Q Same thing.

22 A Right. Yet, because of the legal  
23 tricks which Brad Frazier, quote, dismissing the case  
24 without giving me an advance notice before I closed my  
25 arguments, it had to be dismissed.

1 Q But Judge Bell found in the first  
2 case that you were not at fault and if it hadn't been  
3 for the legal tricks and maneuvering, you would have  
4 been awarded \$4,700?

5 A Correct. Well, I would have been  
6 subject to appeal at least.

7 Q Right. But you would have had a  
8 judgment and they would have had to appeal?

9 A Right.

10 Q And in the second case where  
11 Jo Ann Coleman was a defendant, the judge found the same  
12 thing, that you -- that she was a hundred percent at  
13 fault, and he again awarded you the same amount?

14 A The same amount.

15 Q And they appealed?

16 A They did.

17 Q And that's when you had the hearing  
18 with Mr. -- I mean, the meeting with Mr. Leibrock and  
19 you took the \$500 or sometime thereafter?

20 A Well, sometime thereafter when I had  
21 let too much time elapse. And after I talked to that  
22 attorney Shelton who told me that just because I let  
23 that time elapse, whether or not I knew I had 30 days --  
24 in other words, if I didn't pay enough attention to  
25 reading it before I turned it into Leibrock, then

1 legally it could be dismissed.

2 Q Now, at some point in time,  
3 Mr. Pleau, you received a telephone call. After you had  
4 filed the complaint with the judiciary board, you  
5 received a telephone call from a lawyer named Tom  
6 Testerman?

7 A Yes, I did.

8 Q And did you know Mr. Testerman  
9 before? Did you know him before this call was made?

10 A No.

11 Q Had you ever met him?

12 A I can't remember whether I have or  
13 not because, as I say, I went to various attorneys'  
14 offices asking for legal aid in bringing this matter  
15 forward any further. And I don't know if I -- I can't  
16 remember whether I previously talked to him or not.

17 Q Do you remember being interviewed  
18 by -- in October 2009, after the charges had been  
19 brought by the court of the judiciary against Judge  
20 Bell, do you remember being interviewed by a reporter  
21 and you telling the reporter, Mr. Stambaugh --

22 A From what -- who was his employer?

23 Q I guess the Knoxville News Sentinel.

24 A I got a telephone call from him. I  
25 can't remember his name, but I did get a telephone call.

1 Q And you told him that you had no  
2 reason to believe that Testerman was acting in Judge  
3 Bell's discretion?

4 A No. I said I didn't think there was  
5 proof.

6 Q Do you have any proof that  
7 Mr. Testerman was acting at Judge Bell's direction?

8 A Do I have any proof?

9 Q Yes, sir.

10 A No.

11 Q Did you ever -- did Mr. Testerman  
12 ever offer you anything of any kind to drop the charges  
13 against Mr. Bell?

14 A No.

15 Q Did Mr. Testerman tell you that Judge  
16 Bell would find in your favor if you dropped the charges  
17 against him?

18 A No.

19 Q Would it be a fair statement to say  
20 that Tom Testerman asked you if you were going to drop  
21 the charges?

22 A It was more than just asking me if I  
23 was going to. He said he had forms available at his  
24 office so that I could drop the charges.

25 Q If you would?

1           A           If I wanted to come in and sign them.  
2 Right.

3           Q           Did he say that you should talk to --  
4 strike that. Did you tell him that you were being  
5 represented by anyone?

6           A           No.

7           Q           Or that he should talk to another  
8 lawyer about it instead of talking to you directly?

9           A           No, I didn't.

10          Q           Were you being represented by anyone  
11 at that point in time?

12          A           Not at that point.

13          Q           Has Mr. Daniel ever told you that he  
14 would represent you in this matter?

15          A           Did he -- well, they said they would  
16 be attending all hearings concerning this case.

17          Q           Did they say they would represent  
18 you?

19          A           No. They said I'm on my own. They  
20 were just here doing their job.

21          Q           When was the first time you ever  
22 talked to Mr. Daniel about this matter?

23          A           I got a phone call from him within, I  
24 believe, a month after I mailed out that letter to the  
25 judiciary.



1 Q And what did Mr. Daniels say to you?

2 A He just wanted me to give him a  
3 rerendition, just basically a verbal account of what I  
4 had already stated.

5 Q So that would be probably in August  
6 of 2008?

7 A I guess. I mean, I didn't keep a  
8 written journal of all these dates.

9 Q Well, you filed it in July of 2008.

10 A Okay. So I guess that would be  
11 somewhat --

12 Q Close to 2008?

13 A -- near the time.

14 Q And were you aware that Judge Bell's  
15 first trial with the court of the judiciary was in  
16 September, 2008?

17 A You mean the one concerning Metcalf?

18 Q Yes.

19 A No. I wasn't aware of that.

20 Q What did you -- what did Judge Daniel  
21 and you talk about that day?

22 A It's been awhile.

23 Q The best you can remember.

24 A He wanted me to bring out the  
25 details, and he stated there was going to be an

1 investigation and just, you know, to come out with the  
2 truth and, you know --

3 Q At that point in time, had Tom  
4 Testerman called you?

5 A By then?

6 Q Yes.

7 A No. I don't think -- no. Testerman  
8 called me -- let me think. It was February of '08, I  
9 believe, early through -- January or early February of  
10 '08. And if that was August --

11 Q Well, you filed in July of '08. So  
12 Testerman must have called you in February of '09.

13 A Yeah, that's right.

14 Q Okay. So you're saying that  
15 Mr. Daniel called you a month after you filed and wanted  
16 you to be truthful and that there was going to be an  
17 investigation about this matter?

18 A Correct.

19 Q So did you tell him at that time on  
20 the -- so Mr. Testerman hadn't called you. So there was  
21 nothing to discuss about Mr. Testerman, because it  
22 hadn't happened yet. Did you tell Mr. Daniel that, look  
23 Mr. Daniels, I really don't have anything against Judge  
24 Bell, I was just upset that it took so long that have a  
25 hearing?

1           A           I might have said something along  
2 those lines -- I mean, because I'm not grinding an axe.

3           Q           Well, you didn't really have anything  
4 to grind at that point in time, did you or did you?

5           A           Well, I mean, it's not really  
6 grinding an axe. It's just -- I mean -- well, I guess  
7 it is technically.

8           Q           Probably. But what was there really  
9 from your complaint that filed on July, 2008 until you  
10 had the conversation with Mr. Daniel sometime in August  
11 of 2008? What was there from your complaint was there  
12 to investigate. I mean, Judge Bell took nine months to  
13 decide.

14          A           Right.

15          Q           What really was there to investigate  
16 from your complaint?

17          A           Well, like I say, I don't know who is  
18 responsible. I don't know whether or not it was Judge  
19 Bell for not informing me of the decision on that first  
20 case in time to allow me to appeal because, you know,  
21 I'm at a very dire financial position at this time.

22                       And if I had to lay out another 130  
23 dollars, you know, it was a problem. Like I said, I'm  
24 not sure if it was him or not, but if they were going to  
25 do an investigation, they will find out who is

1 responsible. So the only sure issue that I had with  
2 Judge Bell was the one that was taking nine months to  
3 render a decision in which he claimed it would be one  
4 week.

5 Q Did you find it somewhat funny, for  
6 lack of word --

7 A Strange.

8 Q -- that the lawyer from the judiciary  
9 who was actually trying Judge Bell in the 2008 case was  
10 calling you about a complaint?

11 A I'm not sure who it was. I mean --

12 Q You wouldn't know.

13 A -- I didn't extract all these  
14 details. I just knew it was the judiciary.

15 Q Now, when Mr. Testerman -- did you  
16 talk -- strike that. After you talked to Mr. Daniel on  
17 the telephone, did you talk to him again between August  
18 and Mr. Testerman calling you in February of 2009?

19 A I can't recall.

20 Q Did you ever meet with him in person?

21 A Huh-huh. No, I didn't.

22 Q Did you meet with anyone in person or  
23 talk to anyone else about this?

24 A James LaRue from the office of  
25 Daniel.

1 Q Now, where did you meet with him?

2 A In Newport, Tennessee.

3 Q And where were you?

4 A At the library.

5 Q Had you been in court that day?

6 A Okay. I believe so. I first met him  
7 right in court.

8 Q And what had happened in court that  
9 day?

10 A I don't remember. Well, it was the  
11 trial. I think it was trial number two, number -- yes.  
12 It had to be trial number two.

13 Q And you went to -- I believe that you  
14 and Mr. LaRue left the courtroom and went to the clerk's  
15 office to use the computer to -- is that correct?

16 A Well, we didn't do that. He wanted  
17 me to go to the clerk's office --

18 Q And you didn't want to do that?

19 A -- and I didn't want to do that.

20 Q Now, whose idea was it that you make  
21 an affidavit?

22 A James LaRue.

23 Q And how had -- when was it that you  
24 met with Mr. LaRue? Was it between August and --

25 A It was at the court date.

1 Q And you went to the library and made  
2 an affidavit. Did you type it out yourself?

3 A I think I did.

4 Q Let me hand you what's been  
5 identified as exhibit number 3 and ask you if you can  
6 identify that. It's been marked as exhibit number 3.

7 A Yes.

8 Q Is that the affidavit that you made  
9 that day?

10 A Yes.

11 Q And you made the affidavit and you  
12 had to get somebody to notarize it; is that correct?

13 A Correct.

14 Q And who -- where did you go to get  
15 the affidavit notarized?

16 A To Hooper, Junior. I forget what his  
17 first name is.

18 Q And why did you -- did you pick him  
19 out?

20 A Yeah.

21 Q And why did you do that?

22 A Well, I figured he would be a fair  
23 person, you know, someone that I wasn't suspicious of.

24 Q Did Mr. LaRue -- how did you -- you  
25 went from the library to Mr. Hooper's office and you

1 passed four or five other lawyers' offices to get there.

2           A           Well, because when this whole  
3 thing -- before the civil suit started, if you go right  
4 back to that wreck on December 29 of the 2006 with  
5 Jo Ann Coleman, I got charged with failure to yield  
6 right of way. There is a road that intersects Highway  
7 321 between Newport and Parrottsville. Here is the  
8 straight, it would be 321 and there is Good Hope Road,  
9 which intersects this at sort of an angle.

10                       So that if -- to one unfamiliar with  
11 the road, like myself, coming out of there at night, it  
12 looked more like a gradual turn and the stop sign was 10  
13 feet in the air. And if this is the stop sign and  
14 you're me, it was like this. So that's two reasons why  
15 it wouldn't reflect. And I missed it and I went right  
16 out into traffic.

17                       And it's the only head-on I have ever  
18 been on, but she was doing 50 miles an hour and I came  
19 out of there doing a little under 30, and I screeched my  
20 breaks on and it seemed like three or four seconds,  
21 maybe five. And I just knew -- I said, this is not  
22 going to be -- this is going to be unavoidable because  
23 I can't go into on-coming traffic.

24                       Your mind works pretty fast during  
25 those types of circumstances, and I can't hit the ditch

1 because it would have been a roll-over. So I just --  
2 you know, it happened.

3 Q It happened, at least according to  
4 your testimony, on your side of the road?

5 A Yes. Deeply on my side of the road.  
6 And ironically enough, the state policeman who gave me  
7 the citation, it was the video footage from his very  
8 camera that proved that I was right because he wrote up  
9 that report on that little chart of the roadway that the  
10 impact was in her lane, you know, that I had come out  
11 and I clipped her right in her lane, but his video  
12 footage proved differently.

13 Q Now, when you -- the state highway  
14 patrolman, was it the county or the state?

15 A It was the state.

16 Q And you don't remember the trooper's  
17 name?

18 A Travis Raines, I believe his name  
19 was.

20 Q And he gave you a ticket for failure  
21 to yield?

22 A Yes, he did.

23 Q And, of course, that would have been  
24 very damaging to your case if you --

25 A Yes.



1           Q           And so did you get that ticket  
2 dismissed?

3           A           That was why I chose the Hooper  
4 attorney, because I made the mistake evidently when I  
5 was in Judge Bell's office, like I had all these options  
6 that he said I could do. So I chose to take it to the  
7 grand jury, figuring that they would see by this tape  
8 that -- you know, that there is no real legitimate case  
9 and it get it dropped without me having to go to court,  
10 but no.

11                       They came back with what they call a  
12 true bill where they did -- I don't know if it's an  
13 indictment, but I had to go to court. So when it  
14 finally came to circuit court, I brought forth three  
15 witnesses who I was on Good Hope Road visiting them that  
16 evening. I left around 9:30, at which point shortly  
17 thereafter the accident took place.

18                       And then two men -- I can't remember  
19 their names -- testified. All that, it was in her --  
20 she was in my lane just straddling the very edge of the  
21 ditch, and you could see the fluid coming out of her  
22 radiator on the video.

23           Q           Let me ask you. I want to -- on this  
24 failure to yield citation --

25           A           But the point that I'm making,

1       though, is that Hooper found favorably. So that's why I  
2       chose to go to Hooper.

3               Q               Hooper's father found favorably on  
4       your behalf --

5               A               Yes.

6               Q               -- on the improper citation?

7               A               Right.

8               Q               He threw the improper citation out?

9               A               Yes, he did.

10              Q               Judge Hooper.

11              A               And then I got a note saying it was  
12       dismissed and I wasn't responsible, and I got my  
13       insurance to go back down instantly.

14              Q               And so that's why -- did the young  
15       Mr. Hooper represent you in that citation?

16              A               No. No one represented me.

17              Q               No one represented you. Now, had you  
18       ever met, before going into the office that day, young  
19       Mr. Hooper?

20              A               No.

21              Q               But you went into his office and got  
22       him to notarize this or one of his employees?

23              A               Yes.

24              Q               And do you remember whether or not  
25       Mr. Hooper, the lawyer that you went to on February 20,

1 2009 -- did he read this affidavit before?

2 A Did the attorney read it?

3 Q Yes.

4 A I don't know.

5 Q And did you pay Mr. Hooper for  
6 notarizing or having notarized this?

7 A No.

8 Q During the conversation that you had  
9 with Mr. Testerman -- and I may have asked you this,  
10 Mr. Pleau, and if I have, I'm sorry. Did Mr. Testerman  
11 offer you anything of any kind?

12 A You have asked me that and he has  
13 not.

14 Q Okay. Sometimes I tend to repeat  
15 myself. Let's go to after you had the conversation with  
16 Mr. Testerman and you have signed the affidavit in  
17 Mr. Hooper's office. Did you have a later meeting with  
18 Mr. LaRue and some other gentlemen in Sevierville,  
19 Tennessee?

20 A I did.

21 Q Before that meeting, in between the  
22 signing of the affidavit and before the meeting in  
23 Sevierville, did you have any contact whatsoever with  
24 Mr. Daniel or Mr. LaRue?

25 A Mr. LaRue.

1 Q And what was that contact?

2 A That was with the TBI agents, three  
3 of them, which I can't remember their names.

4 Q Okay. And where was that?

5 A That was in Newport.

6 Q And what did you do then?

7 A By then I had arranged a meeting with  
8 Mr. Testerman.

9 Q Let me -- did you meet first in  
10 Sevierville, Tennessee with the TBI agents and  
11 Mr. LaRue?

12 A I did.

13 Q And what was the purpose of that  
14 meeting?

15 A To call the office of Testerman and  
16 arrange for a meeting.

17 Q And who asked you to do that?

18 A It felt as though Mr. LaRue was  
19 behind the orchestration.

20 Q You think Mr. LaRue orchestrated  
21 that -- I mean, in your opinion? And did he ask you to  
22 do that?

23 A He did.

24 Q And did you tell him that when  
25 Mr. Testerman called you, he didn't offer you anything

1 the first time?

2 A Yes, I did.

3 Q And why was it that you would think  
4 Mr. Testerman would offer you anything? Did you think  
5 Mr. Testerman was going to offer you something when you  
6 called him the second time?

7 A It would seem logical.

8 Q Did you think Mr. Testerman was going  
9 to offer you something when you went into his office and  
10 met with him?

11 A Yes.

12 Q Did he ever offer you anything?

13 A No.

14 Q And you were wired up, we will say?

15 A Well, wired.

16 Q Wearing a wire, I should say. Wired  
17 up is my verbiage; I'm sorry. You were wearing a  
18 recording device?

19 A I was.

20 Q And that recording device was placed  
21 on you by Mr. LaRue?

22 A By the TBI agents.

23 Q TBI agents. And were you told what  
24 to say by anyone when you went in to talk to  
25 Mr. Testerman?

1 A No.

2 Q What did you tell Mr. Testerman you  
3 were doing there?

4 A Well, I said in response to our  
5 previous telephone conversation, I wanted to know what  
6 he is going to offer me in order to drop the case.

7 Q Well, what did he say?

8 A Not a thing.

9 Q Did he say I can't offer you  
10 anything?

11 A That's what he said.

12 Q Well, when that happened -- did you  
13 ever see a recording -- transcription of the recording  
14 of that conversation with Mr. Testerman?

15 A No.

16 Q Were you aware that the TBI agents  
17 were actually listening to the conversation?

18 A I was, yes.

19 Q Was Mr. LaRue also listening?

20 A I don't know how it works, but I know  
21 they had their vehicle -- at first my -- the  
22 recording -- the wire wasn't coming in and it turned out  
23 the antenna was connected wrong. That's when I knew  
24 they could listen. So they had me pull over before I  
25 got to his office and they reconfigured it to where they

1 could overhear. So, you know, I knew that they were  
2 listening. Who was listening, I'm not sure, but it was  
3 one of the four that were there.

4 Q Is this something you wanted to do,  
5 Mr. Pleau, or that you initiated?

6 A I didn't initiate it, no.

7 Q And would you have ever initiated  
8 such a thing?

9 A I don't look for trouble. I'm not  
10 that type.

11 Q Do you have an opinion as to who  
12 initiated this?

13 A James LaRue.

14 Q Is that the same Mr. LaRue that is  
15 sitting in this room?

16 A It is.

17 Q Okay. Now, I believe at some point  
18 in time you told Mr. Stambaugh when you had a  
19 conversation with him at the News Sentinel, you said, "I  
20 know he", meaning John Bell, "has got a lot of enemies  
21 from what I have heard and read in the news." Pleau  
22 said there was no evidence Tom Testerman was coerced by  
23 the judge to call me up. He did it evidently on his own  
24 accord. Did you say that to Mr. Stambaugh?

25 A I don't think I said he evidently did

1 it on his own accord.

2 Q Okay. What did you say to  
3 Mr. Stambaugh?

4 A That I didn't believe that there was  
5 any evidence that such a discussion between Judge Bell  
6 and Tom Testerman took place. Not to my knowledge there  
7 was no evidence. I think that's basically my intent.

8 Q Do you know of anything to -- as you  
9 sit here today, Mr. Pleau, do you know of anything that  
10 Judge Bell has ever done to favor you or disfavor you as  
11 a result of the filing of your civil suits?

12 A It felt on the first go around, you  
13 know, that he was really trying to find in my favor and  
14 that he was really incensed at the tactics that Brad  
15 Frazier, representing Merastar, was using. I don't  
16 think he was unduly persuaded to favor me, but based on  
17 the legal judgment that he made, he was trying to be  
18 fair. That's the way it looked to me.

19 Q And basically he came up with the  
20 same ruling on the second time?

21 A Right.

22 Q Did you ever have any discussions  
23 anywhere at any time with Steve Daniel where he said --  
24 Mr. Daniel said that what Tom Testerman did by  
25 calling -- just by the fact that he called you, was



1 unethetical, immoral, illegal?

2 A Did anyone tell me that?

3 Q Did Mr. Daniel ever tell you that?

4 Just the fact that Mr. --

5 A I can't remember that he did.

6 Q Did Mr. LaRue ever tell you that?

7 A Yes, he did.

8 Q He did.

9 A And I don't know in so many words,  
10 but he did bring out that it was wrong. I mean, the  
11 very day that I mentioned it to Mr. LaRue, he saw to it  
12 that I made up that statement.

13 Q The affidavit?

14 A Uh-huh.

15 Q Yeah. Would it be a fair statement  
16 to say when you mentioned that Tom Testerman had called  
17 you, Mr. LaRue jumped all over that issue?

18 A Yes.

19 Q Prior to Mr. LaRue jumping all over  
20 that issue, did you think much about it one way or the  
21 other?

22 A Well, I didn't like it. You know --  
23 I mean, I wouldn't have liked it even if he would have  
24 offered me thousands of dollars because it's not right.  
25 I don't want to feel like I have dirty money.

1 Q Right. But do you know anything  
2 illegal about him just calling you and asking you --

3 A Unethical. I mean, it just -- it's  
4 none of his business what I do.

5 Q Right. I understand.

6 DAVID PITMAN: Can we take a minute?

7 MR. BALL: Sure.

8 DAVID PITMAN: I need just a second  
9 to change tapes here.

10 (Off-record discussion.)

11 BY MR. BALL:

12 Q Mr. Pleau, prior to you filing the  
13 second complaint, the one where you sued your insurance  
14 company and Jo Ann Coleman, did anyone encourage you to  
15 file that second complaint or did you just do it on your  
16 own?

17 A No. I mean, I wanted to do it again.  
18 I felt justified just as much as I did the first time  
19 around.

20 Q I mean, did Judge Bell ever call you  
21 and -- or have anybody call you and say you need to file  
22 a complaint or did he --

23 A We had a meeting in December of -- I  
24 don't even remember. Was it '08 -- December 23rd, and I  
25 can't remember the nature of that meeting. But he did

1 at that meeting say that -- something to the effect that  
2 it would be possible, I suppose, to refile the case.

3 Q Let me go back, Mr. Pleau. What was  
4 the timeframe on the your traffic ticket? When was it  
5 dismissed by Judge Hooper?

6 A Well, it was sometime in 2007. You  
7 know, I had to wait for it to come up, but I don't  
8 remember exactly when.

9 Q Okay. Had Judge Hooper already  
10 dismissed your traffic ticket before you filed the  
11 initial charge with the court of the judiciary?

12 A I believe so. I don't believe I  
13 would have filed it unless that got dismissed.

14 Q Okay.

15 A See, they jumped the gun, Merastar  
16 did. They thought I would get convicted of that, and  
17 they didn't have to pay uninsured if I was the guilty  
18 party.

19 Q Had you ever met Judge Hooper before  
20 your hearing that day in front of him?

21 A Let's see. I'm thinking. I don't  
22 know if I had ever actually talked to him. I had seen  
23 him before, but I don't think that I had ever actually  
24 talked to him before I got into his court.

25 Q Would it be a fair statement to say

1 that Judge Hooper viewed the video cam and ruled in your  
2 favor because of that?

3 A That video was not presentable for  
4 some reason. Oh, it wasn't proved that it was truly  
5 from the police. It had to be somehow proven, and it  
6 was -- I got a copy from the district attorney's office,  
7 James Dunn.

8 Q Did you present that -- I mean, did  
9 Judge Hooper actually review it?

10 A I handed it in court to Judge Bell  
11 and I think Brad Frazier, the attorney for Merastar,  
12 wouldn't allow it as evidence. But then I got some  
13 stills made, and I believe somehow -- I think Judge -- I  
14 may be wrong, but I think Judge Hooper looked.

15 But really I think that the testimony  
16 of the witnesses was -- because as he -- in rendering  
17 his decision, he said I'm going to -- because the  
18 assistant district attorney was then Amanda -- whatever  
19 her last name was.

20 And she said no, we will not offer  
21 any settlement. We will not, you know, bargain or  
22 anything. Because I didn't want to go back to court. I  
23 wanted -- I want to just pay -- let's say a \$50 fine and  
24 be done with it. But it was good that I didn't and it  
25 was good that he didn't settle, because it turned out

1 that -- if you're asking, you know, if he used the  
2 video, I don't know.

3 If it was inadmissible, I think his  
4 rendering of the decision was primarily based on the  
5 witnesses, five witnesses, all saying that the sign was  
6 turned around and it was too high. So as far as that  
7 video, I don't know.

8 Q I guess I'm just asking because here  
9 is a Tennessee highway patrolman who is giving you a  
10 ticket and the video which you presented --

11 A Well, I told him. You could hear my  
12 voice the night that I got it. I said, "Look. The stop  
13 sign is turned," and he did. That video concludes by  
14 him going up Good Hope Road and coming back down. You  
15 can see just a little sliver of that sign in the  
16 darkness, up too high.

17 Q Okay.

18 A Yeah. He gave me the ticket, but I  
19 personally felt he had a bit of an attitude toward me.

20 Q The trooper?

21 A Yes. Because he could have said  
22 well, due to that we won't write you up, but that's the  
23 last thing I heard him say before walking over to me.  
24 To somebody he said -- and it's on video, it's on  
25 audio -- I'm going to go write him up.

1 Q He could have just very easily,  
2 considering the circumstances, not ticketed anyone?

3 A True. That's my sentiments.

4 MR. BALL: May we take a few minutes?

5 (Off-record discussion.)

6 MR. BALL: Mr. Pleau, I thank you for  
7 being here today, and I believe that's all I  
8 have.

9 EXAMINATION

10 BY MR. MCHALE:

11 Q Mr. Pleau, I have a couple questions,  
12 Patrick McHale, assistant disciplinary counsel. After  
13 the first hearing before Judge Bell where the insurance  
14 company filed that motion -- during the nine months  
15 before you learned of the decision, did you have any  
16 contact with either Judge Bell or his office about the  
17 status of the decision?

18 A I did.

19 Q Tell us about that.

20 A Well, it's approximations because I  
21 didn't keep a journal. But on approximately four  
22 occasions, I, with the specific intent of finding out  
23 the status of my case, waited. I first approached his  
24 secretary, Joy Large, and asked if he was in.

25 And when I discovered he was in and

1 when he would be available, I would reveal myself in the  
2 hall and he stopped when I was there and answered my  
3 question, which was how is my case coming along. I  
4 mean, is there a decision forthcoming? And he said yes,  
5 he is working on it.

6 And each time, that was the extent of  
7 the conversation. Other times, when he wasn't  
8 available, three or four times I suppose, I went to Joy  
9 Large and she told me he was working on it.

10 Q Let me ask you to take a look at  
11 exhibit 3, which is your affidavit that was shown to you  
12 earlier. Take a moment to look at that if you can,  
13 please.

14 A Okay.

15 Q Is everything in there true and  
16 correct?

17 A Well, the phone number is no longer  
18 correct, but let me see. Yes.

19 Q And is everything else in the  
20 affidavit that you made on February 20th, was it true  
21 and correct as of February 20th, 2009?

22 A Yes.

23 Q There is a statement in there -- he  
24 stated that he was calling in behalf of Judge John Bell.  
25 Is that Mr. Testerman told you that?

1 A Yes.

2 Q Are you sure about that?

3 A Yes.

4 Q It then goes on and says he began  
5 with, quote, the judge realizes that it would be  
6 inappropriate to call you himself, unquote. Is that in  
7 quote marks because it was a statement made to you by  
8 Mr. Testerman?

9 A Yes.

10 Q And was that your specific  
11 recollection on the day you made that affidavit?

12 A Yes.

13 Q And is it true today to the best of  
14 your knowledge and recollection?

15 A Yes.

16 Q Let me ask you to look at exhibit 6,  
17 which is your complaint with the court of judiciary.  
18 I'm looking at the form part of the complaint where you  
19 also have some material on page 2 of the form copy.  
20 Yes, sir, it's the form copy where you write on the  
21 lines. I guess page 2, yes, sir; sorry. Does that  
22 refresh your recollection as to when you receive  
23 notification of the decision?

24 A Would that be July 14 of '08?

25 Q Well, I can't answer any questions.



1 You go on and take a look at it. Yeah, take a second  
2 and look at it.

3 A That's my handwriting. I've got to  
4 read it in order to answer it.

5 Q Sure. Take your time.

6 A Okay.

7 Q First of all, are your statements  
8 correct as you have just read them and as are contained  
9 on that page?

10 A Yes.

11 Q Secondly, how did you learn of the  
12 decision in your case, the first decision?

13 A To the best of my memory, I got a  
14 letter from that legal organization of which Brad  
15 Fraizer at the time was representing Merastar through --

16 Q Now, this statement says the judgment  
17 date was June 27, 2008. Do you recall when you received  
18 notification of the judgment?

19 A No. I don't remember the exact date.

20 Q Upon receiving information about the  
21 judgment, what did you do next legally?

22 A I went to try to appeal it, but I  
23 don't know exactly the timeframe off of my memory. But  
24 it was after the time had expired with which I could  
25 legally appeal.

1 Q And is that reflected on your  
2 statement that you just read?

3 A On page 2 of the form letter?

4 Q Yes, sir.

5 A Yes, it is.

6 Q And what date did you go to the  
7 sessions court office?

8 A To the whose office?

9 Q The general sessions court clerk's  
10 office?

11 A It appears it would be on July 14th,  
12 2008.

13 Q Can I direct your attention up a few  
14 lines, about five line from the bottom.

15 A All right. Let's see. I received  
16 the judgment on the 10th day of July.

17 Q Where does it say that?

18 A My issue -- it's on the -- on the  
19 left, there is the last line. It's only a little short  
20 line. You go up two more lines -- well, you go up one  
21 more line. I received the judgment on the 10th of July  
22 it says here.

23 Q And did you go to clerk's office that  
24 day?

25 A And was not informed of the time

1 limit. Okay. But the thing is, the judgment, even  
2 though I received it on the 10th of July, evidently was  
3 rendered earlier.

4 Q Did you go to the clerk's office on  
5 July 10th?

6 A Evidently I went on the 14th.

7 Q Let me direct your attention five  
8 lines from the bottom of the lined material which starts  
9 the line, arrived at the sessions court office. Do you  
10 see that line?

11 A Yes.

12 Q Does that refresh your recollection?

13 A On July 10.

14 Q Now, is that then, to the best of  
15 your recollection as so refreshed, the day you went to  
16 see about --

17 A With the intention to appeal.

18 Q Would that have been the day you were  
19 told that the time for appeal had ended.

20 A That would be correct.

21 Q Did they tell you that right at the  
22 clerk's office?

23 A I believe they did.

24 MR. MCHALE: That's all I have.

25 MR. BALL: Let me ask you a few

1 questions, Mr. Pleau.

2 EXAMINATION

3 BY MR. BALL:

4 Q After the first hearing in front of  
5 Judge Bell, did Judge Bell ever say after the first  
6 hearing that he would have a decision within a week?  
7 Did he ever say anything like that?

8 A Yes, he did. He said I should have a  
9 decision within a week.

10 Q I should have a decision. Okay. So  
11 over the next few months, you would approach Judge Bell  
12 and ask him what was going on in your case?

13 A Uh-huh.

14 Q Did you ever think it was improper  
15 for you to approach Judge Bell without the other side  
16 being there to talk about your case?

17 A His secretary never told me it would  
18 be improper.

19 Q But did you think it would be?

20 A Well, I wouldn't do if I thought it  
21 was improper.

22 Q That answers that question, then.  
23 But Judge Bell -- Judge Bell didn't tell you no, me  
24 talking to you would be improper if he spoke with you?

25 A I wasn't asking for details or for

1 insight into the decision making process, just can I  
2 expect a conclusion pretty soon.

3 Q Did you know that your phone records  
4 had been subpoenaed in this case?

5 A I found out they had been.

6 Q How did you find out that they had  
7 been?

8 A It was either James LaRue or one of  
9 those TBI agents, which I can't remember which, but  
10 somebody told me.

11 Q Did you give anybody authorization to  
12 subpoena your --

13 A No.

14 Q Were you upset about that when you  
15 found out about it?

16 A Not really. I knew why they were  
17 subpoenaed.

18 Q Let me ask you: On exhibit 6 here,  
19 you say that you found out about the first decision on  
20 July the 10th, 2008; is that correct?

21 A Let me see. The first decision?

22 Q Right.

23 A I'm trying to find out where you are.

24 Q Right down towards the bottom,  
25 sessions court.

1 A Okay.

2 Q With the intention to -- you arrived  
3 at sessions court on July the 10th, 2008 with the  
4 intention to appeal the dismissal; is that right?

5 A That's right.

6 Q But was told that 10 days had lapsed  
7 and you couldn't appeal; is that right?

8 A That is correct.

9 Q Now, July the 10th was when you went  
10 to the sessions court to appeal. July the 11th, the  
11 very next day, you filed a complaint with the court --  
12 this complaint with the court of the judiciary?

13 A Well, it looks like it was the 14th  
14 down here.

15 Q I believe the letter was written on  
16 July the 8th, 2008, was it not?

17 A Okay. Yes.

18 Q But you later filed a form on July  
19 the 14th. Is that -- did they send you a form back to  
20 file?

21 A Apparently they did.

22 Q So you went -- did you go directly  
23 back home and fire off this letter to the Supreme Court  
24 of Tennessee?

25 A Well, yes.

1 Q And nobody helped you with that? You  
2 did that yourself?

3 A I did.

4 Q Now, you didn't -- you were not  
5 allowed to appeal that decision, but then you later  
6 filed suit. How did that work?

7 A As I mentioned earlier, I went and  
8 talked to the attorney who did the closing on my first  
9 property in '98, Jim McSween. So I had experience with  
10 him, and he seems like a kindhearted man.

11 So he is the one that brought me the  
12 information that I could use the -- I believe it's  
13 called the indigency status to where, you know, I  
14 declared what little money I had in the bank and they  
15 made me put up my right hand and swear that this was  
16 true. So I didn't have to file the \$130 --

17 Q Appeal bond -- appeal fee?

18 A Not appeal, but a new case.

19 Q Right. And did Judge Bell ever set  
20 aside the fact that -- were you explained that it was a  
21 clerical -- maybe it was a clerical error that you  
22 didn't get the notice?

23 A No one explained it to me.

24 Q Has anybody ever told you that it was  
25 Judge Bell's duty to tell you about whether you had the

1 right to appeal or not?

2 A No.

3 Q Let me look at exhibit 3. Let's look  
4 at exhibit 3, Mr. Pleau. When you told Mr. LaRue on  
5 February the 20th, 2009 that Mr. Testerman had called  
6 you, Mr. Testerman had just sometime that month called  
7 you; is that correct?

8 A Yes.

9 Q And your home telephone number was in  
10 the telephone book?

11 A Yes.

12 Q And that number has since been  
13 changed?

14 A It's been disconnected. I only have  
15 a cell now.

16 Q And Mr. Testerman stated that he was  
17 calling on behalf of Judge John Bell. He began with,  
18 the judge realizes that it would be inappropriate to  
19 call you himself. He went on to state Mr. Testerman --  
20 that he would like to stop by his office and sign a  
21 document for the purpose of discontinuing my complaint  
22 against Judge Bell, which I had lodged with the  
23 Tennessee Court of the Judiciary. Had you ever told  
24 anyone prior to February that you were thinking about  
25 dismissing the complaint that you had filed?



1 A No.

2 Q You had never done that?

3 A No. I wasn't thinking about  
4 dismissing.

5 Q And is this the same thing you told  
6 Mr. LaRue before you actually typed this out? How did  
7 that come up in conversation with Mr. LaRue?

8 A I brought forth that I got a call. I  
9 brought it forth.

10 Q You just said to him you got a call  
11 from Mr. Testerman?

12 A As I said earlier, I felt like it was  
13 none of his business and I didn't like it. I didn't  
14 like that he called to try to get me to drop it.

15 Q When you went to see Jim McSween, did  
16 he give you any legal advice on the 10-day running of  
17 the appeal?

18 A No.

19 Q What did you ask Mr. McSween about  
20 whether you had to pay?

21 A It was hands down. I was already  
22 told that there was no appeal. But I mean -- well, I  
23 think he said it would be possible. See, he told me to  
24 sue her directly, and I was still on the special side  
25 and I didn't want to lose again. So I jointly sued

1 Merastar -- and it was probably another mistake --  
2 Merastar slash Jo Ann Coleman, Jo Ann Coleman slash  
3 Merastar, actually. But she was included so it was  
4 going to come up again.

5 Q One final question, Mr. Pleau. Do  
6 you have any evidence anywhere in this entire world that  
7 Judge Bell did anything wrong with your case?

8 A No.

9 Q Thank you.

10 A Except for taking so long, nine  
11 months.

12 MR. BALL: Okay. Thank you.

13 MR. MCHALE: Nothing further. My  
14 understanding is as we leave here today, you're  
15 going to review what we have given you -- we're  
16 going to review if there is anything we have  
17 not given you. You're reserving the right to  
18 retake LaRue, based on and limited I assume to  
19 the extent of what has been provided today and  
20 what we provide by January 5th. Do I have that  
21 right?

22 MR. BALL: Yes. The answer to that  
23 is yes. And in supplementing that, you're  
24 going to file a privilege log as I understand?

25 MR. MCHALE: Right.

1 MR. MCDONALD: And if there is  
2 anything in the notes, do we want to reserve  
3 the right to retake, just in case we learn  
4 something from those notes? I'm only --

5 MR. BALL: I don't think anybody will  
6 have any great objection to that if we have to  
7 do that.

8 MR. MCHALE: I would be surprised if  
9 there is anything.

10 MR. BALL: Well, we'll see and maybe  
11 not.

12 THE WITNESS: By the way, if it does  
13 have to come up again, could we do it in  
14 Newport the next time around?

15 MR. BALL: That's fine with me. I  
16 would like to go to Newport.

17 MR. MCHALE: That would be fine.

18 FURTHER THE DEPONENT SAITH NOT  
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C E R T I F I C A T E

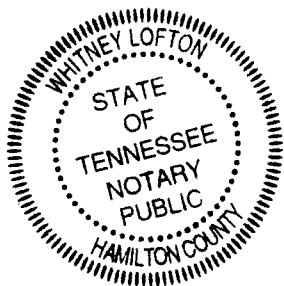
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STATE OF TENNESSEE:  
COUNTY OF KNOX :

I, Whitney Lofton, Court Reporter and Notary Public, do hereby certify that I administered the oath to the deponent, that I reported in machine shorthand the above testimony, that the foregoing pages, numbered 1 to 68, inclusive, were typed under my personal supervision and constitute a true and accurate record of the proceedings, and that there has been no request made by the deponent to review the transcript.

I further certify that I am not an attorney or counsel for any of the parties, nor an employee or relative of any attorney or counsel connected with the action, nor financially interested in the action.

Witness my hand and official seal this  
4th day of January, 2009.



*Whitney Lofton*  
\_\_\_\_\_  
Whitney Lofton  
Court Reporter and Notary Public  
My Commission Expires 10/09/13

Supreme Court of Tennessee  
Administrative Office of the Courts  
Nashville City Center, Suite 600  
Nashville, Tennessee 37219

David Pleau  
P.O. Box 204  
BYBee, TN, 37713

July 11, 2008

TENNESSEE COURT OF THE JUDICIARY  
Dear ~~Supreme~~ Court of Tennessee Representatives,

Enclosed, please find the completed form concerning my complaint concerning Judge John Bell, Sessions Court, Newport, Tennessee. In my own words, my issue is that upon the hearing of my complaint on September 18, 2007, Judge Bell stated in open court that he would have rendered a decision within one week. In fact, according to the copy of the court's order concerning this matter, dated June 27, 2008, this issue's decision was decided upon more than nine months later than what Judge Bell stated in open court. But what really irks me is that I tried my best to exercise forbearance and exercise patience in this matter, trusting in Judge John Bell's handling of this matter, and when I received the "order" concerning this case, I was not informed that I had only ten days to appeal. From the beginning of the process according to Tennessee law, and this being a small claim,

EXHIBIT

6

Boer

page 2

I felt confident that as a citizen of Tennessee, I would be informed in advance of court date of any issues pertinent to my issues. From the standpoint of the attorney for the Defense, firm: "Leitner, Williams, Dooley & Napolitan, PLLC," and according to Judge John Bell's analysis of this very case, "the Defendant knew of the law well before the trial (motion had been typed before trial) and did not reveal the error to the plaintiff nor to the court until after the close of the plaintiff's case."

How can I, as a small claim plaintiff be expected to be aware of the law # TCA 56-7-1206? I spent \$130. to file this claim in sessions court, and now that the case has been dismissed, I suffer a reversal of fortunes of my filing fee as well as the cost of the damages to my vehicle, as well as interest on the monies concerning my claim over nine months elapsed before judgement, as well as much mental and emotional anguish. In short, I received this judgement without being informed of the time constraints concerning appeal, as well as not being informed of legal technicalities in advance of court date by Defense counsel. In the spirit of fair play, I position my case before you, The Supreme Court of Tennessee.

David Pleau  
P.O. Box 204  
Bobbinsville, TN  
37713

08-3508

TENNESSEE COURT OF THE JUDICIARY

Steve Daniel, Disciplinary Counsel

503 North Maple Street

Murfreesboro, TN 37130

(615) 898-8004

COMPLAINT AGAINST JUDGE UNDER CODE OF JUDICIAL CONDUCT

Your Name: DAVID J. PLEAU (please type or print)

Address: P.O. Box 204, Aybree, Tennessee 37713

Phone: Daytime (93) 721-5651 Evening (427) 721-8820

I have information of possible misconduct or disability on the part of Judge John Bell (name of judge or acting judge) of the Sessions Court in Newport (city) Cocke (county), Tennessee.

STATEMENT OF FACTS

(You may attach additional pages if necessary)

1. When and where did this happen? Date(s): September 18, 2007 Time: 9 AM Location: Cocke County Courthouse, Newport, TN

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: David J. Pleau vs Merston Ins Co Case No. 2007-CV-869

b) What kind of case is it?

checkboxes: criminal, domestic relations, general sessions (checked), probate, civil, juvenile, other (specify)

c) What is your relationship to the case?

checkboxes: plaintiff/petitioner (checked), defendant/respondent, attorney for, witness for, other (specify)

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:  
My enclosed document is a copy of the order, dated June 27, 2008.

4. Identify, if you can, any other witnesses to the conduct of the judge or acting judge:  
Name(s): \_\_\_\_\_  
Address(es): \_\_\_\_\_  
Phone: ( ) \_\_\_\_\_

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.)  
I entered my concerns pre-hearing, and then the hearing date of my concern was September 18, 2007. The judgement date was June 27, 2008. On September 18, 2007, Judge Ball stated that he would render a decision within one week. My complaint isn't so much that the decision rendered instead took more than ~~three~~ months, but that I was not told that I had ten days in which to file an appeal on this issue. Upon filing this claim against Menaster Insurance Company, Chattanooga, TN, I did not retain an attorney, being that the case was heard in "Small claims court." Enclosed, please find a copy of the judgement of this case, which was dismissed on a legal technicality, of which I, as small claim plaintiff, was knowledgeable of such technical issues because the "ambushed" victim. I arrived at "Sessions Court Office" on July 10, 2008, with the intention to appeal the dismissal of this case, but was told that I had ten days to appeal by TN Law. My issue is that I received the judgement on the 10th of July, and was not informed of the time limit allowed in which to appeal, which was expired upon reception.

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. I've been told that I am unable to appeal the ruling, based on the ten day limit, but I received the order after the 10th day.

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: David J. Plann DATE: 7-14-2008 if this appeal to you is acceptable, then I am now 10 business days from the order.

STATE OF Tennessee  
COUNTY OF Cocke  
SWORN TO AND SUBSCRIBED \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_