

ORIGINAL

FILED

IN THE TENNESSEE COURT OF THE JUDICIARY

2010 MAY 28 AM 9: 29

**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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**MOTION *IN LIMINE***

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**NOW INTO COURT** comes Judge John A. Bell (“Judge Bell”), pursuant to Rule 404(b) of the Tennessee Rules of Evidence, and moves the Court to for an Order *in Limine* barring Disciplinary Counsel from offering any evidence of alleged prejudice against Merastar Insurance or any other evidence at the trial of this action which does not relate to the facts supporting the three (3) Counts alleged in the Formal Charges filed by Disciplinary Counsel, as amended and stricken pursuant to the Court’s Order of May 14, 2010. For grounds, Judge Bell would show unto the Court as follows:

1. Disciplinary Counsel has filed Formal Charges against Judge Bell consisting of allegations purporting to support three (3) separate counts of alleged misconduct. By this Court’s Order dated May 14, 2010, Disciplinary Counsel was permitted to make limited amendments to the Formal Charges. In that Order, pursuant to Tenn. R. Civ. P. 12.06 this Court also ordered the following stricken from the Formal Charges: the phrase “constitute multiple violations of law, Tennessee statutes” from paragraph 12; paragraphs 13-18; and, the phrase “statutory law” from paragraph 19.

2. Pursuant to Tenn. Code Ann. §17-5-308, the allegations against Judge Bell must be proved by “clear and convincing evidence.”

2. Disciplinary Counsel has listed two attorneys on its list of witnesses, Adam Rust and Brad Fraser. These attorneys represented Merastar Insurance Company in the civil actions brought by David Pleau against Merastar.

4. Respectfully, attorneys Rust and Fraser can offer no evidence relative to the facts alleged to support the allegations in the Formal Charges.

5. Judge Bell is concerned that Disciplinary Counsel may attempt to introduce evidence through these witnesses of alleged prejudice or bias by Judge Bell in favor of David Pleau and against Merastar arising from Mr. Pleau’s complaint to the Court of the Judiciary regarding Judge Bell and Mr. Pleau’s unwillingness to dismiss the complaint.

6. However, the Formal Charges are limited to allegations of prejudice against Jo Ann Coleman; further the prejudice is alleged to have arisen solely because Judge Bell had rendered a prior decision in the case. Specifically, paragraph 6 of the Formal Charges states:

It is alleged that John Bell was prejudiced against **Jo Ann Coleman** in the hearing of this matter **as he had previously expressed an opinion on the responsibility and damages in this exact controversy.** (emphasis added).

There is nothing in the charges regarding prejudice against Merastar. Nor, is there any allegation in the charges regarding prejudice by Judge Bell arising from Pleau’s Court of the Judiciary complaint or Pleau’s unwillingness to dismiss the complaint.

7. To the extent Disciplinary Counsel seeks evidence from Rust and/or Fraser regarding prejudice against Merastar, Disciplinary Counsel will be presenting evidence of an uncharged ethical violation in order to prove the ethical violations set forth in the Formal Charges.

8. Under Tenn. R. Evid. 404(a) and (b), such evidence is not admissible.

**WHEREFORE**, Judge Bell moves this Court for an Order *in Limine* barring Disciplinary Counsel from offering any evidence of alleged prejudice against Merastar Insurance Company or any other evidence at the trial of this action which does not relate to the facts supporting the three (3) Counts alleged in the Formal Charges filed by Disciplinary Counsel, as amended and stricken pursuant to the Court's Order of May 14, 2010.

Respectfully submitted, this 27<sup>th</sup> day of May 2010.




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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 Patrick J. McHale  
Disciplinary Counsel  
Court of the Judiciary  
503 North Maple Street  
Murfreesboro, Tennessee 37130

This 27<sup>th</sup> day of May, 2010.

  
W. Allen McDonald