

Tennessee Court of the Judiciary

*Annual Report
2010-2011*

Tennessee Court of the Judiciary Members 2010-2011

Presiding Judge

Judge Don R. Ash

Circuit Court

16th Judicial District, Part III

20 Public Square North, Room 409

Murfreesboro, TN 37130

Phone: (615) 898-8074

Fax: (615) 898-8013

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Appointed by: Supreme Court

(Trial judge - Middle)

Members of the Court

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Appointed by: Tennessee Bar Association

(Atty - West)

Judge Chris Craft

Criminal Court
30th Judicial District
Shelby County Justice Complex
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Memphis, TN 38103

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Appointed by: Supreme Court
(Trial judge - West)

Judge Angelita Blackshear Dalton

General Sessions Court
20th Judicial District
Justice A. A. Birch Building
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E-mail: angelitadalton@jis.nashville.org

Term: 07/01/07 - 06/30/11 (1)

Appointed by: Supreme Court
(GS judge - licensed in TN - Middle)

Judge Joe F. Fowlkes

109 W. Madison Street
P.O. Box 677
Pulaski, TN 38478

Phone: (931) 363-6116

Fax: (931) 424-1707

E-mail: joefowlkes@fowlkesgarner.com

Term: 03/01/09 - 02/28/13 (1)

Appointed by: Supreme Court
(Municipal ct judge - licensed in TN)

Judge Christy R. Little

General Sessions Court
26th Judicial District
P.O. Box 1504
110 Irby Street (38301)
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Term: 07/01/07 - 06/30/11 (1)
Appointed by: Supreme Court (*GS judge - West*)

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Appointed by: House Speaker (*Lay member*)

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Appointed by: Governor (*Lay member*)

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Appointed by: Tennessee Bar Association (*Atty - Middle*)

Judge J. Steven Stafford

Tennessee Court of Appeals

P.O. Box 1103

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Phone: (731) 286-8387

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Appointed by: Supreme Court (*Intermediate app ct*)

Judge Jean A. Stanley

Circuit Court

1st Judicial District

101 East Market Street

Johnson City, TN 37604

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Appointed by: Supreme Court (*Trial judge - East*)

Judge Dwight E. Stokes

General Sessions Court

4th Judicial District

Sevier County Courthouse

125 Court Avenue, Suite 109 West

Sevierville, TN 37862

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Appointed by: Supreme Court

(*GS & Juvenile judge - licensed in TN - East*)

Judge D. Michael Swiney

Tennessee Court of Appeals

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Appointed by: Supreme Court (*Intermediate app ct*)

Judge Thomas T. Woodall

Tennessee Court of Criminal Appeals

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Dickson, TN 37055

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Appointed by: Supreme Court (*Intermediate app ct*)

Disciplinary Counsel 2010-2011

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ABOUT THE COURT OF THE JUDICIARY

The Court of the Judiciary was created by the legislature to investigate and, when warranted, act on complaints against judges. Members are appointed by multiple appointing authorities, including the Supreme Court. The appellate court clerk serves as clerk to the Court of the Judiciary.

ROLE AND FUNCTION OF THE COURT

The Tennessee Court of the Judiciary was created by the legislature to:

1. Provide an orderly and efficient method for making inquiry into:
 - The physical, mental and/or moral fitness of any Tennessee judge;
 - Whether the judge committed judicial misconduct;
 - Whether the judge committed any act calculated to reflect unfavorably upon the judiciary of the state or bring it into disrepute or which may adversely affect the administration of justice in the state.
2. Provide a process by which appropriate sanctions may be imposed;
3. Implement constitutional provisions by providing a procedure for the removal of judges.

COMPOSITION

It is composed of 16 members: 10 judges, 3 attorneys, and 3 lay people, who, after investigation and hearings, may recommend removal, suspension, or other discipline of a judge.

STATUTE

The statute creating and governing the Tennessee Court of the Judiciary is found at Tennessee Code Annotated § 17-5-101 through § 17-5-314.

RULES OF THE TENNESSEE COURT OF THE JUDICIARY

Pursuant to the statute, the Court of the Judiciary is authorized to establish rules. Those Rules are as follows:

RULE 1. MEETINGS

Section 1. Time and Place of Meeting

The Court shall meet at 10:00 a.m. on the fourth (4th) Wednesday in February and the fourth (4th) Wednesday in August in the Supreme Court Chambers at Nashville, Tennessee, and at such other times and places as the presiding judge, or a majority of the members of the Court, may deem necessary.

Section 2. Notice of Meeting

The clerk of the Court shall give a minimum of ten (10) days' notice of the time and place of meetings to all members of the Court.

Section 3. Quorum

Eight (8) members of the Court shall constitute a quorum.

RULE 2. PRESIDING JUDGE

Section 1. Presiding Judge

The Court, at its meeting on the fourth (4th) Wednesday in August of each year, shall elect a presiding judge to serve for a period of one (1) year. The presiding judge shall be elected from the members of the Court by a majority present and voting.

The presiding judge may be removed by two-thirds vote of the members of the Court, with or without cause.

Section 2. Presiding Judge Pro Tem

The Court, at its meeting on the fourth (4th) Wednesday in August of each year, shall elect a presiding judge pro tem to serve for a period of one (1) year. The presiding judge pro tem shall be elected from the members of the Court by a majority present

and voting.

The presiding judge pro tem may be removed by two-thirds vote of the members of the Court, with or without cause.

If at any meeting the presiding judge is not present, the presiding judge pro tem shall preside. If the presiding judge is recused with respect to a matter, the presiding judge pro tem shall act as presiding judge with respect to such matter.

Section 3. Presiding Judge--Duties

In addition to the duties and responsibilities set forth in Chapter No. 356, Public Acts of 1979, as modified by Chapter 208, Public Acts of 1995, the presiding judge shall preside at all meetings of the Court and at trials. The presiding judge shall rule upon the admission or exclusion of evidence. However, the presiding judge's ruling upon the admission or exclusion of evidence may be appealed to the full Court. The presiding judge and only the presiding judge shall be the spokesperson for all matters pending before the Court, except that if the presiding judge is recused with respect to a matter pending before the Court, the presiding judge pro tem and only the presiding judge pro tem shall be the spokesperson for the Court with respect to such matter.

After the trial of any matter the presiding judge shall write or shall designate a member of the hearing panel that heard the matter to write the majority opinion. Any member of the hearing panel that heard the matter may write a concurring or dissenting opinion.

The presiding judge shall have such other duties and responsibilities as are necessary in fulfilling the office.

RULE 3. PANELS--RECUSAL

Section 1. Recusal--Replacement

(a) *Hearing Panel.* If a member of the Court is recused from the hearing of any matter and the Court deems it necessary that a replacement be designated then the presiding judge shall designate a temporary replacement by an order signed by a majority of the members of the hearing panel for the matter. In making such temporary designation, due regard will be given to the status of the recusing member to the end that the contemplated composition and balance of the hearing panel for the matter be maintained.

(b) *Investigative Panel.* If a member of an investigative panel is recused from the hearing of any matter, then the presiding judge shall designate a temporary replacement by an order signed by the presiding judge. In making such temporary designation, due regard will be given to the status of the recusing member to the end that the contemplated composition and balance of the investigative panel for the matter be maintained.

RULE 4. DISCIPLINARY COUNSEL

Section 1. Hiring

The appointment or retention of disciplinary counsel shall be made only by a majority of the Court. However, the presiding judge or one or more members of the Court designated by the presiding judge may handle preliminary matters relating to hiring disciplinary counsel, including, but not limited to, advertising the position, receiving and reviewing resumes, screening applicants and conducting interviews.

RULE 5. COMPLAINTS AND RESPONSES

Section 1. Written Complaints

Complaints should be reduced to writing and sworn to before a notary public or by an officer authorized to administer oaths under Tennessee law. Complaints must state with reasonable particularity the factual basis of the complaint. Complaints are filed with Disciplinary Counsel at an address designated by the Court.

Section 2. Other Sources

Disciplinary Counsel is authorized to investigate anonymous complaints or information coming from sources other than a written complaint, provided Disciplinary Counsel deems the information sufficiently credible or verifiable through objective sources.

Section 3. Judge's Response to Be in Writing

A judge's response to an initial complaint is to be reduced to writing but is not required to be under oath. Responses filed by others on behalf of the judge are to be reduced to writing and sworn to before a Notary Public or by an officer authorized to administer an oath under Tennessee law. The judge's response is to be filed with Disciplinary Counsel.

RULE 6. INVESTIGATIVE PANELS

Section 1. Designation of Investigative Panels

The presiding judge shall designate such investigative panels as in the presiding judge's discretion are necessary to the efficient operation of the Court.

Each investigative panel shall be comprised of three members of the Court, and a member may serve on more than one investigative panel. The presiding judge shall not serve as a member of any investigative panel. In appointing the investigative panels, the presiding judge shall give due consideration to the composition of each panel so that to the extent feasible, public members, practicing attorneys and judges

of various courts are represented on each panel. Each of the members of the various investigative panels may be from the same geographic region of the State so as to promote communication and meetings among panel members. The presiding judge may designate alternate members to serve on investigative panels in the event that a member of an investigative panel is recused from considering a particular matter.

Section 2. Coordinators of Investigative Panels

Each investigative panel shall designate a member of the investigative panel to serve as coordinator of that investigative panel. The coordinator of each investigative panel shall be responsible for scheduling periodic meetings of the investigative panel (whether in person or by telephone conference call) for communicating to disciplinary counsel on behalf of the investigative panel, and for handling any other administrative matters that the presiding judge shall designate to be handled with respect to the investigative panel.

Section 3. Meetings of Investigative Panels

(a) *Meetings of Investigative Panels.* Promptly upon receipt of a complaint or upon receipt of a report and recommendations from the disciplinary counsel, the investigative panel shall review the matter. Upon the call of any member of an investigative panel, or if panel decision is not unanimous with respect to a matter, the coordinator shall schedule a meeting for the investigative panel to review the matter(s). The meeting may be conducted in person or by telephone conference call, provided that if the meeting is conducted by telephone conference call, every member of the panel must be able to hear and to speak to every other member of the panel.

(b) *Initial Review of Complaint.* Upon receipt of a complaint or file from the disciplinary counsel, an investigative panel shall review the matter and shall:

(i) authorize a full investigation; or

(ii) dismiss the complaint.

The coordinator shall communicate the investigative panel's decision promptly in writing to the disciplinary counsel.

(c) *Review After Full Investigation.* When an investigative panel has authorized a full investigation of a complaint or matter, then promptly upon its receipt of the disciplinary counsel's report of the investigation and recommendation, the investigative panel shall review the report and recommendations and shall:

(i) approve the recommendations of disciplinary counsel;

(ii) modify the recommendations of disciplinary counsel; or

(iii) disapprove the recommendations of disciplinary counsel.

(d) *Action of Investigative Panel After Investigation.* After investigation and upon determining that there is probable cause to believe that a judge has committed a judicial offense, the investigative panel shall:

(i) direct disciplinary counsel to file formal charges against the judge; or

(ii) propose to the judge that the judge consent to a private admonition; or

(iii) propose to the judge that the judge consent to a deferred disciplinary agreement (as defined in [Tenn. Code Ann. § 17-5-301 \(g\)](#)).

In the event the judge consents to the private admonition or deferred disciplinary agreement, then the private admonition or deferred disciplinary agreement shall be administered as set forth in Rule 7. In the event the judge does not consent to the private admonition or deferred disciplinary agreement, then the investigative panel shall direct disciplinary counsel either to file formal charges against the judge or to dismiss the complaint.

Section 4. Frivolous Complaints--Destruction of Records

In the event the investigative panel determines that the charges are frivolous or unfounded, or would not constitute misconduct or incapacity if true, or are beyond the permissible scope of the Court's inquiry, the investigative panel shall dismiss the charges. The matter will then be closed, and the Court's docket will recite the investigation and dismissal of a groundless complaint.

Section 5. Formal Charge

If an investigative panel determines that there is reasonable cause to believe that a judge committed a judicial offense and the investigative panel directs that disciplinary counsel file a formal charge as provided in [Tenn. Code Ann. § 17-5-304\(e\)](#), then prior to the filing of the formal charge the investigative panel shall review and approve the form and content of such formal charge. Such formal charge shall be signed by disciplinary counsel and the members of the investigative panel who directed that the formal charge be filed.

Section 6. Consensus by Investigative Panels

In the event that the members of an investigative panel are not able to reach a consensus after due consideration by meeting in person or by meeting via a conference call in which every member of the panel can hear and speak to every other member of the panel, then the investigative panel may act upon the

concurrence of two of its three members. In the event that no two members of an investigative panel concur in the decision, then the presiding judge shall direct that the matter be assigned to another investigative panel for consideration. In the event the second investigative panel recommends the filing of formal charges, no member of either the first investigative panel or the second investigative panel shall serve on the hearing panel for such matter.

RULE 7. APPEARANCE OF JUDGE; SANCTIONS

Section 1. Hearing Panel--Sanctions Consented to by Judge

If a judge consents to a sanction as provided for in [Tenn. Code Ann. § 17-5-307\(g\)](#), and the hearing panel approves the sanction agreement, then the sanction agreement shall be reduced to writing and shall be approved by the judge, the judge's counsel (if any), disciplinary counsel and the hearing panel, and the sanction order shall be entered by the presiding judge. Because a hearing panel may act only after formal charges have been filed against a judge, all sanctions administered by a hearing panel shall be public, whether or not the judge has consented to the sanctions.

Section 2. Investigative Panel--Private Admonition

If a judge, with the unanimous concurrence of the investigative panel and the concurrence of the presiding judge, consents to a private admonition or deferred discipline agreement as provided for in [Tenn. Code Ann. § 17-5-304\(d\)\(2\)](#), then the judge shall personally appear before the investigative panel so that the investigative panel may confirm that the judge has consented to the private admonition or deferred discipline agreement and may administer such admonition to the judge or may accept from the judge such deferred discipline agreement. Private admonitions and deferred discipline agreements shall be reduced to writing and shall be signed by the judge, the presiding judge and the members of the investigative panel imposing such private admonition or deferred discipline agreement. Private admonitions and deferred discipline agreements shall specify the nature of the behavior that resulted in the private admonition or deferred discipline agreement. Such writings shall be confidential, and a copy of the private admonition or deferred discipline agreement shall be given to the judge; the original shall be retained in the files of the Court and may be used or released only as allowed in [Tenn. Code Ann. § 17-5-301\(f\)\(3\)](#).

RULE 8. CONFIDENTIALITY

Except for hearings conducted pursuant to [Tenn. Code Ann. § 17-5-308](#) or sanctions required to be public, matters that come before the Court are confidential.

Individual members of the Court will not discuss any matter pending before the Court, except with other members of the Court and with Disciplinary Counsel. However, nothing in the Rule shall prohibit the complainant, respondent-judge, or any witness from disclosing the existence or substance of a complaint, matter, investigation, or proceeding under these Rules or from disclosing any documents or correspondence filed by, served on, or provided to that person.

RULE 9. AMENDMENT OF RULES

These rules may be amended from time to time by a majority of the members of the Court present and voting at any meeting. By concurrence of the majority of the members of the Court voting, any of the above rules may be suspended, except when the suspension of a rule would cause the violation of a statute or other law.

2010-2011 Summary

During the past fiscal year, the office of the Disciplinary Counsel has instituted a number of formal policies dealing with the investigative process, consideration of factors to be considered by the Disciplinary Counsel in its recommendation to the Court of sanctions to be imposed, and its handling of and accounting for information dealing with complaints that have been filed. These policies have been formalized to standardize the processes of the office in its operation, and to better provide a method by which the public may understand the internal operation of the office of the Disciplinary Counsel, and its interaction with the Court of the Judiciary. These policies are as follows:

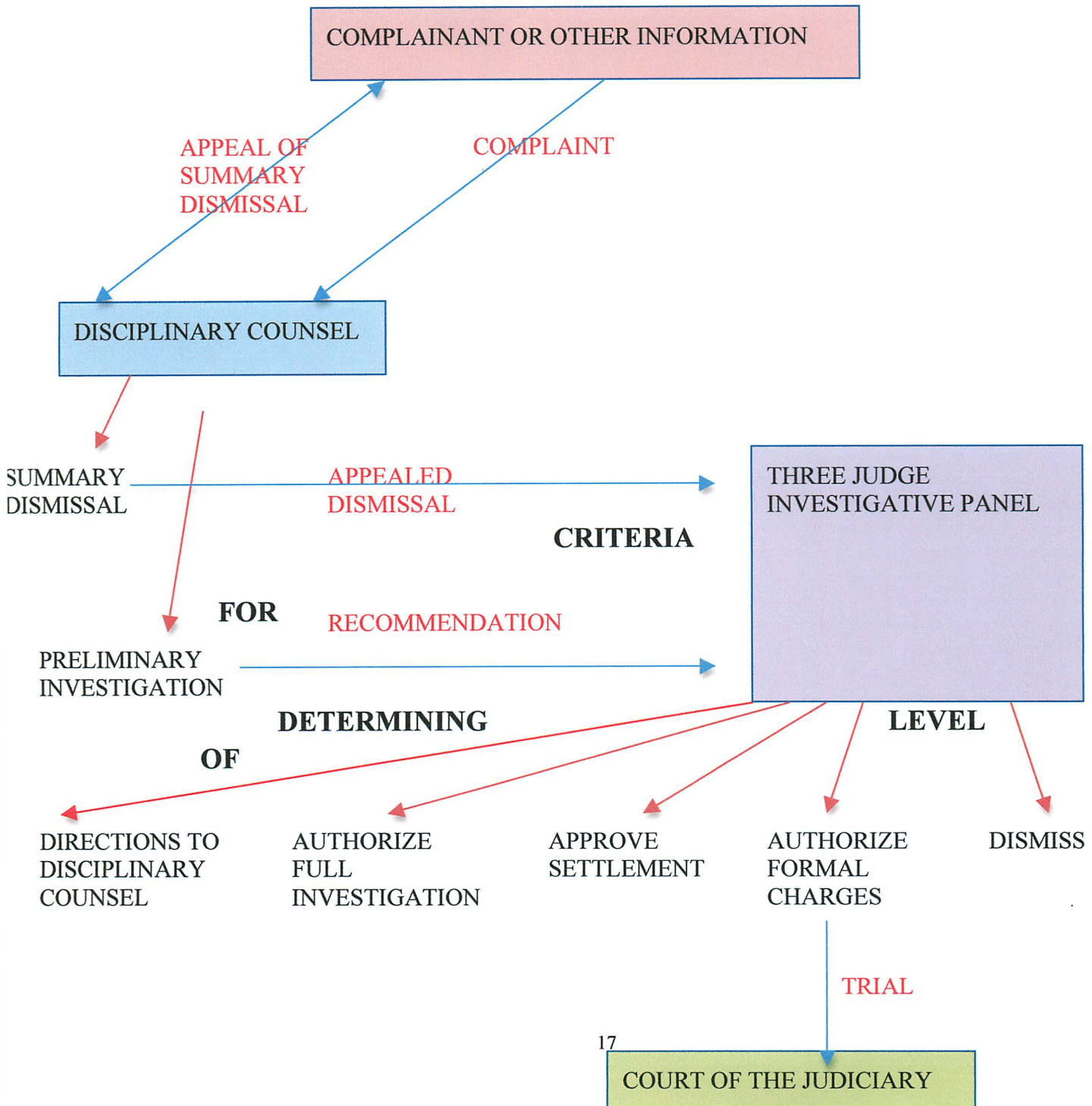
DISCIPLINARY COUNSEL INVESTIGATIVE PROTOCOL

1. Sworn complaint is received and evaluated by Disciplinary Counsel's office. As part of this initial evaluation, additional information may be requested from complainant if needed for evaluation.
2. If complaint, plus any additional information obtained, alleges specific facts (not conclusions), that would cause a reasonable person to believe there is a substantial probability that the conduct involved violates TCA 17-5-302, Disciplinary Counsel initiates a preliminary investigation. If the complaint does not allege said facts, Disciplinary Counsel summarily dismisses the complaint. TCA 17-5-304(a).

3. Upon summary dismissal, Disciplinary counsel notifies the complainant of the dismissal and of the complainant's right to appeal the dismissal to an investigative panel. The Judge against whom the complaint is made is also advised of the complaint, dismissal, and given a copy of the complaint.
4. Preliminary investigations are normally started by advising the applicable Judge of the complaint, and asking the Judge for a non-sworn explanation of the matters raised in the complaint, that might indicate a violation within the jurisdiction of the Court of the Judiciary. Other interviews and the examination of applicable evidence may also occur during the preliminary investigation.
5. When Disciplinary Counsel believes, after the preliminary investigation, that facts alleged are true which would cause a reasonable person to believe that a substantial violation of TCA 17-5-305 has occurred, Disciplinary Counsel shall recommend to the investigative panel assigned to the case that a full investigation be authorized. Disciplinary counsel may also ask that a full investigation be authorized when there are grounds to believe that evidence that would cause a reasonable person to believe that a substantial violation has occurred could be obtained by subpoena or other further investigation. In all other cases Disciplinary Counsel will recommend that the matter be dismissed. TCA 17-5-304(b)(2).
6. The investigative panel reviews the recommendations of the Disciplinary Counsel and either dismisses the complaint or authorizes a full investigation. TCA 17-5-304(b)(3).
7. A full investigation is characterized by the giving of notice to the judge being investigated of the specific allegations being investigated, the canons or rules allegedly violated, the judge's duty to respond, the judge's opportunity to meet with Disciplinary Counsel, and generally the name of the complainant.. This notice is sent to the judge by certified mail by Disciplinary Counsel. TCA 17-5-304(c)(1)(A-D). It is at this stage of the investigation that permission may be sought for the use of administrative Subpoenas. TCA 17-304(b)(1)
8. At the conclusion of the full investigation Disciplinary Counsel may recommend to the investigative panel any or any combination of dismissal, private reprimand or censure, public reprimand or censure, deferred discipline agreement, the filing of formal charges, referral to an appropriate agency, or a stay. TCA 17-5-304(d)(1)(A-E).

This process is graphically illustrated by the flow chart that follows on page 17.

COMPLAINT FLOW CHART



SANCTIONS

CRITERIA FOR DETERMINING LEVEL OF SANCTION

In determining the level of sanction to be recommended by Disciplinary Counsel, including whether discipline should be private or public, the following criteria will be considered, upon a finding of Disciplinary Counsel that facts exist which could result in the establishment of a violation by clear and convincing evidence:

1. Whether the conduct is an isolated instance or evidences a pattern of conduct.
2. The nature, extent and frequency of the acts of misconduct.
3. Whether the misconduct occurred in or out of the courtroom.
4. Whether the conduct occurred while the judge was acting in an official capacity.
5. Whether the judge has acknowledged or recognized the occurrence, nature and impropriety of the acts.
6. Whether the judge has evidenced a effort to change or modify conduct.
7. The judge's length of service on the bench.
8. Whether there have been prior complaints about the judge, except where prior complaints have been found frivolous, unfounded, or without jurisdiction.
9. The effect of misconduct upon the integrity of, and respect for, the judiciary.
10. The extent to which the judge exploited the judicial position for personal gain or satisfaction.

A finding unfavorable to the judge on one or more of these criteria will result in disciplinary counsel considering a recommendation for public sanction.

In addition to the this criteria which must be considered by both the investigative panel and the court pursuant to TCA 17-5-301(i), the Disciplinary Counsel shall consider whether both the judge and the public would benefit from a deferred disciplinary agreement with a condition that the judge receive professional assistance or augmented training in connection with his willingness to amend behavior which gave rise to the complaint.

DISCIPLINARY COUNSEL'S RECORDS POLICY

- 1. FILE OPENING** - Disciplinary Counsel's office shall assign a unique number to all files opened either as a result of the receipt by the office of an appropriate complaint form filed by a complainant or a file opened as a result of information from another source. This number shall consist of two (2) digits representing the year opened followed by a four (4) digit number reflecting a numerical sequence in the roster of cases kept by the office. This roster shall be maintained permanently in such a form as to allow the tracking of the status, complainant, subject Judge, type of complaint, status of complaint, disposition of complaint, and any other information concerning the complaint that would assist Disciplinary Counsel in managing and accounting for the workload of the office.
- 2. MAINTENANCE OF FILES AND INFORMATION**- When a file is opened, both a physical file and an electronic file shall be created. The physical file shall contain the complaint and all relevant documentation and correspondence pertaining to the complaint. Relevant portions of all complaints and relevant documentation received by Disciplinary Counsel's office, including correspondence received by the office, shall be scanned and maintained in the electronic file as a PDF document. Correspondence generated by the office to either the complainant or the subject Judge shall also be maintained in the electronic file, but may be maintained by copying to the electronic file the correspondence in word processing format, without the necessity of scanning the letter-head printed document. E-mail communications between Disciplinary Counsel's office and investigative panels, court members, or other E-mail communications need not be copied to the physical or electronic file, but shall not be deleted from any computer, storage media, or internet service provider. Voluminous public records such as transcripts, court dockets, or pleadings filed in any court, that are retrievable by other means, need not be scanned to the electronic file. Both the physical file and the electronic file shall be retrievable by the file number of the case, which shall be permanently retained in the roster of cases. Disciplinary Counsel shall maintain a backup copy of all electronic files and the permanent file roster that shall be updated daily. This backup shall reside on storage media separate from the computer internal hard drive.
- 3. RECORD PRESERVATION AND DESTRUCTION**- Physical files may be destroyed by Disciplinary Counsel by an appropriately secure method, such as commercial shredding, one year after the closing and final action on any file. Electronic files shall never be deleted or destroyed, and it is the intention of this policy that all relevant material to a case file shall be retrievable by reference to file number, or other information contained in the permanent roster, unless this policy is changed by Court Rule or appropriate Court Order

Annual Statistical Report

(7/1/2010 to 6/30/2011)

COMPLAINTS OPENED (7/1/2010 to 6/30/2011)..... 359

AVERAGE COMPLAINTS OPENED PER WEEK6.8

DISPOSITIONS (7/1/2010 to 6/30/11)

Dismissal by Disciplinary Counsel (Summary not Appealed).....	181
Dismissal after preliminary investigation.....	35
Dismissal with warning after preliminary investigation.....	6
Dismissal after appeal of summary dismissal.....	84
Dismissal after full investigation without trial.....	3
Dismissal with warning after full investigation.....	5
Deferred Discipline.....	3
Public Reprimand	9
Private Reprimand.....	6
Other.....	2

COMPLAINTS CLOSED (7/1/2010 to 6/30/11).....334

PENDING COMPLAINTS AS OF 6/30/1175

NATURE OF COMPLAINTS RECEIVED (7/1/10 to 6/30/11)

Failure to comply with law	202
Bias, prejudice, unfairness.....	42
Discourtesy.....	13
Abuse of Office.....	34
Conflict of interest.....	25
Delay.....	8
<i>Ex parte</i> communication.....	2
Disability.....	3
Political violation.....	13
Miscellaneous.....	5
Recusal.....	12

ACCUSED JUDGES (7/1/2010 to 6/30/11)

General Sessions.....96
 Juvenile.....26
 Referee.....8
 Special Judges.....2
 Circuit.....92
 Chancery.....24
 Criminal.....84
 Appellate.....0
 Supreme Court.....1
 Probate.....7
 Other.....8
 Magistrate.....7
 Municipal.....4

Statistical Comparison With Prior Years

	2010- 2011	2009- 2010	2008- 2009	2007- 2008	2006- 2007
Complaints Opened	359	344	348	310	330
Dispositions	334	322	360	300	331
a. Dismissals	314	301	330	280	310
b. Deferred Discipline	3	5	5	6	2
c. Public - Reprimand or Censure	9	1	3 2	3 1	2 1
d. Private Reprimand	6	0	5	5	10
Other	2	15	15	5	6

Private Disciplines

Although the details of private discipline are confidential pursuant to the Rules of the Court of the Judiciary, a discussion of the types of conduct that resulted in private disciplines is appropriate.

The conduct of Judges on the bench during hearings formed the basis for three of the private reprimands that were issued during the fiscal year. One of these reprimands concerned a Judge that remarks in the courtroom disparaging an attorney as being unethical and engaging in unethical conduct, without a legal or factual basis for the remarks. In another case, a Judge implied that he was being influenced in a decision in a domestic case, because of his extra-judicial knowledge of the character of one of the families involved. In a third case, a Judge made mention to a party of *ex parte* discussions the Judge had been involved in with members of the community concerning the case. In all of these cases the Judge was found to be in violation of Canon 2A of the Judicial Code of Conduct that requires that a judge “*respect and comply with the law and act in a manner that promotes public confidence in the integrity of the judiciary*”.


The failure to accord defendant’s appropriate rights in situations that should have been apparent to the Judge formed the basis of two additional complaints, in one case with a Judge failing to provide an appropriate hearing prior to imposing a sentence of incarceration for contempt, and in another failing to allow a defendant to waive the defendant’s right to a preliminary hearing and be bound over to the criminal court. One of the cases also involved the judge being abrupt and impatient during the hearing in violation of Canon 3B(4) which requires a Judge to be “*patient, dignified and courteous with litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity*”. In both of these cases the Judge was found to be in violation of Canon 3B(4) which requires a Judge to be “*faithful to the law and maintain professional competence in it*”.

One judge received a private reprimand for public endorsement of a candidate for public office in violation of Canon 5A(1)(b) which provides that a judge shall not “*publically endorse or publically oppose another candidate for public office*”.

Public Disciplines

IN RE: THE HONORABLE GLORIA DUMAS

dumas_gloria_letter_of_public_reprimand_-_07-16-10.pdf (page 1 of 2)



**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37243-067

JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

Don R. Ash
Presiding Judge

Timothy R. Discenza
Disciplinary Counsel

Patrick J. McHale
Assistant Disciplinary Counsel

Chris Craft
David M. Cook
Angelita Blackshear Dalton
Joe F. Fowlkes
Christy R. Little
Richard A. Manahan
Paul Neely
Pamela L. Reeves
Kathy McMahan
Mary Martin Schaffner
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Michael Swiney
Thomas T. Woodall

July 16, 2010

FOR PUBLIC PRESS RELEASE

The Honorable Gloria Dumas
408 Second Ave. North, Suite 4140
P.O. Box 196300
Nashville, Tennessee 37219-6300

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

FILED
JUL 16 2010
Clerk of the Courts

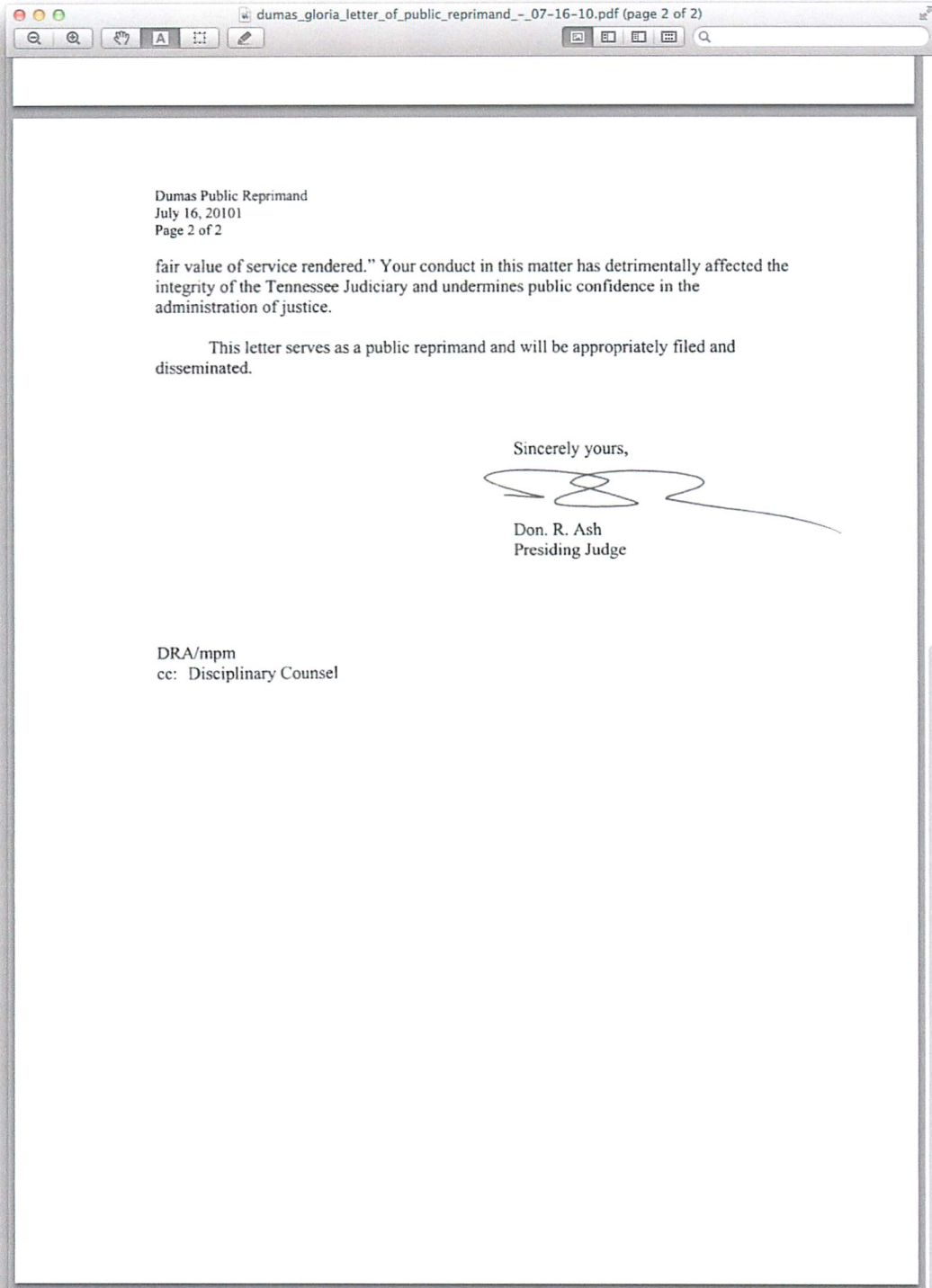
RE: Formal Charge M2009 CJ-CJ-CJ filed in the
Tennessee Court of the Judiciary
Against The Honorable Gloria Dumas, Judge,
General Sessions Court, Metropolitan
Nashville and Davidson County, Tennessee

Dear Judge Dumas:

This shall serve as a public reprimand pursuant to the agreed order entered into in the above captioned case filed in the Tennessee Court of the Judiciary.


This reprimand relates to the hiring, by you, of your daughter as your court officer. You hired your daughter in November of 2005 to be your court officer, authorizing her to be paid a salary commensurate with the position, even though she had no experience or training for this position. This selection was made without the competitive consideration of other qualified applicants. Your daughter served in this position until September of 2006, at which time her employment was terminated prior to the initiation of this complaint.

Your actions in the hiring of your daughter violated Canon 3(C)(4) of the Canons of Judicial Ethics, which provides that "A judge shall not make unnecessary appointments. A Judge shall exercise the power of appointment impartially and on the basis of merit. A Judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the value of the



IN RE: THE HONORABLE F. LEE RUSSELL

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2010 NOV 29 PM 2: 22
CLERK OF THE SUPREME COURT
NASHVILLE

**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37243-067
JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

November 29, 2010

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

FOR PUBLIC PRESS RELEASE

The Honorable F. Lee Russell
Circuit Court Judge
P.O. Box 1005
Shelbyville, Tennessee, 37162-1005

RE: Complaint of David Reha
File No. 10-4272

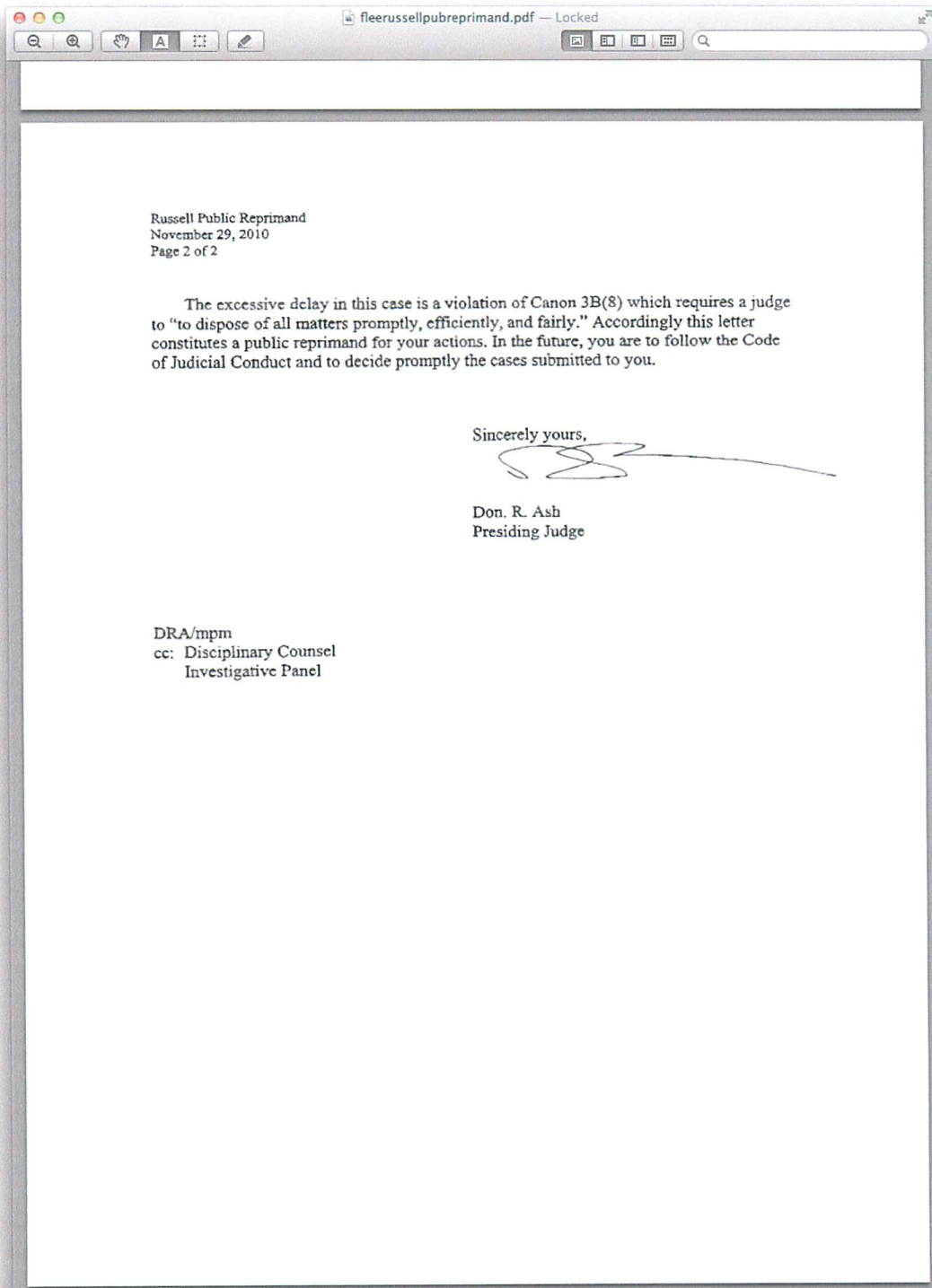
Dear Judge Russell:

This shall serve as a public letter of reprimand pursuant to your agreement with the investigative panel of this court.

This reprimand relates to your handling of a complaint for damages filed by David Reha against Tennessee Farmers Mutual Insurance Company which was tried by you in a bench trial on November 12th, 1999 and taken under advisement. On March 12th, 2003, a motion to ascertain the status of the case was filed by the plaintiff's counsel. An additional motion to ascertain the status of the case was filed by plaintiff's counsel on July 23rd, 2009, and as a result of that motion, you indicated to all counsel in a letter dated August 13th, 2009 that you would enter a Memorandum opinion and order in the case on September 4th, 2009.

Upon receiving a notice of the complaint of Mr. Reha from the Disciplinary Counsel to the Tennessee Court of the Judiciary, you promptly responded, admitted the facts of the complaint, accepted responsibility, and entered a proper memorandum opinion and order on October 12th, 2010, 10 years and 11 months after the bench trial.

Chris Craft
David M. Cook
Angelita Blackshear Dalton
Joe F. Fowlkes
Christy R. Little
Richard A. Manahan
Paul Neely
Pamela L. Reeves
Kathy McMahan
Mary Martin Schaffner
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Michael Swiney
Thomas T. Woodall



Russell Public Reprimand
November 29, 2010
Page 2 of 2

The excessive delay in this case is a violation of Canon 3B(8) which requires a judge to "to dispose of all matters promptly, efficiently, and fairly." Accordingly this letter constitutes a public reprimand for your actions. In the future, you are to follow the Code of Judicial Conduct and to decide promptly the cases submitted to you.

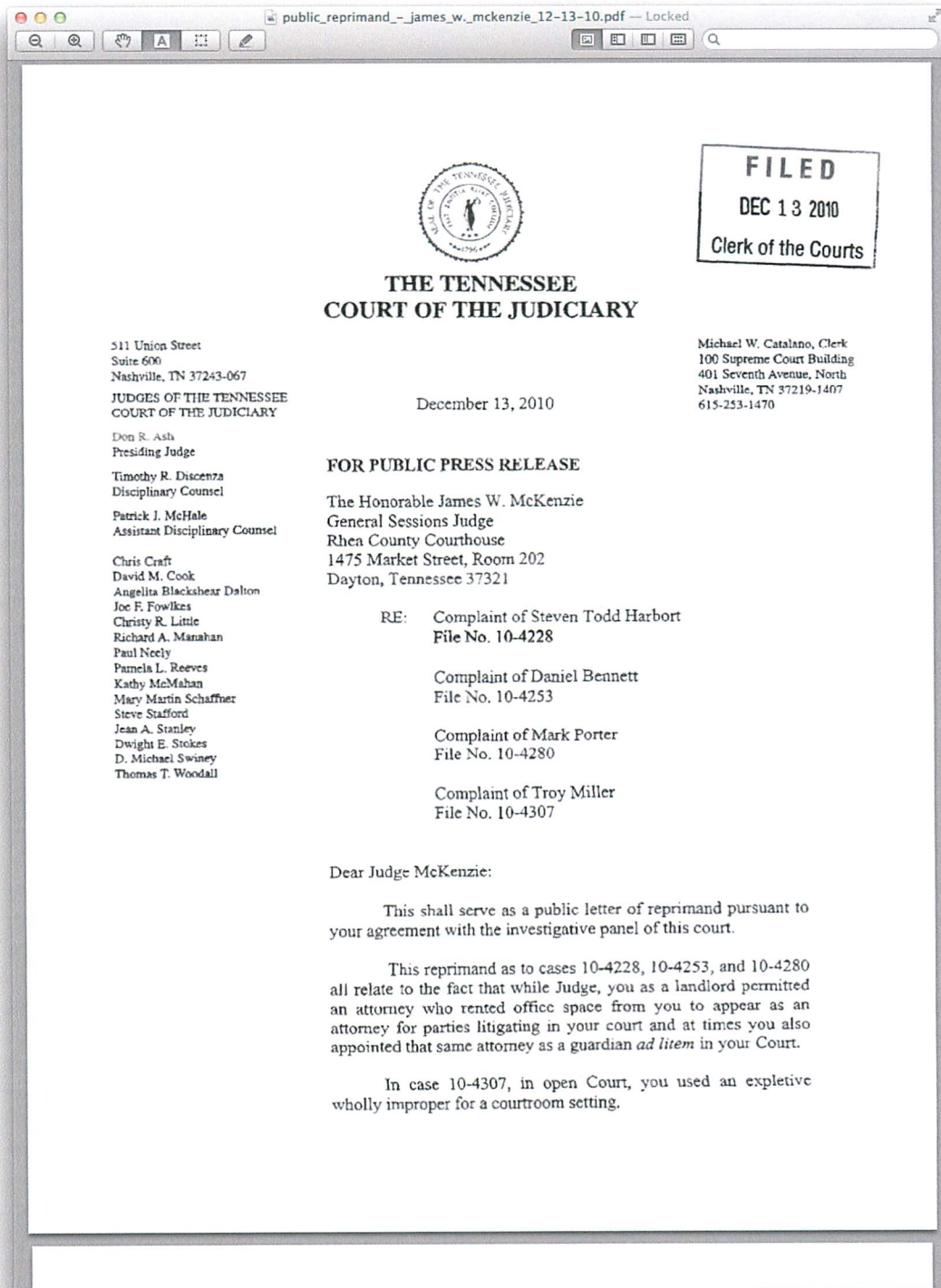
Sincerely yours,

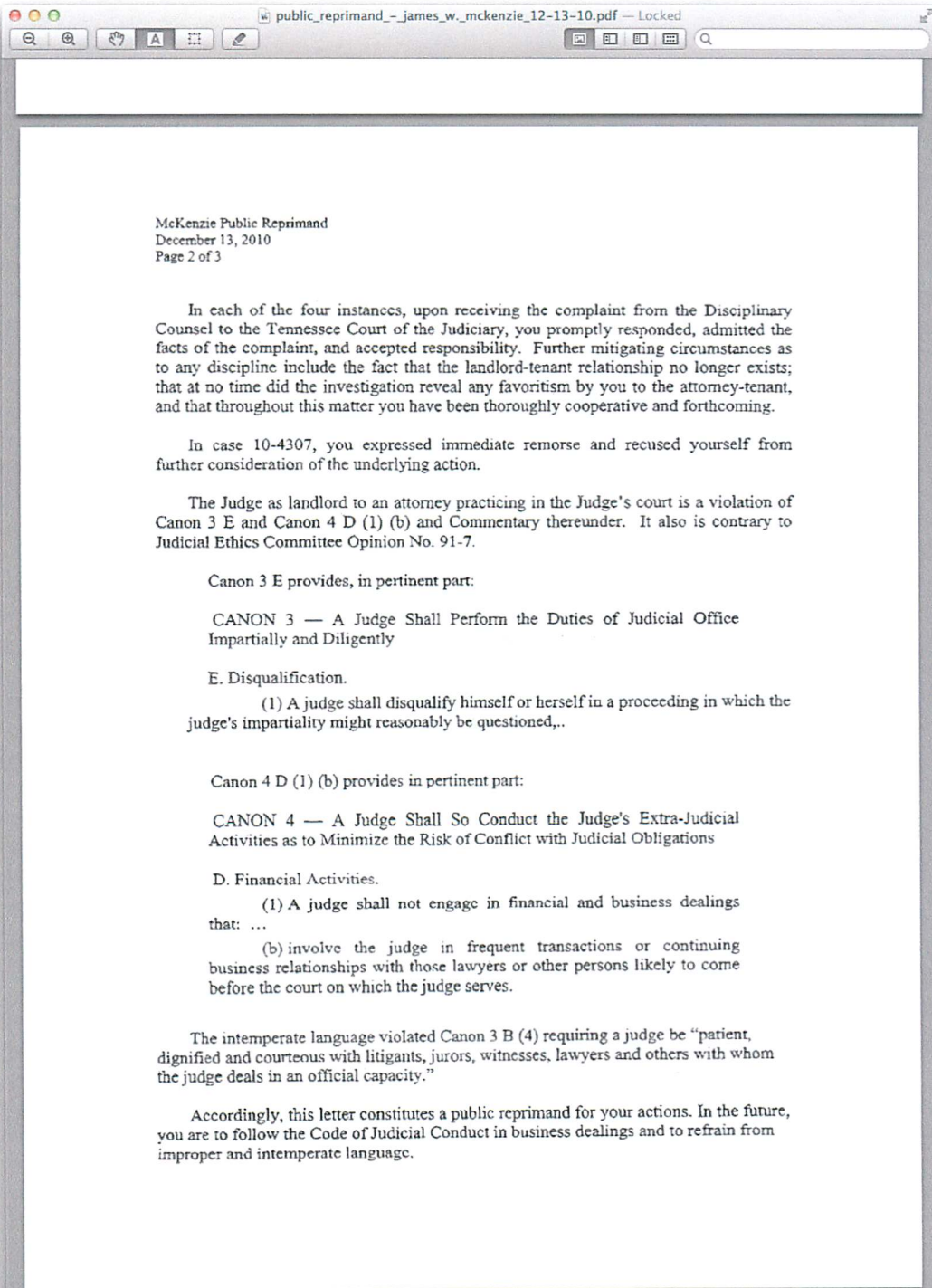


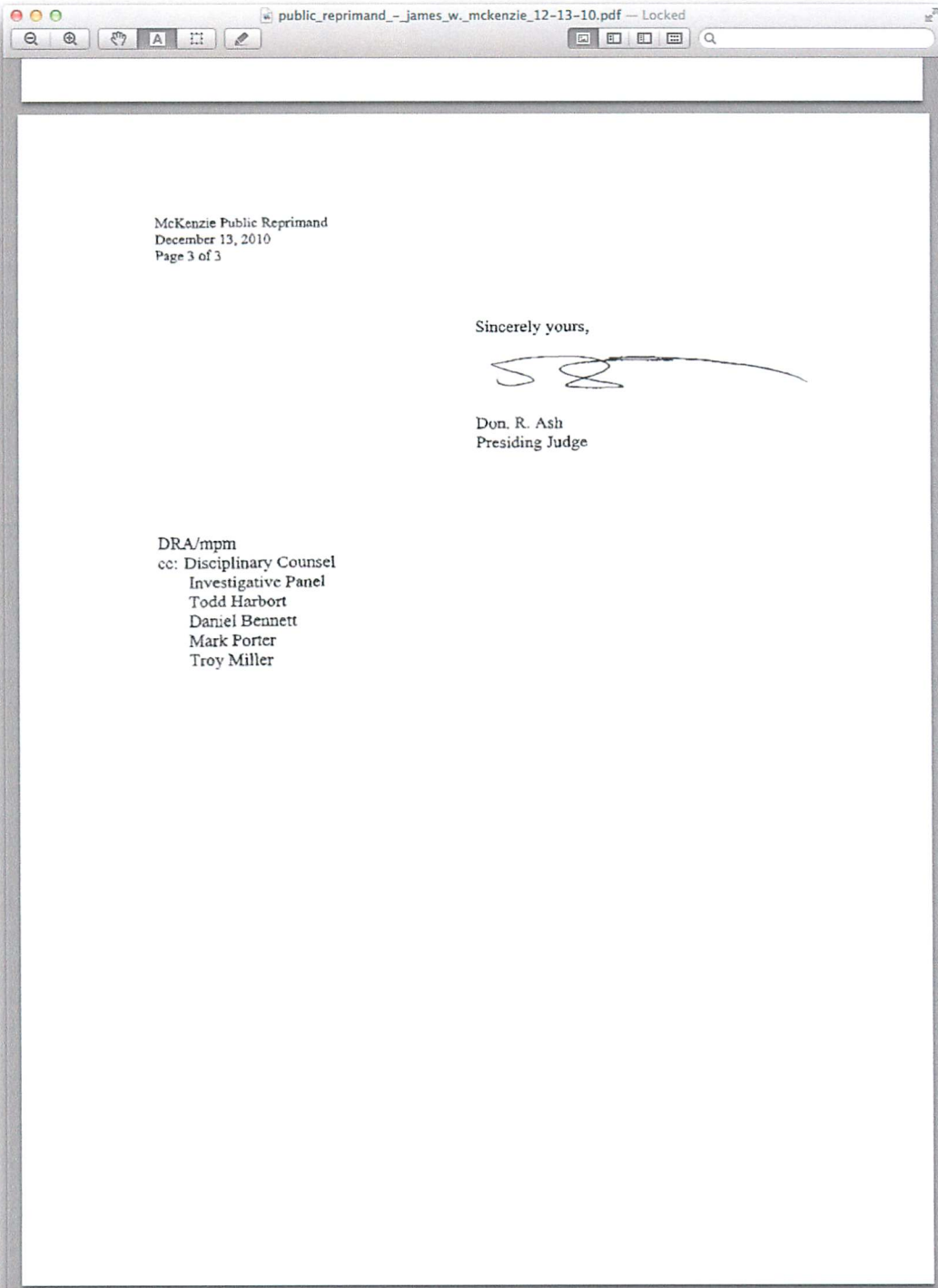
Don. R. Ash
Presiding Judge

DRA/mpm
cc: Disciplinary Counsel
Investigative Panel

IN RE: THE HONORABLE JAMES W. McKENZIE







McKenzie Public Reprimand
December 13, 2010
Page 3 of 3

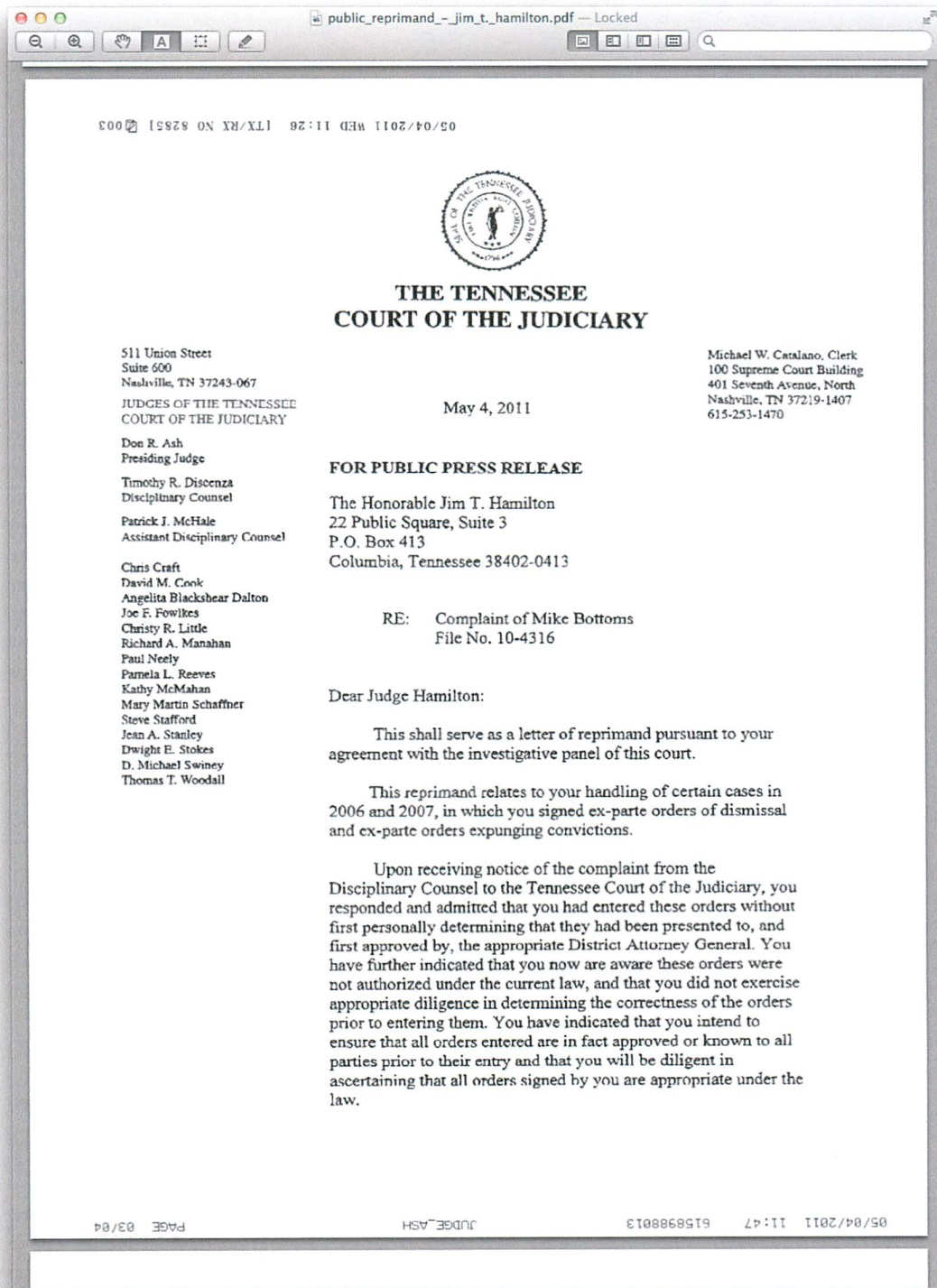
Sincerely yours,

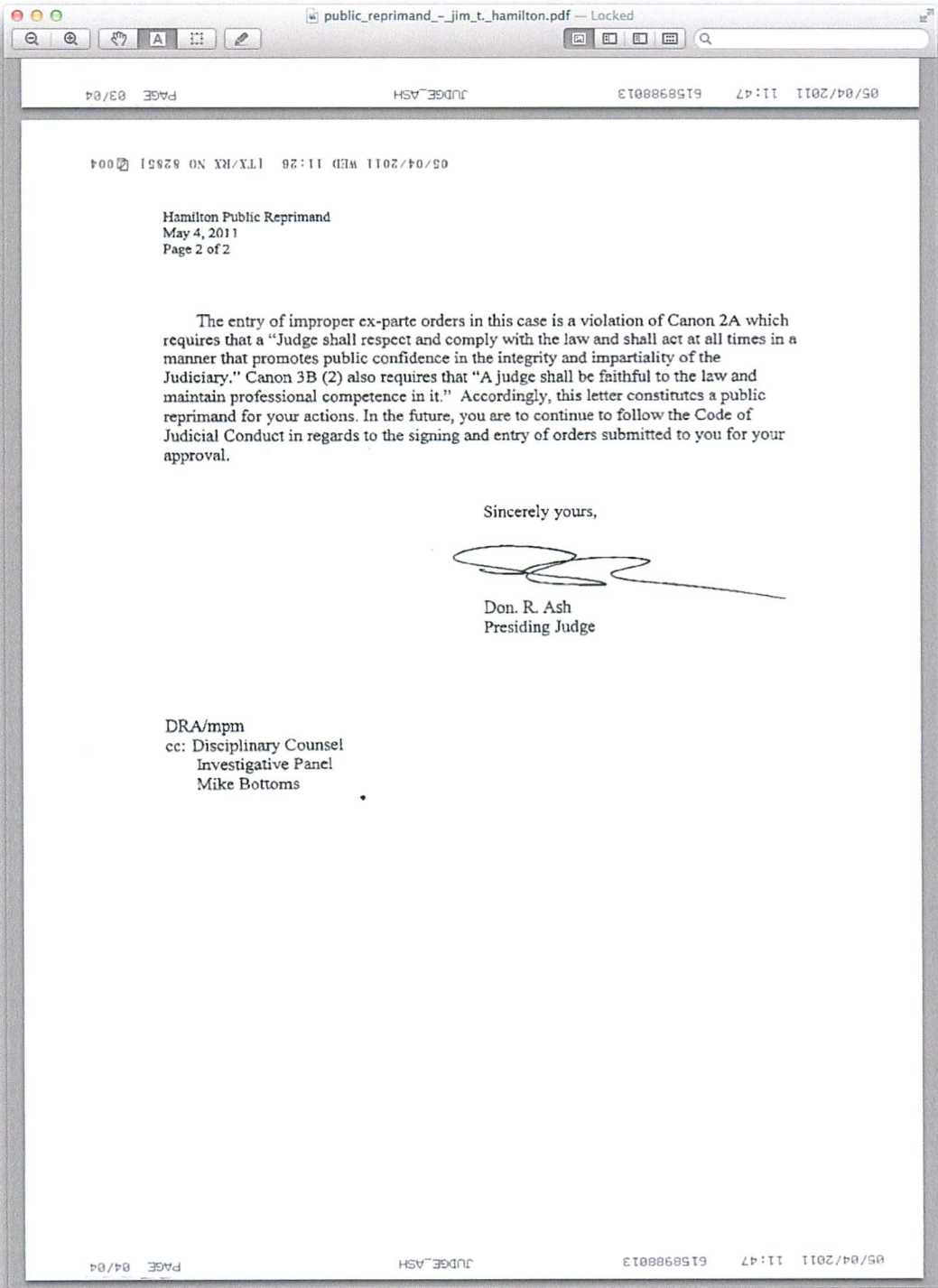


Don. R. Ash
Presiding Judge

DRA/mpm
cc: Disciplinary Counsel
Investigative Panel
Todd Harbort
Daniel Bennett
Mark Porter
Troy Miller

IN RE: THE HONORABLE JIM T. HAMILTON





Hamilton Public Reprimand
May 4, 2011
Page 2 of 2

The entry of improper ex-parte orders in this case is a violation of Canon 2A which requires that a "Judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary." Canon 3B (2) also requires that "A judge shall be faithful to the law and maintain professional competence in it." Accordingly, this letter constitutes a public reprimand for your actions. In the future, you are to continue to follow the Code of Judicial Conduct in regards to the signing and entry of orders submitted to you for your approval.


Sincerely yours,

Don. R. Ash
Presiding Judge

DRA/mpm
cc: Disciplinary Counsel
Investigative Panel
Mike Bottoms

IN RE: THE HONORABLE JAMES TAYLOR

James Taylor - Public Reprimand 6-7-11.pdf - Locked



FILED
JUN 07 2011
Clerk of the Courts

**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37243-067
JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

June 6, 2011

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

FOR PUBLIC PRESS RELEASE

The Honorable James Taylor
Juvenile Court Judge
115 Justice Center Drive
Rogersville, Tennessee 37857

RE: Formal Charge M2011-00706-CJ-CJ-CJ
File No. 10-4293

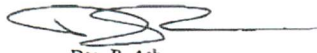
Dear Judge Taylor:

This shall serve as a public reprimand pursuant to the agreed order entered into in the above captioned case file in the Tennessee Court of the Judiciary.

This reprimand relates to you having made an appearance before the County Commission of Hawkins County, speaking before that legislative body to grant approval to have a "Citizens Heritage Display" displayed in the courtroom lobby of the Justice Center of Hawkins County. This action was a violation of Canon 4C (1) of the Code of Judicial Conduct, as set forth in Rule 10 of the Rules of the Supreme Court of Tennessee. This reprimand further deals with the fact that you became involved in the collection of funds for the construction of said display, making it publically known that you would be collecting funds for said display at your private law office. This action was a violation of Canon 4C (3)(b)(i) and (iv) of the Code of Judicial Conduct, as set forth in Rule 10 of the Rules of the Supreme Court of Tennessee.

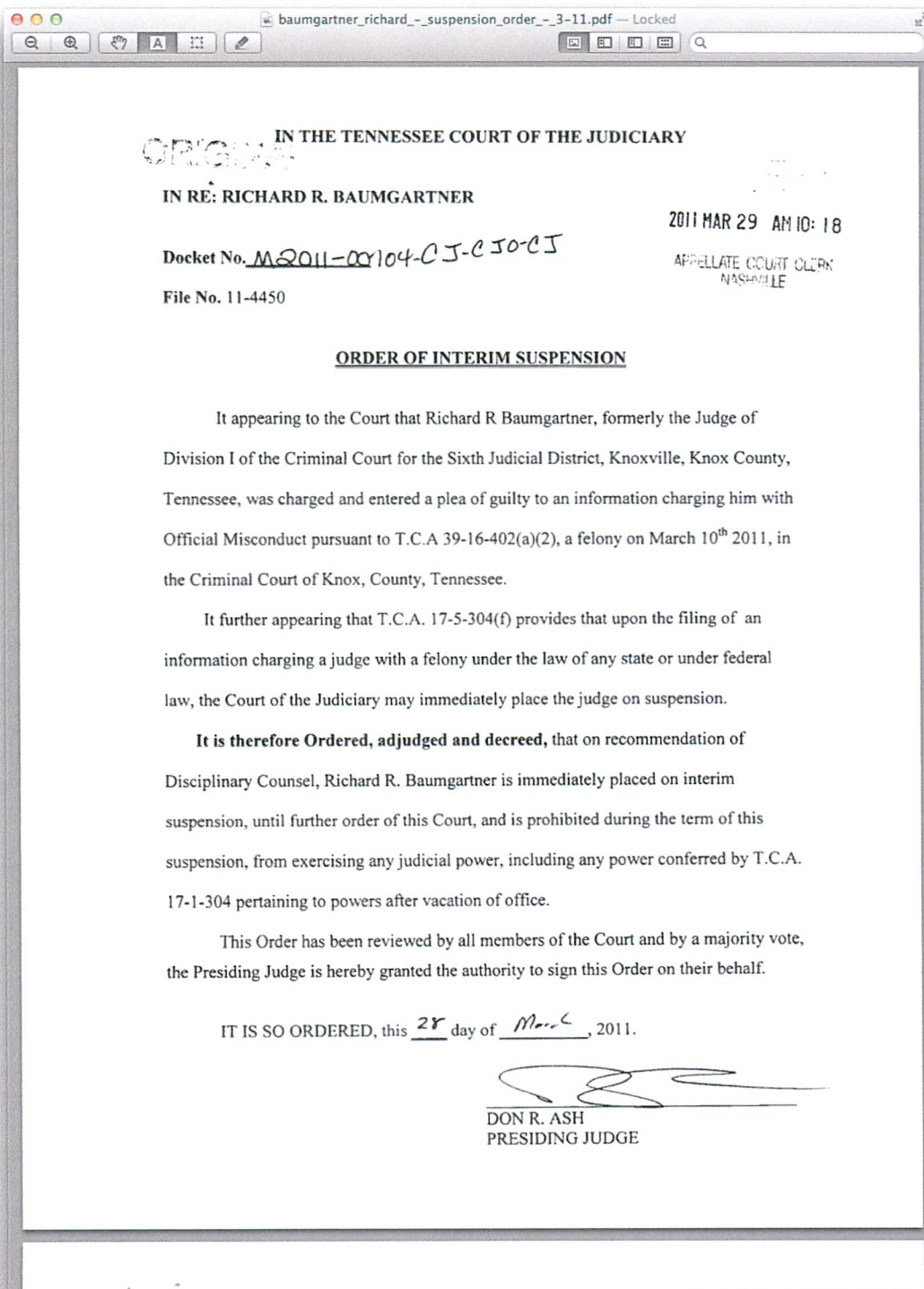
This letter serves as a public reprimand and will be appropriately filed and disseminated.

Sincerely yours,


Don R. Ash
Presiding Judge

DRA/mpm
cc: Disciplinary Counsel
Investigative Panel
Paul Whetstone

IN RE: THE HONORABLE RICHARD BAUMMGARTNER



LITIGATION

Appellate jurisdiction to actions by the Tennessee Court of the Judiciary is in the Tennessee Supreme Court, which an aggrieved judge has as a matter of right. The review of the Supreme Court is de novo on the record. During the fiscal year, the Disciplinary Counsel's office briefed and argued the case of In Re: The Honorable John A. Bell, Judge, General Sessions Court of Cocke County, Tennessee, which was decided by the Supreme Court on June 10th, 2011 . The holding of the Court is contained in the initial page of the opinion as set forth below.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

May 11, 2011 Session Heard at Knoxville

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

**Direct Appeal from the Court of the Judiciary
No. 08-3508**

No. M2010-01447-SC-R3-CJ - Filed June 10, 2011

In this direct appeal of a judicial disciplinary proceeding, we are asked to review the Court of the Judiciary's decision that Cocke County General Sessions Court Judge John A. Bell violated various canons of the Tennessee Code of Judicial Conduct, resulting in sanctions that included a ninety-day suspension. The Court of the Judiciary found that Judge Bell violated the Code by taking nine months to decide the complainant's personal injury action, re-hearing the case without disclosing to a new party that he had previously made findings against the new party as to liability and damages, and contacting through an attorney the self-represented complainant while the complainant's case was still pending before him in General Sessions Court. We affirm the code violations with respect to the delay and the ex parte communication and affirm the sanctions.

**Tenn. Code Ann. § 17-5-310(a) (2009) Appeal as of Right; Judgment of the Court of
the Judiciary Affirmed in Part and Affirmed as to Sanctions**

CORNELIA A. CLARK, C.J., delivered the opinion of the Court, in which JANICE M. HOLDER, GARY R. WADE, WILLIAM C. KOCH, JR., and SHARON G. LEE, JJ., joined.

W. Gordon Ball and W. Allen McDonald, Knoxville, Tennessee, for the appellant, Judge John A. Bell.

Timothy R. Discenza, Memphis, Tennessee, and Patrick J. McHale, Nashville, Tennessee, for the appellee, Court of the Judiciary.