

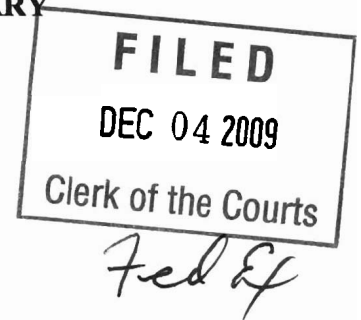
ORIGINAL

IN THE TENNESSEE COURT OF THE JUDICIARY

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

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

COMPLAINT OF DAVID PLEAU  
FILE NO. 08-3508



---

AMENDED ANSWER TO FORMAL CHARGES

---

NOW INTO COURT comes The Honorable John A. Bell, Judge, General Sessions Court, Cocke County, Tennessee (“Judge Bell”), pursuant to Tenn. Code Ann. §17-5-307©, Tenn. R. Civ. P. 15 and the Court’s prior rulings, and amends his answer to the Formal Charges filed against him by Disciplinary Counsel for the Tennessee Court of the Judiciary as follows<sup>1</sup>:

---

<sup>1</sup> The Formal Charges filed against Judge Bell charge him, among other things, with “obstructing justice and governmental administration,” “obstructing and interfering with evidence or witnesses and witness tampering,” and engaging in a conspiracy to subvert justice and the operation of the statutory Court of the Judiciary.” Specifically, the Formal Charges allege that Judge Bell is guilty of Class C, D and E felonies, as set forth in Tenn. Code Ann. § 39-16-107 (the “witness tampering” statute) and Tenn. Code Ann. § 39-16-402 (the “Official Misconduct” statute). Further, a Tennessee Bureau of Investigation spokesman previously confirmed that it is (or was) looking into these allegations. Based upon these allegations and possible charges of criminal offenses, Judge Bell was been advised by counsel to assert and invoke, and on or about November 16, 2009 filed an Answer respectfully asserting and invoking, his privilege against self-incrimination guaranteed by the Fifth Amendment of the United States Constitution and under Article I, Section 9 of the Tennessee Constitution. Upon motion of Disciplinary Counsel, the Court has ordered Judge Bell to provide an amended answer complying with Tenn. R. Civ. P. 8.02, which will trigger the requirement that a trial on the merits be set pursuant to Tenn. Code Ann. §17-5-308(a).

Furthermore, insofar as the allegations concerning witness tampering and “Official Misconduct” (Count III, at ¶¶8-19 of the Formal Charges) are concerned, Judge

## **JURISDICTION**

In response to the averments regarding jurisdiction, Judge Bell does not contest the jurisdiction of Disciplinary Counsel or this Court.

In response to the individual Counts and numbered paragraphs, Judge Bell answers as follows:

### **COUNT I**

1. In response to paragraph 1, Judge Bell admits that the case of David J. Pleau v. Merastar Insurance, 2007-CV-869 (sometimes also referred to as 2007-CR-869) was assigned to Judge Bell and was heard on or about September 18, 2007. The exact wording of the civil action and the date the case was filed are matters of public record and the documents speak for themselves. Otherwise denied.

2. In response to paragraph 2, Judge Bell admits that Brad A. Fraser moved to dismiss the case under Tenn. Code Ann. §56-7-1206 and further admits that the case was taken under advisement after the hearing. Otherwise denied.

3. In response to paragraph 3, Judge Bell denies this paragraph.

4. In response to paragraph 4, Judge Bell admits that an Order was entered on or about June 27, 2008. The order and certificate of service speak for themselves. Otherwise denied.

5. In response to paragraph 5, Judge Bell states that the Order speaks for itself. Otherwise denied.

### **COUNT II**

---

Bell respectfully asserts and invokes the attorney-client privilege, which he does not waive.

6. In response to paragraph 6, Judge Bell incorporates his answers to prior paragraphs. Judge Bell admits that Mr. Pleau filed another civil action, 2008-CV-1186. Judge Bell further admits that a judgment was issued in favor of Mr. Pleau on or about April 27, 2009. The contents of the civil action and judgment speaks for themselves. Otherwise denied.

7. In response to paragraph 7, Judge Bell denies this paragraph.

### **COUNT III**

8. In response to paragraph 8, Judge Bell denies this paragraph.

9. In response to paragraph 9, Judge Bell has no personal knowledge of the contents of any conversation between Tom Testerman and David Pleau, and therefore denies this paragraph based upon lack of personal knowledge.

10. In response to paragraph 10, Judge Bell admits that a judgment was rendered in favor of Mr. Pleau and incorporates by reference his answer to paragraph 6 regarding that judgment. Judge Bell has no personal knowledge of the contents of any conversation between Tom Testerman and David Pleau, and therefore denies the remaining portion of this paragraph based upon lack of personal knowledge.

11. In response to paragraph 11, Judge Bell has no personal knowledge of the contents of any conversation between Tom Testerman and representatives with the Court of the Judiciary Disciplinary office, and therefore denies this paragraph based upon lack of personal knowledge.

12. In response to paragraph 12, Judge Bell denies this paragraph and all subparts.

13. In response to paragraph 13, Judge Bell denies this paragraph.

14. In response to paragraph 14, Judge Bell denies this paragraph.
15. In response to paragraph 15, Judge Bell denies this paragraph.
16. In response to paragraph 16, Judge Bell denies this paragraph and all subparts.
17. In response to paragraph 17, Judge Bell denies this paragraph and all subparts.
18. In response to paragraph 18, Judge Bell denies this paragraph and all subparts.
19. In response to paragraph 19, Judge Bell denies this paragraph and all subparts.

## **II. GENERAL DEFENSE**

20. The Formal Charges fail to state a judicial offense for which Judge Bell might be disciplined under the Tennessee Code of Judicial Conduct or the Tennessee Code.

## **III. AFFIRMATIVE DEFENSES**

21. Disciplinary Counsel is estopped from charging Judge Bell with alleged judicial offenses for which he merely followed or adhered to Tennessee law, including case law, statutory law, rules, regulations, and judicial ethics opinions, as well as the instructions and suggestions of representatives with the Court of the Judiciary Disciplinary office.

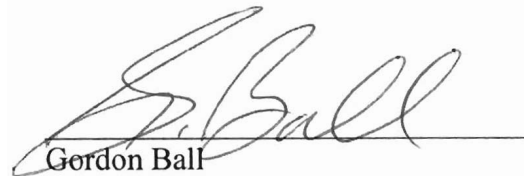
22. Further, equal protection guaranteed by the state and federal constitutions requires that all formal charges should be dismissed to the extent such charges are the selective prosecution of actions and/or inactions by Judge Bell that are consistent with the

conduct of other judges in Tennessee who have not been investigated or charged by Disciplinary Counsel.

23. Further, all formal charges should be dismissed to the extent such charges are based upon information wrongfully obtained by Disciplinary Counsel or representatives with the Court of the Judiciary Disciplinary office.

**WHEREFORE**, Judge Bell demands that the Formal Charges issued against him by Disciplinary Counsel be dismissed. In the alternative, Judge Bell demands that a trial on the merits be set for hearing in Cocke County, Tennessee on a date not less than 60 days from the date of the filing of this Amended Answer in accordance with Tenn. Code Ann. §17-5-308(a).

Respectfully submitted, this 3<sup>rd</sup> day of December, 2009.

A handwritten signature in cursive script, appearing to read "G. Ball", is written over a horizontal line.

Gordon Ball  
Ball & Scott Law Offices  
550 W Main Street, Suite 601  
Knoxville, TN 37902  
Telephone: (865) 525-7028

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



Gordon Ball