

**IN THE TENNESSEE COURT OF THE JUDICIARY**

**FILED**

**2009 NOV 16 AM 9:11**

**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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**RESPONSES AND OBJECTIONS TO INTERROGATORIES**

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**NOW INTO COURT** comes The Honorable John A. Bell, Judge, General Sessions Court, Cocke County, Tennessee (“Judge Bell”), pursuant to Tennessee Rule of Civil Procedure 33, and responds to Disciplinary Counsel’s Interrogatories as follows:

**I. PRELIMINARY OBJECTIONS**

**A. Privilege Against Self-Incrimination – Fifth Amendment of the United States Constitution and Article I, §9 of the Tennessee Constitution.** The Formal Charges filed against Judge Bell charge him, among other things, with “obstructing justice and governmental administration,” “obstructing and interfering with evidence or witnesses and witness tampering,” and engaging in a conspiracy to subvert justice and the operation of the statutory Court of the Judiciary.” Specifically, the Formal Charges allege that Judge Bell is guilty of Class C, D and E felonies, as set forth in Tenn. Code Ann. § 39-16-107 (the “witness tampering” statute) and Tenn. Code Ann. § 39-16-402 (the “Official Misconduct” statute). Based upon those allegations and the delineated charges of criminal offenses, Judge Bell has been advised by counsel to assert and invoke, and hereby does respectfully assert and invoke, his privilege against self-incrimination

guaranteed by the Fifth Amendment of the United States Constitution and under Article I, Section 9 of the Tennessee Constitution, and therefore, must respectfully refuse to answer the Interrogatories propounded unto him.

**B. Attorney-Client Privilege.** Insofar as any of the Interrogatories seek information relative to any communications between Judge Bell and his counsel, including attorney Tom Testerman, of the Cocke County bar, Judge Bell respectfully asserts and invokes the attorney-client privilege.

## **II. GENERAL OBJECTIONS**

**A.** Judge Bell objects to the Interrogatories to the extent they purport to impose obligations and require procedures beyond those set forth in the Tennessee Rules of Civil Procedure and all other applicable laws and rules.

**B.** Judge Bell objects to the Interrogatories to the extent they purport to require the disclosure of information protected from disclosure by the attorney-client privilege, the work-product doctrine or any other applicable privilege, law or rule. Judge Bell hereby claims such privileges and protections to the extent implicated by each of the **Requests and will exclude such privileged information from its responses.** Any inadvertent disclosure of such privileged or protected information is not intended to waive those privileges or protections.

**C.** Judge Bell objects to the Interrogatories to the extent they purport to require the disclosure of information that is not presently in the possession, custody or control of Judge Bell.

D. Judge Bell objects to the Interrogatories to the extent they are overbroad, unduly burdensome and are not reasonably calculated to lead to the discovery of relevant information.

E. Judge Bell's failure to object on any particular ground shall not be construed as a waiver of his right to object on any additional ground.

F. In making these objections, Judge Bell does not in any way waive or intend to waive, but rather preserves and intends to preserve:

1. all rights to object on any ground to the competency, relevancy, materiality and admissibility of any information that may be provided in response to the Interrogatories or the subject matter thereof;

2. all rights to object on any ground to the use of any information or document that may be provided in response to the Interrogatories or subject matter thereof; and

3. all rights to object on any ground to any request for further responses to this or any other discovery request.

### **III. INTERROGATORIES:**

**INTERROGATORY NO. 1:** State your full name, residence address, professional address, telephone numbers (home, office and cellular), social security number, and date of birth.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 2:** State the date(s) you were sworn into office as Judge of the General Sessions Court of Cocke County, Tennessee.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 3:** State all email addresses you have used in your capacity as Judge of the General Sessions Court of Cocke County, Tennessee, and the dates each and every such email address had been used, including any personal email addresses which were used relative to or in your capacity of General Sessions Judge.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 4:** Describe in full any and all training, education, and seminars you have received or attended in Judicial Ethics, or involving Judicial Ethics including but not limited to dates, locations, hours completed, full subject matter, faculty members, and hours claimed, if any, toward any continuing education requirements to which you may be subject.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 5:** State if in your capacity as General Sessions Judge you heard a case assigned docket number 2007–CV–869 on September 18, 2007 at 9:00 a.m., being a civil action brought by David J. Pleau, “policy #TNA11181953 for failure to pay damages resulting from accident with an uninsured motorist on 12-29-07 under \$5,000.”

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 6:** State if on the 18<sup>th</sup> day of September, 2007, the case described in previous Interrogatory No. 5 was, following the hearing, taken under advisement.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 7:** State whether or not at the hearing of the case described in previous Interrogatory No. 5, the defendant insurance company, through counsel, moved the court to dismiss the complaint as a result of the fact that Mr. Pleau was in this complaint suing directly his own uninsured motorist carrier as opposed to suing the uninsured motorist, and if the answer is in the affirmative, state whether or not you learned at any time that the provisions of Tennessee Code Annotated 56-7-1206 precluded suit against the carrier directly and if so the length of time it took you to reach that conclusion.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 8:** State whether or not at the hearing of the case described in previous Interrogatory No. 5, that you announced that you would have a decision in one week.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 9:** State whether or not that following the hearing of the case described in previous Interrogatory No. 5, the plaintiff Mr. Pleau asked you on

more than one occasion to rule on the case and that you assured him that the decision would be forthcoming immediately.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 10:** If the answer to the preceding Interrogatory No. 10 is “yes,” for each such occasion, state:

- (a) the date of the contact;
- (b) whether or not it was in person, in writing or by telephone;
- (c) if in person, the location;
- (d) if by telephone, where you were located during the call;
- (e) the nature and content of each conversation, in detail
- (f) any witnesses to any such contact;
- (g) whether or not you advised Mr. Pleau at any time that you could not speak to him on an ex parte basis.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 11:** State whether or not that following the hearing on September 18, 2007 of the case described in previous Interrogatory No. 5, on June 27, 2008, you ruled in the case.

**INTERROGATORY NO. 12:** State any and all steps taken by you or efforts taken by you to communicate your ruling described in Interrogatory No. 11 to the parties.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 13:** Describe any and all records, in any form, concerning the case described in these Interrogatories including but not limited to computer records, calendars, diaries, files, notes, schedules, memoranda, and for each such record identify its location or locations, at all times since September 18, 2007.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 14:** State whether or not your ruling described herein made findings of fact as to the cause of the underlying automobile collision and the related damages, and that these findings demonstrated your finding and opinion as to the responsibility or the cause of the accident as well as the amount of damages and ascribed the negligent conduct to the driver of the “other vehicle.”

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 15:** State whether or not on December 23, 2008, in your capacity as General Sessions Judge, you entered an order which vacated the previous dismissal and further encouraged Mr. Pleau to file a new action against “the other driver” whose name is Jo Ann Coleman, and that David J. Pleau filed a second complaint concerning the subject automobile accident which was styled David Joseph Pleau vs. Jo Ann Coleman, Docket No. 2008–CV–1186.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 16:** State whether or not on April 27, 2009, you rendered a decision in favor of Mr. Pleau and against Jo Ann Coleman and Merastar

Insurance Company which recited the same findings of facts and conclusions as had previously been determined by Judge Bell. On this occasion these findings were made against Jo Ann Coleman who was pro se at these proceedings and was found to be one hundred percent at fault for the collision and a judgment was rendered against her in the sum of \$4,726.78.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 17:** State whether or not in January, 2009, or early February, 2009, you initiated a meeting and/or met with a local attorney, a Mr. Testerman and at that time, discussed the complaint of Mr. Pleau which had been filed in the Court of the Judiciary.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground. Judge Bell also objects to this request on the grounds that any confidential communications between Judge Bell and his counsel, including Mr. Testerman, are subject to the attorney-client privilege.

**INTERROGATORY NO. 18:** If the answer to preceding Interrogatory No. 17 is in the affirmative, describe in full the nature and content of the meeting or meetings, the location or locations of the meetings, and describe any witnesses, unless it is your intention to claim a privilege in which event state the basis for your claim of any privilege.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground. Judge Bell also objects to this request on



the grounds that any confidential communications between Judge Bell and his counsel, including Mr. Testerman, are subject to the attorney-client privilege.

**INTERROGATORY NO. 19:** State whether or not at any time you asked, encouraged, or enlisted Mr. Testerman in any fashion, to approach Mr. Pleau on your behalf, to make a direct and unequivocal effort to induce Mr. Pleau to cease the pursuit of his complaint in the Court of the Judiciary.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground. Judge Bell also objects to this request on the grounds that any confidential communications between Judge Bell and his counsel, including Mr. Testerman, are subject to the attorney-client privilege.

**INTERROGATORY NO. 20:** State any and all dialogue, contact, verbal conversations, or written communications with Mr. Testerman, in addition to any previously described, pertaining to, relating to, or in any way and for any portion therein, the complaint of Mr. Pleau against you, in the Court of the Judiciary, during the entire year of 2009, and for each state the following:

- (a) the date;
- (b) the location;
- (c) the persons present;
- (d) whether verbal or written;
- (e) whether or not in person or by telephone;
- (f) if by telephone the phone number or numbers used by you;
- (g) if by telephone the phone number or numbers used by Mr.

Testerman;

(h) if in writing whether by letter , other written correspondence, electronic mail, text message, fax or other device.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground. Judge Bell also objects to this request on the grounds that any confidential communications between Judge Bell and his counsel, including Mr. Testerman, are subject to the attorney-client privilege.

**INTERROGATORY NO. 21:** State the identity of any and all witnesses or persons with any knowledge of any matters described in your responses to the Interrogatories herein, and for each state their name, address, and telephone number or numbers.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground. Judge Bell also objects to this request on the grounds that any confidential communications between Judge Bell and his counsel, including Mr. Testerman, are subject to the attorney-client privilege.

**INTERROGATORY NO. 22:** State the location and custodian of any written, computer or data records of any nature regarding or concerning any matter stated or described either in the preceding interrogatories or your responses thereto.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 23:** Describe the dates and any and all records, in any form, concerning your service as Judge of the General Sessions Court of Cocke County, Tennessee, including but not limited to computer records, calendars, diaries, files, notes,

schedules, memoranda and personnel, and for each such record identify its location or locations, from September 18, 2007 through and including June 27, 2008.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 24:** State the number of times you have engaged in the appointment or selection of substitute or special judges, or the dates and times any such judges were used for any absences by you from your service as Judge of the General Sessions Court of Cocke County, Tennessee, from September 18, 2007 through and including June 27, 2008.

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

**INTERROGATORY NO. 25:** For each and every date named or described in the preceding Interrogatory No. 24, identify the following:

- (a) reason for your absence;
- (b) date of such absence;
- (c) identify of the special or substitute judge;

**RESPONSE:** Judge Bell hereby invokes his privilege against self-incrimination and objects to this Interrogatory on that ground.

Respectfully submitted, this 13<sup>th</sup> day of November, 2009.

A handwritten signature in black ink, appearing to read "G. Ball", is written over a horizontal line. The signature is fluid and cursive.

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  
Disciplinary Counsel  
Court of the Judiciary  
503 North Maple Street  
Murfreesboro, Tennessee 37130

This 13<sup>th</sup> day of November, 2009.

  
Gordon Ball