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APPELLATE COURT CLERK
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IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT

**IN RE: THE HONORABLE JOHN A. DONALD
GENERAL SESSIONS JUDGE
SHELBY COUNTY, TENNESSEE**

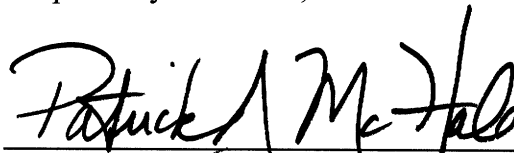
Docket No. M2013-02204-BJC-DIS-FC

File No. 11-4762

**NOTICE OF FILING EXHIBIT "C" TO DISCIPLINARY COUNSEL'S MOTION
TO AMEND COMPLAINT / FORMAL CHARGES**

COMES NOW Timothy Discenza, Disciplinary Counsel for the Tennessee Board of Judicial Conduct, formerly the Tennessee Court of the Judiciary, and would hereby provide Notice of the filing of Exhibit "C" to the Motion to Amend Complaint/formal Charges heretofore filed, Exhibit "C" being a fully executed "First Amended Formal Charges," constituting the amended Complaint/Formal Charges in the event the Board grants the Motion to Amend heretofore filed.

Respectfully submitted,



TIMOTHY R. DISCENZA #003716

Disciplinary Counsel

PATRICK J. McHALE, #004643

Assistant Disciplinary Counsel

Tennessee Board of Judicial Conduct

P.O. Box 50356

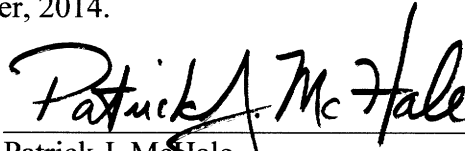
Nashville, TN 37205

Certificate of Service

I hereby certify that a true and exact copy of the foregoing was mailed, sent by email, or delivered to the following:

Hon. John A. Donald
General Sessions Judge
140 Adams Avenue, Suite 110
Memphis, Tennessee 38103

This the 19th day of September, 2014.

A handwritten signature in black ink that reads "Patrick J. McHale". The signature is written in a cursive style with a large, stylized initial "P".

Patrick J. McHale
Assistant Disciplinary Counsel

"C"

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**IN RE: THE HONORABLE JOHN A. DONALD
GENERAL SESSIONS JUDGE
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Docket No. M2013-02204-BJC-DIS-FC

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FIRST AMENDED FORMAL CHARGE

Timothy Discenza, Disciplinary Counsel for the Tennessee Board of Judicial Conduct, at the direction of an investigative panel of three members of the Board of Judicial Conduct, in accordance with Tennessee Code Annotated § 17-5-301, *et. seq.*, hereby files formal charges against the Honorable John A. Donald, General Sessions Judge of Shelby County, Tennessee.

Jurisdiction

1. Following a full investigation authorized under the provisions of Tennessee Code Annotated § 17-5-304(b)(3)(2009 Repl.) the three member investigative panel composed of the Honorable Angelita Dalton, Mr. Miles Burdine, and Mr. Thomas Lawless found, pursuant to Tennessee Code Annotated § 17-5-304(d)(2)(A), that there is reasonable cause to believe that the Honorable John A. Donald has committed judicial offenses alleged herein in violation of Tennessee Code Annotated § 17-5-302, and directed Disciplinary Counsel to file formal charges pursuant to Tennessee Code Annotated § 17-5-304(d)(2)(A).

2. The Honorable John A. Donald, at times relevant herein, was a General Sessions Judge of Shelby County, Tennessee, having been elected to that position. Therefore, Judge Donald is subject to judicial discipline by the Board of Judicial Conduct pursuant to Tennessee Code Annotated § 17-5-102.

Charges

Disciplinary Counsel charges the Honorable John A. Donald as follows:

Count I

3. On or about October 17, 2011, David Gold, an attorney practicing in Shelby County, Tennessee filed a complaint with the Tennessee Court of the Judiciary, the predecessor agency of the Tennessee Board of Judicial Conduct, against Judge Donald, the respondent, alleging violations by Judge Donald of the Tennessee Code of Judicial Conduct that was then in effect. This complaint is attached as exhibit A to this formal charge.

4. On or about October 23, 2011, Judge Donald was sent a copy of the complaint and asked to respond to the complaint.

5. On or about December 2nd, 2011, responded to Mr. Gold's complaint by letter to the Disciplinary Counsel to the Tennessee Court of the Judiciary.

6. On or about December 7, 2011, Judge Donald, in retaliation for the filing of a complaint with the Tennessee Court of the Judiciary against him, wrote a letter of complaint to the Tennessee Board of Professional Responsibility, making a complaint against David Gold, and asking the Board to investigate another attorney who had been

associated with David Gold and who was listed by David Gold as a witness to Mr. Gold's complaint against Judge Donald.

7. On or about November 15, 2012, the Tennessee Board of Professional Responsibility advised David Gold that after inquiry of the matter brought to their attention by Judge Donald, the matter was dismissed.

8. At all times described in the preceding paragraphs, the said John A. Donald, as a General Sessions Judge of Shelby County, Tennessee was subject to the Code of Judicial Conduct, as set out in Rule 10, Rules of the Supreme Court of Tennessee, that were then in effect.

In pertinent part, the Code of Judicial Conduct, by and through its Canons, provided as follows:

CANON 1 — A Judge Shall Uphold the Integrity and Independence of the Judiciary

A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

Commentary. Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

CANON 2 — A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities

A. 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.

Commentary. —Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules, or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.

8. The above-described conduct and actions of Judge Donald set forth herein in paragraphs 3 through 7 constitute a violation of the Code of Judicial Conduct as set forth in the preceding paragraph 8, and as such, subject him to the sanctions provided by the provisions of Tennessee Code Annotated § 17-5-301.

NOTICE

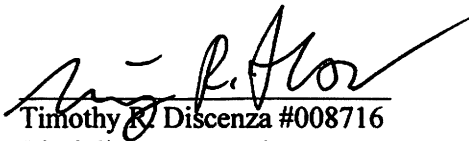
The Honorable Judge John A. Donald is hereby given written notice of the details of the Formal Charges brought against her pursuant to Tenn. Code Ann. § 17-5-307.

Pursuant to Tenn. Code Ann. § 17-5-307(c), Judge Donald shall have thirty (30) days from and after the date of receipt of these Formal Charges to file an Answer with the Court by filing the same at the Office of the Clerk of the Supreme Court, 100 Supreme Court Building, 401 Seventh Avenue North, Nashville, Tennessee 37219 and by serving a copy on Disciplinary Counsel at P.O. Box 50356, Nashville, Tennessee 37205.

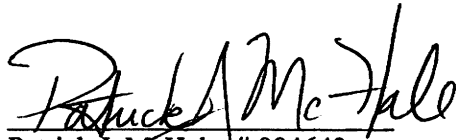
Failure to answer these Amended Formal Charges shall constitute an admission of the factual allegations not answered.

WHEREFORE, Disciplinary Counsel moves the Board to set this matter for hearing before a Hearing Panel of the Board of Judicial Conduct at such location where the Board of Judicial Conduct may convene by law, within sixty (60) days from and after the date the Answer is filed by Judge Donald as required by Tenn. Code Annotated § 17-5-308(a), or, in the event no Answer is filed, to set the matter within ninety (90) days of the date these Formal Charges are filed with the Clerk of the Court, in order to comply with the statutory time limit, and upon the hearing of this action, to impose just and proper sanctions as provided by law, including the costs and discretionary costs as provided by law.

This the 17 day of September, 2014.




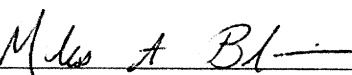
Timothy R. Discenza #008716
Disciplinary Counsel
Tennessee Board of Judicial Conduct
P.O. Box 50356
Nashville, Tennessee 37205




Patrick J. McHale, # 004643
Assistant Disciplinary Counsel
Tennessee Board of Judicial Conduct

APPROVED BY THE INVESTIGATIVE PANEL
IN ACCORDANCE WITH RULE 6, SECTION 4
OF THE RULES OF PRACTICE AND PROCEDURE
OF THE TENNESSEE BOARD OF JUDICIAL CONDUCT:

BY: 
Angelita Blackshear Dalton
Investigative Panel Member

BY: 
Miles Burdine
Investigative Panel Member

BY: 
Thomas Lawless
Investigative Panel Member