

RECEIVED AND FILED

APR - 4 2023

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
 :
 :
 Judge Mark B. Cohen :
 Court of Common Pleas : No. 1 JD 23
 1st Judicial District :
 Philadelphia County :

ORDER CONCERNING OMNIBUS PRETRIAL MOTION

AND NOW, this 4th day of April, 2023, the Court of Judicial Discipline
ORDERS as follows:

Respondent Judge Mark B. Cohen has moved for summary judgment
in this case involving his Facebook posts. Summary judgment is only to be
granted in cases where no rational fact finder could find otherwise, and the
record is free from doubt. ***In re Stoltzfus*, 29 A.3d 151 (Pa.Ct.Jud.Disc
2011)**. Summary judgment may not be granted when a relevant mixed
question of law and fact remains. ***Summers v. Certaineed Corp.*, 997
A.2d 1152, 1161 (Pa. 2010)**.

In the case of ***In re Eakin*, 150 A.3d 1042 (Pa.Ct.Jud.Disc. 2016)**,
the Court of Judicial Discipline ruled that a judge may be disciplined for
speech which violates the ethical rules even though such speech is
permissible for other people to engage in. See also generally, ***Pickering v.
Board of Education*, 391 U.S. 563 (1968)** (government employees speech
rights may be limited based on balancing of free speech rights and
governmental interest).

Here, whether Judge Cohen’s posts violate the ethical requirements is
a mixed question of fact and law not amenable to a strictly legal finding at

this stage in the process on the limited record currently before us.
Accordingly, the Omnibus Pretrial Motion is DENIED.

PER CURIAM