

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 1 JD 2023
:
JUDGE MARK B. COHEN :
COURT OF COMMON PLEAS :
1ST JUDICIAL DISTRICT :
PHILADELPHIA COUNTY :

FIRST PRE-TRIAL MEMORANDUM OF THE RESPONDENT,
JUDGE MARK B. COHEN

The Respondent, Judge Mark B. Cohen, by his counsel, Samuel C. Stretton, Esquire, hereby submits his Pre-Trial Memorandum as follows:

A. TRIAL WITNESSES

The Respondent, Judge Mark B. Cohen will call some, if not all, of the following witnesses:

1) Matthew Jackson, Judge Mark B. Cohen's Tipstaff who has worked for the Respondent on a daily basis for the last five and a half years. Mr. Jackson is currently working on getting his MPA at West Chester University. His address is 9737 Portis Road, Philadelphia, Pennsylvania 19115. His cellphone number is 215-327-6975. He will be both a character and fact witness.

2) Fred Gusoff, a paralegal and freelance write who has worked for the Northeast Times and other periodicals. He is a frequent commentor on the Respondent's Facebook page. Mr. Gusoff is a former Republican Committeeman who has switched to the Democratic Party. His address is 302 Runnymede Avenue,

Jenkintown, Pennsylvania 1904 and his cellphone number is 215-517-5793. He will be both a character and fact witness.

3) Regenerpal Singh Sanderr, who has handled hundreds of cases before the Respondent. His address is 1628 JFK Blvd., Suite 2120, Philadelphia, Pennsylvania 19103 and his phone number is 215-300-9883. He will be both fact and character witness.

4) Kathleen Haag Williams, a retired teacher now living in California. The Respondent first met Ms. Williams when in the 1970s, she was seeking a State Legislative seat in Delaware County. She is a frequent commenter on the Respondent's Facebook page. She will be both a fact and character witness. However, she will need to testify by Webex if that is possible as she currently lives in California.

5) Bobby W. Williams, III, a high school classmate of the Respondent and son of Retired Commonwealth Court Judge Robert Williams, Jr. His address is 3701 Conshohocken Avenue, Apt# 226, Philadelphia, Pennsylvania 19131 and his phone number 215-421-3483. He is also a frequent commenter on the Respondent's Facebook page. He will be both a fact and character witness.

6) Dave Wilderman, who is currently a Workers' Compensation Appeal Board Commissioner and has been for the last twelve years. He was formerly the Legislative Director and Assistant to the President of AFL-CIO. His address is 202 North

23rd Street, Camp Hill, Pennsylvania 17011 and his phone number is 717-350-1164. He will be a fact and character witness.

7) Sherrie Cohen, Esquire, the sister of the Respondent and a strong community activist and attorney. Her address is 5635 North 16th Street, Philadelphia, Pennsylvania 19141 and her phone number is 215-3596-9040. She will be both a fact and character witness.

8) John Meyerson, he is a former Legislative Director for the United Food and Commercial Workers. The Respondent has known Mr. Meyerson since the 1980s and he is a prolific Facebook poster and commenter. His address is 508 West Mt. Airy Avenue, Philadelphia, Pennsylvania 19119 and his phone number is 610-513-9941. He will be both a fact and character witness.

9) Nicholas Himebaugh, a Committee Executive Director for the Pennsylvania House of Representatives. The Respondent has known Mr. Himebaugh for approximately 15 years. His address is 100 Old York Road, Apt# 1, New Cumberland, Pennsylvania 17070 and his phone number is 484-686-3281. He will be both a fact and character witness.

10) Dennis Waterman, the former President of Professional Controllers Incorporated. The Respondent has known Mr. Waterman since the 1970s. His address is 285 St. James Place, Philadelphia, Pennsylvania 19106 and his phone number is 215-990-7091. He will be both a fact and character witness.

11) Edward Haggerty, former Congressional Aid and pollster and political consultant. Mr. Haggerty played a vital role in the Respondent's campaigns for the House in 2014 and 2016 and the Respondent's candidacy for Judge in 2017. His address is 68 Seckelpear Road, Levittown, Pennsylvania 19056 and his phone number is 215-867-9869. He will be both a fact and character witness.

12) Eugene Rifkind, a Republican Committeeman for the 53rd Ward and retired librarian, active Mason. His address is 1217 Devereaux Avenue, Philadelphia, Pennsylvania 19111 and his phone number is 215-696-1250. He will be both a fact and character witness and will need to testify via Webex if possible.

13) Joseph Shay Stivala, a former reporter, publisher and editor. He wrote for many years for the Philadelphia Public Record. He posts on Facebook under the name of Joseph Shay. His phone number is 215-990-9465 and he has an address in New Jersey. He will be both a fact and character witness.

14) Todd Eachus, a State Legislator from December of 1996 through November of 2010. In his last term in the House, Mr. Eachus served as Democratic Majority Leader. Mr. Eachus is currently the Founder at Pure Plant Health, LLC and Hemp Health Labs.com. His address is 15 Wyeth Place, Drums, Pennsylvania 18222 and his phone number is 717-329-8606. He will be both a fact and character witness.

15) Michael Grasso, Esquire, an attorney who has had many of cases before the Respondent in Family Court. His address is 1706 Race Street, Fourth Floor, Philadelphia, Pennsylvania 19103 and his phone number is 215-988-1224. He will be both a fact and character witness.

16) William Martin Sloane, Esquire, among other degrees, he has earned his JD, LLM, SJD, and PhD. Mr. Sloan is now a Republican but was previously active in the Democratic and Libertarian parties. The Respondent has known Mr. Sloan since the late 1960s/early 1970s when they were both active in the New Democratic Coalition. Mr. Sloan served as an attorney for many years and as an Executive Director of the House Democratic Caucus. He is currently President of Charisma University. His address is 417 West South Street, Carlisle, Pennsylvania 17013 and his phone number is 717-249-1069. He will be both a fact and character witness.

17) Vito Canuso, Esquire, has been practicing law for over 53 years. He was the former head of the Philadelphia Republican Party. His address is 220 South Broad Street, Unit 440, Philadelphia, Pennsylvania 19102 and his phone number is 215-735-5260. He will be both a fact and character witness.

18) Retired Judge Jerry Kosiniski, a former Legislator and Judge, who the Respondent has known since he first ran for the Legislature in 1982. Retired Judge Kosiniski is an enthusiastic

commenter on the Respondent's Facebook page. He will be a character witness.

19) Retired Judge Paul Panepinto, who was a Philadelphia Common Pleas Judge for many years. His address is 702 Sansom Street, Philadelphia, Pennsylvania 19106 and his phone number is 215-470-3876. He will be a character witness.

20) Sideris Bastas, a former businessman who has earned his Master's Degree in Computer Science. He was the Republican Nominee to the Respondent's candidacy for re-election in the 202nd District in 1978. He is active with his own Facebook page and a frequent commenter on the Respondent's Facebook page. His address is 1046 Olney Avenue, Philadelphia, Pennsylvania 19141 and his cellphone number is 215-704-6009. He will be a fact witness as he is familiar with the Facebook page, sees nothing wrong with it, and finds it to be informative.

21) Al Stuhl, a longtime Committeeman in the 62nd and 23rd Wards in Philadelphia. In 1978, he was a Democratic Candidate for Congress in competition with the Respondent. He is an active commenter and is familiar with the Respondent's Facebook page. His address is 173 Wildflower Circle, Yardley, Pennsylvania 19067 and his phone number is 267-688-7732. He will be a fact witness, primarily in terms that he reviews the Respondent's Facebook page, finds nothing wrong with it and that it is just straight commentary. He will testify by Webex if possible.

22) Nancy Gold, author and CEO/President of King's Collar Shirtmakers. Her address is 1 West Athens Avenue, Unit C, Ardmore, Pennsylvania 19003 and her phone number is 610-642-9910. She will be a fact witness as she looks at the Respondent's Facebook page on a regular basis.

23) Cecil Hankins, retired city employee with the Philadelphia Health Department and a former Director of a Drug Treatment Program. His address is 732 West Wellens Street, Philadelphia, Pennsylvania 19120 and his phone number is 267-582-2989. He will be a fact witness as he looks at the Respondent's Facebook page and will comment on it.

24) Reggie Shuford, a longtime Executive Director of the Pennsylvania American Civil Liberties Union. He is currently the Executive Director of the North Carolina Justice Center. His address is 224 South Dawson Street, Raleigh, North Carolina and his phone number is 877-745-2258. He will need to testify via Webex. He will be a fact witness as he views the Respondent's Facebook page, etc.

25) Betsy Parziale, was a career educator and Vice President of the Philadelphia School District until she recently retired. Her address is 534 Bell Lane, Maple Glen, Pennsylvania 19002 and her phone number is 215-646-2332. She will also be a fact witness as she views the Respondent's Facebook page.

26) Susan Wolpin, had a long career working for the Philadelphia School District and now resides in Guatemala. Her phone number is 267-575-6822. She will need to testify via Webex due to her residing in Guatemala. She will be a fact witness.

27) Lionel Arton Ginsburg, Esquire, a longtime attorney and political activist. His address is 748 South 18th Street, Philadelphia, Pennsylvania 19146 and his phone number is 215-668-2585. He will be a fact witness as he views the Respondent's Facebook page.

28) Art Hochner, Professor of Human Resources Management Emeritus at Temple University. His address is 6925 Greene Street, Philadelphia, Pennsylvania 19119 and his phone number is 215-704-6990. He will be a fact witness as he has been a longtime viewer of the Respondent's Facebook page.

29) John Featherman, Republican Candidate for Mayor in 2011, Republican Nominee for Congress against Congressman Robert Brady in 2012. Mr. Featherman is an active realtor. He has an address of 1420 Locust Street, Apt# 200, Philadelphia, Pennsylvania 19102 and a phone number of 215-280-7455. He will be a fact witness as he has been a longtime viewer of the Respondent's Facebook page.

30) Robert Kall, author of *Bottom-Up Revolution: Mastering the Emerging World of Connectivity*. Mr. Kall is the Founder and Editor-in-Chief of Opednews.com. He was a former writer and

blogger for HuffPost. He is also currently a Democratic Committeeman in the 54th Ward of Philadelphia. His address is 2211 Tyson Avenue, Philadelphia, Pennsylvania 19149 and his phone number is 215-917-1470. He will be a fact witness as he has been a longtime viewer and poster of the Respondent's Facebook page. He will say there is nothing wrong with the posts and he looks at them. He will need to testify via Webex.

31) Rania Major, Esquire, an attorney that has appeared many times before the Respondent and will testify as to his excellent demeanor and qualities on the Bench. She will be both a fact and character witness. Her address is 135 South 19th Street, Philadelphia, Pennsylvania 19103 and her phone number is 215-291-5009.

32) Charles Gibbs, Esquire, a well-respected attorney in Philadelphia and a partner in the firm of McMonagle, Perri, McHugh, Mischak & Davis. He will testify as to Judge Cohen's good character, and as a fact witness, and also that he is aware of his Facebook posts and looks at them. His address is 1845 Walnut Street, 19th Floor, Philadelphia, Pennsylvania 19103 and his phone number is 215-981-0999.

33) Walter McHugh, Esquire, a well-respected attorney in Philadelphia and a partner in the firm of McMonagle, Perri, McHugh, Mischak & Davis. He will be both a fact and character witness. His address is 1845 Walnut Street, 19th Floor,

Philadelphia, Pennsylvania 19103 and his phone number is 215-981-0999. He will testify via Webex.

34) The Respondent, Judge Mark B. Cohen, will also be a witness. He will explain each of his Facebook posts.

B. EXHIBITS

The Respondent, Judge Mark B. Cohen will introduce the following exhibits:

1) The Complaint of the Judicial Conduct Board, this is attached and marked as Exhibit "R-1".

2) Answer of the Respondent to the Complaint and New Matter, this is attached and marked as Exhibit "R-2".

3) Respondent's Omnibus Motion and Brief Requesting Dismissal, this is attached and marked as Exhibit "R-3".

4) Recent examples of the Respondent's Facebook postings, these are attached and marked as Exhibit "R-4".

C. PROPOSED STIPULATIONS

1) The Respondent, Judge Mark B. Cohen, by his counsel, Samuel C. Stretton, Esquire respectfully objects to the Expert Report of the Judicial Conduct Board since this is no need for Expert testimony. This Honorable Court can determine whether posts are political or consistent with the Judge's First Amendment rights of the United States Constitution and with the Code of Judicial Conduct. Expert testimony is not needed.

2) The Respondent will agree to the stipulations of the Judicial Conduct Board except for No. 14(i). Judge Cohen is no longer on leave and is presently sitting on the Bench hearing cases.

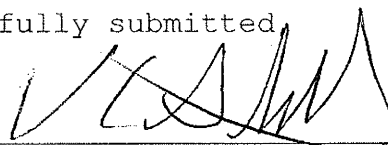
3) In addition to the stipulations of the Judicial Conduct Board, Judge Cohen will present other recent examples of Facebook posts that he has made. See Exhibit "R-4".

4) The Judicial Conduct Board agrees that Judge Cohen has an excellent reputation of being a peaceful and law-abiding citizen and for his truthfulness and honesty.

D. CERTIFICATION

The Respondent, Judge Mark B. Cohen, by his counsel, Samuel C. Stretton, Esquire certifies that he has provided all pertinent material and information to the Judicial Conduct Board.

Respectfully submitted,



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Attorney for the Respondent,
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Attorney I.D. No. 18491

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CERTIFICATE OF COMPLIANCE

I, Samuel C. Stretton, Esquire, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

6/29/23

Date



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CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Memorandum in the captioned matter upon the following persons in the manner indicated below.

Service by electronic mail addressed as follows:

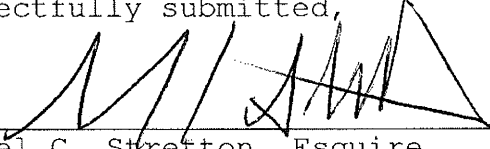
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Respectfully submitted,

6/29/23
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