

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael R. Muth :
Magisterial District Judge :
Magisterial District 43-2-02 : 2 JD 2017
43rd Judicial District :
Monroe County :

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OF PENNSYLVANIA
2018 FEB 20 P 1:59

**JUDICIAL CONDUCT BOARD'S REPLY TO
RESPONDENT'S MOTION IN LIMINE TO PRECLUDE
THE DEPOSITION TRANSCRIPT**

AND NOW, this 20th day of February, 2018, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) by undersigned counsel and files this Reply to Respondent's Motion In Limine to Preclude the Deposition Transcript.

1. **Denied as stated.** It is admitted that, on February 24, 2017, Board counsel deposed Judge Muth. As the Board did not file formal charges against Judge Muth until over four months later, on July 5, 2017, Judge Muth's deposition did not take place during the discovery phase of this matter.
2. **Denied as stated.** It is admitted that in its Pre-Trial Memorandum dated November 15, 2017, the Board listed the transcript of the February 24, 2017 deposition of Judge Muth (transcript) as an exhibit it *may* introduce.
3. **Admitted.**
4. **Denied as stated.** The Board Complaint speaks for itself. Any attempt to characterize its contents is denied and strict proof thereof is demanded at the time of trial or hearing.

5. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, dependent upon the context and purpose for which the transcript is introduced, it may be relevant to the proceedings.
6. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, the Pennsylvania Rules of Evidence are writings that speak for themselves, as is the cited Supreme Court of Pennsylvania case.
7. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, a determination that information contained in the transcript is relevant or has probative value cannot be made until such time as testimony and evidence is presented which may result in information contained in the transcript becoming relevant.
8. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, dependent upon the context and purpose for which the transcript, or portions thereof, are introduced, it may be relevant to the proceedings.
9. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, a determination of admissibility depends on the particular content of the evidence and argument, and the context in which the party seeks to introduce it. A blanket exclusion of the evidence at this time would be premature.

WHEREFORE, the Board, by and through Melissa L. Norton, Assistant Counsel, respectfully requests that this Honorable Court deny Respondent's Motion In Limine to Preclude the Deposition Transcript.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: February 20, 2018

By:



MELISSA L. NORTON
Assistant Counsel

Pa. Supreme Court ID No. 46684

Judicial Conduct Board
Pennsylvania Judicial Center
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**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

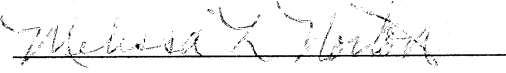
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CERTIFICATE OF COMPLIANCE

I 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.

Submitted by: Judicial Conduct Board of Pennsylvania

Signature: 

Name: Melissa L. Norton
Assistant Counsel

Attorney No.: 46684

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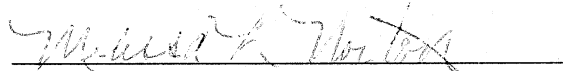
PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about February 20, 2018, a copy of the *Judicial Conduct Board's Reply to Respondent's Motion in Limine to Preclude the Deposition Transcript* was sent by First-Class Mail to Joel L. Frank, counsel to Magisterial District Judge Muth at the following address:

Joel L. Frank, Esquire
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Attorneys at Law
P.O. Box 565
24 East Market Street
West Chester, PA 19382-3151

February 20, 2018

By:



MELISSA L. NORTON

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