

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED
COURT OF JUDICIAL DISCIPLINE
PENNSYLVANIA

2018 JUN -1 A 11:16

IN RE:

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

JUDICIAL CONDUCT BOARD AMENDED PRE-TRIAL MEMORANDUM

AND NOW, this 1st day of June, 2018, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) by and through undersigned counsel, pursuant to this Court's September 11, 2017 Order and files this Amended Pre-trial Memorandum:

A. TRIAL WITNESS LIST

The Board may call some or all of the following witnesses at trial:

1. Melissa Barrera
Former Court Clerk
Magisterial District Court 43-2-02
104 Coleridge Terrace
Milford, PA 18337

Ms. Barrera will testify regarding Part B of the Board Complaint filed July 5, 2017.

2. Kathy Goida
Former Court Clerk
Magisterial District Court 43-2-02
170 Owl Hollow Drive
Saylorsburg, PA 18353

Ms. Goida will testify regarding Parts A and B of the Board Complaint filed July 5, 2017.

3. John Kraybill-Greggo
Department Chair
East Stroudsburg University
200 Prospect Street
East Stroudsburg, PA 18301

Mr. Kraybill-Greggo will testify regarding Part B of the Board Complaint filed July 5, 2017.

4. Meredith Pelak-Rea
Court Liason
Stroud Area Regional Police
100 Day Street
East Stroudsburg, PA 18301

Ms. Pelak-Rea will testify regarding Parts A and B of the Board Complaint filed July 5, 2017.

5. Kathy Sauter
Monroe County Deputy Court Administrator
610 Monroe Street, Suite 221
Stroudsburg, PA 18360

Ms. Sauter will testify regarding Part B of the Board Complaint filed July 5, 2017.

6. Amy VanNorman
Court Clerk
Magisterial District Court 43-2-02
98 Day Street
East Stroudsburg, PA 18301

Ms. VanNorman will testify regarding Parts A and B of the Board Complaint filed July 5, 2017.

B. BOARD EXHIBITS

The Board may introduce some or all of the following exhibits at trial:

1. August 9, 2016 letter to Robert Graci, Esquire, from President Judge Margherita Patti-Worthington with enclosures.
2. East Stroudsburg University Staff Directory Listing for Michael R. Muth.
3. Redacted Notice of Full Investigation issued to MDJ Michael R. Muth on December 19, 2016.

4. Supreme Court of Pennsylvania Policy on Non-Discrimination and Equal Employment Opportunity, Published January 1, 2008.
5. Supreme Court of Pennsylvania Policy on Non-Discrimination and Equal Employment Opportunity, Revised November 2013.
6. June 7, 2017 letter to Assistant Counsel Melissa L. Norton from Attorney Joel Frank providing 3 photographs.
7. May 4, 2017 letter to Assistant Counsel Melissa L. Norton from Attorney Joel Frank providing 13 photographs.
8. Photograph provided with May 4, 2017 letter: 2 women in black leather.
9. Photograph provided with May 4, 2017 letter: 2 buttocks in white thongs.
10. Photograph provided with May 4, 2017 letter : 5 women photographed from behind.
11. Photograph provided with May 4, 2017 letter: 2 women photographed from behind.
12. Photograph provided with May 4, 2017 letter : 2 women in pink panties.
13. Photograph provided with May 4, 2017 letter : 2 women in Santa garb with boots.
14. Photograph provided with May 4, 2017 letter : 2 women in Santa garb topless.
15. Photograph provided with May 4, 2017 letter : woman in white-blue thong and bustier.
16. Photograph provided with May 4, 2017 letter : woman in black thong and bustier kneeling.
17. Photograph provided with May 4, 2017 letter : brunette woman in black lingerie.
18. Photograph provided with May 4, 2017 letter: blonde woman in black lingerie.
19. Photograph provided with May 4, 2017 letter: woman in white girdle topless.
20. Photograph provided with May 4, 2017 letter: woman in multi-colored thong and camisole.

21. Photograph provided with June 7, 2017 letter: 2 women in thongs kneeling.
22. Photograph provided with June 7, 2017 letter: 2 women in black thongs; one standing, one kneeling.
23. Photograph provided with June 7, 2017 letter: 2 women in black thongs; both standing.
24. April 17, 2017 email thread to Attorney Joel Frank from Assistant Counsel Melissa L. Norton requesting copies of photos.
25. Judge Muth's transcript corrections regarding February 24, 2017 deposition.
26. Diagram of judicial chambers drawn by Judge Muth at February 24, 2017 deposition.
27. Redacted transcript of February 24, 2017 deposition of Judge Muth.
28. Deposition Exhibit 1 – Look Up Classes.
29. Judge Muth's Redacted Response to the Notice of Full Investigation with cover letter dated January 18, 2017.
30. East Stroudsburg University Contact Information for Judge Muth.
31. Judge Muth's Resume.

C. STIPULATIONS

It can reasonably be expected that opposing counsel will agree to the following stipulations:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.
2. From January 2006 until the present time, Judge Muth has served as the magisterial district judge of District Court 43-2-02.

3. As a judicial officer, Judge Muth was subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the R.G.S.C.M.D.J. (both Old and New) adopted by the Supreme Court of Pennsylvania.
4. As a judicial officer, Judge Muth was required to ensure adherence to and compliance with the Unified Judicial System of Pennsylvania Policy on Non-Discrimination and Equal Employment Opportunity effective January 1, 2008 (revised Nov. 2013; revised July 2016) (UJS Policy).
5. Based on a Confidential Request for Investigation at JCB File No. 2016-496, the Board investigated the instant matter.
6. As a result of its investigation, and pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there was probable cause to file formal charges against Judge Muth in this Court.
7. Some of the alleged judicial misconduct occurred prior to December 1, 2014 and therefore, the Old Rules Governing Standards of Conduct of Magisterial District Judges (R.G.S.C.M.D.J.) apply to those allegations of misconduct.
8. Some of the alleged judicial misconduct occurred after November 30, 2014 and therefore, the New R.G.S.C.M.D.J. apply to those allegations of misconduct.

Additionally, based on admissions contained in Judge Muth's Answer and New Matter and his statements during a deposition conducted on February 24, 2017, it can reasonably be expected that opposing counsel will agree to the following stipulations:

9. During all times relevant to the formal charges against Judge Muth, he had a computer in his judicial chambers which was his personal property (hereinafter referred to as personal computer). (Respondent's Answer ¶ 30 and Muth Dep. 59:16-20)
10. During all times relevant to the formal charges against Judge Muth, Judge Muth's personal computer in his judicial chambers had photographs of naked women and partially naked women stored on it. (Muth Dep. 59:16-20)
11. Occasionally, between 8:30 a.m. and 4:30 p.m., on a weekday, when judicial staff were in the office, Judge Muth used his personal computer in his judicial chambers to view photographs of naked women and partially naked women. (Muth Dep. 59:16-22, 69:10-13)
12. There were occasions when another individual entered Judge Muth's judicial chambers while he was viewing photographs of naked women and partially naked women on his personal computer in his judicial chambers. (Muth Dep. 60:17-19)
13. When another individual entered Judge Muth's judicial chambers while he was viewing photographs of naked women and partially naked women on his personal computer he attempted to prevent the individual from seeing the photographs displayed on the computer monitor by closing the image on the screen. (Muth Dep. 60:17-19)
14. When Judge Muth viewed the photographs of naked women and partially naked women on his personal computer there were times when the photographs were displayed in a slideshow format. (Muth Dep. 63:9-12)

15. Upon receipt of the Board Complaint, Judge Muth copied the photographs of naked women and partially naked women stored on his personal computer at that time onto an electronic storage device, or drive, and gave the drive to his counsel. (Muth Dep. 61:13-15)
16. During all times relevant to the formal charges against Judge Muth, he was employed as a part-time professor at East Stroudsburg University (ESU), located in East Stroudsburg, Pennsylvania. (Board Complaint ¶ 31)
17. During the Fall semester of each academic year that he was employed by ESU, Judge Muth taught one or two classes. (Board Complaint ¶ 33)
18. During the Spring semester of each academic year that he was employed by ESU, Judge Muth taught one class. (Board Complaint ¶ 34)
19. The number of students in each class taught by Judge Muth varied. (Board Complaint ¶ 35)
20. As a professor, Judge Muth administered two written examinations per semester to students enrolled in his classes. (Board Complaint ¶ 36)
21. During times relevant to the formal charges against Judge Muth, clerks employed in District Court 43-2-02 assisted Judge Muth in determining the number of correct and incorrect answers on examinations Judge Muth administered to his ESU students. (Board Complaint ¶ 37)
22. When the clerks employed in District Court 43-2-02 assisted Judge Muth in determining the number of correct and incorrect answers on his ESU examinations, they did so during regular office hours in the court facility. (Board Complaint ¶ 38)

23. Monroe County supplies District Court 43-2-02 with a copying machine. (Board Complaint ¶ 40)
24. Monroe County is responsible for the costs associated with all maintenance and supplies used in the operation of the copying machine. (Board Complaint ¶ 41)
25. As part of the curriculum for the classes Judge Muth taught at ESU, he occasionally provided copies of printed documents to his ESU students. (Board Complaint ¶ 42)
26. During times relevant to the formal charges against Judge Muth, Judge Muth and clerks employed in District Court 43-2-02 used the court copying machine to produce multiple copies of documents for Judge Muth to provide to his ESU students. (Board Complaint ¶ 43 and 45)
27. During times relevant to the formal charges against Judge Muth, clerks employed in District Court 43-2-02 used the court copying machine to produce multiple copies of documents for Judge Muth to provide to his ESU students during regular office hours in the court facility at the request of Judge Muth. (Board Complaint ¶ 44)

D. DISCOVERY CERTIFICATION

The Board, by and through undersigned counsel, hereby certifies that it has provided to Judge Muth all materials required to be exchanged under C.J.D.R.P. No. 401(D)(1).

E. EXCULPATORY EVIDENCE CERTIFICATION

The Board, by and through undersigned counsel, hereby certifies that it has provided to Judge Muth all materials required to be exchanged under C.J.D.R.P. No. 401(E).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

June 1, 2018

By:



MELISSA L. NORTON
Deputy Counsel

Pa. Supreme Court ID No. 46684

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**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 :

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* 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
Deputy Counsel

Attorney No.:

46684

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

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

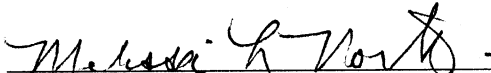
PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on June 1, 2018, a copy of the *Judicial Conduct Board Amended Pre-Trial Memorandum* was sent by email and First-Class Mail to Joel L. Frank, counsel to Magisterial District Judge Muth at the following address:

Joel L. Frank, Esquire
Law Offices of Lamb McErlane PC
P.O. Box 565
24 East Market Street
West Chester, PA 19382-3151

June 1, 2018

By:



MELISSA L. NORTON

Assistant Counsel

Pa. Supreme Court ID No. 46684

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911