

**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 :

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2018 FEB 20 P 1:58

**JUDICIAL CONDUCT BOARD'S REPLY TO
RESPONDENT'S MOTION IN LIMINE TO PRECLUDE
NOTICE OF FULL INVESTIGATION REPORT AND
REPORTS OF INTERVIEWS IN THEIR ENTIRETY**

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 Notice of Full Investigation Report and Reports of Interviews in Their Entirety.

1. **Denied as stated.** It is denied that a specific investigator was designated and issued, a Notice of Full Investigation (NOFI). It is admitted that a NOFI, dated December 19, 2016, was issued to Judge Muth over the signature of Judicial Conduct Board Chief Counsel, Robert A. Graci.
2. **Neither admitted nor denied as Judge Muth's "anticipation" is not an averment requiring a response.** By way of further answer, the Board is unable to determine at this time whether it will seek to introduce, in whole or in part, the NOFI and/or particular Reports of Interview. A decision to seek to introduce, in whole or in part, the NOFI and/or particular Reports of Interview, cannot be made until such

time as testimony and evidence is presented at trial, which may result in information contained in the NOFI and/or particular Reports of Interview becoming relevant.

3. **Denied as stated.** It is admitted that the Board's investigation included matters not charged in the Board Complaint filed against Judge Muth.
4. **Denied as stated.** It is admitted that the Board Complaint alleges that Judge Muth, while at court during regular court office hours, viewed and displayed on a computer screen sexually explicit photographs of naked and partially naked females and a video depicting two nude adult females engaging in sexual activity with each other.
5. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, the Board is unable to determine at this time whether information obtained in the course of its investigation that is outside the parameters of the allegations charged in the Board's Complaint against Judge Muth will be relevant to the proceedings. A decision to seek to introduce evidence obtained during the course of the Board's investigation regarding Judge Muth cannot be made until such time as testimony and evidence is presented which may result in information obtained in the course of the investigation that is outside the parameters of the allegations charged becoming relevant.


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 NOFI and/or Reports of Interview 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 NOFI and/or Reports of Interview becoming relevant.
8. **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 Notice of Full Investigation Report and Reports of Interviews in Their Entirety.

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

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

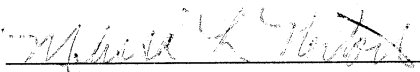
IN RE:

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

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

**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 or about February 20, 2018, a copy of the *Judicial Conduct Board's Reply to Respondent's Motion in Limine to Preclude Notice of Full Investigation Report and Reports of Interviews in Their Entirety* was sent by First-Class Mail to Joel L. Frank, counsel to Magisterial District Judge Muth at the following address:

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

February 20, 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