

**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
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JUDICIAL DISCIPLINE
OF PENNSYLVANIA
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**JUDICIAL CONDUCT BOARD'S REPLY TO
RESPONDENT'S MOTION IN LIMINE TO PRECLUDE
REPORT OF INTERVIEW AND TESTIMONY OF BRENDA MURRAY**

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 Report of Interview and Testimony of Brenda Murray.

1. **Admitted.** The interview took place on January 3, 2018.
2. **Admitted.**
3. **Admitted.** By way of further answer, prior to her employment as Judge Arthur Zulick's secretary, Ms. Zulick was employed by the law firm of Muth and Zulick as a secretary for Arthur Zulick, Esquire, and Michael Muth, Esquire. Judge Zulick was not, at that time, a jurist.
4. **Admitted.** By way of further answer, the subject of the interview related to a period of days, during which Ms. Murray and another female employee in the law firm of Muth and Zulick saw images on then-attorney Muth's computer screen in the law office of Muth and Zulick. The images were described by Ms. Murray as "scantily clad, risqué, and soft pornography" images of women. According to Ms.

Murray, she and the other employee who saw the images reported the matter to then-attorney Zulick. Shortly thereafter, the images were no longer visible to Ms. Murray.

5. **Admitted.** By way of further answer, Judge Muth is also charged with violations of the Constitution of Pennsylvania.
6. **Denied as improper conclusions of law for which no response is required.** By way of further answer, dependent upon the context and purpose for which the evidence of Judge Muth's activity prior to his election to the bench is introduced, it may be relevant to the proceedings.
7. **Denied as argument and improper conclusions of law.** 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.
8. **Admitted.**
9. **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 testimony of Ms. Murray is introduced, it may make facts regarding Judge Muth's actions while a judge more probable by establishing Judge Muth's a) knowledge that such images are available and can be displayed on a computer; b) absence of mistake regarding possession of the photographs; c) knowledge that the type of activity witnessed by Ms. Murray was inappropriate and offensive to other individuals; and d) knowledge

that the type of activity witnessed by Ms. Murray is subject to being easily witnessed by others in an office-type setting.

10. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, the Court is capable of applying evidentiary rules in determining relevancy and admissibility of any proffered evidence and, if admitted, ascribing to it the proper weight. Likewise, the Court is capable of disregarding evidence it deems inadmissible.
11. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, Pa.R.E. 402 provides that “[a]ll relevant evidence is admissible, except as otherwise provided by law.” 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.
12. **Denied as argument and improper conclusions of law for which no response is required.** By way of further answer, see Paragraph 11 above.


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 Report of Interview and Testimony of Brenda Murray.

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

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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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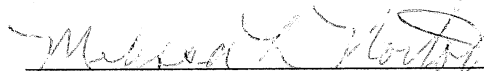
PROOF OF SERVICE

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 Report of Interview and Testimony of Brenda Murray* 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:



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Assistant Counsel

Pa. Supreme Court ID No. 46684

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