

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

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COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2016 MAR 17 P 3:44

IN RE:

J. Michael Eakin
Justice of
The Supreme Court of Pennsylvania

.....

13 JD 2015

**MOTION TO WITHDRAW COUNT 4 OF THE BOARD COMPLAINT
PURSUANT TO C.J.D.R.P. NO. 502(F)**

AND NOW, this 17TH day of March, 2016, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board"), by and through undersigned counsel, and files this Motion to Withdraw Count 4 Pursuant to C.J.D.R.P. No. 502(F) and avers the following:

1. On December 8, 2015, the Board filed formal charges against Justice J. Michael Eakin at the above captioned matter.
2. By Order dated February 9, 2016, this Honorable Court scheduled trial to commence on Tuesday, March 29, 2016, at 10:00 AM, in Courtroom 612 at City Hall, 1400 John F. Kennedy Boulevard, Philadelphia, PA. Subsequently, the Board was advised by Stephanie L. Stump, Deputy Clerk of Court, that trial was moved to Courtroom 253.
3. By letter to Chief Justice Thomas G. Saylor dated March 15, 2016, Justice J. Michael Eakin gave notice that he was retiring from judicial office effective the same date. A true and correct copy of Justice Eakin's letter announcing retirement to Chief Justice Saylor is marked and attached as Board Exhibit "A."

4. By letter to Governor Tom Wolf dated March 15, 2016, Justice J. Michael Eakin gave notice that he was retiring from judicial office effective the same date. A true and correct copy of Justice Eakin's letter announcing retirement to Governor Wolf is marked and attached as Board Exhibit "B."
5. By email correspondence dated March 16, 2016, attorney William Costopoulos advised Board counsel that former Justice Eakin will not seek judicial senior status or be a future candidate for appointment or election to any judicial office in the Commonwealth of Pennsylvania. A true and correct copy of attorney Costopoulos' email correspondence advising that former Justice Eakin would not seek senior status or be a future candidate for appointment or election to any judicial office in the Commonwealth of Pennsylvania is marked and attached as Board Exhibit "C."
6. The Court of Judicial Discipline has continuing jurisdiction over disciplinary proceedings even after a judicial officer has resigned or left office. *In re Larsen*, 717 A.2d 39, 43 (Pa.Ct.Jud.Disc. 1998); *In re Davis*, 954 A.2d 118,123 (Pa.Ct.Jud.Disc. 2008).
7. Pursuant to C.J.D.R.P. No. 502(F), the Board "may file a motion to withdraw a Complaint or any of the Counts in a Complaint, which, in either case, shall be supported by good cause."
8. Because of his retirement and intention not to seek judicial senior status or to be a future candidate for appointment or election to any judicial office in the Commonwealth of Pennsylvania, former Justice Eakin has effectively removed himself from any further judicial service, on any level or in any capacity, in the Commonwealth of Pennsylvania. If the Court ultimately

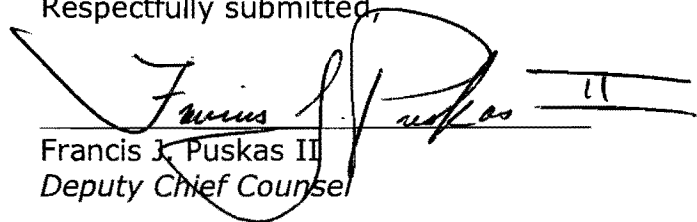
concludes that former Justice Eakin has violated the Code of Judicial Conduct and/or the Pennsylvania Constitution, the most serious sanction it could impose is removal from office and a bar to holding judicial office in the future.

9. Former Justice Eakin has agreed with the Board to enter stipulations of fact in lieu of trial, agreed to the authenticity and admissibility of all Board trial exhibits, and waived his right to submit further briefs or argument on the charges made in the Board Complaint. While former Justice Eakin's retirement, and his cooperative actions, are not linked to any agreement or deal with the Board, they have served to limit trial costs and expenses, facilitate judicial economy, and expedite the timeline for this Court to make Findings of Fact and Conclusions of Law that will provide judicial officers with guidance as to whether the conduct at issue may form the basis for the imposition of sanctions.

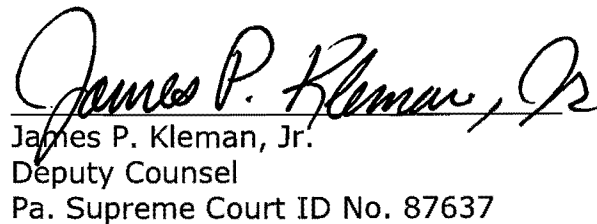
10. In consideration of all facts and circumstances delineated herein, the Board moves to withdraw Count 4 of the Board Complaint, namely the charge that former Justice Eakin engaged in conduct that has brought disrepute upon the judiciary in violation of Article V, §18(d)(1) of the Pennsylvania Constitution.

WHEREFORE, the Judicial Conduct Board respectfully requests that this Honorable Court grant this Motion To Withdraw Count 4 of the Board Complaint Pursuant to C.J.D.R.P. No. 502(F).

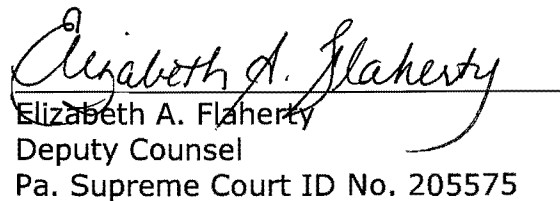
Respectfully submitted,



Francis J. Puskas II
Deputy Chief Counsel



James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637



Elizabeth A. Flaherty
Deputy Counsel
Pa. Supreme Court ID No. 205575

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

DATE: March 17, 2016

EXHIBIT "A"



SUPREME COURT OF PENNSYLVANIA
4720 OLD GETTYSBURG ROAD
MECHANICSBURG, PA 17055

J. MICHAEL EAKIN
JUSTICE

(717) 731-0461
FAX (717) 731-0465

March 15, 2016

Chief Justice Thomas G. Saylor
Supreme Court of Pennsylvania
Fulton Building, 16th Floor
200 North Third Street
Harrisburg, PA 17101

Dear Chief Justice Saylor:

With regret, I am hereby retiring effective this date. It has been a privilege to serve the judiciary and the people of Pennsylvania.

Very truly yours,

J. Michael Eakin

JME/klz

EXHIBIT "B"



SUPREME COURT OF PENNSYLVANIA
4720 OLD GETTYSBURG ROAD
MECHANICSBURG, PA 17055

J. MICHAEL EAKIN
JUSTICE

(717) 731-0461
FAX (717) 731-0465

March 15, 2016

The Honorable Tom Wolf
Office of the Governor
508 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Wolf:

With regret, I am hereby retiring effective this date. It has been a privilege to serve the judiciary and the people of Pennsylvania.

Very truly yours,


J. Michael Eakin

JME/kiz
CC: Judicial Conduct Board

EXHIBIT "C"

Puskas, Francis J.

From: William Costopoulos <wcostopoulos@costopoulos.com>
Sent: Wednesday, March 16, 2016 10:29 AM
To: Puskas, Francis J.; Flaherty, Elizabeth; Kleman Jr., James P.
Subject: Former Justice J. Michael Eakin

Counsel:

Please be advised that former Justice J. Michael Eakin has no interest to seek, and agrees not to seek senior status in the Pennsylvania Judicial System or be a candidate for appointment or election to any Pennsylvania Judicial Office in the future.

William C. Costopoulos, Esquire
COSTOPOULOS, FOSTER & FIELDS
831 Market Street
Lemoyne, PA 17043
Tel.: 717-761-2121
Fax: 717-761-4031
Email: wcostopoulos@costopoulos.com

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

J. Michael Eakin
Justice of
The Supreme Court of Pennsylvania

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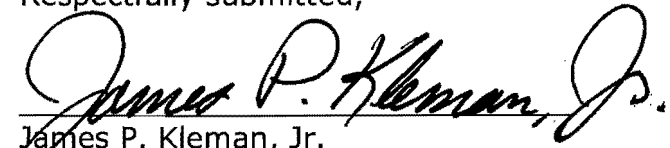
PROOF OF SERVICE

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on March 17, 2016, a copy of the Board's Motion to Withdraw Count 4 of the Board Complaint Pursuant to C.J.D.R.P. No. 502(F) was hand delivered to William C. Costopoulos, Esquire, and Heidi Eakin, Esquire, counsel for former Justice Eakin at the following address:

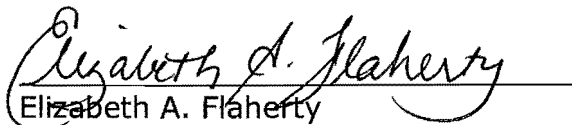
William C. Costopoulos, Esquire
Heidi F. Eakin, Esquire
Costopoulos, Foster & Fields
831 Market Street
Lemoyne, PA 17043

Respectfully submitted,

DATE: March 17, 2016



James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637



Elizabeth A. Flaherty
Deputy Counsel
Pa. Supreme Court ID No. 205575

Judicial Conduct Board
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