

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: JUDGE MARISSA J. BRUMBACH :  
MUNICIPAL COURT JUDGE :  
1ST JUDICIAL DISTRICT : 2 JD 2022  
PHILADELPHIA COUNTY :  
:

**RESPONDENT JUDGE MARISSA J. BRUMBACH’S MOTION TO COMPEL  
DISCOVERY**

Respondent Judge Marissa J. Brumbach, by and through the undersigned counsel, requests, the Board be compelled to provide responses to Judge Brumbach’s outstanding discovery requests and avers as follows:

1. On December 14, 2022, the Judicial Conduct Board filed a Complaint against Judge Brumbach alleging nine counts of judicial misconduct.
2. On January 6, 2023, this Court held a hearing on the Board’s Petition For Relief For Interim Suspension Without Pay.
3. On January 12, 2023, this Court denied the Board’s Petition For Relief For Interim Suspension Without Pay.
4. On January 30, 2023—although it was not docketed until the next day—Judge Brumbach filed her Omnibus Motion consistent with this Court’s January 11 Order extending the deadline to file an Omnibus Motion.
5. On February 9, 2023, the Board filed its Reply to Judge Brumbach’s Omnibus Motion.
6. On February 22, 2023, Judge Brumbach filed a Motion to File a Reply Brief to Board’s Reply, with the proposed Reply Brief attached.

7. On February 23, 2023, this Court granted the Motion and allowed the Board ten days to file its own Reply; the Board did not do so.

8. On March 31, 2023, this Court extended the discovery deadline to May 17, 2023.

9. On April 3, 2023, this Court denied Judge Brumbach's Omnibus Motion without prejudice.

10. In the April 3 Order, this Court stated "[b]eside the need for the legal claims at issue to be clarified, the practices, procedures, and rules of the Traffic Court as relevant to this case have not been fully developed to the degree necessary to enable the Court of Judicial Discipline to fully consider this matter." Order, 04/03/2023.

11. As developed more fully below, much of the discovery that the Board refuses to provide to Judge Brumbach relates directly to the practices, procedures and rules of Traffic Court.

12. Throughout this time, Judge Brumbach sent the Board two discovery requests: one on December 20, 2022 and a supplemental request on January 24, 2023. *See Exhibit A.*

13. The Board initially made two discovery productions in response: one on December 31, 2022 and another on February 9, 2023. *See Exhibit B.*

14. Initially, the Board did not provide Judge Brumbach with a individualized response to each discovery request, making it difficult to ascertain the reason(s) for its refusal to provide certain requested documents.

15. One of the documents produced on February 9 was a screenshot of a partial text message between Judge Dugan and Judge Pittman. *See Exhibit C.*

16. On February 13, undersigned counsel requested that the Board provide a copy of the complete text message between Judge Dugan and Judge Pittman. *See Exhibit D.*

17. On February 14, the Board responded that the text it provided was “identical to that which was provided to” the Board. *See id.*

18. In response, on February 17, undersigned counsel asked the Board to obtain the remainder of the cut-off text message. *See Exhibit E.*

19. And, having not received a response concerning Judge Brumbach’s other outstanding discovery requests, undersigned counsel further inquired whether the Board intended to produce any other records responsive to Judge Brumbach’s Discovery Request and Supplemental Discovery Request. *See id.*

20. On February 22, 2023, the Board produced the remaining portion of the cut-off text message, but a date stamp following the message indicated that the conversation between Judge Pittman and Judge Dugan continued on January 6. *See Exhibit F.*

21. As such, on March 7, 2023, undersigned counsel asked the Board to produce the rest of the texts between Judge Pittman and Judge Dugan on January 6 that relate to this matter, as well as texts between the two from any other day that relate to this matter. *See Exhibit G.*

22. In that same email, still having not received a formal response to Judge Brumbach's discovery requests, undersigned counsel again asked the Board whether it intended to respond to Judge Brumbach's remaining discovery requests. *See id.*

23. On March 13, 2023, the Board responded that Judge Pittman stated there are no other texts between he and Judge Dugan related to this matter. *See Exhibit H.*

24. Notably, the Board did not respond regarding undersigned counsel's inquiry into Judge Brumbach's outstanding discovery requests.

25. Thus, undersigned counsel emailed the Board on March 13 to ask again whether the Board intended to respond to Judge Brumbach's outstanding discovery requests. *See Exhibit I.*

26. On March 17 and March 21, 2023, the Board responded that it provided all discovery as required by C.J.D.R.P. 401. *See Exhibit J.*

27. On March 22, 2023, undersigned counsel asked the Board to instruct Judge Pittman to preserve his text messages related to this matter. *See Exhibit K.*

28. Remarkably, and despite Judge Pittman's representation that there were no other texts related to this matter, the Board produced, on March 29, an additional text chain between Judge Pittman and Judge Dugan from January 9, 2022 and January 12, 2022. *See Exhibit L.*

29. More remarkable still, the Board omitted from this production text messages between January 6, 2022 through January 9, 2022. *See id.*

30. This is exceptionally odd where, as here, it is clear that Judge Pittman and Judge Dugan shared additional texts on January 6. *See* Exhibit F.

31. On April 4, undersigned counsel emailed the Board noting the texts omitted between January 6 and January 9, and again asked the Board to provide any texts between Judge Pittman and Judge Dugan relating to this matter. *See* Exhibit M.

32. Undersigned counsel also asked (again) for a formal response to Judge Brumbach’s outstanding discovery requests. *See id.*

33. On April 5, the Board responded—ignoring Judge Brumbach’s request for additional texts—that the Board “provided discovery in compliance with Rule 401” but will provide a response to each request individually. *See* Exhibit N.

34. By letter dated April 10, 2023, the Board provided a formal response to each of Judge Brumbach’s discovery requests individually. *See* Exhibit O.

**A. The Board’s Response to Judge Brumbach’s December 20, 2022 Discovery Request.**

35. The Board claims it is “unaware of, nor does it possess any exculpatory evidence” yet it knows that there are texts between Judge Pittman and Judge Dugan between January 6 and January 9 that it did not produce. *See id.* at pg. 1, ¶ 1.

36. To the extent the Board does not possess this information it reflects a failure to complete its duty to examine evidence before filing a complaint. *See* J.C.B.R.P. 25-26.

37. Indeed, it should be the Board's obligation to obtain this potentially exculpatory evidence and provide it to Judge Brumbach.

38. Moreover, the Board claims Judge Brumbach's request for records relating to all proceedings or actions by the Board concerning Judge Brumbach is privileged and is outside the scope of Rule 401(D)(1). *See* Ex. O at pg.1, ¶ 3.

39. But these types of documents have been held to be discoverable by this Court. *See In re Hasay*, 686 A.2d 809, 815-17 (Pa. 1996) (affirming Court of Judicial Discipline's order requiring disclosure of Board's meeting minutes (subject to attorney-client privilege and the work product doctrine)).

40. And to the extent the Board is claiming any privilege, it must produce a privilege log identifying each document in its possession and asserting the alleged privilege.

41. Otherwise, Judge Brumbach does not have any meaningful opportunity to assess the validity of the claimed privileges.

42. As it relates to requests 5 and 6, the Board claims it provided the information to the extent it possesses it. *See* Ex. O at pg. 2, ¶¶ 5-6.

43. But given the Board's protracted release of texts between Judge Pittman and Judge Dugan, it is not clear that the Board has produced *all* documents responsive to these requests.

44. And to the extent the Board does not possess this information it is, once again, indicative of the Board's failure to investigate this matter as required by its own Rules of Procedure. *See* J.C.B.R.P. 25-26.

45. The Board further claims that the information sought in requests 10 and 21-25 is outside the requirements of Rule 401. *See* Ex. O at pg. 2, ¶ 10; pg.3 ¶¶ 21-25.

46. But this cannot be true. Each of these requests pertains to information relating to other Municipal Court Judges' requests for leave, and Judge Dugan's response thereto—evidence that would be material to undermining Judge Dugan's credibility as it relates to his treatment of Judge Brumbach and his perception of her use of judicial leave. *See, e.g.*, (N.T., 01/06/2023 at 57-58).

47. Moreover, this information would be relevant to disproving any suggestion that Judge Brumbach did not competently and diligently perform her duties or give precedence to those duties. *See* Board's Complaint at Counts 3-5.

48. The Board also claims that requests 15-17 are outside the requirements of Rule 401. *See* Ex. O at pg. 2, ¶¶ 15-17.

49. This is false. These requests relating to prior years' disposition reports and paper citations in Traffic Court B Court are directly material to proving that Judge Brumbach's actions in the case did not amount to an adjudication as a matter of law.

50. For example, requests 16 and 17 will provide direct evidence that—as a matter of practice—Judges routinely cross out previously marked paper citations.

51. As it relates to request 11, the Board claims the request seeks privileged or confidential information and is otherwise outside the scope of Rule 401. *See id.* at pg. 2, ¶ 11.

52. To the extent the Board has any documents concerning Judge Brumbach's integrity, those are materially relevant to Judge Brumbach's preparation for trial.

53. Moreover, the Board must be required to provide a privilege log to the extent it claims privilege over any document.

54. It is also not clear that the Board provided Judge Brumbach with all of the witness statements that it collected throughout its investigation as requested in paragraphs 7 and 8.

55. As explained below, *see infra* at ¶¶ 66-68, it is likely that the Board interviewed and/or deposed other individuals in this matter including Dominic Reda, Joe Hassett, and a FJD employee named Jan; yet, the Board has not disclosed the notes, summaries, transcripts, or witness statements relating to those individuals.

56. Next, the Board claims Judge Brumbach's requests for instructional handbooks regarding Traffic Court operations is outside the scope of Rule 401. *See* Ex. O at pg. 2, ¶¶ 19-20; 26.

57. This cannot be true. The operation of Traffic Court staff, the electronic docketing system, and the operation of Traffic Court writ large is fundamental to proving that Judge Brumbach did not adjudicate any case on or about January 6.

58. Indeed, the dispositioner's role, as well as the purpose and use of the electronic docket, are foundational factual elements that are necessary to proving Judge Brumbach did not adjudicate any case.



**B. The Board's Response to Judge Brumbach's January 24, 2023 Supplemental Discovery Request.**

59. The Board claims that, to the extent it hasn't already provided such documents, the records responsive to paragraphs 1 through 4 are outside the scope of Rule 401. *See* Ex. O at pg. 4, ¶¶ 1-4.

60. To begin, in its February 9 production, the Board provided copies of the paper citations as they existed at the time they were copied (apparently sometime before July).<sup>1</sup>

61. But the Board has not produced documents responsive to requests 1 through 4 relating to copies of the certified electronic dockets and disposition reports.

62. These materials are plainly within the scope of Rule 401 because they will show precisely when each of the cases subject to the Board's complaint was adjudicated as a matter of law.

63. Along those lines, with regard to paragraph 4, the Board has still not identified which paper citations are missing. *See* N.T., 01/06/2023 (Ms. Norton: "first of all, some of the originals are no longer in existence. What happened was, they were put back into circulation, as [Mr. Vance] indicated, so that the individuals could have their day in court.")

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<sup>1</sup> The Board states that the copies of the citations "as those files now appear." *See* Ex. B (letter dated 2/9/23) at ¶ 1. But the copies are not as they now appear because the citations were subsequently recirculated in Traffic Court. Thus, the current copies may very well be different—*i.e.*, contain additional markings—from the copies provided by the Board.

64. Next, the Board claims the request in paragraph 5 is privileged and outside the scope of Rule 401. *See* Exhibit O at pg. 5, ¶ 5.

65. But as explained above, *see supra* ¶¶ 38-41, this material is plainly discoverable.

66. The Board's assertion it does not possess information responsive to paragraph 7 is dubious. *See* Ex. O at pg. 5, ¶ 7.

67. Indeed, two of the named individuals were mentioned in the deposition testimony of Marge Fenerty, *see* Marge Fenerty Deposition, 03/02/2022, at 5 (mentioning Joe Hasset and Domenic Reda), and Donna Sofronski, *see* Donna Sofronski Deposition, 03/02/2022 at 31 (mention Domenic Reda); *id.* at 47 (mentioning Joe Hasset).

68. Thus, it is likely that the Board interviewed these individuals.

69. Finally, the Board again claims that Judge Brumbach's requests relating to instructional guides and handbooks concerning Traffic Court, B Court are outside the scope of Rule 401. *See* Ex. O at pg. 5, ¶¶ 11; 15-16.

70. This is patently false, as developed more fully above, *see supra* ¶¶ 56-58.

### **C. Conclusion.**

71. Judge Brumbach requests this Court compel the Board to produce any documents in its possession that are responsive to Judge Brumbach's requests.

72. As evidenced by the Board's piecemeal release of the texts between Judge Pittman and Judge Dugan, the Board is apparently withholding discoverable information.

73. Indeed, the Board has yet to produce any texts between January 6 and January 9, 2022.

74. There is no indication that the Board's efforts to improperly withhold otherwise discoverable information is limited to the text messages.

75. This is especially true where, as here, much of the information sought would have been necessary for the Board's review before bringing this complaint.

76. Unless, of course, it brought this Complaint without a thorough investigation—conduct that would violate its own rules of procedure.

77. In any event, absent this Court's intervention, Judge Brumbach will be prejudiced by the Board's failure to produce all discoverable information in its possession.

78. Although not required by any rule of this Court, undersigned counsel has repeatedly tried to obtain further responses to discovery—as evidenced by the emails attached herein.

79. Because those efforts were not fruitful, Judge Brumbach respectfully moves this Court grant her requested relief so that she may adequately defend herself in his matter.

80. WHEREFORE, it is respectfully requested that this Honorable Court grant Judge Brumbach's Motion to Compel.

Dated: April 18, 2023

/s/ Matthew H. Haverstick  
Matthew H. Haverstick (No. 85072)  
Shohin H. Vance (No. 323551)  
Francis G. Notarianni (No. 327461)  
KLEINBARD LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103  
Ph: (215) 568-2000  
Fax: (215) 568-0140  
Eml: mhaverstick@kleinbard.com  
svance@kleinbard.com  
fnotarianni@kleinbard.com

**CERTIFICATE OF SERVICE**

I, Matthew H. Haverstick, hereby certify that on April 18, 2023, I caused a true and correct copy of the attached Motion to Compel to be served on the following via email:

Melissa L. Norton  
Interim Chief Counsel  
Commonwealth of Pennsylvania Judicial Conduct Board  
601 Commonwealth Ave., Suite 3500  
Harrisburg, PA 17106  
Eml: [Melissa.Norton@jcbpa.org](mailto:Melissa.Norton@jcbpa.org)

/s/ Matthew H. Haverstick  
Matthew H. Haverstick (No. 85072)  
KLEINBARD LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103  
Ph: (215) 568-2000  
Fax: (215) 568-0140  
Eml: [mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)

## 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: Kleinbard LLC

Signature: /s/ Matthew H. Haverstick

Name: Matthew H. Haverstick

Attorney No.: 85072

# EXHIBIT A

MATTHEW H. HAVERSTICK  
MHAVERSTICK@KLEINBARD.COM  
Direct Dial 215.496.7225



January 24, 2023

Melissa L. Norton  
Interim Chief Counsel  
Commonwealth of Pennsylvania Judicial Conduct Board  
601 Commonwealth Ave., Suite 3500  
Harrisburg, PA 17106

**RE: In re Judge Marissa J. Brumbach Municipal Court Judge 1st Judicial District Philadelphia County, 2 JD 2022**

Dear Attorney Norton:

On December 20, 2022 I sent you Judge Brumbach's initial discovery request. I am now supplementing that initial request. I am requesting the following information in discovery, regardless of form, within 60-day discovery period as set forth in Court of Judicial Discipline Rule of Procedure 401,

1. Copies of the certified record of conviction/adjudication and corresponding dockets for each citation subject to the Board's Complaint.
2. Certified copies of the disposition report under Pa. R. Crim. P. 471, from the case management system sent to the Pennsylvania Department of Transportation upon adjudication. *See* Pa. R. Crim. P. 471.
3. Any and all electronic records, official certified record or electronic Dockets as it relates to the citations listed on January 7, 2022, in B Court from inception to final judgment recorded, docketed and entered into the electronic court record management system used in the Philadelphia Municipal Court, Traffic Division by the Court Clerk.
4. List of names and citation numbers of all missing paper citations as indicated by the Board at the hearing on January 6, 2023, along with the corresponding certified records and corresponding dockets.





5. Records of all proceedings or actions by the Board concerning Judge Brumbach, including but not limited to complaints; meeting minutes; basis for decision to bypass inquiry for NOFI as well as probable cause; names of individuals who made the aforementioned determinations; any written submissions for consideration by the entire Board prior to any vote being taken on the process as to Judge Brumbach.
6. Copies of any Subpoenas for documents in this investigation from the Board to any witness.
7. Copies of interviews, summaries of conversations, or depositions of Domenic Reda, Joe Hassett, and Jan.
8. A copy of *The President Judge's Desk Book*.
9. All communications between Judge Dugan and Judge Brumbach up to and including January 10, 2022, regarding the averments as contained in the Board's Complaint.
10. Any and all Ethics Opinions relating to the averments contained in the Board's Complaint.
11. A copy of the Local Traffic Court Rules of Procedure.
12. Any paper citations in Traffic Court from B Court for open matters awaiting adjudication, in any posture, which contain any markings on the back of the citations, scribble or notations appearing like a judge's signature.
13. Any paper citations in Traffic Court from B Court for all matters adjudicated over the last four years which contain any duplicate markings, cross outs on the back of the citations, scribble or notations with multiple judge's signatures.

**k**

14. Copies of all paper citation from B Court and the electronic docket entries for each citation listed on January 10, 2022.

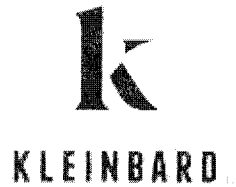
15. Any and all instructional guides, handbooks on operations, duties, and/or procedure for Traffic Court's Court Cryers and the Office of Judicial Records Criminal Division Court Clerks of Traffic Court.

16. Any and all instructional guides, user manual, handbooks on operations and procedure for Traffic Court's comprehensive electronic filing system.

Respectfully submitted,

/s/ Matthew H. Haverstick  
Matthew H. Haverstick

MATTHEW H. HAVERSTICK  
MHAVERSTICK@KLEINBARD.COM  
Direct Dial 215.496.7225



December 20, 2022

Melissa L. Norton  
Interim Chief Counsel  
Commonwealth of Pennsylvania Judicial Conduct Board  
601 Commonwealth Ave., Suite 3500  
Harrisburg, PA 17106

**RE: In re Judge Marissa J. Brumbach Municipal Court Judge 1st Judicial District Philadelphia County, 2 JD 2022**

Dear Attorney Norton:

I am hereby requesting the following information in discovery, regardless of form, within ten days of your receipt of this letter,

1. All exculpatory evidence relevant to the charges contained in the Complaint.
2. All exculpatory evidence relevant to the Judicial Conduct Board's ("Board") Complaint including any evidence of the Board's violation of its own procedures.
3. Records of all proceedings before the Board concerning Judge Brumbach, including, but not limited to, meeting minutes, subpoenas, testimony, and memoranda.
4. All evidence relevant to the charges contained in the Complaint.
5. Any internal communications and/or records of any Municipal Court judges and/or employees regarding Judge Brumbach and her plans for vacation on January 7, 2022.
6. Any internal communications and/or records of any Municipal Court judges and/or employees regarding the plan outlined in Judge Brumbach's January 6, 2022 email to President Judge Dugan.
7. All transcripts of any depositions taken by the Board during its investigation of Judge Brumbach.



8. Any witness statements provided to the Board during its investigation of Judge Brumbach.
9. All videos of depositions or witness testimony taken by the Board during its investigation of Judge Brumbach.
10. All records relating to any requests by any Municipal Court judges for time-off and/or leave within the past three years as well as all records relating to the disposition of those requests.
11. Any records, including those from the Board's previous investigations (Nos. 2020-646 and 202-652), containing statements or accusations relating to Judge Brumbach's integrity.
12. Names and addresses of all witnesses whom the Board intends to call at trial.
13. All documents the Board intends to present at trial.
14. Statements of all witnesses the Board intends to call at trial.
15. Daily, monthly, and yearly itemized disposition reports for Traffic Court B Court for last three years.
16. Any paper citations in Traffic Court from B Court for open matters awaiting adjudication, in any posture, which contain any markings on the back of the citations, scribble or notations appearing like a judge's signature.
17. Any paper citations in Traffic Court from B Court for all matters adjudicated over the last four years which contain any duplicate markings, cross outs on the back of the citations, scribble or notations with multiple judge's signatures.
18. Copies of all paper citations from B Court and the electronic docket entries for each citation listed on January 10, 2022.
19. Any and all instructional guides, handbooks on operations and duties and procedure for Traffic Court's Court Cryers and the Office of Judicial Records Criminal Division Court Clerks of Traffic Court.
20. Any and all instructional guides, user manual, handbooks on operations and procedure for Traffic Court's comprehensive electronic filing system



21. All records of Municipal Court Judicial Assignments, changes in assignments, and when and for whom courtroom coverage was provided for any other judge over the last four years.
22. All records relating indicating the number of times if any, when and for whom, President Judge Dugan failed to provided courtroom coverage or administrative closure by continuing all matters for a judge taking judicial leave from their assignment.
23. All records indicating performance data of the entire judiciary, by county, including disposition of case load, number of workdays per judge and the number of those days those taken by the judge in judicial leave over the last four years.
24. The amount allotted in judicial leave and/or vacation per judge by county.
25. The amount of judicial leave taken and/or vacation by each judge by county.
26. All presentations, course materials, outlines, documents, or other information made available or provided to Judge Brumbach by the Minor Judiciary Education Board or other body of the Pennsylvania Supreme Court or the Unified Judicial System regarding Traffic Court, it's processes, procedure and rules of court.
27. All written or verbal complaints received by the Board regarding Judge Brumbach. This request should be deemed to include the identity of the complainant(s) and the date(s) of receipt.
28. Any written confession or inculpatory statement of Judge Brumbach, or the substance of any oral confession or inculpatory statement and the identity of the person to whom the confession(s) or inculpatory statement(s) was made..
29. Any results or reports of scientific tests, expert opinions, and written or recorded reports of any examinations of Judge Brumbach.
30. The transcripts and recordings of any electronic surveillance, and the authority by which the said transcripts and recordings were obtained.
31. To the extent not requested above, the contents of your file and all other information in the Board's possession or control regarding Judge Brumbach.

**k**

Respectfully submitted,

/s/ Matthew H. Haverstick  
Matthew H. Haverstick

# **EXHIBIT B**



**COMMONWEALTH OF PENNSYLVANIA  
JUDICIAL CONDUCT BOARD**

PENNSYLVANIA JUDICIAL CENTER  
601 COMMONWEALTH AVENUE, SUITE 3500  
P.O. Box 62525  
HARRISBURG, PA 17106-2525  
WWW.JCBPA.ORG

717-234-7911

December 29, 2022

The Honorable Marissa J. Brumbach  
c/o Matthew H. Haverstick, Esquire  
Kleinbard LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103

**Re: In Re: Judge Marissa J. Brumbach  
2 JD 2022**

Dear Attorney Haverstick:

Pursuant to C.J.D.R.P. No. 401, enclosed with this letter please find a flash drive containing discovery in this matter. Below is a list of what is contained on the flash drive.

1. Confidential Request for Investigation with Memo and Exhibits - Opened by Chief Counsel on January 19, 2022;
2. President Judge Dugan's Response to Subpoena No. 2022-003 Attaching 95 Traffic Files Listed for Trial on January 7, 2022;
3. Emails between President Judge Dugan and Judge Brumbach Regarding January 7, 2022 and January 10, 2022 Traffic Court Assignments;
4. Text Messages from President Judge Dugan to Judge Brumbach Regarding Assignment for the Week of January 10, 2022;
5. Letter from Judge Brumbach to President Judge Dugan Regarding Staff Reassignments Dated February 24, 2022;
6. Traffic Court Codes Provided by Margaret Fenerty, Chief at the Municipal Court Traffic Division;
7. Email from Margaret Fenerty to President Judge Dugan Dated February 9, 2022 Regarding Rescheduled Cases from Trial Date on January 7, 2022;
8. Transcript of Deposition of Richard Delario, taken March 2, 2022 with Exhibits;
9. Copy of Missing Citation No. SS1006541;
10. Response from Margaret Fenerty from Subpoena No. 2022-018 Enclosing Scheduled Hearing Worksheets; and




11. Response from Margaret Fenerty from Subpoena No. 2022-022 Enclosing Trial List and Scheduled Hearing Worksheets.

The following items have been provided to you previously as indicated and are not, therefore, included on the flash drive.

1. Report of Interview of President Judge Dugan provided by email dated December 21, 2022;
2. Report of Interview of Judge Pittman provided by email dated December 21, 2022;
3. Transcript of Deposition of Margaret Fenerty taken March 2, 2022, provided by email dated December 21, 2022;
4. Transcript of Deposition of Judge Pittman taken September 28, 2022, provided by email dated December 21, 2022;
5. Transcript of Deposition of Judge Brumbach taken November 17, 2022, provided by email dated December 27, 2022;
6. Transcript of Deposition of Daren Waite taken May 5, 2022, provided by email dated December 27, 2022; and
7. Transcript of Deposition of Donna Sofronski taken March 2, 2022, provided by email dated December 27, 2022

Additionally, the Board requests that you provide reciprocal discovery pursuant to C.J.D.R.P. No. 401, relevant to the matter before the Court.

Very truly yours,

  
Melissa L. Norton  
Interim Chief Counsel

MLN/pds  
Enclosure (Flash Drive)  
UPS Overnight Tracking Number 1ZY4X745A297268146



**COMMONWEALTH OF PENNSYLVANIA  
JUDICIAL CONDUCT BOARD**

PENNSYLVANIA JUDICIAL CENTER  
601 COMMONWEALTH AVENUE, SUITE 3500  
P.O. BOX 62525  
HARRISBURG, PA 17106-2525  
WWW.JCBPA.ORG

717-234-7911

February 9, 2023

The Honorable Marissa J. Brumbach  
c/o Matthew H. Haverstick, Esquire  
Kleinbard LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103

**Re: In Re: Judge Marissa J. Brumbach  
2 JD 2022**

Dear Attorney Haverstick:

Pursuant to C.J.D.R.P. No. 401, enclosed with this letter please find a flash drive containing discovery in this matter. Below is a list of what is contained on the flash drive.

1. Copies of the contents of the court files pertaining to the citations shown in exhibits 1 through 95 as those files now appear;
2. Email from Judge Brumbach to President Judge Dugan and Judge Pittman dated January 10, 2022;
3. Text messages from President Judge Dugan to Judge Pittman dated January 6, 2022; and
4. JCB Subpoena Nos. 2022-018 and 2022-022 and corresponding cover letters.

If you have any questions, please feel free to contact our office. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Melissa L. Norton".

Melissa L. Norton  
Chief Counsel

MLN/pds  
Enclosures (Flash Drive)  
UPS Overnight Tracking Number 1ZY4X745A299565437

# EXHIBIT C

1:32

LTE

6



Pat

Thu, Jan 6, 10:56 AM

We need to talk about  
judge Brumbach and TC -  
an issue that Marge is also  
having

Ok. I was over there on  
Tuesday and I'm going over  
there again today.

Check with Marge  
Judge Brumbach is off  
tomorrow and has taking  
care of 95 % of list

Ok

She needs to work with  
admin ...  
She requested Jan 7 off but  
was not responded to (I  
think) ... Sharon and I are  
looking into it but I do t



Cash



11



# EXHIBIT D

## Francis Notarianni

---

**From:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Sent:** Tuesday, February 14, 2023 8:47 AM  
**To:** Francis Notarianni  
**Subject:** RE: JCB discovery

**This message was received from an external sender.**

---

Good morning, Francis. The photo provided is identical to that which was provided to the us.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
P.O. Box 62525  
Harrisburg, PA 17106  
Office: 717-234-7911 ext. 7933  
Cell: 717-562-1725

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---

**From:** Francis Notarianni <fnotarianni@kleinbard.com>  
**Sent:** Monday, February 13, 2023 4:03 PM  
**To:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Cc:** Matt Haverstick <mhaverstick@kleinbard.com>; Shohin H. Vance <svance@kleinbard.com>; Pamela Scipioni <Pamela.Scipioni@jcbpa.org>  
**Subject:** JCB discovery

---

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---

Hi Melissa,

The text message from Judge Dugan to Judge Pittman that was produced last week was partially cut-off. Can you please provide a copy of the rest of the message that's cut-off? Thank you.

Best,

Fran

# **EXHIBIT E**

## Francis Notarianni

---

**From:** Francis Notarianni  
**Sent:** Friday, February 17, 2023 1:17 PM  
**To:** Melissa L. Norton  
**Cc:** Matt Haverstick; Shohin Vance  
**Subject:** RE: JCB discovery

Hi Melissa,

Can you ask Judge Pittman for the remainder of that cut-off message and any additional messages that are related to what he and Judge Dugan did in response to Judge Brumbach's January 6 email? Also, does the Board intend to produce any other records responsive to Judge Brumbach's Discovery Request and Supplemental Discovery Request? Thank you.

Best,

Fran

**KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

**BIG FIRM EXPERIENCE. SMALL FIRM ATTENTION.**

Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor | Philadelphia, PA 19103  
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F | 215.568.0140  
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W | [www.kleinbard.com](http://www.kleinbard.com)



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---

**From:** Melissa L. Norton <[Melissa.Norton@jcbpa.org](mailto:Melissa.Norton@jcbpa.org)>  
**Sent:** Tuesday, February 14, 2023 8:47 AM  
**To:** Francis Notarianni <[fnotarianni@kleinbard.com](mailto:fnotarianni@kleinbard.com)>  
**Subject:** RE: JCB discovery



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Good morning, Francis. The photo provided is identical to that which was provided to the us.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
P.O. Box 62525  
Harrisburg, PA 17106  
Office: 717-234-7911 ext. 7933  
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**Sent:** Monday, February 13, 2023 4:03 PM  
**To:** Melissa L. Norton <[Melissa.Norton@jcbpa.org](mailto:Melissa.Norton@jcbpa.org)>  
**Cc:** Matt Haverstick <[mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)>; Shohin H. Vance <[svance@kleinbard.com](mailto:svance@kleinbard.com)>; Pamela Scipioni <[Pamela.Scipioni@jcbpa.org](mailto:Pamela.Scipioni@jcbpa.org)>  
**Subject:** JCB discovery

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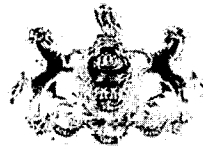
Hi Melissa,

The text message from Judge Dugan to Judge Pittman that was produced last week was partially cut-off. Can you please provide a copy of the rest of the message that's cut-off? Thank you.

Best,

Fran

# EXHIBIT F



**COMMONWEALTH OF PENNSYLVANIA  
JUDICIAL CONDUCT BOARD**

PENNSYLVANIA JUDICIAL CENTER  
601 COMMONWEALTH AVENUE, SUITE 3500  
P.O. Box 62525  
HARRISBURG, PA 17106-2525  
WWW.JCBPA.ORG

717-234-7911

February 22, 2023

The Honorable Marissa J. Brumbach  
c/o Matthew H. Haverstick, Esquire  
Kleinbard LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103

**Re: In Re: Judge Marissa J. Brumbach  
2 JD 2022**

Dear Attorney Haverstick:

As per Attorney Notarianni's email request on February 13, 2023, enclosed please find a copy of the complete text message thread between President Judge Dugan and Judge Pittman on January 6, 2022.

If you have any questions, please feel free to contact our office. Thank you.

Very truly yours,

  
Melissa L. Norton  
Chief Counsel

MLN/pds  
Enclosure

2:01

LTE



Pat

we need to talk about  
judge Brumbach and TC -  
an issue that Marge is also  
having

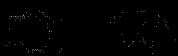
Ok. I was over there on  
Tuesday and I'm going over  
there again today.

Check with Marge  
Judge Brumbach is off  
tomorrow and has taking  
care of 95 % of list

Ok

She needs to work with  
admin ...  
She requested Jan 7 off but  
was not responded to (I  
think) ... Sharon and I are  
looking into it ... but I do t  
believe any coordination  
with Marge was done ..

Jan 6, 2022, 7:00 PM



# EXHIBIT G

## Francis Notarianni

---

**From:** Francis Notarianni  
**Sent:** Tuesday, March 7, 2023 8:51 AM  
**To:** 'Melissa L. Norton'  
**Cc:** Matt Haverstick; Shohin Vance  
**Subject:** RE: JCB discovery

Hi Melissa,

I'm following up on the message below. We received the remainder of the text message and noticed that the date stamp at the bottom indicates there were additional discussions between Judges Pittman and Dugan on January 6. Can you please ask Judge Pittman for the rest of his conversations with Judge Dugan on Jan. 6, or any other day, regarding this matter?

To date, the Board has not responded to many of our discovery requests—this is well-beyond the 60-day discovery period. Can you please advise when the Board intends to respond to Judge Brumbach's Discovery Request and Supplemental Discovery Request? Thank you.

Best,

Fran



**KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

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# EXHIBIT H

## Francis Notarianni

---

**From:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Sent:** Monday, March 13, 2023 2:28 PM  
**To:** Francis Notarianni  
**Subject:** RE: JCB discovery

This message was received from an external sender.

Judge Pittman has confirmed by email that there were no additional text messages between Judge Dugan and himself regarding the subject matter raised in the Board Complaint.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
P.O. Box 62525  
Harrisburg, PA 17106  
Office: 717-234-7911 ext. 7933  
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**Sent:** Tuesday, March 7, 2023 8:51 AM  
**To:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Cc:** Matt Haverstick <mhaverstick@kleinbard.com>; Shohin H. Vance <svance@kleinbard.com>  
**Subject:** RE: JCB discovery

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Hi Melissa,

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Best,

Fran





## KLEINBARD

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Kleinbard LLC

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**Sent:** Friday, February 17, 2023 1:17 PM  
**To:** Melissa L. Norton <[Melissa.Norton@jcbpa.org](mailto:Melissa.Norton@jcbpa.org)>  
**Cc:** Matt Haverstick <[mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)>; Shohin Vance <[svance@kleinbard.com](mailto:svance@kleinbard.com)>  
**Subject:** RE: JCB discovery

Hi Melissa,

Can you ask Judge Pittman for the remainder of that cut-off message and any additional messages that are related to what he and Judge Dugan did in response to Judge Brumbach's January 6 email? Also, does the Board intend to produce any other records responsive to Judge Brumbach's Discovery Request and Supplemental Discovery Request? Thank you.

Best,

Fran



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**Sent:** Tuesday, February 14, 2023 8:47 AM  
**To:** Francis Notarianni <[fnotarianni@kleinbard.com](mailto:fnotarianni@kleinbard.com)>  
**Subject:** RE: JCB discovery

**This message was received from an external sender.**

---

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Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
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P.O. Box 62525  
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**Sent:** Monday, February 13, 2023 4:03 PM  
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**Cc:** Matt Haverstick <[mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)>; Shohin H. Vance <[svance@kleinbard.com](mailto:svance@kleinbard.com)>; Pamela Scipioni <[Pamela.Scipioni@jcbpa.org](mailto:Pamela.Scipioni@jcbpa.org)>  
**Subject:** JCB discovery

---

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Hi Melissa,

The text message from Judge Dugan to Judge Pittman that was produced last week was partially cut-off. Can you please provide a copy of the rest of the message that's cut-off? Thank you.

Best,

Fran

# **EXHIBIT I**

## Francis Notarianni

---

**From:** Francis Notarianni  
**Sent:** Monday, March 13, 2023 2:36 PM  
**To:** Melissa L. Norton  
**Cc:** Matt Haverstick; Shohin Vance  
**Subject:** RE: JCB discovery

Thank you, Melissa.

Can you also provide a response to the rest of my March 7 email regarding the Board's responses to Judge Brumbach's outstanding discovery requests?

Best,

Fran



**KLEINBARD** LLC

Francis G. Notarianni  
Associate  
Kleinbard LLC

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---

**From:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Sent:** Monday, March 13, 2023 2:28 PM  
**To:** Francis Notarianni <fnotarianni@kleinbard.com>  
**Subject:** RE: JCB discovery

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Judge Pittman has confirmed by email that there were no additional text messages between Judge Dugan and himself regarding the subject matter raised in the Board Complaint.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
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**From:** Francis Notarianni <[fnotarianni@kleinbard.com](mailto:fnotarianni@kleinbard.com)>  
**Sent:** Tuesday, March 7, 2023 8:51 AM  
**To:** Melissa L. Norton <[Melissa.Norton@jcbpa.org](mailto:Melissa.Norton@jcbpa.org)>  
**Cc:** Matt Haverstick <[mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)>; Shohin H. Vance <[svance@kleinbard.com](mailto:svance@kleinbard.com)>  
**Subject:** RE: JCB discovery

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Hi Melissa,

I'm following up on the message below. We received the remainder of the text message and noticed that the date stamp at the bottom indicates there were additional discussions between Judges Pittman and Dugan on January 6. Can you please ask Judge Pittman for the rest of his conversations with Judge Dugan on Jan. 6, or any other day, regarding this matter?

To date, the Board has not responded to many of our discovery requests—this is well-beyond the 60-day discovery period. Can you please advise when the Board intends to respond to Judge Brumbach's Discovery Request and Supplemental Discovery Request? Thank you.

Best,

Fran



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Francis G. Notarianni  
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**From:** Francis Notarianni  
**Sent:** Friday, February 17, 2023 1:17 PM  
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**Cc:** Matt Haverstick <[mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)>; Shohin Vance <[svance@kleinbard.com](mailto:svance@kleinbard.com)>  
**Subject:** RE: JCB discovery

Hi Melissa,

Can you ask Judge Pittman for the remainder of that cut-off message and any additional messages that are related to what he and Judge Dugan did in response to Judge Brumbach's January 6 email? Also, does the Board intend to produce any other records responsive to Judge Brumbach's Discovery Request and Supplemental Discovery Request? Thank you.

Best,

Fran



**KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

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---

**From:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Sent:** Tuesday, February 14, 2023 8:47 AM  
**To:** Francis Notarianni <fnotarianni@kleinbard.com>  
**Subject:** RE: JCB discovery

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Good morning, Francis. The photo provided is identical to that which was provided to the us.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
P.O. Box 62525  
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**From:** Francis Notarianni <fnotarianni@kleinbard.com>  
**Sent:** Monday, February 13, 2023 4:03 PM  
**To:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Cc:** Matt Haverstick <mhaverstick@kleinbard.com>; Shohin H. Vance <svance@kleinbard.com>; Pamela Scipioni <Pamela.Scipioni@jcbpa.org>  
**Subject:** JCB discovery

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Hi Melissa,

The text message from Judge Dugan to Judge Pittman that was produced last week was partially cut-off. Can you please provide a copy of the rest of the message that's cut-off? Thank you.

Best,

Fran



# EXHIBIT J

## Francis Notarianni

---

**From:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Sent:** Tuesday, March 21, 2023 3:42 PM  
**To:** Francis Notarianni  
**Subject:** RE: JCB discovery

**This message was received from an external sender.**

Good afternoon, Fran,

My response should be interpreted to mean that the Board has complied with Rule 401 (D)(1) by providing the Respondent with all non-privileged evidence relevant to the charges contained in the Board Complaint, documents to be presented at the trial and statements of witnesses who will be called to testify. As to the remainder of your email regarding discovery, I trust you will take whatever steps you believe are appropriate and permitted under the Court of Judicial Discipline Rules of Procedure and I appreciate the information you have provided. Finally, I see no reason to ask Judge Pittman to sign an attestation or affidavit as you suggested for the simple reason that he can be asked that question when he testifies. However, if we are able to agree, at some point in the future, to stipulations that will negate the need for testimony from Judge Pittman, I will reconsider your request for an attestation or affidavit.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
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---

**From:** Francis Notarianni <fnotarianni@kleinbard.com>  
**Sent:** Tuesday, March 21, 2023 3:29 PM  
**To:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Cc:** Matt Haverstick <mhaverstick@kleinbard.com>; Shohin H. Vance <svance@kleinbard.com>  
**Subject:** RE: JCB discovery

---

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---

Hi Melissa,

Thank you for response. Just to be clear, are you saying that the Board does not have any of the other requested documents or that the Board is not required to produce any additional documents pursuant to Rule 401? If it's the former, we will begin subpoenaing the necessary parties to get the information. We will also start taking the necessary

steps to depose Judge Pittman, Judge Dugan, Marge Fenerty, and the Board's investigator in this matter. Also, with respect to the Judge Pittman's texts with Judge Dugan, there's a date stamp at the bottom of the message that indicates he had other communications with Judge Dugan on January 6. It's hard to believe those conversations did not involve this matter. Would Judge Pittman be willing to sign an attestation or affidavit to the effect that he does not have any texts with Judge Dugan on January 6, or any other day, that relate to this matter? Finally, with regard to our discovery, we are reviewing what documents we have to determine whether they fall within Rule 401's strictures. I will get back to you within a week.

Best,

Fran

**KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

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---

**From:** Melissa L. Norton <[Melissa.Norton@jcbpa.org](mailto:Melissa.Norton@jcbpa.org)>  
**Sent:** Friday, March 17, 2023 11:51 AM  
**To:** Francis Notarianni <[fnotarianni@kleinbard.com](mailto:fnotarianni@kleinbard.com)>  
**Subject:** RE: JCB discovery

**This message was received from an external sender.**

---

Thank you for your patience. At this point, I believe I have provided discovery as required pursuant to C.J.D.R.P. No. 401. As I have not received anything from you, I must assume that you have no discovery to exchange as required by the aforementioned rule.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
P.O. Box 62525  
Harrisburg, PA 17106  
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**From:** Francis Notarianni <[fnotarianni@kleinbard.com](mailto:fnotarianni@kleinbard.com)>  
**Sent:** Monday, March 13, 2023 2:36 PM  
**To:** Melissa L. Norton <[Melissa.Norton@jcbpa.org](mailto:Melissa.Norton@jcbpa.org)>  
**Cc:** Matt Haverstick <[mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)>; Shohin H. Vance <[svance@kleinbard.com](mailto:svance@kleinbard.com)>  
**Subject:** RE: JCB discovery

**CAUTION: This is an external email. Please think before you click on an attachment or link!**

Thank you, Melissa.

Can you also provide a response to the rest of my March 7 email regarding the Board's responses to Judge Brumbach's outstanding discovery requests?

Best,

Fran



**KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

**BIG FIRM EXPERIENCE. SMALL FIRM ATTENTION.**

Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor | Philadelphia, PA 19103  
D | 267.443.4121  
F | 215.568.0140  
E | [fnotarianni@kleinbard.com](mailto:fnotarianni@kleinbard.com)  
W | [www.kleinbard.com](http://www.kleinbard.com)

# EXHIBIT K

## Francis Notarianni

---

**From:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Sent:** Wednesday, March 22, 2023 9:44 AM  
**To:** Francis Notarianni  
**Subject:** RE: JCB discovery

**This message was received from an external sender.**

---

Will do.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
P.O. Box 62525  
Harrisburg, PA 17106  
Office: 717-234-7911 ext. 7933  
Cell: 717-562-1725

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---

**From:** Francis Notarianni <fnotarianni@kleinbard.com>  
**Sent:** Wednesday, March 22, 2023 9:37 AM  
**To:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Subject:** RE: JCB discovery

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---

Good morning Melissa,

Thank you for the clarification. Can you please ensure that Judge Pittman preserves his texts from January 6, or any other day, relevant to this matter to avoid any spoliation issues?

Best,

Fran



**KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

# **EXHIBIT L**



**COMMONWEALTH OF PENNSYLVANIA  
JUDICIAL CONDUCT BOARD**

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HARRISBURG, PA 17106-2525  
WWW.JCBPA.ORG

717-234-7911

March 29, 2023

The Honorable Marissa J. Brumbach  
c/o Matthew H. Haverstick, Esquire  
Kleinbard LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103

**Re: In Re: Judge Marissa J. Brumbach  
2 JD 2022**

Dear Attorney Haverstick:

Enclosed please find copies of the text message thread between President Judge Dugan and Judge Pittman between January 9, 2022 and January 12, 2022.

If you have any questions, please feel free to contact our office. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "Melissa L. Norton".

Melissa L. Norton  
Chief Counsel

MLN/pds  
Enclosures



10:51

LTE



Pat

Jan 9, 2022 at 5:48 PM

So, trying to understand  
what Judge B did in TC ...  
what I got is that  
adjudicated cases/tickets  
listed for Friday prior to  
then?

Marge said that the court  
officer said that she signed  
off on the tickets for the  
cases scheduled for Friday.  
So in a nutshell she  
adjudicated the cases.

Talk tomorrow

Sounds good.

Jan 10, 2022 at 11:15 AM

Call me in office when u



10:52

LTE 



Pat

Call me in office when u  
have a minute  
Basically I'm gonna need a  
memo from u and marge

Ok

Can u talk

Not right now. In the middle  
of a hearing.

Ok  
NP

Jan 10, 2022 at 1:46 PM

Can you talk

Yes

Jan 12, 2022 at 7:48 AM

I need a letter / email



10:52

LTE 



Pat

Ok  
NP

Jan 10, 2022 at 1:46 PM

Can you talk

Yes

Jan 12, 2022 at 7:48 AM

I need a letter / email  
detailing what you  
observed with judge  
Brumbach - not just a  
response to her email  
Let's talk

I'm parking

I'm in office

Jan 13, 2022 at 2:22 PM



Cash



# **EXHIBIT M**

## Francis Notarianni

---

**From:** Francis Notarianni  
**Sent:** Tuesday, April 4, 2023 6:07 PM  
**To:** Melissa L. Norton  
**Cc:** Matt Haverstick; Shohin Vance  
**Subject:** Brumbach JCB Discovery

Hi Melissa,

We received the text messages between Judge Pittman and Judge Dugan between January 9 and 12. Can you please produce all text messages between the two that are relevant to this matter and/or relate to Judge Brumbach in any way, regardless of when they were sent. It's particularly strange that the Board has not produced the remaining texts between Judge Pittman and Dugan from January 6 through January 9. The conversations between these two from January 6 through present may contain exculpatory evidence. See Pa. C.J.D.R.P. 401(E). The Board's selective production of texts—without any explanation—is inconsistent with the discovery rules.

Also, I am making a renewed request for a formal response by the Board to Judge Brumbach's Discovery Requests that responds to each request individually with detail. The trickle release of the texts makes clear that the Board has more information that it is withholding. If the Board continues to stonewall Judge Brumbach by refusing to respond to her discovery requests in detail, including a reason why the information was not produced, Judge Brumbach will consider filing a motion to compel.

Thank you.

Best,

Fran

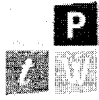


**KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

**BIG FIRM EXPERIENCE. SMALL FIRM ATTENTION.**

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1717 Arch Street, 5<sup>th</sup> Floor | Philadelphia, PA 19103  
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W | [www.kleinbard.com](http://www.kleinbard.com)



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# EXHIBIT N

## Francis Notarianni

---

**From:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Sent:** Wednesday, April 5, 2023 3:59 PM  
**To:** Francis Notarianni  
**Cc:** Matt Haverstick; Shohin Vance  
**Subject:** RE: Brumbach JCB Discovery

This message was received from an external sender.

In my March 21, 2023 email I explained that the Board has provided discovery in compliance with Rule 401. However, if will assist you, I will provide a response to each request individually. Please confirm that the requests you are seeking a response to are those contained in your December 20, 2022 and January 24, 2023 letters.

Melissa L. Norton, Chief Counsel  
Judicial Conduct Board of Pennsylvania  
Pennsylvania Judicial Center  
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Harrisburg, PA 17106  
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Cell: 717-562-1725

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---

**From:** Francis Notarianni <fnotarianni@kleinbard.com>  
**Sent:** Tuesday, April 4, 2023 6:07 PM  
**To:** Melissa L. Norton <Melissa.Norton@jcbpa.org>  
**Cc:** Matt Haverstick <mhaverstick@kleinbard.com>; Shohin H. Vance <svance@kleinbard.com>  
**Subject:** Brumbach JCB Discovery

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---

Hi Melissa,

We received the text messages between Judge Pittman and Judge Dugan between January 9 and 12. Can you please produce all text messages between the two that are relevant to this matter and/or relate to Judge Brumbach in any way, regardless of when they were sent. It's particularly strange that the Board has not produced the remaining texts between Judge Pittman and Dugan from January 6 through January 9. The conversations between these two from January 6 through present may contain exculpatory evidence. See Pa. C.J.D.R.P. 401(E). The Board's selective production of texts—without any explanation—is inconsistent with the discovery rules.

Also, I am making a renewed request for a formal response by the Board to Judge Brumbach's Discovery Requests that responds to each request individually with detail. The trickle release of the texts makes clear that the Board has more information that it is withholding. If the Board continues to stonewall Judge Brumbach by refusing to respond to her discovery requests in detail, including a reason why the information was not produced, Judge Brumbach will consider filing a motion to compel.



Thank you.

Best,

Fran



## **KLEINBARD**

Francis G. Notarianni  
Associate  
Kleinbard LLC

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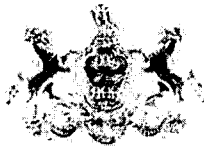


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# EXHIBIT O



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JUDICIAL CONDUCT BOARD**

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HARRISBURG, PA 17106-2525  
WWW.JCBPA.ORG

717-234-7911

April 10, 2023

The Honorable Marissa J. Brumbach  
c/o Matthew H. Haverstick, Esquire  
Kleinbard LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103

**Re: In Re: Judge Marissa J. Brumbach  
2 JD 2022**

Dear Attorney Haverstick:

In response to your recent request for a formal response to Judge Brumbach's Discovery Requests that responds to each request individually with detail, I provide the following.

Response to December 20, 2022, request:

1. The Board is unaware of, nor does it possess, any exculpatory evidence.
2. The Board is unaware of, nor does it possess, any exculpatory evidence and/or any evidence of the violations by the Board of its own procedures.
3. This request seeks information that, if it exists, is confidential pursuant to Article V, §18(a)(8) of the Constitution of the Commonwealth of Pennsylvania. Furthermore, this request seeks information that, if it exists, is governed by the deliberative process, attorney-client, and attorney work product privileges and is otherwise outside the requirements of C.J.D.R.P. No. 401(D)(1). To the extent that such information exists and falls within the requirements of C.J.D.R.P. No. 401(D)(1), it has already been provided.
4. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023.

5. To the extent that the Board possesses the information requested, it has been provided by way of correspondence listed in paragraph 4 above.
6. To the extent that the Board possesses the information requested, it has been provided by way of correspondence listed in paragraph 4 above.
7. Provided. See correspondence dated December 21, 2022, December 29, 2022, and January 4, 2023.
8. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023.
9. Provided. See correspondence dated January 4, 2023.
10. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
11. This request seeks information that, if it exists, is confidential pursuant to Article V, §18(a)(8) of the Constitution of the Commonwealth of Pennsylvania. Furthermore, this request seeks information that, if it exists, is governed by the deliberative process, attorney-client, and attorney work product privileges and is otherwise outside the requirements of C.J.D.R.P. Nos. 401(C) and 401(D)(1).
12. This information will be provided at the time of the issuance of the conference judge's pre-trial conference order, consistent with C.J.D.R.P. Nos. 401(C), 401(D)(1).
13. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023.
14. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023.
15. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
16. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
17. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
18. Provided. See correspondence dated February 9, 2023.

19. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
20. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
21. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
22. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
23. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
24. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
25. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
26. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
27. This request seeks information that, if it exists, is confidential pursuant to Article V, §18(a)(8) of the Constitution of the Commonwealth of Pennsylvania. Furthermore, this request seeks information outside the requirements of C.J.D.R.P. Nos. 401(C), 401(D)(1). To the extent that such information exists and falls within the requirements of C.J.D.R.P. No. 401(D)(1), it has already been provided.
28. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023.
29. The Board is unaware of, nor does it possess, the information requested in this paragraph.
30. The Board is unaware of, nor does it possess, the information requested in this paragraph.
31. This request seeks information that, if it exists, is confidential pursuant to Article V, §18(a)(8) of the Constitution of the Commonwealth of Pennsylvania.

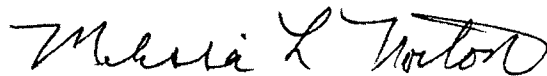
Furthermore, this request seeks information that, if it exists, is governed by the deliberative process, attorney-client, and attorney work product privileges and is otherwise outside the requirements of C.J.D.R.P. Nos. 401(C) and 401(D)(1). To the extent that such information exists and falls within the requirements of C.J.D.R.P. No. 401(D)(1), it has already been provided.

Response to January 24, 2023, request:

1. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023. To the extent that this paragraph seeks copies of documents that were not acted upon by Judge Brumbach after January 6, 2022, this request seeks information outside the requirements of C.J.D.R.P. Nos. 401(C) and 401(D)(1).
2. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
3. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023. To the extent that this paragraph seeks copies of documents that were not acted upon by Judge Brumbach after January 6, 2022, this request seeks information outside the requirements of C.J.D.R.P. Nos. 401(C) and 401(D)(1).
4. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023. To the extent that this paragraph seeks copies of documents that were not acted upon by Judge Brumbach after January 6, 2022, this request seeks information outside the requirements of C.J.D.R.P. Nos. 401(C) and 401(D)(1).
5. This request seeks information that, if it exists, is confidential pursuant to Article V, §18(a)(8) of the Constitution of the Commonwealth of Pennsylvania. Furthermore, this request seeks information that, if it exists, is governed by the deliberative process, attorney-client, and attorney work product privileges and is otherwise outside the requirements of C.J.D.R.P. No. 401(D)(1). To the extent that such information exists, is not subject to privilege, and falls within the requirements of C.J.D.R.P. No. 401(D)(1), it has already been provided.
6. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
7. The Board does not possess the requested information.

8. By correspondence dated March 28, 2023, Judge Brumbach provided the requested information to the Board. Therefore, Judge Brumbach possesses the requested information.
9. Provided. See correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023. Furthermore, by correspondence dated March 28, 2023, Judge Brumbach provided additional information described in this request to the Board. Therefore, Judge Brumbach possesses the requested information.
10. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
11. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1)
12. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
13. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
14. To the extent that the Board possesses the information requested, it has been provided by way of correspondence dated December 21, 2022, December 29, 2022, January 4, 2023, February 9, 2023, February 22, 2023, and March 29, 2023.
15. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).
16. This request seeks information outside the requirements of C.J.D.R.P. No. 401(D)(1).

Very truly yours,



Melissa L. Norton  
Chief Counsel