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COURT OF JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE:

Andrew T. LeFever, Esq. :  
Magisterial District Judge : 7 JD 2020  
Magisterial District 02-2-04 :  
2nd Judicial District :  
Lancaster County :

**RESPONSE TO THE MOTION FOR THE COURT  
TO RECONSIDER ITS DECISION TO DENY  
THE JUDICIAL CONDUCT BOARD'S MOTION IN LIMINE**

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NOW COMES Magisterial District Judge Andrew T. LeFever, Respondent herein, by and through his counsel, Robert A. Graci, Esquire, and Saxton & Stump, LLC, and files this Response to the Motion for the Court to Reconsider Its Decision to Deny the Judicial Conduct Board's Motion in Limine, and, in support thereof, avers as follows:

1. Denied as stated. The Board Complaint filed with this Court on November 9, 2020 is a document which speaks for itself. Any attempts to explain or characterize its contents are denied. It is admitted that the only violations of the Rules Governing Standards of Conduct of Magisterial Judges (Rules) alleged to have been violated by Respondent are:

a. Canon 4, Rule 4.1(A)(1);

- b. Canon 4, Rule 4.1(A)(3); and
  - c. Canon 4, Rule 4.2(A)(1).
2. Admitted.
  3. Admitted.
  4. Denied as stated and as argument and conclusions of law requiring no

response. The Memorandum of Law filed on behalf of Judge LeFever in Opposition to the Motions in Limine Filed by the Judicial Conduct Board is a writing which speaks for itself. Any attempts to explain or characterize its contents is denied. It is admitted that among the authorities cited and relied upon in Judge LeFever's Memorandum of Law was this Court's unanimous opinion in *In re Whittaker*, 948 A.2d 279 (Pa.Ct.Jud.Disc. 2008), which rejected the Board's contention that alleged violations of the Rules Governing Standards of Conduct of Magisterial District Judges (Rules) are akin to regulatory offenses which have no scienter or mens rea requirement. The Board never mentioned this authority in its argument to the Court and never suggested, until the filing of the present motion and its Memorandum in Support of its motion, that *Whittaker* is inapposite. Judge LeFever's Memorandum of Law also cited *Morrisette v. United States*, 342 U.S. 246, 72 S.Ct. 240, 96 L.Ed. 288 (1952), and *Staples v. United States*, 511 U.S. 600, 114 S.Ct. 1793, 128 L.Ed.2d 608 (1994), along with *In re Hasay*, 686 A.2d 809 (Pa. 1996), and the Preamble to the Rules, Rules, Preamble [6], in support of its

argument to deny the Board's Motion in Limine seeking to exclude testimony from Judge LeFever regarding his intent to comply with the Rules.

5. Admitted.

6. Denied as an improper conclusion of law and argument requiring no response. By way of further response, Respondent's intent to comply with the Rules is a fact of consequence in determining whether Respondent violated Rules with which he has been charged as set forth in the previously filed Memorandum of Law in Opposition to the Motions in Limine Filed by the Judicial Conduct Board filed on behalf of Judge LeFever which is incorporated herein by reference as though set forth in full.

7. Denied as an improper conclusion of law and argument requiring no response. By way of further response, for the reasons set forth in the Memorandum of Law in Opposition to the Motion for the Court to Reconsider Its Decision to Deny the Judicial Conduct Board's Motion In Limine, there no reason to reconsider the Court's prior order or its prior unanimous opinion in *In re Whittaker, supra*.

WHEREFORE, based upon this Response to the Motion for the Court to Reconsider Its Decision to Deny the Judicial Conduct Board's Motion in Limine and the arguments set forth in the accompanying Memorandum of Law in Opposition to the Motion for the Court to Reconsider Its Decision to Deny the

Judicial Conduct Board's Motion in Limine, and it is respectfully requested that this Honorable Court deny the Motion for the Court to Reconsider Its Decision to Deny the Judicial Conduct Board's Motion in Limine.

Respectfully submitted,



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Robert A. Graci, Esquire  
Supreme Court ID No. 26722  
Saxton & Stump, LLC  
4250 Crums Mill Road  
Harrisburg, Pa 17112

Attorney for Andrew T. LeFever  
Magisterial District Judge

Date: September 13, 2021

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE:

Andrew T. LeFever, Esquire :  
Magisterial District Judge : 7 JD 2020  
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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records and Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing of confidential information and documents differently than non-confidential information and documents.

Submitted by: Counsel for Andrew T. LeFever

Signature: 

Name: Robert A. Graci, Esquire

Attorney ID Number: 26722

**COMMONWEALTH OF PENNSYLVANIA  
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**PROOF OF SERVICE**

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on the date below a copy of the Response to the Motion for the Court to Reconsider Its Decision to Deny the Judicial Conduct Board's Motion in Limine was mailed and emailed to Colby J. Miller, Judicial Conduct Board Deputy Counsel, at the following addresses:

Colby J. Miller, Deputy Counsel  
Judicial Conduct Board  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 3500  
P.O. Box 62525  
Harrisburg, PA 17106

and

Colby.Miller@jcbpa.org

Respectfully submitted,



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Date: September 13, 2021