

IN THE COURT OF JUDICIAL DISCIPLINE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: SUPREME COURT JUSTICE :  
J. MICHAEL EAKIN : No. 13 JD 15  
:

RECEIVED AND FILED  
COURT OF  
JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

2016 MAR - 8 P 12:13

**ORDER OF COURT**

AND NOW this \_\_\_\_\_ day of March, 2016, upon consideration of the *Motion of Justice J. Michael Eakin for Permission to Present the Mediated Resolution Between Justice J. Michael Eakin and the Judicial Conduct Board*, the Motion is hereby GRANTED, and a hearing in open court before this Honorable Court, en banc, shall be held on March \_\_\_\_\_, 2016 at \_\_\_\_\_ m. in Courtroom No. \_\_\_\_\_, Pennsylvania Judicial Center, Harrisburg, Pennsylvania.

IT IS SO ORDERED.

BY THE COURT:

\_\_\_\_\_  
Hon. Robert J. Colville  
President Judge

Distribution

Counsel for Judicial Conduct Board:

Frank J. Puskas, Esq., James P. Kleman, Esq. and Elizabeth A. Flaherty, Esq.

Counsel for Justice J. Michael Eakin:

William C. Costopoulos, Esq. and Heidi F. Eakin, Esq.

IN THE COURT OF JUDICIAL DISCIPLINE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: SUPREME COURT JUSTICE  
J. MICHAEL EAKIN

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No. 13 JD

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OF PENNSYLVANIA

2016 MAR - 8 P 12: 13

**MOTION OF JUSTICE J. MICHAEL EAKIN TO THE**  
**COURT OF JUDICIAL DISCIPLINE EN BANC**  
**FOR PERMISSION**  
**TO PRESENT THE MEDIATED RESOLUTION BETWEEN**  
**JUSTICE J. MICHAEL EAKIN AND THE JUDICIAL CONDUCT BOARD**

TO THE HONORABLE ROBERT J. COLVILLE, PRESIDENT JUDGE, AND  
JUDGES OF SAID COURT:

AND NOW comes the Respondent Judicial Officer, Justice J. Michael Eakin, by  
and through his attorneys, William C. Costopoulos, Esquire, and Heidi F. Eakin, Esquire,  
COSTOPOULOS, FOSTER & FIELDS, and respectfully avers as follows in support of this  
Motion:

1. On December 8, 2015, the Judicial Conduct Board filed a complaint against  
Justice J. Michael Eakin alleging certain misconduct regarding email communications.
2. On December 21, 2015, after a hearing in Easton, Pennsylvania, a three-judge  
panel of the Court of Judicial Discipline *sua sponte* suspended Justice Eakin with pay  
pending disposition of the Board's complaint.
3. By letter from the Court of Judicial Discipline dated January 22, 2016, copied  
to all judges on the Court of Judicial Discipline, the Court of Judicial Discipline  
requested that Attorney Richard A. Sprague, President Judge Emeritus of the Court of  
Judicial Discipline, and former member of the Judicial Conduct Board, contact the parties

to determine if there is any possibility of a resolution in the above-captioned matter. *See* January 22, 2016 letter marked Exhibit "A" and attached hereto.

4. The letter states as follows *in toto* and verbatim:

Thank you for agreeing to be a resolution mediator in the above-captioned matter. As a President Judge Emeritus of the Pennsylvania Court of Judicial Discipline, we need your services in this important role.

We ask that you contact counsel for the Judicial Conduct Board and Justice Michael Eakin to provide whatever assistance they need if there is any possibility of a resolution. Since we sit in a non-jury capacity, please do not contact the Court or relay to us any of the details of your involvement.

In this case, Attorney Salvatore Cagnetti who is also a President Judge Emeritus, is assisting the Court with the exchange of messages with counsel. Therefore, if you have any questions, please contact Judge Cagnetti. I have included with this email a sheet with the names and phone number of counsel.

5. Subsequently, consistent with the Court's request, Attorney Sprague contacted counsel for the Judicial Conduct Board and counsel for Justice J. Michael Eakin.

6. The parties accepted the process set in place by the Court of Judicial Discipline and met with Attorney Sprague to pursue a proposed resolution for the Court's consideration.

7. This process was entered in good faith by all involved and with adherence to the mandates of the Court of Judicial Discipline.

8. The mediation process continued between counsel for the Judicial Conduct Board and Justice Eakin, a process that was time-consuming and costly, and a process that took almost a month to culminate in a resolution.

9. Once the resolution was approved by the Judicial Conduct Board's members and Justice Michael Eakin, a joint motion was entered into and filed with the Court of Judicial Discipline on February 22, 2016. *See* Joint Motion marked Exhibit "B" and attached hereto.

10. By order dated February 23, 2016, Judge Panella ordered counsel for the parties and Justice Eakin himself to appear within 48 hours for a hearing on the motion in Pittsburgh on February 25, 2016.

11. Counsel for the Judicial Conduct Board as well as four members of the Judicial Conduct Board, counsel for Justice Eakin and Justice Eakin himself, appeared in a courtroom in Pittsburgh on February 25, 2016, for the hearing to consider the Joint Motion.

12. The panel consisted of Judge Panella, Judge Mullen and Judge Barton.

13. The panel, with Conference Judge Panella presiding, made it clear from the bench that it would only entertain proposed stipulations of fact in lieu of trial from the parties presented in compliance with Rule 502(D) of the Court of Judicial Discipline Rules of Procedure.

14. The present motion is a motion that could be dispositive of this matter and should be heard by the Court en banc.

15. In the interest of transparency, the parties should be permitted to read in open court the agreed proposed resolution reached through the mediation process and to present to the Court en banc the reasons supporting its consideration and acceptance by the Court.

16. In the context of the mediation process put in place by the Court of Judicial Discipline, a judicial officer who is facing disciplinary action should have the same due process that those charged with the most atrocious crimes have; to wit, that their negotiated dispositions are read in open Court, that the parties may present their reasons in support thereof, and, after due consideration, the assigned judge may approve or deny the proposed agreement.

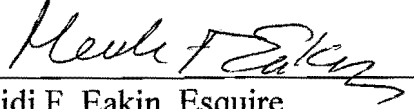
17. A hearing on this matter should be held by this Honorable Court, en banc, given the importance of this issue to the Judicial Conduct Board, to Justice Eakin and to jurists across the Commonwealth of Pennsylvania.

WHEREFORE, Respondent, Justice J. Michael Eakin, based on the foregoing averments, respectfully requests that Your Honorable Court hold a hearing before the Court en banc and, upon hearing, grant this motion and entertain the resolution reached between the parties in open court and before the Court en banc.

RESPECTFULLY SUBMITTED:



William C. Costopoulos, Esquire  
I.D. No. 22354



Heidi F. Eakin, Esquire  
I.D. No. 43893  
COSTOPOULOS, FOSTER & FIELDS  
831 Market Street  
Lemoyne, Pennsylvania 17043-1518  
Phone: 717.761.2121  
Fax: 717.761.4031  
Web: [www.Costopoulos.com](http://www.Costopoulos.com)  
ATTORNEYS FOR JUSTICE EAKIN

DATED: March 8, 2016

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE:

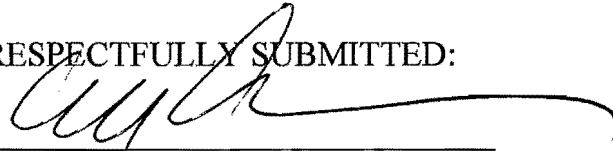
J. Michael Eakin :  
Justice of the Supreme Court of : No. 13 JD 2015  
Pennsylvania :

**PROOF OF SERVICE**

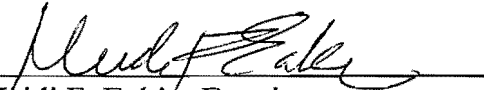
In compliance with Rule 122(d) of the Court of Judicial Discipline Rules of Procedure, on March 8, 2016, a copy of *Motion of Justice J. Michael Eakin to the Court of Judicial Discipline En Banc for Permission to Present the Mediated Resolution Between Justice J. Michael Eakin and the Judicial Conduct Board* was provided to Francis J. Puskas, II, Sr. Deputy Counsel, by personal service at the following address:

Francis J. Puskas, II, Sr. Deputy Counsel  
Judicial Conduct Board of Pennsylvania  
601 Commonwealth Ave., Suite 3500  
Harrisburg, PA 17120-0901

RESPECTFULLY SUBMITTED:



William C. Costopoulos, Esquire  
I.D. No. 22354



Heidi F. Eakin, Esquire  
I.D. No. 43893

COSTOPOULOS, FOSTER & FIELDS  
831 Market Street  
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Fax: 717.761.4031  
Email: [Wcostopoulos@Costopoulos.com](mailto:Wcostopoulos@Costopoulos.com)  
Email: [Heakin@Costopoulos.com](mailto:Heakin@Costopoulos.com)  
*Attorneys for Justice J. Michael Eakin*

DATED: March 8, 2016

COURT OF JUDICIAL DISCIPLINE  
COMMONWEALTH OF PENNSYLVANIA



Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 5500  
P.O. Box 62595  
Harrisburg, Pennsylvania 17106-2595

January 22, 2016

Richard A. Sprague, Esquire  
The Wellington Building  
135 South 19<sup>th</sup> Street, Suite 400  
Philadelphia, PA 19103

Re: In re: J. Michael Eakin, Justice of the Supreme Court of Pennsylvania  
13 JD 2015

Dear Mr. Sprague:

Thank you for agreeing to be a resolution mediator in the above-captioned matter. As a President Judge Emeritus of the Pennsylvania Court of Judicial Discipline, we need your services in this important role.

We ask that you contact counsel for the Judicial Conduct Board and Justice Michael Eakin to provide whatever assistance they need if there is any possibility of a resolution. Since we sit in a non-jury capacity, please do not contact the Court or relay to us any of the details of your involvement.

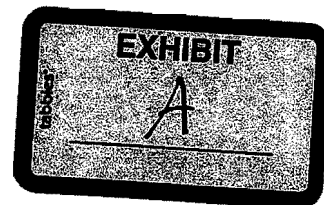
In this case, Attorney Salvatore Cognetti who is also a President Judge Emeritus, is assisting the Court with the exchange of messages with counsel. Therefore, if you have any questions, please contact Judge Cognetti. I have included with this email a sheet with the names and phone numbers of counsel.

Very truly yours,

Jack A. Panella

JAP/dtl

cc: CJD Judges  
Salvatore Cognetti



*Handwritten notes at the bottom of the page*



IN THE COURT OF JUDICIAL DISCIPLINE  
COMMONWEALTH OF PENNSYLVANIA

RECEIVED AND FILED  
COURT OF  
JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

2016 FEB 22 P 3:11

IN RE: SUPREME COURT JUSTICE  
J. MICHAEL EAKIN

:  
: No. 13 JD 15  
:

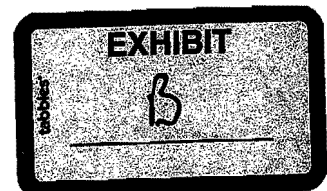
**JOINT MOTION BETWEEN JUSTICE J. MICHAEL EAKIN  
AND THE JUDICIAL CONDUCT BOARD FOR PERMISSION  
TO PRESENT ADDITIONAL PROPOSED STIPULATIONS  
TO THE COURT OF JUDICIAL DISCIPLINE**

AND NOW, this 22<sup>nd</sup> day of February, 2016, comes the Respondent Judicial Officer, Justice J. Michael Eakin, by and through his attorneys, William C. Costopoulos, Esquire, and Heidi F. Eakin, Esquire, and the Judicial Conduct Board, by and through their attorneys, Francis J. Puskas, II, Esquire, Deputy Chief Counsel, James P. Kleman, Jr., Esquire, Deputy Counsel, and Elizabeth A. Flaherty, Esquire, Deputy Counsel (“the parties”), and respectfully aver the following in support of this Joint Motion:

1. On January 22, 2016, the Court of Judicial Discipline of the Commonwealth of Pennsylvania appointed Attorney Richard A. Sprague, President Judge Emeritus of the Pennsylvania Court of Judicial Discipline, and former member of the Judicial Conduct Board, as a resolution mediator to provide the parties whatever assistance they needed if there was any possibility of a resolution in the above-captioned matter.

2. In making the appointment, the Court requested that Mr. Sprague contact the parties regarding mediation, but not contact the Court or relay any of the details of his involvement in mediation efforts.

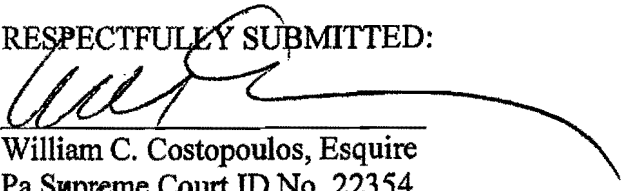
3. The parties have made a good-faith effort to reach a resolution through such mediation with Mr. Sprague.

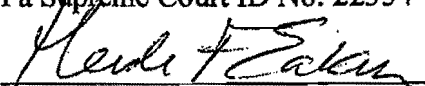


4. Pursuant to the procedure outlined by the Court of Judicial Discipline, this Joint Motion is hereby filed and submitted to present additional proposed stipulations to the Court. The parties are hereby requesting permission to present such additional proposed stipulations at a hearing in open court and on the record, at which time the Court may make a decision to entertain such additional proposed stipulations which could lead to a resolution.

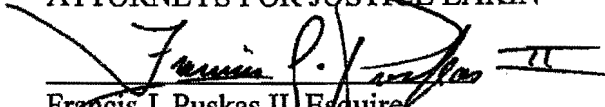
5. The parties understand that acceptance of such proposed stipulations and proposed resolution, once presented in open court, is at the discretion of the Court of Judicial Discipline.


RESPECTFULLY SUBMITTED:

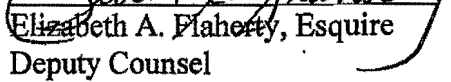
  
William C. Costopoulos, Esquire  
Pa Supreme Court ID No. 22354

  
Heidi F. Eakin, Esquire  
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ATTORNEYS FOR JUSTICE EAKIN

  
Francis J. Puskas II, Esquire  
Deputy Chief Counsel  
Pa. Supreme Court ID No. 76540

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

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

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

COUNSEL FOR JUDICIAL CONDUCT  
BOARD OF PENNSYLVANIA

DATED: February 22, 2016.

IN THE COURT OF JUDICIAL DISCIPLINE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: SUPREME COURT JUSTICE :  
J. MICHAEL EAKIN : No. 13 JD 15  
:

**ORDER OF COURT**

AND NOW this \_\_\_\_\_ day of February, 2016, upon consideration of the *Joint Motion Between Justice J. Michael Eakin and the Judicial Conduct Board to Present Additional Proposed Stipulations to the Court of Judicial Discipline*, the Joint Motion is hereby GRANTED, and a hearing in open court to consider the additional proposed stipulations shall be held on \_\_\_\_\_, 2016 at \_\_\_\_\_ m. in Courtroom No. \_\_\_\_\_, Pennsylvania Judicial Center, Harrisburg, Pennsylvania.

IT IS SO ORDERED.

BY THE COURT:

Hon. Jack A. Panella  
Conference Judge