

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

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OF PENNSYLVANIA

OCT 21 2020

RECEIVED AND FILED

IN RE:

Judge Thomas A. Placey :
Court of Common Pleas : 2 JD 2020
9th Judicial District :
Cumberland County :

JUDICIAL CONDUCT BOARD'S

MOTION TO AMEND BOARD COMPLAINT

AND NOW, this 21st day of October, 2020, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) by and through undersigned counsel, and files this Motion to Amend Board Complaint pursuant to C.J.D.R.P. No. 303(A) and in support thereof, avers the following.

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.
2. From January 2, 2012, to the present, Judge Placey (Respondent) has served continuously as a Judge of the Court of Common Pleas of Cumberland County.
3. Pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there was probable cause to file formal charges against Respondent in this Court.
4. On June 9, 2020, the Board filed formal charges against Respondent at *In re Placey*, 2 JD 2020.

5. On June 15, 2020, the Board received a new allegation of judicial misconduct against Respondent similar to the factual allegations contained in the Board Complainant then pending before this Court filed to *In re Placey*, 2 JD 2020.
6. On August 5, 2020, Respondent was provided with a Notice of Full Investigation (NOFI) regarding the new allegation received by the Board on June 15, 2020.
7. By letter dated September 24, 2020, Respondent, through his counsel, Attorney Heidi Eakin, responded to the August 5, 2020 NOFI.
8. In his September 24, 2020 letter, Respondent stated that he has no objection to the Board filing of an Amended Board Complaint pertaining to the new allegation as set forth in the August 5, 2020 NOFI.
9. Pursuant to C.J.D.R.P. No. 303(A) the written consent of Respondent to an Amended Board Complaint alleging the new allegation as set forth in the August 5, 2020 NOFI, is attached to this Motion and identified as Exhibit 1.
10. On June 6, 2019, Judge Placey presided over a hearing on a Petition for Protection from Abuse (PFA) in the matter of *Kimmett v. Kimmett*, Cumberland County Docket No. 2019-04775.
11. During the proceeding, as Mr. Kimmett was testifying on direct examination, his attorney, Lawrence J. Rosen, attempted to approach the witness stand in order to show Mr. Kimmett a document.
12. As Attorney Rosen approached the witness stand, Judge Placey addressed him, saying "Don't walk towards this witness. You will be out of the courtroom in a heartbeat."
13. Attorney Rosen, who is hearing impaired, replied, "I'm sorry, Your Honor?"

14. Before responding to Attorney Rosen's question, Judge Placey quickly stood up, taking a position close to Mr. Rosen.

15. While Judge Placey remained standing, the following exchange between the Judge and Attorney Rosen took place:

Judge: Do not walk towards the witness.

Attorney: Oh, I'm sorry.

Judge: You will be out of this courtroom in a heartbeat. Can you hear me now?

Attorney: I can.

Judge: Did you see Mr. Edger approach the witness?

Attorney: No.

Judge: Why do you think he doesn't do it?

Attorney: I want to give him an exhibit, Your Honor.

Judge: You can't.

Attorney: I cannot?

Judge: How did Mr. Edger do it?

Attorney: I don't recall.

Judge: Were you not here? Were you not paying attention?

Attorney: I was here Your Honor. I didn't mean to offend you.

Judge: You have.

16. An audio recording of the proceeding established that at times during the exchange described above, the volume of Judge Placey's voice was excessively loud and his tone was angry.

17. Immediately after the exchange, Judge Placey left the courtroom.
18. Approximately four minutes later, Judge Placey returned to the courtroom and the hearing proceeded.

CHARGES

Count 1 – Violation of Canon 2, Rule 2.8

19. By virtue of some or all of the conduct alleged in paragraphs 10 through 18, Judge Placey violated Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.
20. Canon 2, Rule 2.8(B) states the following:

Canon 2, Rule 2.8. Decorum, Demeanor, and Communication with Jurors.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

21. Judge Placey failed to conduct himself in a patient, dignified, and courteous manner when, on June 6, 2019, in the matter of *Kimmatt v. Kimmatt*, he used an extremely loud volume and angry tone when speaking to Attorney Rosen. By engaging in the conduct described in paragraphs 10 through 17, Judge Placey failed to be patient, dignified, and courteous within the meaning of Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.

Count 2 – Violation of Article V, § 17(b) of the

Constitution of the Commonwealth of Pennsylvania

22. By virtue of some or all of the conduct set forth above, Judge Placey violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

23. Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania states the following:

Article V, § 17(b) Derivative Violation

Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court.

24. A violation of the Code of Judicial Conduct constitutes an automatic, derivative violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, Thomas A. Placey, Judge of the Court of Common Pleas of Cumberland County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

DATE: October 21st, 2020

By:



MELISSA L. NORTON
Deputy Counsel
Pa. Supreme Court ID No. 46684

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

VERIFICATION

I, Melissa L, Norton, Deputy Counsel to the Judicial Conduct Board, verify that the facts set forth in the foregoing motion are true and correct to the best of my knowledge, information, and belief. I understand that the statements made in this petition are subject to the penalties of 18 Pa.C.S.A. § 4904, regarding unsworn falsification to authorities.

Respectfully submitted,

Date: October 21st, 2020

By:



MELISSA L. NORTON

Deputy Counsel

Pa. Supreme Court ID No. 46684

Judicial Conduct Board

Pennsylvania Judicial Center

601 Commonwealth Avenue, Suite 3500

P.O. Box 62525

Harrisburg, PA 17106

(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

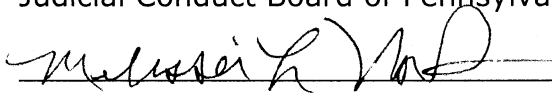
Judge Thomas A. Placey :
Court of Common Pleas : 2 JD 2020
9th Judicial District :
Cumberland County :

CERTIFICATE OF COMPLIANCE

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

Submitted by: Judicial Conduct Board of Pennsylvania

Signature:



Name:

MELISSA L. NORTON
Deputy Counsel

Attorney No.:

46684

EXHIBIT 1

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JUDICIAL CONDUCT BOARD OF PENNSYLVANIA

IN RE:

Judge Thomas A. Placey
Court of Common Pleas
9th Judicial District
Cumberland County

2 JD 2020

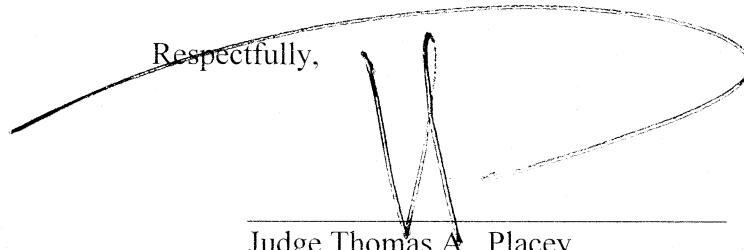
AND: NOFI 2020 - 236

AGREEMENT TO AMEND COMPLAINT

AND NOW, this 20th Day of October, 2020, Judge Thomas Placey, and
counsel, Heidi F. Eakin, Esquire, agree to the amendment of 2 JD 2020, to include the allegations
contained in Judicial Board NOFI complaint 2020-236.

Said agreement will effectuate judicial economy and is in the interests of justice.

Respectfully,

A large, stylized handwritten signature in black ink, appearing to be 'T. Placey', written over a horizontal line.

Judge Thomas A. Placey

A handwritten signature in black ink, appearing to be 'Heidi F. Eakin', written over a horizontal line.

Heidi F. Eakin, Esquire
Attorney for Judge Placey

**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 Motion to Amend Board Complaint was sent by first class mail and email to Heidi Eakin, Esquire, counsel to Judge Thomas A. Placey at the following address:

Heidi Eakin, Esquire
Costopoulos, Foster & Fields
831 Market Street
Lemoyne, PA 17043
Email: heakin@costopoulos.com

Respectfully submitted,

DATE: October 21st, 2020

By:



MELISSA L. NORTON

Deputy Counsel

Pa. Supreme Court ID No. 46684

Judicial Conduct Board

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