

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

JUL 17 2023

RECEIVED AND FILED

IN RE:

Judge Mark B. Cohen :
Court of Common Pleas : No. 1 JD 23
1st Judicial District :
Philadelphia County :

**ORDER CONCERNING THE TESTIMONY OF
PROFESSOR ALISON MERRILL, PH.D.**

At a Pretrial Conference, counsel for Judge Cohen, has objected to the proposed testimony of Professor Alison Merrill as an expert in this case. Counsel for Judge Cohen argues Professor Merrill is not a lawyer and that her testimony is unnecessary since the Court can decide whether Judge Cohen's Facebook postings are political or not without any expert testimony.

The Judicial Conduct Board counters that it offers testimony by Professor Merrill to:

- (1) address the definition and application of the term "partisan political activity" as applied to the evidence in this case, and;
- (2) address the workings of the internet as relevant here.

Professor Merrill is not being offered to testify on the ultimate issue of whether Judge Cohen violated the ethical requirements for Pennsylvania judges. Her testimony is limited as described above.

This is a case of first impression in Pennsylvania and Professor Merrill's proffered testimony may well be helpful to the Court.

Accordingly, the Court denies the motion by Judge Cohen's counsel to bar Professor Merrill's testimony.

BY THE COURT,

A handwritten signature in cursive script, appearing to read "Thomas E. Flaherty", written in black ink. The signature is positioned above a horizontal line.

Thomas E. Flaherty
Conference Judge