

COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

Mark A. Wilson :
Magisterial District Judge :
27th Judicial District :
Washington County : 1 JD 2017

RECEIVED
JUN 10 2017
JUDICIAL DISCIPLINE
CLERK OF COURT

2017 JUN -9 P 3:02

**REPLY OF THE JUDICIAL CONDUCT BOARD
TO OMNIBUS MOTION**

AND NOW, this 9th day of June, 2017, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by undersigned counsel, and files this Reply to Omnibus Pretrial Motion filed on behalf of Respondent, the Honorable Mark A. Wilson, as follows:

1. **Admitted.**
2. **Admitted.**
3. **Admitted.**
4. **Admitted.**
5. **Admitted.**
6. **Admitted.** By way of further answer, it is admitted that ADA Carroll's beliefs about the criminal versus civil merit of the Amon's complaint existed despite Respondent repeatedly requesting him to come to his office to review the private criminal complaint, and despite Respondent commenting to him that Mayor Kepics had made only \$400 in payments to the Amons, that Mayor Kepics was avoiding their attempts to contact him, and that the Amons were good people and that he wanted to help them out.

7. **The Board is without knowledge or information to respond to this averment. It is, therefore, denied and strict proof thereof is demanded.** By way of further answer, Respondent's averments concerning Mayor Kepics' conduct in contacting Chief Tempest is irrelevant to this Court's consideration of the allegations contained within the Board Complaint.
8. **Admitted.**
9. **Admitted.**
10. **Admitted.**
11. **The Board is without sufficient knowledge or information and belief to respond to this averment. It is, therefore, denied and strict proof thereof is demanded.**

Motion to Dismiss
Doctrine of Laches

12. **The responses set forth above are incorporated herein by reference as though set forth in full.**
13. **Denied as Stated.** It is admitted that Mayor Kepics filed a Confidential Request for Investigation on June 5, 2013. It is further admitted that Mayor Kepics obtained an Order expunging his records on February 7, 2013. The Board is without sufficient knowledge or information and belief concerning when Respondent acted on the expungement order and destroyed the files concerning Mayor Kepics' case. It is, therefore, denied and strict proof is demanded that "nearly four months *after* [Mayor Kepics] had Judge Wilson's file of his case destroyed, Kepics filed a Confidential Request for Investigation with the Board." (*italics* in original).

14. **Denied as stated.** Mayor Kepics' Confidential Request for Investigation is a written document that speaks for itself. See Exhibit A. Any attempt to characterize its contents is denied. Regarding the averment concerning the destruction of Judge Wilson's file in the matter involving Mayor Kepics, see ¶¶ 11 and 13, above, which are incorporated herein by reference as though set forth in full.
15. **Denied as argument and improper conclusions of law requiring no response. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.** To the extent any response is required, the Board denies that all substantiating records were lost or destroyed. Documentation substantiating the criminal process against Mayor Kepics does exist, and includes, in part, Amon's Private Criminal Complaint and complaint worksheet, Mayor Kepics' booking sheet, and ADA Carroll's memorandum to District Attorney Gene Vittone, all of which the Board has provided to Respondent as required by the Court's discovery rules.
16. **Denied as argument and improper conclusions of law requiring no response. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.** By way of further answer, laches is an equitable affirmative defense. In order for laches to apply, a respondent must prove the following elements: (1) a lack of due diligence by the complaining party who delayed the filing of the action; and (2) the respondent was prejudiced by the delay. *In re Lokuta*, 964 A.2d 988, 1130 (Pa.Ct.Jud.Disc.

2008)(citing **Weinberg v. State Board of Examiners**, 501 A.2d 239 (Pa. 1985)). In cases where, as here, the Commonwealth is the complaining party, the party asserting laches must make a "stronger showing" that laches applies to bar the Commonwealth from prosecuting its claim. **Lokuta**, *supra*, at 1131, n. 59 (citations omitted). While Respondent cites **Lokuta** for the proposition that Mayor Kepics' four-month delay in submitting his Confidential Request for Investigation establishes a lack of due diligence on the part of Mayor Kepics as a victim, a thorough review of **Lokuta** shows otherwise.

The Respondent in **Lokuta** asserted the affirmative defense of laches to overcome evidence of conduct that occurred more than a decade prior to its use at trial. **Id.**, 964 A.2d at 1129-32. In addressing the claim of laches, the Court of Judicial Discipline cited to **Lyness v. Com. State Bd. Of Med.**, 561 A.2d 362 (Pa. Commw. Ct. 1989), which involved a physician appealing a decision of the state Board of Medicine to revoke his license to practice medicine. In **Lyness**, the Board determined that the defendant committed immoral and unprofessional conduct, which had been the subject of an underlying criminal prosecution. The defendant raised the doctrine of laches based on the victims not reporting his conduct to the Board until years later. The Commonwealth Court recognized that the requirement of proving undue delay as part of laches "may be fulfilled by proving that a victim unjustifiably delayed in reporting an incident to the Board." **Id.**, at 370.

In rejecting Judge Lokuta's claim of laches, this Court refused to equate the **Lokuta** witnesses to the **Lyness** "victims." The Court found the **Lyness**

victims, who were victims of rapes and assaults, were victims in the elementary sense of the word where “[it] has long been recognized that the victim of a crime naturally would be expected to complain of the offense at the first safe opportunity.” **Lokuta**, *supra*, at 1131-1132. In the **Lyness** context, the lack of a prompt complaint raised questions about whether the crimes in fact took place. **Id.**, at 1131. In contrast, the Court found that the **Lokuta** witnesses testifying about non-criminal incidents were not “victims” as the Commonwealth Court found in **Lyness**. The events to which they testified were not occasions where it would have been natural, or even expected, that the witnesses would have immediately filed a complaint with the Judicial Conduct Board. **Id.**, at 1132.

Mayor Kepics’ experience with Respondent is more similar to the witnesses in **Lokuta** than with the victims in **Lyness**. One would not necessarily expect an individual to file a Confidential Request for Investigation with the Board at the first safe opportunity. The existence of the Judicial Conduct Board as an investigatory agency for judicial misconduct is not as well-known as that of the police. It would be natural for an individual victimized by a crime to report the incident to police within days or months because it is common knowledge that the police exist to enforce the criminal laws. In contrast, an individual is likely to be unaware of the Judicial Conduct Board’s existence to investigate and prosecute judicial misconduct unless and until the individual has the unfortunate occasion to experience judicial misconduct. It would be unremarkable that four months would pass before an individual discovers the existence of the

Judicial Conduct Board and decides to submit a Confidential Request for Investigation. As such, Mayor Kepics cannot reasonably be found to have unjustifiably delayed his filing with the Judicial Conduct Board in order to support Respondent's affirmative defense of laches.

17. **Denied as an improper conclusion of fact and law and legal argument to which no response is required. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.** As referenced in ¶ 16, any alleged delay occasioned by Mayor Kepics filing of his Confidential Request for Investigation with the Board on June 5, 2013, is not evidence supporting the application of the doctrine of laches, as the holding of *Lyness* does not apply to him.

By way of further answer, under its rules of procedure, the Board may consider complaints arising from acts or omissions occurring within four years of the date of the complaint (Confidential Request for Investigation). **J.C.B.R.P. No. 15; *In re Zupsic***, 893 A.2d 875, 885 (Pa. Ct. Jud. Disc. 2005) (explaining that J.C.B.R.P. No. 15 "address[es] . . . the time which intervenes between the occurrence of the acts or omissions and the receipt of the complaint by the Judicial Conduct Board"). Mayor Kepics' request for investigation concerned Respondent's conduct that occurred in December of the previous year. His filing was well within the four-year time period set forth in **J.C.B.R.P. No. 15**. Therefore, Mayor Kepics did not unjustifiably delay filing his complaint against Judge Wilson.

While the criminal records concerning the criminal charges against Mayor Kepics and his arrest were ordered to be expunged four months prior to the filing of his Confidential Request for Investigation, Respondent has not experienced any prejudice as a result. As asserted previously, documents substantiating Mayor Kepics' criminal charge and incarceration exist and are in the possession of the Respondent. In addition, Respondent was able to respond to the allegations charged within the Board Complaint at his deposition. The affirmative defense of laches fails because Mayor Kepics did not unjustifiably delay his filing of his Confidential Request for Investigation, and Respondent is in no way prejudiced in his ability to defend the charges in the Board Complaint.

18. **The Board is without sufficient knowledge or information and belief to either admit or deny this allegation. It is, therefore, denied and strict proof thereof is demanded.**
19. **Denied as improper conclusions of fact and law and legal argument to which no response is required. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.** By way of further answer, the affirmative defense of laches requires the Respondent to prove (as the moving party) that Mayor Kepics was guilty of want of due diligence in failing to file a Confidential Request for Investigation with the Board to the Respondent's prejudice. *Lokuta*, 964 A.2d at 1131 (citations omitted). The prejudice prong is established where, for example, witnesses die or become unavailable, records are lost or destroyed, and changes in position

occur due to the anticipation that a party will not pursue a particular claim. ***Id.*** (citations omitted). In other words, the application of the defense of laches requires not only an unjustified delay, but also that the Respondent's position or rights be prejudiced as a result of the delay.

Not only did Mayor Kepics not unjustifiably delay the filing of his Confidential Request for Investigation, as detailed above, but it is also evident that Respondent experienced no prejudice. First, all witnesses with relevant information are alive and available, and Respondent has not alleged otherwise. Second, it is factually untrue that "all records of those official actions have been destroyed." Board Counsel provided Respondent with a copy of Amon's Private Criminal Complaint at his deposition, which he reviewed, recognized, and affirmed to be an accurate copy of the private criminal complaint filed in his district court. Since the filing of the Board Complaint, the Board has provided Respondent with additional documents substantiating the claims. And third, the instant Board Complaint is not the first time Respondent has experienced litigation concerning his conduct involving Mayor Kepics on December 11, 2012. On September 23, 2014, after he filed his Confidential Request for Investigation with the Board, Mayor Kepics filed a federal civil rights action against Respondent, docketed as 2:14-cv-01306-MRH, where the allegations against Respondent included the same acts alleged here. Respondent, through counsel, addressed the alleged acts through briefs and argument before United States District Judge Mark Hornak. On February 26, 2015, District Judge Hornak dismissed the federal case under the theory of absolute immunity. In dismissing the

case prior to any adjudication on the merits of Mayor Kepics' claims, District Judge Hornak stated, "[t]he Court would also note for the record that by any measure if what is alleged in the complaint happened, it's completely reprehensible, it is not something any judge of any level of any judiciary, state, federal, local, should ever do." Therefore, that there is litigation before this Court based upon the same alleged acts of judicial misconduct should come as no surprise to Respondent. Any reasonable judge in Respondent's position should have been aware of the probability of such an action, and through such awareness, enabled himself to maintain a defense. In addition, Respondent has not indicated that he has changed his position in anticipation that Mayor Kepics' claims would not be pursued in an action by the Board.

No prejudice to Respondent exists where he possesses the Amon's Private Criminal Complaint, which he authenticated, where other documents substantiating the allegations have been disclosed to Respondent, where Respondent was able to respond to the allegations at his deposition, and where Respondent has been involved in litigation concerning the allegations during the pendency of the Board's investigation. Respondent has made no plausible claims of prejudice supported in law.

WHEREFORE, the Board respectfully requests the Court deny Respondent's request to dismiss Count 1, Count 2, Count 3, Count 4, Count 5, Count 6, and Count 7.

Motion to Dismiss
C.J.D.R.P. 411(d)(3)

20. **The responses set forth above are incorporated herein by reference as though set forth in full.**
21. **Admitted.**
22. **Admitted.** By way of further answer, in a letter to the Board dated June 25, 2013, Respondent informed the Board that Mayor Kepics' case file had been expunged per court order, and provided the Board with the following information concerning Mayor Kepics' case; "Private criminal complaint filed- approved at Asst. District Attorney- Warrant issued- defendant brought in and arraigned- bail was set and defendant taken to jail- bonded out- District Attorney withdrew case- Defendant's attorney took necessary steps to have case file expunged- Expunged by court order." (verbatim). See Exhibit B. This response demonstrates that Respondent has a clear recollection of this case and is not prejudiced by the expungement of the records pertaining to the Kepics' case.
23. **Denied as argument and improper conclusions of law requiring no response.**
24. **Denied.** Presumably, Respondent's assertion of April 8, 2015 as the beginning date of the Board's investigation refers to the interview Board Investigator Douglas Miller conducted with John and Shirley Amon. Prior to that date, the Board gathered information relative to the arrest and charging of Mayor Kepics, as reflected in its June 19, 2013 request for a complete copy of Respondent's file in the Kepics matter as set forth in ¶¶

- 21 and 22, above. The Board also monitored the federal civil rights action Mayor Kepics brought against Respondent.
25. **Admitted, in part, and Denied, in part.** The Board did vote to issue Respondent a Notice of Full Investigation on June 6, 2016. The assertion that the Board “waited until June 6, 2016” to vote is denied. The Board voted at the appropriate time given the investigatory steps taken and the available resources of the Board and its staff. Any implication that the Board intentionally delayed action in order to prejudice Respondent is denied, and strict proof thereof is demanded.
26. **Admitted, in part, and Denied, in part.** The Board did notify Respondent of the Full Investigation on October 7, 2016. The assertion that the Board “waited until October 7, 2016” to vote is denied. The Board informed Respondent at the appropriate time given that the notice needed to be prepared with consideration of the available resources of the Board and its staff. Any implication that the Board intentionally delayed action in order to prejudice Respondent is denied, and strict proof thereof is demanded.
27. **Denied as an improper conclusion of law and legal argument requiring no response.** To the extent that any response is required, it is admitted that a violation of the Judicial Conduct Board Rules of Procedure can be a basis to challenge the validity of the charges in this Court. *In re Hasay*, 686 A.2d 809, 816-817 (Pa. 1996); *In re DeLeon*, 902 A.2d 1027, 1029-30 (Pa.Ct.Jud.Disc. 2006).
28. **Admitted, in part, and Denied, in part.** It is admitted that Board IOP 4.01, in effect on June 5, 2013, is accurately quoted. It is denied that that

asserted violations of the Judicial Conduct Board Internal Operating Procedures can be a proper basis to challenge the validity of the charges in this Court. In the Board's Internal Operating Procedures in effect on June 5, 2013, the Introduction stated:

These Internal Operating Procedures ("IOPs") are a compendium of the policies, practices and procedures in effect at the Pennsylvania Judicial Conduct Board ("JCB" or "Board"). Because the IOPs by definition are *internal* matters, they may be modified from time to time by the Board.

Failure to adhere to a particular policy, procedure or practice will not alter the rights afforded to any person involved in Board investigations or proceedings and shall not affect the validity of any investigation or other activity carried out by the Board or its staff.

Moreover, these IOPs do not constitute legal advice, do not have the force of law and do not confer any substantive or procedural due process rights upon any person or entity including the Board or its staff, complainants, respondent judicial officers or anyone else dealing directly or indirectly, formally or informally, with the JCB. These IOPs are meant to describe the *internal* practices and procedures of the JCB. The Constitution of the Commonwealth of Pennsylvania, the Code of Judicial Conduct, the Rules Governing Standards of Conduct of Magisterial District Judges, Judicial Conduct Board Rules of Procedure, Judicial Conduct Board Member's Conduct Rules, and the relevant statutory and decisional law remain the authoritative controlling law ("the Authority").

29. **Admitted, in part, and Denied, in part.** It is admitted that Board OP 3.04, in effect on January 5, 2016, and amended April 4, 2016, is accurately quoted. It is denied that that asserted violations of the Judicial Conduct Board Operating Procedures can be a proper basis to challenge the validity of the charges in this Court. In the Board's Operating Procedures in effect on January 5, 2016, the Introduction stated:

These Operating Procedures ("OPs") are a compendium of the policies, practices and procedures in effect at the Pennsylvania Judicial Conduct Board ("JCB" or "Board"). These OPs are by definition a description of the mechanism by which the JCB implements its policies, practices, procedures, and rules, and may be modified at any time by the JCB.

Failure to adhere to a particular policy, practice or procedure will not alter the rights afforded to any person involved in JCB investigations or proceedings and shall not affect the validity of any investigation or other activity carried out by the JCB or its staff.

Moreover, these OPs do not constitute legal advice, do not have the force of law and do not confer any substantive or procedural due process rights upon any person or entity including the JCB or its staff, complainants, respondent judges or anyone else dealing directly or indirectly, formally or informally, with the JCB. These OPs are meant to describe the method and structure by which the policies, practices, procedures, and rules of the JCB are put into effect. The Constitution of the Commonwealth of Pennsylvania, the Code of Judicial Conduct ("Code"), the Rules Governing Standards of Conduct of Magisterial District Judges ("Rules"), Judicial Conduct Board Rules of Procedure, Judicial Conduct Board Member's Conduct Rules, and the relevant statutory and decisional law remain the authoritative, controlling law.

30. **Denied as legal argument and a conclusion of law requiring no response. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.**
31. **Denied as legal argument and a conclusion of law requiring no response. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.**
32. **Denied as legal argument and a conclusion of law requiring no response. To the extent that this paragraph is construed to set forth**

factual allegations, they are denied and strict proof thereof is demanded. By way of further answer, the Respondent has suffered no prejudice. See, ¶¶ 19 and 22, above. Further, any adverse effect on the Respondent's re-election campaign arising from the filing of the Board Complaint does not constitute prejudice under the doctrine of laches. Even if prejudice to Respondent's re-election campaign could be considered as a basis to dismiss the Board Complaint, no prejudice has occurred here. On May 16, 2017, Respondent prevailed on both the Democratic and Republican primary ballots, leaving him unopposed on the November general election ballot. Any allegation that the Board timed its complaint to prejudice Respondent's re-election campaign is denied, and strict proof thereof is demanded.

33. **The Board is without sufficient knowledge or information and belief to either admit or deny this allegation. It is, therefore, denied and strict proof thereof is demanded.**

WHEREFORE, the Board respectfully requests the Court deny Respondent's request to dismiss Count 1, Count 2, Count 3, Count 4, Count 5, Count 6, and Count 7.

Motion for Discovery
C.J.D.R.P 401

34. **The responses set forth above are incorporated herein by reference as though set forth in full.**
35. **Admitted.**
36. **Admitted.**
37. **Admitted.**

38. **Denied as a conclusion of fact requiring no response. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.**
39. **Admitted.**
40. **Admitted.** By way of further answer, the Board provided Respondent with Board meeting minutes containing records of the Board's actions on this matter. Consistent with the Board's obligations under Article V, section 18(a)(8) of the Constitution of the Commonwealth of Pennsylvania, the minutes were redacted to remove confidential information regarding matters not involving Respondent.
41. **Denied as legal argument and conclusions of law requiring no response.**
42. **Denied as legal argument and conclusions of law requiring no response. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.**
43. **Admitted.**
44. **Admitted.**
45. **Denied as legal argument and a conclusion of law to which no response is required. To the extent that this paragraph is construed to set forth factual allegations, they are denied and strict proof thereof is demanded.** By way of further answer, Article V, Section 18(a)(8) of the Constitution of the Commonwealth of Pennsylvania directs that complaints filed with the board or initiated by the board shall not be

public information, and that all proceedings of the Board are confidential except when the subject of the investigation waives confidentiality. *See also J.C.B.R.P. No. 17* (relating to Confidentiality) (“Except as provided in Rule 18, all information and proceedings related to a complaint and records of the Board’s deliberation shall be confidential.”). Rule 18 of the Board’s Rules of Procedure provides, in pertinent part, that a judicial officer who is subject to a complaint filed with the Board “may request in writing that the matter be made public, or may waived confidentiality for a particular purpose specified in writing.” **J.C.B.R.P. No. 18 (A)(1)**. Upon receipt of either or both of these written requests, the Board then has the discretion in how to respond. **J.C.B.R.P. No. 18 (A)(2)**. To date, Respondent has not presented any writing to the Board requesting that any other matters filed with the Board, if there are any such matters, be made public, or expressly waiving the confidentiality of Board proceedings and citing the particular purpose such waiver is sought, as required by Rule 18.

While Respondent, through Counsel, seeks the Board’s disclosure of “all written or verbal complaints received by the Board regarding Judge Wilson,” such a request does not constitute waiver, and if it did, the Board is under no obligation to provide the requested information per the Constitution and the Board’s Rules of Procedure. Therefore, this request must be evaluated under the law and rules of discovery, which require only the disclosure of material impeachment and exculpatory evidence, and information relevant to the charges contained in the Board Complaint. **C.J.D.R.P. No. 401(D); *In re Lokuta*, 11 A.3d 427, 443 (Pa. 2011)(citing *Brady v. Maryland*,**

373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). Disclosure of all complaints concerning Respondent, and the identity of the corresponding complainants not material or relevant to the Board Complaint, is without precedent. If Respondent has reason to believe that information material or relevant to the charges contained in the Board Complaint are in the Board's possession and remain undisclosed, then Respondent has the burden to produce information in support of such a suspicion.

WHEREFORE, the Board respectfully requests this Court deny Respondent's request for this Court to issue an Order requiring the Board to prepare a formal response to each of the Respondent's discovery requests, and a log identifying with reasonable particularity all information responsive to Respondent's discovery requests that are being withheld and the basis for non-production.

Motion for Admission to Judicial Diversion Program

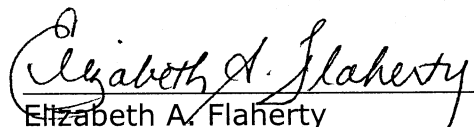
46. **The responses set forth above are incorporated herein by reference as though set forth in full.**
47. **Admitted as Stated.** By way of further answer, based upon information currently available to the Board, with appropriate conditions, the Board does not object to Respondent's admission into a judicial diversion program, should the Court conclude that one is available.
48. **Admitted.**
49. **Denied as Stated.** The Board Complaint is a written document that speaks for itself. Any attempt to characterize its contents is denied.
50. **Denied as legal argument requiring no response.**

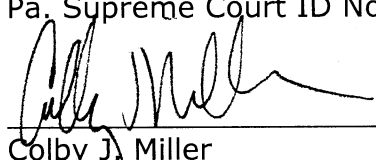
WHEREFORE, the Board respectfully requests that the Court schedule a pretrial conference to determine the availability of a judicial diversion program to which Respondent may be admitted.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: June 9, 2017

By: 
Elizabeth A. Flaherty
Deputy Counsel
Pa. Supreme Court ID No. 205575


Colby J. Miller
Assistant Counsel
Pa. Supreme Court ID No. 311599

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

6-7-13

<p>COMMONWEALTH OF PENNSYLVANIA</p> <p>JUDICIAL CONDUCT BOARD Pennsylvania Judicial Center 601 Commonwealth Ave., Suite 3500 P.O. Box 62525 Harrisburg, PA 17120-0901 (717)-234-7911</p>		<p>OFFICIAL USE ONLY</p> <p>Rec'd: <u>5 June 2013</u></p> <p>JCB No: <u>2013 - 370</u></p> <p>County: <u>Washington</u></p>
---	---	---

CONFIDENTIAL REQUEST FOR INVESTIGATION

INSTRUCTIONS: Please type or print. If you wish to provide documents to support your allegations, please attach copies of those documents. We cannot return documents. The Board's jurisdiction extends only to Pennsylvania Supreme Court Justices, Superior and Commonwealth Court Judges, Common Pleas Court Judges, Philadelphia Municipal and Traffic Court Judges and Magisterial District Judges. Once completed, you must sign and return this form to the address above.

NOTICE: The Judicial Conduct Board has no authority to change a Judge's decisions or rulings. Our jurisdiction extends only to conduct that violates the Code of Judicial Conduct or the Rules Governing Standards of Conduct of Magisterial District Judges, which may be found at our website at www.jcbpa.org.

Your Information:

Name: ROBERT KEPICS

Address: 206 SECOND AVENUE

City: MONONGAHELA State: PA Zip: 15063

Telephone: (724) 258-2277
(724) 469-1817

Judicial Officer's Information: Monongahela

Name: MARK WILSON, MOS

County: WASHINGTON

Type of Judicial Officer:
 Magisterial District Judge
 Judge

Case Information: (If misconduct allegations relate to Court Proceedings) Case Has Been Appealed

Case Name: COM. v. KEPICS Case Docket Number: T 267459-3-43 27102
CR-0000416-2012

Your Attorney:	Opposing Attorney:	Witness:
Name: <u>STEVEN TOPRAWI</u>	Name:	Name: <u>JOHN AULON</u>
Address: <u>525 WILLIAM PENN PL</u> <u>30TH FLOOR</u> <u>PITTSBURGH PA 15219</u>	Address:	Address: <u>#413</u> <u>CARROLL STREET</u> <u>NEW EAGLE, PA 15067</u>
Phone: <u>412-261-1600</u>	Phone:	Phone: <u>724-258-5816</u>

I certify that I have read the information concerning the Judicial Conduct Board's function, jurisdiction, and procedures included in the accompanying brochure. I further swear (or affirm) that the above information is true and accurate. The statements in this complaint are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: MAY 30, 2013 Your Signature: Robert Kepics

**Please use this page to explain your complaint, providing as much detail as possible.
Attach additional pages if needed.**

Please note, it is not required that you present your grievance to the Board in person. Personal interviews are not required and are not usually necessary for our preliminary review, investigation, and understanding of grievances. If we need further information relative to your grievances, you will be contacted by phone or letter and arrangements will be made for an interview if deemed necessary.

I am filing this conduct complaint because I was maliciously prosecuted, harrassed and damaged by the conduct of Magisterial District Judge Mark Wilson, District 27-1-02, on December 11, 2012. A summary of my claim is as follows:

On December 11, 2012, Magistrate Wilson intentionally caused my unlawful arrest. By way of background, I am the elected Mayor of the City of Monongahela, Pennsylvania, and for many years, have been a public elected official in that community. Over the past several years, I have been a political enemy of Magistrate Wilson. In the past year or so, Judge Wilson has made known throughout the community that he dislikes me and, if given the opportunity, "would get me." Judge Wilson created that opportunity this past December.

In early December, 2012, as I have come to learn, an elderly couple and lifelong friends, John and Shirley Amon, went to Judge Wilson's office concerning a small debt on a private loan that I had owed the couple. During a financially difficult time, I borrowed \$3,000 dollars from the couple and made repayment arrangements. I made several payments and ultimately had a balance of approximately \$2,200 dollars. Mr. Amon went to the magistrate's office to inquire how he may file "paperwork" to formalize the repayment obligation.

At that time, Magistrate Wilson met privately with Mr. Amon and provided him with forms to complete. Judge Wilson instructed Mr. Amon how to complete the form and what language to include. Wilson concealed from Amon the fact that he provided him with a private criminal complaint form. Wilson exceeded his jurisdiction and acted against the legal requirements not to provide legal advice.

Wilson then informed Amon that the matter would be resolved. Judge Wilson then, over the course of several days, called the District Attorney's Office, specifically Assistant DA Josh Carroll, who was assigned to his courtroom, and demanded the complaint be signed. Wilson repeatedly called and harrassed Mr. Carroll for a few days. Finally, Carroll relented to Judge Wilson's calls and erroneously approved the complaint. The complaint charged me with serious felonies related to theft.

On December 11, 2012, District Judge Wilson received the approved private criminal complaint, and immediately took action to have me arrested. Within one hour, a constable appeared at the mayor's office and arrested me. During my preliminary arraignment, Judge Wilson demeaned me, sneered at me, and verbally abused me. While offering me a phone call, he directed me not to call my chief of police and said I can only call my family. Judge Wilson continued to demean me. He set my bail at \$5000 straight cash, more than twice the civil debt, knowing I could not post that amount and remanded me to jail.

The charges against me were dismissed by the District Attorney after review. The District Attorney concluded that the charges were civil and not criminal in nature.

Judge Wilson has bragged about the harm he cause me and has joked about it to the community. I have suffered irreperable harm as a result of his bias, concerted and illegal conduct, and his malicious treatment of me. I ask this Board to investigate the matter. I can provide additional informaiton if needed.

10/10/10

10/10/10



County of Washington

**MARK A. WILSON
MAGISTERIAL DISTRICT JUDGE**

604B PARK AVENUE
MONONGAHELA, PENNSYLVANIA 15063

MAGISTERIAL DISTRICT 27-1-02

PHONE: (724) 258-5106
FAX: (724) 258-5145

June 25 2013

Attn Toni Schreffler:

RE:Robert Kepics-Cr 416-2012

Private criminal complaint filed- approved at Asst. District Attorney -
Warrant issued- defendant brought in and arraigned- bail was set and
defendant taken to jail- bonded out- District Attorney withdrew case-
Defendant's attorney took necessary steps to have case file expunged-
Expunged by court order.

Anything else you need please let me know.

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

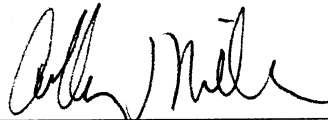
Mark A. Wilson	:	
Magisterial District Judge	:	
27th Judicial District	:	
Washington County	:	1 JD 2017

PROOF OF SERVICE

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on June 9, 2017, a copy of the Reply of the Judicial Conduct Board to Omnibus Motion was sent by UPS Overnight Delivery, Tracking No. 1Z Y4X 745 01 9194 3822 to:

Honorable Mark A. Wilson
c/o Christopher Carusone, Esquire
Cohen Seglias Pallas Greenhall & Furman PC
240 North Third Street, 7th Floor
Harrisburg, PA 17101

Respectfully submitted,



DATE: June 9, 2017

Colby J. Miller
Assistant Counsel
Pa. Supreme Court ID No. 311599

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