

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

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OF PENNSYLVANIA

2017 DEC - 1 A 11: 50

IN RE: :
Michael R. Muth :
Magisterial District Judge :
Magisterial District 43-2-02 : 2 JD 2017
43rd Judicial District :
Monroe County :
:

**MAGISTERIAL DISTRICT JUSTICE
MICHAEL R. MUTH'S
PRE-TRIAL MEMORANDUM**

Magisterial District Justice Michael R. Muth, by and through his undersigned counsel, Lamb McErlane PC, hereby files this Pre-Trial Memorandum pursuant to this Court's September 11, 2017 Order.

A. TRIAL WITNESSES

In addition to the witnesses identified in the Judicial Conduct Board's Pre-Trial Memorandum, each of whom MDJ Muth reserves the right to call as a witness in his case, he may call the following individuals as witnesses at trial:

1. Janet Jackson, Esquire
Former Co-Worker
607 Monroe Street
Stroudsburg, PA 18360

Ms. Jackson will testify as a character witness.

2. Brian Gaglione, Esquire
Former Co-Worker
818 Ann Street
Stroudsburg, PA 18360

Mr. Gaglione will testify as a character witness.

3. Jason Leon, Esquire
Former Co-Worker and student
800 Monroe Street
Stroudsburg, PA 18360

Mr. Leon will testify as a character witness.

4. Tom Jones
Retired State Trooper
Box 5
Reeders, PA 18352

Mr. Jones will testify as a character witness.

5. Bill Watkins, Esquire
Attorney and AAU Basketball contact
46 N. 6th Street
Stroudsburg, PA 18360

Mr. Watkins will testify as a character witness.

6. Paul Fontanes
JCB Investigator

Mr. Fontanes will testify about his role in the investigation and the interviews he conducted.

B. EXHIBITS

MDJ Muth only intends to introduce certain Exhibits set forth in JCB's Pre-Trial Memorandum. MDJ Muth does intend to object to multiple Exhibits proposed by JCB.

C. STIPULATIONS

It can reasonably be expected that opposing counsel will agree to the following proposed Stipulations:

1. MDJ Muth's infrequent viewing of pornographic photos always occurred on his personal computer which was not integrated into or part of the court system.

2. MDJ Muth's infrequent viewing of pornographic photos only occurred via pre-loaded pictures and not through the internet.

3. MDJ Muth never forwarded nor received any pornographic photos to or from others via email, the internet or otherwise.

4. MDJ Muth never purposefully showed any pornographic photos to another person.

5. MDJ Muth's alleged conduct in viewing pornographic material was not observed by any member of the public or any lawyers or parties appearing before him in Court.

6. No court personnel ever informed MDJ Muth that they allegedly observed him viewing pornographic materials.

7. While MDJ Muth used the district court copier and attendant toner, he personally purchased the vast majority if not all of the paper on which the copies were made for his students.

8. MDJ Muth requested, but did not require, court personnel to assist in making copies of a three page article for dissemination to his students, and no such copies were made for the last three years.

9. The only tests MDJ Muth administered at East Stroudsburg University were objective in nature, meaning true/false, multiple choice and matching.

10. MDJ Muth's use of his clerks to assist him with his teaching obligations was not subject to the knowledge of any members of the public or any lawyers or parties appearing before him in Court.

11. The work hours for the MDJ staff during all relevant times were from 8:30 – 4:30.

D. DISCOVERY CERTIFICATION

MDJ Muth certifies that he has complied with Rule 401(D).

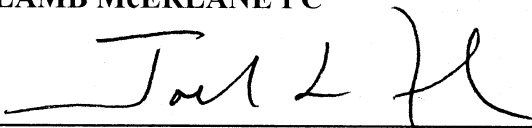
E. OTHER ISSUES

1. MDJ Muth on August 29, 2017 filed his Response to JCB's August 14, 2017 Petition for Relief to Strike New Matter. For the reasons set forth in that Response, JCB's Petition should be denied.
2. On August 7, 2017, MDJ Muth served Interrogatories upon JCB, which JCB refused to answer. MDJ Muth contends he is entitled to those discovery responses.
3. MDJ Muth intends to file multiple Motions in Limine and requests guidance regarding when those motions should be filed.

Respectfully submitted,
LAMB McERLANE PC

Date: November 30, 2017

BY: _____


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CERTIFICATE OF SERVICE

This is to certify that complete copies of all papers contained in the foregoing pleading has been served upon the following persons, by the following means and on the date stated:

<u>Name</u>	<u>Means of Service</u>	<u>Date of Service</u>
Melissa L. Norton Assistant Counsel Judicial Conduct Board Pennsylvania Judicial Ctr 601 Commonwealth Avenue, Ste 3500 PO Box 62525 Harrisburg, PA 17106	Via First Class and Electronic Mail	November 30, 2017

LAMB McERLANE PC

Date: November 30, 2017

BY: 

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