

Judicial Conduct Board

Commonwealth of Pennsylvania

Joseph A. Massa, Jr., Chief Counsel
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Press Release

February 12, 2007

TO: Media / Press
FROM: Judicial Conduct Board
SUBJECT: Board files Reply to Omnibus Motion of Judge Ann H. Lokuta

On February 12, 2007, the Board filed its Reply to the lengthy Omnibus Motion filed by Judge Ann H. Lokuta, Luzerne County Court of Common Pleas, on January 26, 2007.

Counsel: Francis J. Puskas II, Deputy Chief Counsel

Respondent's: Samuel C. Stretton, Esquire

Contacts: Joseph A. Massa, Jr., Esquire
Chief Counsel, Judicial Conduct Board

Francis J. Puskas II, Esquire
Deputy Chief Counsel, Judicial Conduct Board

Note: Judicial Conduct Board Reply to Omnibus Motion attached.

(This information may also be found on www.jcbpa.org)

##END##

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

In re:

Ann H. Lokuta,
Judge of the Court of Common Pleas;
Eleventh Judicial District
Luzerne County

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

AND NOW, this 12th day of February, 2007, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board"), by and through Francis J. Puskas II, Deputy Chief Counsel, and files the Judicial Conduct Board Reply To Omnibus Motion of the Respondent, filed by the Honorable Ann H. Lokuta (hereinafter "Respondent"), by and through her counsel, Samuel C. Stretton, Esquire:

Section I

1. **Denied as stated.** By way of further answer, the Board Complaint speaks for itself.
2. **Denied as stated.** By way of further answer, the Board Complaint speaks for itself in generally delineating a **pattern of recurring judicial misconduct**. By way of further answer, the Board Complaint provides seven (7) precise dates by day, month, and year. In every other instance, where such pinpoint precision has not been possible, or where the charged conduct is part of a pattern of recurring judicial misconduct, the Board has provided month and year, year, or time periods reflective of a starting year (i.e. "Since 1992") with examples occurring within the general time period. When such examples have not been identified with a precise date or time, they fall within the generally

prefaced time period for such examples and are based on the recollections of witnesses who have frequently been able to observe the Respondent over the course of her tenure as a judicial officer, but who cannot necessarily pinpoint a precise date within the general time span for the event recalled.

3. **Denied as stated.** By way of further answer, the Board Complaint speaks for itself.
4. **Admitted in part and denied in part.** It is **admitted** that the Board Complaint was filed with the Court of Judicial Discipline on 11/27/06. It is **denied** that the Board's Notice of Full Investigation was "*filed*" on 04/21/05. By way of further answer, the Board sent by certified mail, return receipt requested, a Notice of Full Investigation dated 04/21/05, addressed to the Respondent.
5. **Denied as stated.** The Board Complaint speaks for itself.
6. **Denied as stated.** By way of further answer, the Board sent by certified mail, return receipt requested, a Notice of Full Investigation dated 04/21/05, addressed to the Respondent. The Respondent's response to the Board's Notice of Full Investigation was dated 05/23/05, and received by the Board on 05/24/05.
7. **Denied as stated.** By way of further answer, in compliance with Rule 401 of the Court of Judicial Discipline Rules of Procedure, on 12/20/06, the Board mailed to the Respondent's counsel discovery material. Accompanying the discovery material, the Board provided a cover letter inventory dated 12/20/06, which also included a reciprocal request for discovery. The Board's cover letter inventory speaks for itself concerning the discovery provided.

8. **See Response at Paragraph 7 above.**
9. **Denied.**
10. **Denied.**
11. **Denied.** By way of further answer, it is **denied** that pertinent documents or court records are unavailable due to the passage of time. First, the Respondent does not aver that such documents have been destroyed, do not exist, or cannot be retrieved. Second, the Respondent does not identify what pertinent documents or court records are "*not available*" or "*difficult, if not impossible, to retrieve*" which are necessary to the Respondent's defense. What the Respondent does is submit as fact something that has not been proven of record.

Generally, with limited exception, the Board Complaint charges the Respondent with a **pattern of recurring judicial misconduct**. The majority of the charged judicial misconduct is based upon incidents dating from 2001 to 2005. Such a time period is hardly ancient history and the vast majority of incidents are not a matter of court record. For those matters occurring in court, witnesses, consisting primarily of court reporters and attorneys, and for which the Respondent has been given full discovery and access to their Reports of Interview or deposition testimony, recall the Respondent's conduct occurring without reference to an identifiable court case. The Respondent's ability to address whether or not she engaged in a pattern of recurring judicial misconduct toward attorneys appearing before her, court personnel, or personal staff, as charged in the Board Complaint, does not rise and fall on

court documents and records. The Court of Judicial Discipline may judge the Respondent's credibility against the Board's witnesses.

By way of further answer, the Board Complaint identifies by name one civil case: Violet O'Brien, et ux. V. Harry Alexanderian, M.D., et al., No. 3577-C-1995. With regard to the O'Brien matter, the Board's complaint concerns an incident occurring in the summer/fall 2001 wherein the Respondent verbally directed her senior law clerk to draft a denial of plaintiff's Motion for Recusal and to "cut" plaintiff's attorney, Thomas Foley, Jr., Esq., "a new asshole." This incident was not a matter of record and no court transcript or court document will assist the Respondent in addressing this allegation.

12. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.**

13. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.** By way of further answer, the Board denies that the matter has been delayed and that the Respondent has suffered prejudice.

The doctrine of laches "bars relief when the complaining party is guilty of want of due diligence in failing to promptly institute the action to the prejudice of another." Sprague v. Casey, 520 Pa. 38, 45, 550 A.2d 184, 187 (1988) (hereinafter "Sprague"); Leedom v. Thomas, 473 Pa. 193, 202, 373 A.2d 1329,

1333 (1977). The prejudice required to raise the defense of laches is “some changed condition of the parties which occurs during the period of, and in reliance on, the delay.” *Sprague* at 46, 550 A.2d at 188. The party claiming the benefit of the doctrine of laches must demonstrate prejudice due to the lapse of time. *Kay v. Kay*, 460 Pa. 680, 685, 334 A.2d 585, 587 (1975).

The Respondent’s claim to the benefit of laches is entirely misplaced and without any foundation. She cannot surmount the hurdle of establishing a want of due diligence on the part of the Board. The Board’s Investigation Chronology (**Attached and marked as Board Exhibit “A”**) establishes a continual ongoing investigation which brought the matter to the Respondent’s attention within approximately twelve (12) months from the time the Board received the first complaint file.

Formal charges were filed in the Court of Judicial Discipline approximately eighteen (18) months after the Respondent filed her response letter to the Board’s Notice of Full Investigation. During the eighteen (18) month period, from the end of January 2006 until the beginning of April 2006, the Respondent was voluntarily undergoing psychiatric and psychological testing to address the Board’s concern that her conduct was explainable as the product of an underlying mental health condition and as a means of avoiding a potential Board directive that she submit to such testing with physicians selected by the Board. The Board continued its investigation to permit this testing process to conclude. From May 2006 until August 2006, the Respondent’s deposition was rescheduled three (3) times at her counsel’s request as a professional courtesy before the Respondent then tried to derail her

deposition by filing a Motion to Quash Subpoena and to Dismiss Pending Complaints.

The Respondent claims entitlement to the benefit of the doctrine of laches because (1) the passage of time has made “*pertinent documents and court records*” unavailable, difficult, or impossible to retrieve; (2) she has been unable to move forward with her life; and (3) she has been left in suspense since the investigation began in 2004. Concerning basis (1), the Board references its response in Paragraph 11 above and **denies** that it establishes the Respondent’s entitlement to the benefit of the doctrine of laches. Concerning basis (2) and (3), the Board **denies** that being “*unable to move forward with her life*” or living in suspense qualify as recognized evidence of prejudice and the Respondent cites no legal authority supporting this contention.

WHEREFORE, the Board respectfully requests that Section I of the Omnibus Motion of the Respondent be DENIED.

Section II

14. **Denied as stated.** Rule 31 of the Judicial Conduct Board Rules of Procedure speaks for itself.
15. **Denied as stated.** On 04/21/05, a Notice of Full Investigation dated 04/21/05, was sent by certified mail, return receipt requested, addressed to the Respondent. By this time, the Board had diligently pursued investigation over a twelve (12) month period as shown by its Investigation Chronology (**Board Exhibit “A”**). Pursuant to Rule 30(B)(2)(c) of the Judicial Conduct Board Rules of Procedure, a judicial officer has “the right to provide a written

response or other information within 20 days of the receipt of the notice.”

Board counsel granted **Respondent counsel’s request for an additional 20 days extension of time** and the Respondent’s response letter was made due on 05/25/05. The Respondent’s response letter was received by the Board on 05/24/05.

16. **Admitted.**
17. **Denied as stated.** By letter dated 06/05/06, Respondent’s counsel requested the Board provide “*specific allegations and names*” so he and the Respondent could prepare for the deposition. The Board’s Notice of Full Investigation was twelve (12) pages long and delineated claims of improper demeanor and abusive behavior by the Respondent along with investigatory information relative to the soundness of her mental health. By letter dated 06/21/06, the Board supplemented the Notice of Full Investigation with an additional nine (9) pages assigning time periods to matters raised in the original Notice of Full Investigation and providing more detailed examples of the Respondent’s improper demeanor and abusive behavior.
18. **Denied.** By way of further answer, there were two aspects to the Board’s investigation. One concerned whether the Respondent was violating the Code of Judicial Conduct and the Pennsylvania Constitution through her conduct as described by witnesses. The second concerned whether the Respondent’s described conduct was explainable as the product of an underlying mental health condition, which, if true and properly diagnosed, might be amenable to treatment, or, alternatively, necessitate a disability retirement. In fairness to the Respondent and the public, both aspects of the investigation required thorough

inquiry and thorough inquiry was carried out.

The Board authorized two (2) continuances of the full investigation. The first was authorized on 10/03/05 upon Deputy Chief Counsel's averment that the investigation was incomplete and that he was *in the process of deposing witnesses referred to the Board by the Respondent*. As the Board's Investigation Chronology (**Board Exhibit "A"**) demonstrates, this averment was correct. Four (4) witnesses were deposed and one (1) witness was interviewed prior to the request. After the continuance was granted, **five (5) additional interviews** were conducted and **one (1) deposition** was taken of witnesses referred to the Board by the Respondent.

The second continuance was authorized on 04/03/06 upon Deputy Chief Counsel's averment that the Respondent, who had eventually agreed to voluntarily undergo psychiatric and psychological testing to address the Board's concern that she might suffer from an underlying mental health condition, had not completed the testing process and no final reports from her psychiatrist and psychologist had been received. As the Board's Investigation Chronology (**Board Exhibit "A"**) demonstrates, this averment was also correct. In fact, after the continuance was granted, the Board received on 04/10/06 the reports from the Respondent's psychiatrist and psychologist.

19. **Denied as stated.** By way of further answer, the redacted Board meeting minutes for 04/04/05, 10/03/05, and 04/03/06 speak for themselves.

Concerning the first request for continuance of the investigation on 10/03/05, it is **denied** that Deputy Chief Counsel requested this based upon Rule 31(A) of the Judicial Conduct Board Rules of Procedure. It was requested upon Rule

31(C)(1), though the subsequently prepared Board meeting minutes incorrectly listed Rule 31(A) for all continuances authorized at that meeting.

The Board's Investigation Chronology speaks for itself in delineating when witnesses were interviewed or deposed and the necessity of Board authorized continuances. At the end of its Notice of Full Investigation dated 04/21/05, the Board requested that the Respondent provide the following information in her response letter:

- B. The identity of any witness(es) that the Board should interview during the course of this investigation and a brief summary of what information you believe such witness(es) will provide to address particular characteristics of your behavior and conduct described.

In her response letter dated 05/23/05, the Respondent referred to the Board an attached list of one hundred and nine (109) persons for the Board to contact. The Respondent also named one (1) additional witness within the body of her letter. Noticeably, the Respondent did not provide any brief summary of what information such persons could provide, if any, relevant to address what the Board was investigating. Subsequently, by letter dated 06/29/05, Respondent's counsel added another name to the list of referred witnesses, making the total for witness referrals one hundred and eleven (111). Again, the Respondent provided no brief summary of what information the referred witness could provide, if any, relevant to address what the Board was investigating. In fact, Respondent's counsel stated to Deputy Chief Counsel that the Respondent had not spoken with any of the witnesses about the nature of the Board's investigation.

The Board deposed five (5) and interviewed six (6) Respondent referred witnesses. The Respondent's counsel assumes that no witnesses were interviewed beyond those identified in Reports of Interview provided to the Respondent in discovery because "*the Court of Judicial Discipline has ordered all favorable statements be turned over.*" In fact, not all Board interviews were favorable to the Respondent. The Respondent counsel's assumption is wrong. Reports of Interview concerning witnesses who will not be called at trial, who cannot provide exculpatory, relevant, or favorable information, are not required to be turned over in discovery. Therefore, the number of Reports of Interview turned over to the Respondent as part of discovery are not indicative of the quantity of interviews conducted. The Respondent's statement that there was "*no need for the additional extension of time*" to conduct investigation is conclusory and unsupported by the facts.

20. **Denied and denied as stated.** Complaint Nos. 2004-274 and 2004-432 are duplicates covering the identical matters charged in the filed Board Complaint at Paragraphs 15 and 16 relative to an incident occurring on 06/10/04 involving the Respondent, her then tipstaff, Maureen Gushanas, and Deputy Court Administrator Peter J. Adonizio. Discovery information relative to Complaint Nos. 2004-274 and 2004-432 was provided and identified as follows in the Board's cover letter inventory dated 12/20/06: (1) Item #2 (Confidential Complaint Questionnaire (with attachments) verified by Chief Counsel Joseph A. Massa, Jr., dated September 16, 2004); and (2) Item #8 (Report of Interview (with attachments) of President Judge Michael T. Conahan by Investigator George F. Delaney, Jr., dated September 10, 2004).

The material at Item #2 included detailed information about the incident as follows: one (1) internal investigation report about the incident on 06/10/04 prepared by the Luzerne County Court of Common Pleas Director of Administrative Services; five (5) typed statements/letters from witnesses to the incident; one (1) incident report prepared by a deputy sheriff; one (1) letter from the Respondent to then President Judge Michael T. Conahan falsely accusing the Deputy Court Administrator of inappropriate conduct; and one (1) letter from then President Judge Michael T. Conahan advising that Maureen Gushanas was found to have been confrontational and menacing and requesting the Respondent to contact the Human Resources Coordinator about what sanction should be imposed upon Gushanas.

By way of further answer, Complaint No. 2004-432 was erroneously opened as a separate case file upon receipt of duplicate information already provided at 2004-274. In all subsequent investigatory material, however, Complaint No. 2004-432 was solely referenced with regard to that aspect of the Board's investigation instead of jointly with 2004-274. When the Board made final disposition of Complaint Nos. 2004-162 and 2004-432, Deputy Chief Counsel identified 2004-274 as a duplicate of 2004-432 and requested it be included in the final disposition, which was done. The Respondent was fully aware of the substance of 2004-274 and 2004-432 and had an opportunity to address it in her deposition taken on 08/25/06 and did so.

21. **Denied. See paragraph 20 above.**
22. **Denied. See paragraph 18 above.** By way of further answer, it was absolutely necessary to extend the investigation to accommodate the

Respondent's psychiatric and psychological testing schedule. It is the height of absurdity for the Respondent to now complain to the Court that the investigation could have been resolved at an earlier date before her psychiatrist and psychologist had completed the testing process and provided to the Board their mental health evaluation reports. Had the Board resolved its investigation before the Respondent had completed her testing and before her doctors wrote and provided their mental health evaluation reports to the Board, the Respondent would be complaining the Board rushed to judgment, failed to thoroughly investigate a serious allegation that could affect her career as a judicial officer, and violated her due process rights.

Furthermore, the Respondent's claim that the Board could have proceeded to conclude its investigation at an earlier time is even more senseless when juxtaposed to Respondent counsel's repeated requests for continuances of the Respondent's scheduled deposition, something crucial to the Board's final determination about what action to take on the pending complaints. As a professional courtesy to accommodate the Respondent and her counsel's schedule, the deposition was rescheduled three (3) times to mutually convenient dates. The Respondent, however, pushed this process back from resolution even further by intractably insisting she was available no earlier than 08/25/06.

Finally, in a desperate attempt to avoid her scheduled deposition altogether, the Respondent, through her counsel, claimed on 07/11/06 the Board had breached confidentiality based on a local newspaper article from The Times-Leader dated 07/08/06 entitled "Judge questions reassignment of

cases,” apparently instigated by, and self-servingly featuring, the Respondent questioning why a case had been removed from her docket and reassigned to another judge. Thereafter, Deputy Chief Counsel sent correspondence dated 07/12/06 (**Attached and marked as Board Exhibit “B”**) to Respondent’s counsel denying any breach of confidentiality, confirming the rescheduled deposition date as 08/25/06, and stating that no further delays would be permitted. The Respondent responded by filing a Motion to Quash Subpoena and to Dismiss Pending Complaints, which the Board denied by Order of Board Member G. Craig Lord, Esq., dated 08/17/06 (**Attached and marked as Board Exhibit “C”**).

The Respondent’s claim that the Board did no investigation of the matters at 2004-274 and 2004-432 is **denied**. The Board was provided with five (5) typed written statements/letters provided as part of an internal court investigation by witnesses observing the incident between the Respondent, her then tipstaff, Maureen Gushanas, and Deputy Court Administrator Peter J. Adonizio. Supplementing these statements/letters, the Board questioned the Respondent and Gushanas in their respective depositions about the incident. None of the five (5) witness statements/letters concerning their recollection of the incident corroborated the Respondent and Gushanas’ story given in their depositions. Only the Respondent and Gushanas’ story were mutually corroborative and self-servingly similar.

23. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any**

hearing.

24. **Denied. See paragraph 22 above.** By way of further answer, the Board was apprised of the progress of the investigation at all times when continuances were authorized. The Board was fully aware of the aspect of the investigation concerning whether the Respondent's described conduct was explainable as the product of an underlying mental health condition and the Notice of Full Investigation dated 04/04/05 made it abundantly clear to the Respondent that the Board wanted information about it. The Respondent's voluntary agreement to undergo psychiatric and psychological testing was done to address the Board's concern and to avoid having the Respondent face a potential Board directive to submit to a mental health evaluation on its terms. The Board's 04/03/06 authorization to continue the investigation was specifically made because the psychiatric and psychological final reports had not been completed and provided to the Board for review.
25. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.** By way of further answer, this paragraph articulates a "cart before the horse" mentality, wherein the Respondent demands to be notified about the substance of a Board investigation before an investigation has been done to merit a Notice of Full Investigation being issued. Doubtless, if the Board had proceeded in the manner demanded by the Respondent, she would now accuse the Board of rushing to judgment.
26. **This paragraph contains a legal conclusion to which no response is**

required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.

27. **See paragraph 25 above.** By way of further answer, Rule 26 of the Judicial Conduct Board Rules of Procedure authorizes the following:

(A) Board Counsel may conduct interviews and examine evidence to determine whether grounds exist to believe the allegations in the information received.

This is precisely what the Board did in an effort to determine whether there were grounds to believe the very serious allegations that the Respondent was committing judicial misconduct and her behavior was the product of an underlying mental health condition.

28. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.**

29. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.** By way of further answer, **see paragraph 11 above.**

30. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.** By way of further answer, the Respondent's analogy of her case to the factual circumstances addressed by the Court in *In re Deleon*, 902 A.2d

1027 (Pa.Ct.Jud.Disc. 2006), is misguided and misplaced. When the Board's Investigation Chronology (**Board Exhibit "A"**) is juxtaposed to the facts of Deleon, it is evident that the Respondent's case is not Deleon.

31. **See paragraphs 25 and 27 above.**

WHEREFORE, the Board respectfully requests that Section II of the Omnibus Motion of the Respondent be DENIED.

Section III

32. **Denied.**

33. **Denied.** By way of further answer, the Board had nothing to do with the newspaper articles referenced and absolutely **denies** that it provided a list of complaining attorneys to anyone. In fact, the prominent featuring of the Respondent in the earliest article dated 07/08/06 from The Times-Leader entitled "Judge questions reassignment of cases" (Attached to Respondent's Exhibit "E"), suggests that she facilitated, instigated, and drew the attention of the press to the matter, which then placed the Court Administrator, William Sharkey, in a position of having to publicly respond. In neither article does Sharkey state that the Board provided his office with a list of attorneys who filed complaints against the Respondent. In the 07/08/06 article, Sharkey was asked to explain why the specific case at issue was removed from the Respondent's docket. Sharkey did so and also generally commented on other reasons which might warrant reassignment of cases to another judge. Sharkey was referenced commenting that other cases involving attorneys who filed complaints against the Respondent with the Board had been reassigned:

Sharkey said other cases have been removed from Lokuta for similar reasons, or because the attorneys have issued complaints against the judge with the Judicial Conduct Board, which investigates misconduct claims against judges.

The Times-Leader printed a follow up article on 07/15/06 entitled "Attorney wants Pittston Township case returned to Lokuta's docket" (Attached to Respondent's Exhibit "E") written by the same reporter and including the following:

Sharkey, though, has said his office has a list of attorneys who cannot practice before Lokuta for legal reasons, including the filing of complaints against Lokuta with the Judicial Conduct Board.

Based upon these two excerpts from the newspaper articles, the Respondent charges as fact that the Board has blatantly violated its constitutional mandate of confidentiality and compromised a comprehensive investigation against her in order to facilitate a court administrator's reassignment of cases. Such a charge is reckless, outrageous, and desperate. Further, it ignores the fact that any person filing a complaint with the Board may independently raise such fact as a basis to request that a judge disqualify from presiding over a case and the Board has no authority to interfere.

Finally, it is also **denied** that there was a breach of confidentiality based upon a meeting with then President Judge Michael T. Conahan and the Court Administrator. The Respondent ignores the practical aspects of running a county court system, which requires collegiality and contact between a President Judge and the Court Administrator. In this matter, the President Judge became aware of some matters involving the Respondent from the Court Administrator. The President Judge forwarded information and documents

relevant to what he learned from the Court Administrator.

In fact, the 06/10/04 incident involving the Respondent, her then tipstaff Maureen Gushanas, and Deputy Court Administrator Peter J. Adonizio (charged in the Board Complaint at Paragraphs 15 and 16) also jointly involved Court Administration and President Judge Conahan. After receiving a letter from the Respondent dated 06/10/04 (**Attached and marked as Board Exhibit "D"**) falsely accusing Adonizio of wrongdoing, President Judge Conahan directed Sharkey to conduct an internal investigation. By letter dated 06/21/04 (**Attached and marked as Board Exhibit "E"**), President Judge Conahan advised the Respondent that he had directed an internal investigation be carried out by Court Administration, which revealed that Adonizio had done nothing wrong and Gushanas was at fault.

To characterize the meeting on 09/10/04 between the Deputy Chief Counsel, a board investigator, the President Judge, and the Court Administrator, as a breach of confidentiality is desperate and ridiculous. There is no evidence that either Judge Conahan or William Sharkey did anything to compromise the confidential nature of the Board's investigation because of this meeting.

34. **Denied.** By way of further answer, the Respondent's Motion to Quash Subpoena and to Dismiss Pending Complaints was filed after Deputy Chief Counsel sent correspondence dated 07/12/06 (**Board Exhibit "B"**) with the Respondent's new subpoena for 08/25/06, wherein it was made clear that the repeated rescheduling of the Respondent's deposition and her repeated threats to file a Motion to Quash her subpoena, most recently by claiming a breach of

confidentiality, was now leading to the inescapable suspicion that the Respondent was merely trying to delay the matter and avoid providing deposition testimony. Deputy Chief Counsel advised there would be no further delays.

The Respondent responded, and Deputy Chief Counsel's suspicion was confirmed, with a fourteen (14) page Motion to Quash and to Dismiss the Pending Complaints, wherein Respondent's counsel in detailed fashion put forth his basis for requesting the quash and dismissal. Board Member G. Craig Lord, Esq., was appointed by then Chairman Mark Schultz to address the Motion on behalf of the Board.

After reviewing the Respondent's Motion and attachments, speaking with Deputy Chief Counsel, and independently reviewing information requested from the Board's complaint file, by Order dated 08/17/06, Board Member G. Craig Lord found no merit to the Motion and denied it (**Board Exhibit "C"**). The Respondent was ordered to attend her deposition as scheduled for 08/25/06. As late as 08/21/06, again confirming Deputy Chief Counsel's suspicion that the Respondent was trying to avoid her deposition, Respondent's counsel advised that he would be present on the deposition date, but he could not guarantee the Respondent's appearance.

Finally, the Board **denies** that any breach of confidentiality occurred or that a breach caused the Respondent embarrassment or discomfort. From all appearances, the newspaper articles at issue were either instigated or facilitated by the Respondent's participation in speaking to the press about a pending court case, not by any involvement of the Board.

35. The Board has no knowledge of Respondent's complaints to the Pennsylvania Court Administrator's office about Sharkey. It is **denied** that any "damage" suffered by the Respondent was the result of any breach of confidentiality by the Board.
36. **Denied** that the Board breached confidentiality. **See paragraph 33 above.** Rule 17 of the Judicial Conduct Board Rules of Procedure speaks for itself.
37. **Denied.** By way of further answer, to the contrary, it was Sharkey who provided the Board with confidential information during the Board's investigation.

WHEREFORE, the Board respectfully requests that Section III of the Omnibus Motion of the Respondent be DENIED.

Section IV

38. **Denied as stated.** By way of further answer, Rule 15 of the Judicial Conduct Board Rules of Procedure provides that
- [e]xcept where the Board determines otherwise for good cause, the Board shall not consider complaints arising from acts or omissions occurring more than four years prior to the date of the complaint, provided, however that when the last episode of an alleged pattern of recurring judicial misconduct arises within the four-year period, the Board may consider all prior acts or omissions related to such an alleged pattern of conduct.
39. **Denied as stated.** By way of further answer, with limited exception, the Board Complaint charges the Respondent with a **pattern of recurring judicial misconduct** toward attorneys, court personnel, and personal staff, which manifests itself through the Respondent's improper demeanor, abusive

behavior, and inappropriate use and treatment of such persons. The Board is not presenting piecemeal isolated examples, but rather examples or incidents which taken together as a whole exemplify a pattern of abusive and inappropriate behavior that has been continual. The charges for this abusive and inappropriate behavior are based on witness testimony that covers periods within the Rule 15 four-year period and, in some instances, particularly with long serving court reporters, to the years predating it and stretching to the beginning of the Respondent's service as a judicial officer.

40. **Denied as stated.** By way of further answer, many witnesses do have the memory to testify about the Respondent's abusive and inappropriate behavior during the Rule 15 four-year period and to earlier times, corroborating that the Respondent has engaged in a pattern of recurring judicial misconduct.
41. **Denied as stated.** The Board Complaint speaks for itself.
42. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.**
43. **Denied** that there is a violation of the Statute of Limitations.

WHEREFORE, the Board respectfully requests that Section IV of the Omnibus Motion of the Respondent be DENIED.

Section V

44. **Denied as stated.** It is **admitted** the Board interviewed attorneys Selyne Youngclaus, and Theodore Krohn. The Board also deposed attorney Michael Kostelaba. It is **admitted** that Sal Cagnetti, Jr., Esq., represented the Respondent on Complaint Nos. 1999-341, 1999-348, 1999-056, and 2000-396. It is admitted that attorney Youngclaus represented the Respondent on Complaint No. 2001-518. The Board has no knowledge that Kostelaba represented the Respondent on any identifiable complaint number.
45. **Denied as stated.** It is **admitted** the Board gave the Respondent no advanced notice concerning interview or deposition dates and times for attorneys Youngclaus, Krohn, or Kostelaba. It is **denied** that the Board was required to do so. With unfathomable logic, the Respondent, in a most bizarre challenge, takes issue with attorney Kostelaba being deposed. It must be noted, however, that the Respondent referred Kostelaba to the Board as someone the Board should contact in her list of one hundred and nine (109) witnesses attached to her response letter to the Board's Notice of Full Investigation!
46. **Denied.** By way of further answer, Rule 3.10 of the Rules of Professional Conduct provides
- A public prosecutor or other governmental lawyer shall not, without prior judicial approval, subpoena an attorney to appear before a **grand jury or other tribunal investigating criminal activity** in circumstances where the prosecutor or other governmental lawyer seeks to compel the attorney/witness to provide evidence concerning a person who is or has been represented by the attorney/witness. (emphasis added).

Rule 3.10 is inapplicable to the matter *sub judice*. As Rule 3.10 makes clear, it applies to matters before a grand jury or other tribunal investigating **criminal**

activity. The Board is neither a criminal investigatory agency, nor has it been conducting a criminal investigation of the Respondent. Furthermore, as the Court of Judicial Discipline has recognized, “[i]t is settled in Pennsylvania that judicial disciplinary proceedings are not criminal in nature.” In re Cicchetti, 697 A.2d 297, 307 (Pa.Ct.Jud.Disc. 1997).

Additionally, as the Respondent knows from the discovery provided, none of the interviewed or deposed persons she names in her Omnibus Motion were questioned about their prior representation, in whatever capacity it may have been, if any, of the Respondent. The Board did, however, follow its constitutional mandate as defined in Article V, §18(a)(7), which requires the Board to

receive and investigate complaints regarding judicial conduct filed by individuals or initiated by the board; issue subpoenas to compel testimony under oath of witnesses, including the subject of the investigation, and to compel the production of documents, books, accounts and other records relevant to the investigation. . .

- 47. **Denied. See paragraph 46 above.**
- 48. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing. See paragraph 46 above.**
- 49. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing. See paragraph 46 above.**
- 50. **Denied.**

51. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.** By way of further answer, it is denied there was a breach of an *“attorney/client relationship.”*

WHEREFORE, the Board respectfully requests that Section V of the Omnibus Motion of the Respondent be DENIED.

Section VI

52. **Denied as stated.** By way of further answer, Rule 16 of the Judicial Conduct Board Rules of Procedure provides that

(A) If the Board dismisses a complaint pursuant to Rule 31(A)(1) or (2), the allegations in the complaint shall not be used against the Judicial Officer for any purpose in any other judicial disciplinary or lawyer disciplinary proceeding.

(B) If, within two years of a Board dismissal, additional complaints are filed alleging similar conduct, the Board may direct that the original allegations be reinvestigated.

(C) At any time after a Board dismissal, if it becomes known that the Judicial Officer knowingly made a material misrepresentation of fact, or knowingly concealed evidence or otherwise obstructed a Board investigation, the Board may direct that the allegations in the complaint be reinvestigated.

53. **Denied as stated.** By way of further answer, when interviewed, former President Judge Patrick Toole pointed out that he had previously communicated with former Board Chief Counsel Vincent Quinn and an investigator who visited his office on a prior investigation. Judge Toole stated that he furnished them with a significant quantity of information relative to his dealings with the Respondent, but nothing happened.

As the Respondent knows, the prior investigation involving former Chief Counsel Quinn, who deposed the Respondent, focused on claims that she had sexually harassed a former law clerk (Beth Boris, Esq.) and that she had engaged in questionable conduct pertaining to the distribution of a fee to her attorneys (Beth Boris, Esq., and Jill Miller, Esq.) representing her as plaintiff in a personal injury case filed in the United States District Court, Eastern District, that settled for \$300,000 in 1995 (Ann Lokuta v. Reginald Laurin & Laidlaw Carriers, Inc., 94 Civil 4684). Neither of these claims is at issue in the current case and documents Judge Toole provided in the past have never been used, or relied upon, as part of the current prosecution.

It is **admitted** that Basil Russin, Luzerne County Public Defender, referenced in his interview previously filing a complaint against the Respondent with the Board.

54. **Denied.** By way of further answer, attorney Marsilio did not reference a prior complaint to the Board about the Respondent. He did, however, recall that the Respondent was involved in a civil suit in federal court, was represented by attorneys Beth Boris and Jill Miller, and that the Respondent constantly pressured him to say things she “wanted him to remember,” though ultimately he was never needed as a trial witness.
55. **Denied as stated.** It is **admitted** that attorney Foley did reference in his interview that the personal injury suit referenced in paragraph 53 above became the focus of a Board investigation in the past. He stated that his wife, Jill Miller, Esq., had been subpoenaed to testify before the Board, but the Respondent would not sign a waiver of the attorney/client privilege to permit

her to do so, causing strained feelings between the Respondent and his wife. The reference to “*others*” mentioning prior complaints to the Board is too vague and the Board cannot properly respond.

56. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.**
57. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.** By way of further answer, it is **denied** that Rule 16 was violated as the current prosecution is not based upon prior dismissed complaints.

WHEREFORE, the Board respectfully requests that Section VI of the Omnibus Motion of the Respondent be DENIED.

Section VII

58. **Denied as stated.** The Board Complaint speaks for itself. By way of further answer, the Board Complaint generally refers to a **pattern of recurring judicial misconduct** directed at attorneys, court personnel, and personal staff, not innocuous “*discussions between Judge Lokuta and her judicial staff.*”
59. **Denied** that the Respondent enjoys a privilege to commit judicial misconduct directed toward her personal staff and shield it from investigation by the Board with a privilege that does not exist. The Respondent cites no legal authority

supporting the alarming suggestion that such a privilege should be recognized.

The matters charged in the Board Complaint do not intrude upon anything that can remotely be characterized as a “*free exchange of ideas and discussions.*”

60. **Denied.** By way of further answer, the Respondent’s former executive secretary, Susan Weber, on her own, provided the Board with copies of documents she believed evidenced judicial misconduct. Copies are not originals and nothing was taken from the Respondent’s office.
61. **Denied.** By way of further answer, the fact that Susan Weber, on her own, made copies of documents she believed evidenced judicial misconduct and provided them to the Board only demonstrates that the Respondent wrongly took for granted that her executive secretary would lack the integrity to report what she believed amounted to judicial misconduct to the Board.
62. **Denied.** By way of further answer, for the Respondent to suggest that Susan Weber committed Theft By Unlawful Taking by providing to the Board copies of documents she had access to when she worked for the Respondent as executive secretary, documents she believed evidenced judicial misconduct, is shocking, obscene, and insidious. It can only be meant to intimidate the Board’s witness by suggesting the Respondent has a basis to prosecute Weber for criminal activity. It is even more reprehensible to carry this claim forward and charge the Board with “*participating in the criminal activity of Ms. Weber.*”
63. **Denied. See paragraphs 61 and 62 above.** By way of further answer, this paragraph is conclusory.
64. **Denied.** By way of further answer, the Pennsylvania Constitution does not

limit the boundaries of who may be contacted by the Board when investigating a complaint of judicial misconduct. There is no legal authority recognizing an impenetrable barrier around a judge's personal staff, which often have the most knowledgeable information about a judge's conduct. To create such a barrier would thwart the Board's constitutional mandate to investigate complaints of judicial misconduct and ultimately, by doing so, endanger the honor, independence, and integrity of the judiciary. The Respondent is misleading in characterizing this matter as one involving "*free and robust debate*." It is about the Respondent engaging in a **pattern of recurring judicial misconduct** toward attorneys, court personnel, and personal staff, which manifests itself through the Respondent's improper demeanor, abusive behavior, and inappropriate use and treatment of such persons. The matters raised in the Board Complaint filed in the Court of Judicial Discipline have nothing to do with robust legal debates and to suggest this is grossly inaccurate.

65. **Denied.** By way of further answer, this averment is conclusory and cites no legal authority supporting the recognition of such a privilege.
66. The Board **objects** to any hearing on an issue for which the Respondent has provided no legal authority remotely supporting the creation of a privilege whose sole effect in this matter would be to shield the Respondent's conduct toward her personal staff from accountability under the Code of Judicial Conduct and the Pennsylvania Constitution. The Board further **objects** to any hearing enabling the Respondent to convert her prosecution into an attack on a complaining witness under a dubious theory of theft.
67. This averment is conclusory. The Board requests the Respondent's request for

dismissal be **denied**.

WHEREFORE, the Board respectfully requests that Section VII of the Omnibus Motion of the Respondent be DENIED.

Section VIII

68. **Denied as stated.** By way of further answer, in compliance with Rule 401 of the Court of Judicial Discipline Rules of Procedure, on 12/20/06, the Board mailed to the Respondent's counsel all discovery material to which the Respondent was entitled. Reports of Interview concerning witnesses who will not be called at trial, who cannot provide exculpatory, relevant, or favorable information, are not required to be turned over in discovery. While the Board avers that Reports of Interview for Judge Deborah Pezze (Westmoreland County) and Judge Chester Muroski (Luzerne County) are not required to be turned over, the Board is willing to have the conference judge review such interview reports *in camera* and make a determination if deemed necessary.
69. **This matter has previously been addressed by the Court.** In the Respondent's First Request For Discovery filed in the Court of Judicial Discipline on 11/30/06, the Respondent requested access to "*any and all discovery, depositions, notes of testimony, and statements*" from prior complaints made against her. The Board objected based on relevance and confidentiality. By Order dated 12/01/06, the Honorable Richard A. Sprague **denied** the Respondent's request to access information from prior complaints. The Board **renews its objection** and avers that prior complaints are irrelevant

and interviews and depositions taken in those matters were for a different purpose than what is at issue in the matter *sub judice*.

70. **This matter has previously been addressed by the Court.** In the Respondent's First Request For Discovery filed in the Court of Judicial Discipline on 11/30/06, the Respondent made the same request. By Order dated 12/01/06, the Honorable Richard A. Sprague **denied** the Respondent's request. The Board **renews its objection** that the Respondent is demanding information which Rule 401 does not require the Board to provide. The Board is willing, however, to have the conference judge review any interview reports *in camera* and make a determination if deemed necessary.

WHEREFORE, the Board respectfully requests that Section VIII of the Omnibus Motion of the Respondent be DENIED.

Section IX

71. **Admitted.**
72. **Denied. Also see paragraph 11 above.**
73. The Board **objects** to an extension of time to provide the Board with discovery. When the Respondent was deposed on 08/25/06, she brought with her a voluminous, organized binder of documentary material she had gathered over the time leading up to her deposition date. Only some of this material was presented to the Board. The Board has received no discovery and has not seen any other documents she collected in her binder. It did not appear to Deputy Chief Counsel that the Respondent was unable to gather documents she

believed necessary to her defense. **Also see paragraph 11 above**, wherein the Board questions what documents the Respondent requires for her defense since the majority of the charged conduct is based on incidents that are not a matter of court record.

WHEREFORE, the Board respectfully requests that Section IX of the Omnibus Motion of the Respondent be DENIED.

Section X

- 74. **Denied. See paragraph 2 above.** By way of further answer, the Board Complaint speaks for itself.
- 75. **Denied. See paragraph 2 above.** By way of further answer, the Board Complaint speaks for itself.
- 76. **Denied. See paragraph 11 above.**
- 77. **Denied. See paragraph 11 above.** By way of further answer, the Board Complaint provides the Respondent with sufficient specificity to address whether or not she has been engaging in a **pattern of recurring judicial misconduct** directed toward attorneys, court personnel, and personal staff.

WHEREFORE, the Board respectfully requests that Section X of the Omnibus Motion of the Respondent be DENIED.

Section XI

78. **Denied as stated.** By way of further answer, Rule 30(B)(2)(a) of the Judicial Conduct Board Rules of Procedure provides that the Board's Notice of Full Investigation shall contain "*the specific allegations under investigation.*" Rule 30(B)(2)(c) grants the judicial officer "*the right to provide a written response or other information within 20 days of the receipt of the notice.*"

79. **Denied** that no notice was given. By way of further answer, on 04/21/05, a twelve (12) page Notice of Full Investigation dated 04/21/05, was sent by certified mail, return receipt requested, addressed to the Respondent. The Respondent sent a response letter dated 05/23/05 to the Board's Notice of Full Investigation. On 06/21/06, the Board sent the Respondent a nine (9) page supplement to the Notice of Full Investigation. The Respondent addressed matters in both the Notice of Full Investigation and its supplement at her deposition on 08/25/06. Concerning the subparagraphs, the Board's response is as follows:

(a.) **Denied as stated.** Paragraph 4.5 of the Board Complaint represents one example of the general charge of paragraph 4 that the Respondent routinely engages in a pattern of behavior toward court personnel and her personal staff characterized as discourteous, rude, impatient, undignified, abusive, unprofessional, demeaning, humiliating, intimidating, and volatile. The Board's Notice of Full Investigation of 04/21/05 made it clear the Board was investigating, *inter alia*, the specific allegation regarding the Respondent's display of improper demeanor on and off the bench directed at attorneys, court personnel, and her personal staff. The

Respondent was also advised in the Notice of Full Investigation, in compliance with Rule 30(B)(2)(d) of the Judicial Conduct Board Rules of Procedure, that the Board's ongoing investigation "*may discover facts concerning the allegations that could change the violations alleged or charged.*" The Board obtained the information contained in paragraph 4.5 after it sent out the Notice of Full Investigation when it interviewed Susan Moyer, a secretary who worked for the Respondent for three (3) months before being fired by the Respondent in May 2005.

(b.) **Denied as stated.** The Board's Notice of Full Investigation of 04/21/05 referenced the information about the Respondent's conduct toward court security provided by the Sheriff. The Board Complaint also mentions the problem created by the Respondent not permitting defendants to be shackled in the courtroom, which is simply an additional aspect of the general allegation that the Respondent routinely engages in behavior in the courtroom disruptive to court security. The Respondent has been made aware of the general allegation and is under no illusions about what the Board is charging. Furthermore, she has full discovery pertaining to any information gathered by the Board regarding this claim.

(c.) **Denied as stated.** The Board's 06/21/06 supplement to its Notice of Full Investigation specifically raises this issue and the Respondent addressed it at her deposition on 08/25/06, rather than in writing, denying it.

(d.) **Denied as stated.** The Board's 06/21/06 supplement to its Notice of Full Investigation specifically raises this issue and the Respondent

addressed it at her deposition on 08/25/06, admitting that “on occasion” she had her law clerk intern, Rebecca Sammon, write sympathy notes. It is **admitted** that the supplement to the Notice of Full Investigation did not contain the last sentence of paragraph 18 of the Board Complaint.

WHEREFORE, the Board respectfully requests that Section XI of the Omnibus Motion of the Respondent be DENIED.

Section XII

80. **Denied. See paragraph 20 above.**

WHEREFORE, the Board respectfully requests that Section XII of the Omnibus Motion of the Respondent be DENIED.

Section XIII

81. The Board **objects** to consideration of Section XIII. In matters before the Court of Judicial Discipline, the Court has its own rules of procedure governing practice. Rule 411 and Rule 413 of the Court of Judicial Discipline Rules of Procedure define the proper mechanism by which a Respondent may challenge a Board Complaint, either through an omnibus motion or an answer admitting or denying the allegations. The Respondent is attempting to graft into her omnibus motion a separate filing that would not be appropriate under the procedural rules governing this matter. Preliminary objections are the proper response to a civil complaint filed in our courts of common pleas and governed

by the Pennsylvania Rules of Civil Procedure, not for responding to a Board Complaint filed in the Court of Judicial Discipline.

82. **Denied as stated.** By way of further answer, the Board Complaint speaks for itself. The remainder of the averment is self-serving commentary requiring no response.

83. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.** By way of further answer, it is absurd and alarming for the Respondent to suggest that allegations of improper demeanor “*should not be the subject of a Complaint for Judicial Discipline.*” Canon 3A(3) of the Code of Judicial Conduct, adopted and made effective in the Commonwealth by the Supreme Court of Pennsylvania, specifically provides that

Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacity, and should require similar conduct of lawyers and of their staff, court officials, and others subject to their direction and control.

To agree with the Respondent’s suggestion is to effectively eviscerate this Canon provision and give judges free license to behave uncivilly with impunity. It is **denied** that the Respondent may shield her charged behavior from scrutiny by the Court of Judicial Discipline as protected speech.

84. **Denied. See paragraph 83 above.** By way of further answer, the purpose of Canon 3A(3) is to limit the manner in which a “*judge runs his or her courtroom*” to one whose hallmark is patience, dignity, and courtesy. The true “*dangerous precedent*” would be to relegate this Canon provision to

meaningless and ineffectual print, allowing a judge to act in whatever manner he or she wished free from scrutiny by the Court of Judicial Discipline.

85. The Board objects to this paragraph as an egregious violation of Rule 411(B) of the Court of Judicial Discipline Rules of Procedure. The Respondent blatantly, unreasonably, and confusingly uses her final numbered paragraph 85 to raise numerous material allegations covering twenty-six (26) pages (pages 32 through 58), including piecemeal challenges in a vacuum to the Board's general charge about her recurring judicial misconduct, legal conclusions, misapplying the distinguishable *In re Cicchetti*, 697 A.2d 297 (Pa.Ct.Jud.Disc. 1997), complaining that the Board has not provided her with a defense along with its charges, offering apparent commentary on her intended defense (i.e. Court rules were being flouted and the Respondent was merely maintaining order in her court), resurrecting previously raised issues, along with numerous other material allegations styled as "preliminary objections." No numbering is used in the twenty-six (26) pages to distinguish one material allegation or averment from another.

Rule 411(B) of the Court of Judicial Discipline Rules of Procedure requires that an omnibus motion

shall state with particularity the grounds for the motion, the facts that support each ground, and the type of relief or order requested.

The motion shall be divided into consecutively numbered paragraphs, each containing only one material allegation as far as practicable. (emphasis added).

The Board **objects** to this paragraph as an incoherent, rambling jumble of averments in a format that cannot be addressed properly in conformance with Rule 412(B) of the Court of Judicial Discipline Rules of Procedure, which

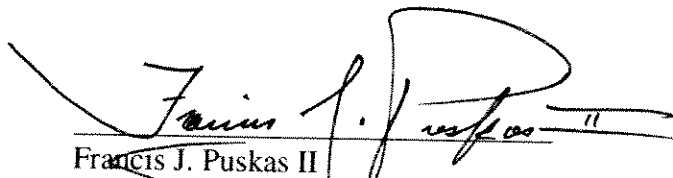
requires the Board to file a Reply that

shall be divided into consecutively numbered paragraphs corresponding to the numbered paragraphs of the motion. The reply shall meet the allegations of the motion. (emphasis added).

The Board cannot properly conform its Reply to the requirements of Rule 412(B) if the Respondent fails to conform her Omnibus Motion to the requirements of Rule 411(B). The Board respectfully requests that Section XIII be denied entirely or the Court order the Respondent to conform her pleading to the requirements of Rule 411(B) and properly present the material allegations raised in her paragraph 85 so the Board can properly and coherently reply to them. Under the circumstances, the Board generally **denies** all allegations and averments raised in the Respondent's paragraph 85 as improperly presented.

WHEREFORE, the Board respectfully requests that Section XIII of the Omnibus Motion of the Respondent be DENIED.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Francis J. Puskas II", is written over a horizontal line.

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

DATE: February 12, 2007

Judicial Conduct Board
301 Chestnut Street, Suite 403
Harrisburg, PA 17101
(717) 234-7911

Board Exhibit "A"

Investigation Chronology In re Ann H. Lokuta, 3 JD 2006

04/27/04	Complaint No. 2004-162 received/opened
05/05/04	Counsel assigned case file 2004-162
06/21/04	Complaint No. 2004-274 received/opened
06/25/04	Counsel assigned case file 2004-274
06/25/04	Investigator assigned
09/10/04	Interview
09/10/04	Interview
09/14/04	Interview
09/16/04	Complaint No. 2004-432 received/opened ¹
09/16/04	Counsel assigned case file 2004-432
09/22/04	Interview
09/22/04	Interview
09/22/04	Interview
09/22/04	Interview
09/23/04	Interview
09/23/04	Interview
10/04/04	Interview
10/07/04	Interview
10/07/04	Interview
10/08/04	Interview
10/08/04	Interview
10/08/04	Interview
10/15/04	Interview
10/19/04	Interview
10/21/04	Interview
10/25/04	Interview
10/28/04	Interview
11/03/04	Interview

¹ Complaint No. 2004-432 and 2004-274 are duplicates based upon the same information comprising Paragraphs 15 and 16 of the Board Complaint filed on November 27, 2006.

11/03/04	Interview
11/03/04	Interview
11/09/04	Interview
11/09/04	Interview
11/09/04	Interview
11/09/04	Interview
11/16/04	Interview
11/17/04	Interview
12/03/04	Interview
12/06/04	Interview
12/07/04	Interview
12/07/04	Interview
12/07/04	Board retains services of forensic psychiatrist to review and analyze investigatory material and provide the Board with a written medical opinion as to whether the material indicates the Respondent may have underlying mental health issues justifying the Board in directing that she undergo a psychiatric or psychological examination.
12/09/04	Interview
12/09/04	Interview
12/10/04	Interview
12/21/04	Board letter sending investigatory material to forensic psychiatrist for review and analysis.
01/12/05	Board letter sending additional investigatory material to forensic psychiatrist for review and analysis.
01/19/05	Interview
01/25/05	Interview
01/25/05	Interview
01/25/05	Interview
02/09/05	Interview
03/02/05	Board letter sending additional investigatory material to forensic psychiatrist for review and analysis.
03/07/05	Forensic psychiatrist review and analysis report completed
04/04/05	Board authorizes issuance of Notice of Full Investigation

04/18/05	Interview
04/18/05	Interview
04/21/05	Notice of Full Investigation dated April 21, 2005, sent by certified mail, return receipt requested, addressed to the Respondent.
04/22/05	Notice of Full Investigation delivered to Respondent's office.
04/26/05	Correspondence from Respondent's counsel officially entering his appearance and requesting a twenty (20) day extension of time to file Respondent's response letter to the Board's Notice of Full Investigation.
04/28/05	Board letter extending time to file Respondent's response letter to Board's Notice of Full Investigation to May 25, 2005.
05/20/05	Interview
05/24/05	Board receives Respondent's response letter to Board's Notice of Full Investigation , consisting of thirty-four (34) typed pages and Exhibits A through H (an additional thirty-four (34) pages), and referring the Board to contact 109 witnesses. An additional witness, Rebecca Sammon, was listed within the body of the response letter.
06/28/05	Deposition – Respondent referred witness
06/29/05	Correspondence from Respondent's counsel adding the name of Judge Chester Muroski to her list of contact witnesses referenced in the Respondent's response letter to the Board's Notice of Full Investigation.
08/19/05	Deposition – Respondent referred witness
08/19/05	Deposition – Respondent referred witness
08/19/05	Deposition – Respondent referred witness
09/26/05	Interview – Respondent referred witness
10/03/05	Board authorizes a continuance of the investigation as it was ongoing and Board Counsel was in the process of deposing witnesses referenced to the Board by the Respondent.

10/04/05	Discussion with Respondent's counsel about the Respondent voluntarily agreeing to undergo a mental health evaluation instead of facing the possibility the Board may direct she do so. Respondent's counsel opined he was trying to persuade the Respondent to do so and was optimistic he could get her to come around to the idea, but thus far she was resistant.
10/04/05	Interview – Respondent referred witness
10/05/05	Interview – Respondent referred witness
10/05/05	Board letter advising the Respondent that the Board authorized a continuance of the investigation on 10/03/05.
10/12/05	Deposition – Respondent referred witness
11/02/05	Interview – Respondent referred witness
11/02/05	Interview – Respondent referred witness
11/04/05	Interview – Respondent referred witness
12/28/05	Correspondence from Respondent's counsel claiming they contacted people on their referred witness list and no one contacted stated they had been contacted by the Board or said anything negative to the Board about the Respondent.
01/11/06	Board response letter making Respondent's counsel aware the Board had contacted approximately 10% of referred witnesses and that most corroborated its investigation. Those that were positive had infrequent, sporadic contact or were political supporters/contributors of the Respondent.
01/26/06	Correspondence from Respondent's counsel advising that he had arranged with a psychiatrist and psychologist to conduct a mental health evaluation of the Respondent. As this was done voluntarily, the Board had no input into who conducted the testing.
02/06/06	The Respondent was scheduled for an appointment with a psychologist. The Respondent failed to keep the appointment. The Respondent's counsel advised that the Respondent claimed she had no one to drive her there. The appointment was rescheduled 30 days later for 03/06/06.
02/13/06	The Respondent attends appointment with the psychiatrist.
03/06/06	The Respondent attends her rescheduled appointment with

the psychologist.

- 04/03/06** **Board authorizes a continuance of the investigation as the Board had not yet received the final reports from the testing psychiatrist and psychologist.**
- 04/10/06 Board receives copies of the final reports of the psychiatrist and psychologist.
- 04/11/06 Board sends copies of the final reports to its own retained forensic psychiatrist to review.
- 04/16/06 Board letter advising the Respondent that the Board authorized a continuance of the investigation on 04/03/06 because the Board was awaiting the completion of the Respondent's mental health evaluation and the receipt of the medical reports.
- 04/24/06 Teleconference with Board retained forensic psychiatrist about the final reports.
- 04/24/06 Board letter requesting raw testing data and an accurate print-out listing all medications billed/taken by the Respondent over the last 3-4 years.
- 04/28/06 Correspondence from Respondent's counsel **declining to provide additional information.**
- 05/17/06** **Subpoena issued to Respondent scheduling deposition for first time for 06/19/06.**
- 05/19/06 **Deposition rescheduled to 07/10/06 as courtesy to Respondent counsel's verbal request based upon his court schedule.**
- 05/19/06** **New subpoena issued to Respondent rescheduling deposition for second time for 07/10/06.**
- 06/05/06 Correspondence from Respondent's counsel requesting more specific information about the allegations.
- 06/09/06 Correspondence from Respondent's counsel again requesting more specific information about the allegations and threatening to try to quash the subpoena if he was not provided such information. He further advised that he received notice that he may have to appear before the Third

Circuit Court of Appeals on an election case on 07/10/06.

06/12/06 Board response letter promising to send more specific information.

06/21/06 **Board sends supplement to Notice of Full Investigation.**

06/30/06 Correspondence from Respondent's counsel **requesting the deposition be rescheduled** because it was confirmed he had oral argument in the Third Circuit Court of Appeals on 07/10/06.

07/03/06 Correspondence from Respondent's counsel again advising he was scheduled for oral argument in the Third Circuit Court of Appeals on 07/10/06.

07/05/06 **Deposition rescheduled as courtesy to Respondent counsel's request.** Board letter sent confirming that **the deposition for 07/10/06 would be rescheduled**, that August 10 or 11 were suggested by Respondent's counsel as potential new dates, and emphasizing the need to move the matter along.

07/07/06 Correspondence from Respondent's counsel stating the **Respondent was unavailable until 08/25/06.**

07/10/06 Correspondence from Respondent's counsel again stating the **Respondent was unavailable until 08/25/06.**

07/11/06 Teleconference with Respondent's counsel wherein he claimed the Board breached confidentiality because of newspaper article and threatening he may file a motion to dismiss the charges. The Board requests a copy of the newspaper article.

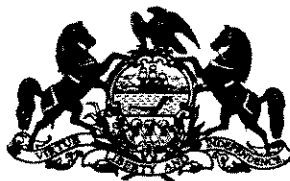
07/11/06 Correspondence from Respondent's counsel with enclosed newspaper article from The Times-Leader dated 07/08/06 entitled "Judge questions reassignment of cases."

07/12/06 Board letter confirming reschedule of deposition to 08/25/06 and mentioning no further delays will be permitted.

07/12/06 **Subpoena issued to the Respondent rescheduling deposition for third time to 08/25/06.**

- 07/21/06 Respondent's counsel files Motion to Quash Subpoena and to Dismiss Pending Complaints.
- 07/24/06 Board letter acknowledging receipt of Motion and that deposition remains scheduled for 08/25/06 unless otherwise notified
- 07/31/06 Correspondence from Respondent's counsel asking if deposition will proceed if Board does not act on his Motion before 08/25/06.
- 08/17/06 **ORDER denying Motion to Quash Subpoena and to Dismiss Pending Complaints signed by Board Member G. Craig Lord, Esquire, acting for the Board. The Respondent is ordered to appear for her deposition on 08/25/06.**
- 08/21/06 Teleconference with Respondent's counsel. Respondent's counsel stated he would be present for the deposition on 07/25/06, but **he could not guarantee that the Respondent would show up.**
- 08/24/06 Correspondence from Respondent's counsel stating that he and Respondent will be present for the deposition on 08/25/06.
- 08/25/06 Deposition – Judge Lokuta
- 09/28/06 Correspondence from Respondent's counsel requesting an additional 30 days for the Respondent to make decision on whether to retire in place of the Board filing a Board Complaint against her in the Court of Judicial Discipline.
- 10/03/06 Board letter response to Respondent counsel's request for 30 and 60 day extensions of time for the Respondent to consider retiring from office.
- 10/19/06 Board authorizes filing formal charges no earlier than November 2006. The Respondent is given the opportunity to make decision to resign by 10/31/06, such resignation to be effective by the end of the year or the first week in January 2007.
- 10/31/06 Deadline passes and the Respondent does not take the Board's offer to retire in place of court charges

- 11/12/06 Correspondence from Respondent's counsel requesting advanced notice about when the Board will file the Board Complaint in the Court of Judicial Discipline. Respondent's counsel opines the Board should reconsider filing a Board Complaint because "*any delay in Deleon pales in comparison to this case.*"
- 11/14/06 Board letter response that no reconsideration will occur and denying any delay akin to the In re Deleon matter.
- 11/27/06 Board files Board Complaint in the Court of Judicial Discipline.



JUDICIAL CONDUCT BOARD

PENNSYLVANIA PLACE • 301 CHESTNUT STREET • SUITE 403 • HARRISBURG, PA 17101 • 717-234-7911

July 12, 2006

Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Re: Judicial Conduct Board Complaint Nos. 04-162 & 04-432

Dear Mr. Stretton:

As per our telephone conversation yesterday, I am sending this letter to confirm that Judge Lokuta's deposition scheduled for July 10 has been rescheduled for **9:30 AM, Friday, August 25, 2006, at the Judicial Conduct Board office in Harrisburg.** I anticipate this deposition will take most of the day. If it becomes necessary to schedule a second day, we can address that on August 25.

This rescheduling is done as a professional courtesy to you and the judge in accommodating your schedules. I would note, however, that this is the third time we have had to reschedule Judge Lokuta's deposition. Judge Lokuta was originally scheduled for June 19, then for July 10, and now for August 25.

As you advised, the originally suggested new dates of August 10 or 11 would not be convenient because of Judge Lokuta's trial court schedule. You advised that Judge Lokuta would only be available August 25. At my request, you consulted with Judge Lokuta to ascertain whether we could get an earlier date. You advised that August 25 was the only workable date for the judge and earlier dates were not viable.

I note that when Judge Lokuta's first scheduled deposition was approaching, you advised that Judge Lokuta wanted you to take steps to "quash" the deposition. In discussing the reschedule date for August, you advised that Judge Lokuta wanted you to file a motion in the Supreme Court of Pennsylvania to "dismiss the charges" (on a case that has never appeared in any court) because she is now upset about a local newspaper article which you advised me had appeared involving statements from Luzerne County Court Administration about the Board's investigation and attorneys who may have been

BOARD'S
EXHIBIT
B

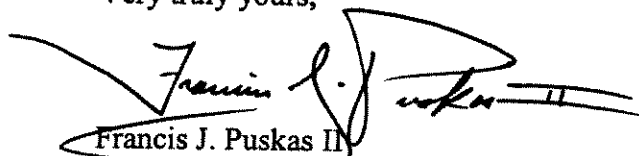
PAGE 2 – Samuel C. Stretton, Esq.
July 12, 2006

contacted by the Board. I renew my request that you send or fax me a copy of this article.

Candidly, from this history, I am getting the sense that Judge Lokuta is trying to avoid this deposition or delay it as long as possible. While I have no knowledge of this newspaper article you reference, I can assure you the Board has provided no information to any newspaper or the Luzerne County Court Administration Office. With reference to Judge Lokuta's deposition, however, it should have no bearing on her attendance to address serious allegations made against her. Please understand that while I am certainly reasonable in accommodating attorney and judge schedules, this matter must move forward and I do not expect to delay it any further.

As always, I appreciate your courtesy and professionalism. At your request, I am enclosing the new subpoena to you as Judge Lokuta's counsel.

Very truly yours,


Francis J. Puskas II
Deputy Chief Counsel

FJP II

VIA FAX AND FIRST CLASS MAIL

COMMONWEALTH OF PENNSYLVANIA
JUDICIAL CONDUCT BOARD

IN RE:

Ann H. Lokuta,
Judge, Court of Common Pleas
Luzerne County

Respondent

JCB Complaint Nos. 2004-162
2004-432

ORDER

AND NOW, this 17th day of August 2006, after consideration of the Respondent's Motion to Quash Subpoena and To Dismiss Pending Complaints, it is hereby ORDERED AND DECREED that said Motion is DENIED. The Respondent is ordered to honor her subpoena and appear as originally scheduled for a deposition on August 25, 2006, to be held at 9:30 AM at the Judicial Conduct Board offices located at Pennsylvania Place, 301 Chestnut Street, Suite 403, Harrisburg, Pennsylvania, 17101.

By Authority of the Board,¹


G. Craig Lord, Esquire
Board Member

¹ Pursuant to Rule 24(D) of the Judicial Conduct Board Rules of Procedure, Board Chairman Mark C. Schultz appointed Board Member G. Craig Lord to decide this matter.

BOARD'S
EXHIBIT
C



Ann H. Lokuta

Judge
11th Judicial District

June 10, 2004

JUDGE'S CHAMBERS
LUZERNE COUNTY COURTHOUSE
WILKES-BARRE, PA 18711
PHONE: (570) 825-1613
FAX: (570) 830-1313
TDD: (570) 825-1860

Honorable Michael T. Conahan
President Judge
11th Judicial District
Luzerne County Court of Common Pleas
200 North River Street
Wilkes-Barre, PA 18711

**RE: UNPROFESSIONAL AND HOSTILE CONDUCT OF
DEPUTY COURT ADMINISTRATOR P. J. ADONIZIO**

Dear Judge Conahan:

I am compelled to write to you regarding matters which arose this afternoon on the third floor of the Luzerne County Courthouse, as a result of the unwarranted and physically intimidating actions of Deputy Court Administrator, P. J. Adonizio. Specifically, Mr. Adonizio exhibited inappropriate conduct in a public forum, by engaging in menacing and threatening actions directed at my Tipstaff, Maureen Gushanas, as well as myself. Mr. Adonizio's actions included publicly berating and screaming at Ms. Gushanas, and this Jurist. His behavior, which was both intentionally confrontive and physically menacing, amounted to behavior unbefitting to a public employee, and I find it to be offensive and unacceptable.

I trust that you will investigate this matter and take appropriate disciplinary action against Deputy Court Administrator, P. J. Adonizio for the protection of myself, my staff, other Courthouse employees and visitors.

Sincerely,


JUDGE ANN H. LOKUTA

AHL:sl

cc: County Commissioner Greg Skrepenak
County Commissioner Todd Vonderheid
County Commissioner Stephen A. Urban
Pennsylvania Court Administrator Zygmont A. Pines

BOARD'S
EXHIBIT

D

JUDGE'S CHAMBERS
LUZERNE COUNTY COURT HOUSE
WILKES-BARRE, PA
18711-1001

(570) 825-1573
FAX (570) 830-1308
TDD (570) 825-1860



MICHAEL T. CONAHAN
PRESIDENT JUDGE

June 21, 2004

The Honorable Ann H. Lokuta
Luzerne County Courthouse
200 North River Street
Wilkes-Barre PA 18711

RE: Investigation of Deputy Court Administrator, P.J. Adonizio
Dear Judge Lokuta:

Pursuant to your letter dated June 10, 2004 with regard to the above-captioned matter, I directed Court Administrator, William Sharkey, to investigate the incidents outlined in your letter.

As a result of the investigation, the recommendation is that Mr. Adonizio did nothing that would require disciplinary action under the Court's Human Resource Manual. Further, it was determined that his behavior was not intentionally confrontational, physically menacing or did not amount to behavior unbecoming to a public employee.

As a further result of this investigation, the conduct of Maureen Gushanas was found to be intentionally confrontational and physically menacing, amounting to behavior unbecoming to a public employee. Therefore, I am directing you to contact Paul McGarry, Human Resource Coordinator, and meet with Mr. McGarry as to what sanctions should be imposed upon Ms. Gushanas. Please schedule this meeting with Mr. McGarry within the next ten (10) days and report back to me with the result. I am also directing that you keep a copy of this letter in Ms. Gushanas' employment file for any further action.

By copy of this letter, I will notifying Pennsylvania Court Administrator, Zygmunt Pines, Rick Pierce, AOPC and the Judicial Conduct Board with a copy of my findings and the interview of the witnesses involved.

Please refer any future correspondence to my direction on this matter in writing.

Sincerely,

MICHAEL T. CONAHAN, P.J.

MTC/dar

Cc: William Sharkey, Court Administrator

BOARD'S
EXHIBIT

E

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

In re:

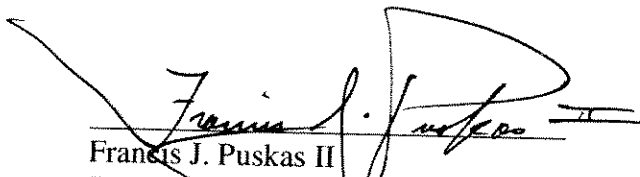
Ann H. Lokuta,
Judge of the Court of Common Pleas;
Eleventh Judicial District
Luzerne County

3 JD 06

VERIFICATION

I, Francis J. Puskas II, Deputy Chief Counsel to the Judicial Conduct Board, verify that the facts and averments contained in the Judicial Conduct Board Reply to Omnibus Motion of the Respondent are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities.

Respectfully submitted,


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

DATE: February 12, 2007

Judicial Conduct Board
301 Chestnut Street, Suite 403
Harrisburg, PA 17101
(717) 234-7911

COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

Ann H. Lokuta,
Judge of the Court of Common Pleas;
Eleventh Judicial District
Luzerne County

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3 JD 06

PROOF OF SERVICE

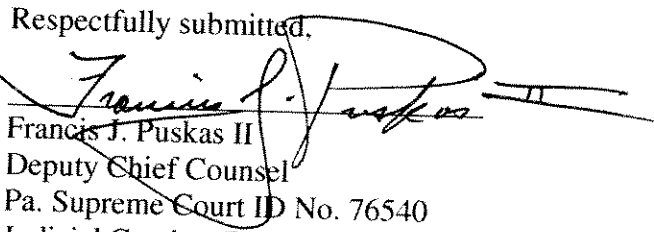
In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on or about February 12, 2007, a copy of the Judicial Conduct Board Reply to Omnibus Motion of the Respondent was sent by Certified Mail to:

The Honorable Ann H. Lokuta
c/o Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Certified Mail No. 7161 7145 5370 0000 3309
Return Receipt Requested

DATE: February 12, 2007

Respectfully submitted,


Francis J. Puskas II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540
Judicial Conduct Board
301 Chestnut Street, Suite 403
Harrisburg, PA 17101
(717) 234-7911