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J. NEWTON ESDAILE
(1904-2001)

May 8, 2007

Gillian E. Pearson, Executive Director
Commission on Judicial Conduct
11 Beacon St., Ste. 525
Boston, MA 02108

Re: Complaints Nos. 2006-9 and 2006-30

Dear Ms. Pearson:

Enclosed please find the Answer of Judge Murphy to the Statement of Allegations by the Commission. Judge Murphy does not request an appearance before the Commission, as I believe the facts involved in this matter are clear and the Commission can act without hearing from Judge Murphy.

Judge Murphy has always accepted that it was improper for him to use judicial stationery although his use of the stationery was inadvertent and was mitigated by the fact that this is not the usual case where the injection of a person's judicial status into a matter unrelated to his office could be seen as an attempt to seek an advantage. I have reviewed the cases and most, if not all, of the matters that I have looked at involve a circumstance where a judge is involved in a matter and the judge injects his or her judicial office into the situation in an attempt to obtain special treatment. For instance, if Judge Murphy were involved in a dispute with a contractor over home repairs and injected his status as a judge into that dispute by the use of official stationery, he could be viewed to have acted improperly. A judge who identifies himself to a police officer in a traffic stop as a judge could be viewed as attempting to use his judicial office to obtain an advantage. These are the typical kinds of cases, which are far different from Judge Murphy's communication with Patrick Purcell, the editor of the Boston Herald. Mr. Purcell knew full well that Ernest Murphy was a judge and could not have been surprised or shocked at learning that fact nor could he have felt intimidated when he received a letter from Judge Murphy on that letterhead or contained in an envelope which had the return address of the courthouse. The libel action between the Herald and Judge Murphy involved his actions as a judge and no rationale person could view his use of the judicial stationery,

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although concededly improper, as an attempt to gain advantage in a matter that had been fully litigated, in which Judge Murphy had prevailed and which was then in the post-trial pre-appellate stage.

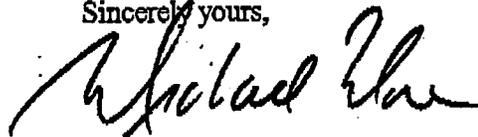
Neither Mr. Purcell nor the Herald has ever denied that Judge Murphy's letters were as a continuation of an agreed-upon confidential settlement mediation negotiation between the principals in the lawsuit, i.e., Judge Murphy and Mr. Purcell as the publisher of the newspaper. Mr. Purcell was so upset by the February and March correspondence that he waited until the following December for his lawyers to put them into motion attempting to vacate the judgment and dismiss the complaint, which at least raises the issue as to how serious the Herald viewed Judge Murphy's use of the stationery. The Herald, violating an agreement, made this correspondence public and they were the ones seeking advantage not Judge Murphy.

One of these complaints was, of course, brought by the attorney for the Herald in the libel action in an attempt to use the complaint to the Commission to gain an advantage in the civil action that was decided yesterday by the SJC. No one reading the decision by the SJC could come to any conclusion beyond that the Herald acted outrageously throughout the course of this litigation and that Mr. Purcell's violation of the confidential mediation process that he agreed to ought not to lead to a sanction against Judge Murphy.

Notwithstanding the numerous defenses on the particular canons raised by the Statement of Allegations, Judge Murphy would be agreeable to an admonition based upon a violation of Canon 1. We will vigorously defend any and all other allegations of Violations under the recited Canons.

Thank you very much.

Sincerely yours,



Michael E. Mone

MEM/rg
Enclosure

BEFORE THE COMMISSION ON JUDICIAL CONDUCT**Complaint Numbers 2006-9 & 2006-30****ANSWER OF HONORABLE ERNEST B. MURPHY**

The Respondent denies so much of the Introductory Paragraph in the Statement of Allegations that alleges that he did anything to bring his judicial office into disrepute or engaged in conduct prejudicial to the administration of justice or unbecoming to the judicial office. He specifically denies the recited Canons as containing gross overstatements as to the inadvertent use of his judicial stationery in a private, privileged communication.

As to the specific factual allegations, the Respondent replies as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. The Respondent admits that the defendants, in the libel action on December 20, 2005, filed the February 19 and March 18 letter in support of a Motion to Vacate the judgment and dismiss the complaint and avers further that said motions to vacate and dismiss were denied by the trial judge. The Respondent admits that the Boston Herald did publish excerpts from these letters, but he is without knowledge as to whether or not the Herald published letters on its website as alleged, but does not contest said matter.

The Respondent denies that he engaged in willful misconduct, which brought his judicial office into disrepute or that he engaged in conduct, which was prejudicial to the administration of justice and unbecoming to judicial office.

Further answering, the Respondent admits and has previously apologized for his use of the judicial stationery in his private, privileged, and confidential communication with the publisher of the Boston Herald concerning settlement of his case against the Herald.

Further answering, the Respondent specifically denies that he violated the specific cannons set out in the Statement of Allegations because the use of judicial stationery could not have had any effect on the publisher of the Herald because the fact that Ernest B. Murphy was a judge was already well known to the publisher of the Boston Herald who was a defendant in a libel case that grew out of outrageous and false allegations brought against Ernest B. Murphy for his conduct as a judge.

Respectfully Submitted
By his Attorney,



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DATED: May 8, 2007