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No 2006-9

**ESDAILE, BARRETT & ESDAILE**

**JUL 09 2007**

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J. NEWTON ESDAILE  
(1904-2001)

July 9, 2007

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

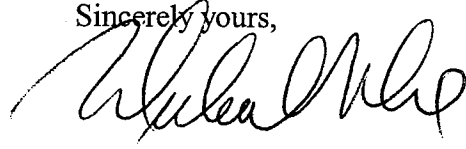
Re: Complaints Nos. 2006-9 and 2006-30

Dear Ms. Pearson:

Enclosed in the above-entitled matter please find the Answer of Honorable Ernest B. Murphy.

Thank you for your attention to this matter.

Sincerely yours,



Michael E. Mone

MEM/rg  
Enclosure

JUL 09 2007

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT**

**Complaint Numbers 2006-9 & 2006-30**

**ANSWER OF HONORABLE ERNEST B. MURPHY**

The Respondent denies that he engaged in willful misconduct which brings the judicial office into disrepute, as well as conduct prejudicial to the administration of justice and unbecoming a judicial officer. The misconduct denied includes: failure to maintain and observe high standards of conduct in violation of Canon 1A of the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09); failure to avoid impropriety and the appearance of impropriety in violation of Canon 2; failure to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary in violation of Canon 2A; lending the prestige of judicial office to advance his own private interests in violation of Canon 2B; failure to conduct extra-judicial activities so that they do not cast doubt on the judge's capacity to act impartially as a judge in violation of Section 4A(1) of Canon 4A; and failure to refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with his judicial position or that may be reasonably perceived to exploit his judicial position in violation of Section 4D(1) of Canon 4D. All of these violations are denied.

The Respondent specifically denies that he violated the recited Canons as the paragraphs contains gross overstatements as to the effect of inadvertent use of judicial stationery in a private, privileged, and confidential communication. As to the specific allegations, the Respondent replies as follows:

1. Admitted.
2. Admitted and further answering, the Supreme Judicial Court affirmed the judgment against the Boston Herald and its reporter, David Wedge, finding in the strongest terms that Judge Murphy was libeled by the Herald and its reporter who acted with actual malice in its reporting regarding the Respondent. Murphy v. Herald, 449 Mass. 42 (2007)
3. Admitted and further answering this paragraph, the Respondent had entered into private confidential and privileged discussions with the publisher of the Boston Herald regarding settlement of the libel claim in which a jury had returned a verdict in favor of the Respondent.
4. Admitted, but further answering that the post-script described in this allegation were in furtherance of the same confidential, private, privileged communication with Mr. Purcell regarding the pending litigation between the parties.
5. Admitted.
6. Admitted, but further answering, the Respondent denies that the use of an envelope violated any Canon of judicial ethics.
7. Admitted, and further answering the Respondent says that the publication of the letters by the Boston Herald constituted a breach of a personal agreement made by Mr. Purcell to treat communications between Purcell and the Respondent as private, confidential and privileged settlement negotiations regarding the matter pending between the parties.

Further answering, the Respondent is without knowledge as to the publication on the website.

Further answering, the Respondent states that the motion filed by the Boston Herald was denied by the trial judge. The denial was affirmed by the Supreme Judicial Court in Murphy v. Herald. Infra 449 Mass 42 61.

Further answering, the Respondent denies that he engaged in any willful misconduct.

Respectfully Submitted  
By his Attorney,



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DATED: July 9, 2007