

The Commonwealth of Massachusetts
COMMISSION ON JUDICIAL CONDUCT

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PRESS RELEASE

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FOR IMMEDIATE RELEASE
August 20, 2008

**COMPLAINT NUMBER 2007-80 REGARDING JUDGE MURPHY'S DISABILITY IS
RESOLVED BY A FINAL SUBMISSION TO THE SUPREME JUDICIAL COURT
PURSUANT TO COMMISSION RULE 13A**

BOSTON, MA (August 20, 2008) – On July 24, 2008, the Commission on Judicial Conduct and Associate Justice of the Superior Court, Ernest B. Murphy, filed with the Supreme Judicial Court a Final Submission Upon Agreed Facts (attached) pursuant to G.L. c.211C and Commission Rule 13A on Commission Complaint No. 2007-80. Commission Complaint No. 2007-80 is regarding Judge Murphy's disability and is separate from the matter pending before the Supreme Judicial Court under Docket No. SJC-10179, related to letters Judge Murphy sent to the Publisher of the *Boston Herald*.

By Order dated August 19, 2008 (attached), the Supreme Judicial Court accepted the Final Submission on Complaint No. 2007-80 in which the Commission and Judge Murphy stipulated and agreed that Judge Murphy is "permanently disabled from performing his duties as a Justice of the Superior Court," and the Court ordered that Judge Murphy "shall not sit hereafter as a judge in Massachusetts."

As part of this Final Submission, Judge Murphy recommended that "he shall remain on



paid administrative leave until his retirement, or until such time as the Governor and his Council grant him a disability pension.” The Court rejected Judge Murphy’s recommendation and, subject to conditions, ordered that Judge Murphy shall continue to receive his judicial compensation “for no more than one hundred twenty days” from the date of its Order. In its Order, the Court stated, “Decisions regarding Judge Murphy’s pension are not assigned to the judiciary and the Court makes no determination with respect thereto.”

The Commission’s governing statute and rules are available on the Commission’s website: www.mass.gov/cjc.

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COMMONWEALTH OF MASSACHUSETTS

COMMISSION ON JUDICIAL CONDUCT

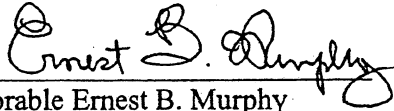
COMPLAINT NUMBER 2007-80
AGAINST ASSOCIATE JUSTICE ERNEST B. MURPHY

**FINAL SUBMISSION UPON AGREED FACTS,
CHAPTER 211C AND COMMISSION RULE 13(A).**

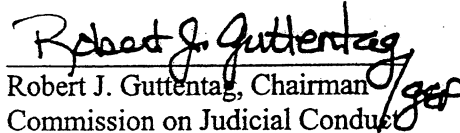
The Commission on Judicial Conduct ("Commission") and the Honorable Ernest B. Murphy ("Judge Murphy") present this Final Submission to the Justices of the Supreme Judicial Court, pursuant to Chapter 211C and Commission Rule 13(A).

1. Judge Murphy waives his right to a formal hearing;
2. The parties stipulate and agree that Judge Murphy is permanently disabled from performing his duties as a Justice of the Superior Court. The parties stipulate and agree that Judge Murphy will not sit as a Judge in Massachusetts hereafter;
3. In Complaint Number 2007-80 the Commission does not allege that Judge Murphy has committed misconduct, or that he has violated any of the sections of the Code of Judicial Conduct;
4. It is Judge Murphy's recommendation that he shall remain on paid administrative leave until his retirement, or until such time as the Governor and his Council grant him a disability pension pursuant to Chapter III, Article LVIII of the Amendments to the Massachusetts Constitution. The Commission takes no position on this recommendation;
5. The parties agree that the Supreme Judicial Court may accept or reject the recommendations of the Commission or Judge Murphy, or may take any action it deems appropriate;
6. The Commission and Judge Murphy acknowledge that the decision of the Supreme Judicial Court will constitute the final disposition of the case;
7. Judge Murphy waives his right to confidentiality as limited by Rule 13(A)(1)(g); and
8. The parties agree that this Submission shall be filed under seal and impounded by the Supreme Judicial Court.

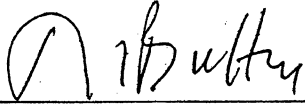
Submitted herewith are copies of the Complaint and Statement of Allegations.
No Answer was filed.



Honorable Ernest B. Murphy
Associate Justice of the Superior Court



Robert J. Guttentag, Chairman
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Dated: July 23, 2008

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR THE COMMONWEALTH**

In the case NO. SJC-10249

IN RE: Ernest B. Murphy

O R D E R

The Commission on Judicial Conduct (Commission) and the Honorable Ernest B. Murphy (Judge Murphy) have submitted a Final Submission Upon Agreed Facts, pursuant to G.L. c. 211C and Rule 13(A) of the Rules of the Commission on Judicial Conduct in Commission Complaint Number 2007-80 (Final Submission). Upon consideration, the Court makes the following determinations and enters the following Order.

1. The parties have stipulated and agreed that Judge Murphy is permanently disabled from performing his duties as a Justice of the Superior Court, and that he will not sit as a Judge in Massachusetts hereafter. Based on a review of the record in this matter, including medical reports and other materials contained in the appendices attached to the Statement of Allegations in Complaint Number 2007-80, the Court accepts the parties' agreed stipulation that Judge Murphy is permanently disabled from performing his judicial duties. The Court also accepts the parties' agreed stipulation that Judge Murphy shall not sit hereafter as a judge in Massachusetts and it is so ordered.

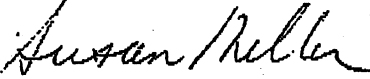
2. Judge Murphy's recommendation that "he shall remain on paid administrative leave until his retirement, or until such time as the Governor and his Council grant him a disability pension" is rejected. Decisions regarding Judge Murphy's pension are not assigned to the judiciary and the Court makes no determination with respect thereto.

It is Ordered that for no more than one hundred twenty days from the date of this Order, Judge Murphy shall continue to receive his judicial compensation, provided however that during this period Judge Murphy shall use all accrued leave to which he is or may become entitled, and provided further that any such compensation shall cease forthwith if Judge Murphy were to be granted a disability pension before the end of the one hundred twenty day period.

3. The Commission and Judge Murphy have requested that the Final Submission be impounded. Pursuant to rule 1:15 of the Rules of the Supreme Judicial Court and the uniform rules of impoundment procedure set forth in Trial Court Rule VIII, the Court orders that the Agreement found on pages 1-2 of the Final Submission shall not be impounded; and that all other materials comprising the Final Submission, including all appendices to the Agreement except for copies of G.L. c. 211C and copies of the Rules of the Commission, be impounded for good cause. The order of impoundment is based on a finding that these materials include filings in a Commission proceeding that are deemed confidential under G. L. c. 211C, § 6, and otherwise comprise or reference personal medical information and other personal information in which Judge Murphy and other individuals concerned have a legitimate privacy interest. Any further proceedings with respect to this paragraph shall be heard in the first instance by the Single Justice.

4. On July 16, 2008, the Commission filed with the Supreme Judicial Court for Suffolk County an urgent request for answers to four questions of law pursuant to G.L. c. 211C, Section 3(1). The Single Justice referred the matter to the full court. The Commission stated that answers were required for an expeditious resolution of Complaint 2007-80 regarding Judge Murphy's disability. Because the Final Submission Upon Agreed Facts disposes of Complaint 2007-80, it is no longer necessary for the Court to respond to the questions, and the Court declines to do so. The Single Justice's Order of July 17, 2008 allowing the Commission's motion to impound the Commission's urgent request for answers and accompanying papers is vacated.

By the Court,


Susan Mellen, Clerk

ENTERED: August 19, 2008