

October 17, 2005

**PUBLIC ADMONITION OF
COMMISSIONER CHRISTOPHER B. HAILE**

The Indiana Commission on Judicial Qualifications, having determined that formal disciplinary charges are warranted, issues instead this Public Admonition of Christopher B. Haile, Commissioner, Marion Superior Court, Civil Division 11. This Admonition is issued pursuant to Supreme Court Admission and Discipline Rule 25 VIII E(7) and with the consent of Commissioner Haile. Commissioner Haile cooperated fully with the Commission in this matter and acknowledges he violated the Code of Judicial Conduct, specifically Canon 3B(8), which requires judges to provide every person with a legal interest in a proceeding the opportunity to be heard and prohibits judges from permitting or considering *ex parte* communications.

In 2001, Commissioner Haile presided over post-dissolution proceedings in *Marriage of Shafer*. Mr. Shafer had custody of the parties' son, and the Commissioner approved their plan for Ms. Shafer's summer visitation. He further ordered the parties to arrange their summer visitation schedule for subsequent summers by May 1 of each year.

On August 2, 2004, Mr. Shafer filed a "Verified Emergency Petition for Return of Child," alleging that Ms. Shafer's summer visitation ended on August 1, 2004, that she was not available at her house on August 1 when he arrived to pick up their son, and that the son had a dental appointment on the morning of August 2 and was scheduled to start school orientation on August 8, 2004. Mr. Shafer verified he sent his Petition to Ms. Shafer by mail on August 1, 2004.

On August 3, 2004, Commissioner Haile issued an "Order for Immediate Return of Child," and ordered Greenwood, Indiana law enforcement to enter Ms. Shafer's residence and assist in returning the parties' son to Mr. Shafer. Mr. Shafer regained physical custody of their son pursuant to the order.

Under certain circumstances, a judge may issue an order of this kind without prior notice to the other party. Generally, this is permissible where the court finds a true

emergency exists and the petitioner provides reasons notice should not be required before the court considers the petition. In this case, neither a dental appointment nor school orientation a week later constituted an emergency justifying an *ex parte* order. Additionally, Commissioner Haile was aware only of Mr. Shafer's allegations about the parties' summer visitation schedule in 2004, and ordered law enforcement to take the Shafers' son from Ms. Shafer without the benefit of hearing her position on the agreed summer schedule. Commissioner Haile believed he was acting in the child's best interests; however, that is not the point. Ms. Shafer was denied her right to be heard.

Commissioner Haile is admonished for violating Canon 3B(8) of the Code of Judicial Conduct. This Commission Admonition concludes the investigation, and Commissioner Haile will not formally be charged with ethical misconduct.

Questions about this Admonition may be directed to Meg Babcock, Counsel for the Commission, (317) 233-5394. Commissioner Haile is represented by Kevin P. McGoff, (317) 848-2300.