

**PUBLIC ADMONITION OF  
THE HONORABLE MARTHA C. HAGERTY  
FREMONT TOWN COURT**

February 9, 2015

The Indiana Commission on Judicial Qualifications, having determined that formal disciplinary charges are warranted, issues instead this Public Admonition against the Honorable Martha C. Hagerty, Fremont Town Court in Steuben County. This Admonition is pursuant to Supreme Court Admission and Discipline Rule 25 VIII E(7) and with the consent of Judge Hagerty, who cooperated fully with the Commission in this matter and who acknowledges she violated the Code of Judicial Conduct.

The Commission admonishes Judge Hagerty for assuming the role of the prosecutor when she contacted an attorney to offer a deferral agreement to the attorney's client, who had received a speeding ticket. The Commission also admonishes Judge Hagerty for permitting deferral payments to be sent directly to the Fremont Town Court, rather than to the prosecutor's office. Additionally, the Commission admonishes Judge Hagerty for engaging in a process whereby she or her court clerk would directly negotiate deferral agreements with defendants, rather than allowing the prosecutor to offer these agreements.

On August 5, 2014, Judge Hagerty called an attorney to inquire about his client's rejection of a deferral offer previously tendered by the court. After the attorney responded by stating that he did not feel this was an appropriate conversation for the judge to initiate and that he felt deferral agreements should be negotiated by the prosecutor, not the court, Judge Hagerty responded by stating that she planned to contact the prosecutor to determine the next step in the matter.

In response to the Commission's Notice of Inquiry, Judge Hagerty indicated that she had a brief lapse in judgment when she contacted this attorney to inquire about the deferral agreement and that her court clerk generally answers all inquiries from attorneys and defendants. However, Judge Hagerty indicated that the court – not the prosecutor – was responsible for evaluating and offering traffic ticket deferrals to eligible defendants, using criteria provided by the prosecutor. The proffered deferral agreements were entitled "Fremont Town Court, Honorable Judge Hagerty Deferral Agreement" and instructed litigants to remit payment directly to the court, rather than to the prosecutor's office. Judge Hagerty explained that she drafted the form to request payment to the court because the former County Clerk felt that it would be more efficient for the court to handle the disbursement of these funds.

Judge Hagerty acknowledges that her conduct of repeatedly engaging (or allowing her clerk to engage) in conversations with one litigant or his attorney, without the prosecutor present, violated Rule 2.9(A) of the Code of Judicial Conduct which forbids judges from initiating, permitting, or considering *ex parte* communications concerning a pending proceeding. Judge Hagerty also acknowledges that by communicating (or allowing her clerk to communicate) an offer to an attorney to resolve the client's traffic infraction (when the prosecutor was not present), she gave the impression that she stood in the role of prosecutor as well as judge. Such

conduct, Judge Hagerty recognizes, is a violation of Rule 1.2 of the Code of Judicial Conduct which requires judges to act at all times in a manner that promotes confidence in the independence, integrity, and impartiality of the judiciary, and Rule 2.2 of the Code of Judicial Conduct which requires a judge to uphold and apply the law and to perform all duties of judicial office fairly and impartially. Judge Hagerty further agrees that after she retires on December 31, 2015, she will no longer seek nor accept judicial service, including service as a judge *pro tempore* or special judge.

The Commission further would note that its decision to issue this Public Admonition in lieu of filing formal charges was influenced, in part, by the fact that Judge Hagerty immediately took corrective action to address the identified issues in her court. Such actions included transferring responsibility for negotiating deferral agreements from the court clerk to the prosecutor, as well as transferring authority for the collection and disbursement of deferral fees to the prosecutor's office. Had Judge Hagerty not been responsive to the Commission's concerns and taken immediate corrective action, the Commission would have been inclined to pursue a stronger course of action.

This Admonition concludes the Commission's investigation, and Judge Hagerty will not formally be charged with ethical misconduct.

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Questions about this Admonition may be directed to Adrienne L. Meiring, Counsel for the Commission, at (317) 232-4706.