

# In the Supreme Court of Indiana

IN THE MATTER OF	)	
	)	
THE HONORABLE	)	
	)	Case No. 20S-JD-108
PATRICK R. MILLER	)	
	)	
ADAMS SUPERIOR COURT	)	

## NOTICE OF THE INSTITUTION OF FORMAL PROCEEDINGS

### AND STATEMENT OF CHARGES

The Indiana Commission on Judicial Qualifications (“Commission”), having found probable cause to warrant formal charges of judicial misconduct, now notifies Respondent, the Honorable Patrick R. Miller (“Respondent”) of the filing of these Charges. These Charges are brought under Admission and Discipline Rule 25 and before the Indiana Supreme Court, which, pursuant to Article 7, § 4 of the Constitution of Indiana, has original jurisdiction over the discipline, suspension, and removal of all judges and judicial officers of this State. The Commission charges that Respondent, while judge of Adams Superior Court, engaged in judicial misconduct as specifically charged below. Pursuant to Admission and Discipline Rule 25 VIII (F), Respondent may file a written Answer to these Charges within twenty (20) days of service.

### BACKGROUND

1. Respondent was admitted to the Indiana Bar in 1991.
2. Since January 1, 2009, Respondent has served as the Judge of Adams Superior Court.

3. At all times pertinent to these Charges, Respondent presided over a general jurisdiction docket which included criminal and civil cases. Respondent's court also is a problem-solving drug court (Adams County Drug Court).

#### **ADAMS COUNTY DRUG COURT AND DRUG COURT COORDINATOR POSITION**

4. In 2015, Kelly Sickafoose ("Sickafoose") began working for the Adams County Drug Court as an independent contractor.
  - a. Respondent was (and currently is) the person Sickafoose directly reported to regarding her work.
  - b. Respondent and Sickafoose knew each other socially and through his community activities with Drug Free Adams County prior to Respondent hiring her.
5. To finance various expenses of Adams County Drug Court, including but not limited to the salary for the drug court coordinator position, Respondent and Sickafoose applied for grant funding from various sources.
6. In April 2016, the Department of Correction ("DOC") sent an Intent to Award letter to Respondent communicating that the DOC had awarded a grant of \$514,464 for fiscal year 2016-2017 to Adams County for its drug court.
7. From October 2016 through June 2017, a dispute arose between the Adams County Council ("Council")/Adams County Board of Commissioners ("Board of Commissioners") and Respondent regarding Sickafoose's employment status.
  - a. In particular, the Council/Board of Commissioners and Respondent disagreed as to whether Sickafoose was to be considered a contract employee entitled to benefits

as opposed to an independent contractor with no benefits.

- b. From October 2016 through March 2017, county payments for FICE, FICA, and PERF (social security and retirement) were not paid on Sickafoose's behalf. At the direction of the Council/Board of Commissioners and County Attorney, the Adams County Auditor did not authorize these payments.
8. On December 31, 2016, Attorney J. Michael Loomis ("Attorney Loomis"), acting on Sickafoose's behalf, filed a Notice of Tort Claim against the Adams County Auditor for tortious interference with contract, negligence, slander, and violation of privacy.
9. On March 14, 2017, the Board of Commissioners approved changing Sickafoose's status from contractual-1099 status (independent contractor not eligible for benefits) to a contractual W-2 status with eligibility for PERF benefits.
10. From October 2016 through May 2017, Respondent communicated with various county officials, including the County Attorney and independent counsel who had been hired by the county to act as special county attorney on drug court matters ("Special County Attorney") regarding his concerns about the nonpayment of Sickafoose's claims from October 2016 through March 2017.
11. During the time Respondent was communicating with county officials, Sickafoose's attorney was negotiating with the County Attorney and the Special County Attorney to reach a settlement on Sickafoose's noticed tort claim. Although it appeared that a settlement for approximately \$4,500 for the claims was near completion in late April/early May 2017, settlement negotiations failed in mid-May 2017 for other reasons.

## **PROCEEDINGS IN ADAMS SUPERIOR COURT AND INDIANA SUPREME COURT**

### **Actions in Adams Superior Court During May-June 2017**

12. On May 18, 2017, Respondent issued Adams County Drug Court Resolution 2107-1 declaring the Adams County Drug Court Coordinator to be a full-time court employee effective as of October 1, 2016.

a. On that same date, Respondent resubmitted the FICE, FICA, and PERF claims for Sickafoose from October 1, 2016 through March 3, 2017 to the Auditor.

b. On May 23, 2017, an official from the Indiana Public Retirement System (“INPRS”), the agency which is responsible for management of PERF, sent Respondent an email indicating concern about whether Sickafoose was eligible for PERF.<sup>1</sup>

13. On June 7, 2017, Respondent opened miscellaneous case no. 01D01-1706-MI-29, *In the Matter of Mary Beery, Auditor of Adams County, IN* (“Matter of Beery”), and issued an Order Directing the Auditor to Pay Claims. Respondent ordered the Auditor to personally provide the court with confirmation of payment within 48 hours of the three claims presented on May 18, 2017 or face indirect criminal contempt proceedings, which could include fines, incarceration, or both. *See Exhibit A.*

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<sup>1</sup> The official voiced his concern because the employment contract executed between Sickafoose and Respondent on July 13, 2016 contained express language indicating that Sickafoose was an independent contractor and not a county or court employee. The official reported to Respondent that independent contractors are not eligible to participate in PERF but that contract employees with limited benefits are eligible.

*Emergency Writ Sought in the Indiana Supreme Court*

14. On June 8, 2017, the Auditor, by counsel, filed a Motion to Vacate the Court's Order Directing the Auditor to Pay Claims with the Adams Superior Court.
  - a. On that same date, the Auditor, by counsel, filed a Verified Petition for Emergency Writ of Mandamus and Writ of Prohibition with the Indiana Supreme Court, case no. 01S00-1706-OR-393.
  - b. The Supreme Court granted the emergency writ, ordered Respondent to stay all proceedings, and set an expedited briefing schedule for the parties.
15. On June 12, 2017, Attorney Loomis filed an appearance on Sickafoose's behalf as an "interested party" in *Matter of Beery* in Adams Superior Court.
16. On June 29, 2017, the Supreme Court denied the Auditor's request for a permanent writ and dissolved the emergency writ.

*Proceedings/Legal Dispute After Permanent Writ Denied*

17. On June 30, 2017, Respondent issued an Order Lifting Stay which lifted the previous stay of the trial court proceedings. Respondent also denied the Auditor's Motion to Vacate the Court's Order Directing the Auditor to Pay Claims with the Adams Superior Court.
18. On July 5, 2017, the Special County Attorney sent an email to Respondent indicating that the disputed claims had been paid, with copies of the checks sent to the IRS. The checks amounted to \$2,604.11. The Special County Attorney also sent an email to Respondent indicating that the PERF payments (\$2,614.25) had been made and were in the process of being downloaded, but INPRS needed to change Sickafoose's status in the system before

processing the payments.

19. On July 6, 2017, the Auditor requested a change of judge in *Matter of Beery*, which Respondent granted. By July 24, 2017, Judge Thomas Hakes accepted appointment as special judge.

### **FACTS GIVING RISE TO MISCONDUCT CHARGES**

#### **September 13, 2017 Letter to Special Judge Hakes**

20. Despite receiving an email from the Special County Attorney that the claims had been paid, Respondent continued to express concerns from July 7, 2017 through August 14, 2017 that not all issues underlying *Matter of Beery* had been addressed.

- a. Throughout that time period, the Special County Attorney attempted to address Respondent's concerns.<sup>2</sup>
- b. Nonetheless, on August 4, 2017, in response to a phone call from the Special County Attorney wanting to know if there were any remaining issues in *Matter of Beery*, Respondent sent the Special County Attorney an email complaining that he and Sickafoose had not received verification from the IRS that the payments had been received and Sickafoose had not received a W-2 from the county for 2016.<sup>3</sup> Respondent further argued that the Auditor "has not complied with the terms of my Order dated June 7, 2017. Until these issues are resolved, this case cannot be

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<sup>2</sup> This included but was not limited to sending an email on July 20, 2017 to Respondent and Attorney Loomis with documentation to verify that the Auditor's office had received confirmation that INPRS had processed the PERF payments.

<sup>3</sup> Sickafoose previously had been issued a 1099 form for 2016.

resolved.”

21. On August 7, 2017, Attorney Loomis filed a Motion for Rule to Show Cause on Sickafoose’s behalf in *Matter of Beery*, case no. 01D01-1706-MI-29, and sent copies to the Auditor’s counsel and Respondent.

a. On September 7, 2017, the Auditor filed a Response in Opposition to Motion to Show Cause and also filed a Motion to Dismiss.

b. Special Judge Hakes scheduled the matter for an attorneys-only pretrial conference on September 18, 2017.

22. On September 13, 2017, Respondent sent a letter on Adams Superior Court letterhead directly to Special Judge Hakes (with copies sent to the Auditor’s counsel and Attorney Loomis) requesting that the special judge continue the pretrial conference and grant the Adams Superior Court an opportunity to respond to the Auditor’s Motion to Dismiss and the Auditor’s Response in Opposition to Motion to Show Cause. *See Exhibit B.*

a. Respondent also made substantive arguments as to why the Auditor should be held in contempt. Specifically, Respondent wrote:

I do acknowledge that the Auditor eventually paid the claims that I submitted, authorized, and ordered. However, the Auditor did not pay them by June 30, 2017 (the end of the DOC fiscal year). The Auditor also failed to encumber the DOC monies granted to the Adams County Drug Court for the payment of FICA, FICE, and PERF. The Auditor, without my authority and consent, and in violation of my Order, paid the monies out of the DOC budget for fiscal year 2017-2018 (these funds had to be paid from the DOC monies awarded for the fiscal year 2016-2017).

b. Respondent further wrote, “The Auditor’s failure and refusal to pay the claims timely, as I previously ordered, may have crippled Drug Court’s ability to

financially function unless you sanction the Auditor financially in order to compensate Drug Court for the monies the Auditor cost Drug Court.”

- c. After receiving this letter, Special Judge Hakes continued the September 18 hearing and later recused himself from the matter.

23. On September 18, 2017, Respondent received notification from the Department of Correction that it would permit monies (\$8,379.68) from the 2016-2017 grant which had not been used by the Adams Superior Court by June 30, 2017 to be rolled over into the next fiscal year.

24. Although Respondent received notification from DOC officials that the Adams County Drug Court would be permitted to carry over leftover DOC grant funding from 2016-2017 into the next fiscal year (meaning that the Adams County Drug Court would not incur a financial penalty due to the Auditor’s actions), Respondent did not officially notify Special Judge Hakes or any other special judge who subsequently served on *Matter of Beery* of this fact.<sup>4</sup>

*Improperly Giving Legal Advice to Sickafoose and Loomis*

25. Throughout March 2017 - June 2017, Respondent was in regular communication with Sickafoose and sometimes Attorney Loomis regarding Sickafoose’s private legal claim.

26. On several occasions during this time frame, Attorney Loomis sent emails to the Special County Attorney in which he gave the impression that he had consulted and strategized

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<sup>4</sup> On September 18, 2017, Special Judge Hakes continued the pretrial conference and recused himself. Judge Newton accepted appointment as special judge on October 5, 2017 but later recused herself on December 18, 2017. After another judge declined appointment as special judge, Judge Kiracofe accepted appointment as special judge on January 25, 2018.



with Respondent and was speaking on Respondent's behalf.

- a. In one instance, on May 17, 2017, Attorney Loomis sent an email to the Special County Attorney which stated, in part:

As I told you, I think I can make two (2) safe predictions: Unless your clients participate in a global resolution of these matters, in the next thirty days there will be: (1) a mandate of county officials with respect to the Adams Superior Problem-Solving Court; and (2) a lawsuit filed by Kelly Sickafoose. In the meantime, I encourage you to call Judge Miller. He has retained private counsel to prepare the mandate, and I think he is ready to pull the trigger. Your call may prevent that.

- b. Attorney Loomis forwarded this email to Respondent on May 17, 2017.
- c. Although Respondent was aware of the contents of Attorney Loomis' May 17, 2017 email, he did not send any emails or other correspondence to correct or clarify the impression Attorney Loomis gave that Respondent would file an action on the Adam Superior Court's behalf if a global resolution was not reached.
- d. By not correcting or clarifying such emails, Respondent gave the impression that he agreed with Attorney Loomis' statements and supported them.

27. After the Auditor filed a Verified Petition for Emergency Writ of Mandamus and Writ of Prohibition with the Indiana Supreme Court, Respondent for several days communicated with Attorney Loomis and offered strategic points for responding to the Auditor's Petition.

- a. At the time, Respondent and Attorney Loomis were evaluating whether Attorney Loomis would represent Respondent in the matter.
- b. However, by June 11, 2017, Respondent and Attorney Loomis had decided that

Attorney Loomis would not represent Respondent.

- c. Nonetheless, through the remainder of 2017 and 2018, Respondent and Attorney Loomis continued to have communications about *Matter of Beery*.

28. Although Respondent was not listed as a party in *Matter of Beery* and was not represented by Attorney Loomis, Respondent improperly offered legal opinions, advice, and strategies to Attorney Loomis and Sickafoose, which included the following:

- a. On August 7, 2017 at 4:09 p.m., after Attorney Loomis sent an email to Sickafoose and Respondent informing them that the Special County Attorney had communicated concerns that Sickafoose's filing of the Motion for Rule to Show Cause was legally frivolous, Respondent sent a responsive email addressed to "Mike and Kelly" providing his legal opinions and arguments regarding standing and the contempt action in *Matter of Beery*.
- b. On April 24, 2018, from his private email account, Respondent sent an email to Sickafoose's private email account titled "Notes for M.L." In the body of the email, Respondent offered his legal opinions on standing, waiver, the specifics of the contempt action, and why Sickafoose is an interested party. Sickafoose forwarded the email to Attorney Loomis on April 24, 2018.
- c. On October 16, 2018, from his private email account, Respondent sent an email to Sickafoose's private email account titled "Hostile Work Environment." In the body of the email, Respondent wrote:

I could find no statutory definition in Indiana but what I am attaching is from an appellate court case.

The elements for a hostile work environment claim under Title VII are: (1) unwelcome harassment in the form of sexual advances, requests for sexual favors, or other conduct of a sexual nature, (2) harassment based on the sex of the victim, (3) creation, through harassment, of an intimidating, **hostile**, or offensive **working environment** that unreasonably interfered with **work** performance, and (4) a basis for employer liability for the conduct of the actor. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq. [boldface in the original email].

29. Respondent does not have a familial relationship with either Sickafoose or Attorney Loomis.

*Abuse of Power in Settlement Negotiations*

30. On October 20, 2017, the County Attorney met with Respondent in the court chambers to discuss the pending claims involving the Adams County Drug Court, Sickafoose, and the Auditor.

- a. During the discussion, Respondent maintained that the Auditor remained in criminal contempt for failing to pay the initial benefit claims for Sickafoose by June 30, 2017 and that she was in direct contempt for other conduct which he characterized as “intentionally interfering with his court” and disparaging the court in Council meetings.<sup>5</sup>
- b. When the County Attorney asked what would be needed to resolve all matters, Respondent stated that the county had to settle its claim with Sickafoose for \$20,000 for her wage claims, attorney fees, medical expenses, and mental anguish.
- c. Respondent also remarked that he already had a complaint drafted for criminal

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<sup>5</sup> The Auditor and county officials dispute this allegation and others made by Respondent.

contempt against the Auditor (for the new allegations) and suggested that, in order for Respondent to agree to not file the contempt complaint, the county would have to resolve Sickafoose's civil claims against the county by paying Sickafoose \$20,000.

31. At 2:31 p.m. on October 25, 2017, from his private email account, Respondent sent an email to Sickafoose and Attorney Loomis with his proposed terms to send to the Special County Attorney to settle all claims, both for the Adams County Drug Court and Sickafoose's private civil claims, which included a term for \$20,000 to compensate Sickafoose for her pain and suffering. Respondent proposed that, in exchange for the county's acceptance of the terms (including the terms related solely to Sickafoose's claims), he would notify the special judge that no further action was necessary in *Matter of Beery* and would agree not to pursue civil or criminal indirect contempt against various county officials.

32. On October 27, 2017, Respondent sent an email to the County Attorney and Attorney Loomis from his court email account with a proposal for settlement of all claims, including Sickafoose's private civil claims.

a. The terms of the settlement proposal were nearly the same as recited by Respondent in his email to Attorney Loomis and Sickafoose on October 25 (as detailed in ¶31).

The terms included fifteen (15) conditions/actions that the county would have to make or agree with. *See Exhibit C.*

b. Respondent further wrote:

Upon payment of the \$20,000.00 settlement [to Sickafoose], receipt of the 2016b

W-2 and withdrawal of the County's pleadings in Cause No. 01D01-1706-MI-0029:

. . . I will file Notice with the Special Judge in Cause No. 01D01-1706-MI-0029 that all issues that resulted in that matter being filed as resolved and no further action is necessary.

. . . I will not pursue Civil or Criminal Indirect Contempt of Court action against the Auditor, the Board of Commissioners or the County Council for actions or inactions taken against the Judge and/or the Court and their orders and authority through the date I sign the Agreement.

- c. The end of the email contained Respondent's signature block with his name, title of "Presiding Judge, Adams County Drug Court," and an emblem of the Adams County Drug Court.

33. County officials rejected Respondent's proposal, and the Auditor continued to defend herself in *Matter of Beery*.

- a. On March 29, 2018, after a hearing, Special Judge Kiracofe denied Sickafoose's Motion for Rule to Show Cause and granted the Auditor's Motion to Dismiss. He then scheduled the matter for another hearing to determine whether Sickafoose should be assessed attorney fees for the Auditor having to defend the action.
- b. Sickafoose responded by filing a Motion to Correct Errors on April 30, 2018, which was denied by Special Judge Kiracofe.
- c. After a hearing on June 25, 2018, Special Judge Kiracofe entered a judgment in favor of the Auditor for \$16,463.50 for attorney fees, finding that Sickafoose's arguments in continuing to pursue the action were "frivolous, unreasonable, and groundless."
- d. Sickafoose responded by filing an appeal with the Court of Appeals of Indiana. On

December 21, 2018, the appellate court ruled in favor of the Auditor and ordered that Sickafoose would be responsible for the Auditor's appellate attorney fees.

- e. Throughout this period, Respondent continued to offer legal advice to Sickafoose.

### **CHARGES**

The Commission incorporates the facts set out in ¶¶ 1 to 33 into the Charges below.

#### **COUNT 1**

The Commission charges that, on September 13, 2017, Respondent abused the prestige of judicial office and attempted to influence Special Judge Thomas Hakes by sending him a letter on Adams Superior Court letterhead regarding *Matter of Beery*, case no. 01D01-1706-MI-0029, after Respondent had disqualified himself from the matter. By engaging in this conduct, Respondent violated Rule 1.2 of the Code of Judicial Conduct, which requires a judge to act at all times in a manner that promotes public confidence in the integrity, independence, and impartiality of the judiciary and to avoid impropriety and the appearance of impropriety, and Rule 1.3 of the Code of Judicial Conduct, which requires a judge to not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others.

#### **COUNT 2**

The Commission charges that, from March 1, 2017 through October 16, 2018, Respondent improperly interjected himself into a legal dispute between Kelly Sickafoose and Adams County officials by providing legal advice and offering legal strategies to Kelly Sickafoose and her

attorney on a private legal claim. By engaging in this conduct, Respondent violated Rule 1.2 of the Code of Judicial Conduct, which requires a judge to act at all times in a manner that promotes public confidence in the integrity, independence, and impartiality of the judiciary and to avoid impropriety and the appearance of impropriety, and Rule 3.10 of the Code of Judicial Conduct, which requires a judge to not practice law.

### **COUNT 3**

The Commission charges that, on October 27, 2017, Respondent abused his authority when he acted on Kelly Sickafoose's behalf on a private legal claim and gave the appearance to the Adams County Attorney that he would pursue additional civil or criminal contempt charges against the Adams County Auditor, the Adams County Board of Commissioners, or the Adams County Council if county officials did not accept Respondent's settlement offer that the county pay Sickafoose a \$20,000 settlement on her private legal claim. By engaging in this conduct, Respondent violated Rule 1.1 of the Code of Judicial Conduct, which requires a judge to respect and comply with the law; Rule 1.2 of the Code of Judicial Conduct, which requires a judge to act at all times in a manner that promotes public confidence in the integrity, independence, and impartiality of the judiciary and to avoid impropriety and the appearance of impropriety; and Rule 1.3 of the Code of Judicial Conduct, which requires a judge to not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others.

WHEREFORE, the Commission respectfully requests that, upon the filing of Respondent's Answer, the Indiana Supreme Court appoint three Masters to conduct a public hearing on the charges that Respondent committed judicial misconduct as alleged, and further prays that the

Supreme Court find that Respondent committed misconduct and that it impose upon him the appropriate sanction.

Respectfully submitted,

March 13, 2020  
DATE

Indiana Commission on  
Judicial Qualifications  
251 N. Illinois St., Ste. 1600  
Indianapolis, IN 46204  
(317) 232-4706

Adrienne L. Meiring  
Adrienne L. Meiring  
Counsel to the Commission  
Atty. No. 18414-45



**CERTIFICATE OF SERVICE**

I certify that a copy of this "Notice of the Institution of Formal Proceedings and Statement of Charges" was sent by certified mail, postage pre-paid and electronically, to Respondent c/o his attorney, Ms. Margaret M. Christensen at Dentons Bingham Greenebaum, 2700 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204.

March 13, 2020  
DATE

Adrienne L. Meiring  
Adrienne L. Meiring  
Counsel to the Commission  
Atty. No. 18414-45

IN THE ADAMS SUPERIOR COURT  
IN THE ADAMS COUNTY DRUG COURT  
DECATUR, INDIANA  
26<sup>TH</sup> JUDICIAL CIRCUIT

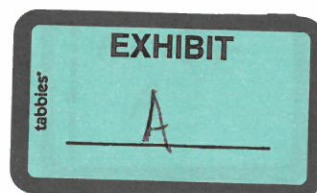
IN THE MATTER OF MARY BEERY  
AUDITOR OF ADAMS COUNTY, IN

CAUSE NO. 01D01-1706-MI-0029

ORDER DIRECTING THE AUDITOR TO PAY CLAIMS

The Court upon its own initiative, now finds as follows:

1. The Court submitted three claims to the Adams County Auditor's office on or about May 18, 2017 for payment. These claims are for payment of FICA, FICE and PERF for the periods of October 1, 2016 through March 3, 2017 for the benefit of the Adams Superior Court/Adams County Drug Court Coordinator;
2. The funds to pay these claims are Department of Corrections funds dedicated to the Adams County Drug Court and are not Adams County General Funds and are non-reverting to the County General Fund;
3. These funds are further dedicated to pay the Adams County Drug Court Coordinator's salary and benefits, including FICA, FICE taxes and PERF benefits;
4. The Department of Corrections fiscal year runs from July 1, 2016 through June 30, 2017, and the funds awarded to the Adams County Drug Court must be expended by the Court by June 30, 2017;
5. The FICA, FICE and PERF claims are in the nature of payroll. Copies of those claims are attached hereto;
6. Pursuant to IC 36-2-6-3, this Court (Adams Superior Court/Adams County Drug Court) has the authority to allow its own claims which the Court has exercised such authority. A copy of the statute is attached hereto;
7. At the time of the submission of these claims, the Court provided the Auditor with a Resolution dated May 18, 2017 which provided further explanation for the claims and their payment. A copy of the Resolution is attached hereto;
8. Pursuant to the 2017 Payroll Schedule issued by the Auditor, these claims were required to be paid by the Auditor on or before June 2, 2017. A copy of the Auditor's 2017 Payroll Schedule is attached hereto;
9. Other Drug Court payroll claims submitted on May 19, 2017 were paid on June 2, 2017 and other Drug Court non-payroll claims filed at the same time or during the same claims period have been published by the Auditor pursuant to IC 36-2-6-3. Those claims are awaiting



01001-1706-MI-0029, 13 Pgs  
06/07/2017 1d: 0000192703  
Order Directing Auditor to Pay Claims



payment on June 14, 2017 per a copy of the publication. A copy of the Auditor's 2017 general Claims Schedule is attached hereto;

10. The claims published by the Auditor do not include the FICA, FICE and PERF claims submitted by the Court on May 18, 2017. A copy of the Auditor's Legal Notice, publish date of June 9, 2017 is attached hereto;
11. The Auditor, to date, has provided the Court with no information as to the payment of these claims and the Court believes these claims are now overdue and unpaid.

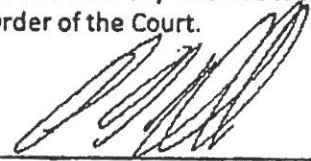
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. If in fact the Auditor has already paid these claims then the Elected Auditor of Adams County, Indiana, Mary Beery, shall personally provide the Court written confirmation and proof of such payment within forty-eight (48) hours receipt of service of this Order;
2. If the Auditor has not paid or published these claims:
  - a. The Elected Auditor of Adams County, Mary Beery shall provide the Court written record of why she has failed and/or refused to pay and/or publish said claims within forty-eight (48) hours receipt of service of this Order; and
  - b. The Elected Auditor of Adams County, Indiana, Mary Beery, shall make payment on these claims previously allowed by the Adams Superior Court/Adams County Drug Court within forty-eight (48) hours receipt of service of this Order; and
  - c. Upon payment of these claims, the Elected Auditor of Adams County, Indiana, Mary Beery, shall personally provide the Court written confirmation and proof of such payments.

The Auditor's failure or refusal to comply with this Order of the Court will subject the Auditor of Adams County, Indiana to indirect criminal contempt proceeding including the possibility of fines, incarceration or both.

The Court Security Officer of the Adams Superior Court/Adams County Drug Court and/or the Sheriff of Adams County, Indiana or one of his deputies is hereby directed to serve the Elected Auditor, Mary Beery, personally with a copy of this Order of the Court.

SO ORDERED this 7<sup>th</sup> day of June 2017.



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Patrick R. Miller, Judge  
Adams Superior Court  
Adams County Drug Court

Approved for Court's Record of Accounts for Adams County, Ind.

**ACCOUNTS PAYABLE VOUCHER**

ADAMS COUNTY AUDITOR - DECATUR, INDIANA 46733

An invoice or bill to be properly itemized must show: kind of service, where performed, dates service rendered, by whom, rates per day, number

Warrant #

Display Form No. 17

Vendor # 778

FICE

Dept. Name Adams County Drug Court

Invoice Date	Invoice Number	Description (or note attached invoice(s) or bill(s))	Fund	Account	Amount
5/18/17		FICE - for Kelly Sicksfoose October 1, 2016 - December 31, 2016	8103	000-1000.23	\$342.87
5/18/17		FICE - for Kelly Sicksfoose January 1, 2017 - March 3, 2017	8103	000-1000.23	\$150.92
Total					\$493.69

I hereby certify that the attached invoice(s), or bill(s), is (are) true and correct and that the material or services itemized thereon for which charge is made were ordered and received except:

May 18, 2017

Date

Signature

Patrick R. Miller, Judge

Adams County Drug Court

I hereby verify that the attached invoice(s), or bill(s), is (are) true and correct and I have audited same in accordance with IC 5-11-10

May 18, 2017

Date

Audited and Allowed by:

Patrick R. Miller, Judge Adams County Drug Court

Patrick R. Miller, Judge Adams County Drug Court

County Form 100. 17

**Warrant 6**

Dept. Name: Adams County Drug Court

Dept. Name: Adams County Drug Court

Total	\$2,847.57
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May 18, 2017

Signature

Patrick R. Miller, Judge  
Adams County Drug C

May 18, 2017

Audited and Allowed by:

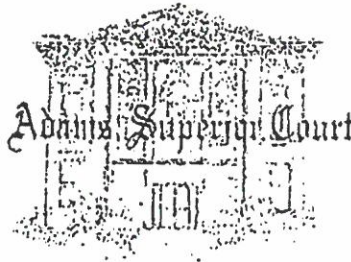
Patrick H. Mular, Judge Adams County Drug Court

JUDGE  
PATRICK R. MILLER

DRUG COURT  
COORDINATOR  
KELLY SICKAFOOSE

SECURITY  
MIKE CLOUD  
JOHN WHITRIGHT

122 SOUTH THIRD STREET  
DECATUR, INDIANA 46733



16<sup>TH</sup> JUDICIAL CIRCUIT  
OF INDIANA

ADMINISTRATOR  
CARRIE FREEMAN

REPORTERS  
KARREL ADAMS  
JAN SCOTT  
JENNIFER KRUECKEBERG

TELEPHONE (260) 724-5347  
FACSIMILE (260) 724-5348  
[superiorcourt@co.adams.in.us](mailto:superiorcourt@co.adams.in.us)

September 13, 2017

Honorable Thomas M. Hakes  
Special Judge  
Adams Superior Court  
Adams County Drug Court  
201 N. Jefferson Street, # 301  
Huntington, IN 46750

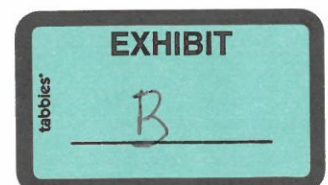
Matter of Mary Beery  
01D01-1706-MI-0029

Judge Hakes:

I am requesting that you briefly continue the pre-trial conference scheduled for Monday, September 18, 2017 and grant the Court an opportunity to respond to the Auditor's Motion to Dismiss and the Auditor's Response in Opposition to Motion to Show Cause.

The Adams County Drug Court is scheduled to undergo a Department of Correction audit on Friday, September 15, 2017. The results of that audit are anticipated to reveal whether Drug Court has suffered any financial losses due to the Auditor's failure and refusal to timely comply with my Order for payment of FICA, FICE and PERF claims for the benefit of my Drug Court Coordinator, Kelly Sickafoose. The results of the audit should also equip the Court with the ability to fully respond to the Auditor's Motion to Dismiss and the Auditor's Response in Opposition to Motion to Show Cause.

I do acknowledge that the Auditor eventually paid the claims that I submitted, authorized, and ordered. However, the Auditor did not pay them by June 30, 2017 (the end of the DOC fiscal year). The Auditor also failed to encumber the DOC monies granted to the Adams County Drug Court for the payment of FICA, FICE and PERF. The Auditor, without my authority and consent, and in violation of my Order, paid the monies out of the DOC budget for fiscal year 2017-2018 (these funds had to be paid from the DOC monies awarded for the fiscal year 2016-2017).

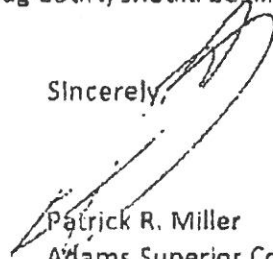




The Auditor's failure and refusal to pay the claims timely, as I previously ordered, may have crippled Drug Court's ability to financially function unless you sanction the Auditor financially in order to compensate Drug Court for the monies the Auditor cost Drug Court. This clearly interferes with my ability as the Sitting Judge of the Adams Superior Court and the Presiding Judge of the Adams County Drug Court.

I am also requesting that you provide guidance as to whether I, as the Sitting Judge of the Adams Superior Court and the Presiding Judge of the Adams County Drug Court, should be filing a formal pleading or whether a letter such as this one will suffice.

Sincerely,

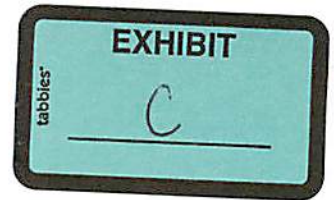


Patrick R. Miller  
Adams Superior Court  
Adams County Drug Court

CC: J. Michael Loomis  
Adam Bartrom



**From:** Patrick Miller [/O=ADAMS COUNTY/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=PMILLER]  
**Sent:** 10/27/2017 9:28:45 AM  
**To:** Mark S. Burry [mburry@mbbattorneys.com]; J. Michael Loomis [mike@loomislaw.net]  
**Subject:** RE: Proposed Settlement with the County



Gentlemen:

I see a typo ... the deadline is Friday which is November 3 not November 4.  
My apologies.

Patrick Miller  
Presiding Judge  
Adams County Drug Court



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**From:** Patrick Miller  
**Sent:** Friday, October 27, 2017 7:17 AM  
**To:** 'Mark S. Burry' <mburry@mbbattorneys.com>; 'J. Michael Loomis ' <mike@loomislaw.net>  
**Subject:** FW: Proposed Settlement with the County

Mark:

Pursuant to your request, I send to you the following proposal to resolve all pending matters between the County, the Drug Court Coordinator, Superior Court and Drug Court. I have also communicated with Mike Loomis. He has authorized me to issue this proposal upon his client's behalf also. Mr. Loomis has agreed to postpone filing the lawsuit referenced in his client's tort claim notice while the Court considers this proposal. However, Mr. Loomis has indicated that if he does not have a positive response from all parties by 5:00 pm, Friday November 4, 2017, then he will move forward.

I propose a Joint and Mutual Release to settle all issues now pending between, the County, the Drug Court Coordinator and me and my Courts. If the terms of the proposal are acceptable, I will prepare an actual settlement agreement for all to execute. Here are the general terms of settlement that I propose:

- a. County shall not interfere with my hiring and supervision of judicial employees, including the Coordinator.
- b. The Auditor shall process and pay all Drug Court claims authorized and approved by me pursuant to the County's regular claims schedule and in the manner specified in IC 36-2-6-3 and said claims shall be processed on the same schedule as payment of other claims processed by the Auditor's Office, unless I order a different payment schedule. (IC 36-2-6-4(b)).
- c. The Auditor shall pay publication costs for any and all Drug Court claims authorized and approved by me; said publication costs shall not be paid from the Drug Court budget or taxed or assessed against the Drug Court budget or funds.
- d. County shall respect the dignity and authority of the court (Superior and Drug Court) at all times and shall take no action that tends to obstruct the administration of justice or tends to bring the court into disrepute or disrespect. (IC 34-47-3-1 & IC 34-47-3-2)
- e. Mary Beery will issue a public apology for calling my Drug Court a "nightmare." Said apology shall be made during an open meeting of council or commissioners with the press being present.
- f. Neither the Board of Commissioners, the County Council, the County Attorney, nor the Auditor shall interfere with or delay the payment of claims submitted to the Auditor that have been authorized and approved by the Judge.
- g. County shall accept on behalf of Drug Court, as Drug Court's fiscal agent, any and all gifts, bequests, and donations from private sources; grants and contract money from governmental sources; and other forms of financial assistance approved by the Court to supplement the Drug Court's budget.
- h. County shall withdraw and dismiss any and all pleadings pending in Cause No. 01D01-1706-MI-0029.
- i. County shall provide Coordinator with a W-2 form for tax year 2016 and shall provide the Judge with a copy of said W-2 document. Issuance of the W-2 shall be rendered to Coordinator within thirty (30) days of the execution of this document.
- j. County shall pay the total inclusive sum of Twenty Thousand and 00/100 Dollars (\$20,000.00) to Coordinator to settle her claims with County; said monies shall not be paid from any Drug Court monies or funds or taxed or assessed against the Drug Court budget. Payment shall be rendered to Coordinator within thirty (30) days of the execution of this document. Said payment is in the nature of physical sickness, emotional distress or mental anguish.
- k. County shall release the Coordinator and Court/Judge from any and all complaints, claims including administrative, liabilities, obligations, promises, agreements,

controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, expenses and attorneys' fees (collectively "Claims") of any nature, known, matured or which exist, have existed from any matter whatsoever occurring through the date County signs the Agreement.

Upon payment of the \$20,000.00 settlement, receipt of the 2016b W-2 and withdrawal of the County's pleadings in Cause No. 01D01-1706-MI-0029:

- l. Coordinator shall release County from any and all complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, expenses and attorneys' fees (collectively "Claims") of any nature, known, matured or which exist, have existed from any matter whatsoever occurring through the date Coordinator signs the Agreement.
- m. Coordinator's release includes, but is no way limited to, tort claims Coordinator may have against any of the Released Parties.
- n. Coordinator shall withdraw and dismiss any and all pleadings pending in Cause No. 01D01-1706-MI-0029.
- o. Under all circumstances, Coordinator does and will answer directly, and only, to me.

Upon payment of the \$20,000.00 settlement, receipt of the 2016b W-2 and withdrawal of the County's pleadings in Cause No. 01D01-1706-MI-0029:

- p. I will file Notice with the Special Judge in Cause No. 01D01-1706-MI-0029 that all issues that resulted in that matter being filed as resolved and no further action is necessary.
- q. I will not pursue Civil or Criminal Indirect Contempt of Court action against the Auditor, the Board of Commissioners or the County Council for actions or inactions taken by the Auditor, the Board of Commissioners or the County Council taken against the Judge and/or the Court and their orders and authority through the date I sign the Agreement.
- r. Under all circumstances, I set the terms and conditions of employment for judicial employees, including the Coordinator (IC 33-23-16-21).
- s. I will continue to submit, authorize and approve all Drug Court Claims pursuant to IC 36-2-6-3.
- t. I will waive any issues that the county has wrongfully paid for the Auditor's legal representation against me.
- u. All parties participate in a joint press release as to the positive benefits and impact Drug Court is having in Adams County.

Your prompt response to this email is required. Time is of the essence.

I wish to put this continuing struggles behind all of us.

Patrick Miller  
Presiding Judge  
Adams County Drug Court



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