

STATE OF MICHIGAN
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

Hon. Elizabeth Biolette Church

Probate Judge
Chippewa County Probate Court
Chippewa County, City-County Building
325 Court Street
Sault Ste. Marie, MI 49783

RFI Nos. 2014-21034 and 2014-21209

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SETTLEMENT AGREEMENT

Hon. Elizabeth Biolette Church, (“Respondent”), through her attorney, Brian D. Einhorn, and the Examiner,¹ Paul J. Fischer, (collectively, “the parties”) stipulate as follows.

A. BACKGROUND

1. Respondent is, and at all material times was, a judge of the Chippewa County Probate and District Court, Sault Ste. Marie, Michigan.

2. As a judge, she is subject to all the duties and responsibilities imposed on judges by the Michigan Supreme Court, and she is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

3. Request for Investigation Nos. 2014-21034 and 2014-21209 are currently pending before the Michigan Judicial Tenure Commission regarding the Respondent (“the Grievances”).

¹ Although no formal complaint has been issued, the Judicial Tenure Commission’s executive director assumes the role of “examiner” for purposes of this proceeding, as he and the Respondent are in adversarial positions, and call upon the Commission in its adjudicatory role. *See* MCR 9.201(B)(F).

4. Respondent admits the facts set forth in more detail below in Section B.
5. Respondent further admits that her conduct violates the Code of Judicial Conduct and the standards of discipline for judges.
6. The Commission may make findings of fact based on the stipulated facts in this Settlement Agreement, as well as draw reasonable inferences from them. The Commission may also make conclusions of law and a recommended sanction regarding the judicial misconduct, if any, which may have occurred.
7. The parties further stipulate that the Commission's recommended sanction, if any, shall be a public censure and a 120-day suspension, without pay. The parties understand that the suspension has no effect on Respondent's insurance benefits.
8. If the Commission approves this Settlement Agreement, the Commission shall issue a Decision and Recommendation and may append a copy of this Settlement Agreement to that decision. The Commission shall file its Decision and Recommendation with the Supreme Court as a public document, pursuant to MCR 9.220.
9. If the Commission rejects the proposed settlement, this Settlement Agreement is null and void, and the rule of confidentiality provided in MCR 9.221 remains in force.
10. Respondent acknowledges that unless otherwise specified, this Settlement Agreement covers only RFI Nos. 2014-21034 and 2014-21209, and nothing in this Settlement Agreement precludes the Commission from investigating or pursuing other grievances against her.
11. Respondent acknowledges that she is entering this Settlement Agreement freely and voluntarily, that it is her own choice to do so, and that she is doing so in consultation with counsel.

12. Respondent further agrees that, if suspended, she will not enter any courthouse in Chippewa County or initiate communication with the staff of any courthouse in Chippewa County during that period of suspension, unless she has a personal matter pending in any of those courts and then only to the extent that any other member of the public would have access to the court or the court staff. This paragraph is not intended to prevent Respondent from answering questions posed to her by court staff.

13. Respondent further acknowledges that her conduct, as described in Section B, constitutes:

- (a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30 and MCR 9.205;
- (b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205(B);
- (c) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A;
- (d) Failure to be faithful to the law and maintain professional competence in it, contrary to Code of Judicial Conduct Canon 3A(1);
- (e) Participation in *ex parte* communications, and consideration of them outside the presence of all parties concerning pending or impending proceedings, in violation of Code of Judicial Conduct Canon 3A(4);
- (f) A failure to adopt the usual and accepted methods of doing justice, in violation of Code of Judicial Conduct Canon 3A(9);

B. FACTS

14. Respondent is, and at all material times was, a judge of the Chippewa County Probate and District Court, Sault Ste. Marie, Michigan.

15. As a judge, she is subject to all the duties and responsibilities imposed on judges by the Michigan Supreme Court, and she is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

16. Over the course of the last several years, Respondent reduced charges, dismissed charges outright, or modified sentences in at least 20 criminal cases, without holding a hearing and where she had no explicit authority from the prosecutor to do so. Those cases are:

(a) People v Cory Teneyck, 91st District Court Case No. 13-55757-ST

(b) People v Ronald Stebleton, 91st District Court Case No. 13-7804-SI

(c) People v Chad Debolt, 91st District Court Case No. 13-8954-ST

(d) People v Kayla Reiswitz, 91st District Court Case No. 13-8812-SI

(e) People v John Hough, 91st District Court Case No. 13-56209-SM

(f) People v Ethan Swiger, 91st District Court Case No. 13-7402-SI

(g) People v Andrea Payment, 91st District Court Case No. 14-10642-OI

(h) People v Scott Brand, 91st District Court Case No. 13-9214-SI

(i) People v Thomas Parr, 91st District Court Case No. 13-6874-SI

- (j) People v Janis Wiezbenski, 91st District Court Case No. 13-7024-SI*
- (k) People v Hunter Captain, 91st District Court Case No. 12-6474-SI*
- (l) People v Cynthia Gagnon, 91st District Court Case No. 11-53224-SM*
- (m) People v Diana Gunckel, 91st District Court Case No. 14-57103-SM*
- (n) People v Jordan Morningstar, 91st District Court Case No. 14-11943-SM*
- (o) People v Terri Keesler, 91st District Court Case No. 14-57118-ST*
- (p) People v Maria Mellea, 91st District Court Case No. 14-57254-SM*
- (q) People v Sheri Manos, 91st District Court Case No. 14-11974-SI*
- (r) People v Janet Hatfield, 91st District Court Case No. 14-12032-SI*
- (s) People v Donald Dicks, 91st District Court Case No. 14-12080-SI*
- (t) People v Joshua Homminga, 91st District Court Case No. 14-57515-SD*

17. Over the course of the last several years, Respondent dismissed at least 32 ticket cases, without holding a hearing and where she had no explicit authority from the prosecuting to do so. Those cases are:

- (a) People v Smith Family Sanitation, 91st District Court Case No. 12-4859-SI*
- (b) People v Patrick Beland, 91st District Court Case No. 12-4891-SI*

- (c) *People v Jon Huyck*, 91st District Court Case No. 12-4889-ST
- (d) *People v Jeffrey Greene*, 91st District Court Case No. 12-4978-SI
- (e) *People v Kirsi Heikkinen*, 91st District Court Case Nos. 12-4916-OI, 12-4917-OI, and 12-4918-OI
- (f) *People v Erwin Mitchell*, 91st District Court Case No. 12-5089-OI.
- (g) *People v Ahmet Karakas*, 91st District Court Case No. 12-5104-SI
- (h) *People v Mohmed Bagwan*, 91st District Court Case No. 12-5452-SI
- (i) *People v Dean Eggart II*, 91st District Court Case No. 12-5651-SI, and *People v Dean Eggart II*, 91st District Court Case No. 12-5652-SI
- (j) *People v Kory Rogers*, 91st District Court Case No. 12-5690-SI
- (k) *People v Fox Excavating*, 91st District Court Case No. 12-5714-SI
- (l) *People v Lindsay McLeod*, 91st District Court Case No. 12-5786-SI
- (m) *People v Erin Reynoso*, 91st District Court Case No. 12-5795-SI
- (n) *People v Randall Nietling*, 91st District Court Case No. 12-5800-SI
- (o) *People v Heather Goudge*, 91st District Court Case No. 12-5855-SI
- (p) *People v Justin Bertram*, 91st District Court Case No. 12-5914-SI

- (q) *People v Patrick Schuster*, 91st District Court Case No. 12-5919-SI
- (r) *People v Matthew Hiatt*, 91st District Court Case No. 12-5926-SI
- (s) *People v Clifford Mongene*, 91st District Court Case No. 12-6015-SI
- (t) *People v Kevin Akers*, 91st District Court Case No. 12-6090-SI
- (u) *People v Thomas Parr*, 91st District Court Case No. 12-6117-SI
- (v) *People v Megan Cardiff*, 91st District Court Case No. 12-6221-OI
- (w) *People v Jason McEwen*, 91st District Court Case No. 12-6250-SI
- (x) *People v Brandt Miller*, 91st District Court Case No. 12-6349-SI
- (y) *People v Gary Johnston*, 91st District Court Case No. 12-6411-SI
- (z) *People v Wallace Bosley*, 91st District Court Case No. 12-6439-SI
- (aa) *People v Karuna Saluja*, 91st District Court Case No. 12-6443-OI
- (bb) *People v Jocelyn Morley*, 91st District Court Case No. 12-6446-OI
- (cc) *People v Brian Schwiderson*, 91st District Court Case No. 12-6492-SI
- (dd) *People v Britny Poth*, 91st District Court Case No. 12-6653-OI
- (ee) *People v Tiffany Dumback*, 91st District Court Case No. 12-6597-SI
- (ff) *People v Johnny Shuman*, 91st District Court Case No. 13-7084-SM

18. In the matters referred to above, Respondent engaged in *ex parte* communications by considering substantive matters relevant to the merits of the pending proceedings, without the knowledge or consent of the prosecuting attorney.

19. Respondent also engaged in *ex parte* contacts as follows:

(a) *People v Dale Betlam*, 50th Circuit Court Case No. 13-001221-FC

- i. This matter was before Respondent on January 16, 2014 for a bench trial.
- ii. Before the trial started, Respondent, accompanied by defense counsel Jennifer France, went to the holding cell where Mr. Betlam was being held by the Chippewa County Sheriff's Department.
- iii. Respondent met there with Mr. Betlam, in the presence of Ms France, but without the knowledge of the prosecuting attorney.
- iv. Respondent never told the prosecutor of her *ex parte* meeting with the defendant, Mr. Betlam, nor did she ever make a record of the event.

(b) *People v Cameron David Ferraro*

- i. Respondent was assigned to preside over *People v Cameron David Ferraro*, 91st District Court Case Nos.
 - a) 15-58203-SM (filed on or around April 27, 2015, charging the defendant with domestic violence, contrary to MCL 750.812) and
 - b) 15-58285-SM (filed on or around May 28, 2015, charging defendant with domestic violence, 2nd offense, contrary to

MCL 750.812, and 4th degree child abuse, contrary to MCL 750.136b[7]).

- ii. On April 28, 2015, Respondent disqualified herself on her own motion in Case No. 15-58203-SM, and on June 3, 2105 she did so in Case No. 15-58285-SM, indicating in both matters that she believed that her continued assignment would create an appearance of impropriety.
- iii. Respondent added the following on the disqualification order in Case No. 15-58203-SM: “DEFENDANT IS THE SON OF BLDG MAINTENANCE MAN WHO IS PART OF ONGOING JTC INVESTIGATION.” *[sic]*
- iv. The State Court Administrative Office (“SCAO”) assigned Judge Beth Gibson of the 92nd District Court to preside over Case No. 15-58203-SM on May 1, 2015 and in Case No. 15-58285-SM on June 8, 2015.
- v. On June 12, 2015, Mr. Ferraro pled guilty to one charge of domestic violence (Case No. 15-58203-SM) and one charge of domestic violence-second offense (Case No. 15-58285-SM); the child abuse charge was dismissed without prejudice.
- vi. In Case No. 15-58203-SM, Judge Gibson sentenced Mr. Ferraro to 93 days in jail, with 17 days credit and the remaining 76 days suspended. Judge Gibson also imposed \$500 in fines and costs and placed Mr. Ferraro on 12 months of probation.

- vii. In Case No. 15-58285-SM, Judge Gibson placed Mr. Ferraro on 24 months of probation and imposed \$750 in fines and costs.
- viii. In both cases, Judge Gibson continued a no-contact order against Mr. Ferraro regarding the victim.
- ix. On July 8, 2015, charges were filed against the same Mr. Ferraro in Case No. 15-58414-FY, alleging that he had used a computer to commit a crime, contrary to MCL 752.796 and 752.797(3)(d), as well as aggravated stalking, contrary to MCL 750.411i, and malicious use of telecommunications services, contrary to MCL 750.540e.
- x. The charges against Mr. Ferraro in Case No. 15-58414-FY were filed while he was still on probation in Case Nos. 15-58203-SM and 15-58285-SM.
- xi. Respondent disqualified herself on her own motion from Case No. 15-58414-FY on July 8, 2015, indicating that she believed that her continued assignment would create an appearance of impropriety.
- xii. Respondent added the following on the disqualification order in Case No. 15-58414-FY: "Defendant has had two very recent cases that Judge Church has recused on as well." [sic] The two cases referred to were Case Nos. 15-58203-SM and 15-58285-SM.
- xiii. SCAO assigned Judge Beth Gibson of the 92nd District Court to preside over Case No. 15-58414-FY on July 9, 2015.

xiv. Respondent sent two texts to Judge Gibson regarding Case No. 15-58414-FY.

xv. On July 7, 2015, at 5:15 p.m., Respondent texted Judge Gibson:

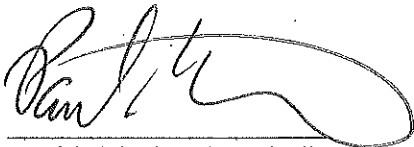
"I am group texting both Judge Gibson in [sic] John Feroni I have been contacted by MSP regarding Carmen Ferraro they will be submitting report to the Circuit C [sic]ourt [sic] to the prosecutor and to you John for probation violation. Acid [sic] a report be sent all three and I told him that Judge Gibson will hear the matter

"It was trooper Bitnar"

xvi. On July 16, 2015, at 4:52 p.m., Respondent texted Judge Gibson:

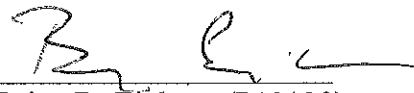
"I could really use that boy on community service so hurry and send the Ferraro kid"

20. In *People to Victor Martinez*, 91st District Court Case No. 14-57336-EX, Respondent declined to appoint a translator for the defendant when she should have.



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DATED: 11/8/2015



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DATED: Nov 6, 2015



Hon. Elizabeth B. Church (P47227)
Chippewa County Probate Judge

DATED: 10-9-15