

TO: Board of Martin County Commissioners,  
C/O: Francis K. Taylor, Auditor as Ex Officio Clerk of said Board,  
111 Main Street, Shoals, Indiana 47581

**Martin County Auditor's Office**  
"A Conflict of Interest Statement"

A conflict of interest statement must be filed in the Martin County Auditor, see *Martin County Employee Manual* page 5.

**Complaining Party:**

Clerk of Courts, John R. Hunt, and Employees

**Facts:**

The Judge of the Martin Circuit Court, R. Joseph Howell has entered the Clerk's office in the recent past, on numerous occasions and intruded upon the duties of the Clerk and the Clerk's personnel. Judge Howell's intrusions are issues that come within the scope of the Martin County Clerk's Office Bond.

If a third party were to be injured by Judge Howell's intrusion and the party were to bring a liability suit against the clerk, commissioners, and/or the bond, the bond company would be responsible "if" there was no disclaimer or warning issued to Judge Howell that any liability that may arise from his acts that he would be responsible for those liabilities and not the clerk, commissioners, or the bonding company.

**Bonding Requirement:**

*Martin County Employee Manual*, page 4,

" Under certain circumstances, Martin County ordinance or state law may require that you be bonded. It is your responsibility to assure that you are bondable. Martin County will pay the cost of bonding. Should you fail to maintain these qualifications or fail to provide such bond, you will be subject to transfer to another position, if available, or dismissal, or in case of an elected official, have your position declared vacant."

The Martin County Clerk's office is a bonded county office by law. The Martin County Commissioners are responsible for the bond and all procedures on the bond and liabilities that lay claim to the bond.

**Disciplinary Actions:**

*Martin County Employee Manual*, page 12,

"The Board of Commissioners shall review any unacceptable behavior and decide upon the proper form of relief."

The Board of Martin County Commissioners has the authority to safeguard against the liabilities that may be imposed upon the commissioners' bond by a judge or any third party. The commissioners also have the authority to set the rules and regulations on any judge or any third party liability on the bond of the clerk's office.

**Legal Authorities:**

Swift v. State ex rel Clark 63 Ind. 81 (1878) and also see I.C. 34-47-3-1 Sec: 11 "Clerk of Courts" (2004).

The leading Indiana authority and the grandfather case on this subject is:

"Where a clerk of court withheld money, which he had been ordered by the court to pay a party in a certain proceeding, he could not be proceeded against for contempt of court in refusing to obey the order. Swift v. State ex rel. Clark 63 Ind. 81 (1878)."

The clerk has jurisdiction over all moneies in the clerk's office, and has an official bond that bonded his honesty and integrity to handle such money. The judge has no bond and has no jurisdiction over any monies in the clerk's office: therefore, the judge has no jurisdiction for proceeding and attachments through contempt statutes. The clerk is bonded and has full jurisdiction over all money in his office.

In Swift v. State ex rel Clark, NIBLACK J. quoted and relied on I.C. 34-47-3-1 Sec. 11, "Clerk of Courts",

".....the clerk and his sureties were liable, on his bond, for a failure to pay such money to the person entitled thereto, but that he can not be proceeded against for contempt of court in refusing to obey such order....The clerks are thus made the custodians of such moneys, and not the courts. The refusal, therefore, of a clerk to pay out any such money to any person entitled to receive the same, constitutes a breach of his official bond, for which a civil action may be maintained as in other cases of improper refusal of pay out money in his hands to such clerks: and, when such money is fraudulently withheld, the clerk may be prosecuted for a felony." page 84.

Indiana State Statutes sets the duties and office procedures of the circuit court judge's office. There is no statutory authority or case law that gives a judge the authority by law to bring his bailiff into the clerk's office and demand everything shut down, locked up, and window closed and order the clerk and all of his personnel to the judge's courtroom as Martin Circuit Court Judge Howell did on June 7, 2006. The legal reason a judge has no such authority is all such issues are under the authority of the commissioners bond. Judge has no "authority on any issue that is covered by the clerk's bond in the clerk's office". Any activities or authority of the commissioners or the clerk that comes within the scope of the clerk's bond, a circuit court judge, such as Judge Howell has

absolutely no jurisdictional authority to enter the clerk's office much less take the books, place entries in files and threaten to put clerk's office employees in jail, and put the clerk in jail for any procedural act that does not please the judge.

**Conclusion:**

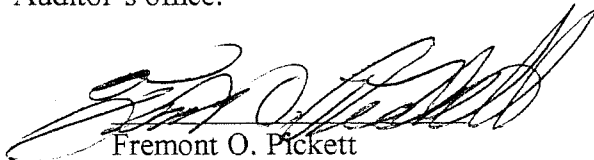
Judge Howell had no jurisdictional authority to issue any "Order" upon the office of the clerk. Any aggravated party, would have the remedy of a civil suit against Clerk Hunt's bond, and the County Commissioners. Whereas here, the circuit court judge had "no" jurisdiction over the office of the clerk. I.C. 34-47-3-1 subsection 11, Swift (supra)

**Relief Requested:**

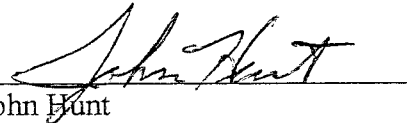
The County Commissioners issue a disclaimer order that if any liabilities and lawsuits arise against the clerk's office personnel stemming from the conduct of Judge Howell, then Judge Howell shall be responsible for that liability, not the clerk, county commissioners, or the bond.

The clerk and the aggravated personnel from the clerk's office shall appear with legal council at the next scheduled commissioners meeting requesting the board of commissioners to put an end to the harassment they received from Judge Howell, and shall answer any questions the commissioners may ask.

Filed this day September 19, 2006, 2006 with the Martin County Auditor's office.



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**FILED**

SEP 19 2006

