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July 23, 2014

Montgomery County Grand Jury
c/o Maria Vogel
Jury Commissioner's Office
50 Maryland Avenue
Rockville, Maryland 20850

Ladies and Gentlemen of the Grand Jury:

I write to request an investigation of a forged affidavit that was originally filed in federal court and more recently filed in the Circuit Court of Montgomery County. I believe that an investigation of the affidavit will reveal a more extensive fraud conspiracy involving several Montgomery County attorneys.

Exhibit A includes a copy of the affidavit that was purportedly signed by William C. Cartinour, Jr., an 87-year-old resident of Bethesda. The affidavit was originally filed on February 22, 2010 in *Wade A. Robertson v. William C. Cartinour, Jr.*, Case No. 1:09-cv-1642, a federal case in the District of Columbia. Attorneys Patrick Kearney, Michael Bramnick, Carlton Obecnny, and Robert Selzer of Bethesda represented Mr. Cartinour against Mr. Robertson in that case, and I later represented Mr. Robertson on appeal. I originally thought that Mr. Cartinour was responsible for perpetrating a fraud against Mr. Robertson, but I now believe that Mr. Cartinour is at least equal parts victim and wrongdoer.

At a March 26, 2010 hearing, Mr. Cartinour was questioned about the affidavit by Mr. Robertson's attorney at the time, Ed Griffin. In federal court, all documents are filed electronically, therefore Mr. Griffin only had a printout of the document that Mr. Bramnick had scanned and filed electronically. Mr. Cartinour testified under oath that he had no knowledge of the facts alleged in the affidavit, he had never seen it before, and that someone had used "some sort of technology" to put his signature on the affidavit. See March 26, 2010 Transcript Excerpt (Exhibit B). In other words, he testified that the affidavit was a forgery.

Within six months, I sent letters and e-mails to Mr. Kearney and his colleagues demanding the preservation of all evidence, including the original version of the affidavit. The rules of the federal court also obligated Mr. Kearney to preserve the original copy of the affidavit. Thereafter, Mr. Kearney and his law firm fought fiercely to keep me from seeing the original affidavit. Nonetheless, on December 19, 2013, Judge Michael D. Mason of the Circuit Court of Montgomery County ordered Mr. Kearney's law firm to produce the original copy of the affidavit for my inspection. On Christmas Eve, Mr.

Kearney filed a document in the Montgomery Circuit Court (Exhibit A) admitting that the original affidavit could not be produced, but he claimed that the original really did exist at one time. However, Mr. Kearney refused to make that statement under oath, and as of this date *nobody* claims to have seen the original affidavit.

In all likelihood, that is because the original never existed. If you examine the purported affidavit, you will notice that the affidavit is undated, the signature is on a separate page (even though there was plenty of room at the end of the affidavit), the text and the signature are at an angle (whereas the rest of the affidavit is level), and the page number at the bottom of page 6 appears to be a different width from the other page numbers. In other words, it looks like a fabrication, just as Mr. Cartinhour himself suggested.

After Mr. Kearney admitted that he could not produce the original affidavit, I asked Judge Mason to modify his order to allow me to ask some follow-up questions. *See* Defendant's Motion to Revise Order and Motion for Referral (Exhibit C). For example, I wanted to ask who saw Mr. Cartinhour sign the original, when and where it was signed, and who scanned it into electronic form. *See* Reply in Support of Defendant's Motion to Revise Order and Motion for Referral (Exhibit D). If there was indeed an original, then somebody should be able to testify under oath that he or she saw that original.

For reasons unknown to me, Judge Mason recused himself from the case and Judge Cheryl A. McCally was assigned. At a June 25, 2014 hearing, Judge McCally not only prevented me from asking any questions about the fraudulent affidavit, she shut down *all* discovery in Maryland related to my case in Texas. For example, I had already subpoenaed witness Elyse Strickland to inquire about the forged affidavit, but Judge McCally blocked the deposition *even though Ms. Strickland agreed to the deposition*. And never mind the fact that the opposing party had *admitted* that the status of the missing affidavit was relevant to my case in Texas, Judge McCally declared that it was not relevant, therefore she was not going to let me see any more documents or ask any more questions. Two weeks later, she signed a factually false order for the apparent purpose of assuming control of a different case that sought the deposition of Mr. Cartinhour. *See* Motion to Vacate and Motion for Recusal (Exhibit E). It appears that she is trying to shut down that case as well.

The fabricated affidavit is only the tip of the iceberg, and a little more background might be helpful. U.S. District Judge Ellen S. Huvelle, the federal judge who presided over *Robertson v. Cartinhour*, refused to investigate the forged affidavit and she even prevented me from appearing at a hearing after I told her that I wanted to bring the matter to her attention. I kept pressing the issue anyway, and she ultimately retaliated by sanctioning me more than \$100,000.00. That led to a bar grievance against me in Texas, where I actually encouraged the state bar to file charges against me because I wanted to demand a jury trial and serve subpoenas on Mr. Kearney, et al. to find out what really happened in *Roberson v. Cartinhour*.¹ The State Bar of Texas filed the charges against

¹ This may sound far-fetched, but you can confirm it by calling Dirrell S. Jones, assistant disciplinary counsel for the State Bar of Texas, at (972) 383-2900.

me last year, but on June 30, 2014, the bar dismissed all of the charges against me that were based on Judge Huvelle's accusations. I cannot speak for the state bar prosecutors, but I suspect they recognized the obvious: the fabricated affidavit – and Judge Huvelle's attempts to sweep it under the rug – raise questions about her credibility.²

A neutral party (like the grand jury) needs to investigate. Already there is very clear evidence that Mr. Kearney and his colleagues perpetrated a fraud, and it appears that the fraud is ongoing. I have hundreds of pages of additional evidence that are too extensive to present in this letter, therefore I request an opportunity to address the grand jury in person. By copy of this letter to the Montgomery County State's Attorney, and in light of the fact that a Montgomery County judge may be a witness, I ask that this matter be referred to an outside prosecutor.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: The Hon. Rod J. Rosenstein, U.S. Attorney
District of Maryland
The Hon. Emmet C. Davitt, Maryland State Prosecutor
The Hon. John McCarthy, State's Attorney
Montgomery County, Maryland

² In his December 19, 2013 order, Judge Mason also directed Mr. Kearney and his firm to disclose all of their *ex parte* communications with Judge Huvelle, *i.e.*, secret communications with the judge that were not shared with me or my client. As a result of that order and my own investigation, I obtained solid proof that Judge Huvelle had been secretly communicating with Mr. Kearney and Mr. Cartinhour (and perhaps others). Such secret communications (with only one side) are expressly prohibited by the rules governing lawyers and judges.