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San Francisco County Grand Jury
San Francisco City Hall, Room 482
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

Re: *In re Wade A. Robertson*, Case No. 09-O-19259-LMA (California State Bar Court)

Ladies and Gentlemen of the Grand Jury:

You may be aware of media reports about corruption and misconduct within the State Bar of California, and I write to you concerning some of that misconduct. I realize California grand juries often focus more on civil investigations, but state law permits you to investigate and indict for criminal offenses, *see* California Penal Code §917, therefore I ask that you conduct a criminal investigation of the state bar.

On May 9, 2016, I wrote to Attorney General Kamilla Harris, District Attorney George Gascon, and the trustees of the state bar about state bar prosecutor Cydney Batchelor, and I have enclosed copies of that correspondence. In the state bar case listed above, Ms. Batchelor withheld exculpatory evidence, *i.e.*, evidence that was favorable to the accused, Wade Robertson. According to California Business & Professions Code §6128 and Penal Code §135, it is a crime for a prosecutor to withhold exculpatory evidence. Ms. Batchelor's case is particularly ironic, because she chaired the bar's statewide task force on prosecutorial misconduct, and she has sought and obtained suspensions and disbarments for district attorneys and deputy district attorneys who engaged in prosecutorial misconduct. Now Ms. Batchelor has engaged in serious prosecutorial misconduct herself.

With this letter I have enclosed a sworn declaration from Jason Yearout, an Alabama attorney who received an unsolicited phone call from Ms. Batchelor about the state bar case against Mr. Robertson. In that case, Ms. Batchelor alleged that Mr. Robertson accepted \$3.5 million from his business partner, William C. Cartinhour, Jr., for the purpose of funding litigation in New York, but that Mr. Robertson never used any of the money for litigation purposes. Mr. Yearout, however, told Ms. Batchelor that Mr. Robertson had expended a "significant" amount of money on the litigation via Mr. Yearout's firm. According to his sworn declaration, Ms. Batchelor repeatedly told Mr. Yearout that she was not going to keep a record of their conversation.

Mr. Yearout was so troubled by Ms. Batchelor's statements that he notified Mr. Robertson, and Mr. Robertson decided to wait two weeks to see if Ms. Batchelor would provide the exculpatory evidence to the court. She did not, so Mr. Robertson provided Mr. Yearout's declaration to the court on May 3, 2016. In her May 16, 2016 response to Mr. Yearout's declaration, Ms. Batchelor conceded that Mr. Yearout disclosed the information to her, and she conceded that she may have told him that he "should forget the call ever happened."

If that's not a smoking gun, I'm not sure what would be. Ms. Batchelor nonetheless tried to change the subject and shift the blame elsewhere. In her sworn declaration (enclosed), Ms. Batchelor wrote that she "assumed" that Mr. Yearout would convey the exculpatory information to Mr. Robertson, as if that absolved her of her legal duty to notify Mr. Robertson and the court. Such an assumption is not even plausible. As explained above, the state bar has alleged that Mr. Robertson took \$3.5 million from Mr. Cartinhour for purposes of funding litigation in New York, but that Mr. Robertson never used the money for litigation purposes. During the state bar trial, prosecutors touted a letter from Gusty Yearout, the father and law partner of Jason Yearout, wherein the senior Mr. Yearout assured another lawyer that his firm had not received any of the \$3.5 million. Gusty Yearout was trying to convince Mr. Cartinhour's lawyers not to sue his firm along with Mr. Robertson.

Given that context, it is preposterous for Ms. Batchelor to suggest that she thought the Yearout firm would voluntarily notify Mr. Robertson that it had done an about-face and was now admitting that it had received some of the \$3.5 million. Even if she actually believed something so outlandish, why wouldn't she just notify the court and Mr. Robertson – as she was legally obligated to do – that she had discovered the exculpatory evidence? And why wouldn't she admit that the earlier letter from Gusty Yearout – which she had been touting as evidence against Mr. Robertson – had now been discredited? Because she was trying to railroad Mr. Robertson. There is no other explanation.

Meanwhile, the state bar is sticking its head in the sand, trying to ignore the fact that it has a corrupt prosecutor on its payroll. Even though I notified the bar trustees on May 9, 2016, they have not removed Ms. Batchelor from the case against Mr. Robertson, much less fired or suspended her.

Unfortunately, Ms. Batchelor's latest stunt is only the tip of the iceberg. Mr. Cartinhour's attorneys in Maryland are trying to perpetrate a million-dollar fraud on the California bar, and for reasons that I do not yet understand, Ms. Batchelor is trying to help them. After Ms. Batchelor learned about the scam, I assumed that she kept prosecuting Mr. Robertson because she did not want to admit that she had made a mistake. Now that she has gone so far as to hide exculpatory evidence, I have to wonder if something else is going on under the table.

For that reason, I think a grand jury of average citizens is best equipped to investigate criminal misconduct within the state bar. Frankly, you are a lot less likely to care about the potential political consequences to people in high places, and you are a lot less likely to care about further embarrassing the state bar. If you wish, I will gladly

travel to California to testify, and I am sure Mr. Robertson would voluntarily testify as well.

Thank you for your consideration.

Respectfully,

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

Ty Clevenger