

**BEFORE THE
SUPREME COURT OF OHIO**

Columbus Bar Association,	:	
Relator,	:	
	:	
v.	:	Case No. 06-491
	:	Disciplinary Case
Derek Farmer, Esq.	:	
Respondent.	:	

**COLUMBUS BAR ASSOCIATION'S MOTION TO
APPOINT AN ALTERNATE RELATOR**

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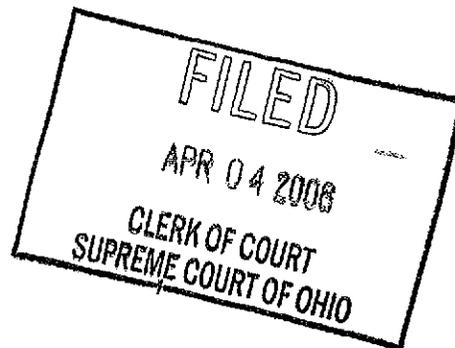
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COUNSEL FOR RELATOR



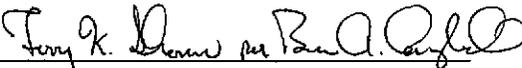
MOTION FOR THE APPOINTMENT OF
AN ALTERNATE RELATOR

The Columbus Bar Association moves the Court to appoint an alternate Relator in this matter for the purpose of selecting a Monitor, pursuant to the Court's Order of Reinstatement of April 1, 2008 and for supervision of the Respondent's probationary period specified in that Order. This Motion is based upon an irreconcilable conflict of interest described in the attached Memorandum and evidenced by the attached exhibits.

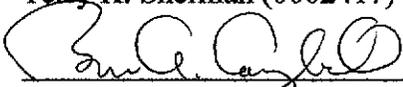
Respectfully submitted,



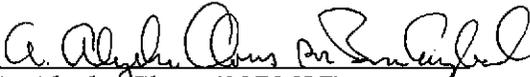
Don Ruben (0002739)



Terry K. Sherman (0002417)



Bruce A. Campbell (0010802)



A. Alysha Clous (0070627)

COUNSEL FOR COLUMBUS BAR ASSN.

MEMORANDUM IN SUPPORT OF THE MOTION OF THE COLUMBUS BAR
ASSOCIATION TO APPOINT ALTERNATE RESPONDENT

The Columbus Bar Association (CBA) has acted in the role of Relator in these proceedings since their inception in July 2004. It believes, however, that it would be improper for the CBA to continue in this role for the purpose of appointing a monitor for Respondent and supervising the probation period as mandated by the Court in its recent Order of Reinstatement of April 1, 2008. The CBA would suggest to the Court that there have been two intervening events that have created a conflict of interest for the CBA, or, at the very least, the perception of one.

The first event arose from an Order (copy attached as CBA Motion Exhibit 1) sent to Respondent by the U.S. District Court for the Southern District of Ohio, in November 2006, requiring him to show cause as to why that court should not impose reciprocal discipline in light of the Supreme Court of Ohio's disciplinary suspension issued in this case. In December 2006, Respondent filed a *Pro Se* Response To Show Cause Order. (Copy attached as CBA Motion Exhibit 2 with the index of the Appendices included but omitting the voluminous documents submitted with the Response)

In that Response, Mr. Farmer made certain accusations against the CBA Ethics Committee, its Bar Counsel and the two Members of the Committee, who constituted the trial team for this disciplinary case. Without lengthy recital of all of the allegations made by Respondent against the CBA representatives, suffice it to say that he started by drawing this parallel, "What these CBA lawyers did to me is like reading a chapter from Mien [sic] Kampf."

(CBA Motion Exhibit 2, p.4). He went on to charge the CBA with lying and making false accusations (Ex. 2, pp. 3, 20, 24, 26, 29), fraud (Id. pp. 4, 28, 31), being in cahoots with others (Id., p. 4), being “modern day racists” who “pit black folk against black folk,” (Id., pp. 6, 21, 34), malicious conduct (Id., p. 14), deception (Id. p. 22), taking cheap shots and engaging in the inappropriate use of authority (Id. p. 23), and of attempting to crush a black man economically (Id., p 26). He concludes by analogizing the CBA’s actions in his case to putting him on the “Negro Coach” (a reference to filthy passenger car at the end of the train in which African-Americans were forced to ride in the days of segregation). (Id., p. 39-40)

The CBA believes these comments to be reckless, offensive and fallacious. The CBA’s position was expressed in an *Amicus* brief it submitted to the District Court (a copy of which is attached as CBA Motion Exhibit 3). To date, that court has not acted on Respondent’s submission.

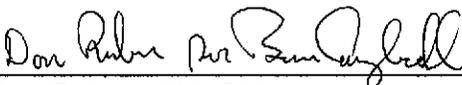
The second intervening event was Respondent’s August 2007 filing of an ethics grievance against three members of the trial team in this case, in which he included essentially the same polemic he had previously submitted to the federal court. That grievance was assigned to the Akron Bar Association’s Certified Grievance Committee for review. In December 2007, the Akron Bar’s Committee issued a report of its findings and dismissed the grievance. (A copy of the report is attached as CBA Motion Exhibit 4*)

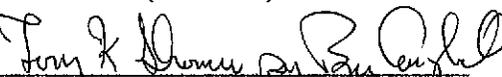
Taken together, these actions betoken a mind-set on the part of Respondent that will *never* accept any action taken by the CBA’s Certified Grievance Committee or its counsel as fairly reasoned or appropriately executed. Thus, while in no way acquiescing to Respondent’s

* Pursuant to Gov. Bar Rule V §11(E)(1), the CBA attorneys against whom this grievance was filed waive their right to confidentiality regarding this grievance dismissal for the limited purpose of this Motion.

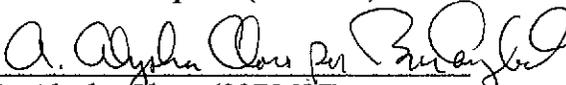
vile recriminations, the CBA believes that some other disciplinary entity should exercise the power of appointing his monitor and otherwise supervise his probation.

Respectfully submitted,


Don Ruben (0002739)


Terry K. Sherman (0002417)


Bruce A. Campbell (0010802)


A. Alysha Clous (0070627)

COUNSEL FOR COLUMBUS BAR ASSN.

Certificate of Service

The undersigned counsel for the CBA mailed a true copy of the CBA's Motion, Memorandum and Exhibits to Respondent, Derek A. Farmer, Esq., 711 Waybaugh Dr., Gahanna, OH 43230, by regular U.S. Mail this 4th day of April, 2008.


Bruce A. Campbell (0010802)

**INDEX OF EXHIBITS TO THE CBA'S MOTION
TO APPOINT AN ALTERNATE RELATOR**

- CBA's Motion Exhibit 1:** Order of the Supreme Court of Ohio of April 1, 2008;
- CBA's Motion Exhibit 2:** Respondent's December 14, 2006 Response to Show Cause Order of the United States District Court for the Southern District of Ohio;
- CBA's Motion Exhibit 3:** CBA's *Amicus Curiae* Brief to the District Court in Opposition;
- CBA's Motion Exhibit 4:** Grievance determination letter of the Akron Bar Association's Certified Grievance Committee.

CBA'S MOTION EXHIBIT 1

FILED

The Supreme Court of Ohio APR 01 2008

Columbus Bar Association,
Relator,

CLERK OF COURT
Case No. 06-491 SUPREME COURT OF OHIO

v.
Derek A. Farmer,
Respondent.

ORDER OF REINSTATEMENT

This cause came on for further consideration upon the filing of an application for reinstatement by respondent, Derek A. Farmer, Attorney Registration Number 0071654, last known business address in Gahanna, Ohio.

The court coming now to consider its order of November 1, 2006, wherein the court, pursuant to Gov.Bar R. V(6)(B)(3), suspended respondent for a period of two years with one year stayed on conditions, finds that respondent has substantially complied with that order and with the provisions of Gov.Bar R. V(10)(A). Therefore,

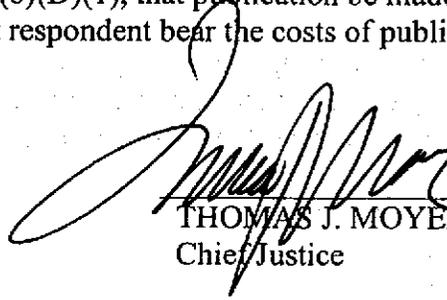
It is ordered by this court that respondent is reinstated to the practice of law in the State of Ohio. It is further ordered that respondent is hereby placed on monitored probation for a period of one year from the date of this order.

It is further ordered that on or before thirty days from the date of this order relator shall file with the Clerk of this court the name of the attorney who will serve as respondent's monitor, in accordance with Gov.Bar R. V(9). It is further ordered that at the end of respondent's probationary period, the relator file with the Clerk of this court a report indicating whether respondent, during the probationary period, complied with the terms of the probation.

It is further ordered that at the end of the probationary period respondent may apply for termination of probation as provided in Gov.Bar R. V(9). It is further ordered that respondent's probation shall not be terminated until (1) respondent files an application for termination of probation in compliance with Gov.Bar R. V(9)(D); (2) respondent complies with this and all other orders issued by this Court; (3) respondent complies with the Rules for the Government of the Bar of Ohio; (4) relator files with the Clerk of this court a report indicating that respondent has complied with the terms of the probation; and (5) this court orders that the probation be terminated.

It is further ordered that the clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

I HEREBY CERTIFY that this document is a true and accurate copy of the entry of the Supreme Court of Ohio filed 4/1/08 in Supreme Court case number 06-491


THOMAS J. MOYER
Chief Justice

In witness whereof I have hereunto subscribed my name and affixed the seal of the Supreme Court of Ohio on this 1st day of April, 20 08


CLERK OF COURT
Deputy

CBA'S MOTION EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED
JAMES S. SMITH
CLERK
06 DEC 14 PM 2:36

In re:

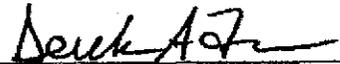
Derek A. Farmer (0071654)

Case Number: 1:06MC85-SSB

RESPONSE TO SHOW CAUSE ORDER

Now comes, Derek A. Farmer, in the above captioned matter and hereby submits his response to this Court's Order to Show Cause dated November 16, 2006. Mr. Farmer's responsive memorandum is attached hereto and incorporated fully by reference herein.

Respectfully submitted,



Derek A. Farmer, *Pro Se*
630 Morrison Road, Suite 160
Columbus, Ohio 43230
Phone (614) 759-0123
Fax (614) 759-0125

MEMORANDUM

As a result of this Court's order of November 16, 2006, this is my response to show why the Ohio Supreme Court's decision to suspend my license **should not be** adopted by this court. It would be impractical to believe that this Court would allow me to practice before it, while at the same time being suspended by the Supreme Court. Even if this Court took that unprecedented step of permitting me to practice, I would **not** practice until the suspension was completed or reversed, out of respect for the Justices.

With the above in mind, why would I want to show cause and have a hearing in this Court? First, I believe that I have been subjected to a modern-day lynching by the Ku Klux Klan, in the form of a white supremacist hate group at the Columbus Bar Association ("CBA"). Based upon past conduct, I would not be surprised if they will put a "black face" in the forefront in the future to disguise that element. Second, when I was admitted to the bar, Federal Judges in Cincinnati and Dayton welcomed me. I would not and did not do anything to make those Judges ashamed. **I have never promised anyone in my life that I could get them out of prison. I did not comment to anyone that a brief was not worth the paper it was written on.**

Third, much of what is cited as material **facts** in the Supreme Court opinion to support the suspension does not exist in any record. I figured that in a hearing before this Court, I would say to opposing counsel, "The opinion presents this as fact to support the suspension. Please show this court evidence from the record stating [whatever]." After 5 or 6 "no shows" from opposing counsel, this Court could not adopt such a decision.

Fourth, it appears that a pattern exists where white lawyers in bar associations attempt to defeat their competition by prosecuting what normally would be something that requires mere discussion. In this vein, these lawyers have almost always attacked “fee” arrangements of the African-American lawyer as “excessive.”

Some may remember the extraordinary media coverage of my admittance to the Bar in 1999. We had to sue in federal court so that I could practice due to threats of the Cincinnati FOP and Hamilton County Prosecutor. (Appendix 1). People used my situation to get publicity, i.e., getting their names in media outlets. This trend continued. It is only white people who used my situation derogatorily to get media attention. They used their organizations and titles to harm me: FOP, CBA, Judge(s), and Neo-Nazis.

The Neo-Nazis jumped on the bandwagon to make my life miserable too. Read the attached of how they attacked me and Judge Rice. (Appendix 2). The CBA lawyer who “questioned” Judge Rice used a similar strategy. He implied that Judge Rice was a member of “liberal” prisoner organizations to mean that is the “real” reason for the judge’s testimony. (Appendix 3). He questioned Judge Rice about his family. Id. This same lawyer lied to a local newspaper in his attempts to discredit me. (Appendix 4).

Hamilton County Judge Ruchlman said that my body “should be made to rot in a cell.” It does not get more Nazi than that. After that, a Hamilton County Municipal Court Judge joined in with Ruchlman and recused himself from my cases. (Appendix 6). Using the FOP title, a few of their members took a stand too. We found out later that the general FOP membership did not go along with that mess.

Like the people mentioned above, these white CBA lawyers played the media like a fiddle. In addition to lying to the print media, they had Columbus’s Channel 10 TV

present at the Disciplinary Board hearing “doing their closing arguments!” These lawyers violated disciplinary and other rules. Thus, committing a fraud on the Board of Discipline and Grievance and the Supreme Court of Ohio.

I happen to disagree with those who think my background has more to do with the attacks than race. If I were white and accomplished what I did, I would have been made into the poster child for rehabilitation. If I had been a janitor, I would not have been in the news.

What these CBA lawyers did to me is like reading a chapter from Mien Kampf. What the Supreme Court did was adopt what these *lawyers said*, as opposed to the actual evidence. For example, the Supreme Court and CBA lawyers have me “promising” to get people out of prison. Not a single client had ever made that false allegation in the numerous letters, phone calls, or other communications with me or anyone else, and we have a lot of correspondence from the Martin family. These allegations arose only after they got in cahoots with a lawyer named Norman Sirak and the CBA lawyers. For example, Client Rutledge explained what I said to him in his deposition. (Appendix 7). CBA lawyers had a copy of the letter Mr. Rutledge had written to me paraphrasing my words (Appendix 8). Having this letter and an affidavit clarifying what was stated in the letter (Appendix 9), these lawyers chose to propagate the lie. They wrote in their complaint, and later argued, that I told Mr. Rutledge that I would have him “out of prison within eight months.” As Mr. Rutledge explained, all I said is that there was a possibility that I could get a hearing for him within 8 months. Id.

I imagine that judges and others going through the confirmation process have experienced things they wrote or said years earlier being exploited and taken out of

context. Mr. Rutledge had asked how long I thought it would take to do what I needed to do for him. My answer was based upon what he and Ms. Moore told me, and if I could gather evidence that he claimed existed to exonerate him (Appendix 10-Rutledge asked me to get a witness drunk hoping that she would tell the truth). Mr. Rutledge also admitted that it was he who told Ms. Moore this. (Appendix 11).

Unlike what the CBA lawyers argued and the Supreme Court adopted, Rutledge said that when I first met him that he did most of the talking explaining his case and that I asked him to send me his court documents for review. (Appendix 12). Asking for court documents for review is a long way from the "over optimistic" and "promises of freedom" advanced and adopted.

This is very important because that is all I told the Martin family when I met them on April 23, 2001, i.e., I have to research and investigate before I can determine what can be done. This too was paraphrased in a letter from Teresa Smith (Martin's sister) to me. (Appendix 13). Yet after they got in cahoots with the Sirak and the CBA, I am alleged to promises to get her brother out of prison and commented on a brief that I had never seen nor possessed at that time.

In the Rutledge case, Ms. Moore, the lady who filed the grievance, was confused. She went on fabricating thinking that it would help Mr. Rutledge. Moore was contradicted not only by Mr. Rutledge, but in December 2003, we had recorded her phone conversation to my office. (Appendix 14)(Note that in this conversation she admits that she knew she could not get anything from me in a court of law!) Had she told the CBA that I promised to get Rutledge out within 8-months. after the Plain Dealer Article and Judge Graham's complaint, is it reasonable to believe that all the CBA did, according

to Moore, was tell her to write me and ask for her money back, and then, and only then, if I did not answer, to "file a grievance." Thus, after lying, when she was confronted with the recording at the hearing, she jumped up and tried to leave the hearing room. Moore had testified that it was the "CBA" who told her to file a grievance against me, even though she did not want to. She told others that she felt pressured by the CBA in filing the complaint. Compare with Rutledge's claiming that all they wanted was money back from me. (Appendix 15). The legal term for what these people did is: Abuse of Process. The disciplinary panel witnessed Moore getting caught in her lie by the tape recording, and saw her attempt to walk out, and heard the testimony of others who contradicted her (e.g., Appendix 16- Affidavit of Reverend Charles Lee).

Since the panel did not believe Moore, and Mr. Rutledge contradicted both Moore and the CBA lawyers, other than from the mouths of the CBA lawyers, how does the Supreme Court find that I deceived two clients in being overly optimistic of getting them out of prison? No such evidence exists and it gets worse.

Anyone reading this letter could call Democratic Mayor Rhine McLin of Dayton and/or Republican Montgomery County Commissioner Dixie Allen and ask them would they believe Moore concerning me. They would laugh and realize that the person asking that question is not familiar with Moore's antics. However, modern day racists almost always use other black folk as a guise to mask their real intent. They attempt to appear as if they are "helping black folk." Or, they pit black folk against black folk. Not only have these same CBA lawyers used this strategy against me, they also have attacked other black lawyers in the same way. See, e.g. CBA v. Ross, 107 Ohio St.3d 354, 839 N.E.2d

918 (2006). (These CBA lawyers filed numerous charges against Ross with the Board, based upon statements of what Attorney Alvin E. Mathews, Jr., said was from "a three time loser." In other words, they took the inmate's statements and prosecuted. After that sort of expense and spending an entire day refuting those numerous charges at a hearing, the Board dismissed all those charges. It was then that they came up with the "theory" that subsequently resulted in the Supreme Court decision. Mr. Ross is black, and it was the same scheme: throw enough spaghetti against the wall and something has to stick. (See, oral arguments of Alvin E. Mathews, Jr., Ohio Supreme Court website, archives, streaming video, (August 23, 2005) and go into the video 24:00 to 28:00 and 29:48 minutes). When similar allegations are made against white lawyers, there will be no prosecution. See affidavit accusing Montgomery Democratic Chairman Dennis Lieberman of making "promises." (Appendix 17). See affidavit of Attorney Joe Reed, who admitted that he guaranteed a specific result. (Appendix 18). Although I know the allegations against Lieberman were false, I bring this up to show the different treatment. In the latter affidavit, even though the lawyer admitted it, it did not help the black inmate client with the Court. These are white lawyers. I would have been disbarred.

As in the Martin case, the client and family communicated with me via letter during and right after the time I was retained or met with them. (Appendix 13). They paraphrase what I said to them. Yet, once in cahoots with CBA lawyers, they gave statements that contradict what they wrote when it was fresh in their minds.

One may wonder when these attacks began. The answer is that they never stopped from the time I became a lawyer. After leaving Cincinnati in 2001, we thought that the racism would stop. Then Montgomery County Court of Common Pleas Judge

John Kessler recused himself from my cases. (Appendix 19). Judges know that they do not have to comment to recuse. Was Judge Kessler sincere? What he failed to state was that he did not recuse himself when I was a *pro se* prisoner litigant before him. See, Farmer v. Duncan, 1981 C1 003029 (Mont. C.P. 1981). He just ruled against me.

However, recusing from a *pro se* prisoner petition does not get media attention. I do not believe that Judge Kessler is a racist. I believe he made a mistake, especially since there is no statute of limitations on unethical conduct: if he was prejudice toward me as a lawyer for the reasons he stated, those reasons would have made him prejudice toward me as a *pro se* prisoner litigant.

I have been the subject of intense and passionate debate within the bar, bench, and several communities. The debate of whether I should have been admitted to the bar became so intense in Columbus during the discussions to amend bar admittance rules, that one of my professors called me and told me that there are a lot of people in high places do not believe that I should not have been permitted to practice. Not missing a beat for media attention, the powers that be dubbed the amendment "The Farmer Rule." (Appendix 20).

All across the state, lawyers and others whom I do not know would walk up to me on the streets expressing in disturbing terms as to why they believed I should not have been admitted to the bar. At the other extreme people would tell me that I am a "hero to them and their family." Just last year one lawyer, who later told me that she was on a bar association ethics committee, walked up to me in a Courthouse to tell me that she thought that I should not have been permitted to practice law. I could write a book on the public display of pure hatred that I have experienced from judges – one client's mother

broke down crying because of the way the judge was treating me – another lawyer asked me to withdraw a lawsuit because of the harsh treatment of the judge – one judge was so hateful that he refused to permit defense witness testimony! (Appendix 21).¹

I think it is safe to conclude that there are passionate feelings at both extremes concerning my being a lawyer. However, there is a spiritual aspect to this entire episode of my life; one that I have known before being arrested on March 4, 1974: a spiritual aspect that lets me know that God is still in control, in spite of the present storm in my life. This is not the forum to share that experience, but I would like to say this: On March 4, 1974, I was in the line of fire of a heated shootout. I did not have a weapon, and had surrendered to Sgt. Bill Mortimer seconds before he was shot and fell right in front of me.

In spite of bullets going around me, over me, and what looked like “through me” to reach its target, not one bullet touched me. It was the voice of a police officer that saved me, in spite of him seeing his friend just murdered. After Officer James Duncan picked up the shotgun that Sgt. Mortimer dropped upon being murdered, Duncan placed the shot gun to the head of my co-defendant and pulled the trigger. It was on safety. It was Det. Ralph Beutle, Sr. that saved the co-defendant.

I served 18 years, 7 months, and 26 days in prison. The blood of the Passover was placed on me. I was freed with a sharp mind, a compassionate heart, a forgiving disposition, a renewed spirit. Disease, mental illness, hate, death, anger had passed over me upon being freed. As Judge Spiegel and Seymour R. Brown know, World War II veterans became my heroes. I was the recipient of an educational grant from the David Woods Kemper Foundation. I vowed that I would always do my best – this was real

¹ The thanks I received for appealing the case pro bono was in the form of a grievance filed by the wife of the client after she saw CBA lawyers on the news making false claims against me. At that time, when I knew that a judge was hurting my client because of his hatred of me, I would do the appeal, etc. free.

blood money to me. I befriended James M. Kemper, Jr., then the Chairman of the Board to a Midwestern banking concern, another WWII veteran.

When I say I did something or I did not do something, I say it on the shoulders of men and women who gave their lives for people like me, i.e., the unworthy and undeserving – “the least of these my brethren.” These men and women sacrificed their lives to ensure that the Constitution of the United States did not stop even at prison gates. I took Mr. Kemper’s grant to heart. I don’t even know why God allowed me to live on March 4, 1974. I do know that I have never ever promised anyone that I can get someone out of prison or guaranteed the result of any legal proceeding. Someone in power not wanting me to be a lawyer is one thing, attempting to divest me of pride, dignity, and integrity is another. The Lord Giveth and the Lord Taketh, Blessed Be the Name of the Lord.

HOW DID THE PRESENT SITUATION RESULT IN MY LICENSE BEING SUSPENDED?

When I began practicing on my own, I believed that I had a spiritual duty to help others less fortunate than I. I traveled all over the country speaking to youngsters and others in less fortunate situations at my own expense. I have donated and raised thousands of dollars to help school children and those less fortunate throughout the United States. I took on numerous cases pro bono, and others I took on without a payment plan, just telling the client, “Pay me as you get it.” During this time, I had a few wealthy clients and my cut of my first settlement check (2001), as a lawyer on my own, was \$68,000.

I can have at least 25 people come before this Court and testify to the pro bono, charitable, and other work that I have done during the first couple of years when I began to practice on my own. Judge Spiegel can even tell how I represented a prisoner pro bono and tried the case before him. I believed that I had a spiritual duty to give and I did successfully. I really believed that to whom much is given much is required. And, in spite of the present circumstances, I have been blessed beyond my dreams. I continued to do what I believed was right even while CBA lawyers were painting a dark and fraudulent picture of me as a dishonest person taking advantage of "poor black people." There are *their words*, not evidence. They were playing the race card.

I believe that the truth of people from your community who testify to my character, honesty, and outright determination to do what I thought was right, paints a far different picture than the CBA lawyers did in using the inmate's sister that was adopted by the Supreme Court of Ohio. I can't wait until you hear from some of the clergy, business folks, ex-convicts, judges, and policemen, white and black, in Cincinnati, Dayton, and elsewhere throughout the United States. I want you to hear from people who did not have a dime and whose cases I took, and from family members who could not pay me, but I helped them anyway. People can attest to how I turned down a book and movie deal. Attorney David Greer can attest to how I turned down every national morning news show and magazine shows like 20/20 and 60 Minutes, et al. – all because I wanted to be a lawyer, not an entertainer. Other wealthy clients can attest to how I would not make promises or guarantees, even though they could afford the six figure fee, if I did. It is a sad occasion and an extremely painful situation to see my name in a law book associated with the dishonesty of deceiving someone for "money" based solely on

the testimony of a black inmate's sister and a lie perpetuated by who I believe to be white supremacist.

This is how the fraud resulted in my license being suspended:

I retained the services of Margarett T. Ghee, former chairperson of the Ohio Parole Board, as a consultant. She had retired from the Parole Board and began consulting with me and other lawyers. Ms. Ghee never had any contact or communications with any Board member concerning any case. She completed inmate assessment sheets and made recommendations to me. As Chairwoman of the Parole Board, Ms. Ghee was sued almost on a monthly basis. One such suit was filed by a Canton, Ohio lawyer named Norman Sirak. A preacher, whom the Cleveland Plain Dealer deemed a "cult leader," had been convicted of raping his parishioners and threatening them with eternal damnation if they did not have sex with him. His name is Donald Miller. His wife's name is Becky Miller. (Appendix 22). As chairperson of the Parole Board, Ms. Ghee held a press conference that announced the 10 year prison continuance of Miller. Ms. Ghee became the target of the insane hatred and wrath of Becky Miller and Norman Sirak.

Sirak and Miller learned that I had retained Ms. Ghee as a consultant. Sirak filed a frivolous lawsuit against two private citizens that live in Columbus, Ms. Ghee and me, alleging state law claims in Federal court in Toledo, Ohio. The suit was obviously filed for publicity in the same court where Sirak's suit was pending against the Parole Board.

Upon our notifying the court of the frivolous nature of the suit and the obvious jurisdictional issue, Sirak amended the complaint and added prison guards and employees, claiming that "we" interfered with mail that he was sending to prisoners in an

attempt to make the claim a federal one. Neither myself, nor Ms. Ghee, nor anyone associated with me ever knew, saw, or had any communications with any prison guards, or knew anything about any mail sent by Sirak to prisoners. We simply asked the court to hold an emergency hearing to make Sirak put up some evidence to support his fabrications. The suit was immediately "voluntarily dismissed."

While the suit was pending, as opposed to going through a legitimate certified disciplinary board, Sirak went to the Cleveland Plain Dealer with the story that started allegations of me making "promises." Sirak had a lady and her son claim that I "promised to get her son out of prison using Ms. Ghee," and that I said "if I couldn't do it, God couldn't do it." (Appendix 23). This article was run all over the country through the AP wire and read by one Hattie Martin in Dayton, Ohio. Prisoners in every Ohio prison read the article also. The psyche of a prisoner needs to be understood to understand the damage and the control that Sirak had inflicted. He sued the "Parole Board" allegedly for "them." I had never met this man nor knew that he existed until he sued me! Sirak was granted bankruptcy in federal court in Canton, Ohio. A few months after charging inmates \$250 each to be in his purported "class-action," he acquired thousands of dollars of property in Stark County, Ohio. He is reported of boasting that he had 3000 inmate "clients." He was sanctioned by the SEC for fraudulent activities in the past. (Appendix 22). Sirak was ordered to give inmates' money back. (Appendix 24).

Sirak through their website guaranteed that he would win the lawsuit (Appendix 25). He said that the only reason he sued me and Ms. Ghee was so that he could take her deposition and use it in the Parole Board lawsuit. (Appendix 26). Here is a white man and his associates guaranteeing that they would win a lawsuit, and nothing is done by the

white men who were successful in the Supreme Court against me for allegedly making the same promises! You can imagine that the inmates alleged that Sirak made promises, only he was merely ordered to "give money back."

Assistant Disciplinary Counsel Robert Berger investigated the claims made in the Plain Dealer article. Sirak had inmate "representatives" in every prison in Ohio. He sent out newsletters making libelous statements against myself and Ms. Ghee, informing the inmates that Ms. Ghee is "going to Marysville." (Appendix 25). It was a terrible time for Ms. Ghee. He had told inmates all through his letters and on his website, that he had me on tape "promising to get someone out of prison." Ms. Ghee was willing and wanting to testify to all of this at my disciplinary hearing, but I refused to allow her to testify, because I didn't want her to be exploited in the media and by malicious lawyers at the CBA. She is willing to testify before this court. I will subpoena officials from the Department of Rehabilitation & Correction and the lawyers from the Ohio Attorney's General office, who are familiar with Sirak and Miller.

Assistant Disciplinary Counsel Robert Berger found that I did not violate any disciplinary rules, but he warned me about my language. While he was investigating the comments in Plain Dealer article, Sirak and Miller (the creators of lies in the Plain Dealer article) sent him the two briefs at issue in the Supreme Court opinion in the Martin matter. Martin acknowledged in his deposition that the grievance sent to the Disciplinary Counsel was his. At the time the Disciplinary Counsel contacted me concerning the duplicated brief issue, I thought that it was Martin's mother who had filed the grievance concerning the briefs. Therefore, I had expected that she would receive a copy of my response. (Appendix 28). I later learned from Mr. Berger that it was Sirak and Miller

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who sent the briefs and kept calling him to pressure him into filing disciplinary charges against me. What I stated in my response is the truth. This letter was taken totally out of context by the CBA lawyers.

The letter was taken so out of context by the CBA lawyers that the three-member panel of the Board of Discipline and Grievance found that I violated a disciplinary rule by "deceiving the Disciplinary Counsel in the letter." Not only was there not an iota of evidence presented demonstrating deception in the letter, but I was *never charged* with "deceiving the disciplinary counsel, etc." The Disciplinary Counsel never made that claim or asserted such nonsense. No one from the Disciplinary Counsel's office were called or testified at my hearing. The CBA did not charge me with "deceiving the disciplinary counsel." Thus, contrary to fundamental due process requiring notice, etc., and not a single piece of evidence asserting dishonesty, etc., the question is not why the panel made such a finding, the greater question is why did other members of the Board who I know would do nothing malicious to harm me, like Stan Chesley, sign off on such a decision? These are legal scholars. They know fundamental due process. It must be assumed that Board members were mistaken in signing such a decision. This is an example of how good people make mistakes and others sign off without proper review.

Upon receiving the letter, Mr. Berger dismissed the Martin grievance concerning the duplicated brief issue. It is obvious that the Disciplinary Counsel's office was familiar with Sirak and Miller's antics. If an inmate has a grievance, he would not make a "partial complaint" to the Disciplinary Counsel's office, especially if he has a lawyer like Sirak sending it in for him. He would send his entire complaint.

Martin would not have known, but Sirak and Miller would have known that the Disciplinary Counsel's office was not buying the "Derek Farmer promised to get someone out of prison" mess that they had created. Therefore, Martin's complaint in the Disciplinary Counsel's office did not contain the latter fabrication that I "promised to get him out of prison." He did not even make the assertion that I said the "brief was not worth the paper it was written on." It would not have had credibility in that office. One reason is because some of the same or similar language was used in different grievances filed by different people, but originating with Sirak or Miller. The Disciplinary Counsel's office would have known that.

For example, Teresa Smith, inmate Martin's sister, whom the Board and Supreme Court gave much credibility said that I told her that "I was too busy" as the reason why I duplicated the brief. If true that would be a statement that borders on gross negligence. In another grievance filed with the Disciplinary Counsel by a person under Sirak's and Miller's guidance, the lady said that I told her that I did not do her son's work because I "had forgot about her son." If true it would also be gross negligence. Another grievant admittedly in cahoots with Sirak and Miller told a bar association one lie and attributed it as being my words. When he was caught, he wrote back persisting that I said it and added that I said "Ms. Ghee" was my "ace in the hole." These are the type of statements that white supremacist attributed to a "stupid nigger," and they believed that the repeated lie will eventually be believed.

Sirak had three attempts at my license in the Disciplinary Counsel's office: First, with the Plain Dealer article. Second, he sent the Martin briefs and demanded that I be prosecuted. Third, at this same time, he had the lady mentioned in the article file a

grievance with the same lie of me "making promises to get her son out of prison." Because of the documentation containing the lady's signature that contradicted her statements, her grievance of me "making promises" was dismissed. (Appendix 29). This was a black lady being used also.

After three failed attempts with the Disciplinary Counsel's office, Sirak had Martin to re-file the grievance with the CBA, where he adds the claim that I made promises to get him out of prison and that I commented that a brief filed by a previous lawyer was not "worth the paper it was written on," while at the same time duplicating that brief.

It is not clear whether Sirak and Miller communicated with the CBA Bar Counsel and Bar Counsel persuaded them to have Martin re-file the grievance with the CBA and add the additions. This cannot be discounted, because Judge Graham said that these lawyers told him, in violation of Gov. Bar R. V sec. 11 of the other pending grievances that had not been certified to the Secretary of the Board at that time. These grievances were in the investigation stage before the CBA and therefore confidential. Id. Ms. Moore testified that they told her to send me a letter asking for a refund and if I did not provide the refund that she was to file a grievance against me. (Appendix 14 & 16). She admitted that they did not tell her about the fee arbitration process. She said had she known about it, she would not have filed the grievance. (Appendix 16). This is in line with what her boyfriend Searcy Rutledge stated. They just wanted their money back and did not want to hurt me. (Appendix 15). They would not have known of the legal tort called Abuse of Process – CBA lawyers did. Likewise, Martin started out wanting his money back and said that he was terminating my services because he was not satisfied with "the results."

(Appendix 30). Eleven months later, when Martin files the CBA grievance, he and sister, Teresa, changed the reasons for firing me to “promises,” “brief not worth the paper it was written on, etc.” Martin also said had I paid him the money, the issue would have died. (Appendix 31). This Court will continuously see that what these people stated in their letters to me contradict what they testified to after being in cahoots.

When they took the Martin grievance to the CBA, the CBA was investigating United States District Court Judge Graham’s letter/grievance against me, asking that I be investigated for being incompetent, *inter alia*. (Appendix 32). Also at that time Isabel Moore filed a grievance with the CBA alleging that I “promised to get [Mr. Rutledge] out of prison within eight months.” Fortunately, one of Moore’s attempts at extortion was recorded, and she mentions Norman Sirak. (Appendix 14).

Judge Graham blamed me for the 27 year sentence that he had given to my client, Melvin Tucker. He wrote the letter on the same day after he sentenced Tucker. There are many things that can be said about the sincerity and the timing of Judge Graham’s letter. I would like to believe what the Honorable Walter H. Rice said in response to claims that Judge Graham’s letter may have been disingenuous, “if the Judge wrote it, Judge Graham believed it.”

Judge Graham testified before the panel that the letter was not meant to be a “grievance.” He personally took no position as to the truth or falsity of his statements, and that he sent the letter so that the Bar Counsel would investigate and reach its own conclusion. It was not his intent for his status as a federal judge to affect the outcome. He also revealed in his testimony to the Bar Counsel that the CBA lawyers violated Gov. Bar R. V sec. 11, by revealing to him that there were other grievances pending against

me. (Appendix 33). They were referring to the Martin and Moore grievances. It is obvious that the CBA lawyers' intent for violating the confidentiality clause was to make me a villain to edge the judge on in acquiescing in their scheme in being deceptive. There was no legitimate reason for them to tell Judge Graham or anyone else about other grievances pending.

State Senator Ray Miller looked at all the evidence pertaining to the Graham grievance. He was so appalled by what CBA lawyers were doing, that he asked both Chief Justice Moyer and the President of the CBA to investigate these lawyers (Appendix 34). One of the first persons that any impartial investigating body would have wanted to interview after receiving Judge Graham's letter would have been me. It must be kept in mind that when the Supreme Court of Ohio certifies ethics committees or bar associations, they are not certified to be "prosecutors," but are certified to be impartial investigating bodies whose main priority is to ascertain the truth. As opposed to attempting to ascertain the truth and interview me, one of the first things that these CBA lawyers did was to violate additional disciplinary rules by contacting the client, Tucker. Tucker had not filed any grievances against me. The CBA lawyers knew that Tucker was represented by counsel, and as Senator Ray Miller noted, as opposed to contacting Tucker's lawyer concerning these matters that were material in any future appeals or post-conviction proceedings, these lawyers went directly to Tucker in violation of DR 7-104(A)(1), one of the very disciplinary rules that they claimed I violated. Since Tucker was not the grievant, again they were in violation Gov. Bar R. V sec. 11 when they sent Tucker a copy of Judge Graham's grievance letter.

There was no legitimate reason to send Tucker the judge's letter. But, if one wanted white supremacist hate group reasoning, you would send such a letter in violation of the rules. The letter, and their scheme, was to say, "Look, the judge who just sentenced you to 27 years says it is your lawyer's fault that you were so sentenced. This is the same judge who can sentence you to a lot less time. Now, is it your lawyer's fault?" The CBA lawyers knew that Tucker would have had to have the combined spiritual virtue of Joseph, who was sold into slavery; Job, who suffered long, and Daniel, who went into the Lion's den, to resist the temptation of not milking their offer to harm me. Thomas doubted. Peter denied. What would one expect of Melvin Tucker?

Tucker responded to the CBA lying as expected. (Appendix 35). They knew that Tucker was lying because he had sworn to the contra in federal court, giving testimony at his Rule 11 guilty plea hearing and at his bond hearing. These CBA lawyers had his sworn testimony that conflicted with what he told them as a result of them violating rules to get the fabricated response that they wanted. That is why I contend that these CBA lawyers have committed a fraud upon the Board of Discipline and Grievance and the Supreme Court of Ohio. It gets worse.

The CBA lawyers also had the results of a polygraph examination and the examination report. The FBI agent, who took the report, confirmed that Tucker did not want to cooperate with the government. After being pressed by the CBA lawyers, Tucker claimed that he "always wanted to cooperate with the government, but I would not let him." So, the CBA lawyers had not only his sworn testimony given in court that contradicted his statements, they also had a FBI report showing that he is a liar, as well as

the report of the FBI agent contradicting what he had said to the CBA lawyers. One would think that would be enough for any impartial investigating body not to go forward.

Even during this lengthy period of time, and after receiving all of this contrary evidence, the CBA lawyers still did not interview me. What they did was issue subpoenas to take my deposition. The lines were drawn in the sand.

In addition to what has been stated above, but before a hearing before the Board, these CBA lawyers knew Tucker claimed that the FBI agent who wrote the report was lying, the federal Probation Officer who wrote the Pre-Sentence Investigation Report was lying, and Drug Task Force Agent Mike Powell was lying in his report. Finally, they knew that Tucker was lying in his own deposition, because my lawyer handed them the tape of a recorded phone call to my office from Tucker contradicting what Tucker had just sworn to under oath in his deposition. On the other hand, they ignored what Tucker had told the Probation officer. They ignored the fact that Judge Graham, the probation officer, the Assistant U.S. Attorneys, the FBI Agent who conducted the polygraph and interview, all concluded that Tucker was a liar.

It should be clear to all that under fair and just circumstances that no lawyer should be charged or prosecuted based on anything that Melvin Tucker said. The type of lawyers at issue will take any prevarication, or use any exploitative measure to harm a black man. The pattern is that they keep using other black people to do their dirty work.

At the disciplinary hearing, CBA lawyers had placed Assistant United States Attorney Gary Spartis on the witness stand to say all types of terrible things about me. The problem with Mr. Spartis' testimony is that what he testified to, and in the nasty

manner that he did, was contradicted by his and his partner's own statements made in federal court. In other words, he would say something very derogatory about me before the panel, when on the same subject he said something very different during proceedings in federal court. For instance, before the panel he portrayed me as belligerent, and accused me of calling him a liar, and other things at a meeting that I had with him and another AUSA in their office. However, during the proceedings before Judge Graham, his partner stated that the meeting was in fact cordial, which it was. To put this in its proper perspective, after Tucker made a positive impression on Judge Graham, such an impression that the judge himself said that he was moved by it, Judge Graham had asked Spartis why he had to sentence Tucker to 27 years, rather than giving him the same sentence that the chief organizer and kingpin of the drug conspiracy received. I had argued in a two day hearing that he should not give Tucker the 27 years. It was Spartis who responded that Tucker should receive the 27 years. Of course, at the disciplinary hearing, when he was trying to blame me for everything, his words in Court came back to haunt him before the panel.

It was this type of hodgepodge of hateful testimony that caused the disciplinary panel right then and there to enter a unanimous decision dismissing Count One of the CBA complaint that contained eight separate charges brought on by Judge Graham's letter.

CBA lawyers had made allegations in Count One of the complaint that was designed to get that Count certified by the CBA Ethics Committee so that they could file formal charges. They were created in the minds of the CBA lawyers to paint me as a bad person and to deceive the ethics committee and others. For example, the complaint

questions my visiting Tucker while he was in the Franklin County Jail. Tucker had testified that I visited him often, at least once or twice a month. This is to say that the visiting situation as quoted in the complaint is something that they created as a lie. This Court will receive a list of the lies in the CBA complaint that have no evidentiary substance or true origin.

It was reported that the CBA lawyer who lied in the above stated local newspaper in attempting to discredit me, had also been lying and discussing me with anyone who would listen to him in a restaurant he frequented. He was determined to get his publicity off of me, even if he had to have his alma mater report that he is "prosecuting Derek Farmer." (Appendix 36). These cheap shots are inappropriate use of authority and may not mean much to judges, but one can imagine what it means to a sole-practitioner when you have someone representing authority calling you a liar in the press, when it is that person who is lying, and seeking attention to themselves.

In furtherance of the fraud against the Supreme Court, these lawyers quoted Judge Graham's (Appendix 37) and Spartis (Appendix 38) testimonies in their brief to the Supreme Court, and quoting it therein in a fraudulent manner. As stated, and as can be seen from the transcript itself that is attached, Judge Graham's statements were not to be taken as fact or truth. Judge Graham himself said that all throughout the proceedings that he could not even make a determination of the authenticity or the truthfulness of what he was thinking and what he wrote. He explained he did not have sufficient facts or evidence to make such determinations. He did not even consider his letter to be a grievance. (Appendix 27). He wanted it investigated. Id. He wrongly believed that I was

not truthful in telling him that I had a writing disability. Id. In spite of his "belief," he acknowledged that that was something "the Bar could investigate." Id.

Fundamental fairness from an impartial entity would have investigated as the Judge ask, then went back to the judge and said, "We investigated. Farmer does have a writing disability. So there was no need for you to think he was not truthful. We checked, and the FBI agent who took Tucker's polygraph said Tucker was not only lying, but told him something different than what he said to you in Court. Tucker had testified before Judge Smith at his bond hearing and said something totally different also. Do you want us to still go forward on Farmer?" They did not inform the Supreme Court that Spartis' testimony had been contradicted by his statements in federal court. Lawyers have an ethical duty to be truthful and even cite case law that is not favorable to them to give any panel or court guidance. This is Ethics 101. One CBA lawyer at issue, Terry Sherman, is also at issue in the attached letter from State Senator Ray Miller. Sherman conducted the oral arguments in my case before the Supreme Court. Ninety percent of what Sherman stated to the court was not true and was not supported by any evidence or record. I am hoping that an investigative reporter compares Sherman's statements to the Supreme Court with the record and then confronts Sherman at his office door or at his home, asking him to explain why he lied to the Supreme Court of Ohio, or why he made statements that were not a part of the record. I am hoping that this Court will give us an opportunity to confront Sherman, concerning the misinformation that he supplied the court in oral arguments. Compare, CBA v. Ross, supra.

It should be obvious to this Court that the Graham charges should not have been formally brought against me, or any other lawyer, in the first place. It cost over \$100,000

to defend what State Senator Ray Miller had said from the beginning were unsubstantiated charges. It caused health problems for me and my wife. The financial strain was overwhelming. Judge Graham's letter caused irreparable damage to my wife. Even though a unanimous panel dismissed the entire count that took the most time and produced the most witnesses, the Supreme Court has ordered me to pay entire cost.

MOORE/RUTLEDGE

As previously stated, Mr. Rutledge corrected himself at his deposition. I have never promised anyone in my life that I could get them out of prison. Mr. Rutledge paraphrased what I did tell him, which was that I thought it was possible that I could get a hearing for him within eight months. That estimate was given based upon what Mr. Rutledge and Moore had told me, and the evidence that he had asked me to gather from certain witnesses. The only persons who has ever claimed I did not do any work in the Rutledge case, was not Mr. Rutledge or Ms. Moore, but again, CBA lawyers. Moore had testified that I did interview certain witnesses. But, she was never asked what work I did when she was with me. Moore had been with me when I was interviewing and trying to accomplish some of the tasks concerning Mr. Rutledge. Each time I traveled to the apartment complex **in Dayton from Columbus** and attempted to interview witnesses, she was apprised of that, because I would meet with her afterwards at her home. Sometimes Moore, knowing the residents of the apartment complex, had already checked to see if I had spoken with certain witnesses. Many times when I would go to the apartment complex, someone would say she had been there a day earlier.

Therefore, the issue is what evidence of a clear and convincing nature or any nature could have been presented that I did not do the work that I stated I did and that

was never contradicted by anyone. The CBA lawyers' statements are another disingenuous attempt at crushing a black man economically. Sadly, the Supreme Court simply ignored the testimony of Moore and Maryum Muhammad concerning the numerous times that I had been to the building interviewing and looking for folks to assist Mr. Rutledge. I state this because my testimony seems to have no credibility to the Supreme Court, even when there is no evidence to the contrary.

CBA lawyers alleged and Moore stated that I supposedly said to her that I could get Mr. Rutledge out of prison within eight months. Because contradicting evidence was presented, that statement by Moore was not deemed credible by the Board, and those CBA counts were dismissed too. Thus, it is difficult to understand how the Supreme Court came up with "different statements" or "facts" allegedly made by me. Either I said that I could get him out in 8-months or I did not. After being defeated on that point, CBA lawyers argued and the Supreme Court decided on a watered down version that was never presented, asserted, or claimed by anyone, i.e., I was "overly optimistic about getting him out." To the contra, Rutledge said that it was he who was doing most of the talking and all I said is that I asked him to send me the paper work for me to review. (Appendix 12).

Finally, after Moore filed the grievance, I obtained an affidavit from my client, Mr. Rutledge, who passed right after CBA lawyers tricked him into believing that they were going to help him, according to Moore. CBA lawyers asserted that I committed a fraudulent act in obtaining the affidavit. As stated, they continuously made these false assertions, knowing they were not true, as a means to obtain the immediate reaction they wanted from a decision maker, such as a certified committee, et al. Mr. Rutledge later

testified at his deposition, that what he stated in the affidavit was the same thing he wrote in his letter to me. The affidavit represented the facts! (Appendix 5).

To emphasize the point even further concerning the fraud by the CBA lawyers, the following is the words of CBA lawyer Sherman to Mr. Greer in front of Mr.

Rutledge:

MR. SHERMAN: The Bar Association's contention is Mr. Farmer took money under false pretenses, said he would do legal work for this man, and did nothing, and Mr. Farmer *used a phony person* by the name of Mohammed to get him to believe that Mohammed would contact Ms. Phillips to get her to change her story....

(Appendix 39). Had Sherman merely asked for a witness list or investigated, he would have known Ms. Muhammad was a real person helping us out. More importantly, he would not have lied and said she was not, claiming she was a "phony person," as if I made her up. He already had the documentation of some of the work I completed, so his "did nothing" statement was false too. Understand that when lawyers of a white supremacist hate group nature or not, possess the shield of authority (e.g., prosecutor, bar association lawyer, assistant attorney general), people are more prone to believe them. Since Sherman told Mr. Rutledge that I was making up a person named "Mohammed" to fleece him out of a fee, Mr. Rutledge and Moore probably believed him. They were both then probably more willing to say anything to harm me for "conning them," because a white man in authority said that is what I did. That is, according to Sherman's lie, "The Bar Association's contention..."

Moore had hired me in mid-2002. She had claimed that I allegedly made the statement when she hired me. On the other hand, Rutledge said that it occurred "over a year later." None of this "promise" mess was brought forth until November 2003, after

the Plain Dealer Article mentioned above. Sherman knew or should have know the falsity of both Rutledge's and Moore's statements. Depending on the version that one believes, this would mean that I used the **identical language** to Moore when she retained me and over a year later used the same **identical language** to Rutledge. I haven't even tried to figure how the repeated "8 months" fits in, but the point is that this why Ohio Courts do not support these type of "identical language" fabrications in post-conviction proceedings. See cites on page 19 herein, and Judge Wagner's rationale in Appendix 46.

This is the type of fraudulent activity that no Court should ever accept against any lawyer at any time. The search terms "lawyer w/p promised" on Lexis shows that most courts do not accept this type of fraud. Sherman knew that he was lying when he made Ms. Muhammad a phony person. Fortunately, Ms. Muhammad went on to testify to truth of her involvement in helping me in both the Rutledge and Martin cases. She lived in the apartment complex where Mr. Searcy lived and the murder took place. Her daughter had Charles Martin's son, and she knew Phyllis Muhammad, the eyewitness in Martin's case.

THE MARTIN GRIEVANCE AND HIS SISTER TERESA SMITH

The Martin grievance appears to be at the crux of the suspension I received. Contrary to what people may think, at the time I accepted the Martin case, we were in what I believed to be a financial position to assist people *pro bono*, via payment plans, and without expecting to be fully paid. (See, e.g., Appendix 28).

I currently owe my attorney David C. Greer over \$200,000 for representing me in the disciplinary hearings. In old fashion railroad language, because Mr. Greer would be the son of an engineer, his kindness and gesture is looked upon as charity. Because I

would be the son of a Pullman Porter, my kindness and gesture of allowing other porters' family to owe me a few thousand dollars is looked upon as a scam to get paid and "do nothing."

It is a sad affair that an African-American woman, an inmate's sister, would allow herself to be used as Teresa Smith did. On the other hand, if CBA lawyers were saying things to her like they said to Rutledge and Judge Graham, she may think that she was justified in not being truthful. Her mother later told me that she said what she said because she was angry at me. Did these lawyers lie to her too or violate other rules?

Inmate Martin had filed a similar grievance against his trial attorneys alleging that they "promised that the jury would find him not guilty," causing him not to produce witnesses that he would have, "but for" their promise. (Appendix 40). As previously stated, he did not bring up the "promises" mess when he had Sirak and Miller file the duplicated brief issue with the Disciplinary Counsel.

Inmate Martin later filed a post-conviction motion in the Montgomery Counsel Court of Common Pleas before the Honorable A.J. Wagner. Judge Wagner uncovered Martin's deceptive scheme. Martin had his brother, who was in prison show inmates his trial transcripts as to familiarize themselves with the facts. These inmates then provided "sworn" affidavits that they witnessed the crime, and, of course, Martin was not present. Judge Wagner concluded that Martin and brother attempted a "fraud upon the Court." (Appendix 41).

This is a case where the Martins claimed to be hornswoggled by trial counsel in making a promise that prohibited Martin from exercising his constitutional right to put on a defense. Then, according to CBA lawyers, the Martins were so vulnerable to allow

themselves to be hornswoggled again **a few months later** by another lawyer (me) making the same promise! It belies logic and common sense, especially after what the Justices said about Martin. It never happened. It did not matter what the Martins said – they had no credibility with the Dayton Bar Association or Judge Wagner – it is the who they said it against that mattered, namely Derek A. Farmer.

It is amazing how the Supreme Court opinion discredits Charles Martin, but later quotes him to make a factual point. With the above information concerning Charles Martin's fraud and lies, it is safe to say that no lawyer would have been prosecuted in a disciplinary proceeding based upon a complaint filed by him, except Derek A. Farmer. What is even more amazing is that the CBA lawyers presented him as "credible" throughout the entire proceedings. The fraud is that they knew or should have known that he was lying, but because I am at the end of his lie, they presented him as a credible source in prosecuting me. It was the Supreme Court who claimed that he was not credible (strangely, the Board did not mention him in its opinion).

Martin's sister, Teresa Smith, had testified that she knew nothing of the grievance filed against the trial lawyers or the claims made to Judge Wagoner. Since the Supreme Court and Board ignored the documentation showing Smith's unstable mind and deep involvement in her brother's case, it would be easier for me to summon Martin's trial Attorney, William Airy of Louisville, Kentucky to testify before this Court and tell this Court just how much Smith was involved. Did Martin write in his Dayton Bar Association grievance that Airy or Mr. Smiley "made the same promises to his family," as he did in the grievance against me? We do not have to speculate. Mr. Airy and the grievance should be produced.

It was Ms. Hattie Martin ("Ms. Hattie") whom I spoke with 98% of the time concerning the case. It was Ms. Hattie who contacted my office and spoke with me over the phone several times before she asked me to meet with her and her family at 11:00 P.M. on April 23, 2001, due to job schedules. She said retaining counsel is a family decision.

I may have spoken with Smith three or four times in my life. It was Ms. Hattie who came to my office in Columbus several times and who I met with in Dayton three times. Someone may be wondering how Smith became so prominent in the Supreme Court decision with so little communications.

CBA lawyers knew that I met with Ms. Hattie, Smith and brother, James, on April 23, 2001 at James' home. They knew that I met with Ms. Hattie and James at the same home during a second meeting. Smith testified that she was not at this second meeting. They knew that the third and final meeting with the Martins was on October 3, 2002, and that my Legal Assistant, Eric Turley, accompanied me. (Appendix 42 ET notes).

In furtherance of the fraud, CBA lawyers only had one person testify concerning what was said at the first and last meeting: Teresa Smith. Ms. Hattie appeared twice in Columbus to testify at the hearing. At the hearing, CBA lawyers pulled a fast one. Ms. Hattie was scheduled to be first to testify. They told the panel that they wanted to "switch" and put Teresa on first. Once Teresa completed her testimony, they refused to put Ms. Hattie on, claiming it would have only been duplicative!

Obviously, CBA lawyers could not have used the brother because of his attempt to deceive and put a fraud on Judge Wagner. However, it is my position that they intentionally misled the panel and later misled the Supreme Court because they knew

that Ms. Hattie was not going to lie and that she had already told them the truth, which was contrary to what Smith testified to. If this was a criminal case this would be a Napue v. Illinois, 360 U.S. 264 (1959); McMullen v. Maxwell, 3 Ohio St.2d 160,167, 209 N.E2d. 449, 455 (1965), situation.

Smith's initial retainer letter to me is attached as Appendix 13. You see nothing about "promises" or "the brief was not worth the paper it is written on." In the Martins' letters to me, there no mention of "promises," even when they were trying to get a refund. (Appendix 43). The "promises" mess was a creation of Sirak as explained above. Later, when Martin was trying to get money from me, and after he was in cahoots with Sirak, he claimed that I used those words about the brief. I immediately let him know he was wrong.

It remains undisputed that when I met the Martins on April 23, 2001 and Martin at the prison in early May 2001 that I had never seen or possessed the brief or any documents relating to his case. Smith had testified that her mother possessed documents, but did not give them to me that night. I did not receive a first payment until a day or two before I visited with Martin.

Contrary to the Supreme Court opinion, Smith never testified on direct or cross examination that I said anything about the brief that had been filed by another lawyer. It was after direct and cross that a panel member asked her the leading question concerning whether I said the brief was worth the paper it was written on. She only then responded that I said that at the first meeting. When Mr. Greer informed her of the impossibility of that because I did not have the brief at that time, she responded that I "could have" obtained it off the Court website. I never met with Smith alone and only had two

meetings with her present, the first one where *she claims* the statements were made, and the final one in November 2002. Thus, where did the Supreme Court get that the statements were made at a "second meeting with Smith?"

What Smith or Mr. Greer could not have known during that colloquy was the briefs were not scanned for retrieval at that time in Montgomery County. But what it shows is that Smith was aware of the website and knew that documents could be retrieved. CBA lawyers in creating the fraud repeatedly stated that as soon as the Martins became aware of the duplicated brief that they took disciplinary action. Martin admitted that it was over one year after he fired me that he filed the grievance!

It is certain things I will not say at this time, because Martin and Smith lied and Ms. Hattie may not and would not be successful in lying about, if she tried. The duplicated brief was filed for reasons I explained in Appendix 28. Martin had received the public defender brief right around May 16 or 17, 2001. (Appendix 44). My staff sent Martin the brief I filed in August 2001 and later in December 2001. We know Martin had received both briefs because in his letter of February 21, 2002, he is only asking for the "prosecutor's brief." (Appendix 45). Smith could not claim that she knew nothing about both briefs being filed by August 2001, because she would have looked on the website to know of the filing dates, a website she acknowledged knowing about. The point is that if Martin did not have my brief with Smith knowing that it was filed, my phone would have been ringing off the hook instructing me to send Martin a copy of what I filed. That never happened because Martin had received the brief from my office.

He fired me in 2002 because he was not satisfied with the results of my work. (Appendix 30). No one seriously believes that Martin would have waited 14 months after

he fired me and 26 months after he possessed both briefs to file a grievance against me, if such a grievance was legitimate or contrary to what I stated in my letter to the Disciplinary Counsel. (Appendix 28). Martin knew the grievance system.

What Martin accomplished through evil and racism is what he could not have accomplished on his own. All Martin wanted was his money back from me because he was not satisfied with the results. Everyone reading this knows that because of his fraud in Judge Wagner's court and his fraudulent attempts in the Dayton Bar Association, that had he filed "anything" in a court of law, whether it be a post-conviction motion or a lawsuit, it would have failed. Moore acknowledged this in the recorded conversation. (Appendix 14). Yet, through racism they were able to circumvent normal and settled procedures of jurisprudence and all the lower courts, and accomplished their goal through the HIGHEST COURT IN THE STATE.

Racism is painful. A white lawyer in an official position promised to help me with the situation involving Judge Graham. Instead, he cut communications with my office, and his office told Melvin Tucker basically "it was no hope for him." He "had no issues for appeal." It was all Derek Farmer's fault. Tucker had numerous appellate issues and it was the Blakely issue that subsequently got his sentence vacated. With the CBA shenanigans and a lawyer telling him the above, what reasonable course, but to lie, would Tucker believed he had, if he did not want to be stuck with a 27 year sentence?

Racism is powerful. How else could Charles Martin be successful in the Supreme Court when the Supreme Court held that he is not a credible person? This is spooky. Since the damaging lie that his sister (Smith) used originated with Martin before he filed the grievance, one cannot logically transfer credibility to Smith, as the Board and

Supreme Court did. I will subpoena Judge A.J. Wagoner and his law clerk so they can attest to what this Martin family is capable of in deception.

What about the law? In Ohio the law even prohibits what the Board and Supreme Court did to me. Smith is Martin's sister. She used the identical words that Martin used in his grievance and/or his testimony concerning the lies he created against me. See, State v. Moore (1994), 99 Ohio App.3d 748,754-55 (appropriate to deny a defendant a hearing on his request for post-conviction relief where the request is based on affidavits from three of the defendant's relatives asserting false promises by the defendant's attorney); ; State v. Calhoun (1999), 86 Ohio St.3d 279,285, 714 N.E.2d 905(one of the factors for determining credibility of affidavits in support of a request for post-conviction relief is "whether the affiants are relatives of the petitioner or otherwise interested in the success or the petitioner's efforts); State v. Saylor (1998), 125 Ohio App.2d 636, 641 (rejecting affidavits of a defendant's father and mother alleging that his attorney made false promises).

In his rationale in denying Charles Martin relief based upon the fraudulent affidavits Martin had submitted to the Court, Judge A.J. Wagoner applied the rationale in the above cited cases. CBA lawyers could not use Martin's friends or brother in the proceedings against me; it was either Ms. Hattie or Teresa Smith, the sister. More importantly, Judge Wagner used the rationale from controlling authority that this court should use and the Ohio Supreme Court should have used in finding against the CBA in using Martin's sister. Judge Wagner noted that:

In the two years and four months following the verdict and entry in this case, not one of [the four affiants] came forward with the information that would show that an injustice had occurred in the case of *State of Ohio v. Charles Martin*. Now,

over two years following the verdict and entry in this case these four individuals all come forward within thirty-three days of each other with information the would exonerate the Defendant.

(Appendix 46, p. 5). Neither Martin nor Smith came forward with the false allegation presented by the CBA lawyers in over 2 years and 5 months after they were allegedly made; or, over 1 year after I was fired. But, as soon as Martin makes these statements in his CBA grievance, here comes Smith corroborating Martin's claims.

As shown by Judge Wagner, Smith's statements would not have merited an evidentiary hearing in state court. This Court will have an opportunity to apply Ohio law to the facts of this case, because the Board and Supreme Court ignored our repeated request to apply the law cited above. No matter how many times the above cited cases and position was set forth in briefs – they just ignored it.

The Supreme Court knows that I have a writing handicap and cannot write period, at times. They needed do nothing but read the record and check the application for assistance in taking the bar examination that I filed with the Court. My lack of contemporaneous note taking is a result of a disability, not dishonesty. The panel did not use the lack of time records or notes to support dishonesty, because I explained that had I wanted to be dishonest, all I had to do was to "create" and have my staff "recreate" notes that they actually took, but misplaced and lost. I could have placed these "creations" in the files and gave them to the CBA and Board, demonstrating that I had "notes" and "time sheets" for all the work I did. I did not keep time in criminal cases when working for Lawson & Associates, either.

The problem with doing the above is that it would have been dishonest. While the panel accepted the honesty for not being dishonest, the Supreme Court took that honesty

(ignored the above-stated testimony) and turned it in to dishonesty by implying that the lack of notes and time sheets gave credence that I did not do the work I claimed. It needs to be understood that the burden of proof was on the CBA, not me. The lack of notes and times sheets meant one thing: I did not have them nor did I create them to be deceptive.

The Supreme Court also took a shot at me in implying that I filed a Memorandum in Support of Jurisdiction to it in the Martin case prematurely, as if to support incompetence. What the Court failed to state is that the state had filed a motion to dismiss the memorandum on those very grounds (i.e., it was filed before Martin was re-sentenced). The Supreme Court did not grant the state's motion to dismiss!

On February 21, 2006, I spoke to a group of children and others in Dayton, Ohio. Someone labeled me a "Motivational Speaker." The Dayton FOP responded in protest. (Appendix 47). Again, these were white men and women. I was used so that they could get media attention that they desired. I never accept money for these engagements and the FOP knew that but continued to imply that I was. I have been speaking out to children before I became a lawyer. (Appendix 48). Because the Mayor and others got involved, the FOP received more media attention. Within a few weeks of that incident, the Board recommended that my license be suspended.

The Supreme Court opinion does not represent the reality of post-conviction work. Tim Howard was incarcerated for 26 years (and had been on death row) before his Columbus lawyers were able to obtain the evidence to free him. Ronnie Larkin was locked up for 16 years before someone inadvertently sent his minister the "exculpatory" document upon a public information requests, that the prosecutor's office claimed did not exist for 16 years. I had been working on the James case for over 6-years before the

Sixth Circuit recently ruled in his favor. (Appendix 49). It was CBA lawyer Sherman who kept repeating the lie as if I only had a "few months" to gather the evidence and file something in court in post-conviction matters in Ohio.

People in power have learned to abuse it. This is not a conservative or liberal issue. It happened to Justice Thomas. I got the term, "modern day lynching" from him during his confirmation process. After reading the misinformation on Jeffery Sutton, I thought he had a tail and horns until I spoke with someone close to him the night before he took his oath on the Sixth Circuit. I listened to a man talk about his character. When I met Judge Sutton I did not see a tail or horns, as others projected, I saw character.

I mention these two conservative jurists, who probably would have voted against me being a lawyer in the first place, because I want to make the point that a lie is a lie whether the lie is against Clarence Thomas, Jeffery Sutton or Derek Farmer. No one should be made to suffer what I have based upon a lie.

I still believe that "one truth in defeat is better than a thousand lies in victory." The Good Lord placed in our spirits that I would be vindicated. I rest on that. Does anyone really believe that the contradictory statement of a black inmate's sister is the true cause of white lawyers committing the fraud that they did? I only hope that if Smith states that she said those things because CBA lawyers promised to help her brother that the Supreme Court will give her statements the same credence as when they were against me.

This letter will be used in the show cause proceedings in the Sixth Circuit. Notice is given that it will be sent to others asking for their support in the hopes that the truth will surface. Attached as Appendixes 50, 51, and 52 are responses and "pending

grievances” before the CBA. These are the type of grievances that are filed each time an adverse decision or proceeding against me appears in the media. Criminal defense lawyers get these “my lawyer promised me” complaints all the time. Most are sua sponte dismissed by bar associations and courts without the lawyer having to respond. Normally, bar associations notify the inmate that post-conviction proceedings are available.

Lee and Miller waited until I exhausted their remedies to the Supreme Court of the United States before they filed “their grievances.” CBA lawyers have provided an avenue for inmates to circumvent the normal process set out by law. The message is file a grievance against Derek Farmer, tell a lie, and you will get your money back. I am hoping that the Disciplinary Counsel’s office, who will receive a copy of this, will investigate the violations of CBA lawyers, as they did me based on a newspaper article.

I trust that this Court will do what is right. If I was a white lawyer, I would not have to show cause because of what “Charles Martin’s sister said...” No one can dispute that the only way that Martin could have achieved his goal in the court that held that he is not credible, the most difficult state court to be heard in, was due to racism. While the Supreme Court had the authority and power to suspend my license or disbar me, it did not have the authority to violate me as a human being.

When I was child, my mother used to tell me about how “we” traveled south by train. She said, “when we got to Cincinnati, they used to put ‘us’ on these filthy coaches on the last trains at the end.” Mama told me of how “they” would always over sell tickets, so people would be standing for hours. People would be drunk and vomiting. People would be sick and the smell of human sweat, urine, and waste would not be

uncommon. There was a lot of crime and vice on that train. Women were raped at times. Murder occurred at times. Theft was not uncommon.

The train was referred to as the "Negro Coach" in the North, and the "Nigger Train" in the South. Imagine riding through rural Georgia and getting sick or someone died or somewhat was assaulted. What do you think happened? Since education nor social or financial status mattered, if you had to ride that train, what would happen if a crime occurred and you were accused? Just by being on the train you were stigmatized and assumed to acquiescence in the vice therein.

You could have been DR. Michael L. King, but on that train, as my mother used to tell it, you were still a nigger. You could have been Captain Colin Powell on leave with his wife in Birmingham, but on that train he was just a nigger. You could have been Attorney Thurgood Marshall, but, as he himself said, on that train, he was just a nigger.

CBA Lawyers violated me. They put me on that train. Terry Sherman painted the picture of that train and put me on it. His repeated comments to the panel concerning how I took "these poor vulnerable **black** people's [Charles Martin] money, and did nothing, cannot be fully appreciated from reading those words in a transcript. Therefore, I will supply the TV10 News tape (remember they were present recording Sherman's closing argument) of what thousands of people saw in central Ohio. The Supreme Court website contains the video of this repeated racial refrain in his argument that was 90% lie.

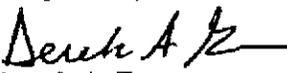
The problem for my mother was the she too had no choice but to ride that train. No decision-maker, in case of a crime being committed on the train, would look past the train (niggers) to the **character of the individual** in passing judgment. All they ever saw was the train. If they would have looked at the "individual," they would have seen in "Dr.

Michael,” the great Dr. Martin Luther King, Jr. They would have saw, not a thief in Capt. Powell, but General, Chairman, and Secretary Powell, and they would have saw “MR. Justice,” not an uppity nigger lawyer.

The ease for the racist in putting people on that train is that it does not require much thought for the decision-makers. “That’s what niggers do” on that train. This is why I do not need “Birth of the Nation” liberalism, the kind that says, “It’s so sad and unfortunate, but “so true.” I need Golda Meir, Steve Biko, Hosea Williams type determination.

CBA lawyer Terry Sherman repeated the lie. He brought that train right in the Supreme Court of Ohio. He pointed to it and paused. He looked at it with an expression of uttermost contempt. He paused again for effect. He pointed and said, “That’s Derek Farmer!” I will never forget how at the disciplinary panel hearing, how these CBA lawyers walked in all pious and sanctimonious, looking at us with lips pressed tightly together, and with hate filled eyes. They put me on the train.

In conclusion, had the Supreme Court went beyond the stigma of the train and looked at the individual, as my lawyer, David C. Greer, in his humble, eloquent, and patient way, asked when he asked them to look “beyond the smoke and mirrors” that Sherman had put into place, that Court would not have seen the train, as with the others mentioned above, the Supreme Court would have seen “ATTORNEY” Derek A. Farmer.

Respectfully submitted,

Derek A. Farmer

Appendices Part One

In re: Derek A. Farmer (0071654)
Case Number: 1:06MC85-SSB

Appendices

1. "Police union backs off after lawyer sues" The Associated Press State & Local Wire, November 24, 1999;
2. "A Better Future" by Dr. William Pierce, American Dissident Voices Broadcast aired November 27, 1999.
3. Excerpt from testimony of Judge Walter H. Rice taken from transcript of hearing before the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, June 30, 2005, Page 884, lines 7-11, 17-18; Page 885, lines 6-7.
4. "Happy Ending on Hold" The Other Paper.
5. Excerpt from deposition of Searcy Rutledge, Page 66, lines 21-25; Page 67, lines 1-19.
6. "Second Judge Rejects Farmer" The Cincinnati Enquirer, December 4, 1999.
7. Excerpt from deposition of Searcy Rutledge, Page 64, lines 20-25; Page 65, lines 1-20.
8. Letter from Searcy Rutledge, August 8, 2003.
9. Affidavit of Searcy Rutledge, January 21, 2003.
10. Excerpt from deposition of Searcy Rutledge, Page 70, lines 5-25; Page 71, lines 1-17.
11. Excerpt from deposition of Searcy Rutledge, Page 66, lines 13-18.
12. Excerpt from deposition of Searcy Rutledge, Page 12, lines 10-25; Page 13, lines 1-6.
13. Letter from the Martin-Smith family, April 24, 2001.
14. Recording of conversation between Stella Ysabel Moore and Erin Christoff.
15. Excerpt from deposition of Searcy Rutledge, Page 81, lines 4-18.
16. Excerpt from testimony of Stella Ysabel Moore at a Hearing in the matter of Derek A. Farmer and the Columbus Bar Association, June 29, 2005, Page 706, lines 20-15; Page 707, lines 1-8, 15-20; Affidavit of Pastor Charles V. Lee.
17. Affidavit accusing Montgomery Democratic Chairman Dennis Lieberman of making promises.

18. Affidavit of Joseph Reed showing Leiberman guaranteed specific result.
19. "Judge removes self from case" The Dayton Daily News, June 2002.
20. "New rules for lawyers who are felons" The Dayton Daily News, December 23, 2002.
21. *City of Columbus v. Barnes*, 2003 Ohio 4678, 2003 Ohio App. LEXIS 4209.
22. "Attorney, associates have had brushes with the law" The Cleveland Plain Dealer, February 10, 2003.
23. "Parole ex-chief's ties to lawyer raise ethics issues" The Cleveland Plain Dealer, September 8, 2003.
24. "Ohio inmates put hope, money in obscure lawyer's parole suit" The Cleveland Plain Dealer, February 10, 2003.
25. Excerpts from newsletter written by Becki Miller for the Parole Reform Committee.
26. Excerpt from Norman Sirak's Progress Report dated July 21, 2003.
27. Excerpt from testimony of the Honorable Judge James L. Graham at a hearing before the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, March 23, 2005, Page 72, lines 5-15, 23-25; Page 73, line 1.
28. Letter to Mr. Robert Berger, Assistant Disciplinary Counsel from Derek Farmer, October 13, 2003.
29. Letter to Ms. Alma Kirk from the Disciplinary Counsel of the Supreme Court of Ohio, December 19, 2003.
30. Letter from Charles Martin to Derek Farmer, January 7, 2003.
31. Excerpt from deposition of Charles Martin, Page 97, lines 13-15.
32. Letter from the Honorable James L. Graham to Bruce Campbell, Bar Counsel for the Columbus Bar Association, June 18, 2003.
33. Excerpt from deposition of the Honorable James L. Graham, Page 6, lines 5-9.
34. Letter from Ohio State Senator Ray Miller to Honorable Thomas J. Moyer, Chief Justice of the Supreme Court of Ohio, October 18, 2004.

35. Letter from Terry K. Sherman to Melvin Tucker, November 12, 2003.
36. Excerpt from Middlebury College Summer 2005 Class Notes regarding Don Ruben.
37. Excerpt from "Relator's Hearing Brief" titled Witness: Hon. James L. Graham, U.S. District Court for the Southern District of Ohio.
38. Excerpt from "Relator's Hearing Brief" titled Witness, Gary Spartis, Assistant United States Attorney.
39. Excerpt from deposition of Searcy Rutledge, Page 59, lines 1-12.
40. Excerpt from deposition of Charles Martin, Page 51, lines 8-22.
41. Excerpt from Decision, Order ad Entry Sustaining Plaintiff's Motion for Summary Judgment and Dismissal on Remand written by Judge A.J. Wagner in *State of Ohio v. Charles Martin*, Case No. 00-CR-1330, June 9, 2004.
42. Erin Turley's notes from meeting with the Martin family on October 3, 2002.
43. Excerpt from deposition of Charles Martin, Page 100, lines 15-20.
44. Letter to Charles Martin from Richard A. Nystrom, May 14, 2001.
45. Letter from Charles Martin to Derek Farmer, February 21, 2002.
46. Decision, Order ad Entry Sustaining Plaintiff's Motion for Summary Judgment and Dismissal on Remand written by Judge A.J. Wagner in *State of Ohio v. Charles Martin*, Case No. 00-CR-1330, June 9, 2004.
47. "Former felon's talk stirs city's emotions" The Dayton Daily News, February 22, 2006; "Police officers protest at speech of ex-con" The Dayton Daily News, February 22, 2006.
48. Various letters in response to speaking engagements.
49. Opinion in *James v. Brigano*, Sixth Circuit Court of Appeals Case No. C.A. 05-4003, November 30, 2006.
50. Columbus Bar Association grievance filed by Robert Woodward, III against Derek Farmer, November 13, 2006; Letter to Bruce A. Campbell from Derek Farmer in response to CBA grievance of Robert Woodward, III, December 1, 2006.

51. Columbus Bar Association grievance filed by Sumpter Miller against Derek Farmer, March 20, 2006; Letter to A. Alysha Clous in response to CBA grievance of Sumpter Miller, May 9, 2006.
52. Columbus Bar Association grievance filed by Kevin Lee against Derek Farmer, June 27, 2006; Letter to A. Alysha Clous in response to CBA grievance of Kevin Lee, July 24, 2006.

CBA'S MOTION EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re: _____ : _____
DEREK A. FARMER (0071654) : Case No. 1:06MC85-SSB

BRIEF OF *AMICUS CURIAE* COLUMBUS BAR ASSOCIATION,
IN OPPOSITION TO MR. FARMER'S RESPONSE TO
SHOW CAUSE ORDER

It is not the CBA's intention here reengage with Mr. Farmer regarding the evidence underlying his Ohio suspension. The state court conclusions were reached by a three-member Panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio,¹ reviewed and affirmed by a majority of the full Board, and ultimately accepted by the seven Justices of the Supreme Court.² Mr. Farmer, during that entire process, had the full benefit of exceptionally capable and passionate counsel. The record that emerged from those proceedings stands on its own and can be assessed by this Court as it deems fit.

It is also not the CBA's purpose in filing this brief to defend or retaliate against the fusillades of enmity and *ad homonym* vilification with which Mr. Farmer's brief is so generously peppered.

What we *do* wish to add to the dialogue here is our sense of what the state court disciplinary case was really about – and not about – and to express our firm belief that the

¹ The Panel Hearing involved 7 days of hearing, a transcript running to almost 2,000 pages, approximately 370 exhibits, and 22 witnesses. If the Court wishes to have copies of the transcripts and/or exhibits, Amicus will provide them.

² Two Justices, (Pfeifer and O'Donnell, JJ.) dissented only as to the sanction. They would have suspended Respondent for one year with a six-month stay. After the Court issued its Opinion, Mr. Farmer filed a Motion for Reconsideration supported by a Brief. The CBA filed a Memorandum in Opposition. On December 27, 2006, the Supreme Court denied the Respondent's Motion.

intricate conspiratorial theories Mr. Farmer has spun in his brief with its voluminous appendices do little to inform the questions facing the Court.

Under the Model Federal Rules of Disciplinary Enforcement as (adopted by this District), the Court:

. . . [S]hall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it *clearly* appears:

1. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

2. that there was such an infirmity of proof establishing the misconduct as to give rise to the *clear conviction* that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or

3. that the imposition of the same discipline by this Court would result in grave injustice; or

4. that the misconduct established is deemed by this Court to warrant substantially different discipline.

FRDE II (D)(emphasis supplied).

Respondent seems to acknowledge the insufficiency of his arguments *vis-à-vis* these standards when he says. "It would be impractical to believe that this Court would allow me to practice before it, while at the same time being suspended by the Supreme Court." Memorandum, p. 1. He goes on to indicate that, even if not suspended by this Court, he would not practice in federal court during the state suspension, thus creating an enigma as to why he filed his Response in the first instance. *Ibid.*

Believing that the CBA's position on the relevant issues of this case is best stated in its Reply Brief filed in the Supreme Court of Ohio, we simply attach that document and incorporate it here for whatever assistance it may be to the Court.

Respectfully submitted,

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Attachment to Brief of Amicus in 1:06mc00085

**BEFORE THE
SUPREME COURT OF OHIO**

Columbus Bar Association,	:	
Relator,	:	
v.	:	Case No. 06-491
Derek Farmer, Esq.	:	Disciplinary Case
Respondent.	:	

**RELATOR'S REPLY BRIEF TO
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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	iii
STATEMENT OF FACTS	1
ARGUMENT	2
<u>Relator's Rely to Respondent's Objection No.1:</u>	4
<u>Relator's Rely to Respondent's Objection No.2:</u>	6
<u>Relator's Rely to Respondent's Objection No.3:</u>	10
<u>Relator's Rely to Respondent's Objection No.4:</u>	10
<u>Relator's Rely to Respondent's Objection No.5:</u>	10
<u>Relator's Rely to Respondent's Objection No.6:</u>	10
<u>Relator's Rely to Respondent's Objection No.7:</u>	10
<u>Relator's Rely to Respondent's Objection No.8:</u>	11
CONCLUSION.....	12
PROOF OF SERVICE.....	14

TABLE OF AUTHORITIES

<u>Cases:</u>	Page
<i>In re Ruffalo</i> (1968), 390 U.S. 544, 88 S.Ct. 1222, 20 L.Ed.2d 117	8
<i>Cincinnati Bar Association v. Whitt</i> , 103 Ohio St.3d 434, 2004-Ohio-5463.....	11
<i>Cleveland Bar Assn. v. Judge</i> , 94 Ohio St.3d 331, 2002-Ohio-886	9
<i>Cuyahoga County Bar Assn. v. Judge</i> , 96 Ohio St.3d 467, 2002-Ohio-4741.....	9
<i>Office of Disciplinary Counsel v. Simecek</i> , 88 Ohio St.3d 320, 1998-Ohio-92	9
 <u>Code of Professional Responsibility:</u>	
DR 1-102(A)(4)	4, 6, 7, 12
DR 1-102(A)(6)	10
DR 2-106(A).....	10
DR 6-101(A)(2)	10
DR 9-102(B)(3).....	10, 11
DR 9-102(B)(4).....	10
 <u>Other Rules:</u>	
Gov. Bar R. V§4(G).....	9

**RELATOR'S REPLY BRIEF TO
RESPONSENT'S OBJECTIONS**

STATEMENT OF FACTS

Relator relies upon the statement of facts as presented in the Board of Commissioners' Findings of Fact, Conclusions of Law, and Recommendation ("Findings") and on the Statement of Facts presented in Relator's Objection and Brief in Support of Objection. *Id.*

ARGUMENT

Introduction

Respondent, through his eminent and most articulate counsel, has presented such a singular view of the evidence in this case (and often matters far outside the reach of these proceedings) that it is at times not clear if this is a disciplinary or a canonization inquiry. Believing it to be the former, Relator makes this modest attempt to narrow the beam a bit and filter out some of the penumbral haze superimposed by Respondent in his Objections.

First, it must be noted that there is no mention in the Complaint or in the direct evidence presented by Relator about what Respondent calls his “arduous . . . path” to admission to practice law. (Resp. Obj. Brief 6). Throughout these proceedings, Relator has assiduously refrained from trading upon the events and circumstances of Respondent’s background or to use those events as an argument against him.

Respondent, on the other hand, has pointedly raised these matters. He has discussed hostile reactions on the part of “segments of the Cincinnati bench and bar” when he began practice in that city. (Resp. Obj. Brief 8). He has noted comments made in 2000 by a Dayton judge regarding his admission and the refusal of other judges to allow Respondent to practice in their courtrooms. (*Id.*) He has discussed a 2003 *Cleveland Plain Dealer* article about him, which he says was “planted by a lawyer named Norman Sirak.” (Resp. Obj. Brief 11). None of these people or topics have the slightest thing to do with this case.

The only discernable reason for Respondent to dwell on the attitudes and biases of persons not a part of the case at hand would seem to be to imply a similar, perhaps even conspiratorial, motive on the part of those who now accuse him of *current, professional* wrongdoing.

Second, Respondent, during the course of these proceedings, has exhibited a strangely dissonant attitude regarding his clients, as represented by the grievants in this case. While he champions the right of his clients to be treated with dignity and respect and to have counsel capable of exploring all avenues of possible exoneration (e.g. Resp. Obj. Brief 14, 15), should any one of those clients express the least criticism of him, that client is instantly recast as a conniving, selfish, double-dealing villain who has committed despicable crimes and is unworthy of belief. (E.g. Resp. Obj. Brief 10, 11). Perhaps the most brazen example of this is his fatuous suggestion that, if his clients were lawyers, their actions (i.e. the way they went about requesting a refund for services with which they were dissatisfied) would be guilty of unethical conduct. (*Id.* 11). By using his clients' criminal status against them when they complain, he attempts to insulate his own professional behavior from scrutiny.

One final general observation needs to be made. Respondent has proclaimed that his story is "inspirational" and says it evidences the "possibility of redemption and rehabilitation." He further says that the decision to allow him to take the bar in Ohio was "one of the finest moments in the history of this Court." (Resp. Obj. Brief 7). All of this may well be so, but what Respondent does not say – and apparently does not fully appreciate – is that, however Herculean his efforts to secure admission to practice, he is now beholden to the rules all lawyers must follow and equally accountable for their breach. In short, he does not get a pass or even extra credit for his previous tribulations. If, as the Board has found, he has violated those rules, he should be sanctioned without regard to any iconic status he may have achieved or given recompense for his past struggles. If, as he has acknowledged, this Court granted an extraordinary grace by admitting him to the bar, he should now expect to be held fully accountable for abuse of that trust.

Relator's Reply to Respondent's Objection No.1 [DR 1-102(A)(4)] violation in Martin]:

The facts of the Martin matter are, as the Board found, simple, clear, and fully supported. In essence, Respondent took a sizable flat fee from folks who did not have great financial resources on the premise that what was needed was a new and improved appellate Brief and that he would produce just such a Brief. In the end, he did no such thing. Compounding his failure, he did not honestly acknowledge it. When confronted, he gave excuses – excuses which he continues to make in this Court.

His excuses were/are numerous. He hadn't read the trial transcript before he took over the case. (Resp. Obj. Brief 14). Mr. Martin duped him into thinking that he might be innocent. (Resp. Obj. Brief 15). There were no additional issues to be raised. (*Id.*). He didn't want to "waste resources" by rewording the same issues. (*Id.*) The real hope for Mr. Martin was in a post-conviction proceeding and an investigation to uncover flaws in the original evidence, but the client terminated him before he could develop any new evidence. (Resp. Obj. Brief 16). The Martin family was just being greedy, trying to get their fees back after he had done work (albeit, not the work promised). (Resp. Obj. Brief 12). In any event, Mr. Martin later destroyed his own credibility by his crude attempts to represent himself. (Resp. Obj. Brief 17). In his ultimate fall-back position, he attempts to blame any failings he may have had on not receiving good mentoring (as if he had no responsibility to secure good advice on his own). (Resp. Obj. Brief 32)

Unanswered amid this morass of excuses are a number of hanging questions. On what basis did he quote and accept payments on a large flat fee if he did not know what, if anything, he might be able to do on the client's behalf? Why did he not put in writing what he planned do for the money charged? Why did he enter an appearance and withdraw the Nystom Brief *before*

he knew what the trial evidence was and what issues might be available? Why did he not contemporaneously (i.e. before being confronted) tell the client and his family why he took the course he did instead of what he had told them he was going to do? These are not questions born of hindsight. They are issues that any competent and ethical lawyer would have raised with himself at the time.

Nowhere has Respondent shown more adeptness at creating out of sticks and bits of string a pastiche Taj Mahal than he does in his elucidation of what he calls the “Martin’s lie.” (Resp. Obj. Brief 21). Like an impassioned lexicologist, Respondent has sought the wellspring of the phrase, as used with respect to the Nystrom Brief, “not worth the paper it is written on.” (*Id.* 21-27) By analysis of documents and dates and applying his unique logic, he has deduced that the phrase entered the case in a January 2003 letter from Martin to Respondent. He then traces “the rhythm of prevarication,” and eventually “Mr. Martin’s lie” morphs into the “Martin lie,” *qua* family mantra. (Resp. Obj. Brief 26). This rhetorical vehicle drives him inexorably to the conclusion that “there is no conceivable credibility to the claim that Respondent made the statement.” (Resp. Obj. Brief 24).

While this exercise may be artistically satisfying, it is not illuminating. What is at issue here is not a chain of unimpeachable documents recording in detail all the critical exchanges between the parties, but, on the contrary, an almost complete absence of the kind of paperwork (fee contracts, engagement letters, contemporaneous memoranda, case notes, file entries) that would have eliminated ambiguities about what Respondent promised to do. What is present is the testimony of witness.

The Panel heard extensive testimony from Ms. Teresa Smith, R.N. and from the Respondent on this issue. It had the opportunity to and did ask its own questions of both. Based

on that direct testimony, “the Panel believed the testimony of Teresa Smith, and that Mr. Farmer had made the claim, after he saw the Brief written by Mr. Nystrom, that the Nystrom Brief was not ‘worth the paper it was written on.’” (Findings 21, App. 21). It further concluded that Respondent “intended to mislead Disciplinary Counsel and the Panel in this regard about that Brief.” (*Id.*). These conclusions were coupled with the fact that “Respondent misled the Disciplinary Counsel, the Columbus Bar Association and the Panel concerning his retention of an investigator in the Martin matter for the purpose of interviewing witnesses associated with that case,” (Findings 21, App. 21) which claim Respondent finally admitted at hearing was false. (TT 777). Contrary to Respondent’s multifaceted assertion of things “overlooked” by the Panel, (Resp. Obj. Brief 25-26), the Panel did look through this tangle of innuendo and found the essential truths.

The Panel and the Board were entirely justified in finding that Respondent violated DR 1-102(A)(4).

Relator’s Reply to Respondent’s Objection No.2 [procedural due process]:

In this Objection, Respondent points to the fact that Relator’s Amended Complaint Count Two does not make reference to a letter Respondent sent on October 13, 2003, to the ODC in response to a grievance filed with that office on the Martin Brief matter. Respondent then claims a denial of due process in the fact that the Panel subsequently found that this response to Disciplinary Counsel was untrue and, in some measure, used that finding in connection with other findings to conclude that Respondent had violated DR 1-102(A)(4). Respondent claims that he should have received notice of this issue in order to defend against it and that lack of notice amounts to an error of constitutional proportions.

Respondent's argument might be compelling, but for one detail – it was *Respondent*, not Relator who interjected his October 13, 2003, response to ODC's letter of inquiry into these proceedings. He did so by making it "Relator's Exhibit Q-1-68," which he filed with the Panel in advance of the hearing, and he followed that by raising the letter on the second day of hearing in his Opening Statement on Count Two in the following exchange: (TT 397).

MR. GREER: . . . The question of refileing the original Brief was presented to the Disciplinary Counsel, who reviewed the matter. And at the same time, the Disciplinary Counsel closed his file on this matter. . . .

* * *

CHAIR ALKIRE: . . . Are you saying that the grievance that gives rise to the matter brought by the Columbus Bar Association was also a parallel grievance that was brought with Disciplinary Counsel? Or is there some difference?

MR. GREER: They're sequential, and there may be a differentiation in the scope of them. I think the one that was filed with Disciplinary Counsel was simply as to an ethical violation in refiling the same appellate Brief. It didn't go into alleged promises of – that he would get the man out of jail. It didn't go into, you know, taking their money and not doing anything. It was solely that. And I –

CHAIR ALKIRE: Can you tell me when that grievance was brought and by whom?

MR. GREER: The Disciplinary Counsel's letter to Mr. Farmer is dated October the 9th of 2003. It does not identify who the – who the grievant was. It raises this issue. . . . Mr. Farmer responded to it on October 13th. He got a letter from Disciplinary Counsel closing the file on that matter on November 18th of 2003.

And he got a letter form the Columbus Bar Association two days later, on November 20th of 2003. . . .

(TT 397-399).

Respondent, having opened this can and passed it around the room, now says the Panel should have ignored the odor of its contents. If the panel chose to make findings based on evidence Respondent himself brought into the proceedings, he should not be heard to complain of lack of "fair notice." (Resp. Obj. 31). The Amended Complaint clearly spells out what Relator believed the evidence would show about Respondent's representations to this client and his family. The fact that a letter he had authored and then presented to the Hearing Panel was found to be deceitful was a dilemma of his own making. Surely, he cannot be suggesting that a new proceeding should be instituted to investigate and prosecute this deceptive response to a disciplinary inquiry.

None of the cases cited by Respondent in support of his constitutional argument have direct relevance in the specific issue he raises in this Objection. *In re Ruffalo* (1968), 390 U.S. 544, 88 S.Ct. 1222, 20 L.Ed.2d 117, stands for the general and axiomatic proposition that the attorney disciplinary proceedings are subject to due process requirements. It involved a federal court's reliance on the Ohio Supreme Court's disbarment of respondent (petitioner in the U.S. Supreme Court) in proceedings to strike him from the rolls of federal courts. As to one count of the state disciplinary ruling as it related to the federal ruling, the U.S. Supreme Court opined that petitioner did not have prior notice. Here, Respondent well knew he had an obligation (under his Oath, under Gov. Bar R. V. §(4)(G), and under the Code of Professional Responsibility) to be truthful and cooperate fully with a disciplinary inquiry, and yet he voluntarily introduced evidence which indicated that he had not done so.

In *Office of Disciplinary Counsel v. Simecek*, 88 Ohio St.3d 320, 1998-Ohio-92, the Board added a Disciplinary Rule violation after the record was closed and the Court did not adopt that particular finding (but issued a stayed suspension on other grounds). Here, Respondent was charged specifically in Count Two of the Amended Complaint with violation of DR 1-102(A)(4) based on various representations he had made, and the Board quite properly concluded that evidence introduced by Respondent in the form of the letter to ODC gave further proof of Respondent's dishonesty, deceit and misrepresentation.

Respondent's citation of *Cleveland Bar Assn. v. Judge*, 94 Ohio St.3d 331, 2002-Ohio-886, is puzzling as this case does not remotely relate to the issue for which it is cited. Presumably, Respondent intended to cite *Cuyahoga County Bar Assn. v. Judge*, 96 Ohio St.3d 467, 2002-Ohio-4741. The Cuyahoga County *Judge* case, like *Simecek*, involves an issue about a Disciplinary Rule not cited in the Complaint (and, like *Simecek*, resulted in a sanction – in this case an indefinite suspension). Neither *Simecek* nor *Judge*, directly pertains to the matter raised in this Objection.

Respondent's attempt to overlay a constitutional dimension where none exists should be seen for what it is and rebuffed.

Reply to Respondent's Objections No. 3 through 7 [weight of the evidence as to DR 1-102(A)(6); DR 6-101(A)(2); DR 2-106(A); DR 9-102(B)(3)&(4)]:

In these objections, as in his Objection No. 1, Respondent entreats the Court to engage in *de novo* reconsideration review of all the evidence with respect to Disciplinary Rule Violations found by the Board. The Court should decline the invitation.

Respondent sums up his rationale for a start-from-scratch review by the Court thusly: "We respectfully submit that, in the welter of exhibits and testimony presented seriatim over a

seven month period and in the passage of another four and a half months prior to their report, the Panel and the Board overlooked or misconstrued critical items of evidence which require different conclusions” (Relator’s Obj. 10).

The “welter of exhibits” with which the Panel was burdened consisted mostly of the Respondent’s five large ring binders containing over three hundred separate exhibits – many of which have, at best, a strikingly tenuous relationship to the matters at hand. The “seriatim” scheduling of hearing dates in the case was, in large part, driven by the availability of Respondent’s counsel.

Leaving these matters aside, however, it must be said that the Respondent’s implication that the Panel was incapable of assimilating the materials and testimony and deficient in its collective memory of the pertinent facts is both an affront to this Court’s appointed representatives on the Board and patently wrong-headed. A reading of the extremely thorough Findings quickly puts to rest this flippant dismissal of the work of these volunteers. Respondent’s chanting, throughout his Brief, that the Panel and the Board failed to mention this (e.g. Resp. Obj. Brief 6) overlooked that (e.g. *Id.* 25, 26) and engaged in circular logic (*Id.* 35), is little more than an expression of disappointment about what they *did* mention and *did* deem worthy of looking at in the performance of their duties.

Without going into all Respondent’s various rationalizations, one particular argument deserves to be noted. In his discussion regarding DR 9-102(B)(3) under Respondent’s Objection 6, Respondent seems to argue that a lawyer’s only duty is to account to a client for the *receipt* of client properties. (Resp. Brief 39) He suggests that, after satisfying this requirement, he was not thereafter accountable to account for unearned fees. (*Id.*) He then says, correctly, that the letter of the rule does not require the keeping of time records. What he ignores, however, is that in

matters like those covered in this case, when the work contracted for is not completed by the lawyer, he still has a duty to account under this rule as to funds that may be owed to the client. As pointed out in the case cited by Respondent, *Cincinnati Bar Association v. Whitt*, 103 Ohio St.3d 434, 2004-Ohio-5463, “. . . provision must be made for refunding all or part of the fee in the event of a discharge or withdrawal so that the attorney’s fee is not excessive.” (*Id.* at ¶15). As the Board found, the amount to be refunded cannot be determined in the absence of adequate records, and where there is a lack of such records “all doubts, again, should be resolved in favor of the client and against the Respondent.” (Findings 23).

Relator’s Reply to Respondent’s Objection No.8:

Here, Respondent proposes that the Court should apportion costs of a disciplinary proceeding on the basis of a per count or violation basis. He cites no authority for this novel proposition, and there is none. This is not a sporting event divided into equally-weighted components for which credits and debits are assessed.

The Court has made clear that violations of some Disciplinary Rules are so egregious as to require more stringent sanctions than might be imposed as to other violations. *Disciplinary Counsel v. Fowerbaugh*, 74 Ohio St.3d 187, 1995-Ohio-261. In this case, as in *Fowerbaugh*, the lodestar is Respondent’s violation of DR 1-102(A)(4). His responsibility for this violation and the others found by the Board, should make him responsible for the entire cost of these proceedings with no off-set for violations not found.

CONCLUSION

Respondent’s lyrical conclusion that this case is nothing more than “two simple fee dispute[s] . . . transmogrified into an Illiad of unsubstantiated ethical charges,” (Resp. Brief 42), is perhaps the clearest possible indication of his ultimate failure to comprehend why what he did

was wrong and why it is important to change his approach to the practice of law. Resolution of fee issues with unsatisfied clients is, of course, a desirable goal, but it cannot subsume the larger issues of honesty and fair dealing. As long as Respondent continues to believe that “it’s all about the money,” he has failed to learn anything from this case and is destined to repeat his transgressions for lack of grounding in fundamental principles upon which the profession is based.

Respectfully submitted,

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COUNSEL FOR RELATOR

CERTIFICATE OF SERVICE

A copy of the foregoing pleading was sent on this 19th day of April, 2006, by U.S

Mail, postage prepaid, to Counsel for Respondent:

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Bruce A. Campbell

Certificate of Service

I hereby certify that on January 19, 2007, I electronically filed the foregoing Brief with its Attachment with the Clerk of the Court using the CM/ECF system which will send notification of such filing to participants able to receive such notices, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/EEFC participant: Derek A. Farmer, 630 Morrison Road, Suite 160, Columbus, OH 43230.

s/ Bruce A. Campbell

Bar Number: 0010802

Counsel For *Amicus Curiae*

175 South Third Street, Suite 1100

Columbus, Ohio 43215-5134

CBA'S MOTION EXHIBIT 4



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December 20, 2007

Attorney Derek A. Farmer
711 Waybaugh Rd
Gahanna OH 43230

Re: #07-082153G/Farmer vs. Campbell, Ruben & Sherman

Dear Attorney Farmer:

The Grievance Committee of the Akron Bar Association recently completed its investigation of the complaint filed on Tuesday, August 21, 2007 by you against Attorney Bruce A. Campbell, Attorney Donald B. Ruben, and Attorney Terry K. Sherman.

We remind you, as we indicated in our acknowledgement of your complaint, that the objective of the Bar Association's investigation of these matters is to review lawyer conduct in light of the requirements of the Code of Professional Responsibility. That Code encompasses Canons, which are general standards of professional conduct; Ethical Considerations, which are objectives toward which every lawyer should strive and which they can rely on for guidance; and Disciplinary Rules, which are mandatory rules of conduct a violation of which may result in disciplinary action.

After conducting a thorough investigation and review and after consideration by the entire Grievance Committee, comprised of attorneys and non-attorneys, that committee did not find sufficient basis to support a conclusion that there had been a violation of the Disciplinary Rules governing the practice of law. The specific reason why the committee concluded that there has been no violation is:

Your complaint relates to the actions of Attorneys Campbell, Ruben, and Sherman relative to their participation in and prosecution of grievances against you under Case No. 04-046, *In Re Farmer*, ultimately heard and decided by the Ohio Supreme Court in *Columbus Bar Assn. v. Farmer*, 111 Ohio St.3d 137, 2006-Ohio-5342, on November 3, 2006. Essentially, your complaints are

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WILLIAM D. JORDAN, III
CARMEN V. ROBERTO

that the Columbus Bar Association's (CBA) bar counsel and grievance committee members actively pursued the bar complaint against you without due cause, with incomplete information, or with information that was gained through improper means. Your allegation is that both bar counsel and the committee members treated what you believe should have been nothing more than an innocuous inquiry into what you called "a witch hunt". You felt that you were victimized by the process, did not fairly participate, and were not provided a fair opportunity to respond to the charges leveled by the CBA in that forum.

Attorney Esker contacted you on several occasions via telephone, comprising approximately two hours of combined conferences. You stated you were not intending to be critical of the attorneys you complained against, nor intending personal attacks against any or each of them, but that the process itself was flawed. The discussions with you centered on your concern that the evidence presented in the separate grievance action by the CBA against you was either incomplete or conflicting. You agreed that you were well-represented by your own counsel in the grievance process. When questioned as to whether you pressed those issues in defending that grievance, you indicated that you did not believe it to have been the correct forum. Our investigating attorney discussed with you that your grievance action, not this complaint, should have served as the vehicle for any evidentiary issues you believed existed.

You further indicated to our investigating attorney that Judge Graham (Federal District Court, Southern District of Ohio), in writing his June 18, 2003 correspondence to the CBA, did not intend to initiate any sort of grievance proceeding against you. You also stated that, if Judge Graham had the opportunity, based on the information that later came to pass regarding your demonstrated disabilities (reading, etc.), he would either not have written the letter at all, or done things differently. You challenged that if Judge Graham were to be contacted and failed to confirm this, you would withdraw the present grievance herein.

Attorney Esker contacted Judge Graham (as well as Judge Rice), and had a 20-minute conference with Judge Graham. It is clear that Judge Graham thinks well of you, and certainly admires you and your drive and success. However, Judge Graham indicated very clearly that he would still have sent the June 18, 2003 letter to the CBA, and that it still would have carried the same concerns and invitation to investigate. Judge Graham indicated that he believed what he perceived in your actions in his court was worthy of referral to the proper administrative body for investigation and review. He felt his concerns should be appropriately addressed.

Attorney Esker followed up with you by speaking with you after his conference with Judge Graham. Although you expressed some surprise that Judge Graham indicated he would have done precisely as he did, you indicated acceptance of his feelings on the matter.

The real issue central to this grievance against the CBA attorneys has to do with their initiation of disciplinary proceedings and the ultimate discipline ordered against you. You stressed once again that you did not believe that you were ill-treated and moved away from your prior allegations relative to race-based or other biased treatment. Instead, you indicated a belief that the evidence presented in your grievance proceeding was tainted, and that the CBA attorneys were responsible for the manner and means by which that evidence was presented. Although you did not specifically say so, our Grievance Committee clearly felt you were motivated to file the present grievance due to the travails you suffered in your own grievance proceedings.

Your concerns were initially addressed as race-based or claims of abuse of power by the investigators and bar counsel during your grievance proceedings. Additionally you made a generalized attack on the grievance process itself, and the various biases you perceived. Again, however, in discussing this matter with you, the investigating attorney reported that you moved from those positions, characterizing your complaint as a search for the truth.

Much of the discussion and concern raised by you was blunted by your own refocusing of your concerns relating to the grievance process itself, and not the people involved in that process. However, in reviewing the extensive documentation in this matter, it is clear that what transcends the entirety of the present grievance is your concern that the grievance against which you defended yourself, and the result of that grievance, would have been different if evidence would have been presented in a different light.

In reviewing the documentation in this grievance against the CBA attorneys, most of the documents were generated from the prior grievance involving you. Those documents in and of themselves do not support the claims you have made against these attorneys. In each such circumstance, the documents support the Ohio Supreme Court's ultimate determination of the issues and, moreover, any issues that you had with and concerning that grievance could and should have been raised in that forum. The present grievance seems ill-suited to deal properly and appropriately with those precise evidentiary issues. Your evidentiary claims properly had their place in your own prior grievance proceeding. Attempting to cast them into the present matter to support a grievance against these Respondents is not

only unsupported by the documentary record provided, but would serve to have your own prior grievance appealed through the present grievance.

Nevertheless, each allegation was thoroughly reviewed. All of the documents and evidence you presented, as well as Respondents' own correspondence and collective documents were examined. The Akron Bar Association Certified Grievance Committee found no basis to support any of the allegations of ethical misconduct by any of these attorneys.

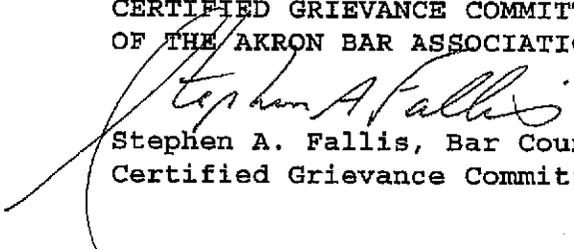
Accordingly, the Grievance Committee did not find substantial probative evidence of a violation of the Disciplinary Rules sufficient to file a formal complaint and, therefore, voted to dismiss the complaint against Attorney Bruce A. Campbell, Attorney Donald B. Ruben, and Attorney Terry K. Sherman.

You may, if you choose, have this matter reviewed further under Rule V of the Rules for the Government of the Bar of Ohio. We have enclosed a copy of that rule for your information.

If you should choose to ask for this review, you should enclose a copy of the dismissal letter with your request for review.

Very truly yours,

CERTIFIED GRIEVANCE COMMITTEE
OF THE AKRON BAR ASSOCIATION



Stephen A. Fallis, Bar Counsel
Certified Grievance Committee

Enclosure

Cc: Attorney Bruce A. Campbell
Attorney Donald B. Ruben
Attorney Terry K. Sherman