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July 25, 2008

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Re: DC Bar Docket nos. 390-95, *********, 392-95, 397-95

Dear **Dear Dear Dear**:

In 1995-1996 you represented **EXECUTE:** Robert E. O'Neill, Bruce C. Swartz, and Paula A. Sweeney in a Bar Counsel investigation regarding allegations of misconduct in the prosecution of *United States of America v. Deborah Gore Dean*. Though the investigation was initiated by **EXECUTE:** you may recall that I also filed a formal complaint in the matter.

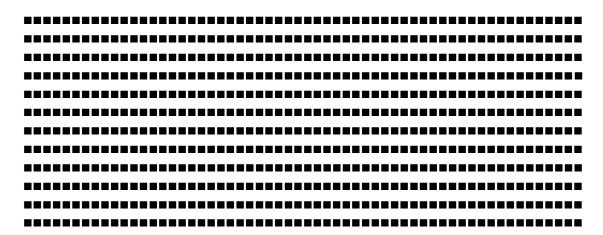
Recently, as an initial step in publicizing the conduct of Independent Counsel attorneys in the Dean prosecution, I created an extensive web page on the matter. It may be found under the Prosecutorial Misconduct tab on jpscanlan.com. The page does not discuss any bar disciplinary activity. But I consider the Bar Counsel proceedings generally, as well as the involved attorneys' manner of responding to various allegations, to be important parts of any portrayal of this matter. Thus, I would like be able also to make available on the site (and later to publish otherwise) all materials regarding the Bar Counsel investigation. Before seeking Bar Counsel's permission to do that, I wanted to determine whether the respondents would agree to waive any objection to the publication of these materials.

Since you were the respondents' counsel in the matter, I am initially seeking to secure the agreement of the respondents through you. Please let me know if you would prefer that I simply contact the respondents directly. I note that in contacting any of the respondents on the matter, I would be acting in my own right rather than as representative of another party. Thus, it seems to me that I am not ethically bound to contact them through you. But please let me know if you disagree on the matter. For your information, however, I note that, by letter of July 9, 2008, I have already contacted Mr. O'Neill and Mr. Swartz with regard to the web page generally (though without reference to the Bar Counsel

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investigation). A copy of the letter is available by way of Section D of the introductory material on the referenced web page.



Further, I do not regard the confidentiality provisions of the referenced rule to prohibit me from stating publicly that I filed a complaint with the Office of Bar Counsel. Thus, I may shortly include a statement on the web page along the following lines:

I filed a complaint with District of Columbia Bar Counsel regarding this matter. Rules of the District of Columbia Court of Appeals prohibit my revealing anything further on that matter. I have sought permission of various attorneys whom I accused of misconduct in such complaint to allow disclosure of all materials related to my complaint or any other complaint involving the case and am awaiting a response. With or without such permission, I will seek permission of Bar Counsel to disclose such materials because disclosure serves an important public interest.

When I receive a reply to the request for respondents' permission to disclose the materials, I will modify the language accordingly.

If the respondents grant the requested permission, I will then proceed to contact the Office of Bar Counsel to determine whether it nevertheless has any objection to this disclosure. If the respondents deny the requested permission, I will then proceed to request that the Office of Bar Counsel nevertheless grant permission to disclose the materials because such disclosure in this instance serves an important public interest.

Possibly the first sentence of the proposed paragraph will instead read something like the following: "I filed a complaint with DC Bar Counsel regarding this matter (though before I had come fully to realize that Bruce C. Swartz and Robert E. O'Neill had pressured Agent Cain into denying that he remembered the call from Dean based on a rationale that the denial was literally true, as discussed in Section B.1, and without emphasizing that idea)." I acknowledge that the purpose of my so phrasing the matter would be to invite the reader to wonder whether in responding to Bar Counsel the

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involved attorneys attempted to lead Bar Counsel falsely to believe that the defendant lied about the call, just as Independent Counsel attorneys had attempted to lead the court and the probation officer falsely to believe that the defendant had lied about the call. I might also point out the implications of any such actions to deceive Bar Counsel on the matter, such as are discussed in the referenced July 17, 2008 e-mail. Thus, in determining whether respondents have any objection to my discussing the fact of my complaint, it might be useful to consider whether they might also object to alternative formulations along the above lines.

If consideration of this matter necessitates review of any materials that, due to passage of time, are not readily available, please let me know and I can make them available on a password protected page of my web site. However,

I am frequently away from my office for extended periods. Thus, please respond to this letter by e-mail.

Sincerely,

/s/ James P. Scanlan

James P. Scanlan

cc: William E. Shipp, Jr.

Bar Counsel

Board of Professional Responsibility District of Columbia Court of Appeals