

September 10, 2008

BY HAND DELIVERY

David R. Schanker, Clerk
Wisconsin Supreme Court
110 E. Main Street #215
P.O. Box 1688
Madison, WI 53703-1688

RE: McLellan, et al. v. Charly
Dane County Case No. 05-CV-3412
Appeal No. 2007AP1120
Response to Purported Conflict-of-Interest Disclosure

Dear Mr. Schanker:

We write on behalf of our clients, Petitioners Richard G. McLellan, Rick Bogle and the Primate Freedom Project, to address a September 2, 2008 letter to the Court from counsel for Defendant-Appellant-Cross-Respondent Roger L. Charly.

The present action asks whether our clients are entitled to enforce an executed option contract, in which Charly offered to sell McLellan commercial property located directly between two University of Wisconsin primate research centers. As detailed in the Petition for Review (the "Petition"), our clients' intended use for the property is to house an exhibition hall critical of primate research. In their correspondence, Charly's counsel point to this intended use, and a competing option contract Charly entered with the UW, to suggest that Chief Justice Abrahamson's and Justice Bradley's spousal ties to the UW may raise a conflict of interest for those justices in hearing the Petition.

As an initial matter, our clients do not believe there is a conflict of interest and, if there is such a conflict, they expressly waive any objection to Chief Justice Abrahamson's and Justice Bradley's participation in this matter. As opposing counsel note, the UW supports Charly's position, so that any potential conflict of interest runs in Charly's favor—and against our clients. Consequently, our clients' waiver should alleviate any concerns in this regard, precluding the need for recusal.

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In addition, we object to opposing counsel's correspondence (and Response brief) to the extent that it expounds on issues wholly irrelevant to the legal issues raised by the Petition. As the full record reflects, our clients' interest in the property at issue is peaceful. (*See, e.g.*, R.42:3(FOF#38(h.))). Opposing counsel's insinuations to the contrary are unnecessarily inflammatory—and simply inappropriate.

Sincerely,

GODFREY & KAHN, S.C.

A handwritten signature in black ink, appearing to read "Kendall W. Harrison", written over a horizontal line.

Kendall W. Harrison

KWH:jad
cc: Michael Van Sicklen
Jon Manzo
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