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Michael P. Crooks  
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September 19, 2008

Joseph Sommers  
Attorney at Law  
7 North Pinckney Street, Suite 225-B  
Madison, WI 53703

RE: In the Matter of the Disciplinary Proceedings  
Against Joseph L. Sommers, Attorney at Law  
Case No. 06AP2851-D  
Our File No. 1098-0393

Dear Mr. Sommers:

My firm has been retained by Robert Krenz with respect to the defamatory statements you recently made about him on the WIBA *Outside the Box* broadcast. The same holds true for the untrue statements on your website.

As you know, during that broadcast you stated that Robert Krenz testified falsely on Paul Humphrey's behalf during the Raisback trial. You well know that he never testified at trial. You also stated that Robert Krenz's testimony constituted the crime of false swearing. Clearly, accusing my client of perjury that he did not commit constitutes libel under the law. Additionally, during the broadcast, you encouraged listeners to visit your website. On this website, you once again make allegations that my client testified falsely and was involved in what you believe to be a conspiracy in the prosecution of Adam Raisback. These allegations against my client are untrue, and constitute slander under the law.

Mr. Krenz has provided testimony on numerous occasions now, and at no point has he lied under oath, or committed the crime of false swearing as you allege. My client has become aware of your false and defamatory statements made about him and intends to seek all redress available under the law.

It is a crime in Wisconsin to intentionally "communicate any defamatory matters to a third person without the consent of the person defamed." Wis. Stat. § 942.01(1). Wisconsin's criminal defamation statute defines defamatory matter as, "anything which exposes the other to hatred, contempt, ridicule, degradation or disgrace in society or injury in the other's business or occupation." Wis. Stat. § 942.01(2). In addition to permitting criminal prosecution for defamation, Wisconsin also allows for civil claims of defamation for any communications that tend to harm the reputation of another so as to lower him in the estimation of the community or to deter third persons from

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associating or dealing with him. (See Wis. Stat. J. I. Civil 2500; Zinda v. Louisiana Pacific Corp., 149 Wis. 2d 913, 921, 440 N.W.2d 548 (1989); Restatement 2d, Torts § 559 (1977)). Mr. Krenz is a mechanical engineer who frequently testifies as a reconstruction expert in accident cases. Your comments about his alleged perjury in offering expert testimony fall squarely within both the criminal and civil definitions of defamation.

My client requests that you immediately remove any defamatory or negative remarks about him that are posted on your website, or any website. My client further requests that you publicly retract the statements recently made about him on the WIBA broadcast. Lastly, my client requests that any other written defamatory remarks made about him be immediately repealed.

If you fail to honor my client's request, I will have no choice but to bring legal action against you. In addition to a criminal and civil claim, I believe that the ethical rules governing lawyers also pertain to the remarks you made about my client. Supreme Court rule 20:3.6 states:

SCR 20:3.6 Trial publicity

- (a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.
- (b) A statement referred to in par. (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in deprivation of liberty, and the statement relates to:
  - (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness. . . .

Additionally, Supreme Court rule 20:8.4 states: "It is professional misconduct for a lawyer to . . .(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation." Based on these rules, should you chose not to honor my client's requests that you retract the statements made against him, I will have a duty to report your misconduct to the Office of Lawyer Regulation. Additionally, should you choose not to retract the statements made on the WIBA broadcast, I will have no choice but to put the radio station on notice of the defamatory nature of your on air interview. Given that broadcasters can be legally responsible for the content of their programs which they know to be false and defamatory (see, e.g., Maynard v. Port Publications, Inc., 98 Wis. 2d 555, 565-66, 297 N.W.2d 500 (1980)), I doubt very highly that any station will continue to run your stories.

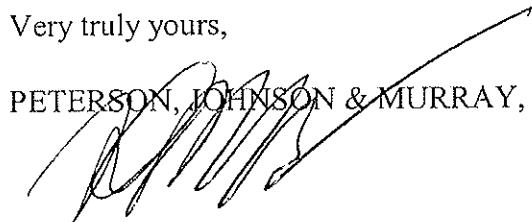
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Thank you for your consideration and for your anticipated decision to retract and repeal any statements, oral or written, made about my client. Please provide me with copies of the retractions by September 25, 2008.

Very truly yours,

PETERSON, JOHNSON & MURRAY, S.C.

A handwritten signature in black ink, appearing to read 'MPC', is written over the printed name of the law firm.

Michael P. Crooks

MPC:GMK:kg