

JON S. BAKOOSHIAN
 ELLEN M. BATES
 MICHAEL E. BROWN*
 JOSEPH F. COMENZO*
 EARLE C. COOLEY
 DONNA R. O'CORCORAN
 CHRISTOPHER J. CUNIO
 ROBERT A. DELELLO*
 ERIKA J. DOHERTY**
 JENNIFER B. FURRY
 MARTIN F. GAYNOR III
 BRIAN D. CROSS**
 BRIAN M. HANEY
 JOHN T. HUGO
 JESSICA S. JACKSON**
 TRACY A. R. JOLLY
 PATRICK T. JONAS**
 TIMOTHY C. KELLBHER III
 SARAH M. KNOFF
 RALPH R. LIGUORI*
 JAMIE M. MACNANTO
 HARRY L. MANION III
 JOHN B. MANTING*
 JAMIE A. MCKEAN
 KEITH M. MCLEAN
 RICHARD W. PATERNITI
 KERRI LYNN RANDALL
 CHRISTOPHER M. SHEEHAN
 LISA M. SNYDER
 NICHOLAS D. STELLAKIS
 JONATHAN F. TABASKY*†
 PATRICK S. TRACY*
 JOSHUA L. WEEMS*

COOLEY MANION JONES LLP

COUNSELLORS AT LAW
 81 CUSTOM HOUSE STREET
 BOSTON, MASSACHUSETTS 02110-3506
 (617) 737-5100
 FACSIMILE (617) 737-3113
 WWW.CMJLAW.COM

PAUL F. BECKWITH
 LEONARD T. EVE
 ARTHUR ORINALDO
 FRANK A. MARINELLI
 JOHN F. MORAN
 PETER J. SCHNEIDER
 MELODY M. WILKINSON
 OF COUNSEL

RHODE ISLAND OFFICE
 ONE CENTER PLACE
 PROVIDENCE, RHODE ISLAND 02901
 PHONE (401) 273-0100
 FAX (401) 273-0900

TEXAS OFFICE
 100 EAST FIFTEENTH STREET, SUITE 500
 FORT WORTH, TEXAS 76101
 PHONE (817) 479-1900

*ADMITTED IN TEXAS ONLY
 *ALSO ADMITTED IN RHODE ISLAND
 *ALSO ADMITTED IN CONNECTICUT
 *ALSO ADMITTED IN NEW HAMPSHIRE
 *ALSO ADMITTED IN ARIZONA
 *ALSO ADMITTED IN NEW JERSEY
 *ALSO ADMITTED IN PENNSYLVANIA
 *ALSO ADMITTED IN NEW YORK
 *ALSO ADMITTED IN MAINE

VIA FACSIMILE

November 10, 2008

John Silber
 President Emeritus
 Boston University
 73 Bay State Road
 Boston, MA 02215

Dear John:

You have asked me to review the matter of Commonwealth v. Benjamin Laguer and the letter, legal analysis and potential affidavit of Ms. Annie DeMartino prepared by Attorney James C. Rehnquist under date of August 18, 2008. I have done so in the context of my 51 years as a trial lawyer in the State and Federal courts of the Commonwealth of Massachusetts and throughout the United States. It is hard to imagine a more egregious miscarriage of justice than Mr. Laguer has suffered.

In my judgment, the prosecution and conviction of Benjamin Laguer, almost 25 years ago, for rape and other crimes against Lennice Plante—long since deceased—was constitutionally flawed, under the Constitutions of the United States and the Commonwealth of Massachusetts, by the withholding or other concealment of exculpatory facts and circumstances, including statements, conduct and the lack of

COOLEY MANION JONES LLP

testimonial capacity of Lennice Plante. The result is that he did not receive a fair trial and has spent almost a quarter of a century incarcerated for crimes of which he is innocent.

Ms. Annie DeMartino's potential affidavit demonstrates her knowledge of critical, virtually conclusive, evidence of a miscarriage of justice. In addition, Mr. Laguer has refused to barter his innocence for freedom via a false admission of guilt in a parole proceeding. That he would place truth above freedom is, in my view, powerful support for his seeking the remedy of a new trial.

In assessing whether Ms. DeMartino risks any liability for disclosure of her evidence because of a breach of an evidentiary privilege or violation of confidentiality or privacy laws, I am of the opinion that she has no such liability and that Mr. Laguer's Constitutional right to a fair trial trumps such considerations under the facts and circumstances of this case.

I very much respect your efforts to remedy a long-standing injustice in this case.

Sincerely yours,

Earle C. Cooley