

# **EXHIBIT F**

# THE KIZER LAW FIRM, P.C.

207 N. Michigan Ave., Suite 202  
Howell, Michigan 48843  
(517) 548-1440  
Fax (517) 548-1483

Thomas J. Kizer, Jr.  
Bridget Passeri  
Stephen LaCommare, Jr.

—  
Of Counsel  
Andrea M. Banfield  
Rolland Sizemore

February 17, 2017

Mr. William J. Vaillencourt, Jr.  
Livingston County Prosecuting Attorney  
210 South Highlander Way  
Howell, MI 48843

Re: Potential Criminal Law Violations

Dear Mr. Vaillencourt:

I received a written request for information from you dated February 13, 2017 and I also had a phone conference with you concerning the actions of Hon. Theresa M. Brennan and Officer Sean Furlong both as relates to the Kowalski murder trial and other information revealed in connection with the matters involved in a divorce case pending in this county between Judge Brennan and her spouse, Donald C. Root (whom I represent).

As you have explained, you have no interest in the divorce matters. I have no interest or desire to share any of that with you. The information I am furnishing to you evolved from my work for my client in addressing issues related to fault in the breakdown of the marriage and the extent and duration of such fault. In dealing with those issues depositions have been taken and in those depositions certain information has been revealed that is both relevant to the Kowalski trial and also relevant to serious wrongdoing by judge Brennan which includes perjury; misuse of public funds and public employees for personal purposes.

I am attaching an order which has been approved for entry by the attorneys for both parties in the divorce which approves my cooperation with your office. That order will be entered momentarily by the court. Further, before any such order was even contemplated by the judge hearing the divorce matter (which did not occur until the judge's attorney requested to "seal" the divorce case), I had been in contact with the Internal Affairs divi-

sion of the Michigan State Police concerning issues I believe needed to be addressed about officer Furlong and Judge Brennan and whether those acts formed a basis for legal action including potential criminal law violations. I continue to cooperate and provide information to Lt. Twana Powell as she has requested in order to assist her in her investigation. You have told me you are aware of such investigation and Lt. Powell just wants to be certain both your office and hers are collaboratively working on the investigation. To that end, I will make a copy of this letter and everything I am sending to you available to Lt. Powell.

I will also attach to this letter copies of all depositions taken to date and the phone records plus additional materials which should help your investigation move forward.

I have acquired knowledge of some specific facts which I will share with you in this letter by way of summary. These facts are revealed in phone records and depositions and our investigation in the divorce case. I want to advise you that my client, Donald C. Root, is fully aware of this letter and your request and he is prepared to cooperate as requested in your investigation. He feels duty bound to do so.

I cautioned prior to the start of the Kowalski trial my concern (then based on rumor) that the judge and officer Furlong (in particular) had a strong social relationship that I felt would negatively impact Mr. Kowalski in obtaining a fair trial if she did not recuse herself. The issue was raised to the judge and she addressed it by not addressing it. (The transcript of the January 4, 2013 hearing is attached). I believe that both the state and defense took the judge at her word and even though based upon what I knew about her at the time I would have not done so, nonetheless, I fully accept what your office and defense did in trusting a judge to be truthful. Now we have "facts" which I believe will lead any reasonable person to conclude the judge lied; misrepresented; and engaged in malfeasance and/or obstruction of justice by failing to recuse herself summarily. I believe the judge has committed perjury and an obstruction of justice in denying to defendant Kowalski the fundamental right of a fair trial (which includes a fair, unbiased jurist). Further, I believe that at least officer Furlong had a duty to speak and he did not. Additionally, perhaps officer Corriveau had knowledge due to his close relationship with both the Judge and officer Furlong, likewise breached his duties by saying nothing. One or both may have participated in an obstruction of justice to the defendant in this case.

I caution that this is not about an affair. Those things happen to many good people for many reasons. This is about the "cover up" of an affair which resulted in criminal acts. The affair may have been a mistake but the cover up was an intentional act designed to avoid exposure of the mistake.

Here is an outline of what we know so far and what the facts will sustain:

1. **PHONE RECORDS.** The only records we have relate to the mobile phone of Judge Brennan. This phone was owned by Uniplas, LLC which is controlled by my client. That phone was new in approximately October, 2016. The Judge's prior phone was destroyed previously by dropping it in Lake Michigan. We are in the process of having the current phone examined by an expert to determine what has been deleted; when; and what if anything is retrievable from the phone. We do not have the Furlong phone(s) nor do we have Corriveau's phone. When officer Furlong testified at his deposition he never spoke or texted the Judge during the trial of Kowalski, the judge interrupted and said "we did once". See the Furlong transcript starting at page 56 and continuing. **Note: On the date of Officer Furlong's deposition neither the Judge nor Officer Furlong knew Don Root had the phone bills back to 2013 but Mr. Root in a text with his wife on 1/19/17 after the deposition told her he had phone records so she knew of the existence when her second deposition was taken on 2/9/17).** When Judge Brennan testified on 2/9/17 at page 201, line 25 forward, she acknowledged 'one' call and no more by her to Officer Furlong. She was adamant. However, the phone records show that on 1/17/13 (the night she was at the airport going to DC) she made 2 calls to him—one for 9 minutes at 8:53PM and one for 17 minutes at 10:14PM. Further, on 1/19/13 while in DC she called him again for 9 minutes at 3:07 PM. In addition, in this deposition she also said she called her husband (with whom she was living) to tell him they had to get a hotel that night. There was no call to Donald Root that night. (See her testimony on page 208 and 209). Both Officer Furlong and Judge Brennan told stories that did not square with the facts. Further, Judge Brennan did not disclose the calls to the parties in the Kowalski matter. These were not innocent lies made by each person in their depositions. These were part of a concerted cover up of their relationship that was being examined under oath 3 plus years after the trial.
2. **ADDITIONAL PHONE RECORDS.** From the date the trial commenced in January 2013 to March 6, 2013 (sentencing of Kowalski) there were 37 phone calls (not including texts) between the Judge and Officer Furlong. All but 5 of those were from Judge Brennan to Officer Furlong. Many were of considerable length; many at night; one at 9:31PM for 39 minutes. They total 363 minutes in the aggregate (just over 6 hours). Officer Furlong and Judge Brennan both admit texting and sexting as well, but both claim none of that started until late 2013 or early 2014 and all ended in 2015. There is an adultery statute still on the books with a one year S/L. So ending the affair in 2015 would avoid any exposure to a prosecution and Officer Furlong's pension and position as a police officer would be plenty of motivation to be certain the testimony of an affair at least ended over one year ago. However, the District Court Administrator (Ms. Francine Zysk) has now reached out to me after hearing officer Furlong claim he told the truth and stated that she received a group text from Judge Brennan that while in Florida in 2016, she and Officer Furlong had sex 2x. This further will attack the credibility of both Brennan and Furlong who deny any such activity.

3. **MORE PHONE RECORDS.** Donald C. Root has the billing statements on the phone used exclusively by Judge Brennan dating back to November, 2011 through November, 2016. Those records reveal some disturbing facts. The total phone calls from November, 2011 through December, 2012 (one week before the start of Kowalski trial) reveal that Officer Furlong was using at least two phones: one was 517-404-9325 and the other was 734-637-5688. Officer Furlong never mentioned in his deposition the latter phone number. The contact by phone call using just the above numbers for 13 months prior to the Kowalski trial and the judges number amount to a total just prior to the trial of 231 phone calls back and forth; a total of 1145 minutes; a total of 19 hours. When the Judge on January 4, 2013 said their's was only a "social relationship", such assertions do not survive the phone records and the other connections during the trial period and thereafter. The total number of calls between both of Officer Furlong's numbers and Judge Brennan's mobile phone from 11/2011 to 12/2016 was amazing as well: 8627 total minutes of which 4618 were on county time when the judge should have been working rather than socializing and 4009 of those minutes after work hours according to Mr. Root's review of the billings. None of the above includes the numerous times the Judge and Officer Furlong met at Jameson's Pub and/or other locations. We have the names of the bartenders who saw them there. Further, contrary to the statements of both Judge Brennan and Officer Furlong that the affair ended in 2015, we have the Zysk statement and that of another woman who saw them kissing in the parking lot at Jamesons in April, 2016. (I will provide her name on request and she will cooperate with an investigation but does not want to have it in this letter.)
4. **THE TEXTS RECORDS.** The Judge had a phone prior to November 2011 but Mr. Root did not have it so we have nothing before. We do have a total of 7534 of texts from 6/10/15 to 12/8/16 but we do not know the recipient of those texts. In order to get that information or information back to 2012 or before Sprint (the carrier) would need a subpoena or a search warrant. Our investigation does not reveal the extent of the text contact between Officer Furlong and Judge Brennan but she admitted in her 1/9/17 deposition to texting him.
5. **USE OF PUBLIC FACILITIES AND STAFF FOR PERSONAL MATTERS.** There are several issues that should be of concern here. Judge Brennan has admitted the use of county facilities to book a reservation for Officer Furlong and used a county employee (Ms. Jessica Yakel) to assist in the booking. She admits to bringing a book on fellatio to the court and while claiming others also read passages, she had to admit reading passages on county time to employees accountable to her. She doesn't deny having Ms. Yakel stain her deck nor run errands for her nor paying her bills, but she claims Ms. Yakel only did so on her own time and/or on break and the judge paid her \$20 per hour for it. The judge tries to insulate herself from wrongdoing by asserting Ms. Yakel lied about being on county time. She asserts that others were responsible and not the judge to insure that Ms. Yakel was not on county time. Ms. Yakel has kept copies of text messages which show that the judge was not at all concerned about when Ms. Yakel was to stain the deck. I have copies of those if you wish to re-

view them. Your investigation should also contact the former recorder Ms. Kristi Cox. She has information about many times of the Judge using county employees for personal work. The Judge has engaged in criminal behavior in this area as well. Please do not overlook misappropriation and conversion of county funds through the misuse of these employees. She has at minimum engaged in misfeasance/malfeasance in office.

6. **PERJURY.** Both Officer Furlong and Judge Brennan have perjured themselves about their relationship and when it began and ended. Ms. Zysk will counter the ending date. The phone records and statements by each under oath about phone calls during the trial establish extensive perjury. These are not incidental or trivial matters. These two people consciously have lied. Further, the testimony of Jeanine Pratt in comparison to that of Judge Brennan along with the supporting documentation offered by Ms. Pratt establishes the lie of Judge Brennan both about her intentional delay in signing the recusal order (so she could get everything in order on her phone and with her attorney) and on the claim she never saw the motion seeking an ex parte order to preserve electronic evidence.
7. **TESTIMONY/CREDIBILITY OF CERTAIN WITNESSES.** The testimony of Francine Zysk; Jessica Yakel; and Shawn Ryan should be of interest. Judge Brennan has called each one a liar. (She would have called Ms. Pratt a liar but for the fact that Ms. Pratt had critical proof over and above her word so Judge Brennan merely asserted they saw things differently. The facts there show the truth as well.) Each of the above witnesses had very little to gain and had a considerable amount of exposure by stepping up. Their testimony cannot be explained away by Judge Brennan other than to call each a liar. However, it is her credibility and lack of truthfulness that is at issue here. Your assistant Prosecutor Ms. Ryan was very courageous and honest to a fault in my view.

The above is an outline of the facts revealed to date for your investigation and requested action. It is time to address these serious issues and take the action necessary to protect all of us from such wrongful behavior.

I look forward as does my client to your action and we will cooperate fully in any way asked of us as citizens. Thank you.

Thomas Kizer, Jr.  
Attorney

cc: Lt. Twana Powell