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Massachusetts Association of Criminal Defense Lawyers

October 27, 2008

Dear MACDL members:

Generally I try to spread out the President's letters so you do not receive too many and decide to disregard them like so many other "junk" e-mails. Nevertheless it is important I communicate with you on several important issues and upcoming events. In particular, I want to inform you about (1) the plans for the "Celebration of Richie Egbert's Life and Career", and related details, (2) the health status of past MACDL Presidents Elliot Weinstein, and Geoffrey Packard, (3) MACDL positions on important ballot questions in the coming elections, and (4) some news and information regarding MACDL members, including notice of a reduced rate for MACDL members to the upcoming 2008 Criminal Practice Conference at MCLE.

"The Celebration of Richie Egbert's Life and Career" (December 4th, Newton Marriott)

On December 4, 2008, MACDL will be sponsoring an event in loving memory of Richie Egbert at the Newton Marriott. While his untimely death has saddened us all, this will be an opportunity for us to honor Richie and his career. The event will be open to all members of the legal community, including judges, as well as family members, and close friends. Aside from dinner and cocktails, we will hear from some friends and colleagues who will recall some wonderful memories of Richie. Amalia Barreda, award-winning WCVB reporter and wife of Joe Balliro, is preparing a video tribute that promises to be extremely memorable and poignant.

I hope you will all save the date and make sure you attend. We will also be using this opportunity to kick-off a fundraising effort. The MACDL board of directors, in cooperation with MCLE, is hoping to raise enough funds to endow a scholarship fund in Richie's name. The scholarship fund, if fully funded, will permit MACDL to send ten (10) worthy members to MCLE programs per year. To be sure, MACDL was very important to Richie. This scholarship fund will assist us in future membership drives and also assist our members by providing them access to important continuing legal education programs. Any money raised in excess of the necessary amount for the scholarship will go to other worthy charities in Richie's name.

Elliot Weinstein and Geoffrey Packard

By this time, I am sure most of you are probably aware that both MACDL Past Presidents Elliot Weinstein and Geoffrey Packard are suffering from cancer. Elliot has pancreatic cancer, and Judge Packard has lung cancer. Reports are that both are undergoing treatment and that they are extremely optimistic about complete recoveries. They have dedicated themselves to our profession, and both have stepped up to lead us during trying times. Their lives, careers and personal courage in the face of adversity should serve as inspirations to us all. We wish them the best, and hope for speedy recoveries.

Ballot Questions

The MACDL board of directors has reviewed both Questions 1 and 2 on the upcoming ballot. Question 1 calls for the repeal of the state income tax, and Question 2 will effectively decriminalize simple possession of an ounce or less of marijuana.

On *Question 1* it is MACDL's position that its members should vote NO. The devastating cuts to the court system, to CPCS and bar advocate programs will be so profound as to seriously undermine the administration of justice. It will inevitably affect the ability of defendants to receive a fair and timely trial. We therefore ask you to vote NO and encourage your colleagues, family and friends to vote similarly.

While *Question 2* is not nearly as dangerous as Question 1, the Board has supported its passage. The long-term consequence to an individual convicted of simple possession of marijuana is inescapable. Even a CWOFF can result in denial of student loans and will remain on the CORI until the case is actually dismissed. And while a continuance without a finding generally avoids Registry action, if a defendant has the "temerity" to go to trial and is convicted, the full plethora of collateral consequences will be triggered. These may include driver's license suspension, denial of the right to carry a firearm, and CORI exposure.

MACDL has long advocated decriminalization of low level misdemeanors as a means to save the Commonwealth's limited resources. Passage of Question 2 will almost certainly result in substantial savings.

News and Information from MACDL Members

Over the summer MACDL member Stephen Hrones began representing Clark Rockefeller. While most of us found the case extremely interesting, and even entertaining at times, there was one disturbing aspect of the coverage. The Boston Herald, apparently upset that Stephen had granted an exclusive interview to the Globe, published an *ad hominem* attack. The coverage included a front-page photograph of Stephen and raised allegations about BBO complaints and other issues. While reasonable minds may differ as to what extent a lawyer should use the media in a particular case, personal attacks cross the line. After the article, MACDL board member Kevin

Reddington responded with a well-written editorial defending Stephen and questioning the Herald's reporting. As an organization, we continue to support all criminal defense lawyers who are zealously representing their clients. If anyone needs us to speak out on his or her behalf, please contact us.

I also want to let you know that MACDL member Kevin J. Mahoney has published a book entitled, "Relentless Criminal Cross-Examination". The book includes chapters on such topics as informants, eyewitnesses, experts, and sexual assault cases. It is published by James Publishing. See www.jamespublishing.com for more information. We wish Kevin great success with the book.

Of course, I would be remiss if I did not also acknowledge the wonderful Mass Practice Publications of MACDL members Steve Jones and Roger Witkin. Steve's book on Drunk Driving Defenses is outstanding, and Roger's book of Criminal Defense Motions is a fantastic reference when drafting forms. (Frankly, I have used the forms so many times, I have deluded myself into believing I drafted them!).

Upcoming Events:

On November 14th, Jay Carney will once again be chairing the 2008 Criminal Law Conference. This all day event is the quintessential CLE program for criminal law practitioners. I strongly encourage all members to attend all or part of the program. As you should know, we have developed a relationship with MCLE that provides all MACDL members the same reduced rate available to MBA and BBA members.

On November 20th, Lawyer's Weekly will be holding its annual Battle of the Lawyers. Richie Egbert had committed to the event, which would have been worth the price of admission. Since his passing, the event has been re-formatted and will include a special tribute to Richie. Also, Lawyer's Weekly has committed to donating a portion of their proceeds to our charitable endeavors in Richie's name.

As always, feel free to contact me if you have any questions, issues or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy S. Chapman". The signature is fluid and cursive, with the first name "Randy" being the most prominent part.

Randy S. Chapman
President