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February 24, 2024

Sent via Electronic Mail

Dana Poll
Lexi Kakis
Andrea Cipriano
The Justice Show – Seeking Justice for Dawn Pasela

Sent Via Email Only to seekingjusticeshow@gmail.com

RE: Potential False and Defaming Statements About Mark Bennett to Be Made in Seeking Justice YouTube Series on Dawn Pasela Starting February 28, 2024.

Dear Ms. Poll, Ms. Kakis and Ms. Cipriano,

Please be advised that I represent Mark Bennett in his potential claims of defamation and libel against you for all false and defamatory statements made by each and/or all of you in the Seeking Justice Show multi-part weekly YouTube Live investigative series into the claimed “suspicious death of Dawn Pasela,” starting on Wednesday, February 28, 2024, at 7:00 p.m. Since none of you reached out to Mr. Bennett to obtain his response to any false and defamatory allegations, he does not know exactly what you will allege as “facts” in your series. However, based on the summary on your website, the “trailer” you published last month and the fact that your website lists Anthony Viola as the only “guest,” it can be assumed that you will make the same or similar false and defamatory allegations as Ms. Abby Connelly did in her article entitled “She Was Set To Testify In Court Against Her Former Employers, But Then She Was Found Dead In Her Apartment” that was posted to the Chip Chick Website on January 4, 2024, where she seems to have relied solely on Mr. Viola for “facts” and “allegations” in her article.

Based on your biographical information posted on the Seeking Justice website, each of you appears to highly educated and dedicated to uncovering the truth through legitimate journalistic methods, which as you know include multi-source fact checking before publishing information as factual. Unfortunately, this does not seem to be the case in your upcoming Seeking Justice Show series on Dawn Pasela, as a plethora of information exists in public court filings to establish that your statements so far about Mr. Bennett are false, inflammatory, defaming, and libelous.

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Instead of “fully researching” the facts behind the above referenced story, you seemed to have relied primarily on one individual, Anthony “Tony” Viola. Mr. Viola is a convicted felon (*United States v. Anthony Viola*, NDOH Case No. 1:08-CR-506 Doc #: 244 Filed: 04/04/11, - PageID 1874 to 1909), who has been declared a vexatious litigant¹ in the Northern District of Ohio (*Anthony Viola v. Cuyahoga Land Bank, et al.* NDOH Case No. 1:21-cv-01196-PAB Doc #: 32 Filed: 10/28/21 – PageID 415-19), which was affirmed by the Sixth Circuit Court of Appeals (Sixth Circuit Case No. 21-4139, Doc. # 64 Filed: 2/15/2023), the Southern District of Ohio (*Viola v. Yost*, SDOH Case No. 2:21-CV-3088, Filed March 4, 2022), which was affirmed by the Sixth Circuit Court of Appeals (Sixth Circuit Case No. 22-362, Doc. # 40-1 Filed: 6/12/2023), and Cuyahoga County Court of Common Pleas (*Katheryn Clover, et al. v. Anthony Viola*, Case No. CV 22-959454, Filed July 21, 2023) because of his false, meritless, inflammatory and harassing accusations within his numerous filings over a twelve year period.

I have attached each of the cases for your records and review. Please take the time to read these cases in order to satisfy your commitment to fully research and fact check your episodes.

Furthermore, in addition to Judge Barker’s Opinion addressing each of Mr. Viola’s false allegations of prosecutorial misconduct against Mr. Bennett (See, *Anthony Viola v. Cuyahoga Land Bank, et al.* NDOH Case No. 1:21-cv-01196, Doc #: 32, PageID 415-19), Judge Donald Nugent also addressed and refuted each of Viola’s allegations of prosecutorial misconduct in his initial federal case on November 17, 2015. (See, *United States v. Anthony Viola*, NDOH Case No. 1:08-CR-506, Doc. #506, PageID 10721-754.) Judge Nugent also provides an Appendix listing all of Viola’s filings making similar false and meritless allegations that were denied and/or dismissed. (*Id.*, PageID 10755-760.) I have also attached Judge Nugent’s Memorandum Opinion and Order for your records and review.

Move over, Viola’s own earlier filings, which are all publicly filed with the courts so that you could have fully researched, and fact checked them, contradict his current false allegations regarding Dawn Pasela that he met her several times such that they became good friends. Specifically, shortly after Mr. Viola’s acquittal in state court, he filed a

¹ A court declares an individual a “vexatious litigant” after filing so many frivolous, meritless, and harassing pleadings such that the court orders that the individual cannot file any new pleading without prior approval of the court.

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Motion to Reconsider in his original federal case (Case No. 08-CR-506), and one of the Exhibits Viola attached Viola specifically advised the federal court that he **NEVER** met Dawn Pasela. (See, Case No. 1:08-CR-506, Doc. #357-2, PageID 4732-60.) Specifically, Viola stated in his filing:

A meeting was set up for June 4th, 2011 at the Starbucks on Ridge Road off I 480 but Ms. Pasela called the Defendant (Viola) and stated that she was afraid to come forward and could not assist at the time, as she was seeking new employment.

The Defendant (Viola) related this information to Mr. Kevin Spellacy and This Most Honorable Court provided Mr. Spellacy with an investigative budget. Mr. Spellacy then retained former FBI Agent Robert Frederick to further investigate this matter. However, *despite several attempts, Ms. Pasela did not want to provide the Defense with more specific details about the information in question.*

(*Id.*, PageID 4732)(emphasis added.)

Viola filed that Motion for Reconsideration on January 3, 2012. On May 16, 2012, Viola filed a Rule 33 Motion for New Trial and again does not state that he met with Ms. Pasela, let alone several times. (See, Case No. 1:08-CR-506, Doc. # 380, PageID 5221-222.) Instead, Viola only claims he spoke with Ms. Pasela during the trial, which the attached transcript of Judge Gaul's remark as to Ms. Pasela's passing contradict, and nowhere does Viola state that with specificity the information he now claims Ms. Pasela provided him prior to his state court trial but asserts that whatever this information was "exculpatory" and would have exonerated him. One would assume Mr. Viola would want to list in very extensive detail what this information consisted of. A copy of Viola's Motion is attached hereto.

Furthermore, Mr. Viola does not reference Mr. Bennett in any way because Mr. Bennett was unaware of anything related to Ms. Pasela testifying in the state court trial, let alone "threatened" in any way with federal prosecution if she were to testify.

Then, two years later on March 10, 2014, Mr. Viola filed another Rule 33 Motion for New Trial and claimed that Ms. Pasela "befriended me, had cocktails with me, attended

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defense fundraisers, established social media contacts, sent text messages, e mailed me and called me,” citing back to his 2012 Motion for New Trial “Doc #357, 2-7.” (See, Case No. 1:08-CR-506, Doc. #434, PageID 9112-223.) Obviously, Mr. Viola made none of these assertions in the 2012 Motion for New Trial, which by his own filing(s) all happened, and he had knowledge of *prior* to the start of his state trial and, if true, he surely would have introduced that information during his state court trial or at least in his 2012 Motion for New Trial. Would that not be a “fact” you would want to have checked?

In addition, the 2014 Motion again does not mention Mr. Bennett in any way. Instead, Viola points the finger at the Cuyahoga County prosecutor. I have attached the 2014 Motion for New Trial for your record and review as well.

In addition to Viola’s own motions contradicting the extent of his contact with Ms. Pasela with obviously the 2012 Motion being more reliable and logically honest, Viola’s 2014 Motion attached the state court trial transcript of Judge Daniel Gaul putting on the record that he had just learned of the tragic death of Ms. Pasela and that he had a brief telephone conversation with her the Friday before. (See, Doc. # 434-9, PageID 9228-231.) Contrary to Viola’s assertion in his 2012 Motion, Judge Gaul stated on the record that only his Honor had a “brief” conversation with Ms. Pasela, and that she had advised that if she were to appear for the state court trial, she would exercise her Fifth Amendment Right not to testify. In addition, this trial transcript contradicts Viola’s assertion over the years that Ms. Pasela was found dead just *before* she was set to testify in the state court case. Instead, the FACTS show that Judge Gaul issued the bench arrest warrant for Ms. Pasela for failing to appear to testify on Wednesday, April 18, 2012. (See, Doc. #434-9, PageID 9233.) Judge Gaul then stated on the record that Ms. Pasela called the court and he spoke with her on Friday, April 20, 2012. (See, Doc. #434-9, PageID 9231.) Finally, Judge Gaul stated this fact on the record on Thursday, April 26, 2012, *over a week after she was scheduled to testify*. (See, Doc. #434-9, PageID 9230)(emphasis added.)

This also contradicts Mr. Viola’s assertion that Ms. Pasela wanted to testify in his defense and that she passed/was found dead (or in his more inflammatory allegations was murdered) the day she was scheduled to testify. Instead, it was over a week later. I have attached Viola’s 2014 Motion for New Trial and Attachment VIII for your records and review in order to fact check accordingly.

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Turning to Mr. Viola's continued allegations, which Ms. Connolly also asserted in her article entitled "She Was Set To Testify In Court Against Her Former Employers, But Then She Was Found Dead In Her Apartment" that was posted to the Chip Chick Website on January 4, 2024, the following false and/or defamatory allegations that are not supported in anyway by the facts and/or public filings were made about Mr. Bennett and would put you on notice not to make the same false, libelous allegations:

- (1) Mr. Bennett did not hire, supervise, or terminate Ms. Pasela. The Cuyahoga County Mortgage Fraud Task Force was organized by the Cuyahoga County Prosecutor's Office with funding from the Attorney General of Ohio. As the United States Attorney's Office representative, Mr. Bennett simply attended the monthly meetings with other federal law enforcement agencies to deconflict the federal prosecution cases against the state prosecution cases. Viola has been advised as such by APA Dan Prosecutor in open court in a hearing in January of 2022 in the Southern District Courthouse in Columbus in *Viola v. Yost* (cited above). In his testimony in front of Mr. Viola, APA Kasaris stated on the record, in front of Mr. Viola and Judge Marbly, that Mr. Bennett had absolutely nothing to do with Dawn Pasela.
- (2) Mr. Bennett did not make a "mistake" in Mr. Viola's federal case and/or trial. Please refer to the cases referenced above and attached hereto in which all of Mr. Viola's alleged "mistakes" and/or prosecutorial misconduct were addressed and dismissed as frivolous and meritless.
- (3) Mr. Bennett had no involvement in Ms. Pasela volunteering to attend a public meeting organized by Mr. Viola to raise funds for his defense. Mr. Bennett was not even aware Ms. Pasela had attended the one meeting and wore a recording device until close to the start of the federal trial where the prosecution was required to turn over any and all records of statements made by the defendants. Mr. Viola is aware of this fact as well. APA Kasaris stated in the same January of 2022 hearing in open court, on the record, and in front of Mr. Viola that Mr. Bennett had nothing to do with Ms. Pasela's venture into Mr. Viola's fundraiser.

Instead, as part of the trial preparation, the FBI Agent assigned to the federal trial learned of the one recording from one of the agents working on the state prosecution case. Mr. Bennett immediately instructed the FBI agent to obtain a copy of the one

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recording and listen to the recording to determine if it needed to be produced. The FBI Agent advised Mr. Bennett that the sound quality of the record was so poor it was not audible. Mr. Bennett advised the Agent to make copies of the one recording anyway and provide it to all defense counsel. Mr. Bennett never listened to the one recording to this day.

- (4) It is Mr. Bennett's understanding from the County Prosecutor's Office and public filings that Ms. Pasela was terminated by the Mortgage Fraud Task Force supervising Sheriff's Deputy because she appeared impaired in the office and refused to take a substance test.
- (5) Mr. Bennett never "threatened" Ms. Pasela regarding the possibility of testifying in the state trial. Again, Mr. Bennett had no knowledge that Ms. Pasela had been subpoenaed by Mr. Viola to testify in the state trial, that Ms. Pasela allegedly signed a confidential agreement with the Attorney General of Ohio's Organized Crime Investigations Commission, and/or that Ms. Pasela allegedly spoke with someone with the Attorney General's Office about possible violation of the confidentiality agreement if she testified. Mr. Bennett only learned of the allegations until well after the conclusion of the state trial.
- (6) As demonstrated by the public court filings discussed above and attached hereto, Ms. Pasela was not supposed to testify on the day she was found dead from an alcohol overdose, but, instead, was subpoenaed by Mr. Viola to testify on April 18, 2012, and did not appear. And, that she called Judge Gaul on April 20, 2012 saying if she did appear she would exercise her Fifth Amendment Right not to testify, and that her body was found over a week later by the Parma Police during a welfare check that was requested by her parents, similar to the one the parents requested a few weeks earlier. And, again, Mr. Bennett had no knowledge of any of this contemporaneously to the events happening. Instead, Mr. Bennett only became aware of these events months later based on Mr. Viola's *pro se* filings.

As mentioned initially, Mr. Bennett was very disappointed to read the false and defamatory allegations against him on your website and stated in your initial YouTube post. However, now that you have been put on notice and provided with the actual facts regarding the tragic passing of Ms. Pasela, including the *pro se* filings by Mr. Viola back in 2012 and 2014 that directly contradict his current inflammatory and defaming

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allegations, Mr. Bennett expects that you will not air any episode that makes any of the false and libelous allegations discussed above and will post on your website a retraction of the false statement contained on the website with a public apology to Mr. Bennett.

Mr. Bennett is willing to give you the benefit of the doubt that you simply relied on Mr. Viola, and did not fact check the information he provided, if you are willing to resolve this matter as outlined above.

If you are not agreeable to the above correction and resolution of these issues, please advise accordingly as well. If I do not hear from you or your representative by the end of business on Tuesday, February 27, 2024, I will assume that you are not willing to resolve this matter pre-litigation and will proceed accordingly.

Please allow this correspondence to serve as notice for all of you and your organization to retain any and all communications to, from, and/or about Anthony Viola and/or anyone you spoke to in preparation of your YouTube series regarding Ms. Pasela, including any and all correspondence, emails, text messages, direct social media messages, and/or voicemails and all of each of your notes and/or voice recordings of any interviews with Anthony Viola and/or anyone you interviewed in preparation of the article in question, as well as any and all correspondence, emails, text messages, direct social media messages, and/or voicemails between any of you.

I look forward to hearing from you and/or your counsel shortly.

Regards,

MICHAEL P. HARVEY, CO., L.P.A.

/s/Michael P. Harvey

Michael P. Harvey, Esq.

MPH/map

Enclosures (Via Dropbox)