

November 4, 2007

**FROM: Edmund B. Heimlich,**  
**As the Public (one of the people of Texas), Texas & US Citizen**  
1111 Blalock Road, # 251  
Houston, Texas 77055  
PH: 713-932-0137; FAX: 1-877-210-5838  
email: [ed44@sbcglobal.net](mailto:ed44@sbcglobal.net)

**TO: Mr. Greg Cox**  
**Public Integrity Unit**  
**Office of District Attorney, Travis County, Texas**  
205 West 9<sup>th</sup> Street, Suite 400  
Austin, Texas 78701  
PH: (512) 854-9530 / FX: (512) 854-4810  
E: [greg.cox@co.travis.tx.us](mailto:greg.cox@co.travis.tx.us)

**RE: Criminal Conduct of Cynthia Alexander, Asst. Attorney General,  
And those Complicit**

**Dear Mr. Cox**

**Please provide me with the name and contact information of the investigator and the prosecutor, you have assigned to this case. Please also give me a case number. The following list provides contact information for your investigation.**

Cynthia Alexander, Asst. Attorney General assigned to the civil case  
Ph: 512-463-2080 / Fax: 512-495-9139 / E: [Cynthia.alexander@oag.state.tx.us](mailto:Cynthia.alexander@oag.state.tx.us)

Karen Matlock, her immediate supervising lawyer.  
Ph: 512-463-2080 / Fax: 512-495-9139 / E: [Karen.matlock@oag.state.tx.us](mailto:Karen.matlock@oag.state.tx.us)

David Talbot, her supervising lawyer and Chief of the Division in which she is employed.  
Ph: 512-463-2080 / Fax: 512-495-9139 / E: [David.Talbot@oag.state.tx.us](mailto:David.Talbot@oag.state.tx.us)

Kent Sullivan, the First Attorney General of the Office of the Attorney General.  
Ph: 512-936-1414 / Fax: 512-936-0545 / E: [kent.sullivan@oag.state.tx.us](mailto:kent.sullivan@oag.state.tx.us)

Greg Abbott, Attorney General  
Ph: 512-936-1414 / Fax: 512-936-0545; E: [greg.abbott@oag.state.tx.us](mailto:greg.abbott@oag.state.tx.us)

Henry De La Garza, Ethics Advisor to the Attorney General, and his employees.  
PH: 512-463-2004 / Fax: 512-472-3855 / E: [henry.delagarza@oag.state.tx.us](mailto:henry.delagarza@oag.state.tx.us)

It is a fact that Cynthia Alexander has violated the penal laws of our State of Texas. This is not subject to reasonable dispute. The fact evidence is public record. The

foregoing have been provided with the fact evidence, and the penal law that applies to the facts. They have, to date, refused their legal duty as supervising lawyers and, instead, become complicit in the crime.

### **The Charge**

An Attorney, employed as a Public Servant (“public servant lawyer”) is subject to criminal prosecution for violating the Texas Disciplinary Rules of Professional Conduct (“TDRPC”). The TDRPC is not just a suggestion of ethical conduct. It is statutory law by direction of our Legislators to our Judicial Division. Our Texas Supreme Court refers to it as “law governing the conduct of attorneys”. Clearly, it is “***law relating to the public servant’s office or employment***” if a public servant is an Attorney. Violating the Law governing the conduct of Attorneys employed in State Government is a criminal offense pursuant to §39.02 of the Texas Penal Code:

#### **§ 39.02. ABUSE OF OFFICIAL CAPACITY.**

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

**(1) violates a law relating to the public servant's office or employment;**

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

#### **§ 81.072. GENERAL DISCIPLINARY AND DISABILITY PROCEDURES.**

(d) Each attorney is subject to the Texas Rules of Disciplinary Procedure and the Texas Disciplinary Rules of Professional Conduct.

Cynthia Alexander’s violations of law relating to her public servant office, as an Attorney, and pursuant to her employment in our Office of the Attorney General, as a lawyer employed as a public servant, include, but are not limited to, the following:

### **Texas Disciplinary Rules of Professional Conduct: III. ADVOCATE**

#### **Rule 3.01 Meritorious Claims and Contentions**

A lawyer **shall not** bring or **defend** a proceeding, **or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous.**

Cynthia Alexander’s assertion in her brief of Public Record, that my Innocence is not Actual is frivolous, without grounds, and solely for the purpose of increasing the costs and burdens of the case on me, and on her client, the government of our State of Texas. The appeal of the Final Judgment is unreasonable, and solely to delay the resolution of the matter between me and the government of my State.

### **Texas Disciplinary Rules of Professional Conduct:**

#### **Rule 3.02 Minimizing the Burdens and Delays of Litigation**

**In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.**

As an Attorney compensated by the taxpayers for full time litigation in the area of practice of cases similar to the litigation between me and the government of my State; Cynthia Alexander knows the legal definition of Actual Innocence. She cannot claim she did not act “knowingly” when disputing my Actual Innocence. **She has a Legal Duty to know the Law.** Ignorance of the Law is not an excuse available to her.

The vital facts establishing my Actual Innocence, necessary to establish my claim in litigation for compensation for Wrongful Imprisonment is of Public Record known to her. Also known to her is the adjudication of these Facts to Finality and Conclusion. The vital fact and law on the issue of my Actual Innocence are not subject to further judicial review. My entitlement to compensation is not subject to reasonable dispute by one with a duty to know the facts. She has a Legal Duty to know the Facts. She cannot claim lack of knowledge as a defense to prosecution.

She has knowingly violated the Law of the Case, and she continues to do so with intent to harm or defraud me and the people of Texas.

Her position refusing to negotiate and settle, or make partial payment, is not only frivolous, groundless, and without merit, in is unreasonable and illegal. So too is her, and her supervising lawyers, position of refusing to perform their supervisory duty that, pursuant to the Law governing the Conduct of Attorneys, makes them culpable and reveals intentional, knowing, complicity in the Obstruct of Justice violating the Law, known as §3.02, of the Disciplinary Rules of Professional Conduct, and, therefore, violating §39.02 of the Texas Penal Code.

**Texas Disciplinary Rules of Professional Conduct:**

**Rule 3.03 Candor Toward the Tribunal**

**(a) A lawyer shall not knowingly:**

**(1) make a false statement of material fact or law to a tribunal;**

**(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act;**

**(4) fail to disclose to the tribunal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or**

**(5) offer or use evidence that the lawyer knows to be false.**

**(b) If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall [no discretion] make a good faith effort to persuade the client to authorize the lawyer to correct or withdraw the false evidence. If such efforts are unsuccessful, the lawyer shall take reasonable remedial measures, including disclosure of the true facts.**

(c) The duties stated in paragraphs (a) and (b) continue until remedial legal measures are no longer reasonably possible.

The most abhorrent offense was Cynthia Alexander's recent filing to the Court of Appeals in response to my Motion to Dismiss the Appeal of the Appellant, government of our State of Texas. In filing of September 4, 2007, I notified the Court that HB 804, repealing the statutory cap on pending cases brought by judicial process for compensation for Wrongful Imprisonment (like mine, now of Public Record as 03-05-00827-CV), went into effect on September 1, 2007. This eliminated the only issue of the Appellant, State of Texas, that had grounds or merit when the Appeal was initiated over 2 years ago.

In response Cynthia Alexander filed a Letter Brief into the Public Record asserting that I was incorrect. She attached the Enrolled Bill. I informed her it is the Engrossed Bill that was signed and sent her a copy with the Governors signature, and with a request she take the remedial measure of disclosing the true fact to the Court of Appeals. She has, to date, refused to perform this duty imposed by Rule 3.03 mandating Candor towards the Tribunal (Court) and mandating remedial measures including the disclosure of the true fact the statutory cap was repealed.

Even if she does not take remedial measures, she has violated the Law by using as evidence the engrossed version when she knows the enrolled version is what is made law by the signatures of Legislative Officers and our Governor.

Furthermore; I have, for over a year, pleaded with her to correct her assertion of the facts underlying my Actual Innocence, and her false assertion that my Actual Innocence remains questionable, and to remedy her inaccurate, misleading, presentation of the underlying facts of the criminal prosecution I was subjected to. She has refused.

### **Callous Disregard for the Rights of the people of Texas**

In January, February, and March of this year, 2007 I pleaded and begged Cynthia Alexander, and the unit of government in which she is employed, to settle this matter. I advised them that my Mother might die without the medical care she needed. Care that only I could provide if payment, or partial payment, of the compensation due me was made. My pleas were ignored and she died in April of this year.

I have now made Cynthia Alexander, and her supervising lawyers, aware of the additional harm that I am suffering, and that other people of Texas may suffer, if a settlement resolving this matter, or partial payment of the compensation I am entitled to, is not immediately agreed to. See Attached Letter. In violation of Rule 4.03 & 4.04, TDRPC, they have implied they are disinterested. In violation of Rule 5.01, TDRPC her supervising lawyers have knowingly permitted the illegal conduct of Cynthia Alexander.

Delivered via fax, w/ 3<sup>rd</sup> party digital signature, and email

Respectfully, **Ed Heimlich**, one of the people of Texas, Texas & US citizen.

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**Monday, October 29, 2007**

**Edmund B. Heimlich**  
1111 Blalock Road, # 251  
Houston, Texas 77055  
PH: 713-932-0137; FAX: 1-801-720-4343  
email: [ed44@sbcglobal.net](mailto:ed44@sbcglobal.net)

<b>David A. Talbot, Asst. A.G.</b> Chief, Law Enforcement Defense Division PO BOX 12548 / 300 W. 15 <sup>th</sup> Street WM P. Clements Bldg, 7 <sup>th</sup> Floor Austin, TX, 78711-2548	<b>Office of the Attorney General</b> Ph: 512-463-2080 Fax: 512-495-9139 E: <a href="mailto:David.Talbot@oag.state.tx.us">David.Talbot@oag.state.tx.us</a> Bar No. 13198750
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**RE: Request for Partial Payment of Judgment-Debt;  
Cause No. GN100142, now of Record as 03-05-00827-CV**

**Dear Mr. David Talbot, Asst. Attorney General – Division Chief**

**I urge you to agree to a partial payment** of the Final Judgment providing recovery of my property, GN100142, while we wait for the Court of Appeals to rule on the errors an Attorney under your supervision alleges were made by the Court during the Trial to determine a sum certain amount of my damages. My entitlement to compensation is not subject to reasonable dispute. It is an adjudicated fact not subject to further judicial process. Liability of your client is well established, and adjudicated, fact.

The unlawful criminal prosecution I was subjected to impoverished me. My prosecution of my claim for recovery of my property unlawfully taken, damaged, or destroyed by the government of my State, and for compensation for the Wrongful Imprisonment I suffered, impoverished me further.

I am unemployed due to the time and effort required to enforce the Rule of Law in our Land, and for my dedication to my effort to preserve, protect, and defend the Constitution and laws of the United States and of this State, for the benefit of my people, the people of Texas, as well as my own. An additional factor causing prolonged unemployment is the unjust damage to my reputation caused by the ordeal.

**I, and my family; we are suffering from the burden and delay of this litigation.**

- As I advised you early this year; My Mother was in urgent need of medical care. None in my family had the financial resources required to give her this care. As a result she died. This caused emotional distress. Knowing that I might have saved her life if I had had the compensation due me made the emotional distress severe. This ordeal, and time I gave to her care, also hindered my search for employment.

- Now I and my Sister are at risk of losing our inheritance. My Mother left us a house with equity. But none of us have the financial means to maintain the payments on the mortgage. We are at risk of losing the house, and with it our inheritance, to foreclosure. The softening of the real estate market has been well publicized. The house is in need of some improvements to make it appealing to potential buyers, or to put it into rentable condition. None of us have the financial means to pay for the improvements. The risk of this loss is extreme. The probability of loss to foreclosure is likely. There exists a potential harm to me, and to my fellow heirs and their children, from the loss of this inheritance.
- I and my wife have only one car. We cannot afford a second. She is employed. Without a second car it is very difficult for me to look for employment. Without a second car it is very difficult for me to hold employment if I secure it. We need a partial payment of the Final Judgment to address this problem. This lack of employment is causing severe emotional distress for me and my wife.
- I am in urgent need of dental care that I cannot, at this time, afford. The stress of this litigation is causing harm to my health in ways I cannot determine or address without an evaluation by medical professionals whose services are unavailable to me due to a lack of financial resources.
- An agreement for payment of part of the Final Judgment will also relieve your client, the government of our State of Texas, and serve the welfare of our people, both yours and mine – the people of Texas who pay the taxes that support this government and ultimately pay for the litigation and assume the burden of compensation paid by the government for the wrongs of its actors. It will save your client, and the people of Texas, the potential, likely, expense of additional litigation for compensatory and, potential, likely, exemplary damages for what evinces to be either malice, or gross negligence, by a lawyer under your supervision.

As an Attorney and Public Servant you have a legal duty to limit the costs and burdens of litigation on me, as well as on your client. This is pursuant to the laws relating to your office or employment. PLEASE, I beg you, do not be indifferent to my rights, safety, and welfare, or to the same for others, such as my wife, my four (4) Sisters, and my Niece and Nephews and my elderly Father, and the people of Texas. Please do not be indifferent to the potential harm all of us may suffer without a partial payment.

Respectfully delivered this day via fax, copy via postal mail to follow.  
**Ed Heimlich**, on of the people of Texas, Texas & US citizen.

I put § 39.02. ABUSE OF OFFICIAL CAPACITY. And Rule 3.02 of TDRPC in the footnote of this letter.