

# EXHIBIT H

# BLF Bazelon Less & Feldman, P.C.

1515 Market Street, Suite 700, Philadelphia, Pennsylvania 19102-1907, 215.568.1155, 215.568.9319 fax, www.bazelon.com

Richard L. Bazelon  
Jeffrey A. Less  
A. Richard Feldman  
Jerrilyn G. Marston  
Thomas Patrick Kelly  
Jennifer L. Hoagland  
Helen R. Helfetz  
Paul B. Beech  
Noah H. Charlson  
Lisa A. Barton  
E. McCord Clayton

Michael A. Shapiro  
Matthew Skolnik  
Christina M. Regier  
Cary Joshi

Diane R. Beech  
Michael E. B. Harris  
Steven Kudatzky  
Peter F. Matvin  
Of Counsel

Admitted in PA  
Admitted in NJ  
Admitted in NY  
Admitted in DC

New Jersey Office  
6000 Sawmire Drive  
Suite 6301  
Mantoloking  
New Jersey 08053-3944  
856.988.1319  
856.988.0194 fax

February 3, 2009

Richard L. Bazelon  
rbazelon@bazelers.com

Direct Dial: (215) 609-3141  
Direct Fax: (215) 609-3771

## VIA FEDERAL EXPRESS

Deidre Stanley, Esquire  
General Counsel, Thomson Reuters  
3 Times Square  
New York, NY 10036

Re: David Rudovsky and Leonard Sosnov,  
Pennsylvania Practice-Criminal Procedure  
Our File No. 3977/1

Dear Ms. Stanley:

This firm represents David Rudovsky, Esquire and Leonard Sosnov, Esquire, with respect to their claim against Thomson West arising from the publication of the 2009-2009 Pocket Part of their treatise, *Pennsylvania Practice-Criminal Procedure, Law Commentary and Forms*.

### A. HISTORY

David Rudovsky and Leonard Sosnov ("authors") entered into an Agreement with Thomson West ("publisher") in 1987 to write a text on Criminal Procedure in Pennsylvania to be published as part of West's Pennsylvania Practice Series. The authors completed the text and it was first published in 1988. Thereafter, the authors on an annual basis provided a manuscript for pocket part updates and published a second edition in 2001. Following the publication of the second edition, authors continued to write and publish annual pocket parts. (The original edition, second edition, and pocket parts are hereinafter referenced as "the Treatise").

In preparing the pocket parts, the authors read all decisions in Pennsylvania and selected federal appellate courts that were relevant to the Treatise. Each pocket part contained citations and discussions of approximately 100 new cases, and of amendments to the Rules of Criminal Procedure by the Pennsylvania Supreme Court with revision of text and commentary where warranted. To the authors' knowledge,

EXHIBIT

West-13

2/3/09

**BLF**

Deidre Stanley, Esquire  
February 3, 2009  
Page 2

the work they submitted was so well done, it never needed editorial changes with respect to the substance of the revisions.

In 2008, authors and publisher were unable to reach agreement on the financial terms for a new edition or pocket part. Publisher, without additional notice to the authors, decided to publish a pocket part for 2008-2009. This pocket part was published in December, 2008, with the title, listing of authors, and, in smaller print, an additional author identified as "The Publisher's Staff."

The 2008-2009 pocket part was sent to all subscribers of the Treatise under the terms of their agreement with publisher to accept and pay for the pocket part on an annual basis, subject to termination of the agreement. The subscribers are lawyers and others who are involved in criminal justice issues in Pennsylvania (and elsewhere) including, presumably, libraries and courts, who rely on the pocket part to provide them with up-to-date citations and analysis of appellate cases and rule changes in Pennsylvania. In discussions with subscribers, the authors were often advised that lawyers used this book as an essential, *and up to date*, reference for criminal law issues in Pennsylvania.

#### B. THE 2008-2009 POCKET PART

Review of the 2008-2009 pocket part reveals that it is not an update or revision to the treatise, including the 2007-2008 pocket part. To the contrary, it is simply a re-publication of the 2007-2008 pocket part. The 2008-2009 pocket part contains no new cases and no reference or discussion of new developments in criminal law and/or criminal procedure in Pennsylvania. In this regard, there are no cases dated "2008" in the table of cases. Further, all the 2007 cases that are cited appear to have been part of the 2007-2008 pocket part, and there is no subsequent history given for these cases, including action by the Pennsylvania Supreme Court.<sup>1</sup> There does not appear to be any change in the commentary and discussion from the 2007-2008 pocket part, even concerning topics for which there was major court activity between the dates of preparation of the 2007-2008 pocket part and the publication of the 2008-2009 pocket part. In short, it appears that *no changes were made from the pocket part published and distributed in 2007.*

The 2008-2009 pocket part, on the cover page, states that it was prepared by David Rudovsky and Leonard Sosnov and (in substantially smaller print) "The

<sup>1</sup>For example, with respect to the case of *Commonwealth v. Gravelly*, 2007 Pa. Super. 49, 918 A.2d 761 (2007), petition for allowance of appeal was granted by the Pennsylvania Supreme Court on April 2, 2008, and the case remains pending in the Pennsylvania Supreme Court. Review was granted by the Pennsylvania Supreme Court on the very question which is discussed in the commentary, and the commentary relies on the decision by the Superior Court without any reference to the fact that review of that decision has been granted by the Pennsylvania Supreme Court. Similarly, with respect to *In Re: K.A.P.*, 2007 Pa. Super. 22, 916 A.2d 1152 (2007), the 2008-2009 pocket part does not reference the subsequent history in the form of affirmance of the Superior Court decision.

**BLF**

Deidre Stanley, Esquire  
February 3, 2009  
Page 3

Publisher's Staff". As to David Rudovsky and Leonard Sosnov, this representation is clearly false. Moreover, the entire representation that the publication is a "2008-2009 pocket part" is blatantly false. The "2008-2009 pocket part" is not a "pocket part" for 2008-2009, and is not a revision of the Treatise, including the 2007-2008 pocket part. It is simply a re-publication of the 2007-2008 pocket part.

### C. THE CURRENT SITUATION

Thomson West has used the name of David Rudovsky and the name of Leonard Sosnov to promote a publication (the "2008-2009 pocket part") concerning which they played no role. The publication which Thomson West has falsely attributed to David Rudovsky and Leonard Sosnov is worse than unprofessional - it is a sham. Thomson West has not only misappropriated the names of David Rudovsky and Leonard Sosnov, but has also severely damaged their reputations by associating their names with a sham publication.

Thomson West has also perpetrated a fraud on the subscribers to this publication, by falsely representing that (1) David Rudovsky and Leonard Sosnov are responsible for the publication, and (2) that the publication is an update of the treatise authored by David Rudovsky and Leonard Sosnov, including the 2007-2008 pocket part. Thomson West has taken payments from the subscribers based on intentional misrepresentation and false advertising, and has falsely associated David Rudovsky and Leonard Sosnov with these actions.

### D. VIOLATIONS OF LAW BY THOMSON WEST

The actions by Thomson West have substantially damaged the reputations of David Rudovsky and Leonard Sosnov and will inflict further severe damage to their reputations in the absence of prompt remedial action, as set forth herein. The false representations are defamatory. See, e.g., *Walker v. Grand Central Sanitation, Inc.*, 634 A.2d 237, 240 (Pa. Super. 1993). Recovery for damage to reputation does not require proof of pecuniary loss; damages can be inferred from the circulation of a defamatory publication. *Walker, supra* at 251; *Joseph v. Scranton Times, L.P.*, 959 A.2d 322, 344 (Pa. Super. 2008). In addition, the actions by Thomson West constitute misappropriation of the names of David Rudovsky and Leonard Sosnov. See *Fanelle v. LaSack Corp.*, 79 F.Supp. 2d 558, 563-564 (E.D. Pa. 2000).

In addition, the actions by Thomson West violate section 43(a)(1)(B) of the federal Lanham Act, 15 U.S.C. § 1125, on the basis that Thomson West has engaged in false attribution under the false advertising prong of that statute. See *Gilliam v. ABC, Inc.*, 538 F.2d 14, 24-25 (2d Cir. 1976); *Follett v. New Am. Library, Inc.*, 497 F. Supp. 304, 313 (S.D.N.Y. 1980); *McCarthy on Trademarks & Unfair Competition*, §§ 27:77.1, 27:84 (4th ed.). Moreover, this false attribution was intentional and

Deidre Stanley, Esquire

February 3, 2009

Page 4

deliberate, which would allow David Rudovsky and Leonard Sosnov to recover their legal fees in this matter.

There are other legal bases for David Rudovsky and Leonard Sosnov obtaining injunctive relief, damages, and attorneys' fees. The foregoing bases are sufficient for the purposes of this letter and the relief demanded herein. We anticipate setting forth additional bases for relief in the event that it is necessary for David Rudovsky and Leonard Sosnov to seek relief in court.

#### E. DEMAND FOR RELIEF

Based on the foregoing, and without prejudice to the relief which they may seek in the event that they need to take action in court, David Rudovsky and Leonard Sosnov demand that the following relief be promptly provided:

1. A letter by Thomson West to all subscribers of the Treatise in which Thomson West discloses to each subscriber that neither David Rudovsky nor Leonard Sosnov had any role whatsoever in connection with the 2008-2009 pocket part, that the 2008-2009 pocket part contains no substantive additions or revisions to the Treatise (including the 2007-2008 pocket part), and that the Treatise, including all pocket parts, does not reflect changes in the law, court decisions or rule changes, or any other legal developments, concerning criminal procedure and law in Pennsylvania after the date of preparation of the 2007-2008 pocket part. The letter shall contain a complete refund of any money paid by the subscriber for the 2008-2009 pocket part.
2. Thomson West shall not advertise or make any further sales, or use of, the 2008-2009 pocket part.
3. Thomson West shall not advertise, sell or otherwise use the Treatise without prominent disclosure of the fact that it has not been updated with respect to new cases, rules changes, or other legal developments since the date of preparation of the 2007-2008 pocket part.
4. Thomson West shall prominently disclose on Westlaw and all other internet or website communications that the Treatise has not been updated with respect to new cases, rules changes, or other legal developments after the date of preparation of the 2007-2008 pocket part, and any references to updating or pocket parts at a date thereafter shall be deleted.
5. To the extent that Thomson West makes any other use of the Treatise, it shall prominently disclose that the Treatise has not been updated

**BLF**

Deidre Stanley, Esquire

February 3, 2009

Page 5

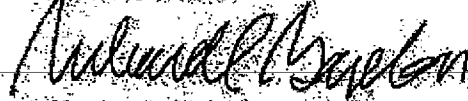
with respect to new cases, rules changes, or other legal developments since the date of preparation of the 2007-2008 pocket part.

6. Thomson West shall not use the name of David Rudovsky nor the name of Leonard Sosnov with respect to any pocket part or other revision of the Treatise in the future.
7. Thomson West shall pay David Rudovsky and Leonard Sosnov the sum of \$75,000 in damages.
8. Thomson West shall pay David Rudovsky and Leonard Sosnov, or other counsel, the sum of \$10,000 in attorneys' fees.

The foregoing demands for relief are predicated on Thomson West promptly accepting these terms, and thereby relieving David Rudovsky and Leonard Sosnov of the necessity of proceeding by court action.

In the event that this matter is not resolved in the next two weeks, or by February 17, 2009, Mr. Rudovsky and Mr. Sosnov intend to proceed in court and to seek immediate injunctive relief. Please identify the attorneys on whom we should make service if court action is required.

Sincerely yours,



Richard L. Bazelon

RLB/stj

cc: David Rudovsky, Esq.  
Leonard Sosnov, Esq.