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LEONARD GREEN, Clerk

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LEONARD GREEN, Clerk

November 11, 2003

Clerk of the Court  
Sixth Circuit Court of Appeals  
532 Potter Stewart U.S. Courthouse  
100 E. Fifth St.  
Cincinnati, Ohio 45202-3988

**In Re: E. Stephen Dean v. Thomas K. Byerley**  
**Case No. 02-1421**

Dear Clerk:

On October 9, 2003 Appellee filed with this court a Correction of Misstatement of the Record. The filing corrected the undersigned's statements in the brief and at oral argument that Appellee had no role in the admissions process. The filing also characterized Appellee's involvement in the admissions process as "minimal," but did not detail the precise nature of Appellee's involvement in the process.

After further reflection and discovery the undersigned is concerned that the question of what constitutes "minimal" involvement may speak to the ultimate question on appeal - i.e., whether Appellee is a "state actor" under § 1983. The undersigned is also concerned that it is the sole province of this court to determine what constitutes "minimal" conduct, based on the facts, and that it may not be appropriate for the undersigned to proffer a characterization of facts, without fully detailing the facts on which the characterization is based. By copy of this letter to Appellant Stephen Dean, the undersigned thus seeks his consent to filing a further clarification intended to elaborate on Appellee's conduct in the admissions process. Should Appellant not consent, the undersigned will file a motion with this court to file the clarification, to better assist the court in its determination of the nature of the Appellee's involvement.

Sincerely,

Victoria V. Kremser  
Former Counsel for Appellee

VVK/kss

cc: E. Stephen Dean, Appellant  
John R. Oostema - Successor Counsel for Appellee



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