March 14, 2008

Dear Deputy Olson:

I received your letter, hand delivered to my home at 9:00 p.m. on March 10, 2008, which placed me on administrative leave and requested that I submit a letter to you outlining my "ethical concerns" regarding the office. Your letter stated that I am a young attorney, implied that I did not have the work experience necessary to suggest improvements at the office, and contended that I had not raised my concerns about the attorney general's office via the proper channels. You released this letter in its entirety to Minnesota Public Radio, which then posted the letter, which included my home address, on the MPR website. While the timing of this letter and its subsequent release to the press suggest that you may not be interested in a constructive dialogue about the terms and conditions of my employment, I hope that I am wrong, and I write this letter in a good faith attempt to share my concerns about working conditions within the office.

It is true that I am a relatively young attorney. I graduated from Wellesley College in 2002, where I was elected student body president, before moving on to Harvard Law School. At Harvard I was a member of the Legal Aid Bureau, served as an executive editor of the Harvard Journal of Law and Gender, and spent summers working at a law firm, a non-profit policy organization, and two public defender offices. After I graduated from Harvard in 2005, I spent a year serving as a judicial clerk for the chief judge of a federal district court, and then worked for a year at a large Boston law firm. While the recent events at the attorney general's office may be a source of contention, my credentials should not.

I am also proud to be a Minnesotan and a DFLer. I was raised in a labor family and attended Minneapolis Public Schools. Contrary to prior insinuations that my actions are backed by Attorney General Swanson's political rivals, I returned to Minnesota with no knowledge of the political baggage that has apparently accompanied the attorney general and her predecessor over the past several years. I do not believe that this is a partisan issue, and I have spoken out about the office for the simple reason that I believe it is the right thing to do.

When I accepted a position as assistant attorney general in the Complex Litigation division, I was thrilled to be returning home to Minnesota to begin my public interest career. I was eager to use my education and experience to give back to my community, and indeed I took a pay cut of more than 60% to leave the private sector and take a job at the attorney general's office. While at the office I worked on a number of issues, ranging from mortgage foreclosure to health care billing practices, and assisted in a trial involving equity stripping and mortgage fraud. In a letter you wrote to my law school only last month, you noted that "the Office has relied upon [my] research and writing skills to protect the interests of the citizens of this State," and that I had "demonstrated a real commitment to working hard for the citizens of Minnesota."

I am concerned about the things I have witnessed during my time in this office and as you requested, I have outlined these observations and experiences as Attachment A to this letter. You will note that I have indeed previously brought up many of these points to management, and my concerns were met with hostility and disbelief.

I understand that at least 52 attorneys have left the office over the course of the last year, in an office staffed by approximately 126 attorneys. This is a staggering turnover rate, and it is doubtful that a private law firm would survive such attrition. Many have wanted to speak up, but have been afraid to do so. Those who have advocated for unionization after having been at the office for years are told that they have political vendettas or were predisposed to attack your tenure as attorney general; those who are new are told that we have not been at the office long enough to form an opinion, or that our relative youth robs us of the credibility needed to suggest reforms for the office. My colleagues have left in droves, and the public suffers from the loss of these skilled and committed attorneys. I have decided that I cannot stand by silently in the face of all I have experienced during my brief tenure in the office.

At this point, I have gone to you and the attorney general multiple times with my concerns. In 2007, the union organizers submitted to the Bureau of Mediation Services union cards for a majority of attorneys in the office, and asked Attorney General Swanson to recognize the union. Attorney General Swanson refused. In February we asked her to voluntarily recognize the union. She again refused. Attorney General Swanson does not appear to be concerned that over a third of the attorneys have left the office since she took power in 2007, or that the departures show no signs of slowing. There are serious and valid concerns about the office, and placing me on leave does nothing to address them. I request that you allow me to return to work, and suggest that we begin an open and honest dialogue about what can be done to improve the office.

Sincerely,

Amy Lawler

cc: Attorney General Lori Swanson

Enclosures

Attachment A

The November 20 Case Assignment Meeting

After I had been on the job for only a week, on November 20, 2007, I was called into a meeting with Attorney General Swanson, a few other office staffers, and you. The attorney general informed me that she had read newspaper articles about attorneys general in other states filing lawsuits against mortgage foreclosure consultants. She handed me those articles, and told me to find some defendants and file a similar lawsuit the following week. Your March 10 letter placing me on leave falsely states that at that time Attorney General Swanson also provided me copies of consumer complaints and complaints from other states' attorneys general. This is simply untrue. In fact, at the time of the meeting, no one in the room knew of any consumer complaints on the issue. I was instructed to procure copies of the other states' complaints on my own. During the meeting I asked you and the attorney general about how a case could be built so quickly, and you brushed aside my concerns, telling me simply "Don't worry, we'll make it survive a Rule 11." Rule 11, as you know, is the rule of civil procedure allowing for sanctions against attorneys who file frivolous lawsuits. It seemed clear to me from your comment that you understood that it might be difficult to ethically file lawsuits within the proscribed amount of time, and that it was questionable to decide to file a lawsuit before even locating a defendant, but were determined to file them nonetheless.

The Office of Lawyers Professional Responsibility

After the meeting I asked office employees who I should consult with questions about such a potential ethical dilemma. I was told that while in the past the office has had an ethics committee, it had been disbanded under Attorney General Hatch, and had not been reinstated. As of November, the Complex Litigation division was composed entirely of attorneys who had been at the office for less than six months, and none of us, except yourself, had been practicing law for more than a few years. As you were serving as both Deputy and Manager of the Complex Litigation division, and there was no Assistant Manager at the time, I could find no one within the division to whom I could take my concerns and ask for advice. Moreover, the Office of Lawyers Professional Responsibility has informed me that it is unable to give ethical advisory opinions about the AGO to assistant attorneys general because the AGO represents the Office of Lawyers Professional Responsibility. I have also been told that if an assistant attorney general were to report an ethical concern, the Office of Lawyers Professional Responsibility would have to refer the matter to outside special counsel, which a staffer at the Office of Lawyers Professional Responsibility described to me as a "clumsy" process. The Office of Lawyers Professional Responsibility also pointed me to Minnesota Rules of Professional Conduct Rule 5.2(b), which states that "A subordinate lawyer does not violate the [Minnesota] Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty."

Ultimately, we were able to find defendants against whom we could file meritorious lawsuits on the mortgage foreclosure issue, which we did in early December. I was lucky to avoid a potential ethical dilemma, but that does not change the fact that the process itself puts attorneys in an untenable situation: if they are lucky and are able to file a

meritorious claim they will avoid an ethical dilemma, but if they are unlucky they will be forced to make a terribly difficult choice. Attorneys who are uncomfortable with the process, or who do not think they can file a meritorious lawsuit, cannot turn to an office ethics committee. They cannot turn to the Office of Lawyers Professional Responsibility for an advisory opinion, and if they were to file a complaint with the Office of Lawyers Professional Responsibility, they would trigger this "clumsy" and undefined process of referral to outside special counsel. This letter is my fourth attempt to bring your attention to this concern, and thus far you have been unwilling to engage in any type of dialogue about how to resolve such situations.

Internal Channels

The first time I broached the issue, in that November 20 meeting, you brushed aside my concern by telling me that we would make the lawsuits "survive a Rule 11." The second time I raised the issue was in a meeting on February 20, 2008, when you asked me for an example of a time when an attorney did not feel they could speak up to their manager without fear of retribution. I described this November case assignment meeting, and reminded you of how you had ignored my concern by telling me that you would make my complaints survive a Rule 11. At the February 20 meeting, you again brushed aside my concern, stating that this was simply a "misunderstanding."

On March 3, 2008, you came into my office and told me that in light of my concern, my entire caseload was being transferred to another attorney. I emailed you, reiterating that the issue was not that I filed frivolous lawsuits, but rather that the process I have described above is troubling, as attorneys within the office have no outlet through which they can raise ethical concerns. You ignored this email, which was my third attempt to bring your attention to the situation. I am attaching this email as Attachment B. I was subsequently assigned a number of projects that seemed punitive in nature, including an "emergency" one-day project that required me to summarize 50 years' worth of airline merger history by 5:00 p.m.

You have been quoted in the press as saying that I was put on leave because I did not follow the proper channels in reporting my "ethical concerns." Your statement ignores the point that I have repeatedly raised with you: there are currently no channels in the office by which an attorney can raise concerns, ethical or otherwise, about issues they encounter on the job. My numerous attempts to raise this issue internally, through the proper "channels," were met with silence and retribution.

All of this is, of course, a red herring that arose in the context of the union organizing effort at the office. The issue is not, and has never been, about my concern over how cases are selected at the office, but rather about ensuring that professional staffers in the office can do their jobs and serve the people of Minnesota in a healthy and productive workplace. It appears that I have been singled out for attention because of my active and open role in the union organizing effort, which I describe further below.

An overt anti-union campaign has occurred under your and Attorney General Swanson's watch.

During my first day at the office I was warned by my colleagues that I would soon be receiving a call from Chuck Roehrdanz, an attorney in the Medicaid Fraud division. I was told that Chuck would take me out to coffee or lunch, and would ask me about my opinion on unionizing the office. My colleagues cautioned that while Chuck was a nice guy, they suspected that Chuck reported directly to Attorney General Swanson, and suggested that I should say that I did not support the organizing effort.

My colleagues warned me about things that indicate a less than functional work environment. During my first day on the job my colleagues warned me that unions were a hot-button issue in the office, and told me about two anonymous handouts that they'd received in their office mail boxes the week before. One of these handouts seemed to accuse Matt Entenza, who I learned that day had previously been a candidate for attorney general, of orchestrating the organizing effort. My colleagues told me that the day this handout appeared in their boxes, Chuck called a social committee meeting, bought everyone lunch, and outlined the reasons why unionization was a bad idea and why Entenza was probably behind the effort. My colleagues warned me that my computer and phone were probably being monitored, and that I should be careful about who I talked to about the union issue, since they believed that various people in the office would report overheard conversations to you or to Swanson. My colleagues indicated that they feared that they would be fired if they ever showed any ideological opposition to Attorney General Swanson, particularly on the union issue.

The call from Chuck came on Monday, November 19, when he invited me to join him for a "social committee" coffee the following day. Chuck told me that the social committee consisted entirely of "Lori's hires," and met about once every three weeks. Chuck took another attorney and me out to coffee on the morning of November 20, and immediately after shaking my hand and introducing himself, began to lecture me on the dangers of unions. Chuck bought our coffee, and told me that unions had attempted to take down Rachel Paulose and Amy Klobuchar because they were strong women leaders, and how he feared the same thing would happen to Lori Swanson. Chuck was adamant that "Lori's hires" did not need union protection because we were smart, enthusiastic, and hardworking, and that unions would only benefit older attorneys who had been at the office for some time and attorneys who did not want to work hard. I purposely remained ambiguous and noncommittal in my responses to Chuck, but I was deeply disturbed by his comments. It was especially difficult to go straight from coffee with Chuck to the November 20 case meeting with the attorney general, which I described above.

The next day, on Wednesday, November 21, I went to another social committee lunch with Chuck and three other young attorneys. At the end of the lunch, which Chuck paid for, Chuck again launched into a discussion of unionization in the office. I finally asked him if it would not be better simply to allow a vote on the matter to put it to rest. He did not have a response.

The Anti-Union Petition

On December 27, 2007, Chuck visited our floor again, this time with a petition in hand. Chuck told me that he was circulating a petition of support for the attorney general, and that he would be giving it to her after he had circulated it to all of the attorneys in the office. He asked me to sign a petition with an overtly anti-union message, which decried the union's tactics, praised Swanson's performance as attorney general, and indicated that the union did not speak for us. Colleagues indicated to me that they felt compelled to sign the petition, because Chuck had told them that the attorney general would not only see who had signed it, but might also release the petition to the press. They believed they would be fired if they did not sign.

I did not sign the petition.

On January 18, 2008, all of the attorneys in my division who had signed Chuck's petition received an anonymous anti-union mailing in their office boxes. I was the only attorney on my floor not to receive one. The mailing condemned the union organizing effort for "targeting" attorneys.

During December and January, virtually all of the attorneys in the office were asked to sign the petition, although at some point the petition was rewritten to be worded as a declaration of support for Swanson, and the overt anti-union message was removed. At least one attorney was asked to sign the petition on his second day in the office. Chuck indicated that other attorneys, including Bill Klumpp, were assisting him. Some division managers said that they had been approached by attorneys in the office, including Hollice Allen, and were asked to sign the petition as well. These petitions circulated in the office for approximately one month. It is unlikely that either you or the attorney general were unaware of the widespread circulation of the petition by multiple attorneys in the office. It is especially unlikely given the close relationship between the attorney general and Chuck Roehrdanz; the two have attended multiple "social committee" lunches together, and Chuck has performed tasks that seem to fall outside the scope of his duties as a Medicaid Fraud prosecutor, including driving to Aitkin to pick up a consumer to stand by the attorney general during a February 7, 2008, press conference. I understand that attorneys in the Medicaid Fraud division are paid through an arrangement with the federal government that strictly limits the activities in which they can engage, and that circulating anti-union petitions and acting as a chauffeur for press conference attendees may fall outside the scope of the duties permitted by that funding arrangement.

Termination of Investigator

On January 3, 2008, I learned that an investigator who had been with the office for over 23 years had been abruptly terminated the day before. She was told that her position had been "eliminated," and was immediately escorted out of the building. This investigator was active in the union organizing effort, and had been a mentor to me during my time at the office. She was a hard worker, a source of knowledge for all of the young attorneys in the division, and a good person. You did not announce the unfortunate job "elimination" of the seasoned veteran, so the next day we were forced to whisper to one another to piece together what had happened.

On January 24, 2008, I was sitting in my office with another attorney, who was close to tears and was worried that she would be fired. Your secretary, Angela Brindamour, came into my office, closed the door, and attempted to reassure the attorney that her job was safe. The attorney stated that she had seen two people fired during her time at the office, and she thought that she would be next. Brindamour then told the attorney not to worry; Brindamour explained that she knew what had happened to the investigator, and that the attorney's situation was different. The attorney then exclaimed, "I know, she got fired for union sh*t!" Brindamour confirmed, "Yes, she did," and assured that attorney that the investigator was a different issue, and the attorney did not need to worry.

This was a turning point for me. I did not feel that I could morally or ethically stand by and do nothing in the face of the investigator's termination. No one should ever fear that they could be terminated for their sincere efforts to make the office a better place.

The February 13, 2008 Letter

On February 13, 2008, Susan Damon, Daniel Goldberg, and I sent a letter to Attorney General Swanson asking her to voluntarily recognize a union in the office. I am attaching this letter as Attachment C. In this letter we outlined our concerns about the extraordinary turnover in the office during the past year, as well as the working conditions that contributed to the turnover. The letter was mailed to Attorney General Swanson on February 13, and a copy was hand-delivered to her office on February 14. The letter was not immediately publicized elsewhere.

The "Social Committee" Lunch of February 15, 2008

Chuck Roehrdanz had previously scheduled a social committee lunch for Friday, February 15. I emailed him the morning of February 15 and asked him if I could attend; he told me that the restaurant was already setting up chairs, and that it was therefore too late for me to RSVP. I called the restaurant, which assured me it had plenty of chairs, and joined the social committee for lunch. Chuck Roerhdanz's jaw dropped when he saw me, but he did not prevent me from attending. The attorney general, who appeared to be in perfect health, joined us and paid for all of our lunches. She did not look at me for the entirety of the lunch. At the end of the day on Friday, after Attorney General Swanson had two full business days to review our letter, it was posted on our blog, agunion.blogspot.com, so that other attorneys in the office could read it over the weekend and know what had transpired.

The Meeting of February 19, 2008

On the morning of Tuesday, February 19, the attorney general sent an email to the entire office berating the three of us who had sent the letter asking her to recognize the union. She indicated that she had not received the letter, which was both mailed and hand-delivered to her office at the State Capitol, because she was out sick with the flu. She did not acknowledge her presence at the social committee lunch, which would appear to contradict her claims of poor health. I am attaching her email as Attachment D.

The attorney general wrote that our letter "undermine[d] the work of this office" and was "embarrassing to the institution of the office." The letter stated that the attorney general would have deputies meet with the three letter signers, and that she would also take measures to get her own "sense of the staff." That morning you, Solicitor General Al Gilbert, and retired Judge Larry Cohen met with Daniel Goldberg and me. You and Gilbert questioned Goldberg and me for approximately one hour, and particularly wanted to know why a union was necessary, since the attorney general has held "quality circle" meetings at which attorneys are allowed to voice their concerns. At this meeting I raised the ethical concern I described above. At the meeting you gave no indication that you wanted to work with us to address any of the concerns we had about the office.

Later that afternoon I learned that my Complex Litigation colleagues were being summoned to "quality circle" meetings the next morning. What we pieced together only later was that the vast majority of attorneys summoned to these meetings were signatories of Chuck Roehrdanz's anti-union petitions.

The "Vote" of February 20, 2008

The three letter signers were summoned to your office at 8:30 the next morning, and told that there was going to be a "vote" so that the attorney general could get a sense of the staff's opinion on the union issue. We pointed out that we had already submitted union cards for a majority of attorneys in the office, and asked why that was not sufficient. You said that you did not know, but that the attorney general had decided there was going to be a vote, and you were going to follow the process she had chosen.

While the three of us were meeting in your office, the attorney general sent a message to the office stating that she had brought in two retired judges, Miles Lord and Jonathan Lebedoff, "to conduct an informal advisory on the issue." The attorney general's email indicated that the judges would visit staff attorneys during the day to help the attorney general "get a sense of the staff," and stated that the judges would advise the attorney general of their opinion that afternoon. I am attaching this email as Attachment E.

During this 8:30 meeting you told the three letter signers that you, Al Gilbert, Judge Lord, Judge Lebedoff, an assistant attorney general from the Complex Litigation division, and a mediator in the office, would be going door-to-door and asking people to fill out a ballot while you watched. The ballot read as follows:

> A February 13, 2008 letter to Attorney General Swanson states that three attorneys represent a union organizing committee that speaks for the staff lawyers in the Attorney General's Office.
>
> The union organizing committee referenced in the above letter speaks on my behalf.
>
> The union organizing committee referenced in the above letter does not speak on my behalf.

This ballot was misleading. The three of us have never purported to "speak" for the staff. The ballot carefully skirted the unlawful question of whether or not the staff supported a union by asking if the union organizing committee "spoke" for attorneys. We argued that the process was coercive, that the balloting process did not guarantee anonymity, and that the judges invited to observe the proceedings were not neutral third parties. We suggested alternatives to allow for a more neutral and confidential polling process. You dismissed our concerns and suggestions. We asked for permission to send an email to the staff in which we would explain that we neither endorsed the voting process nor participated in its development. You refused our request. You stated that Daniel Goldberg could accompany you during the voting process, and set out.

It became clear almost immediately that this vote would take place in a kangaroo court. After visiting only two attorneys' offices, you declared that the voting process was moving too slowly, and noted that Attorney General Swanson's 8:30 "quality circle" meeting was about to let out. You suggested that the quality circle attendees could vote as soon as their meeting was over.

During that quality circle meeting, the attorney general had essentially worked the room for approximately half an hour, reiterating the embarrassment our letter had caused her, and inviting attorneys to talk about how happy they were in the office. As the attorney general walked out of the room, you walked in, immediately started handing out ballots, and ordered the attendees to fill them out in your presence.

You then visited the conference rooms on a few more floors, where managers were pulling together impromptu small groups to vote, before suggesting that the 9:30 quality circle could vote as a group. This proceeded just as the 8:30 quality circle had.

After you suggested that the attendees of the 10:30 quality circle could vote after their meeting finished, Judge Lebedoff suggested that this was an inefficient use of time, and suggested that the 10:30 quality circle be allowed to vote *before* meeting with the attorney general. This appeared to change the outcome of the vote. The members of the third quality circle listened intently to Daniel Goldberg's disclaimer that the union organizers did not endorse the voting process, and as we later learned during the balloting process, this circle voted differently as well.

The Ballot Count

After this third quality circle voted, I was invited to observe the ballot count with you and the retired judges. A total of 96 of approximately 126 attorneys in the office voted, which obviously means that 30 attorneys did not vote. While a few of these 30 were certainly on vacation or out of the office, a number were simply not invited to vote. In the days that followed the election, as we pieced together who had been invited and who had not, we discovered that those invited to vote at the "quality circles" were overwhelmingly signatories to the anti-union petition, while the attorneys not invited to vote were generally those who refused to sign the anti-union petition. We also learned that a number of petition signatories were also invited out to a lunch with the attorney general and Chuck Roehrdanz that day; the attorneys' lunches were paid for, and after the

lunch they were invited to speak to reporters from Minnesota Lawyer about their positive feelings on the office.

Of those that voted, only 52 stated that the union organizing committee did not speak for them. 30 said that it did, and 14 refused to answer; some of these 14 are on the organizing committee, and many wrote comments on their ballots such as "Refuse – Coercive!"

While we were counting ballots, the judges made a number of comments and observations, despite your frequent admonitions for silence. The judges noted that the top third of the ballot box overwhelmingly voted that the union organizing committee spoke for them. This top third of the ballot box consisted of attendees from the third quality circle – the meeting that the attorney general had not addressed before the vote.

One ballot contained a comment that asked "what about the cards?" Judge Lebedoff read that ballot and said, "I wonder what that means!" It was clear from his comment that you had not informed the retired judges that we had already submitted union cards for a majority of attorneys in the office to the Bureau of Mediation Services. You also apparently failed to inform the judges that the office refused to recognize a union despite this submission.

The bottom two thirds of the ballot box consisted mostly of votes from attorneys who were forced to attend captive audience meetings with Attorney General Swanson immediately prior to voting, and here many more people checked that the union organizing committee did not speak for them. The judges noticed this, and made multiple comments about how groups of people had voted together. Judge Lebedoff commented that he thought the union issue should be mediated, and Judge Lord commented that it should go to arbitration. Judge Lebedoff stated that he hoped that the attorney general and Solicitor General would be able to see the comments that people had written on the ballots. Judge Lord, though, truly proffered the most important question of the day when he asked, "I wonder what the National Labor Relations Board would think of this?"

The day after the vote I sent the attorney general a message, and cc'd you and the solicitor general. I am attaching as Attachment F that email message, which reiterated our concerns with the voting process, and respectfully requested that you meet with us to have a constructive dialogue about the office. You did not respond to this email.

The Admission

Until February, the attorney general had repeatedly refused to acknowledge that a majority of attorneys had signed union cards indicating that they wanted to be represented by a union, and had contended in an interview on MPR in August of 2007 that she would not interfere should the attorneys desire to form a union. On February 21 she sent an email to the office staff which indicated that she had decided not to recognize the attorneys' desire to form a union as early as May of 2007. I am attaching this email as Attachment G. The attorney general did not attempt to explain the discrepancy between her May 2007 decision and her statements during her August 2007 interview.

Ongoing Areas of Concern in the Office

All of this time spent on anti-union coffees, lunches, petitioning, and voting, would have been more wisely spent on addressing attorneys' concerns in the office. Through my work on the union organizing committee I have had the privilege of meeting dozens of current and former staff members of the attorney general's office. I have shared with many of them my concerns about the office, which have ranged from my concern over being told to shelve a meritorious complaint because the affiants would not perform well at a press conference to my concern about having the office press secretary assign and edit my legal work. These staffers have given me advice and insight, and I have been touched by their obvious intelligence, drive, and commitment to public service. Many have shared with me stories about their own terms at the office, and about some of the troubling situations that they faced under Lori Swanson's watch. Some of these employees resigned to avoid doing what was asked of them; no staff members in the state's highest law office should ever be placed in that position. These occurrences rob the office of its moral force, even when the underlying cases are valid and meritorious. These experiences include:

- being hired with the explicit instruction that the position required loyalty to Attorney General Swanson, and that those advocating for the union were not being loyal.
- being ordered to violate a special master's order.
- being instructed by a supervisor to add statements to a consumer's affidavit that the attorney had reason to believe the consumer did not actually say. The attorney refused, and later resigned.
- being ordered to issue a civil investigative demand against a company when the attorney did not have reasonable cause to believe the company had violated the law. The attorney refused, and later resigned.
- being asked by a supervisor to make a post on the Minnesota Lawyer blog, during the workday from office computers, lauding the Swanson administration. On one specific occasion, a post praising the office appeared under an attorney's name during a time when the attorney was physically in a meeting elsewhere, and could not have made such a post. That attorney later resigned.
- being ordered to tell consumers that they were being invited to meet with the attorney general, and being directed not to tell the consumers that the event was also a press conference.
- being told to give an agency client advice that would not have been in the client's best interest and was not legally sound. The attorney refused and later resigned.
- an instance in which a supervisor inserted information into affidavits that was actually false; the assistant attorney general removed these statements, and was then subjected to retaliation.

Attachment B

Lawler, Amy

From: Lawler, Amy
Sent: Monday, March 03, 2008 3:22 PM
To: Olson, Karen
Cc: Richter, Kai
Subject: Case Reassignment

Hi Karen,

You came to my office with Kai Richter at about 11:30 this morning and told me that, in light of the "ethical concerns" I raised about my cases during the meeting you and I attended on the morning of Tuesday, February 19, with Al Gilbert, Danny Goldberg, and Judge Larry Cohen, the nine mortgage foreclosure cases assigned to me were being transferred to Kai.

At that meeting on February 19 you and Al repeatedly asked Danny and me to give you an example of a time that an attorney in the Office wouldn't feel comfortable raising a case management issue with their manager or deputy. I eventually gave the example of the meeting we had with the Attorney General in mid-November, during my first week at the Office. At that meeting the Attorney General assigned cases to Christian Clapp, Ben Feist, and me. At that November meeting the Attorney General told me that she wanted me to draft complaints against mortgage foreclosure consultants, and indicated that she wanted me to identify two or three potential defendants and sue out the cases within the next week or two. Later in the meeting you told me, "Don't worry, we'll make it survive a Rule 11." I shared this story with you, Al, Danny, and Judge Cohen as an example of a time when I did not feel I could share a concern with you, as my manager/deputy; during the meeting in November, I was concerned that we wouldn't be able to find two or three defendants, investigate them, and ethically file complaints in only a week. Ultimately, we were able to procure affidavits from three consumers, and we were able to ethically file the suits. The point of the story was not that I felt we had ultimately broken any ethical rules in filing the suits, but rather that I didn't feel that I could raise my concerns, either in the meeting or during the week that followed, without risking retribution or retaliation. Judge Cohen noted that my story raised a valid point, and you replied that the situation was simply a misunderstanding. You indicated that if an attorney were to raise such a concern with a manager or deputy, the attorney's concerns would be addressed, and the attorney would not need to fear any type of retaliation.

Your actions this morning confirmed that the fear I had in November was valid - as a direct result of raising the issue at the February 19 meeting, all of my cases have been transferred to another attorney. You and the Attorney General have repeatedly complimented me on the work that I have done on the mortgage foreclosure consultant cases, and when you transferred the cases from me this morning, you did not indicate that my work product was in any way a factor in your decision. You stated that my cases were being transferred solely because of the "ethical concerns" I had raised, but did not meet with me to ask me if I have had any ethical concerns beyond the example I raised at the February 19 meeting. I have never had an ethical concern with seven of these mortgage cases, and have no ongoing ethical concern with the other two. Given all of this, I do not agree with your decision to transfer my cases, and I request that I be allowed to continue to work on them.

Thank you,
Amy

Attachment C

February 13, 2008

Dear Attorney General Swanson:

We write on behalf of the union organizing committee in the interest of promoting the best possible workplace, furthering the mission of the Attorney General's Office, and providing the best possible public service. Toward that end, we extend the following requests to you.

First, we ask that without further delay you recognize the will of the staff to be represented by a labor union. There is nothing to stop you from meeting and conferring with us about terms and conditions of employment now, including job stability and security, just cause for discipline and discharge, and our ability to perform our required professional duties free from any undue political influence. We do not need formal certification to sit down and begin to work together to resolve our concerns about our working conditions.

Second, we ask that you work with us to amend the Public Employment Labor Relations Act (PELRA) to unambiguously include the attorneys and other "at will" professional staff of the Minnesota Attorney General's Office (AGO) for purposes of formal certification for collective bargaining.

The union organizing effort is focused on fostering the best possible working conditions for attorneys to do the best possible work on behalf of the citizens of Minnesota. We believe that this goal is best achieved by a stable, experienced, and dedicated work force. It must be emphasized that the organizing effort is entirely driven by attorneys and legal assistants who are or have been on staff at the AGO since your election as Attorney General. It is not supported by any outside political interests, nor is it the product of any political vendetta. It is solely staff-driven, and any allegations to the contrary are inaccurate.

There are currently about 135 at-will attorneys on the AGO staff. Legal professionals in the Hennepin, Ramsey and St. Louis County attorneys' offices, the city attorneys' offices of Minneapolis and St. Paul, and other public law offices are represented for purposes of collective bargaining. Unfortunately, the attorneys at the state's largest public law office remain unrepresented. Staff in the represented offices finds that their represented status allows them to better exercise their professional judgment and to freely raise concerns both with their clients and with their administration. They are able to do the work of the public without the pressures and demands of external political forces creating concerns about their job security.

We believe that a unionized, classified staff would stabilize the AGO, enabling us to focus on providing the best possible legal representation to our state agency clients and, more broadly, to the citizens of Minnesota. The AGO organizing committee contacted

AFSCME for support and guidance to achieve these goals as that union already represents professional employees at other public law offices in Minnesota.

In May of 2007, the AGO organizing committee obtained signed union cards from a strong majority of the attorneys on staff, and you were then asked to voluntarily recognize our will to be represented. You declined to do so. You also rejected our request to meet and confer about the terms and conditions of employment. This was as surprising as it was disappointing because you had pledged to labor organizations that you would support and honor workers' rights as a cornerstone of your tenure as Attorney General.

Since our organizing effort began, we have witnessed a number of conditions at the AGO that are of serious concern, including the abrupt and apparently unwarranted dismissal of employees engaged in the unionizing effort, the anonymous dispersal of anti-union literature in employee mailboxes and offices, and the rapid departure of one-third of the attorneys in the office. New employees reportedly are contacted either before their start date or immediately thereafter, misled about the origins of the organizing effort, and discouraged from signing union cards. In addition, nearly all staff attorneys have recently been approached and asked to sign either an anti-union petition or a declaration of support for you, both of which have been seen as intimidating, coercive and divisive. None of these acts contribute to a productive work environment; instead, they hinder the staff's ability to serve the citizens of Minnesota.

Once again we ask you to recognize the will of your staff to form a union. We invite you to work with us to reach agreement on the terms and conditions of our employment with the AGO. While you can certainly meet and confer with our organization without any legislative change, you can also honor your campaign pledge and be a champion for labor by including as part of your 2008 legislative agenda the amendment of PELRA to expressly provide formal collective bargaining rights for the AGO staff.

We all share the goal of maintaining the highest quality legal talent in the office in order to best serve the citizens and agencies of this great state. The organizing effort can only assist this goal. We ask that you work together with us to achieve it.

We look forward to hearing from you soon in this regard.

Sincerely,

Susan E. Damon Daniel S. Goldberg Amy R. Lawler

Attachment D

Lawler, Amy

From: Lindberg, Debby
Sent: Tuesday, February 19, 2008 9:45 AM
To: 0800-All Staff; 0900-All staff; 1050-All Staff/Library Staff; 1100-All Staff; 1200-All Staff; 1300-All Staff; 1400-All Staff; 1500-All Staff; 1800-All Staff; 1900-All Staff; AG All Managers; AG Deputies; Capitol Staff
Subject: A Message from Attorney General Swanson

Attachments: Document.pdf

Document.pdf
(85 KB)

Dear Colleague:

I was out sick with the flu most of last week, and my mail was piled up. On Friday evening I learned from a friend that three staff attorneys published on the internet a letter addressed to me stating that they represent the staff of this office and want to negotiate a union contract. On Saturday I received a call from a member of the media about the letter. Yesterday, Representative Tom Emmer (R-Delano) distributed their letter on the floor of the House of Representatives, demanding an investigation of the Attorney General's Office.

I attach a copy of the letter. It is disappointing that the letter was distributed to the public and the media before I even got a chance to respond to it. This suggests a communication that is more about a political swipe and less about a good faith attempt to communicate. It does not further the mission of this office to have political debate with staff members who are supposed to represent this office as professionals.

Needless to say, the letter and the manner in which it was distributed undermine the work of this office and are embarrassing to the institution of the office. I strongly disagree with many of the accusations in the letter. I believe the office does very good work and gets great results for the people of Minnesota. I have always respected and tried to honor the work of the professionals on our team. I have had dozens of meetings and have tried hard to communicate with the staff. I have not engaged in political hiring. I believe that the attorneys hired in this office under my tenure are extraordinarily talented. I have never dealt with two of the letter's three signatories on any case since I've been Attorney General, and the third has been on staff less than 90 days.

I have asked two deputies to meet with the three staff members to flesh out the purpose of the letter and whether the three signatories actually represent the rest of the staff. It is neither my intent nor wish to bring embarrassment to this office. I have my own sense of the staff and plan on getting my own additional sense of the staff today.

I have enjoyed the opportunity to work with you in serving our fellow Minnesotans.

Sincerely,

LORI SWANSON
Attorney General

Attachment E

Brindamour, Angela

From: Lindberg, Debby
Sent: Wednesday, February 20, 2008 8:48 AM
To: Brindamour, Angela
Subject: FW: A Message from Attorney General Swanson

From: Lindberg, Debby
Sent: Wednesday, February 20, 2008 8:32 AM
To: 0800-Attorneys; 0900-Attorneys; 1100-Attorneys; 1200-Attorneys; 1300-Attorneys; 1400-Attorneys; 1500-Attorneys; 1800-Attorneys; 1900-Attorneys; AG Deputies; AG All Managers; Litfin, Leanne; Johnson, Gunnar; Gregor, Doug; Henchen, Darryl; O'Hern, Tom; Kuretsky, William
Subject: A Message from Attorney General Swanson

Dear Colleague:

As you know, three staff attorneys sent me a letter stating that they represent the attorneys on staff. Unfortunately, they have declined to indicate how many attorneys they purport to represent.

In an effort to get a sense of the staff, I have asked the Honorable Miles Lord and the Honorable Jonathan Lebedoff to conduct an informal advisory on the issue. Judge Lord was Minnesota Attorney General from 1955-1959. He was appointed by President Kennedy as United States Attorney for Minnesota and by President Johnson to the United States District Court. Judge Lebedoff was appointed a United States Magistrate Judge in 1991. He became Chief Magistrate Judge in 2002. Judge Lebedoff served as a Hennepin County Municipal Judge from 1971-1974 and a state district court judge from 1974-1991.

Judges Lord and Lebedoff will be visiting the staff attorneys today to help me get a sense of the staff. They will advise me of their opinion this afternoon.

Sincerely,

LORI SWANSON
Attorney General

Attachment F

Lawler, Amy

From: Lawler, Amy
Sent: Thursday, February 21, 2008 9:31 AM
To: Lindberg, Debby
Cc: Goldberg, Daniel; Damon, Susan; Gilbert,Al; Olson, Karen
Subject: Message for Attorney General Swanson

Debby:
This is a message for Attorney General Swanson. I am also interoffice mailing a copy.
Thanks,
Amy

Dear Attorney General Swanson:

I respectfully write on behalf of the Minnesota Attorney General's Office union organizing committee, and I am joined in this letter by two other members, Susan Damon and Daniel Goldberg.

When Mr. Goldberg and I met with your Deputy and your Solicitor General two days ago, we repeated our previous written requests, and the earlier request of the BMS, that you meet with us to discuss union representation and related employment conditions. At no time before or during the meeting on Tuesday did your representatives mention the process you pursued the next day (yesterday) without our input.

Starting at approximately 8:30 a.m. yesterday morning, your representatives informed us that you were going to poll employees about about whether the organizing committee's letter sent you you last week spoke for them. Your representatives indicated that this was going to be done through face-to-face office visits by your Deputy, who would direct employees to complete a survey while she waited.

We objected to this process, expressing our concern that it was coercive and lacked any real sense of neutrality. Our first request, to meet and agree to a truly neutral process that would secretly and privately ask attorneys if they wished to be represented by a union, was rejected by your representative. We also asked that the organizing committee be permitted to send out a staff-wide email to the attorneys with a concise explanation of your survey, the overarching process, the employment terms at issue, and that the survey process was devised without any committee input. This request was denied despite your prior public statements about the importance of worker rights and the value of concerted activity. The refusal to allow us to communicate with our coworkers was further mystifying given that your survey is ambiguous about what information it seeks from employees.

Notably, the door-to-door polling by your Deputy has not guaranteed anonymity of employees when responding to your survey. Nor has your subsequent polling approach. Beginning later yesterday morning, you directed small groups of additional employees to attend meetings in a conference room. Under this approach, also presided over by your Deputy, we do not believe that employees could be confident that their responses would be kept confidential. We know from numerous conversations over the past year with our colleagues that confidentiality is a paramount concern.

Your polling of attorneys is especially troubling under the circumstances, including the following: (1) anti-union material already has been distributed in your Office, (2) most new hires are summoned by a selected employee to one-on-one meetings about union representation, and (3) you reportedly have held all-expenses-paid breakfast and lunch meetings in the midst of the organizing effort and your polling process.

In short, we reiterate the prior verbal and written reports made in good faith that your Office apparently has been taking action contrary to the Public Employment Labor Relations Act (PELRA) and possibly other applicable law.

We respectfully request that you meet with us to have a constructive dialogue and reach agreement on the terms and conditions of our employment, including union representation. In the interim and throughout the remainder of your tenure, we ask that your Office refrain from taking any action that is retaliatory or otherwise coercive. We look forward to hearing from you soon and to a productive working relationship going forward.

Sincerely,

Amy Lawler

Attachment G

Lawler, Amy

From: Lindberg, Debby
Sent: Thursday, February 21, 2008 1:01 PM
To: 0800-All Staff; 0900-All staff; 1050-All Staff/Library Staff; 1100-All Staff; 1200-All Staff; 1300-All Staff; 1400-All Staff; 1500-All Staff; 1800-All Staff; 1900-All Staff; AG All Managers; AG Deputies; Capitol Staff; Litfin, Leanne; Johnson, Gunnar; Gregor, Doug; O'Hern, Tom; Kuretsky, William; Henchen, Darryl
Subject: A Message from Attorney General Swanson

Attachments: Document.pdf

Document.pdf
(187 KB)

Dear Colleagues:

Attached for your information please find a response to the letter addressed to me dated February 13, 2008 from three staff attorneys.

Sincerely,

LORI SWANSON
Attorney General

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON
ATTORNEY GENERAL

February 21, 2008

102 STATE CAPITOL
ST. PAUL, MN 55155
TELEPHONE: (651) 296-6196

Daniel S. Goldberg
900 Bremer Tower

Susan E. Damon
1400 Bremer Tower

Amy R. Lawler
1400 Bremer Tower

Dear Dan, Susan, and Amy:

On Tuesday, Deputy Attorney General Karen Olson and Solicitor General Al Gilbert met with Ms. Lawler and Mr. Goldberg. At the meeting, Mr. Goldberg and Ms. Lawler indicated that they published your February 13 letter to me on your blogsite because I had not gotten back to you by 6:00 p.m. on Friday. I reviewed your letter and cannot find a deadline in it.

You indicated that you represent the staff and want a "meet and confer" meeting. Last spring, when this issue first arose, I retained outside counsel to review and advise me as to the law in this area. I was advised not to have such a "meet and confer" meeting, as it affected the rights of all other lawyers in the office. A copy of the opinion is attached. Thereafter, I implemented a series of "quality circle" lunches with the staff, meeting in groups of about ten, to supplement our regular division meetings as a means of direct and informal communication with the staff. I believe I have had about twenty meetings to date. I note that two of you have participated in these meetings. I am told that your blogsite has sharply ridiculed me for having the meetings. I should also note that I find the meetings very constructive and plan to continue them. I am very proud of this Office and the work it does. The "quality circle" lunches give me constructive feedback on how we can make it even better.

During your meeting with the deputies on Tuesday, you declined to describe the breadth of your representation. The deputies did not ask for names, but simply wanted to know approximately what percentage of the staff was represented by your letter. As a result, I wanted to get a better sense of the staff concerning whether the organizing committee described in your letter represented them. To that end, I asked retired United States District Court Chief Judge Miles Lord and retired United States District Court Magistrate Jonathon Lebedoff to assist in getting the views of the staff. The survey undertaken yesterday did not support such a conclusion.

Your personal and public attacks on this Office and the good work we are doing are not constructive in furthering the mission of this Office. The publication of your letter, without

giving me adequate time to respond, created a public spectacle with the media, the legislature, and the public and brought embarrassment to this Office. Your letter proclaimed that you represent the "will" of the staff, and you used this claim to give you the moral authority upon which to launch public criticisms of the Office. It was this action that forced me to immediately get my own sense of the staff.

Finally, the Attorney General serves a unique role as Minnesota's chief legal officer. The law provides that the Attorney General represents his or her fellow citizens in a parens patriae capacity. The law makes it very clear that the Attorney General has a responsibility to the people of Minnesota for deciding and effectuating our State's legal policy. The Attorney General fulfills this duty in part by appointing assistant attorneys to implement these decisions. This has been the law for 150 years.

Sincerely,

LORI SWANSON
Attorney General

Enclosure