



# STATE OF MINNESOTA

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October 19, 2001

The Honorable Mary Kiffmeyer  
Secretary of State  
180 State Office Building  
100 Constitution Avenue  
St. Paul, MN 55155-1299

The Honorable Edward Toussaint  
Chief Judge  
Minnesota Court of Appeals  
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**Re: *Zachman, et al. v. Kiffmeyer, et al.***

Ladies and Gentlemen:

As all of you know, the Zachman litigation involves the legislative and congressional redistricting plans for the State of Minnesota. This litigation inevitably involves political positions taken by litigant parties as they try to get a redistricting plan adopted which is most favorable to a particular political party. In this case the plaintiffs have been described by Ms. Kiffmeyer as representing the "Republican" position. These plaintiffs filed the case against Ms. Kiffmeyer as a defendant in her official capacity as the Minnesota Secretary of State.

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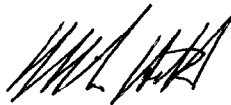
Recently, I became aware that Mr. Kelly, as counsel for the plaintiffs, drafted a letter for Ms. Kiffmeyer's signature which was to instruct me to support certain positions taken by the plaintiffs in this case. Mr. Kelly then gave the letter to the "political" people who brought the lawsuit, who in turn provided the letter to Ms. Kiffmeyer.

Having been chairman of a political party, I am fully aware of the mischief that political operatives can undertake in redistricting litigation. Notwithstanding the potential for such mischief, both this Office and the Secretary of State's Office must act in their official capacity in this litigation. This means that neither Ms. Kiffmeyer nor myself should be representing any particular party with regard to positions that are taken on behalf of their respective offices.

It is appropriate that I should also make it clear that it is the Attorney General that sets the legal policy of the State of Minnesota as it relates to all matters of litigation. The courts have made it clear that the named party to litigation involving the State of Minnesota, such as Ms. Kiffmeyer in this case, does not direct the legal policy and cannot dictate to the Attorney General the legal position to be taken on matters of legal policy. *See Slezak v. Ousdigian*, 260 Minn. 303, 110 N.W.2d 1 (1961); *State ex rel. Peterson v. City of Fraser*; 254 N.W. 776, 191 Minn. 427 (Minn. 1934).

Accordingly, I ask that all of the parties do their best to help the Constitutional officers, including myself, from engaging in the politics of the litigation.

Very truly yours,



MIKE HATCH  
Attorney General  
State of Minnesota