



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

October 25, 2001

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MIKE HATCH
ATTORNEY GENERAL

Timothy D. Kelly
KELLY & BERENS, P.A.
Suite 3720 IDS Center
80 South Eight Street
Mpls., MN 55402

Re: *Susan M. Zachman, et al. v. Mary Kiffmeyer, Secretary of State, et al.*

Dear Tim:

At the hearing yesterday in the above-referenced case, you asked whether you and your clients can meet and confer, on an *ex parte* basis, with Secretary of State Mary Kiffmeyer. You would like her assistance in preparing a redistricting plan.

While in most circumstances the arrangement would be unusual, we agree that you can conduct such meetings with her. Redistricting cases inevitably involve partisan positions by some parties, and your request eliminates concern about attorney client communications or admissibility of adverse party admissions. As we discussed, the Attorney General's Office presents the legal policy in cases involving the State, and in this case this agreement will hopefully resolve concern from Ms. Kiffmeyer that her position will be known.

Accordingly, we do not object to communications between Ms. Kiffmeyer and you regarding any personal or partisan position she may take with respect to redistricting.

Finally, I should point out that I do not consent to any party or attorney in this matter having any contact with Mr. Hatch, or any other employee of the Attorney General's Office, about this proceeding. Of course, the attorneys involved in this case can contact Assistant Attorney General Mark Levinger or me in the normal course of the litigation.

Very truly yours,

ALAN I. GILBERT
Chief Deputy and Solicitor General
(651) 296-7519

cc: Secretary of State Mary Kiffmeyer
Honorable Edward Toussaint, Jr.
Honorable Renee L. Worke
Counsel of Record

Honorable Thomas J. Kalitowski
Honorable Gary J. Pagliaccetti
Honorable Heidi S. Schellhas