May 1, 2004

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KATHLEEN BLATZ, Chief Justice
Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155

RE: NOTICE AS TO COMPLAINT FILED AGAINST MINNESOTA SUPREME COURT JUSTICES (1993)

Dear Chief Justice Blatz:

Attached for your review, file and/or forwarding is copy of the April 29, 2004, complaint filed with the Office of Lawyers Professional Responsibility, as to the actions of Minnesota Supreme Court Justices on August 06, 1993, "individuals admitted or entitled to be admitted to the practice of law in Minnesota," as per provisions of the Minnesota State Constitution. See, BULLOCK vs. STATE OF MINNESOTA, 611 F.2d 258 (8th Cir. 1979).

Thank you in advance for your consideration in this matter.

Respectfully submitted,

John Gregory Lambros

April 29, 2004

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Minnesota Judicial Center
25 Constitution Avenue, Suite 105
St. Paul, Minnesota 55155-1500
Tel. (651) 296-3952
U.S. Certified Mail No. 7003-2260-0000-2456-9606

RE: FILING OF COMPLAINT AGAINST MINNESOTA ATTORNEYS:

a. Alexander Keith, Chief Justice of Minnesota Supreme Court; (August 06, 1993)
b. Rosalie Wahl, Associate Justice of Minnesota Supreme Court; (August 06, 1993)
c. John Simonett, " " " " " " ; "
d. Esther Tomljanovich, " " " " " " ; "
e. Sandra Gardebring, " " " " " " ; "
f. Allan Page, " " " " " " ; "
g. Jean Coyne, " " " " " " ; "

Dear Sir or Ma'am:

On August 06, 1993, the above listed Minnesota Attorneys served as Justices on the Minnesota Supreme Court and decided the legal matter in DZIUBAK vs. MOTT, 503 N.W.2d 771 (Minn.). In DZIUBAK, the Minnesota Supreme Court determined that full-time state public defenders are immune from suit for malpractice. See also, PATTEN vs. RUTTGER, 1994 WL 200599 (Minn. App.)(Minnesota public defenders immune from legal malpractice regardless of whether he was "state-appointed" or "state-subsidized.")

The State of Minnesota Constitution clearly states and guarantees "Every person is entitled to a certain remedy in the laws for **ALL** injuries or wrongs which he may receive to his person, property, or character ..." (emphasis added) See, Article 1, Section 8.

In FERRI vs. ACKERMAN, 444 U.S. 193 (1979) the United States Supreme Court denied immunity to court-appointed attorney, stating:

> "The point of immunity for such ... officials is to forestall an atmosphere of intimidation that would conflict with their resolve to perform their designated functions in a principled fashion. In contrast, the primary office performed by appointed counsel parallels the office of privately retained counsel ... His principle responsibility is to serve the undivided interests of his client ... The fear that an

> unsuccessful defense of a criminal charge will lead to a **MALPRACTICE CLAIM** does not conflict with performance of that function. If anything, it provides the same incentive for appointed and retained counsel to perform that function competently. The primary rational for granting immunity to judges, prosecutors, and other public officers does not apply to defense counsel for malpractice by his own client." (emphasis added)

FERRI vs. ACKERMAN, 444 U.S. 193, 204 (1979).

LAMBROS DENIED REMEDY IN LAW FOR INJURIES AND WRONGS GUARANTEED BY STATE OF MINNESOTA CONSTITUTION - ARTICLE 1, SECTION 8:

On February 14, 2001, LAMBROS vs. FAULKNER, et al., District of Minnesota Case No. CIV-98-1621-DSD/JMM, United States District Court Judge David S. Doty Ordered the Report and Recommendation of U.S. Magistrate Judge Mason's October 31, 2000 report adopted as to court-appointed **FEDERAL PUBLIC DEFENDERS**, C.W. Faulkner, et al., **IMMUNITY FROM STATE TORT CLAIMS**, as per the August 6, 1993 decision in DZIUBAK vs. MOTT, 503 N.W.2d 771, by the Minnesota Supreme Court. Judge Doty stated, "[T]herefore, as the magistrate judge correctly held, the Court's task in this case is to apply the Minnesota Supreme Court's holding in DZIUBAK vs. MOTT, 503 N.W.2d 771 (Minn. August 6, 1993), to the plaintiff's case. In DZUIBAK, the Minnesota Supreme Court determined that Full-Time state public defenders are immune from suit for malpractice. Plaintiff argues that DZIUBAK should not be extended to offer immunity to federal court-appointed defense attorneys. The court has reviewed both FERRI and DZIUBAK decisions and other relevant case law and agrees with the magistrate judge that strong public policy rationale relied upon by the DZIUBAK court in granting immunity to full-time state public defenders is equally applicable to court-appointed defenders in a federal criminal case. Therefore, the court affirms the magistrate judge's conclusion that the state court would likely extend its grant of immunity to defendants in this action. Dismissal of plaintiff's malpractice claim on that basis is appropriate."

A JUDGE IS SUBJECT TO DISCIPLINE AS AN ATTORNEY BY BAR ASSOCIATION:

A judge who is also an attorney is subject to discipline as an attorney and as a judge by the bar association of which he or she is a member. Thus, where a judge is required to be a member of the bar, an attorney who is disbarred or suspended may not take office as a judge, and a judge who is disbarred or suspended may be removed

from office by quo warranto proceedings. See, **EXHIBIT A** (American Jurisprudence, Second Edition, Volume 46, "JUDGES", Section 7, Page 132.)

Minnesota Supreme Court Justices must be "individuals admitted or entitled to be admitted to the practice of law in Minnesota," as per provisions of the Minnesota State Constitution. See, BULLOCK vs. STATE OF MINNESOTA, 611 F.2d 258 (8th Cir. 1979). A judicial candidate who had not been admitted to practice law in the State of Minnesota and judicial candidates who had been disbarred were not "learned in the law" within the Minnesota Constitution requirement. See, IN RE DALY, 294 Minn. 351, 200 N.W.2d 913, cert. denied 34 L.Ed.2d 491 (1972).

The United States Supreme Court has held, "It would verge on **INCOMPETENCE** for a lawyer to file an initial pleading without researching such issues as jurisdiction, venue, standing, exhaustion of remedies, proper parties plaintiff and defendant and types of relief available. **MOST IMPORTANTLY, OF COURSE, A LAWYER MUST KNOW THE LAW** in order to determine whether a colorable claim exists, and if so, what facts are necessary to state a cause of action." See, BOUNDS vs. SMITH, 430 U.S. 817, 825, 52 L.Ed.2d 72, 81 (1977). (emphasis added).

All attorneys, by their very admission, agree whether knowingly or not, to subscribe to the CODE OF PROFESSIONAL RESPONSIBILITY as adopted by the American Bar Association as well as the ethical considerations. The functions of the Canons, the Ethical Considerations and the DISCIPLINARY RULES are discussed in the preliminary statement of the code which states that: "The Canons are statements of axiomatic norms, expressing in general terms the standards of professional conducted EXPECTED OF LAWYERS in their relationship with the public, with the legal system, and with the legal profession. They embody the general concepts from which the Ethical Considerations and the Disciplinary Rules are derived. The Ethical Considerations are aspirational in character and represent the objectives toward which every member of the profession should strive. They constitute a body of principles upon which the lawyer can rely for guidance in many specific situations. The **DISCIPLINARY RULES, UNLIKE THE ETHICAL CONSIDERATIONS, ARE MANDATORY IN CHARACTER.** The Disciplinary Rules state the minimum level of conduct below which no lawyer can fall without being subject to disciplinary action. ... An ENFORCING AGENCY, in applying the Disciplinary Rules, may find interpretive guidance in the basic principles embodied in the Canons and in the objectives reflected in the Ethical Considerations." Quoting, HANDELMAN vs. WEISS, 368 F.Supp. 258, 262 Foot Note 6 (S.D.NY 1973).

THE ABA MODEL CODE OF PROFESSIONAL RESPONSIBILITY:

The American Bar Association (ABA) Model Code of Professional Responsibility governs

the conduct of **ALL** lawyers. **DISCIPLINARY RULE 1-102(A)(4)(1980)** [Disciplinary Rules hereinafter cited **DR**] mandates that a lawyer does not "engage in conduct involving dishonesty, fraud, deceit or misrepresentation." This mandate may be read in conjunction with **DR 1-102(A)(5)** which prohibits a lawyer to "engage in conduct that is prejudicial to the administration of justice."

EQUAL PROTECTION OF THE LAW; CLASS LEGISLATION; FOURTEENTH AMENDMENT:

Section 1 of the Fourteenth Amendment of the United States Constitution provides that all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside, and it further provides that no state shall deny to any person within its jurisdiction the EQUAL PROTECTION OF THE LAWS. The equal protection of the laws is a pledge of the protection of equal laws. Denial of equal protection entails, at a minimum, a classification that treats individuals unequally, as is the case in **DZIUBAK vs. MOTT**, 503 N.W.2d 771 (Minn. 1993), when the State of Minnesota Constitution clearly states, "Every person is entitled to a certain remedy in the laws for **ALL** injuries or wrongs which he may receive to his person, property, or character ..." See, Article 1, Section 8. Thus, the Minnesota Supreme Court's law declaring that Minnesota Public Defenders and Minnesota Federal Public Defenders are immune from suit for malpractice is itself a denial of equal protection of the laws in the most literal sense.

The above listed Minnesota Supreme Court Justices violated Article 1, Section 8, of the State of Minnesota Constitution and the Equal Protection Clause by purposeful and intentional discrimination when they wrote the opinion in DZIUBAK vs. MOTT. The question of classification is primarily for the legislature and it can never become a judicial question except for the purpose of determining, in any given situation, whether the legislative action is clearly unreasonable. Where there are "plausible reasons" for Congress' action with regard to a statute which is subject to an equal protection challenge, a court's inquiry is at an end. See, FCC vs. BEACH COMMUNICATIONS, INC. 124 L.Ed.2d 211 (1993).

CONCLUSION:

I John Gregory Lambros believes that a substantial likelihood existed as to Minnesota Attorneys KEITH, WAHL, SIMONETT, TOMLJANOVICH, GARDEBRING, PAGE, and COYNE recklessly engaged in conduct that was prejudicial to the administration of justice, a violation of **DR 1-102(A)(5)**, when it decided the legal matter in DZIUBAK vs. MOTT.

Lambros requests that this complaint be investigated.

Thank you in advance for your investigation into the above matter. I declare under penalty of perjury that the foregoing is true and correct. Title 28 USCA §1746.

Executed on: April 29, 2004

John Gregory Lambros, Pro Se
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"learned in the law,"[47] or "well informed in the law,"[48] rather than being lawyers or admitted to practice. However, the term "learned in the law" has been interpreted to mean that to be eligible for the office of judge a person must be an attorney at law—either admitted, or entitled to be admitted without examination, to practice as an attorney at law in the state.[49]

Eligibility with respect to legal experience or learning is determined as of the time of the election or appointment.[50]

Observation: A judge who is also an attorney is subject to discipline as an attorney and as a judge by the bar association of which he or she is a member.[51] Thus, where a judge is required to be a member of the bar, an attorney who is disbarred or suspended may not take office as a judge, and a judge who is disbarred or suspended may be removed from office by quo warranto proceedings.[52]

§ 8. Method of selection

In the absence of constitutional restrictions, the legislature has the power to prescribe the method of selection of judges.[53] However, where the method of selection is prescribed by constitution, the legislature has no power to change it.[54]

Judicial officers are generally exempted by law from the scope of civil service laws.[55]

§ 9. —Election

In some states, judges are elected by the vote of the people,[56] on nonpartisan ballots.[57] Within constitutional limits, the legislature generally may prescribe

the effect of exclusion from the general statute gave the legislature power to set standards for courts with unusual jurisdictions.

47. Heard v Moore, 154 Tenn 566, 1 Smith 566, 290 SW 15, 50 ALR 1152.

48. Little v State, 75 Tex 616, 12 SW 965.

49. Jamieson v Wiggin, 12 SD 16, 80 NW 137; La Fever v Ware, 211 Tenn 393, 365 SW2d 44.

A judicial candidate who had not been admitted to practice law in the state and judicial candidates who had been disbarred were not "learned in the law" within a state constitutional requirement. In re Daly, 294 Minn 351, 200 NW2d 913, cert den 409 US 1041, 34 L Ed 2d 491, 93 S Ct 528.

50. Gamble v White (La App 2d Cir) 566 So 2d 171, cert den (La) 565 So 2d 923.

As to the time for determining qualifications of officers generally, see 63A Am Jur 2d, Public Officers and Employees §§ 40 et seq.

52. 7 Am Jur 2d, Attorneys at Law § 33.

53. Renaud v State Court of Mediation & Arbitration, 124 Mich 648, 83 NW 620.

For a table showing the method of selection of chief justices of state courts of last resort, see Am Jur 2d Desk Book, Item 237.

54. State ex rel. Hovey v Noble, 118 Ind 350, 21 NE 244.

Where the constitution gives the people the power to elect a judge, it implicitly forbids the legislature to appoint one, and a statute permitting such an appointment is invalid. State ex rel. Madden v Crawford, 207 Or 76, 295 P2d 174.

55. 15A Am Jur 2d, Civil Service § 16.

56. State ex rel. Hovey v Noble, 118 Ind 350, 21 NE 244; Brown v Smallwood, 130 Minn 492, 153 NW 953; Catapano v Goldstein (2d Dept) 64 App Div 2d 88, 408 NYS2d 527, revd on other grounds 45 NY2d 810, 409 NYS2d 207, 381 NE2d 605.

57. Evans v State Election Bd. (Okla) 804 P2d 1125, holding that a statute which provided for the substitution of a political party's nominee for office following the death of the nominee before a general election did not apply where the judge filed properly for office before dying.

Law Reviews: L.W. Yackle, Choosing Judges the Democratic Way. 69 B.U.L. Rev. 273-328 Mr '89.

CONSTITUTION OF THE STATE OF MINNESOTA

Adopted October 13, 1857
Generally revised November 5, 1974
Further amended November 1974, 1980, 1982, 1984, 1988, 1990, 1996 and 1998.

Preamble

We, the people of the state of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution

ARTICLE I
BILL OF RIGHTS

Section 1. **OBJECT OF GOVERNMENT.** Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the public good.

Sec. 2. **RIGHTS AND PRIVILEGES.** No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than as punishment for a crime of which the party has been convicted.

Sec. 3. **LIBERTY OF THE PRESS.** The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

Sec. 4. **TRIAL BY JURY.** The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict. The legislature may provide for the number of jurors in a civil action or proceeding, provided that a jury have at least six members. [Amended, November 8, 1988]

Sec. 5. **NO EXCESSIVE BAIL OR UNUSUAL PUNISHMENTS.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 6. **RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS.** In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law. In all prosecutions of crimes defined by law as felonies, the accused has the right to a jury of 12 members. In all other criminal prosecutions, the legislature may provide for the number of jurors, provided that a jury have at least six members. The accused shall enjoy the right to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense. [Amended, November 8, 1988]

Sec. 7. **DUE PROCESS; PROSECUTIONS; DOUBLE JEOPARDY; SELF-INCRIMINATION; BAIL; HABEAS CORPUS.** No person shall be held to answer for a criminal offense without due process of law, and no person shall be put twice in jeopardy of punishment for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. All persons before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended unless the public safety requires it in case of rebellion or invasion.

Sec. 8. **REDRESS OF INJURIES OR WRONGS.** Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.

Sec. 9. **TREASON DEFINED.** Treason against the state consists only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.