



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 17, 2008

David Ellis
Chief Counsel to the Speaker
Office of the Speaker, Illinois House of Representatives
412 State House
Springfield, IL 62706

Dear Mr. Ellis:

We have reviewed Mr. Sheldon Sorosky's December 15, 2008 letter to you, which you forwarded to me. We also have received a December 16, 2008 letter from Mr. Edward Genson conveying Governor Blagojevich's request that the State pay for attorneys to represent him in response to the federal criminal charges, the Illinois Supreme Court Petition, and the impeachment proceedings. Both letters assert that Section 4 of the Attorney General Act, 15 ILCS 5/4 (2006), applies to the House of Representatives' investigation into whether Governor Blagojevich may have committed impeachable acts. That assertion is incorrect.

Section 4 specifies that the Attorney General has the duty "[t]o defend all actions and proceedings against any State officer, in his official capacity, in any of the courts of this State or the United States." The House's investigation is not an action or proceeding in a "court." Nor is that investigation a suit or proceeding against Governor Blagojevich in his "official capacity." A suit is against a state official in his official capacity when the State, not the individual, is the "real party in interest." That is not the case in impeachment proceedings. Section 4 of the Attorney General Act therefore cannot entitle the Governor to legal representation at the State's expense in the proceedings before the House of Representatives.

Mr. Sorosky's and Mr. Genson's letters also assert that in connection with these proceedings, the Attorney General has a disqualifying conflict of interest as a result of the Supreme Court petition she filed, as attorney for the People of the State of Illinois, to remove Governor Blagojevich from office. This assertion is meritless, and, in any event, it incorrectly assumes that the proceeding before the House of Representatives is against Governor Blagojevich in his official capacity, and that the Attorney General would therefore normally be responsible to represent him. As explained above, however, that is not the case.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann Spillane", is written over a faint, larger signature.

ANN SPILLANE
CHIEF OF STAFF

cc: Mr. Sheldon Sorosky
Mr. Edward Genson

Committee Exhibit 9