

## **D 017 01**

### **EXECUTIVE ORDER**

#### **Authorizing the Hiring of Outside Counsel**

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, I, Bill Owens, Governor of the State of Colorado, hereby issue this Executive Order authorizing and directing the hiring of outside counsel in the matter of Robert Martinez, Baham, and Chapin v. Stan Matsunaka, President of the State Senate of Colorado, Doug Dean, Speaker of the House of Representatives and Bill Owens, Governor of the State of Colorado, Civil Action No. 01-Z-1900.

1. Background and Need

On October 2, 2001, I was notified that the Office of the Attorney General had accepted service of a complaint against the Governor in the above referenced congressional redistricting matter filed in the United States District Court for Colorado. Over the following weeks a potential conflict of representation became apparent to the Attorney General in connection with his office's representation of the Colorado Secretary of State in the *Avalos et al. v. Davidson* lawsuit which was filed in state court. No substantive action has been taken by the Denver District Court in the *Avalos* case. Because the legal positions of the Governor and the Secretary of State could differ depending on the progress of either or both cases, it is difficult to presently predict whether the Attorney General's office is able to provide representation to both parties in the congressional redistricting cases.

After meeting and conferring on this matter, Attorney General Ken Salazar and I conclude that the most prudent course of action is to retain private counsel for the Governor in the *Martinez et al. v. Matsunaka, Dean and Owens* litigation. On October 18, 2001, the Office of the Attorney General confirmed this arrangement via letter.

Colorado Revised Statute §24-31-101(1)(e) states, "Whenever the attorney general is unable or has failed or refused to provide legal services to an agency of state government, as determined by the governor if the agency is in the executive branch or by the chief justice if the agency is in the judicial branch, such agency may employ counsel of its own choosing to provide such legal services. Any expense incurred by reason of the employment of counsel pursuant to this paragraph (e) shall be a lawful charge against appropriations for this purpose made by the general assembly to the department of law."

2. Directive

Based on the facts recited above, I find that the requirements of C.R.S. §24-31-101(1)(e) are met. I authorize and direct the appointment of counsel to provide representation in the above referenced matter.

GIVEN under my hand and the  
Executive Seal of the State of  
Colorado, this 19th day of  
October, 2001.

Bill Owens  
Governor