



July 20, 2011

**VIA UNITED STATES MAIL AND  
EMAIL TO MJCAPPELLATECLERKOF COURT@COURTS.STATE.MN.US**

Clerk of Appellate Courts  
Minnesota Supreme Court  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King, Jr. Blvd.  
St. Paul, MN 55155

**Re: State Senator Warren Limmer, et al. v.  
Lori Swanson in her official capacity as Attorney General, et al.  
Appellate Case No. A11-1222**

Dear Sir/Madam:

Enclosed for filing in the above-referenced matter please find:

1. Original and two copies of Respondent Governor's Motion for Reallocation of Time for Oral Argument; and
2. Affidavit of Service by Email and United States Mail.

Counsel of record are being served by email and U.S. Mail.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Lillehaug".

David L. Lillehaug  
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**Email:** dlillehaug@fredlaw.com

DLL/dls  
Enclosures  
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Attorney General Lori Swanson  
Solicitor General Alan I. Gilbert  
Assistant Attorney General Kristyn Anderson  
Commissioner James Schowalter, Department of Management & Budget  
The Honorable Kathleen Gearin  
Timothy Flaherty, Esq.  
John W. Baker, Esq.  
Paul D. Reuvers, Esq.  
William B. Butler, Esq.

STATE OF MINNESOTA  
IN SUPREME COURT  
Case No. A11-1222

*State Senator Warren Limmer, et al.,*

Petitioners,

*vs.*

*Lori Swanson in her official capacity as Attorney General, et al.,*

Respondents.

**RESPONDENT GOVERNOR'S MOTION FOR  
REALLOCATION OF TIME FOR ORAL ARGUMENT**

Pursuant to Minn. R. Civ. App. P. 134.03, respondent Governor moves that the time allowed for oral argument be reallocated. The grounds for this motion are as follows:

1. By Order dated July 11, 2011, the Court directed that argument be heard on Wednesday, July 27, 2011, with time for argument allocated in accordance with Rule 134.03, subd. 1, with 35 minutes for petitioners and 25 minutes to be shared by respondents.

2. The Petition and the responses thereto demonstrate that there are three separate and distinct constitutional positions regarding the issues of expenditure of unappropriated funds and justiciability:

A. The legislator-petitioners assert that the Minnesota Constitution prohibits most expenditures of unappropriated funds. They further assert that the Attorney General's petition to the District Court was nonjusticiable.

B. The Attorney General asserts that the Minnesota Constitution allows the executive department to spend unappropriated funds to continue core

functions. She further asserts that the Attorney General's petition to the District Court was justiciable.

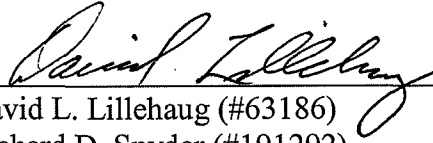
C. The Governor asserts that the Minnesota Constitution allows the executive department to spend unappropriated funds to continue critical services. He further asserts that the Attorney General's petition to the District Court was nonjusticiable.

3. Respondent Commissioner of the Department of Management and Budget Jim Schowalter has not appeared separately, but supports the Governor's position. Respondent Chief Judge Kathleen Gearin has not appeared. Intervenors League of Minnesota Cities, the Coalition of Greater Minnesota Cities, and the Association of Minnesota Counties focus primarily on protecting the relief granted to their members by the District Court. They have not requested time for oral argument. Putative intervenor Minnesota Voters Alliance substantially supports the legislator-petitioners' position. It has not requested time for oral argument.

4. Given that there are three separate and distinct constitutional positions, it would be anomalous to allot 35 minutes of oral argument to the legislator-petitioners, while limiting the two constitutional officers to a total of 25 minutes. Special Counsel suggests that counsel for the legislator-petitioners, the Attorney General, and Special Counsel to the Governor each be allowed 20 minutes of oral argument.

Dated: July 20, 2011

Respectfully submitted,



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*Special Counsel to the  
Office of the Governor<sup>1</sup>*

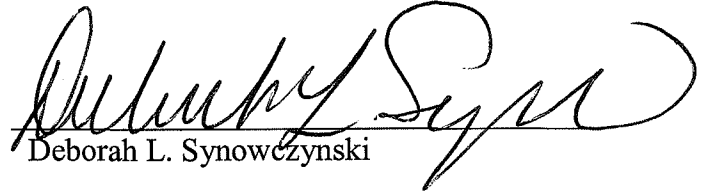
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<sup>1</sup> The Governor retained Special Counsel solely on the matter of the potential government shutdown. Special Counsel represents only the Office of the Governor, and does not represent the State of Minnesota generally, the Attorney General, or the State's other constitutional officers, departments, entities, or subdivisions, whether executive, regulatory, legislative, or judicial.




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Deborah L. Synowczynski

Subscribed and sworn to before me  
this 20th day of July, 2011

  
Notary Public

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