

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI, GOVERNOR

CHILD PROTECTION/HUMAN SERVICES  
1031 WEST 4<sup>TH</sup> AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-5903  
PHONE: (907)269-5140  
FAX: (907)258-6872

December 1, 2006

### SENT VIA FACSIMILE AND U.S. MAIL

James B. Gottstein, Esq.  
PsychRights  
406 G Street, Suite 206  
Anchorage, AK 99501  
Fax: (907) 274-9493

Re: Letter dated November 30, 2006

Dear Jim,

API is in receipt of your "demand" letter dated November 30, 2006. I offer the following in response.

Unfortunately, as we read your demand letter, your requests would place API in the position of seeming to endorse your services. It is not our policy to endorse any one particular attorney in any kind of legal matter. Such an action would be especially unfair to vulnerable individuals in crisis. Thus, API will not be posting your demand letters nor will it be included in the notice of rights patients are given. As you are aware from previous cases, the Notice of Rights Upon Detention states,

"You have the right to communicate immediately (at the state's expense) with your guardian, if any, or an adult designated by you. You may also communicate with the attorney designated by the court or an attorney of your choice. You have the right to be represented by an attorney...."

If someone knows of your firm and wishes for you to represent them, no one will preclude them from asking for such representation and calling you. That has always been the policy of API and nothing has changed. Regarding your final demand that the court and assistant public defender discuss the choice of counsel with respondents, while API has no role in it, I am sure you were not expecting it to be met as it is the Department of Law's position that such communication would constitute ex-parte communication, although I certainly cannot speak for the court system or the Public Defender's Agency.

As you know, the legislature has decided that the Public Defender's Agency would be appointed in involuntary commitment proceedings. We will continue to follow

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the statutory requirements until they are changed by the legislature. If you wish to advertise your services, you are welcome to do so; however, it cannot be through the strategies set forth in your letter. Nor can API or the Department of Law do your advertising for you.

I would like to remind you about the Rules of Professional Conduct, specifically Rule 7.3—some of your demands seem to raise questions about your solicitation methods and whether or not you expect payment from these prospective clients. You may want to contact bar counsel to make sure your strategies comport with the Rules of Professional Conduct.

Finally, I want to let you know that there are no hearings this afternoon. There will be no court personnel at API today.

If you have any further questions or concerns, please do not hesitate to contact me at 269-5144.

Sincerely,

DAVID W. MÁRQUEZ  
ATTORNEY GENERAL

By:



Elizabeth Russo

Assistant Attorney General

BR/tb

cc: Ron Adler, API