

# PsychRights®

Law Project for  
Psychiatric Rights, Inc.

## TELECOPY MESSAGE

TO: Honorable Christen Morgan, Presiding Judge 264-0720  
Dr. Duane Hopson 269-7251  
Mr. Ron Adler 269-7251  
Master John Duggan 264-0598  
Master Andrew Brown 264-0598  
Quinlan Steiner, Public Defender 269-5476

FROM: James B. Gottstein, Esq.

RE: See Attached

DATE: November 30, 2006

### MESSAGE:

I am available to meet with potential clients from now until the hearing time 1:30 tomorrow and will be at API to meet with potential clients tomorrow, from 11:00 am on unless I already have one.

Number of pages (including this cover sheet): 2

Please call (907) 274-7686 if you do not receive any of these pages.

Our Fax number is (907) 274-9493.

THIS FACSIMILE CONTAINS CONFIDENTIAL, PRIVILEGED INFORMATION INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. DO NOT READ, COPY OR DISSEMINATE THIS INFORMATION UNLESS YOU ARE THE ADDRESSEE (OR THE PERSON RESPONSIBLE FOR DELIVERING IT). IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CALL US (COLLECT) IMMEDIATELY AT (907) 274-7686, AND RETURN THE ORIGINAL MESSAGE TO THE LAW OFFICES OF JAMES B. GOTTSTEIN, 406 G STREET, SUITE 206, ANCHORAGE, ALASKA 99501 VIA THE POSTAL SERVICE. THANK YOU.

Cc: David Marquez, Attorney General (907) 465-2075  
Elizabeth Russo, Ass't. Attorney General 258-6872  
Nancy Gordon, Chief, Civil Division 258-4978  
Elizabeth Brennan, Ass't. Pub. Defender 269-5476

# PsychRights®

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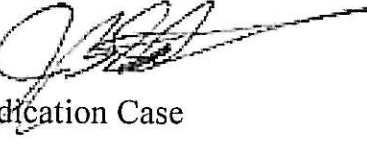
Via Fax and/or E-Mail

November 30, 2006

To:

Honorable Christen Morgan,  
Presiding Judge  
Dr. Duane Hopson  
Mr. Ron Adler

Master John Duggan  
Master Andrew Brown  
Quinlan Steiner, Public Defender

From: James B. Gottstein, Esq. 

Re: Seeking Involuntary Medication Case

As you should know, the mission of the Law Project for Psychiatric Rights (PsychRights) is to mount a strategic litigation campaign against unwarranted court ordered psychiatric drugging. The successful *Myers* case decided by the Alaska Supreme Court last summer was part of that effort. In furtherance of its mission PsychRights is currently seeking to represent a respondent in an AS 47.30.839 Court-Ordered Administration of Medication proceeding as soon as possible.

AS 47.30.839(c) provides in pertinent part that

A patient who is the subject of a petition under (b) of this section is entitled to an attorney to represent the patient at the hearing. If the patient cannot afford an attorney, the court shall direct the Public Defender Agency to provide an attorney. (emphasis added)

Thus, (1) AS 47.30.839 respondents are entitled to engage PsychRights to represent them if they desire, and (2) the Court is without authority to appoint the Public Defender Agency until such respondents decline the PsychRights representation opportunity.

While it is not clear to me it is required, confidentiality considerations make me believe the way to implement this right is to (a) prominently post this in locations likely to apprise prospective AS 47.30.839 respondents of this opportunity, (b) provide every prospective AS 47.30.839 respondent with a copy of this as soon as the filing of a petition against such a person becomes likely and also with the copy of the Petition after it is filed, (c) provide such assistance as necessary to allow such respondents to understand and exercise the right if they so desire, and (d) have the assistant public defender and Master discuss this option with AS 47.30.839 respondents and give them the opportunity to seek representation by PsychRights before the Public Defender Agency is appointed.

I am therefore requesting (demanding, technically) that this be done until such time as you are notified PsychRights is no longer seeking such a case.

Cc: David Marquez, Attorney General  
Elizabeth Russo, Ass't. Attorney General

Nancy Gordon, Chief, Civil Division  
Elizabeth Brennan, Ass't. Pub. Defen

# 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

James B. Gottstein, Esq.

December 1, 2006

Page 2

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