

/O=MONTANA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENT

From: VanDyke, Lawrence
Sent: Wednesday, January 15, 2014 3:25 PM
To: Mattioli, Mark
Cc: Darkenwald, Scott; Fox, Tim
Subject: RE: Monforton

Mark – Just to follow up a bit more. I don't know very much about the Monforton case, but as I understand it Monforton is challenging a law that has already been struck down once, and was recently reenacted by the Montana Legislature without any changes. If that is right, or even close to right, then this is a slam-dunk loser case for the State. I don't know of any other state that thinks its Solicitor should be working on its slam-dunk loser cases. That just makes no sense to me – what a strange misallocation of resources.

From: VanDyke, Lawrence
Sent: Wednesday, January 15, 2014 2:44 PM
To: Mattioli, Mark
Cc: Darkenwald, Scott; Fox, Tim
Subject: RE: Monforton

Mark – This is like déjà vu. You said pretty much exactly the same thing when you “reassigned” Donaldson the first time, only to forcefully “reassign” it back to me after I had completed the work in the MIJA case that you had agreed was conflicting with Donaldson. And even though I wasn't happy about that I was willing to work on Donaldson, but I needed Mike's active help regarding plaintiffs' recent letter because I have no experience responding to such requests, which he was unwilling to give (see the attached email), except on his completely unhelpful terms. Any stranger reading Mike's email would conclude that I work for him.

Ultimately, this is a huge part of why I am resigning. One of the key aspects parts of any solicitor's job (federal or in the states) involves discretion. SGs generally have substantial discretion of what matters to work on, and even where to focus their limited resources on those matters. And usually that means SGs weigh in predominately on appeals. But you have a very different vision for me. I'm given very little discretion – either as to which cases I work on or what parts of those cases I work on. I am really not that different than any other assistant AG in the civil division, except that I am good enough that I don't need supervision. That is not what I was told this job would be like, and I had no reason to think it would be that way because that isn't how any other SG I know of is treated or used.

And just so you know, Tim and Scott – this is why I didn't jump at your recent “offer” where you kindly tried to address my concerns. I really appreciate that everyone went to the effort to make the offer – I really do. But as long as Mark, the guy who calls the day-to-day shots in my life, has such a different view of my job and role than that normally fulfilled by an SG, then nothing will really change. Ultimately I will be doing whatever Mark wants me to do, which is often dictated by what Mike has told Mark he can't (or won't) do.

From: Mattioli, Mark
Sent: Wednesday, January 15, 2014 2:13 PM
To: VanDyke, Lawrence
Cc: Darkenwald, Scott; Fox, Tim
Subject: Re: Monforton

You're the First Amendment expert and Solicitor. Are you saying you won't work on this in any capacity even if Donaldson were reassigned? If so, there's nothing for us to talk about.