

Student Judicial Court
Associated Students of
the University of New Mexico

Senators Steve Aguilar, Jr. and
Grant Nichols on behalf of ASUNM

Cause No. _____

vs.
Simon Goldfine, in his capacity
as Attorney General of ASUNM

NOTICE OF ANSWER

I the above named Defendant Simon Goldfine, ASUNM A.G. hereby
make a response to the Complaint of Senators Aguilar & Nichols.

Response to Complaint: See attachment

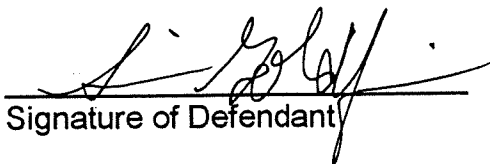
Summary of Evidence:

- Exhibit 1: August 22, 2000 email from ASUNM Vice President Chris Mansfield
- Exhibit 2: My August 23, 2000 Constitutional interpretation
- Exhibit 3: August 30, 2000 email from ASUNM Vice President Chris Mansfield
- Exhibit 4: My August 30, 2000 Constitutional Interpretation Addendum
- Exhibit 5: My ~~Sept~~ September 12, 2000 email to Professor Lynn Beene
- Exhibit 6: September 12, 2000 email response from Professor Lynn Beene
- Exhibit 7: ASUNM Constitution pages 10 & 11
- Exhibit 8: ASUNM Fall 2000 Lawbook pages 3 & 4
- Exhibit 9: definition of "hearsay" from www.allwords.com

List of Witnesses: (Please provide addresses and telephone numbers)

- ASUNM Vice President Chris Mansfield
- ASUNM Senator Grace Esquibel
- ASUNM Senator Josh Ewing
- ASUNM Senator Steve Aguilar, Jr.
- ASUNM Senator Grant Nichols
- Lynn Beene, Professor of English, UNM

On the 14th day of Sept., 2000, I the undersigned filed the above Answer.


Signature of Defendant

9-14-00
Date Signed

Received in the ASUNM Court on: _____ day of _____, _____.

Clerk of the Court: _____

**ANSWER TO THE COMPLAINT AGAINST THE ATTORNEY
GENERAL OF THE ASSOCIATED STUDENTS OF THE
UNIVERSITY OF NEW MEXICO**

The following is the Answer presented by Attorney General Simon Goldfine (hereby referred to as the Defendant) on September 14, 2000 in response to a Complaint filed by Senators Steve Aguilar, Jr. and Grant Nichols (hereby referred to as the Plaintiffs) of the Associated Students of the University of New Mexico (hereby referred to as ASUNM). The Defendant received the official Complaint on September 11, 2000.

This Answer addresses the tenets of the Plaintiffs' Complaint and nothing more. The Defendant fully intends to continue the established practice of professionalism.

SUMMARY OF EVENTS

On August 22, 2000 ASUNM Vice President Chris Mansfield emailed the Defendant asking for a Constitutional interpretation. The following excerpt is from that email (Defendant's Exhibit 1).

"We had a senator who was going into his second term resign...Does his replacement come from the person next in line from his election, or from this past election in which he was not a part of?"

The Defendant took the matter into consideration and issued an interpretation on August 23, 2000. The following is an excerpt from that interpretation (Defendant's Exhibit 2).

"After consulting the Constitution and By-Laws of ASUNM I have concluded that the vacancy should be filled by the candidate receiving the next-highest number of votes from the election in which the resigning Senator ran."

On August 30, 2000 ASUNM Vice President Chris Mansfield emailed the Defendant requesting further clarification of the first interpretation. An excerpt from this email (Defendant's Exhibit 3) is as follows:

"The former attorney general made the ruling that my replacement should come from the most recent election...this seems to be a conflict [sic] and need a second official ruling from you."

On August 30, 2000, in response to the Vice President's second email, the Defendant issued an addendum (Defendant's

Exhibit 4) to the original interpretation. The following is an excerpt.

"I stand by the opinion I rendered originally, that stated, '...the vacancy should be filled by the candidate receiving the next-highest number of votes from the election in which the resigning Senator ran.'"

ANALYSIS OF THE ABOVE EVENTS

The Defendant issued the two interpretations (Defendant's Exhibits 2 and 4) after carefully considering all factors of the case. This includes consulting the ASUNM Constitution and Lawbook and considering past precedent. His interpretations were made in the best interests of the student body as well as with regard for the intent of the law.

The Plaintiffs have submitted three premises from which they derive their contention of the Defendant's interpretations. They are:

- "1. The AG's (Attorney General's) argument is based entirely on hearsay and his interpretation should be dismissed as such.
2. The language of the ASUNM Constitution is neither unclear nor ambiguous.

3. Past precedence was either completely ignored on this issue, or it was never a factor in the formation of the interpretation."

The Defendant continues to stand by and support his original interpretation. The following are responses to each of the Plaintiff's premises.

"Premise 1. The AG's entire argument is based entirely on hearsay and his interpretation should be dismissed as such."

The Defendant's decision was not hearsay. Hearsay is defined (Defendant's Exhibit 9) as

"Evidence based on the reports of others rather than the personal knowledge of a witness and therefore generally not admissible as testimony."

The Defendant's interpretation was based solely on his own personal knowledge and experience with ASUNM law. It can therefore not be considered hearsay.

In addition, the Defendant's interpretation was the product of the Defendant performing his lawfully prescribed duties. Pages 3 and 4 of the ASUNM Lawbook (Defendant's Exhibit 8) discuss these duties. Article II, Section 1, Paragraph A, Subparagraph 1, states that the duties of the Attorney General include the following:

"Issue interpretation of law and advisory opinion concerning legislation and any other acts of ASUNM."

The Defendant satisfied these duties by issuing his two interpretations (Defendant's Exhibits 2 and 4). The interpretations he issued were designed to most accurately represent the vote of the student body as well as fulfill the intent of the law.

"Premise 2. The language of the ASUNM Constitution is neither unclear nor ambiguous."

The language of the ASUNM Constitution, Article VII, Section 4, (Defendant's Exhibit 7) is as follows:

"In the event of a vacancy in the Senate, the candidates receiving the next highest number of votes from the general election for that session shall fill that vacancy."

The language is indeed unclear and ambiguous. The fact that ASUNM Vice President Chris Mansfield asked for two separate interpretations of the passage (Defendant's Exhibits 1 and 3) attests to this.

There is also further evidence that the language of the passage is vague. English Professor Lynn Beene, whom the Plaintiffs' consider to be an expert witness, emailed the Defendant after the Defendant asked for a clarification of

her grammatical judgement. In his request for clarification (Defendant's Exhibit 5), the Defendant also informed Professor Beene of ASUNM election procedures. The following are excerpts from Professor Beene's response (Defendant's Exhibit 6).

"...As you indicated in your ruling as AG, a portion of which Steve [the Plaintiff] provided to me, the sentence is somewhat ambiguous as a grammatical unit. In sum, we could argue the exact grammatical construction, but I doubt it would get us anywhere in this issue...

...the reading doesn't rely on grammar at all."

This excerpt clearly displays that the Constitutional passage was ambiguous and open to interpretation from the Defendant.

"Premise 3. Past precedence was either completely ignored, or it was never a serious factor in the formation of the interpretation."

It is true that the Defendant was aware of the precedent for this issue. He discusses it in both of his interpretations (Defendant's Exhibits 2 and 4). The Plaintiffs take issue with the decision of the Defendant because it does not follow precedent. However, there is no passage in the ASUNM Constitution or in the Constitution of the United States that says that precedent cannot be

overturned. Precedent is not law. In fact, it has been overturned several times in our national history. The reason the Defendant interpreted the ASUNM Constitution contrary to precedent was that after careful consideration, he concluded that the precedent was unfair and did not agree with the spirit of the law. The Defendant, in his position as Attorney General, was obligated to interpret the Constitution in such a manner that it accurately represented the wishes of the student body. Allowing a candidate to fill the position of a Senator that the candidate did not race against does not represent the vote that the students rendered.