

First of two articles

## Mike Hatch's traumatic reign:

### An explanation for recent agonies in attorney general's office

The recent agonies of the Minnesota attorney general's office under Lori Swanson are the latest symptoms of trauma that goes back nine years and starts with two words: Mike Hatch. According to dozens of present and former officials of the office and others, Hatch traumatized the AG's office with his bare-knuckled style that tested the boundaries of acceptable conduct. Attorneys and others describe working for Hatch and Swanson as hellish, featuring verbal abuse and pressure to do things they believed were unethical, and to put Hatch's political needs foremost.

By **ERIC BLACK**

The recent agonies of the Minnesota attorney general's office under Lori Swanson (an alarming turnover rate in the office, a futile unionization effort blocked by Swanson, a series of allegations that lawyers in the office felt pressured to do things they considered unethical and a preliminary investigation by the legislative auditor, which may be released any day now) are really the latest symptoms of trauma that goes back nine years and starts with two words:

Mike Hatch.

One former assistant attorney general said that when people ask him what he thinks about the turmoil of Swanson's first year, he replies: "Are you kidding me? None of this is new. All of this has been happening since Hatch took over."

Hatch, who is Swanson's mentor, ran for governor three times and was elected attorney general twice as a hard-charging populist.

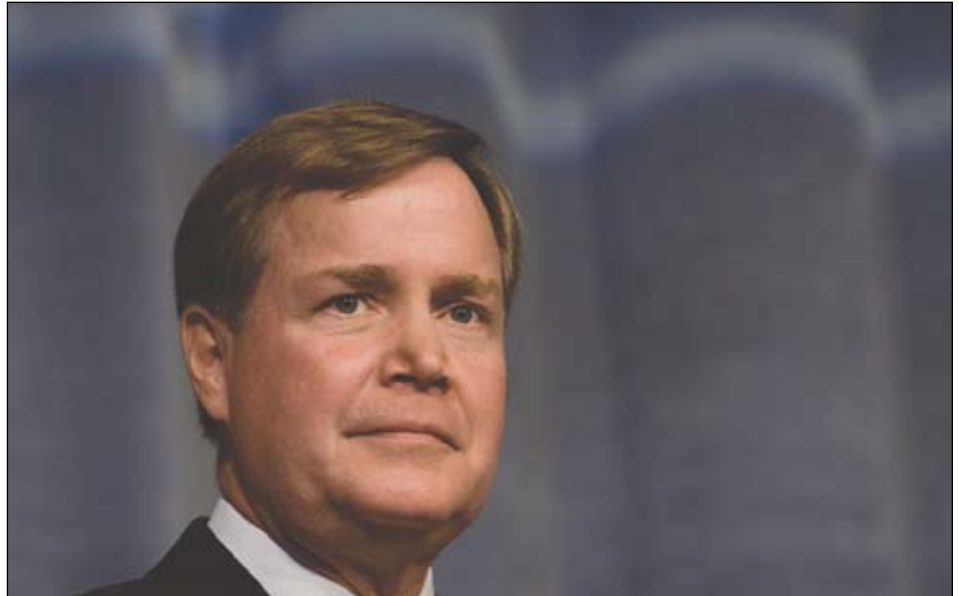


Photo by **TERRY GYDESEN**

Mike Hatch: Attorneys and other subordinates say his bare-knuckled style tested the boundaries of acceptable conduct.

He made his name by his willingness to take on corporations that he felt were victimizing Minnesota consumers. Although his temper was legendary — and may have cost him the governorship in 2006 — his admirers see it as a symptom of his crusading zeal.

But as attorney general from 1999 to 2007, Hatch traumatized the AG's office. His bare-knuckled style tested the boundaries of acceptable conduct, stretching across matters of law, politics and especially the norms of Minnesota niceness. Attorneys and other subordinates describe working for Hatch and Swanson as hellish, featuring verbal abuse and pressure to do things they believed were unethical, and to put Hatch's political needs foremost.

That conclusion is based on dozens of

interviews with present and former officials of the office and others who have dealt with Hatch and Swanson. Almost all of the sources requested that their names not be used.

As attorney general, they told me, Hatch was a foul-mouthed screamer and a bully. Some of the former employees described scenes of Hatch yelling, cursing, turning red, calling his subordinates names, pounding his fist on a desk. They said that any reluctance to unquestioningly implement an order could lead to a sudden loss of status with the management, an unwanted transfer, or being called into a meeting and offered a choice between resignation or dismissal.

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## Hatch's traumatic reign: An explanation for recent agonies in attorney general's office

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The sources describe Hatch as quick to suspect political motives behind any disagreement. He also seemed to assume that any small setback, a small mistake made by someone in the office, might spell his political demise. Said one source, who worked with Hatch for years and has now moved on: "Several times I heard him say, 'You may have just ended my career.'" He believed that any mistake could turn into negative publicity from which he could never recover politically."

Hatch and Swanson declined repeated requests for interviews, and Hatch provided a written statement this morning, which can be read on page 6.

MinnPost had requested interviews with Hatch and Swanson a week and a half ago. Swanson never offered an interview. Hatch, after much delay, agreed to an interview that was to occur this morning. Publication of this article was delayed to meet his schedule, but then Hatch canceled the interview this morning. In the meantime, a report on some of the controversies around Swanson was released.

The report, by Thomas Mengler, dean of the University of St. Thomas Law School, was conducted at Swanson's request to investigate claims by suspended Assistant Attorney General Amy Lawler that she and other attorneys in the office felt pressured to commit ethically questionable acts. Mengler considered only one such claim (the one by Lawler). He found no evidence of impropriety by Swanson or her leadership team and criticized Lawler for going public with her complaints instead of taking them to the lawyers' ethics board. Swanson then fired Lawler.

In his written statement, Hatch

first claims he agreed to be interviewed by me under the mistaken impression that MinnPost was the Rochester Post. When he realized his mistake, he said, he concluded that I was biased and he canceled the interview through his secretary less than an hour before it was to occur. In his statement, he defends his management of the office and blames the current controversies on a "small cabal of attorneys" who are trying to unionize the office. He said they hide behind anonymity to throw mud at their bosses and look "for any scribe to serve as their hand maiden."

### Anonymous sources

It's true that most of the more than 30 sources I interviewed for this story asked for anonymity because they fear retaliation. The climate of fear created is an important part of this story. I hasten to add that for all the sources who describe the Hatch-Swanson management style as vindictive, they were unable to cite specific cases of individuals whose lives and careers were destroyed.

"It's funny how much power we give them in our minds," said one lawyer who worked under both Hatch and Swanson and was recently forced out. "You just feel like it's Big Brother, in a way, with Mike and now with Lori. You see their connections with legislators, with big law firms. You feel that they don't respect you, that they're out for themselves, and if you cross them, they're gonna get you."

This story will be long and told in two parts. The second installment will detail why so many sources felt they had a well-founded fear of retaliation. This installment will focus on how the atmosphere of the Hatch and Swanson years explains the recent turmoil.

Here are some of the findings that came through in interview after interview:

Hatch took over an office that had been known, under his predecessors, as a national model among AG offices, for striking an appropriate balance between the political needs of the elected official and the obligation of public lawyers to do high-quality, non-partisan legal work, and turned it into an office driven by Hatch's political ambitions.

Attorneys under Hatch (with Swanson as one of his top lieutenants) felt pressured to skate on ethical thin ice. They also felt that if they pushed back, they would face consequences from verbal abuse to a sudden loss of standing in the office, up to and including being forced out.

The Hatch-Swanson bond is so deep that the change in administration produced little improvement in the dysfunctional office climate. Therefore, the current turmoil is not a reaction to a new AG taking office. The turnover and the union movement are best understood as the result of many attorneys concluding that little would change.

Perhaps you don't care that much about the work stresses endured by a few score government lawyers. Hatch and Swanson have argued over the years that the lawyers who were asked to leave were those who weren't willing to work very hard.

But one hypothesis that arises from the accounts in this piece is that Hatch and Swanson have a dangerous relationship to power, including over the people who serve under them and over the discretion that comes with high public office. If that hypothesis is correct, it is disquieting to think how close they came in 2006 to controlling the two most powerful positions in the state govern-

ment. It is widely believed in DFL circles that Hatch's ambitions along those lines still exist.

### A Hatch tirade

A former deputy attorney general under Hatch recalls getting summoned to the Capitol for a meeting with the boss. (The attorney general's office is in the Capitol but most of the lawyers work in a different St. Paul building.) As the deputy walked up the big marble stairs, he saw Hatch (who he assumes had seen him from his office window) coming down to intercept him. Hatch was in a rage (my source didn't know why at the time) and started screaming.

"Hatch berated me like I haven't been talked to since my drunk old man did when I was a kid," the former deputy said. "He's poking my chest with his finger. I almost hit him, I almost popped him."

Hatch used the f-word and the mother-f'er variation. He called the deputy and his entire division the "biggest bunch of [f'ing] losers" he'd ever seen. He accused the subordinate of some unspecified betrayal. My source knew not what it was.

He later learned from one of Hatch's top deputies what set off the tirade. Hatch was in the midst of one of several significant purges of the staff. The former deputy had picked up word that one of his subordinates was in danger of getting axed. He confidentially warned the woman to watch her step because she was on Hatch's radar screen.

Unbeknownst to him, the woman confronted Hatch, demanding to know why he was considering ditching her. Hatch, the top deputy told my source, considered the warning to the woman to be a personal betrayal.

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## Hatch's traumatic reign: An explanation for recent agonies in attorney general's office

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During their combined nine-plus years in office, Hatch and Swanson have extracted forced resignations from scores of subordinates. Others left because they could not abide the working environment.

The more than 50 assistant attorneys general (out of a total of about 135) who have departed in the last year and a half include many who were heart-broken when it became clear that Hatch's protégé, Swanson, would be the new AG.

One source told me the office "was like a morgue the day after the primary" in September 2006, in which Swanson, with substantial political assistance from Hatch, had defeated the DFL endorsee, state Sen. Steve Kelley.

Some assumed that meant that the dysfunctional office environment would continue, since they viewed Swanson as a Hatch clone. Some left. Others began job-hunting. Some hung on, hoping that once Hatch had cleared the scene, Swanson might establish a saner environment.

Then, after Swanson won the general election and Hatch lost his bid for governor, Swanson stunned the office by bringing Hatch himself back into the office. That clinched it for those who had hoped for a change. The departures continued.

The union movement was inspired by the desire among the remaining staff to acquire some protection from arbitrary demotion or dismissal. Some of the union

organizers said they believed that Swanson, as a DFLer who had run with union support and had promised to be pro-union, would accept their wish to unionize.

Swanson responded to the organizing effort by forcing out and suspending some of the union activists, so you can bet that hasn't settled anyone's nerves. In this case, "forcing out" refers to a procedure that has been used many times over the years. Attorney Kari Jo Ferguson, who was active in the union, gave this account to the Pioneer Press in March 2007:

"Ferguson said she was called to the Capitol and told by Solicitor General Alan Gilbert and another attorney that her services were no longer needed. She was asked for her key and pass card. Ferguson said that when she asked if she was being fired for some performance reason, Gilbert told her 'it was office policy not to give a reason why.' He then escorted her to the door and apologized, she said. She was somewhat shocked, Ferguson said, because less than a month earlier Swanson had given her a raise and a letter of commendation."

Jody Wahl, a long-tenured investigator, had her position eliminated. Wahl, one of the few who has been willing to say anything for attribution, told me in March that she assumed the action was the result of her union activities.

One union supporter, still with the office, said: "My main concerns were that we're all at-will employees. We can be transferred or fired for any reason, without any notice. The assumption is that whatever you're asked to do,

you can't say 'no' or you have to be prepared to be fired."

Swanson has said through her spokesmen that no one has been fired for union activities.

One attorney, who was asked by a Swanson loyalist to sign a group letter praising Swanson's leadership, asked: "If I don't sign it, will I be fired?" The answer was: "I don't know."

### The alumni club

The alumni of the office and those who still work there follow developments and trace the line from the early days of Hatch to the early days of Swanson. They compare notes and share war stories. There is consensus on the general views described above, and they refer me to others for confirmation.

One source said that when alumni of the office meet and compare war stories, they resemble a group of abuse victims who are still trying to reassure themselves and each other that the abuse was not their fault.

Because the bitter union battle has created a circle of disaffected staff, I took pains to get outside the circle. I sought out people to whom I have not been referred by the union organizers. The consensus was affirmed again and again.

A long-serving attorney, still in the office, said that, under both Hatch and Swanson, "it's a cult-like atmosphere. They demand blind obedience. Nobody's criticism is tolerated."

Swanson and her leadership team will say they want to hear

honest feedback, that source said, but everyone in the office has seen too many cases of a highly regarded attorney who pushed back or complained about something and suddenly suffered a complete loss of status, being taken off their cases, being given an unwanted transfer, or a sudden choice between resignation or dismissal.

Swanson and her spokesmen have said that morale in the office is fine, that the union organizers don't have wide support in the office and that the level of turnover is normal, especially after a change in administrations.

The union organizers say that before some of the recent departures, they had signatures on union cards from a majority of the proposed bargaining unit. Former Attorney General Warren Spannaus speaks kindly of Hatch, but rejects the idea that new AGs get rid of a lot of people. He is the last AG to take over from a member of the other party, and he recalls allowing everyone to stay, asking only that the incumbent deputies step down to assistant AG positions so he could appoint his own deputies. Several attorneys who were in the office under Hatch's predecessor, Hubert H. "Skip" Humphrey III, say they don't recall any purges when Humphrey took over, or during his long tenure. That changed when Hatch took over the office in 1999. The massive personnel changes of Hatch's first year are legendary.

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Joel Kramer, CEO and editor

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One source, who worked under Humphrey and stayed under Hatch, said Hatch "really bled the office" by driving away so many good lawyers whom he inherited from Humphrey.

"Mike went in and took an office where your competency was rewarded, a place that was known for doing good legal work even if it was for someone from the opposite party" and turned it into a place where "every cell of that office was reoriented toward Mike's political ambitions."

"The quality of the office has just dropped drastically," it's become "just a horrible place to work...This is not an office that you can any more work at with much self-respect." From the viewpoint of the Minnesota public, he said, "The story is the continued plunging of competence and experience levels in the office. Can you really run a law firm if the median experience is under four or five years?"

### How rough was Hatch?

The same former Hatch deputy who was berated on the Capitol steps recalled the day Hatch called him in and ordered him to get rid of 15 specified lawyers. Hatch complained that the deputy had dragged his heels over the previous purges. He demanded that this deputy get some skin in the game. As the source recalls the encounter, Hatch said: "You're either going to fire them, or I'm going to fire you."

The deputy wasn't willing to do it. He asked Hatch to spare a couple of the lawyers for specific reasons. Hatch refused. So the deputy quit instead, even though he didn't have another job prospect himself.

In the end, the 15 people on Hatch's list kept their jobs. The former deputy believes that Hatch saw the bad media he would attract if the purge went forward after their supervisor had quit for refusing to axe them. He doesn't regret his own departure:

"I'll tell you, I couldn't do one more day. I said to myself: I will stock shelves at Wal-Mart before



Photo by TERRY GYDESEN

I spend five more minutes with these people, that being Hatch, Swanson" and other Hatch loyalists, who seemed willing to say or do anything to advance Hatch's political career. He described Swanson as Hatch's "acolyte" and his "political Stepford wife."

Others employed similar rhetoric, using expressions such as "Lori is Mike" and "I refer to Mike and Lori collectively because she pretty much learned who she is from Mike." Swanson and Hatch are very different personalities, many of the sources said. But the office environment hasn't improved with the change in top leadership. Hatch left the office last year after a few tense months, but my sources all believe that he remains a key Swanson advisor.

Swanson worked for Hatch when he was a lawyer in private practice before his public career, when he was state commerce commissioner, when he first ran for governor, when he headed his own law firm. During Hatch's two terms as AG, she became his deputy, then his solicitor general. She had no independent political identity on which to launch her own run for the office, and owes her election as attorney general substantially to his help and support.

Hatch insulted and threatened not only his staff but opposing lawyers and even judges presiding over his cases. In one 2005 instance, Hatch called Leonard Rice, a senior bond lawyer at the Dorsey law firm. The firm does a lot of bond business with the state and the awarding of that lucrative business is within the attorney general's discretion. In the phone call, Hatch cursed out Dorsey attorney Marianne Short, who was opposing Hatch in the high-profile lawsuit between the state and the board of Medica Health Plans. Hatch appeared to be threatening to take lucrative bond work away from Dorsey unless Short showed him more cooperation.

Short had an opportunity to ask Hatch on the stand, under oath, whether he had called her a "f'n bitch." Hatch said that if he used the word "bitch" it would only be to say that he had a bitch with the law firm. Legislative Auditor James Nobles investigated the incident and concluded that no law was broken in the phone call to the bond attorney. Rice confirmed that the issue of state bond work was part of the discussion, but told Nobles that he didn't believe Hatch was making a concrete threat to take that

business away.

In another case that broke into public view in 2006, Ramsey County Judge William Leary said Hatch had called to berate him and had threatened him with negative publicity. Hatch denied the allegations.

### The possible political future

Hatch is believed to still harbor political ambitions, either to become governor or to help Swanson become governor while he regains his old job as AG.

One source said Hatch had talked for years about making Swanson his successor as AG. ("With that name, she's a shooin," Hatch used to joke.)

"The idea was always to have that whole corner of the Monopoly board," the source said, referring to the corner of the Capitol where the governor's and AG's offices sit.

During the awkward period in early 2007, when Hatch was back in the office as Swanson's subordinate, some of those whom Hatch supervised said the usual political tinge to Hatch's ideas for investigations and lawsuits took on a more urgent tone.

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One of the lawyers said Hatch spoke openly of his "first 100-days" agenda for Swanson, designed to take on certain targets, issue press releases, get a certain kind of media coverage that would establish Swanson in the public mind as a populist, protecting the public from corporate predators.

Hatch told the attorney to issue a Civil Investigative Demand (CID) against a specific company as part of that 100 days agenda. An attorney general has enormous discretion over the issuance of a CID, but, because it can impose a great burden on the company under investigation, the law requires it must be based on a reasonable belief that the company has violated the law.

In this instance, the attorney, who was expert in the specific legal area, felt there was insufficient basis for a CID. When she told this to Hatch, he replied that she could look at the file and make some more inquiries if it would make her feel better, but she needed to issue the CID, and soon. She took it as an improper, politically motivated order, po-

tentially an abuse of the AG's discretionary power. She gave her notice the next day, although she didn't have another job lined up.

### Country club?

Veterans of the AG's office going back to the Humphrey era, and some who worked under both Humphrey and Hatch, say the office under Humphrey and his chief deputy, John Tunheim, who is now a federal judge, had become a national model for AG's offices. Its reputation attracted legal talent commensurate with higher-paying private law firms. While there is always a political element to an office headed by an elected official, the attorneys said they felt able to do their best work without much intrusion of political considerations.

When Hatch arrived and started purging people, including some highly regarded Humphrey holdovers, Hatch openly expressed a belief that the Humphrey administration had run a bit of a country club, where under-motivated clock-punchers were serving time on the citizens' dime.

That explanation for turnover

and staff unrest has remained the party line in Hatch's circle and now in Swanson's.

This year, Swanson wrote a report to legislative leaders about the union issue, in which she wrote that some of the staff changes resulted from the presence on the staff of "some attorneys who frankly are not a good fit for our mission, including some who mistakenly view their jobs as '9 to 5' positions." Those who had been "asked to move on" during her first year were those who were not "good fits," Swanson wrote.

In his written statement to MinnPost, Hatch said that most of the attorneys he served with in the AG's office were "talented, hardworking and mission-driven." He said that he had to lay off 75 attorneys because of budgetary pressures, and it is natural that some of those are bitter. But he said that none of his subordinates ever filed a discrimination complaint, an unfair labor practices complaint, a harassment complaint or a personnel complaint against him or any of his managers.

In a recent Star Tribune piece, Swanson repeated the work ethic explanation for turnover in the

office: "I expect people to give it 110 percent and then some," she said in the Strib. "There are some who are not cut out for that type of mission."

A former deputy AG named Corey Gordon said the complaints about Swanson's leadership come from attorneys "who view a public law firm as kind of a laid-back place." Interestingly, Gordon works with Hatch, who is now in private practice.

As you might imagine, those whose work habits are described this way bristle. There was a fresh round of seething over the recent characterization in the Strib article mentioned above. But despite my best wheedling, this fresh salt in an old insult wasn't enough to get them to go on the record.

The second installment of this series will discuss their reasons.

*Eric Black writes about national and state politics, foreign affairs and other topics. He can be reached at [ebblack@minnpost.com](mailto:ebblack@minnpost.com).*

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### Want to add your voice?

If you're interested in joining the discussion by writing a Community Voices article, email Susan Albright at [salbright@minnpost.com](mailto:salbright@minnpost.com).

## The statement issued by Mike Hatch

Mr. Black:

*I had misinterpreted my secretary's message, and thought that you were with the Rochester Post. I checked around about you and your blog last night. While I am sure that your blog will not publish the report of Dean Mengler, his report raises significant issues not only about Ms. Lawler but also, based on my review of your blog last evening, your own objectivity. At any rate, it is my policy not to interview with bloggers. While I should stop right here, I feel chagrined in having agreed to a telephone interview with the Rochester Post, finding out that in fact you represent a blog called the Minnesota Post, and having raised your expectations of an interview.*

*You ask about my management style. In my career I served as full time Chairman of the DFL Party for two and one half years, managing a staff of approximately 40 people during the election years. In the 1980's I served as Commissioner of Commerce for seven years, having merged four departments (Real Estate, Securities, Insurance, and Banking) into one agency, and in the process merging together the hundreds of employees who were formerly employed by the separate agencies. In the 1990's I founded and headed a successful law firm composed of approximately ten people,*

*and for eight years I served as Attorney General. In total, I have managed thousands of people over the past 25 years, and not once did anyone in any office I managed file against me or any of my managers a discrimination complaint, an unfair labor practices complaint, a harassment complaint, or a personnel complaint. There are not many executives who can make this claim.*

*It was not after I left office, when a small cabal of attorneys attempted to organize a union in the Attorney General office, was any issue raised about my management style. As Attorney General I faced budgetary pressures which resulted in the reduction of the office from 250 attorneys to approximately 160 attorneys. I recognize that, having laid off over 75 attorneys, there are people very bitter with me. This is inevitable. Your cabal of union attorneys, however, does not speak for the Attorney Generals staff. Indeed, over the years I found that the vast majority of attorneys I served with are talented, hardworking, and mission-driven. Most importantly, we got the job done for the people of Minnesota.*

*The union organizing committee, however, is so weak that it has to resort to anonymity in an effort to give CPR to their comatose effort. Instead of putting their names by their accusations, they hide in the cloak of anonymity looking for*

*any scribner to serve as their hand maiden. According to the Mengler report, Ms. Lawler based her accusations on "bar talk" with her union organizing committee, and when requested by Dean Mengler, they refused to give any details of their accusations. Dean Mengler's report points out that Ms. Lawler committed a serious breach of the ethical canons by her conduct. The anonymous union organizers do the same.*

*For the 150 years Minnesota has been a state, the law has not allowed the attorneys to organize a union at the Attorney General's Office. Forty eight of the fifty states do not allow such organizing activity. Along the same lines, employees in the offices of the governor and legislators cannot form a union.*

*When I was Attorney General, I opposed any attempt to change the law to allow the attorneys to form a union. The state must speak with one voice on legal matters. With 3,000 cases pending at any time, the state cannot have a jamboree of chickadees chirping different legal policy from every branch of government. The public rightfully holds the Attorney General—as the elected constitutional officer—accountable for all of them. The Attorney General is elected by the people and is directly accountable to the people. I can guaranty you that if the federal government had a similar structure of an indepen-*

*dently elected Attorney General we would not have had the spectacles of Abu Ghraib, FISA seizure letters, or the Total Information Awareness project.*

*The sheer volume of work in the Attorney General's Office means that the Attorney General cannot be involved in every case. As a result, the Attorney General fulfills the mission of the office largely through the assistant attorneys he or she appoints. The law is clear: those people appointed to the position of Assistant Attorney General occupy a position of trust and have a fiduciary duty to the Attorney General. A union is simply not compatible with the constitutional and fiduciary relationship of trust and confidence owed to the Attorney General, who is charged with representing the public interest.*

*The latest public spectacle on your blog—in which disgruntled and largely anonymous attorneys throw grenades at an elected official they are supposed to represent in order to administer CPR to their dying organizing campaign—does nothing but show why a union of the assistant attorneys general is a bad idea. The mud throwers do a real disservice to the citizens, the state, and the many talented, hardworking employees in the office with their vitriolic and unlawful organizing campaign.*

Mike Hatch

## Union's response to Amy Lawler's termination

By AFSCME Minnesota Council 5 Executive Director Eliot Seide

During Attorney General Swanson's first year in office, 50 of 126 assistant attorneys general were terminated or left under duress. Today Assistant Attorney General Amy Lawler was fired. She and her co-workers have asked the Attorney General to recognize their union and to meet and confer with AFSCME about working conditions.

"In her termination letter, Attorney General Swanson gave no reason for firing Amy Lawler. Bad bosses routinely fire ethical workers for union organizing and whistle blowing. That's why we have laws to protect workers from bosses like Lori Swanson and Alberto Gonzales. If these top attorneys trample the Constitution, then who will protect our rights?"

Council 5 of the American Federation of State, County and Municipal Employees provides one strong united voice for 43,000 public and non-profit workers throughout Minnesota, including hundreds of city and county attorneys.