

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
DOCKET NO. KENSC-CV-22-54

ANDREW ROBBINS, et al.,

Plaintiffs,

v.

MAINE COMMISSION ON INDIGENT  
LEGAL SERVICES, et al.,

Defendants.

**BRIEF OF AMICUS CURIAE (a  
Previously Named Defendant)  
IN SUPPORT OF CLASS OF  
INDIGENT ACCUSED**

This amicus brief is respectfully submitted by the undersigned to address the implications of the ACLU's filing of March 8th and the opposition filed by the Attorney General on March 14th. The undersigned was among others who were improvidently named as defendants in the ACLU's initial filing.

As a further predicate for this amicus submission, the undersigned notes an extensive dedication to the representation of indigent accused in both state and federal court. And as particularly relevant here, the undersigned has been recognized and testified as an expert in matters of lawyer and judicial conduct in both federal and state courts. (See attached Exhibit A)

**I. AS TO THE MATTER OF THE MARCH 8th FILING BY THE ACLU.**

As a quintessential example of pure sophistry, the ACLU and its counsel claim that it only occurred to them to name the real and essential parties to this controversy because of this Court's rulings and urging. The truth is that the ACLU and its counsel knew and should have known who to sue and where to sue years ago when it stood by and watched the Sixth Amendment and other Constitutional Rights of hundreds of presumed innocent indigent accused being flaunted.

Indeed, and at the time the ACLU initiated this action, it was told (and certainly knew) that the Maine Commission was not the proper party and that the State of Maine and its responsible officers were the proper defendants.

This flagrant disregard of the interests of the class has been compounded when, on two occasions, the ACLU and its counsel have cuddled up with the Attorney General and presented a so-called "settlement" that anyone knowing a thing about the constitutional crisis in this state and even less about class actions law would find unacceptable as did this Court. But much worse, of course, is that the interests of the class are being compromised.

The bottom line is that the ACLU and its counsel should be disqualified and replaced by competent independent counsel who will zealously represent the interests of the class.

## **II. AS TO THE ATTORNEY GENERAL'S OPPOSITION.**

The manifestly and irreconcilably conflicted Attorney General presents this court with a 21-page excuse for Maine's continuing violation of the Constitution as highlighted once again by Maine's highest ranking judicial officer. That opposition brief should be rejected and recognized for what it is.

It is a cynical attempt to protect the powers that be from being held accountable for the patent disregard of the constitutional rights of the -- remember this -- "presumed innocent" indigent accused. The AG must stand down.

## **III. WILLING TO ASSIST.**

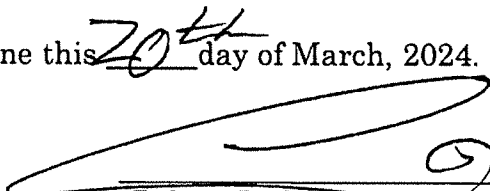
The undersigned Amicus is willing to assist in any way the Court may consider appropriate and will lend his support as a priority and without the need for any compensation.

Should the Court deem it appropriate, the undersigned is prepared to offer oral argument on these disqualification issues.

## CONCLUSION

At 91, the undersigned Amicus remembers well "The Declaration of Conscience" by Maine's Margaret Chase Smith. Rather than play the conflicted and compromised roles that they have demonstrated in this litigation (while wasting time and money) the ACLU and Attorney General should emulate the Senator and provide real support for the class and do all that is possible outside the courtroom to create a well-funded statewide public defender system, The presumably innocent indigent accused have no voice, it is time we give them one!<sup>1</sup>

DATED at Portland, Maine this 20<sup>th</sup> day of March, 2024.



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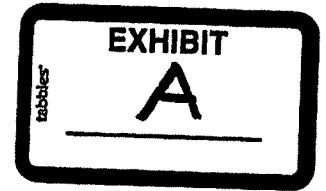
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<sup>1</sup> For reasons yet to be explained, the press entities that have covered this litigation (e.g. The Press Herald and Maine Monitor) have been reluctant to investigate and probe the real reasons that Maine stands alone in refusing to create a statewide, properly funded public defender system.

The reporting that has taken place, highlights the baby steps taken by Maine's woefully lax legislature and treats this patches to the indigent defense system as progress. This absence of a vigorous and indecent press continues as this constitutional crisis worsens and hundreds of Maine's citizens suffer the loss of freedom and endure prosecutorial overreach unchecked by our judiciary. And why no inquiry into why the organized bar has abandoned the indigent accused in disregard of their professional obligations?

No Pulitzer work to be found here.

THE CUMMINS LAW FIRM, P.C.



BIOGRAPHICAL SKETCH

Robert P. Cummins graduated with distinction from Purdue University in 1958 after serving on active duty with the United States Marine Corps from 1952-1954. He received his Juris Doctorate degree from DePaul University Law School in 1962 where he served on the Law Review.

Mr. Cummins has pursued a civil and criminal trial practice and related counseling for over 55 years and has served as an arbitrator and mediator in complex commercial disputes. He is admitted to practice in Illinois, Colorado, and Maine and before the United States Supreme Court and numerous Federal Courts of Appeal and Federal District Courts.

Mr. Cummins transferred his principal office to Maine in 2014 where he became associated with the firm of Norman Hanson & DeTroy as "of counsel". He continues to maintain his full-time trial practice with several significant cases currently being actively prosecuted in Maine, Illinois, and New York.

Maine's Governor Janet Mills has appointed Mr. Cummins to serve as a member of the Maine Commission on Indigent Legal Services. The Maine Commission on Indigent Legal Services is an independent commission whose purpose is to provide efficient, high-quality representation to indigent citizens who are entitled to counsel at state expense under the United States Constitution and the Constitution and statutes of Maine. As noted hereafter, Mr. Cummins has long been involved in the representation of indigents in criminal cases. He has since resigned from the Commission for reasons of professional accountability.

As evidence of his high standing in the legal profession, Mr. Cummins was elected a 2004 Laureate of the Academy of Illinois Lawyers. He has received numerous awards and citations for his professional contributions. He is a recognized expert in the field of lawyer and judicial conduct and ethics and has testified as an expert witness in numerous civil and criminal cases.

He served as Chairman of the Illinois Judicial Inquiry Board until December 1987. He served as member of the Review Board of the Attorney Registration and Disciplinary Commission of the Illinois Supreme Court for seven years until appointed by the Governor to the Judicial Inquiry Board in 1979.

From 2004 through 2007, he served on behalf of the American Judicature Society as advisor to the American Bar Association's Joint Commission to Evaluate the Model Code of Judicial Conduct. The revised Model Rules of Judicial Conduct were adopted by the ABA in 2007.

He is a former member of the ABA Standing Committee of Professionalism; is past Chairman of the American Bar Association Standing Committee on Professional Discipline; and a past member of the Standing Committee on Lawyers' Professional Liability. He has served as a member of the ABA Standing Committee on Lawyers Competence and as Vice Chairman of the ABA Litigation Section Professional Responsibility Committee. He served on the ABA Litigation Section Task Force on the Independent Lawyer and chaired the Litigation Section Task Force on Ethics 2000 and served as Chairman of the ABA Judicial Division Lawyers Conference Committee on Judicial Performance and Conduct. He is also a past member of the ABA Joint Committee on Lawyer Regulation.

He has been a member of the Board of Governors of the Illinois State Bar Association and served as Vice Chairman of its Task Force on Professionalism. He has served as chair of the ISBA Judicial Tone and Conduct Committee. He is a founder of the Illinois Lawyers Assistance Program. He is a former member of the American Bar Association Commission on Lawyer Assistance Programs and the Advisory Commission on Client Protection Funds. He has also served as a member of the Board of Directors of the Criminal Justice Project of Cook County and was a co-chairman of the Special Commission on the Administration of Justice. He has served on the Board of Managers of the Chicago Bar Association and the Board of Directors of the Chicago Council of Lawyers.

Beginning in the '80's and through various committee assignments (and up until at least 2003), he participated in the drafting, implementation and updating of the ABA Model Code and Illinois Rules of Professional Conduct. With the then Chief Justice of the Arizona Supreme Court, he served as Co-Chairman of the Joint Committee on Professional Sanctions which drafted the ABA Standards for Imposing Lawyer Sanctions that were adopted in 1986. As a member and Chairman of the ABA Standing Committee on Professional Discipline from 1981 until 1987, he implemented and participated in the evaluation of a number of our state's lawyer discipline systems including those of the states of Florida, Ohio, New York, South Dakota and Utah.

At various times since 1979, Cummins has taught Professional Responsibility as an adjunct professor at Chicago's Loyola Law School. Cummins has lectured and participated as a speaker at numerous seminars, conferences and symposia at Harvard, Hofstra, NYU, Quinnipiac, Northwestern, DePaul, Georgetown University Law Center, Loyola, Northwestern and Cooley Law Schools. He has also lectured on trial practice at the John Marshall Law School. He has served as a panelist at a host of national, state and specialized bar association conferences. He has authored a variety of articles and has lectured at the National Judicial College and at various state and national judicial conduct conferences and seminars including the bi-annual AJS Conference for Judicial Disciplinary and Disability Organizations and at various trial judge association meetings including those conducted in Colorado, Florida and Hawaii. (The subject of these latter trial judge programs was "*The Judicial Response to Lawyer Misconduct*"). He has been a lecturer at various Illinois Judicial Conferences and Seminars including those conducted for new Illinois judges.

Cummins recently served on a multi-week consulting assignment in Sarajevo with the USAID Justice Project in Bosnia and Herzegovina. Cummins was appointed as the judicial ethics expert for the Project. While in Bosnia and Herzegovina, Cummins consulted with the judicial officials and prosecutors regarding their ethics codes and standards of conduct.

He served as a member of the Editorial Board of the ABA/BNA Lawyers' Manual on Professional Conduct. He has served as a member of the Performance Assistance Committee of the Trial Bar of the United States District Court for the Northern District of Illinois.

He was appointed and served as special counsel in a variety of circumstances including the so-called Black Panther (Fred Hampton, et al.) case in 1970 and has represented the Committee on Character and Fitness on the Illinois Supreme Court in connection with the infamous Martin Trigona and Matthew Hale matters. He served as court-appointed counsel in the Pontiac prison case and chaired the Defense of Indigent Prisoners' and Civil Disorders Committee on the Chicago Bar Association. He has chaired or served on numerous other committees of the American, Illinois and Chicago Bar Associations.