

**IN THE HONORABLE SENATE OF THE STATE OF ILLINOIS
FOR THE NINETY-SIXTH GENERAL ASSEMBLY
SITTING AS AN IMPEACHMENT TRIBUNAL**

In re)
Impeachment of)
Governor ROD R. BLAGOJEVICH)

**HOUSE PROSECUTOR'S
MODIFIED MOTION FOR ADDITIONAL WITNESS TESTIMONY**

House Prosecutor David W. Ellis, pursuant to Senate Impeachment Rule 15(b)(1), moves for the admission of additional witness testimony and, in support thereof, states as follows:

1. In the event that the Honorable Senate grants the House Prosecutor's request to call Special Agent Daniel Cain, the House Prosecutor will be withdrawing the testimony of Representatives Durkin, Hannig, and Mendoza. In an attempt to avoid cumulative testimony and streamline the presentation of evidence, the House Prosecutor further intends to withdraw the testimony of Representatives Jack Franks and David Miller.

2. The House Prosecutor will continue to seek the admission of additional witness testimony from former Assistant United States Attorney John Scully, Representative Chapin Rose, Auditor General William Holland, Vicki Thomas, Representative Lou Lang, Andrew Morriss, and Representative Constance Howard at the Impeachment Trial.

3. Former Assistant United States Attorney John Scully will testify on the process of obtaining authority to intercept wire communications and oral communications. Mr. Scully will provide information about the oversight and procedural steps taken by the United States Attorney for obtaining authorization to intercept oral or wire communications, which is relevant to the authenticity of four court-authorized intercepts, as quoted and summarized in the Affidavit of Special Agent Daniel Cain (Exhibit 3). This testimony is not redundant as Mr. Scully is the only

live witness who will testify on this subject. Former Assistant United States Attorney John Scully Mr. Scully's address is P.O. Box 332, Lake Villa, IL 60046.

4. Representative Chapin Rose will testify on the following subject matters: (i) the plea agreement between the U.S. Attorney for the Northern District of Illinois and Ali Ata in *United States v. Ali Ata*; (ii) the testimony of Ali Ata in *United States v. Antoin Rezko*; (iii) the plea agreement between the U.S. Attorney for the Northern District of Illinois and Joseph Cari in *United States v. Joseph Cari*; (iv) the testimony of Joseph Cari in *United States v. Antoin Rezko*; and (v) the Governor's improper control and influence over the Health Facilities Planning Board. Representative Rose's address and phone number are: 1113 Lincoln Avenue, Charleston, Illinois 61920, (217) 348-7673. This testimony is relevant and material because it addresses sworn testimony regarding the Governor's efforts to trade official acts in exchange for campaign contributions. Representative Rose will summarize material contained in the House impeachment record. This testimony is not redundant because Representative Rose is the only witness who will provide this testimony.

5. Auditor General William Holland will testify on the following subject matters: (i) management audit of the flu vaccine procurement and the I-SaveRx Program directed by House Resolution 394; (ii) Department of Central Management Services Compliance Examination for two years ending June 30, 2004; and (iii) the summary report on agency efficiency initiative payments released in June 2005. This testimony is relevant and material because it addresses the findings of the Auditor General with regard to the procurement of flu vaccines, the I-SaveRx Program, and the agency efficiency initiatives. This testimony is not redundant as he is the only live witness who will testify on these subjects. Mr. Holland's address and phone number are: 740 East Ash Street, Springfield, IL 62703, (217) 782-6046.

6. Vicki Thomas will testify to the following subject matters: (i) general information on the Joint Committee on Administrative Rules, and (ii) the Joint Committee on Administrative Rules' objection to the Department of Healthcare and Family Services' FamilyCare Rules. Among other things, Ms. Thomas will summarize material contained in the House impeachment

record. This testimony is relevant and material because it addresses the Governor's refusal to recognize the authority of the Joint Committee on Administrative Rules to suspend or prohibit rules. Ms. Thomas is the only live witness who will testify to the Joint Committee on Administrative Rules' history, powers, duties, operations, communications, and dealings. Ms. Thomas's address and phone number are: 700 Stratton Building, Springfield, Illinois 62706, (217) 785-2254.

7. Representative Lou Lang will testify to the following subject matters: (i) Governor Blagojevich's defiance of the Joint Committee on Administrative Rules, in violation of State law, and (ii) his refusal to provide the general public and lawmakers with information on the expansion of the FamilyCare program. Among other things, Representative Lang will summarize material contained in the House impeachment record and will testify to the injury to the State of Illinois from the Governor's abuse of power described herein. This testimony is relevant and material because it addresses the Governor's disregard for the doctrine of separation of powers and refusal to recognize the authority of the Joint Committee on Administrative Rules. This testimony is not redundant as Representative Lang is the only live witness who will testify to the Governor's motives, directives, and public statements made in connection with these matters. Rep. Lang's address and phone number are: 109 Capitol Building, Springfield, Illinois 62706, (217) 782-1252.

8. Andrew Morriss will testify on the following subject matters: (i) the administration's inability to make rules without a specific delegation of authority, and (ii) the administration's duty to follow the law unless a court deems it to be invalid. This testimony is relevant and material because it addresses the Governor's refusal to recognize the authority of the Joint Committee on Administrative Rules to suspend or prohibit rules and his violation of the Illinois Administrative Procedure Act. Mr. Morriss is the only live witness who will testify on the constitutionality of the Governor's action in violating the Illinois Administrative Procedure Act. Mr. Morriss' address and phone number are: 504 E. Pennsylvania Ave, Champaign, Illinois 61820, (217) 897-1234.

9. Representative Howard will testify on the following subject matters: (i) the injury to the people of the State of Illinois that has occurred since the Governor's arrest, and (ii) articles, statements and press releases relating to the Governor's current situation, as provided in Group Exhibit 37. This testimony is relevant and material because it addresses the injury to the people of the State of Illinois. This testimony is not redundant as Representative Howard is the only live witness who will testify on these subjects. Representative Howard's address and phone number are: 8729 S. State Street, Chicago, Illinois 60619, (773) 783-8800.

10. Moreover, although some evidence related to this issue is contained in the House impeachment record, under Senate Impeachment Rule 15(g), the evidence is not deemed redundant simply because it relates to material already in the record.

WHEREFORE, in the event that the Honorable Senate grants the House Prosecutor's request for Special Agent Daniel Cain, the House Prosecutor respectfully moves for the admission of the testimony of John Scully, Representative Chapin Rose, Auditor General William Holland, Vicki Thomas, Representative Lou Lang, Andrew Morriss, and Representative Constance Howard at the Impeachment Trial.

Respectfully submitted,

**DAVID W. ELLIS,
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