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**FOR IMMEDIATE RELEASE**

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**U.S. Court of Appeals for the Second Circuit Vacates Corruption Conviction of Late Former NYS Senator Tom Libous, Orders Fine Returned**

**ALBANY, N.Y.** – Legal attorney Paul DerOhannesian II announces the reversal of conviction of client and former New York State senator Thomas Libous, issued today by the United States Court of Appeals for the Second Circuit. As part of Libous’ conviction, a fine of \$50,000 was paid by the late senator’s estate. At issue with this appeal filed by Mr. DerOhannesian was the repayment of the fine under the doctrine of abatement *ab initio*. Now, more than a year after Libous’ death, a Second Circuit court has ordered the return of that fine payment to the Libous estate.

An appeal of the conviction was originally filed by Mr. DerOhannesian on behalf of his client in November 2015. Mr. Libous passed away in May 2016 before given the full opportunity to fully pursue that appeal. Subsequently, DerOhannesian moved to invoke a Fifth Circuit precedent that calls for the vacating of the conviction of any defendant who passes away before having an opportunity to seek appeal.

“We are very pleased with the court’s decision to vacate the conviction of my client and to order the fine be returned to the Libous estate,” said DerOhannesian. “Though he was gravely ill at the time, Tom wanted to move forward with the appeal not just to clear his name but to help others who may face similar charges stemming from the statute he was tried under. Had Tom lived to pursue his appeal, I am confident the conviction would eventually have been overturned.”

In issuing its ruling today, the court stated that there is no legal basis on which the state can retain a fine exacted from Libous as punishment for an offense he is now presumed not to have committed. “In our system of criminal justice, the state is not permitted to charge the accused for the privilege of having been prosecuted,” said Chief Justice Robert Katzmann.

The court’s conclusion in this case was reinforced by the United States Supreme Court’s recent decision in *Nelson v. Colorado*. In *Nelson*, the Supreme Court held that “[w]hen a criminal conviction is invalidated by a reviewing court and no retrial will occur,” the state is required under the Fourteenth Amendment’s due process guarantee “to refund fees, court costs, and restitution exacted from the defendant upon, and as a consequence of, the conviction.”

Libous was elected senator of New York State’s 52<sup>nd</sup> Senate District in 1988. He was named Senate Deputy Majority Leader in 2008 and again in 2010 and, in 2012, was named Senate Deputy Coalition Leader. He was instrumental in passing legislation offering benefits and assistants to those living with disabilities, mental health and substance abuse issues. Libous was removed from his position in the Senate following his conviction.

**About Paul DerOhannesian II:**

Mr. DerOhannesian has practiced law for more than 30 years and is a member of the National Association of Criminal Defense Lawyers, American Association for Justice, New York State Bar Association, New York State Trial Lawyers Association, and Albany County Bar Association. DerOhannesian is a respected instructor having conducted more than 300 presentations, including for the National Center for Missing and Exploited Children and the American Prosecutors Research Institute, the National College of District Attorneys and provides extensive training for many local, state and federal agencies, including the U.S. Department of Justice, Naval Justice School and the New York State Police. Additionally, DerOhannesian is an accomplished author, having penned *Sexual Assault Trials*, currently in its 3<sup>rd</sup> edition.

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