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Written Testimony of Louis R. Pepe, President  
**House Bill 5216, An Act Concerning Representation of  
a Party in an Arbitration Proceeding**  
Judiciary Committee  
February 27, 2006

Senator McDonald, Representative Lawlor and members of the Judiciary Committee, thank you for the opportunity to submit written remarks to the committee on House Bill 5216, An Act Concerning Representation of a Party in an Arbitration Proceeding.

My name is Louis R. Pepe. I am a partner with Pepe & Hazard in Hartford, where I practice in the area of construction law and arbitration. I am the President of the Connecticut Bar Association, which has a significant interest in any legislation affecting arbitration and the unauthorized practice of law in the state. House Bill 5216 would allow any person, including a nonattorney, to act as an agent or representative for a party in an arbitration proceeding without having been admitted to practice law in the state.

The CBA commends the sponsor of the bill, Rep. Bob Farr, for his efforts to address the challenging issue confronting our state of whether an attorney not admitted to practice law in this state who is conducting an arbitration here is engaged in the practice of law. Many of our members share his concerns. The issue has arisen recently, particularly in contentious litigation, and has been reported in the news media.

The CBA has an Alternative Dispute Resolution Section, whose members are interested in mediation and arbitration as alternatives to litigation. We also have an Unauthorized Practice of Law Committee, whose members deliberate on possible

violations of the statute underlying House Bill 5216 and issue opinions as to whether one may be engaged in the practice of law.

For some time, the CBA has supported proposed rules before the Judicial Branch rules committee that would authorize in-house counsel not admitted to practice law in the state to be admitted for a limited purpose -- to advise their corporate client. The CBA Unauthorized Practice of Law Committee has opined that locally unadmitted in-house attorneys are engaged in the practice of law, which has created some uncertainty for in-house counsel working in the state. The CBA also has had under consideration amendments to the rules of professional conduct concerning multijurisdictional practice of law. MJP involves issues of legal ethics, bar admission, regulation of lawyers and the unauthorized practice of law. The proposed amendment to the Rules of Professional Conduct would permit a lawyer admitted in another jurisdiction to provide legal services in Connecticut on a temporary basis under certain conditions. If the rules are adopted as policy of the CBA, we would recommend them to the Judicial Branch for the consideration of the rules committee. Lastly, the Unauthorized Practice of Law Committee has been considering defining the practice of law in the state. Attorneys are commissioners of the Superior Court and, as such, the CBA generally believes, with due respect to the legislature, that the principle of the regulation of the practice of law should be accomplished by rules established by the Judicial Branch.

While the CBA does not have a position on House Bill 5216, we believe that the issues underlying it are so intertwined with the issues described above that we would like to have the opportunity to work with the sponsor and consult with the Judicial Branch on

its implications. The CBA intends to continue to study these issues and address them in a comprehensive manner.

Thank you again for the opportunity to submit written testimony to the committee on House Bill 5216. Please feel free to contact me at (860) 522-5175 if you have any questions.