February 25, 2008
Judiciary Committee Public Hearing
SB 325, An Act Concerning the Commission on Child Protection

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Dear Senator McDonald, Representative Lawlor, and distinguished Members of the Judiciary Committee:

I currently contract with the State of Connecticut to provide legal representation to children in Juvenile court proceedings. I encourage the Judiciary Committee to support Senate Bill 325 concerning the Commission on Child Protection. I wish to provide special emphasis on the importance of section 3 which seeks to appoint counsel for children ages seven and older, in juvenile cases, solely as attorneys for these children. This proposal attempts to revise C.G.S. Sec. 46b-129a, which currently instructs lawyers for all children in child protection cases to serve a dual role as both an attorney and a guardian ad litem. A potential conflict exists between the role of an attorney, who advocates for the client's wishes, and the role of the guardian ad litem, who advocates for the client's best interest.

The Rules of Professional Conduct include directives that attorneys must zealously assert the positions of their clients. Loyalty, confidentiality, and advocacy for a client's judgment are essential elements in the lawyer's relationship to a client. The dual role currently erodes the conventional attorney-client relationship, especially since the definition of an individual's best interests is not always clear. The current structure of representation encourages attorneys to betray the attorney-client relationship simply because a question may arise as to whether the child's wishes are at odds with some other perception of what that child's best interests are. The adversarial nature of child protection litigation ensures that the State's position is advocated for. The State is seeking to protect these children from abuse and neglect, so we must presume that the child's best interests are already being represented.

Children who are placed into foster care should be afforded legal representation in the form of a traditional attorney-client relationship that promotes an open dialog with clients. Feelings of resentment and disenchantment with the child protection system are less likely to be felt by children who are confident that their voices are being advocated for in the courtroom. Section 3 helps to safeguard this principle and provides clarity to the role of lawyers appointed to represent children over age 7 in Juvenile court. Therefore, I encourage the Judiciary Committee to support Senate Bill 325.

Respectfully Submitted,

Michael Perez Esq.