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Testimony of Peter L. Costas, Past President of the Connecticut Bar Association  
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**In support of Senate Bill 487**  
**An Act Concerning the Unauthorized Practice of Law**  
Judiciary Committee  
March 26, 2010

Senator McDonald, Representative Lawler and members of the Judiciary Committee, thank you for the opportunity to appear before the Committee to comment in support of Senate Bill 487, An Act Concerning the Unauthorized Practice of Law. The CBA has a great interest in legislation that affects the legal profession in general and legislation that concerns the integrity of the practice of law in particular. On behalf of the CBA, we respectfully request that the Judiciary Committee favorably report Senate Bill 487.

Ministering to the legal needs of our citizens is often a complex and difficult task involving great knowledge and technical expertise. Often, the consequences for getting it wrong are serious and permanent for the clients. Unfortunately, Connecticut citizens have been increasingly exposed to many charlatans masquerading as lawyers. Consequently, the Connecticut Bar Association supports increasing the existing penalties for the unauthorized practice of law set forth in Connecticut General Statutes Section 51-88 from a misdemeanor to a felony.

Increasing the penalties for the unauthorized practice of law in Section 51-88 requires a definition of the "practice of law" in the statute. Fortunately, the Judicial Branch has already adopted such a definition in Connecticut Practice Book Section 2-44A. That definition and its enumerated exceptions are set forth in lines 4 through 88 of Senate Bill 487. The CBA urges the committee to resist making any changes to this definition, as 1) having two different, potentially conflicting definitions would likely cause confusion as to what constitutes the practice of law in Connecticut, and 2) would likely violate the separation of powers clause with regard to which branch of government has the authority to define the practice of law. Senate Bill 487 does nothing to change the current definition of "practice of law" as set forth in Practice Book Section 2-44A, which rule has been in effect since January 1, 2008.

Recently, a man in Stamford paid approximately \$20,000 to an unscrupulous individual from New York who claimed to be a Connecticut lawyer. He appeared at the trial of the man's drunk driving case and after three weeks of increasingly bizarre conduct, a jury convicted the "client". It was later learned that the man had no law license and had never been to law school. A new trial will have to be held, and valuable court and jury time was wasted. In yet another case, an individual pretended to be a lawyer in a series of complex civil cases wherein his "clients" paid tens of thousands of dollars for representation. Again, this act of unauthorized practice of law resulted in a waste of time, money and jeopardy to the "clients," and a waste of valuable judicial resources. Still another example involved a man who pretended to be a Yale law professor and took hundreds of thousands of dollars of money from people looking for legal help in immigration matters. There are dozens of other stories involving similar cases of fraud that hurts both the consumers of legal services as well as the integrity of the practice of the law. Samples of actual UPL cases in Connecticut are attached to our testimony. Senate Bill 487 will help protect the

public by severely penalizing – and potentially incarcerating – those individuals who hold themselves out to the public as being entitled to practice law when, in fact, they are not.

Under existing law, the penalty for the unauthorized practice of law is a fine of not more than \$250 or imprisonment of not more than two months, or both. Because of this, the state's attorneys usually will not spend their valuable resources investigating these cases unless the perpetrator took lots of money. In some instances these non-attorneys even pretend to do some work, such as filling in forms or sending folks to government agencies. Thus prosecution is made more complex, requiring expert testimony that the "work" was worthless or, worse, may have caused the clients harm. Because the criminal penalty is so trifling, there is little deterrence.

Raising the penalty for this conduct - where these unscrupulous criminals prey on our vulnerable citizens - is long overdue. To quote from a South Carolina case (where the unauthorized practice of law is also a felony) "an amateur at law is just as dangerous as an amateur doctor."

Thank you for allowing me the opportunity to comment on Senate Bill 487. For all of the foregoing reasons, the Connecticut Bar Association respectfully requests that the Judiciary Committee **favorably report** the bill.

We would be happy to answer any questions you may have.

## SAMPLE OF RECENT UNAUTHORIZED PRACTICE OF LAW CASES IN CONNECTICUT

Florida law firm sets up office in East Berlin manned by an unemployed chef and two fishing pals who sign up over 200 Conn residents for foreclosure assistance. They never file an appearance in any case and after Disciplinary Counsel begins prosecution, return over \$200K.

An inmate sets his brother up as a phony "prisoner assistance" firm and funnels legal work from fellow inmates to him.

A felon sets up an office in CT offering to do prison and parole advocacy. Accepts money from people from all over the country to do legal work, but what they do is of little value—mostly sending letters.

Woman sets up office in East Hartford offering to do foreclosure counseling and representation. Takes \$1500 from Hartford family. What little work she does is laughably incompetent, with the letters full of misspellings and typos. Appears in court to act as advocate for clients. Files federal lawsuit as their attorney. Family loses two-family home, is evicted and woman then offers that for \$5,000 more, she will get the bank to "rescind" the foreclosure.

Woman in Harwinton sets up office where for a fee she will act as an advocate in divorce cases. Also signs up a client on a contingent fee deal for a personal injury case.

Stamford man, already on AR for UPL arrests in the past, sets self up as a minister and sells immigration assistance. Recently arrested on felony larceny charges.

Out-of-state debt negotiation firms pretend to be law firms to avoid Banking regulation and take money from CT consumers who are behind on credit cards. Little or nothing is done for them, as most of the payments go to fees and costs. Only 1.4% of consumers actually finish such programs.

Paralegal in New Haven takes money from the public to draft and file court papers, and consults on insurance, bankruptcy, personal injury and other cases. Pretends that she has attorneys on staff. Advertises that she can beat attorneys' prices. "Lowest legal prices in state."

Danville woman sets up consulting business and files legal briefs and motions in wetlands cases before local land-use agencies. Laughable errors in docs.

Avon man sets up company offering to incorporate businesses, file tax returns for individuals in the trucking business. Meets "clients" at local McDonald's.

New York felon tries to file appearance and drafts motions for couple involved in DOFF neglect case. Drafts "Affidavit of Truth" (sic) alleging that State's case is bogus and

providing that all allegations in affidavit are “true” unless DCF denies them. Also appears at DCF attempting to act as “constitutional counsel.”

NY conman appears in Stamford court and tries drunk-driving case. After 5 days, jury returns guilty verdict in less than 10 minutes. Takes \$25,000 for the effort.

NY paralegal pretends to be lawyer and gets admitted to numerous CT cases Pro Hac Vice. Arrested in NY when fraud is discovered.

Danbury woman pretending to be a translation service, working out of the back room of a deli and a strip-club files bogus immigration paperwork for undocumented aliens in numerous cases. Creates false tax returns and other documents to support fraudulent applications.

Hartford bodega puts up sign advertising itself as “Brazilegal”, offering to do legal work for Portuguese-speaking residents of the Park Street area.

New Haven man ghost-writes scripts for tenants in eviction proceedings and sells them to people he finds in housing court. Cautions them not to tell the judge who drafted the document, just to read it to the judge.

Out-of-state company charges \$hundreds to download free Judicial Branch divorce forms and fill them in (name, address) for clients seeking uncontested divorces.

California law firm agrees to defend Bridgeport resident in foreclosure by doing “forensic analysis” of closing documents. Never files appearance in foreclosure, and house is lost.