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Court Orders Non-Lawyer Kamasinski to Stop Practicing Law

Merrimack County Superior Court Judge Edward Fitzgerald has issued an order enjoining Theodore Kamasinski from -- on behalf of another individual or legal entity -- appearing in NH courts, drafting legal documents or pleadings, or negotiating legal rights and responsibilities.

The court circulated its order to all other state courts and said any current appearances on behalf of others filed by Kamasinski should be stricken. The order is published in its entirety at www.nhbar.org.

"We believe this outcome vindicates our position that the activities of Mr. Kamasinski are counter to the public interest," said NHBA President Marty Van Oot.

The order arose out of litigation that was initiated by Kamasinski who sought a declaratory judgment from the court that his activities on behalf of others did not constitute the "unauthorized practice of law" as defined by RSA 311.7. In a cross-petition, the New Hampshire Bar Association and the NH Attorney General's office sought to enjoin Kamasinski from appearing in court on behalf of others or providing legal representation or advice in other settings.

Judge Fitzgerald's order specifically bars Kamasinski from:

- Giving legal advice to any person or legal entity whether for a fee or otherwise;
- filing an appearance on behalf of another individual or legal entity in any court of this state, appearing or representing anyone at any administrative hearing;
- drafting any legal briefs, pleadings or documents on behalf of others or that would "affect the rights of any individual or legal entity;"
- negotiating on behalf of others.

Judge Fitzgerald also indicated that he would not stay the Court's injunctions pending motions for reconsideration or on appeal, saying that "the interests of justice and public policy precluding the practice of law by

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non-attorneys be strictly enforced to protect the public from the provision of legal services by other than a licensed attorney."

The court said Kamasinski, by his own admission, was engaged in the unauthorized practice of law, and that "a strong public policy" exists to prevent "unqualified or unethical individuals from rendering legal services."

The court rebuffed Kamasinski's contention that he was authorized to appear in court on behalf of others due to the RSA 311.1 which provides an exception to the unauthorized practice of law statute which allows representation by a non-lawyer for "any citizen of good character."

Fitzgerald said the statute should not provide "a blanket exception allowing lay counsel to file appearances as a matter of course."

Furthermore, the court found that evidence developed in the case showed that "Mr. Kamasinski is not of good character."

The order cites a conviction of aggravated fraud and misappropriation in Austria, and an attempted "circumvention" of rules regarding lay representation in the US District Court of New Hampshire, and the filing of a complaint that District Court Judge Steven McAuliffe termed "meritless" and that also "contains a number of irrelevant and scandalous allegations that seem designed to harass rather than inform."

-The court also noted that Kamasinski repeatedly has failed to comply with discovery orders in the unauthorized practice of law litigation he had initiated.

Van Oot thanked attorneys Joseph McDowell of Manchester and Joshua Gordon of Concord for handling the Bar's litigation against Kamasinski on a pro bono basis. "They have worked very hard on this litigation and deserve the gratitude of the Bar and all consumers of legal services for their efforts."

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