YOUR FEDERAL RIGHT TO NON-ATTORNEY ADVOCACY

Having a non-attorney advocate in Court is completely legal. It occurs when representation is given a client, not by a lawyer, but by a competent person who is knowledgeable about the case at hand, and is familiar with relevant case law and general practices in the Court at hand. This practice does not constitute engaging in the unauthorized practice of law.

Any issue regarding such practice involves the client's First Amendment Rights to Freedom of Speech and the Right to Association with whomever one wants, as well as Federal statutes arising under the Sixth Amendment Right of Counsel of Choice, regarding whomever the client wishes to assist them.

The Constitution of the United States has no provision prohibiting advocacy before a court by a non-attorney. Any use of the "unauthorized practice of1aw" statutes against an advocate, by any State, is an unconstitutional infringement upon the fundamentally secured rights of those wishing to avail themselves of a layperson know1edgeable with their case and situation.

Neither Federal or State law, or any judge, may restrict the Courts to "attorneys only", which would effectively deny counsel to any defendant or respondent who desires to be represented or assisted by a "friend", in preference to an attorney. This would constitute discrimination under the law. See National Life Insurance Co. v. United States 277 U.S. 508,639.

Courts cannot take advantage of or discriminate against self-representing litigants because they do not have counsel, or have non-attorney counsel. Courts cannot demand of self-represented or advocate-represented litigants that they must retain attorneys because they run the risk of adverse decisions. Such action on the part of the Court would constitute official and/or judicial misconduct, which could result in the overturning of any decision made by that Court. See Sperry v. State of Florida ex rel,, the Florida Bar; 373 U.S. 379 93s.ct.l 322.10 Ll.ed.2d426 (1963) Non-attorneys can represent clients before government agencies.

WHY CLIENTS NEED A FORENSIC ADVOCATE IN COURT

1. The attorney's first duty is to the Court. Attorneys see many cases before the same judges, and therefore must defer to those judges
2. The attorney's second duty is to the State, which holds their license
3. The attorney's third duty is to public policy, and prevailing State law
4. The attorney's fourth duty is to the client, dependent upon their ability to pay

One of the first laws of the land, pre-dating our country, and which has never been overturned, is in the FUNDAMENTAL CONSTITUTION FOR THE PROVINCE OF EAST JERSEY (1683), which defined Counsel as, "And in ALL COURTS, PERSONS OF ALL PERSUSASIONS MAY FREELY APPEAR IN THEIR OWN WAY, AND ACCORDING TO THEIR OWN MANNER AND PLEAD THEIR OWN CAUSES THEMELVES OR IF UNABLE, BY THEIR FRIENDS."

Further, the U.S. Supreme Court has held that, "…for-profit job counseling…tutoring, legal advice and medical consultation… (for a fee)… are (among) some of our most valued forms of fully protected speech." See. e.g. New York Times, Co. v. Sulllvan, 376 U.S. 254 (1964). BUCKLEY V. VALEO 424 U.S. 1 (1976) PER CURIAM. SEE BOARD OF TRUSTEES or SUNY v. FOX, 109 s. CT 3028 (1989).

The modern Rules of Civil Procedure in the Courts are supposed to be written FOR PARTIES (SUITORS), AND NOT FOR ATTORNEYS. The modern rules in court law practice provide flexibility that was absent from the Common Law rules of procedure.

From an historical perspective, “attorneys" (agents acting for and representing free parties) are an alien presence in a court. The laws should not refer to "attorneys" by default, but to "parties". The fact that in some states the Civil Procedure Rules refer to "attomeys” by default and then perport to define a pro se litigant as an “attomey" (per NY CPLR 105(c)) suggests that free citizens are not competent to litigate without an attorney. NY CPLR 105 (c) defines “attorney” as a party prosecuting or defending an action in person. Any pro se or proper litigant should be able to request fees from the adversary. Rules of Procedure are designed to give each side (party) Equal Procedural Rights, due notice, and an opportunity to be heard.

The Free Speech Amendment of the Constitution in The Bi11 of Rights was provided as a barrier to protect individuals against arbitrary infringements of legislatures and courts - RE Stollcr, 36 So.2d. 443, 445 (Fla. Ct. en bane 1948). Where rights secured by the Constitution are involved, there can be no rule making or legislation which could abrogate them. Miranda v. Arizona. 38.US 436,86 S, Ct. 1602, 16 L.Ed.2d (1966) Miranda upheld in 2000.

Right to counsel of choice (non-attorney) was expressed by the U.S. Supreme Court in United Mine Workers v. Illinois Bar Assoc., 389 U.S. 217; NAACP v. Button 371U.S.415; Brotherhood of Railroad Trainmen v. Virginia State Bar, 377 U.S. 1 (1964). The Supreme Court held that stats may not pass statutes prohibiting the unauthorized (advocate) practice of law because such laws would interfere with the Right to Freedom of Speech and Freedom of Association, etc.

The role of the Forensic Advocate as a consultant, researcher, observer/witness of court interaction, is a role protected by The Constitution. The preparation of petitions can never be considered the exclusive prerogative of lawyers. Laymen can be allowed to act as "next friend" to any person in the preparation of any paper, document or claim, as long as they are non lawyers. Reasonable access to the Courts is a right guaranteed against state action. Johnson v. Avery, 93 U.S. 485, 498,89 S.Ct 747 (1960)

JILL JONES-SODERMAN, PHD, MSHS
FORENSIC ADVOCATE, EXPERT WITNESS