

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

No. 01-E-0386

Theodore Kamasinski

v.

Honorable Philip McLaughlin
Peter E. Hutchins, Esquire

**ANSWER OF DEFENDANT McLAUGHLIN AND
CROSS-PETITION FOR INJUNCTIVE RELIEF**

NOW COMES Defendant Philip McLaughlin, in his official capacity as Attorney General of the State of New Hampshire, and submits the following answer to the Petition for Declaratory Judgment, and further, pursuant to RSA 311:7-a, complains against Petitioner Kamasinski and files a Cross-Petition for Injunctive Relief, and in support thereof, states as follows:

1. The facts contained in paragraph 1 of the petition are admitted. In further answer, Defendant McLaughlin avers that the facts contained in paragraph 1 are irrelevant to the issue to be decided in this matter.
2. The decision of Judge Robert J. Lynn speaks for itself and no response is required for paragraph 2 of the petition.
3. The decision of Judge Douglas R. Gray speaks for itself and no response is required to paragraph 3 of the petition.

4. Defendant McLaughlin admits that he has the statutory authority to investigate violations of and enforce RSA 311:7 as set forth in RSA 311:7-a and b.

5. Defendant McLaughlin denies the allegation set forth in paragraph 5. In further answer, the allegation set forth in paragraph 5 are not relevant to the issues to be decided in this petition.

6. Defendant McLaughlin denies the allegation set forth in paragraph 6. In further answer, the allegation set forth in paragraph 6 are not relevant to the issues to be decided in this petition.

7. The facts contained in paragraph 7 of the petition are accurate. In further answer, the allegations contained in paragraph 7 are not relevant to the issues to be decided in this matter.

8. Defendant McLaughlin admits that the Petitioner alone cannot appeal the referenced order of Judge Robert J. Lynn in the case of *Holmes v. Holmes* because he was not a party to that case.

9. The allegations contained in paragraph 9 of the petition are conclusions of law and do not require a response at this time.

10. The allegations contained in paragraph 10 of the petition are conclusions of law and do not require a response at this time.

11. The allegations contained in paragraph 11 of the petition are conclusions of law and do not require a response at this time.

12. The allegations contained in paragraph 12 of the petition are conclusions of law and do not require a response at this time.

13. Defendant McLaughlin is without information sufficient to admit or deny this allegation and they are therefore denied.

14. Defendant McLaughlin is without information sufficient to admit or deny this allegation and they are therefore denied.

15. The allegations contained in paragraph 15 of the petition are conclusions of law and no response is required.

IN FURTHER ANSWER, Defendant McLaughlin states and cross-complains against the Petitioner as follows:

16. Petitioner Kamasinski is not a licensed attorney nor a member of the New Hampshire Bar Association or any other state bar association.

17. Petitioner Kamasinski has never been admitted to the practice of law in New Hampshire by the New Hampshire Supreme Court, and has not taken the oath prescribed by RSA 311:6.

18. Upon information and belief, Mr. Kamasinski has filed appearances on behalf of several individuals, including the ones referenced in his petition, appearing as an attorney-in-fact in the courts of New Hampshire. This violates RSA 311:7 which provides, "No person shall be permitted commonly to practice as an attorney in court unless he has been admitted by the court and taken the oath prescribed in RSA 311:6."

19. Upon information and belief, Mr. Kamasinski also prepares legal documents for individuals, has acted as general counsel for certain entities and renders, offers to render, or holds himself out as rendering services which constitute the practice of law. As Mr. Kamasinski is not a member of the New Hampshire Bar, this constitutes the unauthorized practice of law.

WHEREFORE, Defendant McLaughlin respectfully requests that this Honorable Court:

- A. Deny Petitioner's request for Declaratory Judgment;
- B. Declare that Petitioner has commonly practiced law in violation of RSA 311:7;
- C. Declare that Petitioner has rendered, offered to render or has held himself out as rendering legal services and that these acts constitute the unauthorized practice of law;
- D. Enter temporary and permanent injunctive relief against Petitioner prohibiting him from appearing in any court in the State of New Hampshire on behalf of any person or entity other than himself personally;
- E. Enter temporary and permanent injunctive relief against Petitioner prohibiting him from rendering, offering to render or holding himself out as rendering any legal services which constitute the unauthorized practice of law;
- F. Schedule a hearing on this matter; and
- G. Grant such other and further relief as may be just and proper.

Respectfully submitted,

PHILIP T. McLAUGHLIN
ATTORNEY GENERAL

By his attorneys,

Daniel J. Mullen
Senior Assistant Attorney General
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January 3, 2002

Certificate of Service

I hereby certify that a copy of the foregoing has been mailed this day, first class, postage prepaid, to Theodore Kamasinki, Joseph F. McDowell, Esquire, and Joshua L. Gordon, Esquire.

Daniel J. Mullen

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