

VIA ELECTRONIC MAIL

June 27, 2011

The Hon. Beverly Eaves Perdue  
Governor of the State of North Carolina  
Raleigh, North Carolina

RE: SB 349

Governor Perdue:

I write on behalf of Consumers for a Responsive Legal System, a national, nonprofit organization that works to make the legal system more accessible, affordable and accountable to ordinary Americans, to **respectfully urge you to veto Senate Bill 349.**

Section 7 of the bill would dramatically change existing regulations to allow lawyers to sue (and collect fees from) ordinary citizens for the mere offense of providing others with publicly available information about the legal system. There is no doubt in our minds that this new rule would harm the vast majority of people who need to use the legal system but who are unable to afford a lawyer and therefore are forced rely upon informal assistance from friends who have used the system before. Even experienced paralegals, who routinely perform legal tasks with minimal supervision, would not be able to help friends or family. The attached *Wall Street Journal* article, which describes how Katie Vickers, a 70-year old Florida retiree, was sued for helping a member of her church fill out a petition for workers' compensation benefits, illustrates the pitfalls of the legislation that awaits your signature.

Section 7 of SB 349 creates a private cause of action for "any person who is damaged by" the unauthorized practice of law (UPL) but it does not explain what "damaged by" means. In our experience, there are only two types of harm that arise when non-lawyers provide legal information to others:

First, a person might entrust their problems to one who falsely claims to be a lawyer and thereby suffer legal or financial harm. In such a case, there is an

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affirmative misrepresentation, the victim already has a common law cause of action for fraud, and the courts have well-established procedures for enforcing North Carolina's statute against the Unauthorized Practice of Law (UPL). Thus, Section 7 is not only harmful, but also redundant.

Second, a licensed lawyer might be damaged economically by competition from a non-lawyer who legitimately provides similar or identical services. Unlike the case above, however, here the damage is not to consumers but to lawyers who fail to justify their fees by providing services that actually require a lawyer's expertise. We are sure you will agree that suing away the competition does nothing to benefit consumers.

Finally, the inappropriateness of establishing a private cause of action for UPL is compounded by allowing attorneys' fees to be awarded to those lawyers who successfully sue their competitors. Subjecting those accused of UPL to the possibility of large judgments would dramatically reduce ordinary citizens' ability to obtain any legal help whatsoever. As you know, even though Legal Aid only serves those who earn up to 125% of the poverty line, funding constraints force it to turn away one out of two people who come to it for help. As a result, four out of five North Carolinians cannot afford a lawyer. We understand that it may be beyond our means to ensure that everyone who has a legal problem can retain a lawyer, but we can at least avoid preventing people from obtaining help when it is available.

In an era in which dozens of states are actively and openly exploring innovative solutions to the access to justice crisis, SB 349, tucked away as it was in an optometrist regulation bill, strikes us as a particularly egregious attempt at "insider lawmaking" at the expense of common men and women.

We urge you to do your constituents a great service and veto SB 349 and instead insist that the legislature, *in consultation with Supreme Court and consumer advocates*, give access to justice the careful and public consideration it deserves.

Sincerely,



Thomas M. Gordon  
Legal and Policy Director

Encl. "More Strapped Litigants Skip Lawyers in Court  
Nathan Koppel, *Wall Street Journal*, July 22, 2010

cc: Office of Attorney Regulation, Federal Trade Commission  
Antitrust Division, United States Department of Justice  
Chief Justice Sarah Parker, Supreme Court of North Carolina  
The Charlotte Observer