

**ORDER DISMISSING
PETITION**

CASE NUMBER: CI01-4

DOCUMENT No.:

IN THE DISTRICT COURT OF BOYD COUNTY, NEBRASKA

**KEITH J. HONKE, POA for Paul &
Gertrude Honke**

Petitioner

**ORDER
DISMISSING
PETITION**

VS.

GREGG A. HONKE

Respondent

Upon consideration of the petition and affidavit, the Court finds that the requested relief should be denied and the petition should be dismissed (specific findings, if any, set forth below).

There is no doubt than an individual may represent himself or herself and participate in trials and legal proceedings on his or her own behalf. *Waite v. Carpenter*, 1 Neb. App. 321, 496 N.W.2d 1 (1992). However, it is equally clear that one who is not an attorney may not represent others in legal proceedings, nor may such a person practice law for others. *Id.* The Nebraska Supreme Court in *Back Acres Pure Trust v. Fahnlander*, 233 Neb. 28, 443 N.W.2d 604 (1989), cited with approval the decision of the Supreme Court of Hawaii, *In re Ellis*, 53 Haw. 23, 487 P.2d 286 (1971), which held that a duly appointed trustee may not present pro se arguments in the courts of Hawaii because in this capacity, the trustee would be representing interests of others and would therefore be engaged in the unauthorized practice of law. Similarly, a person acting under a power of attorney may not represent others in legal proceedings. A power of attorney is an instrument in writing authorizing another to act as one's agent. *North Bend Senior Citizens Home v. Cook*, 261 Neb. 500, ___ N.W.2d ___ (2001). The agent holding the power of attorney is termed an attorney in fact as distinguished from an attorney at law. Only an attorney at law may represent another person or entity in legal proceedings in court. And any proceedings in a suit by a person not entitled to practice law are a nullity and the suit may be dismissed. *Anderzhon/Architects v. 57 Oxbow II Partnership*, 250 Neb. 768, 553 N.W.2d 157 (1996).

IT IS THEREFORE ORDERED that the petition for issuance of a protection order is denied (" with) (: without) prejudice. Costs are taxed to petitioner in the amount of \$43.00. A complete record (" is) (: is not) required.

SIGNED on May 14, 2001. (Deemed entered upon filing by clerk.)

If checked, the Court Clerk shall:

- Mail a copy to all counsel of record and to any pro se parties.
Done on _____, 20__ by _____.
- Enter on trial docket: [date of filing] Signed "Order Dismissing Petition" entered.
Done on _____, 20__ by _____.

Mailed to:

Judge