

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: December 21, 2022 CASE NUMBER: 2022SA161
Original Proceeding in Unauthorized Practice of Law, 21UPL18	
<b>Petitioner:</b>  The People of the State of Colorado,  <b>v.</b>  <b>Respondent:</b>  Naomi Boylan a/k/a Naomi Boylan-Campbell.	Supreme Court Case No: 2022SA161
ORDER OF INJUNCTION	

Upon consideration of the Order entering default judgment under C.R.C.P. 55(b) and report of hearing master under C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that Respondent, NAOMI BOYLAN a/k/a NAOMI BOYLAN-CAMPBELL shall be, and the same hereby is, ENJOINED from engaging in the Unauthorized Practice of Law in the State of Colorado, as detailed in the Report of the Hearing Master.

IT IS FURTHER ORDERED that Respondent, is assessed costs in the amount of \$494.13. Said costs to be paid to the Office of Attorney Regulation Counsel, within (35) days of the date of this order.

IT IS FURTHER ORDERED that restitution in the amount of \$1,000 be paid to Robert O'Neil.

IT IS FURTHER ORDERED that a fine be imposed in the amount of \$750.00.

BY THE COURT, DECEMBER 21, 2022

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
<b>Petitioner:</b> THE PEOPLE OF THE STATE OF COLORADO  <b>Respondent:</b> NAOMI BOYLAN A/K/A NAOMI BOYLAN-CAMPBELL	<hr/> Case Number: <b>22SA161</b>
<b>ORDER ENTERING DEFAULT JUDGMENT UNDER C.R.C.P. 55(b)          AND REPORT OF HEARING MASTER UNDER C.R.C.P. 236(a)</b>	

On September 16, 2022, the Presiding Disciplinary Judge (“the PDJ”) entered default under C.R.C.P. 55(a) against nonlawyer Naomi Boylan a/k/a Naomi Boylan-Campbell (“Respondent”), deeming admitted the allegations contained in the petition for injunction, including the allegation that Respondent engaged in the unauthorized practice of law. Following a hearing on default judgment under C.R.C.P. 55(b), the PDJ now recommends that the Colorado Supreme Court enjoin Respondent from the unauthorized practice of law and order her to pay a fine, restitution, and costs.

### **I. PROCEDURAL BACKGROUND**

On May 10, 2022, Justin P. Moore of the Office of Attorney Regulation Counsel (“the People”) filed a “Petition for Injunction” against Respondent, alleging that she engaged in the unauthorized practice of law. The Colorado Supreme Court issued an “Order to Show Cause” the following day. The People served the petition and order by certified mail on May 16, 2022, but Respondent did not respond to the petition or the show cause order.

On July 7, 2022, the Colorado Supreme Court issued an “Order Appointing Hearing Master,” referring this matter to the PDJ “to prepare a report setting forth findings of fact, conclusions of law, and recommendations” under C.R.C.P. 234(f) and C.R.C.P. 236(a). On July 12, 2022, the PDJ entered an order directing Respondent to answer the People’s petition no later than July 26, 2022. Respondent did not answer. On August 2, 2022, the People sent a letter to Respondent, reminding her to respond to the petition. When she did not, the People filed on August 23, 2022, a “Motion for Default and to Proceed in Accordance with the Colorado Supreme Court’s July 7, 2022 Order.” Respondent failed to respond. The PDJ thus entered default on September 16, 2022, and ordered the People to schedule a hearing on their motion for default judgment, particularly as to the appropriate fine, costs, and restitution, if

any, in this matter. On November 2, 2022, the People filed an amended exhibit list by email, copying Respondent. Respondent replied to the People, copying the PDJ's administrator and advising that the People's certificate of service listed an incorrect address for her.<sup>1</sup> But Respondent did not provide an updated mailing address.

At the hearing on November 3, 2022, Moore appeared on the People's behalf. Respondent did not attend. The People presented the testimony of Robert O'Neil, who testified by telephone,<sup>2</sup> and their investigator Matthew Gill, who testified in person. The PDJ admitted the People's exhibits 1-2.

## **II. PETITIONER'S MOTION FOR DEFAULT JUDGMENT**

The People followed the procedure for default judgments set forth in C.R.C.P. 55 and C.R.C.P. 121 section 1-14 by showing valid service on Respondent; submitting an affidavit indicating that venue is proper and that Respondent is not a minor, an incapacitated person, an officer of the state, or in the military; and filing a statement of the costs.<sup>3</sup> Accordingly, the PDJ **GRANTS** the People's motion and enters default judgment.

## **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The PDJ issues the following report to the Colorado Supreme Court per C.R.C.P. 236(a). The factual findings are taken from the petition's allegations, which were deemed admitted on entry of default.

### **Factual Findings**

Respondent is not licensed to practice law in Colorado or any other jurisdiction. At all times relevant to this matter, Respondent conducted business as Boylan Mediation, which listed a business address in Arvada, Colorado.<sup>4</sup>

In approximately January 2021, Robert O'Neil and his then-spouse hired Respondent to mediate their pro se divorce in Colorado and to prepare and file various divorce documents with the court, including qualified domestic relation orders ("QDRO"). O'Neil believed Respondent was a lawyer specializing in divorce and family mediation, though he does not recall an occasion when Respondent specifically stated that she was a lawyer.

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<sup>1</sup> Respondent replied from the email address [nfboylan@gmail.com](mailto:nfboylan@gmail.com), which is different from Respondent's email addresses listed in the record ([naomifloboylan@icloud.com](mailto:naomifloboylan@icloud.com); [naomi@naomi-boylan.com](mailto:naomi@naomi-boylan.com)). The PDJ entered a copy of Respondent's email into the record. Based on Respondent's email correspondence on November 2, 2022, and the People's representations at the hearing that they sent Respondent correspondence and filings via regular mail and email, the PDJ finds that Respondent is aware of the proceeding.

<sup>2</sup> The Court granted "The People's Motion Under C.R.C.P. 43 to Allow Telephonic Testimony of Robert O'Neil," which the People filed on October 10, 2022, and to which Respondent did not respond.

<sup>3</sup> See "Motion for Default and to Proceed in Accordance with the Colorado Supreme Court's July 7, 2022 Order" Exs. 1, 3, and 5 (Aug. 23, 2022).

<sup>4</sup> As of the date of the People's petition, Respondent's last-known address was in Arvada, Colorado.

Respondent insisted on being paid “up front” for her services, and O’Neil and his former spouse paid Respondent \$1,000.00.<sup>5</sup> The \$1,000.00 payment was for mediation, documenting the mediation, and preparing “pre-divorce” papers and the QDRO.<sup>6</sup> Respondent collected financial information from O’Neil, and she represented that she would draft pre-divorce papers.

Respondent provided some mediation services, but after she failed to provide any work product or file the QDRO, O’Neil reached out to her several times. In May 2021, Respondent told O’Neil that she had handed off the paperwork to her assistant but that her assistant left her employment. Respondent assured O’Neil that she would get back to work on the QDRO, which she would then file. O’Neil asked for a refund, but Respondent did not refund the advance payment. Respondent never provided a draft of the QDRO to O’Neil or to his former spouse. Nor did Respondent file the QDRO.

As of May 22, 2022—the date of the petition—Respondent advertised her business as “Boylan Mediation, Divorce Mediation and Family Services.”<sup>7</sup> Her website, <https://boylanmediation.com>, described her services as “Divorce Mediation and Family Services.”<sup>8</sup> Respondent listed her services to include “Probate, Wills, and Estate Planning” and “Divorce Coaching.”<sup>9</sup> Respondent’s website also represented that her services included “preparation of financial evaluation” and “preparation of divorce documents.”<sup>10</sup> Respondent’s website further represented that Respondent could provide clients with information about laws and court procedures, even as it stated that she could not provide clients with “advice.”<sup>11</sup> Respondent listed herself on her website as a member of both the American Bar Association (“ABA”) and Colorado Bar Association (“CBA”). But Respondent was a nonlawyer member of the ABA only through November 1, 2020, and a member of the CBA only through October 2021. She is not currently a member of either organization.

### Conclusions of Law

The Colorado Supreme Court, which exercises exclusive jurisdiction to define the practice of law within the State of Colorado,<sup>12</sup> restricts the practice of law to protect members of the public from receiving incompetent legal advice from unqualified individuals.<sup>13</sup> To practice law in the State of Colorado, a person must have a law license issued by the Colorado Supreme Court, unless a specific exception applies.<sup>14</sup>

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<sup>5</sup> Pet. ¶ 9.

<sup>6</sup> Pet. ¶ 10.

<sup>7</sup> Pet. ¶ 17.

<sup>8</sup> Pet. ¶ 18; *see also* Ex. 1 at 1.

<sup>9</sup> Pet. ¶ 18; *see also* Ex. 1 at 5.

<sup>10</sup> Pet. ¶ 19; *see also* Ex. 1 at 8.

<sup>11</sup> Pet. ¶ 20.

<sup>12</sup> C.R.C.P. 228.

<sup>13</sup> *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 826 (Colo. 1982); *see also Charter One Mortg. Corp. v. Condra*, 865 N.E.2d 602, 605 (Ind. 2007) (“Confining the practice of law to licensed attorneys is designed to protect the public from the potentially severe consequences of following advice on legal matters”).

Colorado Supreme Court case law holds that one who acts “in a representative capacity in protecting, enforcing, or defending the legal rights and duties of another and in counseling, advising and assisting that person in connection with these rights and duties” engages in the practice of law.<sup>15</sup> More specifically, “an unlicensed person engages in the unauthorized practice of law by offering legal advice about a specific case, drafting or selecting legal pleadings for another’s use in a judicial proceeding without the supervision of an attorney, or holding oneself out as the representative of another in a legal action.”<sup>16</sup> The Colorado Supreme Court has also determined that nonlawyers who hold themselves out as authorized lawyers engage in the unauthorized practice of law.<sup>17</sup>

In the O’Neil matter, Respondent attempted to provide legal services and acted or sought to act in a representative capacity for one or more parties. Respondent collected from O’Neil \$1,000.00 as an up-front payment to perform services, at least some of which were undertaken in a representative capacity, including preparing pre-divorce papers and preparing and filing the QDRO. Further, Respondent has held herself out to the public through her website since at least 2019, suggesting that she was able to independently perform legal services.<sup>18</sup> Respondent represented that the scope of her services exceeded that of a mediator, including estate planning and preparing divorce documents. Respondent therefore engaged in the unauthorized practice of law in Colorado.

#### **IV. INJUNCTION, FINE, RESTITUTION, AND COSTS**

At the hearing on November 3, 2022, the People urged the PDJ to recommend that Respondent be enjoined from the unauthorized practice of law and be assessed a modest fine, arguing that Respondent engaged in one incident of unauthorized practice of law. The People also sought an award of restitution of \$1,000.00 for the money O’Neil paid to Respondent for services. And they asked that Respondent be ordered to pay \$494.13 in costs, which reflects the People’s administrative fee of \$224.00 and costs of \$270.13 for attempted service of process.<sup>19</sup>

Based on the PDJ’s legal conclusion, as set forth above, that Respondent engaged in the unauthorized practice of law, the PDJ recommends that Respondent be enjoined from the unauthorized practice of law to protect Colorado’s citizens.<sup>20</sup>

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from unqualified persons.”); *In re Baker*, 85 A.2d 505, 514 (N.J. 1952) (“The amateur at law is as dangerous to the community as an amateur surgeon would be.”).

<sup>14</sup> See C.R.C.P. 201 et seq.

<sup>15</sup> *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006) (quotation omitted).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Respondent’s website reflects a copyright year of 2019. See Ex. 1 at 4.

<sup>19</sup> See “Motion for Default and to Proceed in Accordance with the Colorado Supreme Court’s July 7, 2022 Order” Ex. 5.

<sup>20</sup> The PDJ makes clear that he does not recommend an injunction against activities that do not constitute the unauthorized practice of law, including mediation.

C.R.C.P. 236(a) provides that if the hearing master makes a finding of the unauthorized practice of law, the hearing master shall also recommend that the Colorado Supreme Court impose a fine ranging from \$250.00 to \$1,000.00 for each incident of the unauthorized practice of law. In assessing fines, the Colorado Supreme Court previously has examined whether a respondent's actions were "malicious or pursued in bad faith" and whether the respondent engaged in unlawful activities over an extended timeframe despite warnings.<sup>21</sup>

Here, the PDJ recommends that the Colorado Supreme Court impose a fine of \$750.00, rather than the more modest fine that the People seek. The PDJ is troubled by what he finds to be Respondent's malicious business model. Through her website, Respondent held herself out to the public as qualified and authorized to assist with divorce matters, probate, wills, and estate planning. Respondent also advertised that she could help members of the public with the "Preparation of Child Support Orders."<sup>22</sup> Moreover, she advised the public on the standards for appointing a decision-maker in child custody matters, including the findings that courts should make when appointing a decision-maker.<sup>23</sup> Finally, Respondent advertised services crossing well beyond the services of a mediator or scrivener. Respondent's website contained no statement clarifying that she is not a lawyer. Rather, the website contained only a single disclaimer stating that Respondent could not give legal advice. Indeed, O'Neil testified that he believed that Respondent was a lawyer when he and his former spouse hired her to help with their dissolution case. Based on these facts, the PDJ finds that Respondent attempted to conceal her unauthorized activities under the guise of a mediation practice.

Further, given the copyright date of 2019 on Respondent's website, the PDJ infers that Respondent likely has marketed her unauthorized services since at least that time. Gill testified that he accessed Respondent's website in May and August 2022; during those visits, he reported, the website appeared in substantially similar form to that described in the People's petition. When Gill visited the website in October 2022, however, the website's content had been removed, leaving only a splash page showing Respondent's business's name and logo with the words "Coming Soon." As such, Respondent's website, which the preponderance of the evidence suggests was in operation from 2019 through late-summer 2022, effectively misled the public over a number of years to suggest that Respondent was able and authorized to assist others with their legal matters. Based on these facts, the PDJ infers that Respondent temporarily paused her practice in anticipation of this proceeding and likely intends to resume her practice in the future. Thus, the PDJ finds that Respondent may continue to engage in the unauthorized practice of law, posing a risk to future consumers of legal services.

In sum, the PDJ recommends a more substantial fine than the People request, as the PDJ considers Respondent's actions to be more egregious than instances of the

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<sup>21</sup> *People v. Adams*, 243 P.3d 256, 267-68 (Colo. 2010).

<sup>22</sup> Ex. 1 at 11.

<sup>23</sup> Ex. 1 at 13.

unauthorized practice of law undertaken by actors who unintentionally waded too deep into legal waters.<sup>24</sup>

Relying on C.R.C.P. 237(a), which permits the Colorado Supreme Court to enter appropriate orders, including restitution and the assessment of costs, the PDJ recommends that Respondent be ordered to pay Robert O’Neil \$1,000.00 in restitution. Respondent’s conduct harmed O’Neil and his former spouse. O’Neil testified that Respondent’s inaction and improper representations about the services that she could provide for them prolonged their dissolution proceeding by at least four weeks, delaying their efforts to complete their divorce and divide their assets. In the process, O’Neil and his former spouse lost the \$1,000.00 they paid to Respondent to provide services that she was not authorized to provide. O’Neil testified that he is still paying off Respondent’s fee on his credit card.

Finally, the PDJ recommends that Respondent be assessed \$494.13 in costs, which the PDJ considers reasonable and necessary.<sup>25</sup>

## V. RECOMMENDATIONS

The PDJ **RECOMMENDS** that the Colorado Supreme Court **FIND** that Respondent **NAOMI BOYLAN a/k/a NAOMI BOYLAN-CAMPBELL** engaged in the unauthorized practice of law and **ENJOIN** her from the unauthorized practice of law, to include the following activities, whether done separately or in combination:

- Advising another person about the legal effect of a proposed action or decision;
- Advising another person about legal remedies or possible courses of legal action available to that person;
- Selecting a legal document for another person or preparing a legal document for another person, other than solely as a typist or scrivener;
- Representing or advocating for another person in a negotiation, settlement conference, mediation, or alternative dispute resolution proceeding;
- Representing or advocating for another person in a hearing, trial, or other legal proceeding before a tribunal;
- Advertising or holding herself out, either directly or impliedly, as an attorney, a lawyer, “Esquire,” a legal consultant, a legal advocate, a counsel in law, a counselor in law, or in any other manner that conveys capability or authorization to provide unsupervised services involving the exercise of legal judgment; and

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<sup>24</sup> Compare *Adams*, 243 P.3d at 259-60, 267-68 (declining to impose a fine after finding that the respondent did not engage in the unauthorized practice of law in bad faith or with a malicious intent because he had wrongly concluded that he could legally receive assignments of debts and pursue claims for those debts in court) with *Unauthorized Practice of Law Comm. v. Prog*, 761 P.2d 1111, 1113-16 (Colo. 1988) (imposing a fine of \$7,178.62 after the respondent engaged in conduct that included drafting frivolous and groundless pleadings attacking defendants, including judges and public officials, named in the civil matter in which the pleadings were filed).

<sup>25</sup> See C.R.S. § 13-16-122(1) (setting forth an illustrative list of categories of “includable” costs in civil cases, including “[a]ny fees for service of process”).



- Soliciting any fees for services involving the exercise of legal judgment or the provision of legal services.

The PDJ also **RECOMMENDS** that the Colorado Supreme Court **ORDER** Respondent to pay **COSTS** of \$494.13, **RESTITUTION** of \$1,000.00 to Robert O'Neil, and a **FINE** of \$750.00 within thirty-five days of the date of the Colorado Supreme Court's order.



DATED THIS 8<sup>th</sup> DAY OF NOVEMBER, 2022.

A handwritten signature in black ink, appearing to read "Bryon M. Large".

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BRYON M. LARGE  
PRESIDING DISCIPLINARY JUDGE

Copies to:

Justin P. Moore  
Office of Attorney Regulation Counsel

Via Email  
[j.moore@csc.state.co.us](mailto:j.moore@csc.state.co.us)

Naomi Boylan-Campbell  
Respondent  
34 Dos Lobos Loop  
Santa Fe, MN 87508

Via First-Class Mail and Email  
[naomi@naomi-boylan.com](mailto:naomi@naomi-boylan.com)  
[naomifloboylan@icloud.com](mailto:naomifloboylan@icloud.com)  
[nfboylan@gmail.com](mailto:nfboylan@gmail.com)

Naomi Boylan-Campbell  
7112 West 76<sup>th</sup> Avenue  
Arvada, CO 80003

Naomi Boylan-Campbell  
5610 Ward Road  
Arvada, CO 80002

Cheryl Stevens  
Colorado Supreme Court

Via Email