

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: April 13, 2016 CASE NUMBER: 2015SA268
Original Proceeding in Unauthorized Practice of Law 14UPL067	
Petitioner: The People of the State of Colorado, v. Respondent: Gabriela Morales Banuelos.	Supreme Court Case No: 2015SA268
ORDER OF COURT	

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, GABRIELA MORALES BANUELOS, shall be, and the same hereby is, ENJOINED from engaging in the Unauthorized Practice of Law in the State of Colorado.

IT IS FURTHER ORDERED that Respondent, GABRIELA MORALES BANUELOS is assessed costs in the amount of \$203.50. Said costs to be paid to the Office of Attorney Regulation Counsel within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that a fine in the amount of \$250.00 be imposed.

BY THE COURT, APRIL 13, 2016.

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	
<hr/> Petitioner: THE PEOPLE OF THE STATE OF COLORADO Respondent: GABRIELA "GABY" MORALES BANUELOS	<hr/> Case Number: 15SA268
ORDER ENTERING DEFAULT JUDGMENT UNDER TO C.R.C.P. 55(b) AND REPORT OF HEARING MASTER UNDER TO C.R.C.P. 236(a)	

Before the Presiding Disciplinary Judge ("the PDJ") is "Petitioner's Motion for Default Judgment" filed on February 10, 2016, by Kim E. Ikeler of the Office of Attorney Regulation Counsel ("the People"). Gabriela "Gaby" Morales Banuelos ("Respondent") did not file a response.

I. PROCEDURAL HISTORY

The People filed a "Petition for Injunction" on October 8, 2015, alleging that Respondent engaged in the unauthorized practice of law. On October 15, 2015, the Colorado Supreme Court issued an "Order to Show Cause," directing Respondent to answer in writing and show cause within twenty-one days of service why she should not be enjoined from the unauthorized practice of law. The People served the petition and order by certified mail and personal service, but Respondent did not respond to the petition or the show cause order.

On December 17, 2015, the Colorado Supreme Court issued an "Order of Court," referring this matter to the PDJ to prepare a report setting forth "findings of fact, conclusions of law, and recommendations" pursuant to C.R.C.P. 234(f) and 236(a). The next day, the PDJ entered an order directing Respondent to answer the People's petition no later than January 4, 2016. Respondent did not comply with that order, and the PDJ entered default on February 5, 2016, finding that the allegations contained in the petition for injunction, including the allegation that Respondent engaged in the unauthorized practice of law, had been deemed admitted.

II. PETITIONER'S MOTION FOR DEFAULT JUDGMENT

The People have followed the procedure for default judgments set forth in C.R.C.P. 55 and 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 costs. The People do not seek restitution. The PDJ **GRANTS** "Petitioner's Motion for Default Judgment."

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The PDJ issues the following report to the Colorado Supreme Court under C.R.C.P. 236(a). The following facts were established by the entry of default.

Factual Findings

Respondent is a Colorado resident, with a last known address of 119 Abriendo Avenue, Pueblo, Colorado 81004.¹ She is not licensed to practice law in Colorado or in any other state.² Respondent conducted business as "Escritorio Publico," translated as the "Public Desk."³ On her business card, she offered notary, translation, and immigration services.⁴

Catalina Pacheco is a Mexican national who came to the United States as a visitor in February 2011.⁵ Although her visitor status ended in August 2011, she remained in the United States.⁶ Ms. Pacheco got married in June 2013, and she and her husband, Larry Pacheco, lived in Pueblo.⁷ Mr. Pacheco is a U.S. citizen who wanted to sponsor his wife for an adjustment of her status to a permanent resident.⁸

Mr. Pacheco asked Respondent to assist him with his wife's adjustment of status.⁹ Respondent selected and prepared Form I-130, Petition for Alien Relative, for Ms. Pacheco.¹⁰ She also gave Mr. Pacheco exercised legal discretion by advising Mr. Pacheco to adjust Ms. Pacheco's status through consular processing.¹¹ She also gave him a list of documents to gather in support of consular processing.¹² Mr. Pacheco paid Respondent \$50.00 on May 29,

¹ Pet. ¶ 1.

² Pet. ¶ 2.

³ Pet. ¶ 11.

⁴ Pet. ¶ 12.

⁵ Pet. ¶¶ 4-5.

⁶ Pet. ¶ 6.

⁷ Pet. ¶¶ 7-8.

⁸ Pet. ¶¶ 9-10.

⁹ Pet. ¶ 13.

¹⁰ Pet. ¶ 14.

¹¹ Pet. ¶ 31.

¹² Pet. ¶ 15.

2013, for a consultation and paid her an additional \$1,000.00 on August 15, 2013, for “I-130 and MO for [United States Citizenship and Immigration Services (“USCIS”)].”¹³

Mr. Pacheco understood from Respondent that the I-130 form had been filed with USCIS office.¹⁴ After some time had elapsed, Mr. Pacheco called USCIS and was told that the form had not been received.¹⁵ Respondent never submitted the form.¹⁶ As a result, Ms. Pacheco’s adjustment status was delayed, and she could not travel outside the United States.¹⁷ During the period of delay, Ms. Pacheco’s mother passed away in Mexico.¹⁸ Ms. Pacheco was distressed because she could not visit her mother before she died.¹⁹ Mr. Pacheco complained to Respondent about the lack of progress on his wife’s case, and she returned his \$1,000.00 payment.²⁰

Legal Standards Governing the Unauthorized Practice of Law

The Colorado Supreme Court, which exercises exclusive jurisdiction to define the practice of law within the State of Colorado,²¹ restricts the practice of law to protect members of the public from receiving incompetent legal advice from unqualified individuals.²² 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.²³

Colorado Supreme Court case law holds that “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.”²⁴ The Colorado Supreme Court has further determined 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.²⁵

¹³ Pet. ¶¶ 16-17.

¹⁴ Pet. ¶ 18.

¹⁵ Pet. ¶ 19.

¹⁶ Pet. ¶ 20.

¹⁷ Pet. ¶¶ 21-22.

¹⁸ Pet. ¶ 23.

¹⁹ Pet. ¶ 24.

²⁰ Pet. ¶ 25.

²¹ C.R.C.P. 228.

²² *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 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.”).

²³ See C.R.C.P. 201-227.

²⁴ *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006).

²⁵ *Shell*, 148 P.3d at 171 (quotation omitted).

Measured against these standards, it is clear that Respondent engaged in the unauthorized practice of law. Although she does not fall within any of the listed categories of persons authorized to represent others before USCIS,²⁶ she nevertheless selected and prepared the I-130 form for Ms. Pacheco and exercised legal discretion by advising Mr. Pacheco to adjust Ms. Pacheco's status through consular processing.²⁷ She thus engaged in the unauthorized practice of law.²⁸

Restitution, Fines, and Costs

C.R.C.P. 236(a) provides that if a 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 such incident. Here, the People suggest that the PDJ recommend the minimum fine of \$250.00 be imposed because Respondent has no previous history of engaging in the unauthorized practice of law. The PDJ agrees that a \$250.00 fine is appropriate.

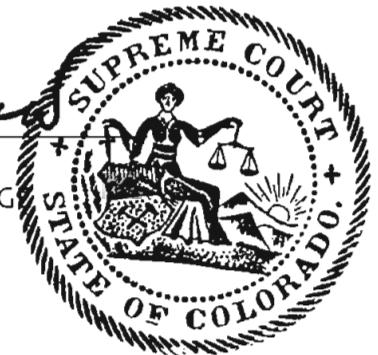
The People filed a statement of costs on February 10, 2016, as Exhibit A to their motion for default judgment. The statement reflects costs in the amount of \$203.50, largely comprising fees for service of process and an administrative fee. The PDJ considers this sum reasonable and therefore recommends that the Colorado Supreme Court assess \$203.50 in costs against Respondent.²⁹

IV. RECOMMENDATION

The PDJ **RECOMMENDS** that the Colorado Supreme Court **FIND** that Respondent engaged in the unauthorized practice of law and **ENJOIN** her from the unauthorized practice of law. The PDJ further **RECOMMENDS** that the Colorado Supreme Court enter an order requiring Respondent to pay a **FINE** of \$250.00 and to pay **COSTS** in the amount of \$203.50.

DATED THIS 4th DAY OF MARCH, 2016.


WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE



²⁶ 8 C.F.R. § 292.1; see also Pet. ¶¶ 29, 33.

²⁷ See Pet. ¶¶ 30-31.

²⁸ See Pet. ¶ 32.

²⁹ See C.R.S. § 13-16-122 (setting forth an illustrative list of categories of “includable” costs in civil cases, including “[a]ny fees for service of process”).

Copies to:

Kim E. Ikeler
Office of Attorney Regulation Counsel

Via Email
k.ikeler@csc.state.co.us

Gaby Morales
Respondent
119 Abriendo Ave.
Pueblo, CO 81004

Via First-Class Mail

904 East Evans Ave.
Pueblo, CO 81004

Christopher T. Ryan
Colorado Supreme Court

Via Hand Delivery