

SUPREME COURT, STATE OF COLORADO TWO EAST 14 TH AVENUE DENVER, COLORADO 80203 UNAUTHORIZED PRACTICE OF LAW	CASE NO.01SA83
IN THE MATTER OF: MELVIN BENSON	
<p style="text-align: center;">ORDER OF COURT</p> <div style="text-align: right;"> RECEIVED MAY 10 2001 <small>ATTORNEY GENERAL'S OFFICE</small> <small>RECEIVED</small> </div>	

Upon consideration of the Petitioner's Motion to Proceed, Petition for Injunction, and Motion to Strike "Counterclaim with Incorporated Motions..."; and the Respondent's Motion(s)' to Dismiss-Enjoin-Strike; any and/or All Charge(s)' - Investigation(s)...", Counterclaim with Incorporated Motions..., Motion for Summary Contempt of Court..., and Request for Production of Documents, and now being sufficiently advised in the premises,

IT IS ORDERED that the Petitioner's Motion to Proceed and Motion to Strike "Counterclaim with Incorporated Motions..." are GRANTED.

IT IS FURTHER ORDERED that the Respondent, MELVIN BENSON, is Enjoined from engaging in the unauthorized practice of law.

IT IS FURTHER ORDERED that the above named motions filed by the Respondent are DENIED.

IT IS FURTHER ORDERED that this matter is Remanded to the Presiding Disciplinary Judge to prepare Findings of Fact, Conclusions of Law and a Recommendation to this court on Petitioner's request for costs and expenses, including reasonable

attorney fees; refunds of fees paid by clients to the Respondent;
restitution for losses incurred by clients or third parties,
including but not limited to the Delta County Combined Courts, as
a result of Respondent's conduct.

BY THE COURT, MAY 7, 2001.

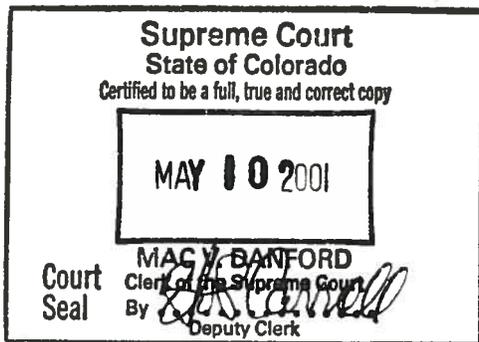


cc:

James C. Coyle
Assistant Regulation Counsel

Melvin Benson
P.O. Box 208
Cedaredge, CO 81413

Hon. Roger L. Keithley
Presiding Disciplinary Judge



MAR - 5 2001

STATE OF COLORADO
DENVER

SUPREME COURT, STATE OF COLORADO

ORIGINAL PROCEEDING IN UNAUTHORIZED
PRACTICE OF LAW

Petitioner:
THE PEOPLE OF THE STATE OF COLORADORespondent:
MELVIN BENSON

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▲ COURT USE ONLY ▲

Case Number: 01SA83

PETITION FOR INJUNCTION

Petitioner, by and through James C. Coyle, Assistant Regulation Counsel, respectfully requests that the Colorado Supreme Court issue an order pursuant to C.R.C.P. 234 directing the respondent to show cause why he should not be enjoined from the unauthorized practice of law. As grounds therefore, counsel states as follows:

1. The respondent, Melvin Benson, is not licensed to practice law in the State of Colorado. The respondent's most current address is P.O. Box 208 Cedaredge, Colorado 81413.

THE GERALD WILKS-DISORDERLY CONDUCT MATTER

2. Gerald Wilks was convicted in Delta Municipal Court for disorderly conduct (a fight with his neighbor). Municipal Court Judge Millard Fairlamb presided over this matter, and Michael Schottelkotte was the municipal prosecutor.

3. The respondent filed an appeal on behalf of Mr. Wilks with the county court. The appeal was signed by Mr. and Mrs. Wilks and Mr. Benson.

4. The appeal was granted and the matter proceeded to a county court trial de novo before Judge David Johnston. During pretrial matters, the respondent attempted to participate. Judge Johnston admonished the respondent, and would not allow him to participate.

5. At the county court trial de novo, a witness for the People stated that he did not want to cooperate and thus the matter was dismissed.

6. On November 29, 1999, Gerald Wilks, Joann Wilks, and Melvin E. Benson as "friend, advisor" filed a notice of claim against the city of Delta and its agents regarding the underlying arrest of Mr. Wilks and regarding a letter written by the prosecutor dated September 16, 1999 to Mr. Wilks and the other party involved in the fight. The notice of claim was drafted by the respondent on behalf of the Wilks family.

7. Subsequently, the respondent filed several lawsuits in Delta County District Court. The pleadings, prepared by Melvin Benson, are unintelligible.

8. The entire Benson family and the entire Wilks family have appeared during the past year at the clerk's office at 4:15 p.m. on a continuing and frequent basis in order to file motions in these lawsuits. The clerk's office spends approximately one half-hour with these two families every day that they appear at the counter, plus a tremendous amount of time and resources sorting and deciphering which files each pleading goes into.

9. In Melvin E. Benson, et al. v. The State of Colorado, et al., case no. 2000CV61, District Court, County of Delta, Colorado, a "class" complaint was filed which in part alleges misconduct by others in the underlying arrest of Mr. Wilks on June 1, 1999; misconduct by others in a traffic accident involving Mr. Benson's two minor children in which Mr. Benson was arrested for disobeying the order of a police officer or fireman; along with other incidents of alleged misconduct by others that allegedly affected members of the Benson and Wilks family. In the pleadings, the respondent states that "Melvin E. Benson, next friend, natural parent, individually, plaintiffs' et al. is not an attorney and does not pretend to be an attorney either (sic);" but then also states that "plaintiffs' Benson' and Wilks', et al., hereby respectfully appoint and authorize our friend and advisor, Melvin E. Benson to represent us in the above entitled action." The pleadings filed in this case are voluminous.

THE JOANN WILKS' VICIOUS ANIMALS MATTER

10. On or about June 17, 2000, Joann Wilks was charged with municipal violations involving vicious animals and rabies control. At a court date on July 17, 2000, Melvin Benson appeared with Joann Wilks. When asked by Judge Fairlamb why he was present and sitting at defendant's table with Ms. Wilks, Mr. Benson informed the judge that he was "representing the

defendant in this action as well as other actions.” Judge Fairlamb asked Mr. Benson if he was a licensed attorney, and Mr. Benson stated that he was not a licensed attorney. Mr. Benson was informed that he could not represent Ms. Wilks. Mr. Benson asked that Judge Fairlamb disqualify himself. Mr. Benson was asked to sit down by Judge Fairlamb; the judge then did disqualify himself.

11. Subsequently and on August 11, 2000, the court received motions from the respondent, including a demand for jury trial (which was late), that were signed by the respondent.

12. At time of trial (September 5, 2000), the respondent appeared with Ms. Wilks but did not sit at the defendant’s table. While Mr. Benson and Mrs. Wilks may have conferred during the trial, the respondent did not attempt to directly represent Ms. Wilks. The court found the defendant Joann Wilks guilty of both charges. The respondent then filed a notice of appeal on behalf of Mrs. Wilks, stating that he was a “private attorneys general” and a “class representative.”

13. A new District Court matter 00C00515, Melvin E. Benson and Gerald L. Wilks, et al. v. State of Colorado, et al., was filed which in part dealt with Mrs. Wilks’ underlying municipal violations matter. Respondent prepared and signed all pleadings in this matter. This lawsuit also contains pleadings which are unintelligible and which attempt to incorporate the pleadings in previous lawsuits filed by this respondent.

THE WILKS FAMILY PROPERTY DISPUTE

14. In civil action 99CV57, Wilks, et al. v. Lewis, et al., Mr. and Mrs. Wilks filed a complaint and amended complaint pro se.

15. Thereafter on November 22, 1999, Ms. Wilks filed a “power of attorney” by which she stated “I ... irrevocably designate my friend-advisor Melvin E. Benson ... as the person upon whom may be served all notices and process.”

16. On November 29, 1999 Judge Robert Brown conducted a status conference to do case management, and discussed the nature of the irrevocable “power of attorney” with the Wilks’. Judge Brown concluded that the plaintiffs intended through the power of attorney to give Mr. Benson authority to receive pleadings so that he could advise them about the same. Judge Brown notified the plaintiffs that Mr. Benson could not represent them and in his minute order stated that actions could be taken against Mr. Benson if he engaged in unauthorized practice of law.

17. Subsequently, additional pleadings were filed with the court that were similar in writing style to those filed by the respondent in other matters. These pleadings contained highly provoking language, however, accusing the judge of a variety of inappropriate actions amounting to bad faith and violations of various codes of judicial conduct. The respondent prepared these pleadings.

18. On January 28, 2000, the defendants filed a motion for summary judgment. On March 15, 2000 Judge Brown granted the motion and dismissed the amended complaint.

19. On March 21, 2000, a hearing on each sides' requests for sanctions was held. At the conclusion of such hearing, there was a brief exchange between the respondent and Judge Brown regarding Judge Brown's concerns that the respondent was attempting to practice law without a license. Ms. Wilks denied that the respondent assisted her. When the judge asked the respondent if he had a license to practice law in Colorado, the respondent responded "I understand that, 1866 civil rights act, yes."

THE BENSON FAMILY MATTERS

20. Additional pleadings were filed with Delta County District Court in which the respondent apparently attempts to represent his wife, son and daughter in various actions. The pleadings were prepared by the respondent and signed by each member of the family.

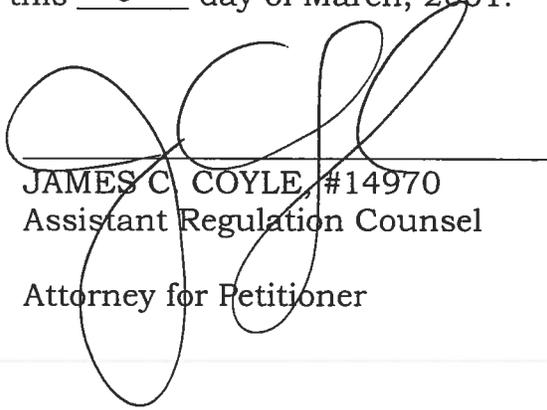
21. Pursuant to Denver Bar Association v. Public Utilities Commission, "generally one who acts in a representative capacity in protecting, enforcing or defending the legal rights and duties of another and in counseling, advising and assisting him in connection with these rights and duties engages in the unauthorized practice of law".

22. By holding himself out as an attorney, by giving legal advice to clients, and by preparing documents and pleadings on behalf of other individuals without the supervision of an attorney, the respondent Melvin Benson has engaged in the unauthorized practice of law.

WHEREFORE, the petitioner prays that this court issue an order directing the respondent to show cause why he should not be enjoined from engaging in any unauthorized practice of law; thereafter, that the court enjoin this respondent from the practice of law, or in the alternative that this court refer this matter to a hearing master for determination of facts and recommendations to the court on whether this respondent should be enjoined from the unauthorized practice of law. Furthermore, petitioner requests that the court assess the costs and expenses of these proceedings, including reasonable attorney fees against the respondent; refund any and all fees paid

by clients to the respondent; and assess restitution against the respondent for losses incurred by clients or third parties, including but not limited to the Delta County Combined Courts, as a result of the respondent's conduct; and any other relief deemed appropriate by this court.

Respectfully submitted this 5th day of March, 2001.



JAMES C. COYLE, #14970
Assistant Regulation Counsel
Attorney for Petitioner