

Colorado Supreme Court 101 West Colfax Avenue, Suite 800 Denver, CO 80202	RECEIVED APR 12 2012 REGULATION COUNSEL
Original Proceeding in Unauthorized Practice of Law, 10UPL072	
Petitioner: The People of the State of Colorado, v. Respondent: Eva Rodriguez, d/b/a L&L Immigration Paralegal Specialist.	Supreme Court Case No: 2011SA151
ORDER OF COURT	

Upon consideration of the Report of Hearing Master Pursuant to C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that Respondent, EVA RODRIGUEZ, d/b/a L&L IMMIGRATION DOC SPECIALIST 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, EVA RODRIGUEZ, d/b/a L&L IMMIGRATION DOC SPECIALIST, is assessed costs in the amount of \$559.53. Said costs to be paid to the Office of Attorney Regulation Counsel, within (30) days of the date of this order.

IT IS FURTHER ORDERED that Respondent, EVA RODRIGUEZ, d/b/a
L&L IMMIGRATION DOC SPECIALIST, pay restitution to Naida Zubovic in the
amount of \$1,000.00.

IT IS FURTHER ORDERED that a fine be imposed in the amount of
\$1,000.00.

BY THE COURT, APRIL 12, 2012.



Case Number: 2011SA151

Caption: People v Rodriguez, Eva

CERTIFICATE OF SERVICE

Copies mailed via the State's Mail Services Division on April 12, 2012. ^{11/4}

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JUDGE
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SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202	
Petitioner: THE PEOPLE OF THE STATE OF COLORADO Respondent: EVA RODRIGUEZ, d/b/a L&L IMMIGRATION DOC SPECIALIST	Case Number: 11SA151
REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)	

This matter is before the Presiding Disciplinary Judge ("the PDJ") on a July 14, 2011, order of the Colorado Supreme Court ("Supreme Court") appointing the PDJ as Hearing Master and directing the PDJ "to prepare a report setting forth findings of fact, conclusions of law, and recommendations."

I. SUMMARY

The PDJ conducted a hearing in this matter on January 4, 2012, regarding whether Eva Rodriguez, d/b/a L&L Immigration Doc Specialist ("Respondent"), engaged in the unauthorized practice of law and for determination of the appropriate restitution, fine, and costs in this matter.¹ In this report, the PDJ finds that Respondent engaged in the unauthorized practice of law and recommends that the Supreme Court order Respondent to pay \$1,000.00 in restitution, a fine of \$1,000.00, and \$559.53 in costs.

II. PROCEDURAL HISTORY

The People filed a petition for injunction with the Supreme Court on May 20, 2011. On May 25, 2011, the Supreme Court issued an order to show cause requiring Respondent to answer in writing within twenty days why she should not be enjoined from engaging in the unauthorized practice of law in the State of Colorado. When Respondent failed to answer, Kim E. Ikeler, the Office of Attorney Regulation Counsel ("the People"), filed a motion to proceed on July 13, 2011. The Supreme Court thereafter issued its order appointing the PDJ as Hearing Master and directing the PDJ to prepare this report.

¹ Respondent was enjoined from the practice of law regarding an unrelated matter in case number 10SA380 on August 22, 2011.

On August 26, 2011, attorney Miguel R. Velasco entered his appearance on behalf of Respondent and requested a ten-day extension of time to file an answer. Mr. Velasco filed an answer on Respondent's behalf on September 7, 2011. On September 20, 2011, Mr. Velasco filed a motion to withdraw as Respondent's attorney of record, which the PDJ granted on October 14, 2011.

Respondent did not file her initial disclosures, and on November 14, 2011, the People filed a motion for sanctions. In that motion, the People requested that the PDJ sanction Respondent by ruling all factual allegations in the petition had been admitted for purposes of the hearing and that the PDJ enter default for the People as to Respondent's culpability for her unauthorized practice of law, limiting the hearing to an appropriate award of restitution, fine, and costs. When Respondent did not timely respond, the PDJ ordered her to respond to the motion by December 16, 2011.² Respondent filed a response opposing the People's requested relief on December 16, 2011.³

On January 3, 2012, Respondent sent the People an email notifying them that she would not attend any further court hearings in person or by telephone because she feared for her safety.⁴ The People brought this email to the PDJ's attention. The PDJ held a pre-hearing conference on January 4, 2012, at which Mr. Ikeler appeared for the People. Respondent did not appear.⁵ At the conference, the PDJ granted the People's motion to submit witness testimony at the hearing by telephone or affidavit.

At the hearing on January 10, 2012, Mr. Ikeler appeared on behalf of the People. Again, Respondent did not appear. The PDJ accepted the testimony of Naida Zubovic ("Zubovic") by affidavit and considered the People's exhibits 1, 15, 16, 31, and 31A and the PDJ's exhibit A. At the hearing, the PDJ telephoned Zubovic, intending to ask her specific questions, but was unable to reach her. The PDJ ordered the People to file Zubovic's supplemental affidavit, and the People submitted it on January 19, 2012.⁶

The People submitted their statement of costs on February 2, 2012, requesting that the PDJ assess \$559.53 in costs. Respondent did not file a response.

² The PDJ sent this order to the address Respondent had provided, but the envelope was returned, marked as "address unknown."

³ The PDJ addresses the People's motion for sanctions in section IV of this report.

⁴ PDJ Ex. A.

⁵ The People have had no contact with Respondent since she sent this email.

⁶ Zubovic's supplemental affidavit was to address whether Respondent selected for Zubovic Form I-751, Petition to Remove Conditions on Residence.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Unauthorized Practice of Law

The Supreme Court exercises exclusive jurisdiction to define the practice of law and to prohibit the unauthorized practice of law within the state of Colorado.⁷ "The power of the Supreme Court to determine who should be authorized to practice law would be meaningless if it could not prevent the practice of law by those not admitted to the bar."⁸ Such restrictions on the practice of law are intended to protect the public from receiving incompetent legal advice from unqualified individuals.⁹

The Supreme Court has held 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."¹⁰ The Supreme Court has also determined that one who acts "in a representative capacity in protecting, enforcing, or defending the legal rights and duties of another and in counselling, advising and assisting that person in connection with these rights and duties" engages in the practice of law.¹¹

The People allege that Respondent engaged in the unauthorized practice of law when she held herself out to Zubovic as authorized to select and prepare forms to be filed with United States Citizenship and Immigration Services ("USCIS"). Respondent is not a licensed attorney or a Board of Immigration Appeals ("BIA") accredited representative.¹² Zubovic, originally from Bosnia, is a permanent resident of the United States.¹³ In 2006, she married Ismar Zubovic ("Mr. Zubovic"), a Bosnian national.¹⁴ On October 5, 2006, Zubovic

⁷ C.R.C.P. 228.

⁸ *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 823 (Colo. 1982).

⁹ *Id.* at 826.

¹⁰ *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006); see also C.R.C.P. 201.3(2)(a-f) (defining the practice of law).

¹¹ *Shell*, 148 P.3d at 171 (quotation omitted).

¹² Pet. ¶ 2; Answer ¶ 1. Only an attorney or an accredited representative may provide immigration-related legal advice about which forms to submit to USCIS, communicating with USCIS, and explain immigration options. See U.S. Citizen & Immigration Servs., *Find Legal Services*, (last visited March 4, 2012), <http://www.uscis.gov> (follow "Laws"; then follow "Avoid Scams"; then follow "Find Legal Services"). "Notarios," notary publics, immigration consultants, and businesses cannot give immigration legal advice. *Id.* "BIA accredited representatives are not attorneys, but they may give you immigration legal advice. An accredited representative must work for a BIA-approved non-profit, religious, charitable, social service or similar organization in the United States. Her [sic] or she may only charge nominal (small) fees, if any, for legal services." *Id.*

¹³ Pet. ¶ 7; Answer ¶ 1.

¹⁴ Pet. ¶ 7; Answer ¶ 1.

filed with USCIS a Form I-130, Petition for Immigrant Relative, seeking permission to bring her husband to the United States.¹⁵ Zubovic was notified by USCIS on May 6, 2006, that her petition had been approved.¹⁶ On May 21, 2009, Mr. Zubovic received a letter from the National Visa Center ("NVC") notifying him that a case file had been opened in his name but he was not yet eligible for a visa.¹⁷ On or around this date, Zubovic met Respondent, who offered to assist Zubovic in bringing Mr. Zubovic to the United States.¹⁸

Zubovic signed an agreement with Respondent on July 13, 2009, which stated that Respondent is a "Certified: Paralegal Immigration Documents Specialist."¹⁹ The contract provided that Respondent was a freelance paralegal and would perform the following services: "Immigration Documentation Process and Filing Forms, also known as 'Forma's'.[sic] With the U.S.C.I.S"²⁰ The contract also stated, "let it be known that I am not an attorney!"²¹ Respondent told Zubovic that her fee would be \$1,800.00, plus additional money for filing fees.²²

On July 13, 2009, Respondent selected and prepared Form G-28, entering her appearance as Zubovic's representative, which would permit Respondent to receive documents pertaining to Mr. Zubovic's visa application.²³ On the form, Respondent identified herself as a certified paralegal.²⁴ Both Respondent and Zubovic signed the form.²⁵ Based on this entry of appearance, Respondent thereafter received all correspondence related to Mr. Zubovic's visa application.²⁶ According to USCIS, only an attorney or a BIA-accredited representative may fill out Form G-28 and communicate with USCIS.²⁷

On March 12, 2010, NVC sent Mr. Zubovic a letter asking him to submit Form DS-3032, Choice of Agent and Address.²⁸ Respondent prepared this

¹⁵ Pet. ¶ 8; Answer ¶ 1. "An I-130 petition allows a citizen or permanent resident to request that Department of Homeland Security classify certain alien family members, including a spouse and children, as 'immediate relatives' who thus become eligible for immigrant visas without regard to normal quotas." *Aturnise v. Mukasey*, 523 F.3d 830, 832 (7th Cir. 2008).

¹⁶ Pet. ¶ 9; Answer ¶ 1.

¹⁷ Pet. ¶ 10; Answer ¶ 1.

¹⁸ Pet. ¶¶ 7, 11; Answer ¶ 1; Ex. 31 ¶ 2.

¹⁹ Pet. ¶ 12; Answer ¶ 1; Ex. 15.

²⁰ Pet. ¶ 12; Answer ¶ 1; Ex. 15.

²¹ Ex. 15.

²² Pet. ¶ 13; Answer ¶ 1; Ex. 31 ¶ 2. Zubovic paid Respondent \$1,700.00 on November 4, 2009. Pet. at ¶ 16; Answer ¶ 1.

²³ Pet. ¶ 14; Answer ¶ 1; Ex. 16.

²⁴ Pet. ¶ 14; Answer ¶ 1; Ex. 16.

²⁵ Pet. ¶ 14; Answer ¶ 1; Ex. 16.

²⁶ Answer ¶ 1.

²⁷ U.S. Citizen & Immigration Servs., *supra* note 11.

²⁸ Pet. ¶ 17; Answer ¶ 1.

form, appointing herself as Mr. Zubovic's agent.²⁹ As his agent, Respondent would receive forms from NVC on Mr. Zubovic's behalf.³⁰ Respondent also prepared Form I-864, Affidavit of Support, which she sent to NVC.³¹ Zubovic gave Respondent an additional \$70.00 to be paid to NVC as a processing fee for the affidavit.³² Respondent then emailed Form G-325, Biographic Information, to Zubovic and her husband.³³ The couple filled out these forms by hand and returned the completed forms to Respondent.³⁴

On June 15, 2010, NVC sent Respondent a list of documents missing from Mr. Zubovic's application, including Form DS-230, Application for Immigrant Visa and Alien Registration.³⁵ NVC provided Respondent with instructions to download this form.³⁶ Respondent prepared Form DS-230 for Mr. Zubovic on June 22, 2010, and indicated that she assisted him with its completion.³⁷ She also provided her name and address and submitted the form to NVC.³⁸ Zubovic affirmed that she paid Respondent an additional \$1,000.00 on June 17, 2010, for fees and services.³⁹

At the hearing, the People argued that Respondent also engaged in the unauthorized practice of law when she selected, prepared, and signed Form I-751, Petition to Remove Conditions on Residence, on behalf of the couple.⁴⁰ Respondent allegedly charged Zubovic \$600.00 for this service yet never submitted the form to USCIS.⁴¹ The PDJ notes, however, that this allegation was not contained in the People's petition and was raised for the first time in the People's hearing brief. Thus, the PDJ will not consider this allegation.⁴²

The PDJ concludes that Respondent engaged in the unauthorized practice of law when she held herself out as authorized to select, prepare, and

²⁹ Pet. ¶ 17; Answer ¶ 1.

³⁰ Pet. ¶ 17; Answer ¶ 1.

³¹ Pet. ¶ 18; Answer ¶ 1.

³² Pet. ¶ 19; Answer ¶ 1.

³³ Pet. ¶ 20; Answer ¶ 1.

³⁴ Pet. ¶ 20; Answer ¶ 1.

³⁵ Pet. ¶ 20; Answer ¶ 1.

³⁶ Pet. ¶ 21; Answer ¶ 1.

³⁷ Pet. ¶ 23; Answer ¶ 1.

³⁸ Pet. ¶ 23; Answer ¶ 1.

³⁹ Ex. 31 ¶¶ 3, 5. Zubovic averred that \$400.00 of this money was for Mr. Zubovic's visa application fee, but Respondent kept this money for herself. *Id.* ¶ 3. Zubovic stated that she paid the remaining \$600.00 to Respondent to use her influence over an NVC agent to hasten the processing of Mr. Zubovic's visa application. *Id.* at ¶ 5. Respondent neither admits nor denies that she received \$1,000.00 from Zubovic or that she kept the \$400.00 for herself. Answer ¶ 3. Respondent instead contends that this \$1,000.00 was owed to her for services and not for NVC fees. *Id.*

⁴⁰ People's Hr'g Br. ¶ 21; Ex. 13.

⁴¹ People's Hr'g Br. ¶ 21; Ex. 31 ¶ 4.

⁴² The petition "shall set forth the facts and charges in plain language and with sufficient particularity to inform the respondent of the acts complained of." C.R.C.P. 234(b).

file forms with USCIS and to communicate with USCIS about Mr. Zubovic's case.⁴³ The Zubovics relied upon Respondent to handle these immigration matters by paying her a fee to perform services related to Mr. Zubovic's visa application and to communicate with USCIS about his case.⁴⁴

Moreover, Respondent admitted to selecting, preparing, and submitting Form G-28, despite the fact that she is neither an attorney nor an accredited representative.⁴⁵ Respondent also admitted to receiving communications and documents from NVC on Mr. Zubovic's behalf concerning his visa application.⁴⁶ Respondent further acknowledged that she prepared Form I-864, Affidavit of Support, and Form DS-230, Application for Immigrant Visa and Alien Registration, and that she selected and sent Form G-325, Biographic Information, to the couple to complete and return to her, which they did.

In short, Respondent's admissions in response to the People's complaint demonstrate that she, who is not licensed to practice law, selected, prepared, and submitted to USCIS on behalf of Mr. Zubovic a number of forms even though she was not an accredited representative and she lacked supervision by an attorney. That Respondent selected and prepared legal forms for a client is sufficient under the applicable legal standards to establish that Respondent engaged in the unauthorized practice of law.⁴⁷

⁴³ See *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006) (noting an unlicensed person engages in the unauthorized practice of law by holding oneself out as the representative of another in a legal action); see *Fl. Bar v. Brumbaugh*, 355 So.2d 1186, 1193-94 (Fla. 1978) (holding that, even though a respondent never held herself out as an attorney, her clients placed some reliance on her to properly represent their interests, and she therefore engaged in the unauthorized practice of law).

⁴⁴ A person is entitled to representation in an immigration case before the BIA by attorneys within and outside the United States, law students, reputable individuals, and accredited representatives and officials. 8 C.F.R. § 292.1(a)(1) - (6). No other person shall represent others in any case. 8 C.F.R. § 292.1(e); see also U.S. Citizen & Immigration Servs., *supra* note 11 ("Only attorneys or accredited representatives can: Give you legal advice about which forms to submit; Explain immigrations options you may have; Communicate with USCIS about your case.").

⁴⁵ The purpose of Form G-28 is "[t]o provide notice that an attorney or accredited representative of a religious, charitable, social service or similar organization will appear before [USCIS] on behalf of a person involved in a matter before USCIS." U.S. Citizen & Immigration Servs., *supra* note 11 (follow "Forms"; then follow "Notice of Entry of Appearance as Attorney or Accredited Representative").

⁴⁶ Pet. ¶ 15; Answer ¶ 1.

⁴⁷ See *Shell*, 148 P.3d at 171 ("[W]e have held 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."); see also *Unauthorized Practice of Law Comm. v. Prog*, 761 P.2d 1111, 1115 (Colo. 1988) (holding that offering case-specific legal advice and selecting case-specific legal documents constitutes the practice of law); *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 823 (Colo. 1982) (same); *Iowa Supreme Court Comm'n on Unauthorized Practice of Law v. Sturgeon*, 635 N.W.2d 679, 682 (Iowa 2001) (discussing cases that "have drawn the unauthorized practice line at the

Restitution, Fine, and Costs

The People seek a recommendation that the Supreme Court order Respondent to pay restitution, a fine of \$1,000.00, and costs in the amount of \$559.53. Each issue is considered in turn below.

The People argue that Respondent should be required to pay restitution in an amount to be determined by the PDJ. Zubovic affirmed that she paid Respondent \$2,770.00 in total for the work completed in conjunction with Mr. Zubovic's visa application.⁴⁸ Zubovic, however, only asks for \$1,600.00 in restitution.⁴⁹

First, Zubovic desires the return of the \$1,000.00 she paid Respondent on June 17, 2010, which included the \$400.00 Respondent was supposed to use to pay Mr. Zubovic's visa application fee, and the \$600.00 Respondent allegedly claimed she needed so she could use her influence with an unnamed governmental official at NVC to hasten processing of Mr. Zubovic's visa application.⁵⁰ The People assert that Respondent never paid the \$400.00 to NVC and instead kept the money for herself.⁵¹ In her answer, Respondent did not explicitly admit or deny that Zubovic paid her this additional \$1,000.00, or that she did not forward the \$400.00 to NVC but instead stated that the "\$1,000.00 sent was owed to [her] for work performed and not for fees for [NVC]."⁵² It can be inferred from this statement that Respondent did in fact receive this sum from Zubovic and that she did not pay the visa processing fee with this money.

Second, Zubovic requests an additional \$600.00 in restitution, which she paid Respondent for her selection and preparation of Form I-751.⁵³ Because the allegations concerning Form I-751 were not contained in the People's petition, the PDJ will not recommend the requested restitution. Given the available evidence, the PDJ finds that Respondent should pay \$1,000.00 in restitution to Zubovic.

point at which data entry (either by typewriter or computer) crosses the line between copying written information provided by the client and oral solicitation of the information necessary to fill out documents selected by the preparer").

⁴⁸ Ex. 31 ¶ 2. Zubovic's affirmations are corroborated in part by the admissions in Respondent's answer, including her admission that she charged Zubovic a \$1,800.00 fee. Pet. ¶ 13; Answer ¶ 1. Respondent also admitted that Zubovic paid \$1,700.00 of her total fee on November 9, 2009, and an additional \$70.00 on March 26, 2010. Pet. ¶ 19; Answer ¶ 1. Respondent used this \$70.00 to pay NVC for processing Mr. Zubovic's affidavit of support. Pet. ¶ 19; Answer ¶ 1.

⁴⁹ Ex. 31 ¶¶ 2 - 5.

⁵⁰ Ex. 31 ¶¶ 3, 5.

⁵¹ Ex. 31 ¶ 3.

⁵² Pet. ¶¶ 22, 24 - 25; Answer ¶ 3.

⁵³ Ex. 31 ¶ 4.

Next, the People seek imposition of a significant fine because they allege Respondent's conduct in this matter and in 10SA380 amount to a pattern of misconduct. In 10SA380, Respondent was ordered to pay a \$250.00 fine and \$2,800.00 in restitution. She has refused to pay both the fine and the restitution. Accordingly, the People request imposition of a \$1,000.00 fine—the maximum fine permitted per incident of the unauthorized practice of law under C.R.C.P. 236(a).

In light of the fact that Respondent has refused to pay the restitution and the fine imposed in case number 10SA380 and has discontinued her participation in these proceedings, the PDJ finds that a fine of \$1,000.00 would provide necessary and meaningful deterrence.

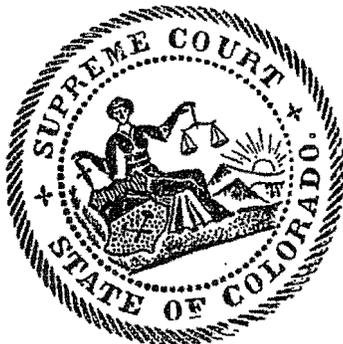
Finally, the People seek payment of \$559.53 in costs from Respondent. The People's statement of costs appears reasonable, and the PDJ therefore finds that Respondent should bear the costs of these proceedings.

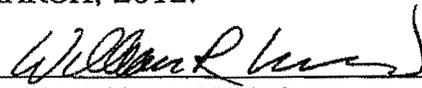
IV. RECOMMENDATION

The PDJ **RECOMMENDS** that the Supreme Court **FIND** Respondent engaged in the unauthorized practice of law and enter an order requiring Respondent to pay **RESTITUTION** to Naida Zubovic in the amount of \$1,000.00, a **FINE** of \$1,000.00, and **COSTS** in the amount of \$559.53.⁵⁴

Finally, the PDJ **DENIES** the "Petitioner's Motion for Sanctions" as moot.

DATED this 6th DAY OF MARCH, 2012.




WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

⁵⁴ The PDJ does not recommend that the Supreme Court enjoin Respondent from engaging in the unauthorized practice of law because she is already enjoined from the unauthorized practice of law in case number 10SA380, and the People did not request an additional entry of injunction.

