

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: January 25, 2018 CASE NUMBER: 2016SA322
Original Proceeding in Unauthorized Practice of Law, 2016UPL018	
<b>Petitioner:</b>  The People of the State of Colorado,  <b>v.</b>  <b>Respondent:</b>  Tom Fahrny.	Supreme Court Case No: 2016SA322
ORDER OF COURT	

Upon consideration of the 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, TOM FAHRNY, 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, TOM FAHRNY, is assessed costs in the amount of \$339.00. 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 Respondent, TOM FAHRNY pay restitution with interest to the following individuals as detailed in the Report of the Hearing Master: Kelly and Michelle Trujillo.

IT IS FURTHER ORDERED that this court WAIVES any fines in this matter pursuant to C.R.C.P. 236(a).

BY THE COURT, JANUARY 25, 2018

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p><b>Petitioner:</b> THE PEOPLE OF THE STATE OF COLORADO</p> <p><b>Respondent:</b> TOM FAHRNY</p>	<p>Case Number: <b>16SA322</b></p>
<p><b>REPORT OF HEARING MASTER UNDER C.R.C.P. 236(a)</b></p>	

In this matter, the parties stipulate that Tom Fahrny (“Respondent”) engaged in the unauthorized practice of law and that payment of restitution and costs is appropriate. The Presiding Disciplinary Judge (“the PDJ”) agrees and recommends that the Colorado Supreme Court approve the stipulation.

### I. PROCEDURAL HISTORY

Kim E. Ikeler, Office of Attorney Regulation Counsel (“the People”), filed a “Petition for Injunction” against Tom Fahrny (“Respondent”) on December 21, 2016, alleging that he engaged in the unauthorized practice of law. On January 5, 2017, the Colorado Supreme Court issued an “Order of Court,” directing Respondent to show cause why he should not be enjoined from the unauthorized practice of law. Respondent did not respond to that order or the petition.

On May 5, 2017, the Colorado Supreme Court referred 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 236(a). On May 9, 2017, the PDJ ordered Respondent to answer the People’s petition no later than May 23, 2017. Respondent still did not respond.

The People then filed a “Motion for Entry of Default.” The PDJ granted the motion on June 16, 2017, deeming admitted the allegations in the petition, including the allegation that Respondent engaged in the unauthorized practice of law. The People next filed a “Motion for Default Judgment” on June 23, to which Respondent also did not respond. On August 1, 2017, the PDJ entered default judgment and submitted a report to the Colorado Supreme Court, finding that Respondent engaged in the unauthorized practice of law and

recommending that he be enjoined from such practice. The PDJ further recommended that Respondent be ordered to pay restitution, fines, and costs.

On August 14, 2017, Respondent filed with the Colorado Supreme Court an “Objection to Report of Hearing Master,” contesting service and responding to the People’s allegations. The People responded on September 5, requesting that the Colorado Supreme Court refer this matter to the PDJ because Respondent did not specify the procedural relief he sought. The Colorado Supreme Court again referred this matter to the PDJ on September 18, 2017, for “findings of fact, conclusions of law, and recommendations.”

After receiving that order, the PDJ directed Respondent to file a motion specifying the procedural relief he sought by October 10, 2017. Respondent filed an objection with the PDJ on October 3, 2017. By order of October 6, 2017, the PDJ set aside the entry of default and the default judgment previously entered against Respondent. In so doing, the PDJ construed the Colorado Supreme Court’s order issued on September 18, 2017, as a mandate to set aside the entry of default and the default judgment and to proceed with the case on its merits. Also in the order dated October 6, 2017, the PDJ denied Respondent’s motion under C.R.C.P. 12(b)(5) to dismiss the People’s petition for failure to state a claim.

The PDJ held a scheduling conference on November 8, 2017. Ikeler appeared on behalf of People, and Respondent appeared pro se by telephone. The PDJ set a prehearing conference for February 20, 2018, and a hearing for March 13, 2018.

On December 5, 2017, the parties filed a “Stipulation, Agreement and Affidavit Containing the Respondent’s Conditional Admission of Unauthorized Practice of Law.” In the stipulation, Respondent agrees that he engaged in the practice of law. He also agrees to be enjoined from the practice of law and to pay restitution and costs.

## II. ORDER AND RECOMMENDATION

The PDJ **ACCEPTS** the parties’ stipulation. The PDJ **VACATES** the prehearing conference on February 20, 2018, and the hearing on March 13, 2018.

The PDJ **RECOMMENDS** that the Colorado Supreme Court take the following actions:

- (1) **APPROVE** the stipulation;
- (2) **ENJOIN** Respondent from the unauthorized practice of law;
- (3) **ORDER** Respondent to pay **COSTS** of \$339.00 within thirty-five days of the date of the Colorado Supreme Court’s order, in accordance with the terms set forth in paragraph 6 of the stipulation;
- (4) **ORDER** Respondent to pay restitution with interest to Kelly and Michelle Trujillo in the amount of \$702.00 with interest accruing at \$.15 *per diem* from November 15, 2017, in accordance with the terms set forth in paragraphs 7-8 of the stipulation; and

(5) **WAIVE** any **FINE** pursuant to C.R.C.P. 236(a).<sup>1</sup>

DATED THIS 18<sup>th</sup> DAY OF DECEMBER, 2017.



WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE



Copies to:

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Via First-Class Mail & Email  
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Cheryl Stevens  
Colorado Supreme Court

Via Hand Delivery

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<sup>1</sup> "A report from the Presiding Disciplinary Judge approving the parties' stipulation to injunction may be exempt from a fine."