

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: January 24, 2014 CASE NUMBER: 2013SA250
Original Proceeding in Unauthorized Practice of Law, Office of Attorney Regulation Counsel, 13UPL13	
Petitioner: The People of the State of Colorado, v. Respondent: Janet Eve Ross.	Supreme Court Case No: 2013SA250
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 said Respondent, JANET EVE ROSS shall be, and the same hereby is, ENJOINED from engaging in the unauthorized practice of law.

IT IS FURTHER ORDERED that said Respondent is assessed costs in the amount of \$91.00. 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 the Respondent, JANET EVE ROSS, shall refund the following individual as detailed in the Report of the Hearing Master, \$260.72 to Laura Mithoff.

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 24, 2014.

<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>RECEIVED</p> <p>DEC 19 2013</p> <p>REGULATION COUNSEL</p>
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: JANET EVE ROSS</p>	<p>Case Number: 13SA250</p>
<p>REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)</p>	

This matter is before the Presiding Disciplinary Judge (“the PDJ”) on an “Order of Court” issued by the Colorado Supreme Court on November 25, 2013. In its order, the Colorado Supreme Court referred this matter to the PDJ “for findings of fact, conclusions of law, and recommendations” pursuant to C.R.C.P. 234(f) and 236(a).

I. PROCEDURAL HISTORY

On September 25, 2013, Kim E. Ikeler, Office of Attorney Regulation Counsel (“the People”), filed a “Petition for Injunction” against Janet Eve Ross (“Respondent”), alleging that she had engaged in the unauthorized practice of law. The Colorado Supreme Court issued an “Order and Rule to Show Cause” on September 27, 2013, directing Respondent to show cause within twenty-one days why she should not be enjoined from the practice of law. After receiving an extension of time to respond, Respondent filed a response with the Colorado Supreme Court on November 13, 2013.

The PDJ concluded that an at-issue conference with the parties was appropriate and scheduled the conference for December 18, 2013. On that date, Mr. Ikeler attended the conference on behalf of the People, and Richard S. Gross entered his appearance as counsel for Respondent. The parties then tendered to the PDJ a “Stipulation, Affidavit and Agreement Consenting to an Order of Injunction.” After reviewing the stipulation, the PDJ informed the parties that he would forthwith issue a report to the Colorado Supreme Court recommending approval of the stipulation.

In the stipulation, Respondent agrees to be enjoined from the practice of law. She agrees to pay costs in the amount of \$91.00 within thirty (30) days after the acceptance of

the stipulation by the PDJ. She also agrees to refund to Laura Mithoff \$260.72—the portion of her judgment against Ms. Mithoff attributable to legal services.

II. ORDER AND RECOMMENDATION

The PDJ **RECOMMENDS** that the Colorado Supreme Court **APPROVE** the stipulation of the parties and **ENJOIN** Janet Eve Ross from the unauthorized practice of law. The PDJ also **RECOMMENDS** that the Colorado Supreme Court **ORDER** Janet Eve Ross to **REFUND** \$260.72 to Laura Mithoff and to pay **COSTS** of \$91.00 within thirty days of the date of this report. The PDJ further **RECOMMENDS** that the Colorado Supreme Court **WAIVE** any **FINE** pursuant to C.R.C.P. 236(a).¹

DATED THIS 19th DAY OF DECEMBER, 2013.




WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Copies to:

Kim E. Ikeler
Office of Attorney Regulation Counsel

Via Hand Delivery

Richard S. Gross
Counsel for Respondent

Via First-Class Mail

Christopher T. Ryan
Colorado Supreme Court

Via Hand Delivery

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

SUPREME COURT, STATE OF COLORADO

ORIGINAL PROCEEDING IN UNAUTHORIZED
PRACTICE OF LAW BEFORE THE PRESIDING
DISCIPLINARY JUDGE

1300 Broadway, Suite 250
Denver, Colorado 80203

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO

Respondent:
JANET EVE ROSS

Kim E. Ikeler, # 15590
Assistant Regulation Counsel
Attorney for Petitioner
1300 Broadway, Suite 500
Denver, Colorado 80203
Telephone: (303) 457-5800x7863
Fax No.: (303) 501-1141
E-mail: k.ikeler@csc.state.co.us

Richard S. Gross, # 16008
Law Office of Richard Gross
4649 E. Colfax Ave.
Denver, CO 80220
Telephone: (303) 358-9347
E-mail: rgross1806@aol.com

▲ COURT USE
ONLY ▲

Case Number:
13SA250

**STIPULATION, AFFIDAVIT AND AGREEMENT CONSENTING TO AN
ORDER OF INJUNCTION**

On this ___ day of December 2013, Kim E. Ikeler, Assistant Regulation Counsel and attorney for the Petitioner, and Janet Eve Ross, the Respondent, who is represented in these proceedings by attorney Richard S. Gross, enter into the following stipulation, agreement, and affidavit consenting to an order of injunction

(“Stipulation”) and submit the same to the Presiding Disciplinary Judge for his consideration for recommendation to the Colorado Supreme Court for entry of an order of injunction pursuant to C.R.C.P. 234-237.

1. Respondent’s address is 750 Dexter St., Denver, Colorado 80220. Respondent is not licensed to practice law in the State of Colorado or any other state.

2. Respondent enters into this stipulation freely and voluntarily. No promises have been made concerning future consideration, punishment, or lenience in the above-referenced matter. It is Respondent’s personal decision, and Respondent affirms there has been no coercion or other intimidating acts by any person or agency concerning this matter.

3. Respondent is familiar with the rules of the Colorado Supreme Court regarding the unauthorized practice of law. Respondent acknowledges the right to a full and complete evidentiary hearing on the above-referenced Petition for Injunction. At any such hearing, Respondent would have the right to be represented by counsel, present evidence, call witnesses, and cross-examine the witnesses presented by the Petitioner. At any such formal hearing, the Petitioner would have the burden of proof and would be required to prove the charges contained in the Petition for Injunction by a preponderance of the evidence. Nonetheless having full knowledge of the right to such a formal hearing, Respondent waives that right.

4. Respondent has read and studied the Petition for Injunction and is familiar with the allegations therein. A true and correct copy of the Petition for Injunction is attached to this stipulation as Exhibit A. The parties stipulate that the following occurred in the underlying action.

- a. Laura Mithoff was involved in litigation related to her parenting time for her son. Respondent (a friend of the family) helped with the litigation. Respondent understood that Ms. Mithoff would reciprocate by providing equivalent hours of labor on the renovation of Respondent’s house.
- b. As part of her assistance in the litigation, Respondent sent Ms. Mithoff proposed arguments that Ms. Mithoff could make to the court. Respondent also prepared questions for witnesses Tara Hastings, Nick Hastings, Darin McFarland, Jerry Richker, and Dana Nelson.

- c. After the litigation was over, Ms. Mithoff declined to help with renovating Respondent's house or to pay Respondent for her assistance.
- d. On December 24, 2012, Respondent sued Ms. Mithoff. *Janet Eve Ross v. Laura Mithoff*, Denver Small Claims Court, Case No. 12S1302 (the "small claims case"). Respondent alleged that Ms. Mithoff did not pay her for services which were rendered on behalf of Ms. Mithoff. Respondent claimed that the services she provided, described below, were worth \$100 per hour.
- e. In particular, in her Notice, Claim and Summons to Appear for Trial (Part 2), Respondent alleged the following:

From February to August 2012, I assisted the defendant with her child support/visitation court cases. I analyzed/prepared reports and explained/educated the defendant on the personal/business tax returns, court documents, personal financial statements, businesses and real estate holdings of the father of the defendant's son. I provided information to the child support attorney. I located assets and witnesses, prepared witness questions and attempted to serve subpoenas. I read/analyzed/prepared notes on supervised visitation reports. I attended numerous court appearances and discussed/advised her on the case with her *ad nauseum*. I drafted and edited written documents. She has refused to honor our agreement.

- f. Ms. Mithoff contended that Respondent had committed the unauthorized practice of law.
- g. At the trial in the small claims case, Respondent offered as an exhibit her Statement of Professional Services. Among the tasks for which Respondent sought compensation were:

March 1, 2012 – prepared witness questions. Exhibit 4 – Pages 6-8. 4 hours.

April 19, 2012 – Drafted language for Ms. Mithoff’s motion re attorney Bill Van Horn’s fees. Exhibit 2 – Page 7. 3 hours.

Drafted witness questions that were never used because Ms. Mithoff did not do subpoenas correctly/and or timely/did not provide process server with correct information. Exhibit 2 – Page 24 and Exhibit 4 – Page 16. 4 hours.

Drafted witness questions that were never used because Ms. Mithoff did not do subpoenas correctly and/or timely. Exhibit 4 – Pages 17-18. 2 hours.

June 14, 2012 Court Transcript – 48 hours @ \$100 per hour = \$4800. Read entire 124 page transcript and did an exhaustive dissection into categories. Cross-referenced testimony to show contradictions/falsehoods in Dr. McFarland’s testimony. Prepared questions for Ms. Mithoff.

- h. Respondent testified at the trial of the small claims case, held February 11, 2013, that she had synopsised information related to a visitation program and “put that into presentation format, which was used by Ms. Mithoff in court.” Respondent testified that she “assisted Ms. Mithoff in writing the language for witness questions ... I again drafted some language for witness questions that were never used because Ms. Mithoff did not do the subpoenas correctly ... I then helped draft language for witness questions.” Respondent testified: “I cross-referenced the testimony to show contradictions, I prepared questions from that analysis, and I attempted on numerous occasions to try to explain the transcript to her [Ms. Mithoff], not in a legal sense, Your Honor, but in terms of how he had contradicted himself.”
- i. Judge Bucholtz, after hearing testimony on the issue from Ms. Mithoff and Respondent, did not determine that Respondent had engaged in the unauthorized practice of law. He awarded a monetary judgment in favor of Respondent. Ms. Mithoff appealed the matter to the Denver District Court. Judge Laff determined that Respondent did not engage in the unauthorized practice of law.
- j. Respondent has decided that it is in her best interest to enter into this Stipulation with the intent to terminate the instant litigation. For the

sole purpose of terminating the instant litigation, Respondent admits that she engaged in the unauthorized practice of law. The admission in no way is meant to contradict Respondent's sworn testimony that was given in the above-referenced small claims case.

5. Respondent specifically agrees to refrain from any further actions constituting the unauthorized practice of law in Colorado. Respondent understands that the practice of law in Colorado includes, but is not limited to, the following:

a. providing advice to any other individual on the legal effect of any proposed action in a legal matter; or assisting that individual in making decisions that require legal judgment and a knowledge of the law that is greater than the average citizen;

b. providing advice to any other individual as to various legal remedies available to that individual and the possible legal courses of action for that individual;

c. acting in a representative capacity on behalf of any other individual in matters that affect that individual's legal rights and duties;

d. selecting or preparing any legal document for any other individual, other than solely as a typist; and, without limiting the above, explaining to that individual or any other individual the legal significance of such document;

e. holding oneself out as an attorney, lawyer, "esquire", legal consultant, legal advocate, independent paralegal, or as a person or business capable of providing direct legal services to consumers, either directly or impliedly;

f. holding oneself out to others in a manner that another individual would place some reliance on the Respondent to handle that individual's legal matters;

g. making an appearance or speaking on behalf of another individual in negotiations, settlement conferences, mediations, hearings, trials, oral arguments or other legal proceedings unless specifically allowed by the rules that apply to such appearance in such legal proceeding;

h. serving as a conduit or intermediary on behalf of any other individual for the obtaining or relaying of any legal counsel;

i. conducting the business of management of a law practice to the extent that the exercise of legal judgment on behalf of another occurs; and

j. soliciting or accepting any fees for legal services.

6. Respondent agrees to refund to Laura Mithoff that portion of her judgment against Ms. Mithoff attributable to legal services, \$260.72.

7. Based on Respondents' cooperation and agreement to the terms of the within Stipulation, Petitioner requests that the Presiding Disciplinary Judge exempt this case from a fine, pursuant to C.R.C.P. 236(a).

8. Respondent agrees to pay costs in the sum of \$91 incurred in conjunction with this matter within thirty (30) days after the acceptance of this Stipulation by the Presiding Disciplinary Judge, made payable to Colorado Supreme Court Attorney Regulation Offices. Respondent agrees that statutory interest shall accrue should payment not be made in timely fashion. Should the Respondent fail to make payment of the aforementioned costs and interest within (30) days of acceptance by the Committee, Respondent also specifically agrees to be responsible for all additional costs and expenses, such as reasonable attorney fees and costs of collection incurred by the Committee in collecting the above stated amount.

9. Respondent has consulted with counsel of Respondent's choosing at the Respondent's own expense before signing this Stipulation.

10. Respondent further understands that signing this Stipulation will not prevent or replace any civil or other proceedings that former clients or others on their behalf may bring in the courts of Colorado, and also does not preclude any proceedings that other governmental agencies may bring pursuant to that agency's jurisdiction.

**RECOMMENDATION FOR AND CONSENT TO ORDER OF
INJUNCTION**

Based on the foregoing, the parties hereto request that the Presiding Disciplinary Judge recommend that the Colorado Supreme Court enter an order enjoining Respondent from the unauthorized practice of law. The parties further request that the Presiding Disciplinary Judge recommend that the Supreme Court also order that Respondent refund to Laura Mithoff that portion of Respondent's judgment against Ms. Mithoff attributable to legal services, \$260.72. The parties further request that the Presiding Disciplinary Judge recommend that the Supreme Court order Respondent to pay costs in the amount of \$91.

Janet Eve Ross, Respondent; her counsel Richard S. Gross, and Kim E. Ikeler, attorney for Petitioner, acknowledge by signing this document that they have read and reviewed the above.



Janet Eve Ross
750 Dexter Street
Denver, CO 80220
Respondent

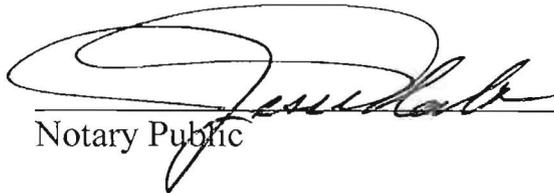
STATE OF COLORADO)
 CITY &) ss:
COUNTY OF DENVER)

Subscribed and sworn to before me this 18th day of December 2013, by Janet Eve Ross, Respondent. Witness my hand and official seal.

My commission expires:

September 24, 2017

JESSE NAVA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 19974017406
MY COMMISSION EXPIRES SEPTEMBER 24, 2017



Notary Public



Kim E. Ikeler, # 15590
Assistant Regulation Counsel
1300 Broadway, Ste. 500
Denver, CO 80203
Attorney for Petitioner



Richard S. Gross, # 16008
Law Office of Richard S. Gross
4949 E. Colfax Ave.
Denver, CO 80220
Attorney for Respondent

EXHIBIT A

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Ave. Denver, CO 80203</p> <p>ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF LAW</p> <hr/> <p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: JANET EVE ROSS</p> <hr/> <p>Kim E. Ikeler, #15590 Assistant Regulation Counsel James C. Coyle, #14970 Regulation Counsel Attorneys for Petitioner 1300 Broadway, Suite 500 Denver, Colorado 80203 Telephone: (303) 928-7863 Fax No.: (303) 501-1141 Email: K.Ikeler@csc.state.co.us</p>	<p>DATE FILED: September 25, 2013 11:33 AM FILING ID: CD2C37FB5AB93</p> <p>▲ COURT USE ONLY ▲</p> <hr/> <p>Case Number:</p>
<p>PETITION FOR INJUNCTION</p>	

Petitioner, through the undersigned Assistant Regulation Counsel, and upon authorization pursuant to C.R.C.P. 234(a),¹ respectfully requests that the Colorado Supreme Court issue an order pursuant to C.R.C.P. 234 directing Respondent to

¹ The Unauthorized Practice of Law (“UPL”) Committee authorized the filing of this petition on September 13, 2013.

show cause why she should not be enjoined from the unauthorized practice of law.

As grounds, counsel states as follows:

JURISDICTION

1. Respondent, Janet Eve Ross, is not licensed to practice law in the state of Colorado or any other state.

2. Respondent Ross's last known address is 750 Dexter St., Denver, CO 80220.

3. Respondent engaged in the unauthorized practice of law, as described below.

GENERAL ALLEGATIONS

4. Laura Mithoff was involved in litigation related to her parenting time for her son.

5. Respondent (a friend of the family) helped with the litigation.

6. Respondent understood that Ms. Mithoff would reciprocate by providing equivalent hours of labor on the renovation of Respondent's house.

7. Ms. Mithoff did not share this understanding.

8. As part of her assistance in the litigation, Respondent sent Ms. Mithoff proposed arguments that Ms. Mithoff could make to the court.

9. Respondent also prepared questions for witnesses Tara Hastings, Nick Hastings, Darin McFarland, Jerry Richker, and Dana Nelson.

10. After the litigation was over, Ms. Mithoff declined to help with renovating Respondent's house or to pay Respondent for her assistance.

11. On December 24, 2012, Respondent sued Ms. Mithoff. *Janet Eve Ross v. Laura Mithoff*, Denver Small Claims Court, Case No. 12S1302 (the "small claims case").

12. In her Notice, Claim and Summons to Appear for Trial (Part 2), Respondent alleged the following:

From February to August 2012, I assisted the defendant with her child support/visitation court cases. I analyzed/prepared reports and explained/educated the defendant on the personal/business tax returns, court documents, personal financial statements, businesses and real estate holdings of the father of the defendant's son. I provided information to the child support attorney. I located assets and witnesses, prepared witness questions and attempted to serve subpoenas. I read/analyzed/prepared notes on supervised visitation reports. I attended numerous court appearances and discussed/advised her on the case with her *ad nauseum*. I drafted and edited written documents. She has refused to honor our agreement.

13. At the trial in the small claims case, Respondent offered as an exhibit her Statement of Professional Services.

14. Among the tasks for which Respondent sought compensation were:

March 1, 2012 – prepared witness questions. Exhibit 4 – Pages 6-8. 4 hours.

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15. Respondent testified at the trial of the small claims case, held February 11, 2013, that she had synopsised information related to a visitation program and “put that into presentation format, which was used by Ms. Mithoff in court.”

16. Respondent testified that she “assisted Ms. Mithoff in writing the language for witness questions ... I again drafted some language for witness questions that were never used because Ms. Mithoff did not do the subpoenas correctly ... I then helped draft language for witness questions.”

17. Respondent testified: “I cross-referenced the testimony to show contradictions, I prepared questions from that analysis, and I attempted on numerous occasions to try to explain the transcript to her [Ms. Mithoff], not in a legal sense, Your Honor, but in terms of how he had contradicted himself.”

REQUEST FOR RELIEF

18. The unauthorized practice of law includes but is not limited to an unlicensed person's actions as a representative in protecting, enforcing or defending the legal rights and duties of another and/or counseling, advising and assisting that person in connection with legal rights and duties. *See, People v. Shell*, 148 P.3d 162 (Colo. 2006); and *Denver Bar Assn. v. P.U.C.*, 154 Colo. 273, 391 P.2d 467 (1964). Prohibited activities involve the lay exercise of *legal discretion*, such as advice to clients regarding legal matters and preparation of court pleadings. *People v. Adams*, 243 P.3d 246, 266 (Colo. 2010). In addition, preparation of legal documents for others by an unlicensed person, other than solely as a typist, is the unauthorized practice of law, unless the Colorado Supreme Court has authorized such action in a specific circumstance. *Title Guaranty v. Denver Bar Ass'n*, 135 Colo. 423, 312 P.2d 1011 (1957).

19. Respondent exercised judgment in a legal matter by drafting witness questions for Ms. Mithoff to ask witnesses in the parenting time litigation, by preparing arguments for Ms. Mithoff to make to the court, by analyzing documents, and reports and a transcript and discussing her analysis with Ms. Mithoff, by attending court appearances and advising Ms. Mithoff regarding the litigation, by drafting language to be included in a motion, and by similar conduct.

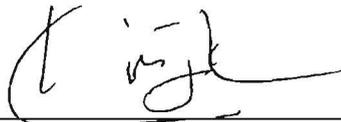
20. Respondent thereby engaged in the unauthorized practice of law.

21. Respondent does not fall within one of the statutory or case law exceptions.

WHEREFORE, the Petitioner prays that this Court issue an order directing Respondent to show cause why Respondent 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 against this Respondent; assess restitution against the Respondent for the out-of-pocket losses, if any, incurred by the client as a result of the Respondent's conduct; impose a fine for each incident of unauthorized practice of law, not less than \$250.00 and not more than \$1,000.00; and any other relief deemed appropriate by this Court.

DATED this 25th day of September, 2013.

Respectfully submitted,



Kim E. Ikeler, #15590
Assistant Regulation Counsel
James C. Coyle, #14970
Regulation Counsel
Attorneys for Petitioner