

Colorado Supreme Court 101 West Colfax Avenue, Suite 800 Denver, CO 80202	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">NOV 30 2012</p> <p style="text-align: center;">REGULATION COUNSEL</p>
Original Proceeding in Unauthorized Practice of Law, 11UPL097, 11UPL122, 11UPL129 and 11UPL138	
<p>Petitioner:</p> <p>The People of the State of Colorado,</p> <p>v.</p> <p>Respondent:</p> <p>Lynn Narvaez.</p>	Supreme Court Case No: 2012SA151
ORDER OF COURT	

Upon consideration of the Petition for Injunction and the Order Entering Default Judgment Pursuant to C.R.C.P. 55(b) and 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, LYNN NARVAEZ shall be, and the same hereby is, ENJOINED from the unauthorized practice of law in the state of Colorado.

IT IS FURTHER ORDERED that the Respondent is assessed costs in the amount of \$136.00. 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 the Respondent, LYNN NARVAEZ pay RESTITUTION to Norma Cortez in the amount of \$450.00, to Manuel Bermudez in the amount of \$2710.00, to Martha Bermudez in the amount of \$3240.00 and to Jacqueline Bermudez in the amount of \$1957.00.

IT IS FURTHER ORDERED that a fine be imposed in the amount of \$1000.00.

BY THE COURT, NOVEMBER 30, 2012.



Case Number: 2012SA151
Caption: People v Narvaez, Lynn

CERTIFICATE OF SERVICE

Copies mailed via the State's Mail Services Division on November 30, 2012.

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OFFICE OF ATTORNEY
REGULATION
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Denver, CO 80202

Lynn Narvaez
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William R Lucero
PRESIDING DISCIPLINARY
JUDGE
1560 Broadway Ste 675
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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	RECEIVED OCT 28 2012 REGULATION COUNSEL
Petitioner: THE PEOPLE OF THE STATE OF COLORADO Respondent: LYNN NARVAEZ	Case Number: 12SA151
ORDER ENTERING DEFAULT JUDGMENT PURSUANT TO C.R.C.P. 55(b) AND REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)	

This matter is before the Presiding Disciplinary Judge ("the PDJ") on "Petitioner's Motion for Default Judgment" filed by Kim E. Ikeler, Office of Attorney Regulation Counsel ("the People"), on August 20, 2012. The People ask the PDJ to enter default pursuant to C.R.C.P. 55(b) against Lynn Narvaez ("Respondent"). Respondent has not filed an answer to the People's motion.

I. PROCEDURAL HISTORY

On May 15, 2012, the People filed a "Petition for Injunction" with the Colorado Supreme Court ("the Supreme Court"), alleging Respondent had engaged in the unauthorized practice of law. The Supreme Court issued an "Order and Rule to Show Cause" on May 18, 2012, directing Respondent to show cause in writing within twenty days after service why she should not be enjoined from the practice of law in the State of Colorado. Respondent was personally served with the petition and the Supreme Court's order to show cause on June 12, 2012, yet she never responded to the petition or the order to show cause.

The Supreme Court issued an order on July 13, 2012, appointing the PDJ as hearing master and referring 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). On July 18, 2012, the PDJ granted the People's request for entry of default, thereby deeming the allegations in the petition 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 § 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; submitting affidavits by the complaining witnesses, Norma Cortez, Manuel Bermudez, Martha Bermudez, and Jacqueline Bermudez, establishing the amount of restitution they are due; and filing a statement of the People's costs. Accordingly, the PDJ **GRANTS** "Petitioner's Motion for Default Judgment."

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Next, the PDJ determines that the allegations of the People's petition, which are summarized below, establish Respondent engaged in the unauthorized practice of law. The PDJ issues the following report to the Supreme Court pursuant to C.R.C.P. 239(a).

Factual Findings

Respondent is not licensed to practice law in the State of Colorado or any other state.¹

Respondent met with Norma Cortez and her husband, Enrique Mendez-Solis, to discuss their immigration status.² Mr. Mendez-Solis was the subject of removal proceedings, while Cortez also faced the possibility of removal.³ Respondent advised the couple that they were both eligible for cancellation of removal.⁴ She offered to represent Mr. Mendez-Solis for \$1,500.00 or to represent both of them for \$2,000.00, and she suggested they make small monthly payments to her.⁵ During a subsequent conversation, Respondent told the couple that she was an attorney.⁶ Mr. Mendez-Solis paid a total of \$450.00 to Respondent.⁷ In December 2010, Respondent gave him a list of documents he would need to apply for cancellation of removal.⁸ The couple ultimately decided not to pay Respondent additional funds.⁹

Also in 2010, Respondent was hired by Manuel Bermudez, a U.S. citizen, to help his parents obtain legal permanent residence in the United States.¹⁰ Respondent told him that she was an immigration lawyer.¹¹ Mr. Bermudez paid Respondent \$2,710.00 in filing fees and legal fees.¹² In exchange, Respondent

¹ Pet. ¶ 1.

² Pet. ¶¶ 4, 11.

³ Pet. ¶¶ 5, 7.

⁴ Pet. ¶ 12.

⁵ Pet. ¶¶ 13-14.

⁶ Pet. ¶ 23.

⁷ Pet. ¶¶ 15-16, 20.

⁸ Pet. ¶¶ 17-19.

⁹ Pet. ¶ 25.

¹⁰ Pet. ¶¶ 34-35, 38-39.

¹¹ Pet. ¶ 37.

¹² Pet. ¶¶ 39, 42, 44.

selected and prepared legal forms for Mr. Bermudez's parents.¹³ When he contacted the National Visa Center to ask about the status of his mother's petition, however, the center told him it had not received the petition.¹⁴

Martha Bermudez, the sister of Manuel Bermudez, was in the United States on a non-immigrant visa and was subject to immigration proceedings.¹⁵ Respondent told her she was an immigration attorney and that she could arrange to change the venue of the proceedings against Ms. Bermudez in exchange for a fee of \$500.00.¹⁶ Respondent also said she could prepare the forms necessary to permit Manuel Bermudez to petition to change Ms. Bermudez's status to that of a legal permanent resident.¹⁷ Ms. Bermudez hired Respondent to complete both of these tasks and paid her a total of \$3,240.00 between February 2011 and August 2011.¹⁸ However, Ms. Bermudez learned from the immigration court that the venue had not been changed, and her brother learned from U.S. Citizenship and Immigration Services that Respondent had not filed any immigration forms on Ms. Bermudez's behalf.¹⁹

Francisco Bermudez (a brother of Manuel Bermudez) also hired Respondent.²⁰ Respondent had met Francisco Bermudez's wife and told her she was a newly licensed attorney.²¹ The lawyer who had been representing Mr. Bermudez in removal proceedings became ill and could no longer represent him.²² Mr. Bermudez then hired Respondent, paying her a total of \$1,957.00 between December 2010 and September 2011.²³ In March 2011, Mr. Bermudez failed to timely appear at a scheduled appearance in immigration court.²⁴ Respondent learned from the court that a removal order had been entered.²⁵ She then told Mr. Bermudez that she would endeavor to reopen the case.²⁶ She prepared a "Petition to Reopen," which she brought to Mr. Bermudez's home and read to him before he signed it.²⁷ Mr. Bermudez understood that Respondent had filed the petition, and she later told him she had reopened the case.²⁸

¹³ Pet. ¶¶ 40, 43.

¹⁴ Pet. ¶¶ 45-46.

¹⁵ Pet. ¶¶ 52-54.

¹⁶ Pet. ¶¶ 54-55, 57, 60.

¹⁷ Pet. ¶ 61.

¹⁸ Pet. ¶¶ 62-63.

¹⁹ Pet. ¶¶ 64-65.

²⁰ Pet. ¶¶ 74, 95.

²¹ Pet. ¶¶ 71-72.

²² Pet. ¶¶ 69-71, 73.

²³ Pet. ¶¶ 74-81.

²⁴ Pet. ¶¶ 82-83.

²⁵ Pet. ¶ 84.

²⁶ Pet. ¶ 85.

²⁷ Pet. ¶¶ 87-89.

²⁸ Pet. ¶¶ 90-91.

In April 2011, Manuel Bermudez received a letter directing him to bring Francisco Bermudez to a U.S. Citizenship and Immigration Services office for deportation.²⁹ Manuel Bermudez called Respondent, who assured him everything was under control.³⁰ He then posted a \$5,000.00 bond so that Francisco Bermudez could remain at liberty.³¹ In a subsequent conversation, Manuel Bermudez informed Respondent of a notice that his brother had thirty days in which to appeal his removal order, and Respondent told Manuel Bermudez that she would arrange for the return of the bond he had posted.³² Respondent took no action on Francisco Bermudez's behalf, and he was deported to Mexico.³³ Respondent promised his wife she would return his identifying documents, yet she never did so.³⁴

Legal Standards Governing the 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.³⁵ The purpose of the Supreme Court's restrictions on the practice of law is to protect the public from receiving incompetent legal advice from unqualified individuals.³⁶ A non-lawyer holding himself or herself out as an authorized attorney engages in the unauthorized practice of law.³⁷ In addition, "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."³⁸

In light of these standards, the PDJ concludes the People have established that Respondent engaged in the unauthorized practice of law. She held herself out as a lawyer to Ms. Cortez, Mr. Mendez-Solis, and several members of the Bermudez family. She provided legal advice to Mr. Mendez-

²⁹ Pet. ¶ 95.

³⁰ Pet. ¶¶ 96-97.

³¹ Pet. ¶ 98.

³² Pet. ¶¶ 99-101.

³³ Pet. ¶¶ 102, 109.

³⁴ Pet. ¶¶ 110-11.

³⁵ C.R.C.P. 228.

³⁶ *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 826 (Colo. 1982).

³⁷ See *Binkley v. People*, 716 P.2d 1111, 1114 (Colo. 1986) ("Anyone advertising as a lawyer holds himself or herself out as an attorney, attorney-at-law, or counselor-at-law and, if not properly licensed, may be held in contempt of court for practicing law without a license."); *People ex rel. Attorney General v. Castleman*, 88 Colo. 207, 207, 294 P.2d 535, 535 (1930) (finding unlicensed person in contempt by engaging in unauthorized practice of law by advertising himself as a lawyer); *People ex rel. Colo. Bar Ass'n v. Taylor*, 56 Colo. 441, 444, 138 P. 762, 764 (1914) (same).

³⁸ *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006); *Title Guar. Co. v. Denver Bar Ass'n*, 135 Colo. 423, 434, 312 P.2d 1011, 1016 (1957) (holding that preparation of legal documents for others amounts to the unauthorized practice of law); see also C.R.C.P. 201.3(2)(a)-(f) (defining the practice of law).

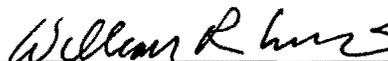
Solis regarding the documents he would need to apply for cancellation of removal. Similarly, she offered legal advice to Martha Bermudez by telling her she could arrange to change the venue of her immigration case. Furthermore, Respondent selected and prepared legal forms for Manuel Bermudez's parents, and she prepared a legal pleading for Francisco Bermudez.

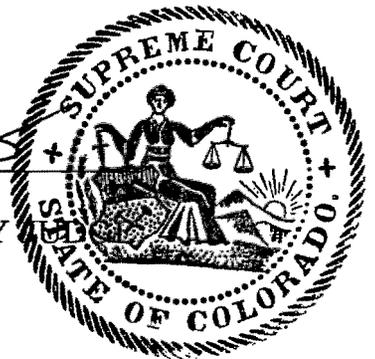
The PDJ finds it appropriate to recommend awards of restitution in the amount of \$450.00 payable to Norma Cortez, \$2,710.00 payable to Manuel Bermudez, \$3,240.00 payable to Martha Bermudez, and \$1,957.00 payable to Jacqueline Bermudez.³⁹ Finally, C.R.C.P. 236(a) requires the PDJ to recommend a fine of \$250.00 to \$1,000.00 for each incident of the unauthorized practice of law. Taking into consideration the People's recommendation of a \$1,000.00 fine and the fact that Respondent has not previously been enjoined from the practice of law, the PDJ recommends that the Supreme Court impose a fine of \$250.00 per instance of the unauthorized practice of law in this case, which amounts to a total fine of \$1,000.00.

IV. RECOMMENDATION

The PDJ **RECOMMENDS** that the Supreme Court **FIND** Respondent engaged in the unauthorized practice of law and **ENJOIN** her from the unauthorized practice of law. The PDJ further **RECOMMENDS** that the Supreme Court enter an order requiring Respondent to pay a **FINE** of \$1,000.00; **COSTS** in the amount of \$136.00;⁴⁰ and **RESTITUTION** to Norma Cortez of \$450.00, to Manuel Bermudez of \$2,710.00, to Martha Bermudez of \$3,240.00, and to Jacqueline Bermudez of \$1,957.00.

DATED THIS 23rd DAY OF OCTOBER, 2012.


WILLIAM R. LUCERO
PRESIDING DISCIPLINARY



Copies to:

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Christopher T. Ryan
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³⁹ See People's Mot. for Default J. Exs. B-E.

⁴⁰ People's Mot. for Default J. Ex. F.