

Colorado Supreme Court 101 West Colfax Avenue, Suite 800 Denver, CO 80202	
Original Proceeding in Unauthorized Practice of Law, 10UPL59	
Petitioner: The People of the State of Colorado, v. Respondent: Eva Rodriguez, d/b/a L&L Immigration Paralegal Specialist.	Supreme Court Case No: 2011SA263
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, pay Restitution in the amount of \$1,600.00 to Melinda Melendez; \$1000.00 to Sophia Marquez; \$1,500.00 to Maria Avalos; \$1,600.00 to Erica Hernandez; and \$2,000.00 to Sandra Beyna.

IT IS FURTHER ORDERED that Respondent, EVA RODRIGUEZ, d/b/a/ L&L, IMMIGRATION DOC SPECIALIST is assessed costs in the amount of

\$291.00. 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 a fine be imposed in the amount of \$3,750.00.



BY THE COURT, MAY 31, 2012.

Case Number: 2011SA263
Caption: People v Rodriguez, Eva

CERTIFICATE OF SERVICE

Copies mailed via the State's Mail Services Division on June 1, 2012. *1/12*

Eva Rodriguez, d/b/a L&L
Immigration Paralegal Specialist
2036 1st. Ave., Unit 289B
Greeley, CO 80631

Honorable William R Lucero
Office of the Presiding Disciplinary
Judge
1560 Broadway, Suite 675
Denver, CO 80202

Kim E Ikeler
OFFICE OF ATTORNEY
REGULATION
1560 Broadway Ste 1800
Denver, CO 80202

Eva Rodriguez
"CONFIDENTIAL ADDRESS"

<p style="text-align: center;">SUPREME COURT, STATE OF COLORADO</p> <p style="text-align: center;">ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202</p>	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">APR 26 2012</p> <p style="text-align: center;">REGULATION COUNSEL</p>
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: EVA RODRIGUEZ, d/b/a L&L IMMIGRATION DOC SPECIALIST</p>	<p>Case Number: 11SA263</p>
<p style="text-align: center;">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 the Colorado Supreme Court (“the Supreme Court”) appointing the PDJ as a hearing master and directing him to prepare a report setting forth “findings of fact, conclusions of law, and recommendations,” pursuant to C.R.C.P. 234(f) and 236(a).

I. SUMMARY

The Office of Attorney Regulation Counsel (“the People”) alleged in a petition for injunction that Eva Rodriguez, d/b/a L&L Immigration Doc Specialist (“Respondent”)—who does not hold a law license—engaged in the unauthorized practice of law by selecting and preparing legal forms for clients; providing legal advice about immigration matters; and holding herself out as authorized to select, prepare, and submit immigration forms to the federal government. Because Respondent failed to respond to the People’s petition, the PDJ deemed the allegations in the petition admitted pursuant to C.R.C.P. 8(d) in an order dated March 2, 2012. The PDJ concluded as a matter of law that Respondent had engaged in the unauthorized practice of law by advising others about their legal rights and selecting legal forms for them. Having received the People’s requests regarding restitution, a fine, and costs, the PDJ now recommends that the Supreme Court find Respondent engaged in the unauthorized practice of law and order her to pay restitution, a fine, and costs.

II. PROCEDURAL HISTORY

On September 20, 2011—less than a month after Respondent was enjoined from the unauthorized practice of law in case number 10SA380—Kim

E. Ikeler filed on the People's behalf a "Petition for Relief Pursuant to Rules 234-237," alleging Respondent had engaged in the unauthorized practice of law in matters not addressed in case number 10SA380.¹ Two days later, the Supreme Court issued an "Order and Rule to Show Cause," directing Respondent to answer in writing and show cause within twenty days why she should not be enjoined from engaging in the unauthorized practice of law. Respondent did not respond to the petition or the order to show cause.

After the People filed a motion to proceed, the Supreme Court issued an "Order of Court" on November 7, 2011, referring this matter to the PDJ to prepare a report pursuant to C.R.C.P. 234(f) and 236(a). The PDJ held an at-issue conference in this matter on December 9, 2011. Mr. Ikeler appeared on behalf of the People, and Respondent appeared pro se by telephone. During the conference, the PDJ scheduled a one-day hearing in this matter for March 22, 2012. In addition, the PDJ ordered Respondent to file an answer to the People's petition by December 29, 2011. In contravention of that order, Respondent failed to file an answer. On January 3, 2012, Respondent sent the People an email, which the People brought to the PDJ's attention, stating she would not attend any further hearings in person or by telephone because of personal safety concerns.

The People filed "Petitioner's Request for Findings (A) That the Allegations of the Petition Be Deemed Admitted and (B) That Respondent Has Engaged in the Unauthorized Practice of Law" on December 30, 2011. Respondent did not file a response. On March 2, 2012, the PDJ granted the People's motion and entered summary judgment in favor of the People on the merits of this matter. In the same order, the PDJ converted the hearing set for March 22, 2012, to a hearing on the issues of restitution, a fine, and costs.²

On March 2, 2012, the PDJ held a pre-hearing conference. Mr. Ikeler appeared for the People, but Respondent did not appear.³ Neither did Respondent attend the hearing on March 22, 2012.⁴ During that hearing, the PDJ admitted the People's exhibits 1 - 18.

¹ The People also alleged that Respondent engaged in a separate instance of the unauthorized practice of law in case number 11SA151. The PDJ issued a report in that case on March 6, 2012, recommending that the Supreme Court find Respondent engaged in the unauthorized practice of law and enter an order requiring her to pay \$1,000.00 in restitution, \$1,000.00 in fines, and \$559.53 in costs.

² In his order entering summary judgment, the PDJ deemed moot "Petitioner's Motion for Sanctions," which asked the PDJ to sanction Respondent for neglecting to file initial disclosures by barring her from introducing exhibits and calling witnesses at the hearing.

³ Mr. Ikeler advised the PDJ that he had emailed Respondent to remind her of the scheduled pre-hearing conference and that he had attempted to reach Respondent at the telephone number he had on file for her, which was no longer a working number.

⁴ At the hearing, Mr. Ikeler informed the PDJ that his office had emailed Respondent earlier that morning to remind her of the hearing and an automatically generated reply had acknowledged receipt of the email.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Unauthorized Practice of Law Claims

The PDJ made the following findings of fact and conclusions of law regarding the merits of this matter in his order of March 2, 2012, which granted summary judgment in the People's favor.

C.R.C.P. 235(d) provides that the Colorado Rules of Civil Procedure apply in civil injunction proceedings when they are not inconsistent with the rules governing unauthorized practice of law proceedings. Accordingly, C.R.C.P. 8(d) governs Respondent's failure to deny the averments in the People's petition. C.R.C.P. 8(d) provides: "Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading."

C.R.C.P. 56(c), meanwhile, permits litigants to pierce the formal allegations of the pleadings and save the time and expense connected with trial when, as a matter of law and based on undisputed facts, one of the parties could not prevail.⁵ The burden of establishing the nonexistence of a genuine issue of material fact is on the moving party,⁶ and all doubts as to whether an issue of fact exists must be resolved against the moving party.⁷ Summary judgment is therefore proper when the pleadings, affidavits, depositions, or admissions show there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.⁸

In this matter, the at-issue conference order directed Respondent to answer the People's petition by December 29, 2011. Respondent did not do so. As a result, the PDJ ruled in his order granting summary judgment that the averments of the People's petition had been admitted. The PDJ further determined that the People's admitted allegations establish Respondent engaged in 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.⁹ The Supreme Court's restrictions on the practice of law are intended to protect the public from receiving incompetent legal advice from unqualified individuals.¹⁰

⁵ *Ginter v. Palmer & Co.*, 196 Colo. 203, 205, 585 P.2d 583, 584 (1978).

⁶ *Cont'l Airlines, Inc. v. Keenan*, 731 P.2d 708, 712 (Colo. 1987).

⁷ *Jones v. Dressel*, 623 P.2d 370, 373 (Colo. 1981).

⁸ C.R.C.P. 56(c); *Civil Serv. Comm'n v. Pinder*, 812 P.2d 645, 649 (Colo. 1991).

⁹ C.R.C.P. 228.

¹⁰ *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 826 (Colo. 1982).

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.”¹¹ Further, 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.¹²

In this matter, the People allege that, between spring 2010 and spring 2011, Respondent engaged in the unauthorized practice of law by providing immigration-related legal services for five couples in Colorado:

- (1) Carlos David Melendez-Carrion (“Melendez-Carrion”) and his wife, Melinda Melendez (“Melendez”);
- (2) Sophia Marquez (“Marquez”) and her husband, Jorge Alberto Velazquez (“Velazquez”);
- (3) Maria Avalos (“Avalos”) and her husband, Edgar Quiroz (“Quiroz”);
- (4) Ruben Martinez Hernandez (“Mr. Hernandez”) and Erica Hernandez (“Mrs. Hernandez”); and
- (5) Sandra Beyna (“Beyna”) and her husband, Juan Carlos Canales (“Canales”).

First, the People allege that Respondent provided advice to Melendez-Carrion and Melendez about how to adjust Melendez-Carrion’s immigration status, telling them she “knew” the relevant immigration laws.¹³ Respondent advised the couple that it would be sufficient to show the U.S. Citizenship and Immigration Services (“USCIS”) that Melendez-Carrion had been present in the United States and married to Melendez for a “long time.”¹⁴ Respondent’s advice to Melendez-Carrion was incorrect—he was not eligible for an adjustment of status.¹⁵ Nevertheless, Respondent selected and prepared for Melendez-Carrion two legal forms and entered her appearance as Melendez-Carrion’s attorney or representative.¹⁶ Pursuant to a contract, Melendez paid Respondent \$1,600.00 in fees to prepare immigration forms and file them with

¹¹ *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006); see also *People v. Adams*, 243 P.3d 256, 266 (Colo. 2010) (noting that courts prohibit activities that involve the lay exercise of legal discretion, such as advising clients regarding legal matters); C.R.C.P. 201.3(2)(a) - (f) (defining the practice of law).

¹² *Shell*, 148 P.3d at 171 (quotation omitted).

¹³ Pet. ¶ 9.

¹⁴ *Id.* ¶ 10.

¹⁵ *Id.* ¶ 37.

¹⁶ *Id.* ¶¶ 12, 14.

USCIS.¹⁷ Melendez also purchased \$2,270.00 in money orders, which were submitted to USCIS as filing fees.¹⁸ USCIS denied Melendez-Carrion's application to adjust his status and did not return Melendez's money orders.¹⁹

Second, the People allege Respondent told Marquez and Velazquez that she knew what steps to take to obtain an adjustment of status for Velazquez, including what applications to file with USCIS.²⁰ Respondent, Marquez, and Velazquez entered into a contract whereby Respondent agreed to prepare and file immigration documents for Velazquez.²¹ Marquez thereafter paid Respondent \$1,000.00 in fees.²² Although Respondent advised the couple that Velazquez was legally eligible for lawful status, he in fact was not.²³

The People's third set of allegations concern recommendations Respondent provided to Avalos and Quiroz regarding adjustment of Quiroz's status. Respondent incorrectly advised the couple that Quiroz was qualified to adjust his status under the Legal Immigration Family Equity Act.²⁴ She recommended that Quiroz begin by filing Form I-485, and either Respondent or her helper gave Avalos a list of additional forms the couple would need to file with USCIS.²⁵ Respondent entered into a contract with Avalos and Quiroz, agreeing to prepare and file immigration forms with USCIS on their behalf.²⁶ Avalos paid Respondent a fee of \$1,500.00 for those services.²⁷ In addition, Avalos purchased money orders payable to the Department of Homeland Security ("DHS") totaling \$2,810.00²⁸ but Respondent cashed \$740.00 of those orders.²⁹ Respondent selected at least two forms on Quiroz's behalf and filed them with USCIS.³⁰ USCIS denied three of the forms or applications Respondent had submitted for Quiroz.³¹

Fourth, the People aver Respondent provided legal advice to Mr. and Mrs. Hernandez by informing them that Mr. Hernandez would be able to adjust his status in the United States, provided he submitted certain forms and a fee.³² Respondent entered into a contract with Mr. and Mrs. Hernandez, promising

¹⁷ *Id.* ¶¶ 18, 20.

¹⁸ *Id.* ¶¶ 21, 23.

¹⁹ *Id.* ¶¶ 35 - 36.

²⁰ *Id.* ¶ 56.

²¹ *Id.* ¶ 63.

²² *Id.* ¶ 65.

²³ *Id.* ¶¶ 58, 62.

²⁴ *Id.* ¶¶ 85, 128.

²⁵ *Id.* ¶¶ 86 - 87.

²⁶ *Id.* ¶¶ 94, 96.

²⁷ *Id.* ¶ 98.

²⁸ *Id.* ¶ 104.

²⁹ *Id.* ¶¶ 104, 108.

³⁰ *Id.* ¶¶ 102, 107.

³¹ *Id.* ¶¶ 112 - 113, 115.

³² *Id.* ¶ 144.

that she would prepare forms and file them with USCIS.³³ For those services, Mrs. Hernandez paid Respondent \$1,600.00 in fees, and she also purchased a total of \$2,350.00 in money orders, which were submitted to DHS.³⁴ Respondent selected and prepared two forms for Mr. Hernandez that were filed with USCIS.³⁵ Although USCIS directed Respondent to submit additional forms on Mr. Hernandez's behalf, Respondent did not comply with those instructions.³⁶ USCIS ultimately denied Mr. Hernandez's request to adjust his status, explaining that he was ineligible to do so.³⁷ USCIS did not return the fees Mrs. Hernandez had submitted to the agency.³⁸

Finally, the People allege that Respondent advised Beyna and Canales about the legal process for adjusting Canales's immigration status.³⁹ Respondent agreed to prepare and file immigration documents with USCIS on Canales's behalf.⁴⁰ The couple paid Respondent \$2,000.00 in fees.⁴¹ At Respondent's direction, Beyna purchased and turned over to Respondent \$2,545.00 in money orders.⁴² Respondent then selected and prepared three forms for Canales.⁴³ USCIS subsequently rejected Canales's application to adjust his status because an immigration judge had exclusive jurisdiction over the application; as a consequence of that decision, USCIS also denied Canales's application for employment authorization.⁴⁴

In his order granting summary judgment, the PDJ concluded the People had established that Respondent provided legal advice about immigration matters; selected and prepared legal forms for others; and held herself out as authorized to select, prepare, and submit immigration forms to USCIS. Respondent is not licensed to practice law, and in none of the instances described above was she supervised by an attorney. Under these circumstances, Respondent's selection and preparation of legal forms for clients and her provision of legal advice amounted to the unauthorized practice of law. Because there was no genuine dispute that Respondent engaged in the unauthorized practice of law, the PDJ deemed summary judgment to be appropriate as a matter of law.

³³ *Id.* ¶ 145.

³⁴ *Id.* ¶¶ 147, 149.

³⁵ *Id.* ¶¶ 148, 150.

³⁶ *Id.* ¶ 161.

³⁷ *Id.* ¶¶ 163, 167.

³⁸ *Id.* ¶ 169.

³⁹ *Id.* ¶ 188.

⁴⁰ *Id.* ¶ 190.

⁴¹ *Id.* ¶ 192.

⁴² *Id.* ¶ 199.

⁴³ *Id.* ¶¶ 194 - 195.

⁴⁴ *Id.* ¶¶ 205 - 206, 208 - 209.

Restitution, Fine, and Costs

The People ask the PDJ to recommend the following awards of restitution: \$1,600.00 to Melendez; \$1,000.00 to Marquez; \$1,500.00 to Avalos; \$1,600.00 to Ms. Hernandez; and \$2,000.00 to Beyna. The PDJ's order granting summary judgment established that Respondent had provided incorrect legal advice to these women, because in no instance were their husbands eligible for adjustment of immigration status. As such, Respondent's clients received no benefit from the fees they paid her. At the hearing on March 2, 2012, the People introduced into evidence affidavits supporting each requested award of restitution.⁴⁵ The PDJ finds that Respondent's clients are entitled to awards of restitution in the amounts set forth above.

C.R.C.P. 236(a) provides that, if a hearing master makes a finding of the unauthorized practice of law, the hearing master shall also recommend that the Supreme Court impose a fine ranging from \$250.00 to \$1,000.00 for each incident of the unauthorized practice of law. In assessing fines for the unauthorized practice of law, the Supreme Court has examined whether the respondent's actions were "malicious or pursued in bad faith" and whether the respondent engaged in unlawful activities over an extended timeframe despite warnings.⁴⁶

Here, the People request a fine of \$1,000.00 for each of Respondent's five instances of the unauthorized practice of law. In support of that request, they argue that Respondent has disregarded these proceedings and obdurately refused to pay the restitution and fines ordered in case numbers 10SA380 and 11SA151. In the People's view, Respondent is "among the worst" respondents in unauthorized practice of law matters.

Respondent has indeed persisted in an extensive pattern of the unauthorized practice of law, and her continued provision of immigration advice despite her failure to achieve her clients' desired outcomes suggests she has not acted in good faith. The actions at issue in this case, however, appear to have taken place before the PDJ first issued findings that Respondent had engaged in the unauthorized practice of law in his July 15, 2011, report to the Supreme Court. As such, the PDJ cannot find Respondent ignored warnings that she discontinue the practice of law. Balancing these considerations and the substantial deterrent effect of the restitution awards recommended here, the PDJ recommends that the Supreme Court impose a fine of \$750.00 for each of Respondent's five instances of the unauthorized practice of law.

On March 12, 2012, the People filed "Complainant's Statement of Costs," which reflects \$291.00 in service of process and administrative fees.

⁴⁵ Exs. 2, 4, 7, 12, 18.

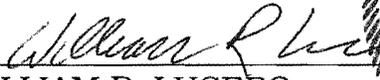
⁴⁶ See *Adams*, 243 P.3d at 267-68.

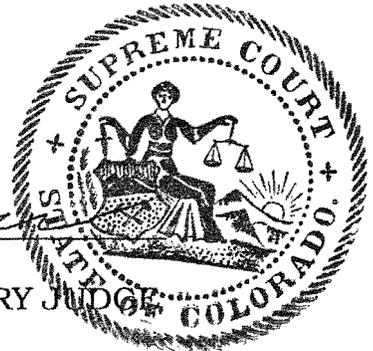
Respondent did not respond to the People's statement. The PDJ finds the costs incurred in this proceeding to be eminently reasonable⁴⁷ and therefore recommends that the Supreme Court order Respondent to pay \$291.00 in costs to the People.

IV. ORDER

The PDJ **RECOMMENDS** that the Supreme Court **FIND** Respondent engaged in the unauthorized practice of law.⁴⁸ The PDJ further **RECOMMENDS** that the Supreme Court enter an order requiring Respondent to pay **RESTITUTION** in the amount of \$1,600.00 to Melinda Melendez; \$1,000.00 to Sophia Marquez; \$1,500.00 to Maria Avalos; \$1,600.00 to Erica Hernandez; and \$2,000.00 to Sandra Beyna. Finally, the PDJ **RECOMMENDS** that the Supreme Court order Respondent to pay a **FINE** of \$3,750.00 and **COSTS** in the amount of \$291.00.

DATED THIS 26th DAY OF APRIL, 2012.


WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE



Copies to:

Kim E. Ikeler
Office of Attorney Regulation Counsel

Via Hand Delivery

Eva Rodriguez,
d/b/a L&L Immigration Doc Specialist
Respondent
Mailing and email addresses on file with PDJ⁴⁹

Via First-Class Mail and Email

Christopher T. Ryan
Colorado Supreme Court

Via Hand Delivery

⁴⁷ Cf. C.R.S. § 13-16-122 (indicating that courts may properly assess as costs fees for service of process and for copying); *Am. Water Dev., Inc. v. City of Alamosa*, 874 P.2d 352, 390 (Colo. 1994) (noting that the list of expenses that may be awarded as costs under C.R.S. § 13-16-12 is "illustrative and not exclusive" and upholding trial court's award of miscellaneous expenses of an administrative nature) (citation omitted).

⁴⁸ The PDJ does not recommend that the Supreme Court enjoin Respondent from the unauthorized practice of law because the Supreme Court already issued such an injunction in case number 10SA380 and the People did not request an additional entry of injunction.

⁴⁹ Respondent asked the PDJ to keep her contact information confidential due to safety concerns. The PDJ is separately transmitting this information to the Supreme Court.