Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: March 7, 2014 CASE NUMBER: 2012SA354
Original Proceeding in Unauthorized Practice of Law Office of Attorney Regulation Counsel, 12UPL046	
Petitioner: The People of the State of Colorado, **v.** **Respondent:** Alfonso Carrillo.	Supreme Court Case No: 2012SA354
ORDER OF COURT	

Upon consideration of the Report of the Hearing Master filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that Respondent, ALFONSO CARRILLO, 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 the Respondent, ALFONSO CARRILLO, is assessed costs in the amount of $1,459.00. 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, ALFONSO CARRILLO, shall pay restitution to the following individual as detailed in the Report of the Hearing Master, $6,000.00 to Alvaro Nunez.

IT IS FURTHER ORDERED that the Respondent, ALFONSO CARRILLO, shall pay a fine of $1,000.00.

BY THE COURT, MARCH 7, 2014.

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	RECEIVED JAN 27 2014 REGULATION COUNSEL
Petitioner: THE PEOPLE OF THE STATE OF COLORADO **Respondent:** ALFONSO CARRILLO	Case Number: 12SA354
REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)	

This matter is before the Presiding Disciplinary Judge ("the PDJ") on an order issued by the Colorado Supreme Court on February 22, 2013, 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).

I. PROCEDURAL HISTORY

On behalf of the Office of Attorney Regulation Counsel ("the People"), Kim E. Ikeler filed a petition with the Colorado Supreme Court on December 21, 2012, seeking to enjoin Alfonso Carrillo ("Respondent") from the unauthorized practice of law. The Colorado Supreme Court issued an "Order and Rule to Show Cause" on January 9, 2013, and Respondent responded to that order by generally denying the bulk of the People's petition on February 6, 2013.

On February 22, 2013, the Colorado Supreme Court referred this matter to the PDJ, who denied Respondent's motion to dismiss and overruled his objection to setting an at-issue conference. The PDJ also struck Respondent's counterclaim, cautioned Respondent that if his general denial did not comport with C.R.C.P. 11, certain allegations in the petition might be deemed admitted, and directed the parties to schedule an at-issue conference.

An at-issue conference was held on June 25, 2013, but Respondent did not appear. On September 5, 2013, the People asked the PDJ to deem the allegations of the petition admitted pursuant to C.R.C.P. 11, based on evidence that supported those allegations. The PDJ ruled that a substantial number of those allegations should be deemed admitted and thus incorporates the admitted allegations into the factual findings of this report.

Respondent did not attend the prehearing conference on October 28, 2013, nor did he attend his deposition, which was set for the next day. The People then moved to sanction Respondent for discovery violations—asking the PDJ to preclude Respondent from testifying at the hearing—but the PDJ considers the People's motion moot, given Respondent's failure to appear for the hearing.

At the hearing on November 19, 2013, Mr. Ikeler and Alan C. Obye appeared for the People. Respondent did not attend. During the hearing, Alvaro Nunez[1] and Peter Muccio testified, and the PDJ admitted the People's exhibits 2-23.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Factual Findings

Alvaro Nunez, a self-employed contractor who speaks very limited English and cannot read or write fluently in English, faced foreclosure proceedings in 2011. Friends of Nunez referred him to Respondent, a layperson who is not licensed to practice law in Colorado or any other state. Respondent, president of America's Home Retention Services, Inc. ("AHRS"), a Colorado corporation, told Nunez he would try to stop the foreclosure but if he were unable to do so, he could place Nunez in another house. Nunez and Respondent signed a contract on August 25, 2011, whereby Respondent vowed to provide Nunez "consulting services," including facilitating communication with Nunez's mortgage lender, in exchange for $500.00.[2]

Ultimately, Nunez's home was foreclosed upon, and Nunez turned to Respondent for additional assistance. Respondent showed Nunez several houses that, to Nunez, looked abandoned; Respondent explained that the banks were no longer interested in those properties. After looking at several houses, Nunez selected as his new residence 2148 East 101st Way in Thornton, Colorado—a property owned but seemingly abandoned by a woman named Adriana Velarde. Respondent told Nunez that he could live in the house for six months to a year, whereupon the bank would realize he was living there and approach him to make further arrangements. Nunez gave Respondent $5,500.00, which Respondent claimed would cover his costs and any attorney's fees. Nunez moved into the house in December 2011.

Soon thereafter, 2148 East 101st Way was foreclosed upon, and in the spring of 2012, the home was sold to Estate Construction, Inc. Nunez testified that approximately six months after he moved in, a man who identified himself as Don Bartley, representative of Estate Construction,[3] came to the door, notified Nunez that he was going to buy the house, and gave Nunez fourteen days to vacate the premises. According to Nunez, Bartley then left but soon returned to post pieces of paper—likely eviction notices—on the house, the garage, and the doors of Nunez's car. During this episode, Nunez maintained constant telephone contact with

[1] Nunez testified through a Spanish interpreter, who attended by telephone.
[2] Exs. 21-23.
[3] Estate Construction was also represented by Bartley's wife, Yelena Makhaldiani.

Respondent, who provided assurances that he would fix everything but later advised Nunez that the house had been sold to Estate Construction.

On May 2, 2012, Estate Construction brought an unlawful detainer action against Alvaro Nunez and others, styled *Estate Construction, Inc. v. Adriana Velarde, et al.*, Adams County County Court case number 12C48237 ("the eviction case").[4] As Peter Muccio, the attorney who later represented Estate Construction explained, this suit was a post-foreclosure eviction action designed to force Nunez and his family, whom Estate Construction considered "squatters," to vacate the property.

Having received notice of the suit, Nunez consulted Respondent, who reassured him that he need not worry, that the complaint was full of lies, and that he could remain in the house. Respondent gave Nunez a piece of paper and instructed him to copy the information thereon into a legal form, which was to be filed with the court.

Accordingly, on May 8, 2012, Nunez signed and filed in the eviction case an answer under simplified civil procedure rules, which included counterclaims and cross-claims.[5] Nunez testified that Respondent was responsible for formulating all of the legal defenses and counterclaims asserted in the answer, which was written in English. As defenses, the answer averred that Estate Construction was not the legal owner of the property, as the legal title was fraudulent and without value, and that Estate Construction had obtained a false deed through a fraudulent foreclosure.[6] As a counterclaim, the answer asserted that "Plaintiff engaged in untimely eviction proceedings and visited defendant's home several times harassing defendants way before plaintiff got confirmation deed."[7] The answer also alleged Bartley and his wife, Yelena Makhaldiani, had engaged in hate crimes that caused Nunez damages exceeding $25,000.00, thus requiring removal to district court.[8] When removed to the Adams County District Court, the eviction case was styled *Estate Construction v. Adriana Velarde, et al.*, Adams County District Court case number 12CV592.[9]

As Muccio testified, the answer, which challenged the validity of the foreclosure, represented an attempt to delay the eviction process. So, too, was the transfer to Adams County District Court. According to Muccio, eviction proceedings in county court usually take just thirty to forty days, whereas removal to district court—a relative rarity—involves significantly more time and expense. For context, Muccio explained that his law firm files approximately 1,500 cases per month, yet not every month will he or his colleagues handle an eviction case removed to district court.

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[4] Pet. ¶ 11; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 2.
[5] Pet. ¶ 12; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 3.
[6] Pet. ¶¶ 14-15; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 3.
[7] Pet. ¶ 16; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 3.
[8] Pet. ¶ 19; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 3. At the hearing before the PDJ, Nunez claimed that, when posting notices at the house, Bartley used racial slurs and broke the handle on one of the doors of the house.
[9] Pet. ¶ 20; Ord. Re: Respondent's General Den. of Allegations at 3.

In addition to assisting Nunez to file an answer in the eviction action, Respondent persuaded Nunez to participate as one of many plaintiffs—all represented by Respondent—in a case to be filed in federal court. On May 29, 2012, AHRS—as well as a number of "Juan Does" listed as co-plaintiffs, including Nunez—filed a complaint in federal court against the law firm of Castle, Stawiarki, LLC, and others; the case was called *America's Home Retention Services, Inc. v. Castle, Stawiarki, LLC, et al.*, United States District Court for the District of Colorado, case number 12CV1385-WJM-MEH ("the federal case").[10] The complaint, drafted and signed by Respondent, sought "declaratory, injunctive, and other appropriate relief" based on alleged violations of the civil and constitutional rights of AHRS and its customers, unnamed Juan Does, for whom Respondent appeared as "Trustee and agent."[11] The complaint charged that the defendants were engaged in a racketeering enterprise to deprive AHRS's customers of their rights, and it requested several million dollars in damages.[12]

During a hearing in the federal case on May 31, 2012, however, Judge William Martinez ordered AHRS to obtain counsel to represent it.[13] Judge Martinez also ordered the "Juan Doe" plaintiffs to enter their own appearances pro se or to retain an attorney to enter an appearance for them.[14] In accordance with Judge Martinez's instructions, a "Verified Combined Notice of Appearance and Motion for Enlargement of Time to Retain Counsel" was filed in the federal case on June 22, 2012.[15] The combined notice asserted that Nunez was appearing pro se, requested additional time to obtain counsel, and certified compliance with "D.C. Colo.L.Civ.R. 7.1A."[16] At the same, a memorandum prepared and signed by Respondent on behalf of all "Juan Doe" plaintiffs was filed in the federal case in support of the motion for enlargement of time to retain alternate counsel.[17] Both pleadings, according to Nunez, were drafted by Respondent.

On June 11, 2012, a notice of removal citing 28 U.S.C. sections 1441 and 1446, along with a notice of filing of notice of removal, was filed in the eviction case.[18] The registry of actions in the federal case, however, does not indicate that a notice of removal was filed in federal court.[19] Nunez signed both pleadings,[20] though he testified that he had no part in preparing them. Rather, he said, he simply signed the documents that Respondent presented to him.

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[10] Ex. 5. Nunez testified that the signature on the federal complaint was Respondent's, based on his experience seeing Respondent sign papers on several occasions.
[11] Pet. ¶ 22; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 5.
[12] Pet. ¶ 23; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 5.
[13] Pet. ¶ 26; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 6.
[14] Pet. ¶ 27; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 6.
[15] Ex. 13.
[16] Pet. ¶¶ 50, 52-53; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 13.
[17] Ex. 12.
[18] Pet. ¶¶ 28, 30, 32; Ord. Re: Respondent's General Den. of Allegations at 3; Exs. 7-8.
[19] Pet. ¶ 34; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 9.
[20] Pet. ¶¶ 29, 31; Ord. Re: Respondent's General Den. of Allegations at 3; Exs. 7-8.

The same day, a "Counter Claim and Cross Claim" was filed in the eviction case, as was a "Motion to Vacate Judgment for Possession and Request for Recognition of Notice of Removal."[21] Nunez testified at the hearing that, as was true of all of his legal filings, Respondent had prepared both motions for his signature but only briefly explained to him the purpose of the documents. The counterclaim alleged that Nunez had sustained damages "in excess of $831,000.00."[22] The motion to vacate judgment, meanwhile, referred to the federal case as a "mass joiner action" that included Nunez and the house at 2148 East 101st Way.[23] The motion also cited statutory and case law authority, and it asked the court to vacate its judgment for possession and cease further action while the federal case was decided.[24]

Muccio interpreted this constellation of pleadings as yet another effort to halt Nunez's eviction, this time by bringing the eviction case into the "federal fold." At an earlier hearing, Muccio recounted, the district court had determined that Estate Construction was entitled to possession of the property; under the eviction statute, a writ to the sheriff could thereafter issue to vacate the premises.[25] Muccio saw the notice of removal to federal court as a challenge to the district court's jurisdiction, which would stop the writ.

On June 27, 2012, Adams County District Court Judge Edward Moss held a hearing to determine whether the eviction case had been removed to federal court.[26] Muccio represented Estate Construction, and Nunez appeared pro se.[27] During the hearing, Nunez tendered a copy of the verified combined notice filed in the federal case and, upon questioning from Judge Moss, identified Respondent as the person who had helped him with the notice.[28] Nunez also confirmed that Respondent had prepared pleadings filed in the eviction case.[29] On the record, Judge Moss noted that it appeared Nunez had been assisted by someone who had engaged in the unauthorized practice of law.[30] Judge Moss concluded that the eviction case had never been removed to federal court.[31]

Two days later, on June 29, 2012, Nunez and Respondent filed pro se in the federal case an "Amend [sic] to Complaint to Joint [sic] Additional Defendants Pursuant to F.R.C.P. Rule 19(a)(1)."[32] Drafted by Respondent and signed by both Respondent and Nunez, the amended complaint asserted their alleged interests in 2148 East 101st Way; sought to join Estate Construction, Bartley, and Makhaldaini as defendants; raised continued allegations of

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[21] Pet. ¶¶ 35, 39; Ord. Re: Respondent's General Den. of Allegations at 3; Exs. 10-11.
[22] Ex. 10.
[23] Pet. ¶ 43; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 11.
[24] Pet. ¶¶ 44-45; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 11.
[25] *See also* Ex. 4.
[26] Pet. ¶ 58; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 14.
[27] Pet. ¶¶ 59-60; Ord. Re: Respondent's General Den. of Allegations at 3; Exs. 4, 14. Respondent did not appear.
[28] Pet. ¶¶ 62-64; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 14.
[29] Pet. ¶ 65; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 14.
[30] Pet. ¶ 66; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 14.
[31] Ex. 14.
[32] Pet. ¶¶ 87-88; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 18.

racketeering; and charged Bartley and Makhaldaini with breaking and entering, wrongful eviction, hate crimes, and slander of title.[33]

Also on June 29, 2012, another notice of removal was filed in the eviction case.[34] This second notice of removal, prepared by Respondent and signed by Nunez and Respondent jointly, stated that the eviction case was being removed to the United States District Court for the District of Colorado.[35] The notice also instructed the Adams County District Court to proceed no further unless and until the case was remanded.[36] But although the notice bore the caption of the federal case, the registry of actions in the federal case does not reflect that the notice was filed there.[37] Muccio testified that this second notice of removal was nothing more than "another attempt to stall things out and create additional delay."

Two other pleadings in the Adams County District Court eviction case were also filed that day: a "Notice of Commencement of Action (Lis Pendens)" and a "Motion to Vacate Judgment for Possession and Writ of Restitution and Request for Recognition of Notice of Removal," both prepared by Respondent and signed by Respondent and Nunez.[38] Muccio opined that the lis pendens was procedurally deficient, failing to specify who possessed the interest in the property. The motion to vacate judgment stated that an amended complaint had been filed in the federal case joining Bartley and Makhaldaini, cited statutory and case law, and requested that the court vacate the writ of restitution and halt its execution.[39]

Muccio testified that the eviction action was ultimately resolved when Nunez vacated 2148 East 101st Way shortly before the sheriff was scheduled to execute the court's writ. But the case moved forward on Nunez's counterclaims despite his failure to participate, forcing Muccio to spend additional time and, thus, Estate Construction to expend more money. Noting that Respondent's involvement in the eviction matter caused substantial delay and required him to file pleadings, conduct research, and attend hearings that he otherwise would not have, Muccio estimated that his attorney's fees in the matter totaled approximately ten times more than his average bill for eviction cases. As such, Muccio moved for attorney's fees on behalf of Estate Construction, which the court awarded against Nunez; as of November 19, 2013, Nunez had not satisfied that judgment.

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[33] Ex. 18.

[34] Pet. ¶ 67; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 15.

[35] Pet. ¶¶ 68, 70; Ord. Re: Respondent's General Den. of Allegations at 3. Respondent signed the pleading as "co-Plaintiff." Ex. 15.

[36] Pet. ¶ 72; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 15.

[37] Pet. ¶ 74; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 9.

[38] Pet. ¶¶ 75-76, 80; Ord. Re: Respondent's General Den. of Allegations at 3. Respondent signed both pleadings as "Co-Plaintiff." Exs. 16-17.

[39] Pet. ¶ 83; Ord. Re: Respondent's General Den. of Allegations at 3; Ex. 17.

Legal Standards Governing the Unauthorized Practice of Law

The Colorado Supreme Court, which exercises exclusive jurisdiction to define the practice of law and to prohibit the unauthorized practice of law within the State of Colorado,[40] restricts the practice of law to protect members of the public from receiving incompetent legal advice from unqualified individuals.[41] To practice law in the State of Colorado, a person must have a law license issued by the Colorado Supreme Court, unless a specific exception applies.[42]

Colorado Supreme Court case law holds that one who acts "in a representative capacity in protecting, enforcing, or defending the legal rights and duties of another and in counseling, advising and assisting that person in connection with these rights and duties" engages in the practice of law.[43] In particular, "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."[44] Providing advice to clients regarding legal matters and drafting pleadings for filing in court are prohibited activities because they involve the lay exercise of legal discretion.[45]

The People's exhibits, coupled with Nunez's testimony, prove by a preponderance of the evidence that Respondent engaged in the unauthorized practice of law by providing legal advice to Nunez and by ghostwriting pleadings for him and others. In the eviction case, Respondent drafted pleadings for Nunez's signature; it is evident, based on Nunez's testimony and his reliance on the Spanish interpreter during the hearing, that Nunez was not capable of drafting these pleadings in English himself. These pleadings, which among other things cite to the forcible entry and detainer statute and related case law, are the fruits of the exercise of lay legal discretion. Respondent also explained these pleadings to Nunez and advised him that they should be filed, advice that Nunez relied upon. Indeed, Nunez, who did not know which arguments to make or defenses to raise, always followed Respondent's advice to sign and file the pleadings.

Respondent also engaged in the unauthorized practice of law in the federal case. Not only did he draft pleadings on behalf of Nunez and other "Juan Doe" plaintiffs—pleadings that advanced racketeering claims against multiple defendants and sought millions of dollars in damages—but he openly purported, as "Trustee and agent," to represent "dozens of

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[40] C.R.C.P. 228.

[41] *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 826 (Colo. 1982); *see also Charter One Mortg. Corp. v. Condra*, 865 N.E.2d 602, 605 (Ind. 2007) ("Confining the practice of law to licensed attorneys is designed to protect the public from the potentially severe consequences of following advice on legal matters from unqualified persons."); *In re Baker*, 85 A.2d 505, 514 (N.J. 1952) ("The amateur at law is as dangerous to the community as an amateur surgeon would be.").

[42] *See* C.R.C.P. 201-227.

[43] *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).

[44] *Shell*, 148 P.3d at 171 (quotation omitted).

[45] *People v. Adams*, 243 P.3d 256, 266 (Colo. 2010).

homeowners and victims" so that he could "interplead their cause through [the federal] action."[46]

Respondent's unauthorized practice of law unnecessarily expanded and delayed the eviction action, causing Estate Construction and Nunez significant hardship. As Muccio testified, the matter should have been resolved as a simple county court eviction, processed in about a month for approximately $400.00 in attorney's fees. Instead, because of the removal to Adams County District Court, the eviction case dragged on for more than double that time and required a financial outlay by Estate Construction of more than ten times the usual legal fees for such a case. Further, Respondent's incompetent advice to and advocacy on behalf of Nunez resulted in Judge Moss's order awarding Estate Construction attorney's fees, a judgment that Nunez remains responsible for satisfying.

In addition, Respondent's involvement in Nunez's legal affairs wasted state and federal judicial resources. The federal court expended time in requiring AHRS to obtain counsel and directing the "Juan Doe" plaintiffs to enter their own appearances. Even more egregious, Respondent's frivolous pleadings wasted Judge Moss's limited time by erroneously suggesting that the eviction case had been removed to federal court, even though such proceedings were never commenced. Respondent then drafted motions for Nunez's signature seeking stay of the eviction case based on the false premise that the eviction case had been removed, necessitating a hearing.

Unlicensed lawyering evades the Colorado Supreme Court's regulatory oversight, established to ensure that practitioners possess and maintain high educational and ethical standards.[47] This case illustrates well the dangers inherent in laypeople attempting to represent others in courts of law; not only do they risk providing incompetent legal advice, but they imperil the expeditious disposition of the many cases our legal system handles on any given day. Unanswerable to the rules of professional conduct, individuals like Respondent threaten to bog down our courts with duplicative or meritless claims that waste time, judicial resources, and the money of those who must oppose them.

Restitution, Fines, and Costs

C.R.C.P. 236(a) provides that, if the PDJ makes a finding of the unauthorized practice of law, he shall also recommend that the Colorado Supreme Court impose a fine ranging from $250.00 to $1,000.00. Here, the People request that the PDJ recommend the maximum fine of

[46] Ex. 5 at 0104. As the People note, Respondent's effort to cast himself as "Co-Plaintiff" in the federal action does not exempt him from the operation of the unauthorized practice of law rules. The Colorado Supreme Court made clear in Shell that an unlicensed respondent was not authorized to represent another person in federal court, even if that respondent was a co-plaintiff in the action. 148 P.3d at 172. Nor did Respondent's assumption of the title of "trustee and agent" of the "Juan Doe" plaintiffs allow him to prepare pleadings for them. *See Adams*, 243 P.3d at 266-68 (enjoining unlicensed respondent based on his preparation of federal pleadings on behalf of "assignors").

[47] *See Adams*, 243 P.3d at 266 ("The purpose of the bar and our admission requirements is to protect the public from incompetent legal advice and representation.").

$1,000.00; they argue that a large fine is needed in this case to send a message to Respondent—who failed to appear for the hearing and has maintained an uncooperative and dismissive attitude throughout the entirety of this case—that his unlicensed practice of law will not be tolerated. Based on the extensive and egregious nature of Respondent's conduct, as well as the waste of judicial resources that it has occasioned, the PDJ recommends that the Colorado Supreme Court impose a fine of $1,000.00 in this case.

The People also request an award of restitution to Nunez. C.R.C.P. 237(a) indicates that restitution may be awarded where the Colorado Supreme Court makes a finding of the unauthorized practice of law.[48] Here, the PDJ admitted documentary evidence showing that Nunez paid Respondent $500.00 for "consulting services" related to his foreclosure.[49] In addition, Nunez testified that when he was installed in the house at 2148 East 101st Way, he paid Respondent another $5,500.00 to cover costs and attorney's fees.[50] Respondent has not participated in this matter and thus the PDJ has received no evidence from him regarding the value of any legitimate services he may have provided. Given the available evidence, the PDJ finds that Respondent should pay restitution and therefore recommends that the Colorado Supreme Court order Respondent to return $6,000.00 to Nunez.

Finally, the People filed a statement of costs on November 26, 2013, reflecting costs in the amount of $1,459.00. This statement documents $91.00 in administrative fees; $140.00 in attempted service of process; $159.50 in certified transcript copies; $218.50 in deposition transcripts; $325.00 in court reporter hearing appearance fees; and $525.00 for interpreter fees.[51] The PDJ considers these sums reasonable and therefore recommends that the Colorado Supreme Court assess $1,459.00 in costs against Respondent.

III. RECOMMENDATION

The PDJ **RECOMMENDS** that the Colorado Supreme Court **FIND** Respondent engaged in the unauthorized practice of law and **ENJOIN** him from the unauthorized practice of law. The PDJ further **RECOMMENDS** that the Colorado Supreme Court enter an order requiring Respondent to pay **RESTITUTION** of $6,000.00 to Alvaro Nunez; a **FINE** of $1,000.00; and **COSTS** in the amount of $1,459.00.

The PDJ deems as **MOOT** "Petitioner's Motion for Sanctions Based on Respondent's Failure to Attend His Deposition."

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[48] *See People v. Love*, 775 P.2d 26, 27 (Colo. 1989) (ordering respondent who was found to have engaged in the unauthorized practice of law to "make restitution of the fees received for his unauthorized practice of law").

[49] *See* Exs. 21-23.

[50] In closing, the People requested $7,000.00 in restitution based on Nunez's testimony that he paid Respondent $6,500.00 for costs and attorney's fees attendant to moving into 2148 East 101st Way. The courtroom recording, however, indicates Nunez testified, through the Spanish interpreter, that he gave Respondent $5,500.00 for these services, and the PDJ's notes of the hearing confirm that sum. Accordingly, the PDJ suggests that restitution be awarded to Nunez in the amount of $6,000.00, rather than $7,000.00.

[51] *See* C.R.S. § 13-16-122 (setting forth an illustrative list of categories of "includable" costs in civil cases, *including* "[a]ny fees for service of process").

DATED THIS 27th DAY OF JANUARY, 2014.

WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

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Christopher T. Ryan Colorado Supreme Court	Via Hand Delivery