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| Colorado Supreme Court<br>2 East 14th Avenue<br>Denver, CO 80203   | DATE FILED: November 7, 2022<br>CASE NUMBER: 2022SA94 |
| Original Proceeding in Unauthorized Practice of Law,<br>21UPL19  |   |
| <b>Petitioner:</b><br><br>The People of the State of Colorado,<br><br>v.<br><br><b>Respondent:</b><br><br>Charles Randy Danielson. | Supreme Court Case No:<br>2022SA94                    |
| ORDER OF INJUNCTION  |   |

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, CHARLES RANDY DANIELSON shall be, and the same hereby is, ENJOINED from engaging in the Unauthorized Practice of Law in the State of Colorado, as detailed in the Report of the Hearing Master.

IT IS FURTHER ORDERED that Respondent, CHARLES RANDY DANIELSON, is assessed costs in the amount of \$284.00. 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 a fine be imposed in the amount of  
\$250.00.

BY THE COURT, NOVEMBER 7, 2022

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| SUPREME COURT, STATE OF COLORADO<br>ORIGINAL PROCEEDING IN THE<br>UNAUTHORIZED PRACTICE OF LAW BEFORE<br>THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE<br>1300 BROADWAY, SUITE 250<br>DENVER, CO 80203 |                                      |
| <hr/> <b>Petitioner:</b><br>THE PEOPLE OF THE STATE OF COLORADO   | <hr/> Case Number:<br><b>22SA094</b> |
| <b>Respondents:</b><br>CHARLES RANDY DANIELSON  |                                      |
| <b>REPORT OF HEARING MASTER UNDER C.R.C.P. 236(a)</b>   |                                      |

On September 6, 2022, the Presiding Disciplinary Judge (“the PDJ”) entered summary judgment against nonlawyer Charles Randy Danielson (“Respondent”), finding that Respondent engaged in the unauthorized practice of law by holding himself out as a legal representative for another person when drafting and filing legal documents and attending court appearances on the other person’s behalf. The PDJ now recommends that the Colorado Supreme Court enjoin Respondent from the unauthorized practice of law and order him to pay a fine and costs.

### I. PROCEDURAL BACKGROUND

On April 12, 2022, Michele L. Melnick, Office of Attorney Regulation Counsel (“the People”), filed a “Petition for Injunction” against Respondent, alleging that he engaged in the unauthorized practice of law. The Colorado Supreme Court issued an “Order to Show Cause” two days later. Respondent responded to the petition on April 22, 2022.

In an “Order of Court” dated July 6, 2022, the Colorado Supreme Court referred this case to the PDJ for a report setting forth findings of fact, conclusions of law, and recommendations. The next day, the PDJ issued an “Order of Hearing Master Under C.R.C.P. 234-236,” directing the parties to set a scheduling conference. On July 21, 2022, the PDJ held the scheduling conference; Melnick appeared on the People’s behalf, but Respondent did not appear.<sup>1</sup> At the conference, the PDJ set this matter for a one-day hearing to take place on September 20, 2022.<sup>2</sup>

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<sup>1</sup> In an email dated July 16, 2022, Respondent advised the PDJ’s administrator that he did not intend to appear at the scheduling conference.

<sup>2</sup> See “Amended Scheduling Order Unauthorized Practice of Law” §§ III.1-III.2 (July 22, 2022).

On August 15, 2022, Respondent submitted a filing that the PDJ broadly construed as a jury trial demand. The following day the PDJ denied Respondent's demand, reasoning that the Colorado Supreme Court referred the matter to the PDJ to act as a factfinder while retaining the authority to make the ultimate legal determination as to the People's petition. The PDJ thus concluded that Respondent had no right to a trial by jury in this matter and that the PDJ had no authority to empanel jurors.

Meanwhile, the People moved for summary judgment on August 9, 2022. Respondent did not file a response, even though the PDJ reminded him that the deadline to respond was August 23, 2022.<sup>3</sup> On September 6, 2022, the PDJ entered summary judgment in the People's favor; vacated all remaining prehearing deadlines; and converted the scheduled hearing for September 20, 2022, to a hearing regarding the appropriate fine, costs, and restitution, if any, in this matter.

At the hearing on September 20, 2022, Melnick appeared on the People's behalf. Respondent did not attend.<sup>4</sup> The PDJ heard argument from the People and admitted the People's statement of costs as exhibit 1. The People did not present evidence or testimony to support their position concerning the appropriate fine.

## **II. SUMMARY JUDGMENT RULING**

The facts and analysis from the PDJ's summary judgment order are reproduced in condensed format here.

### **Facts**

On October 12, 2020, Assistant County Attorney Natalie Vimont filed in Jefferson County District Court a petition to appoint an emergency and permanent guardian for Mary JonAdel VanValkenburg. The petition stated that VanValkenburg was physically frail and had advancing dementia. Vimont also petitioned to appoint a conservator for VanValkenburg.

On October 15, 2020, the court appointed lawyer Virginia Ann Frazer-Abel as special conservator for VanValkenburg. Sara Sheffield Price, a lawyer in Frazer-Abel's law office, also worked on the case. On October 22, 2020, the court appointed Madeline Duncan as counsel for VanValkenburg.

On November 9, 2020, Respondent, who admits that he is not a "registered attorney,"<sup>5</sup> filed with the district court a "Notice to All Parties in this Proceeding," claiming that he represented VanValkenburg. Respondent stated in the notice that he had "a

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<sup>3</sup> See "Order Directing Respondent to Respond to People's Motion for Summary Judgment" (Aug. 12, 2022).

<sup>4</sup> Respondent received notice of the hearing via the PDJ's amended scheduling order and the People's "Confirmation of Hearing Re: Fines, Costs, and Restitution" dated September 6, 2022.

<sup>5</sup> "Order Granting People's Motion for Summary Judgment Under C.R.C.P. 56" at 2 (Sept. 6, 2022).

contract to represent [VanValkenburg] in this matter of her wants, wishes, desires and by law.”<sup>6</sup> Quoting Articles 1, 3, and 6 of the United States Constitution, Respondent demanded that the court return all assets to VanValkenburg and dismiss the matter for lack of jurisdiction.

VanValkenburg had no prior contact with Respondent and did not hire him to represent her interests. Rather, VanValkenburg’s children communicated with Respondent about her case through a family friend. VanValkenburg’s children wanted to prevent the sale of VanValkenburg’s two properties to ensure that the properties remained in the family.

On November 10, 2020, Respondent filed with the district court a “Motion for Dismissal,” purportedly on VanValkenburg’s behalf. In that motion, Respondent stated that he was an interested person in the case due to a “violation of Article 1; section 8; clause 17” of the Constitution and that VanValkenburg was a “state national.”<sup>7</sup> Respondent requested that the court drop the case.

On November 17, 2020, Price and Respondent appeared at a court hearing concerning appointment of a permanent guardian and conservator for VanValkenburg. At the hearing, Respondent claimed to represent VanValkenburg. The court struck and dismissed Respondent’s motion to dismiss the case. The court also stated that Respondent was not permitted to submit any filings to the court. Two days later, Respondent violated the court’s order by filing an untitled motion in which he identified himself as “counsel in law” for VanValkenburg under “his standing secured by the Constitution in the law of man . . . .”<sup>8</sup>

Several month later, in March 2021, Respondent filed a complaint and a “Motion to Stop” in the U.S. District Court for the District of Colorado, presumably on VanValkenburg’s or her children’s behalf. The complaint was filed against Jefferson County Human Services, Vimont, and Magistrate Judge Joel Schafer. In the complaint, Respondent held himself out as a counselor of law.

Magistrate Judge Kristen L. Mix later ordered Respondent to file an amended complaint using the court-approved complaint form. Respondent did not timely file an amended complaint as directed, and Magistrate Mix dismissed the case without prejudice on December 17, 2021.

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<sup>6</sup> “Order Granting People’s Motion for Summary Judgment Under C.R.C.P. 56” at 2.

<sup>7</sup> “Order Granting People’s Motion for Summary Judgment Under C.R.C.P. 56” at 3.

<sup>8</sup> “Order Granting People’s Motion for Summary Judgment Under C.R.C.P. 56” at 3.

## Unauthorized Practice of Law Standards and Analysis

The Colorado Supreme Court possesses exclusive jurisdiction in Colorado to define the practice of law and to prohibit the unauthorized practice of law.<sup>9</sup> Colorado Supreme Court case law holds 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.”<sup>10</sup> Phrased somewhat more broadly, a layperson 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 unauthorized practice of law.<sup>11</sup>

On summary judgment, the PDJ found as a matter of law that Respondent, who is not a lawyer, engaged in the unauthorized practice of law by attempting to defend VanValkenburg’s legal rights and interests in a Colorado court case; by claiming to act for her in a representative capacity in that same case; and by filing a separate action in federal court, purportedly on her behalf. Such actions amount to the practice of law.<sup>12</sup> Moreover, Respondent held himself out as VanValkenburg’s legal representative, thereby running afoul of well-established principles governing the unauthorized practice of law.<sup>13</sup>

The PDJ turns briefly to an argument Respondent made in his April 2022 response to the People’s petition. Respondent contends that the state and national constitutions confer on him the inalienable right, without hindrance, to earn his living in any innocent vocation. But Article VI of the Colorado Constitution grants the Colorado Supreme Court exclusive authority to regulate and control the practice of law in Colorado.<sup>14</sup> And, as discussed above, the Colorado Supreme Court has chosen to prohibit unlicensed persons from engaging in activities that constitute the unauthorized practice of law. The PDJ thus finds Respondent’s argument lacks merit.

### III. FINE, RESTITUTION, AND COSTS

At the hearing on September 20, 2022, the People urged the PDJ to recommend that Respondent be assessed the minimum fine of \$250.00 for three instances of the unauthorized practice of law. They contended that the PDJ’s summary judgment order

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<sup>9</sup> C.R.C.P. 228; *People v. Adams*, 243 P.3d 256, 265 (Colo. 2010).

<sup>10</sup> *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006); see also *Title Guaranty v. Denver Bar Ass’n.*, 135 Colo. 423, 431-37, 312 P.2d 1011, 105-18 (1957) (ruling that a nonlawyer who prepares legal documents for others, other than solely as a typist, engages in the unauthorized practice of law).

<sup>11</sup> *Denver Bar Ass’n v. Pub. Utils. Comm’n*, 154 Colo. 273, 279, 391 P.2d 467, 471 (1964); see also *Shell*, 148 P.3d at 171.

<sup>12</sup> *Shell*, 148 P.3d at 171.

<sup>13</sup> *Id.*

<sup>14</sup> See *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 823 (Colo. 1982).

identified three separate instances of Respondent's unauthorized practice of law, warranting three discrete fines. The People sought no award of restitution because they did not request restitution in their petition. They did ask, however, that Respondent be ordered to pay \$284.00 in costs, which reflects the People's administrative fee of \$224.00 and costs of \$60.00 for service of process.<sup>15</sup>

C.R.C.P. 236(a) provides that if the hearing master makes a finding of the unauthorized practice of law, the hearing master shall also recommend that the Colorado 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, the Colorado Supreme Court previously has examined whether a respondent's actions were "malicious or pursued in bad faith" and whether the respondent engaged in unlawful activities over an extended timeframe despite warnings.<sup>16</sup>

Here, the PDJ finds that a minimum fine of \$250.00 is appropriate. Contrary to the People's position, the PDJ does not discern three separate instances of the unauthorized practice of law. Rather, the PDJ sees in Respondent's conduct a single instance of the unauthorized practice of law arising from a continuous, misguided pattern of interfering in VanValkenburg's legal matters, as manifested in the several different ways in which he engaged in the unauthorized practice of law.<sup>17</sup> Moreover, the record contains no evidence that Respondent's intentions were predatory or malicious, that he pursued his course of action in bad faith, or that he was provided more than one warning about his activities.

Relying on C.R.C.P. 237(a), which permits the Colorado Supreme Court to enter appropriate orders, including restitution and the assessment of costs, the PDJ recommends that Respondent be assessed \$284.00 in costs, which the PDJ considers reasonable and necessary.<sup>18</sup>

#### IV. RECOMMENDATIONS

The PDJ **RECOMMENDS** that the Colorado Supreme Court **FIND** that Respondent **CHARLES RANDY DANIELSON** engaged in the unauthorized practice of law and **ENJOIN** him from the unauthorized practice of law, to include the following activities, whether done separately or in combination:

- Advising another person about the legal effect of a proposed action or decision;

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<sup>15</sup> Ex. 1.

<sup>16</sup> *Adams*, 243 P.3d at 267-68.

<sup>17</sup> *See id.* at 267 (accepting the PDJ's finding that the respondent engaged in five incidents of the unauthorized practice of law by representing five different individuals in bankruptcy court regarding their respective claims).

<sup>18</sup> *See* C.R.S. § 13-16-122(1) (setting forth an illustrative list of categories of "includable" costs in civil cases, including "[a]ny fees for service of process").

- Advising another person about legal remedies or possible courses of legal action available to that person;
- Selecting a legal document for another person or preparing a legal document for another person, other than solely as a typist or scrivener;
- Representing or advocating for another person in a negotiation, settlement conference, mediation, or alternative dispute resolution proceeding;
- Representing or advocating for another person in a hearing, trial, or other legal proceeding before a tribunal;
- Advertising or holding himself out, either directly or impliedly, as an attorney, a lawyer, “Esquire,” a legal consultant, a legal advocate, a counsel in law, a counselor in law, or in any other manner that conveys capability or authorization to provide unsupervised services involving the exercise of legal judgment; and
- Soliciting any fees for services involving the exercise of legal judgment or the provision of legal services.

The PDJ also **RECOMMENDS** that the Colorado Supreme Court **ORDER** Respondent to pay **COSTS** of \$284.00 and a **FINE** of \$250.00 within thirty-five days of the date of the Colorado Supreme Court’s order.



DATED THIS 29<sup>th</sup> DAY OF SEPTEMBER, 2022.

A handwritten signature in black ink, appearing to read "Bryon M. Large".

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BRYON M. LARGE  
PRESIDING DISCIPLINARY JUDGE

Copies to:

Michele L. Melnick  
Office of Attorney Regulation Counsel

Via Email  
[m.melnick@csc.state.co.us](mailto:m.melnick@csc.state.co.us)

Charles R. Danielson  
Respondent  
7515 W Polk Ave  
Littleton, Colorado 80219

Via Email & First-Class Mail  
[charleydan@gmail.com](mailto:charleydan@gmail.com)

Cheryl Stevens  
Colorado Supreme Court

Via Email