

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	RECEIVED  FEB 26 2013  REGULATION COUNSEL
Original Proceeding in Discipline, 12UPL007	
<b>Petitioner:</b>  The People of the State of Colorado,  v.  <b>Respondent:</b>  David Cerullo.	Supreme Court Case No: 2012SA152
ORDER OF COURT	

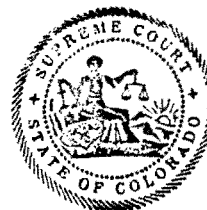
Upon consideration of the Order Entering Default Judgment Pursuant to C.R.C.P. 55(b) and Report of Hearing Master Pursuant to C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that Respondent, DAVID CERULLO, 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 said Respondent, DAVID CERULLO, is assessed costs in the amount of \$91.00. 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 \$250.00.

BY THE COURT, FEBRUARY 22, 2013.



Case Number: 2012SA152  
Caption: People v Cerullo, David

**CERTIFICATE OF SERVICE**

Copies mailed via the State's Mail Services Division on February 25, 2013.

David Cerullo  
70 Ogden St.  
Denver, CO 80218

David Cerullo  
98 S. Emerson St., Apt. 104S  
Denver, CO 80209

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

William R Lucero  
PRESIDING DISCIPLINARY  
JUDGE  
1560 Broadway Ste 675  
Denver, CO 80202

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	
<b>Petitioner:</b> THE PEOPLE OF THE STATE OF COLORADO  <b>Respondent:</b> DAVID CERULLO	Case Number: <b>12SA152</b>
<b>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)</b>	

This matter is before the Presiding Disciplinary Judge ("the PDJ") on a "Motion for Default Judgment," filed on November 29, 2012, by Kim E. Ikeler of the Office of Attorney Regulation Counsel ("the People"). David Cerullo ("Respondent") did not file a response.

#### **I. PROCEDURAL HISTORY**

On May 15, 2012, the People filed a "Petition for Injunction" with the Colorado Supreme Court, which then issued an "Order and Rule to Show Cause" on May 18, 2012. In that order, the Colorado Supreme Court directed Respondent to answer in writing and show cause within twenty days after service why he should not be enjoined from the practice of law in the State of Colorado. Respondent was served by certified mail on May 22, 2012, and again on July 10, 2012. Respondent did not respond to the People's petition or the Colorado Supreme Court's order to show cause.

On August 20, 2012, the People filed a "Motion to Proceed" with the Colorado Supreme Court. The Colorado Supreme Court issued an order on August 22, 2012, appointing the PDJ as Hearing Master and directing the PDJ 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). On August 28, 2012, the PDJ issued an "Order to Show Cause," ordering Respondent to answer the People's petition on or before September 11, 2012. Respondent did not answer the People's petition or otherwise enter an appearance in the case. Accordingly, the PDJ issued an "Order Entering Default Pursuant to C.R.C.P. 55(a)" on October 23, 2012.

## **II. PETITIONER'S MOTION FOR DEFAULT JUDGMENT**

The People have followed the procedure for default judgments set forth in C.R.C.P. 55(b) and 121 section 1-14(1) 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; and filing a statement of costs. Accordingly, the PDJ **GRANTS** "Petitioner's Motion for Default Judgment."

## **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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 Colorado Supreme Court pursuant to C.R.C.P. 239(a).

### **Findings of Fact and Legal Analysis**

Respondent is not licensed to practice law in the State of Colorado or any other state.<sup>1</sup> Respondent is an independent paralegal who advertises on the internet as "Torts R Us Paralegal Services."<sup>2</sup> Respondent's website advertisement states:

Consulting services for Attorneys, businesses and individuals  
Nearly 20 years of experience in many areas of the law  
Legal research, case management, trial preparation,  
business troubleshooting, overhead audits, anything and everything!!!  
Particularly experienced in family law<sup>3</sup>

The advertisement then lists Respondent's contact information and various paralegal certificates he has received.<sup>4</sup>

Respondent also advertised his services in the September 2010, October 2010, April 2011, November 2011, and January 2012 issues of MileHiMMJPatient.com, an on-line magazine.<sup>5</sup>

The Colorado Supreme Court, which exercises exclusive jurisdiction to define the practice of law within the State of Colorado,<sup>6</sup> restricts the practice of law to protect members of the public from receiving incompetent legal advice from

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<sup>1</sup> Pet. "Jurisdiction" ¶ 1.

<sup>2</sup> Pet. "General Allegations" ¶¶ 1-2. See [http://idromdenver.com/paralegal\\_services\\_denver.html](http://idromdenver.com/paralegal_services_denver.html)

<sup>3</sup> Pet. "General Allegations" ¶ 3; Mot. for Default J. Ex. B at 1.

<sup>4</sup> Pet. "General Allegations" ¶ 4; Mot. for Default J. Ex. B at 1.

<sup>5</sup> Pet. "General Allegations" ¶¶ 5-6.

<sup>6</sup> C.R.C.P. 228.

unqualified individuals.<sup>7</sup> The Colorado Supreme Court has explained that the practice of law is broadly defined to include holding oneself out as a lawyer in a legal context.<sup>8</sup> By extension, the act of holding oneself out to clients or potential clients as independently able to perform legal services, without the oversight of a licensed attorney, also amounts to the unauthorized practice of law.<sup>9</sup>

In this case, Respondent has held himself out to individuals and businesses on an internet website as capable and authorized to conduct legal research, provide case management, and assist with trial preparation without any oversight or direction from a licensed attorney. The PDJ concludes that by advertising such independent paralegal services for businesses and individuals, Respondent engaged in the unauthorized practice of law.

### **Fines and Costs**

The People seek a recommendation that the Colorado Supreme Court order Respondent to pay a fine of \$250.00—the minimum fine allowable pursuant to C.R.C.P. 236(a)—as well as costs in the amount of \$91.00. The PDJ finds that the People's requested fines and costs are reasonable.

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<sup>7</sup> *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.").

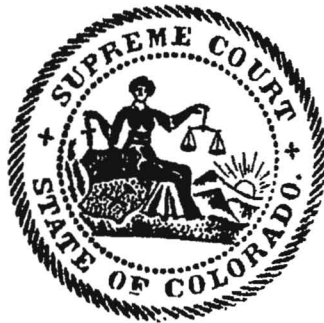
<sup>8</sup> *Binkley v. People*, 716 P.2d 1111, 1114 (Colo. 1986) ("Anyone advertising as a lawyer holds himself or herself out as an attorney, attorney-at-law, or counselor-at-law and, if not properly licensed, may be held in contempt of court for practicing law without a license."); *People ex rel. Attorney Gen. v. Castleman*, 88 Colo. 207, 207, 294 P. 535, 535 (1930) (holding that non-licensed person who appeared as counsel in court and advertised as lawyer engaged in the unauthorized practice of law); *People ex rel. Colo. Bar Ass'n v. Humbert*, 86 Colo. 426, 427-28, 282 P. 263, 263-64 (1929) (holding in contempt disbarred attorney who allowed his name to continue to appear as an attorney in the city and state directories and in the city telephone directory); *People ex rel. Colo. Bar Ass'n v. Taylor*, 56 Colo. 441, 442, 445, 138 P. 762, 763-74 (1914) (holding that unlicensed person was guilty of contempt by virtue of having placed his name in the telephone directory as a lawyer and identified himself on business cards and his office door as a lawyer); see also C.R.S. § 12-5-112 (providing that an unlicensed person who "advertises, represents, or holds himself out in any manner as an attorney" is subject to contempt).

<sup>9</sup> See *In re Arthur*, 15 B.R. 541, 547 (Bankr. E.D. Penn. 1981) ("[A]n advertisement need not affirmatively state that one is a member of the bar to run afoul of the statutory provisions prohibiting the unauthorized practice of law. All that need be shown is that the advertisement implies that a legal service can be performed.") (citations omitted); *Statewide Grievance Comm. v. Zadora*, 772 A.2d 681, 684 (Conn. App. Ct. 2001) ("Advertising alone is sufficient to constitute the unauthorized practice of law if the advertisement is for activity that amounts to legal services. That principle may apply despite the presence of disclaimers of being an attorney or providing legal advice.") (citations omitted); *Florida Bar v. We the People Forms and Serv. Center of Sarasota, Inc.*, 883 So.2d 1280, 1282 (Fla. 2004) (upholding recommendation to enjoin non-lawyer from advertising in a manner that suggests non-lawyer's services are the equivalent of or substitute for services of an attorney or that suggests non-lawyer is offering legal service, legal advice, or personal legal assistance regarding any legal matter).

**IV. 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 a **FINE** of \$250.00 and **COSTS** in the amount of \$91.00.

DATED THIS 16<sup>th</sup> DAY OF JANUARY, 2013.



  
WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE

Copies to:

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Office of Attorney Regulation Counsel

Via Hand Delivery

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Via Email

Christopher T. Ryan  
Colorado Supreme Court

Via Hand Delivery