

Colorado Supreme Court 101 West Colfax Avenue, Suite 800 Denver, CO 80202	
Office of Attorney Regulation Counsel 2008UPL081	
Petitioner: The People of the State of Colorado, v. Respondent: Richard J. Haas.	Supreme Court Case No: 2009SA120
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 said Recommendation of the Presiding Disciplinary Judge is APPROVED. Respondent, RICHARD J. HAAS is Enjoined from engaging in the unauthorized practice of law in the State of Colorado.

IT IS FURTHER ORDERED that the Respondent is assessed costs in the amount of \$883.93. Said costs to be paid to the Office of Attorney Regulation Counsel, within thirty days from the date of this order.

IT IS FURTHER ORDERED that the Resondent shall REFUND Antonette Manzanares in the amount of \$1,200.00.

IT IS FURTHER ORDERED that a fine be imposed in the amount of \$2,000.00.

BY THE COURT, SEPTEMBER 24, 2010.



Case Number: 2009SA120

Caption: People v Haas, Richard

CERTIFICATE OF SERVICE

Copies mailed via the State's Mail Services Division on September 24, 2010. *1/15/10*

Honorable William R Lucero
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JC
4/22

<p>SUPREME COURT, STATE OF COLORADO</p> <p>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>Petitioner: THE PEOPLE OF THE STATE OF COLORADO,</p> <p>Respondent: RICHARD J. HAAS.</p>	<p>Case Number: 09SA120</p>
<p>REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)</p>	

This matter is before the Presiding Disciplinary Judge ("PDJ") on an "Order Appointing Hearing Master" issued by the Colorado Supreme Court ("Supreme Court") on July 22, 2009. The Supreme Court appointed the PDJ "to act as Hearing Master pursuant to C.R.C.P. 234(f)."

I. ISSUE AND RECOMMENDATION

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. Does an attorney, who is without a license to practice law in Colorado and who is not in good standing in all other jurisdictions in which he is admitted, engage in the unauthorized practice of law when he provides legal advice, and holds himself out as an attorney?

After considering the evidence presented during a hearing on this issue, the PDJ concludes Respondent engaged in the unauthorized practice of law and recommends the Supreme Court enjoin him from further unauthorized practice of law and order restitution, costs, and fines as set forth in this report.

II. PROCEDURAL HISTORY

James C. Coyle, Office of Attorney Regulation Counsel ("the People"), filed a "Petition for Injunction" with the Supreme Court on May 15, 2009. On May 27, 2009, the Supreme Court issued an "Order to Show Cause" requiring Richard J. Haas ("Respondent") to answer the petition in writing and show cause within twenty days "why he should not be enjoined from engaging in the unauthorized practice of law in the State of Colorado." Respondent filed a

"Motion to Dismiss for Failure to State a Claim and for Reasons of Equity" on July 6, 2009. On July 22, 2009, the Supreme Court referred the matter to the PDJ. The People filed a response to the motion to dismiss on July 27, 2009.

On August 10, 2009, the PDJ denied Respondent's motion to dismiss, ordered him to file a response to the People's petition, and scheduled the matter for an At-Issue Conference to be held on September 1, 2009. Respondent filed his response to the petition on August 24, 2009.¹ On September 1, 2009, the PDJ held an At-Issue Conference and scheduled the matter for a one-day hearing on January 6, 2010.

III. FINDINGS OF FACT

The PDJ finds the following facts established by a preponderance of the evidence based on the petition, the answer, and the testimony and exhibits admitted during the hearing held on January 6, 2010.²

Background

Respondent is not licensed to practice law in the State of Colorado.³ However, his legal background includes a degree from the Case Western Reserve School of Law in 1976 and prior admission to the practice of law in Florida in 1977, the District of Columbia in 1978, Maryland in 1983, and New York in 1985. Respondent's Florida Bar membership lapsed in 1989 due to his failure to pay annual membership fees for five consecutive years. He is also no longer eligible to practice law in the District of Columbia.

Respondent has been suspended from the practice of law in New York since May 5, 1997.⁴ A petition for reinstatement he filed in 2007 was denied based upon concerns about his debts, practice intentions, and candor during a reinstatement interview on October 30, 2008.⁵ Respondent's license to practice law in Maryland was not active at any time relevant to the Antonette Manzanares matter but it became active again in October 2008 during the time of the Katherine Fisher matter (discussed herein). Maryland Bar Counsel has since initiated reciprocal discipline proceedings against Respondent.⁶

¹ The response also included a "Counter Petition for Damages." The PDJ granted a "Motion to Dismiss Counter Petition for Damages" on October 23, 2009.

² C.R.C.P. 235(d) provides that the Colorado Rules of Civil Procedure apply in civil injunction proceedings. The PDJ admitted the People's exhibits 1-19 and 22, Respondent's exhibits B-C, and PDJ (demonstrative) exhibits 20(a-b)-21 subject to limitations set forth in the record.

³ See the People's "Petition for Injunction" ("Petition"), ¶ 1 and Respondent's "Response to Petition, Answer and Counter Petition" ("Answer"), ¶ 1.

⁴ See Petition, ¶ 2; Answer, ¶ 2; and Petitioner's Exhibit 1. Respondent did not disclose this discipline to the District of Columbia Bar or the Maryland Bar.

⁵ See Petition, ¶ 3; Answer, ¶ 3.

⁶ See the People's Exhibit 2.

Respondent moved from Texas to Colorado in January 2006.⁷ He applied to the State Bar of Colorado in July 2006 and July 2007, but he failed the Colorado Bar Examination on both occasions.

The Antonette Manzanares Matter

In 2007, Antonette Manzanares became the subject of a criminal prosecution for an alleged class 3 felony assault on an at-risk individual following a "road rage" incident in Colorado Springs, Colorado. In light of the special circumstances surrounding the case, and following the advice of counsel, Mrs. Manzanares pled guilty to a reduced charge of a class 4 felony assault and received a seven-year sentence to the Department of Corrections.

While serving her sentence at the La Vista Correctional Facility ("La Vista") in Pueblo, Colorado, Mrs. Manzanares spoke to another inmate, Meghan Dodge, about her desire to seek post-conviction relief. Ms. Dodge, in turn, referred Mrs. Manzanares to Respondent because Respondent had been assisting Ms. Dodge with her own post-conviction matters under the supervision of Angelique Layton, an attorney licensed in Colorado since 2004.⁸

Raymond Manzanares, Mrs. Manzanares's husband, contacted Respondent on behalf of his wife in early February 2008. Respondent told Mr. Manzanares that he thought they had a "good case" and then asked him for the discovery in the case in order to further research the relevant issues. Respondent advised Mr. Manzanares that he would be working alongside Ms. Layton in light of the fact he did not have a license to practice law in Colorado.

On February 9, 2008, Respondent followed up his conversation with Mr. Manzanares by sending the following e-mail to Mrs. Manzanares:

Your husband has contacted me and asked me to visit with you to discuss your situation. It sounds like you would benefit from aggressive assistance. I am working in the office of attorney Angelique Layton of Louisville, Colorado and have been helping inmates wherever possible. While I am not currently practicing myself and do not have a Colorado license I have been assisting Ms. Layton.

⁷ See Petition, ¶ 5; Answer, ¶ 5.

⁸ Ms. Layton had met Respondent through political work and later agreed to collaborate with him and act as his supervisory attorney until he became licensed in Colorado. They had worked together on a number of cases prior to the Manzanares matter, and Ms. Layton had paid Respondent for his services in due course.

As I advised your husband, I will arrange to visit you this week, quite possibly on Wednesday, but must insist that one or both of you request my visit in writing. I need to follow this procedure to avoid complications later. Please drop me a simple note just saying "Please visit me." I do not want you to explain anything that might be read by others in your note.

The address is: Law Office of Angelique Layton.
Richard J. Haas, 5038 El Camino Drive #56, Colorado Springs, CO 80918.⁹

Respondent provided his home address and not Ms. Layton's law office address in this e-mail. On February 11, 2008, Mr. and Mrs. Manzanares both sent letters to Respondent asking that he visit Mrs. Manzanares to discuss her options for post-conviction relief.¹⁰

Respondent eventually traveled from Colorado Springs to Pueblo on three occasions to meet with Mrs. Manzanares, never meeting more than fifteen minutes at a time.¹¹ During these visits, they discussed her case and the possibility of a reconsideration of her sentence. She asked him a number of questions about her case, including questions related to ineffective assistance of counsel, the possibility of an appeal, the discovery of new evidence, and the filing of past and future motions for reconsideration. They discussed each of the questions posed by Mrs. Manzanares and the required action necessary to resolve each issue. Mrs. Manzanares and Respondent each memorialized their discussion in separate writings.¹²

Respondent also advised Mrs. Manzanares of the need to hire an investigator. Mrs. Manzanares informed Respondent that she and her husband had already hired one on February 5, 2008.¹³ Respondent explained to Mrs. Manzanares that he would be working with Ms. Layton because he was in the process of obtaining his license to practice law in Colorado. Nevertheless, Mrs. Manzanares always believed Respondent would be the one researching each of the issues and assisting her with the post-conviction relief regardless of Ms. Layton's involvement in the representation.¹⁴

⁹ See Petition, ¶ 10; Answer, ¶ 10; and People's Exhibit 19. Respondent sent Ms. Manzanares this e-mail via the "jpay" system for inmates. Ms. Manzanares said she never received it.

¹⁰ See Petition, ¶ 11; Answer, ¶ 11; and People's Exhibits 3 and 4.

¹¹ See Respondent's Exhibits B and C. Respondent used a letter he had received from another attorney, Thomas F. Menza, to gain admission to La Vista. Mr. Menza and Respondent had discussed the possibility of investigating and pursuing abuse of women prisoners claims.

¹² See People's Exhibits 6 and 7.

¹³ See People's Exhibit 22.

¹⁴ Respondent later told Mrs. Manzanares that Ms. Layton was not interested in the case but mentioned that another attorney might be interested.

Pursuant to Respondent's specific instructions, on February 24, 2008, Mr. Manzanares wrote a retainer check (#2146) to Respondent personally in the amount of \$1200.00.¹⁵ Respondent deposited this check into his personal account. He did not advise Ms. Layton of his receipt of this \$1200.00 from Mr. Manzanares.¹⁶ Mr. and Mrs. Manzanares both believed they were paying Respondent these funds for his legal services and not his investigative services.

Over the next couple of months, Mr. and Mrs. Manzanares both attempted to reach Respondent without success. Ms. Manzanares eventually asked her husband to contact Ms. Layton, whom she believed had been working with Respondent on her case. In fact, Ms. Layton had no knowledge of the Manzanares matter until she received this call from Mr. Manzanares. Nevertheless, Ms. Layton pursued the post-sentencing and appellate relief sought by Mrs. Manzanares within a week of receiving Mr. Manzanares's telephone call. Although ultimately unsuccessful, Mrs. Manzanares appreciated Ms. Layton's efforts to help her.¹⁷

Meanwhile, Ms. Layton contacted Respondent to determine why he had not honored their agreement that she would supervise him in any work he brought to her. She also requested the documents from the Manzanares case and inquired as to what had happened to the \$1200.00 check. Respondent initially denied any knowledge of the Manzanares matter and denied receiving any funds. Over the course of the next six months, through correspondence with Ms. Layton, Respondent sent an electronic copy of the file, and acknowledged receipt of the funds, but asserted they belong to him for investigative work he had provided to Mrs. Manzanares.

Mrs. Manzanares sent Respondent a letter and requested a refund of her \$1,200.00 on November 3, 2008.¹⁸ On November 28, 2008, Respondent responded to the letter by saying he would most likely refund the full amount if it looked like there would not be anything that could be done on her behalf.¹⁹ Mrs. Manzanares sent Respondent a final letter requesting a refund of her money and legal documents on December 30, 2008.²⁰ Respondent never returned the funds or her original documents.

¹⁵ See People's Exhibit 5.

¹⁶ See Petition, ¶ 14; Answer, ¶ 14.

¹⁷ Mrs. Manzanares is currently serving her sentence in the Community Corrections program at Arapahoe Community Center awaiting a decision on parole and Intensive Supervised Probation ("ISP").

¹⁸ See People's Exhibit 8.

¹⁹ See Petition, ¶ 17; Answer, ¶ 17; and People's Exhibit 9.

²⁰ See People's Exhibit 10.

The Katherine Fisher Matter

In 2008, Katherine Fisher met Respondent at La Vista while Respondent was meeting with another inmate, Meghan Dodge, who suggested they meet with each other. During their initial meeting, Respondent introduced himself as an attorney and asked Ms. Fisher if she wanted him to take her case. Ms. Fisher had expressed her desire to file federal lawsuit following an alleged incident with a prison guard. A couple of months passed before Ms. Fisher saw Respondent again, and in the interim, she filed her own *pro se* lawsuit in the United States District Court for the District of Colorado on November 24, 2008.²¹ In her lawsuit, Ms. Fisher asserted claims pursuant to 42 U.S.C. § 1983 based on an alleged sexual assault by a prison guard at La Vista. At Respondent's request, she sent copies of her pleadings to him.

On December 29, 2008, District Court Judge Robert E. Blackburn referred the case to Magistrate Judge Michael E. Hegarty, who scheduled it for a scheduling/status conference on March 4, 2009.²² Meanwhile, Ms. Fisher and Respondent met again and Respondent agreed to handle her case.

On February 23, 2009, Respondent telephoned Kathleen Spalding, Senior Assistant Attorney General with the Tort Unit of the Office of the Colorado Attorney General, who represented the defendants in Ms. Fisher's lawsuit. Respondent told Ms. Spalding that he was an attorney and he represented Ms. Fisher in the federal case. They discussed the underlying facts of the case, but neither party spoke of settlement. They again discussed the underlying facts of the case, and Respondent asserted legal arguments on behalf of Ms. Fisher, in e-mail correspondence sent the same day, where Respondent identified himself as "Attorney at Law" and "Admitted in MD not licensed in CO."²³

On March 4, 2009, Magistrate Judge Hegarty held the scheduling/status conference. At this point, Respondent advised Ms. Fisher that he could not go to the podium. This surprised Ms. Fisher, and she expressed her displeasure at his failure to notify her in advance that he was not licensed to practice law, since she expected him to represent her during the conference. Respondent remained in the courtroom while Ms. Fisher represented herself during the conference. Magistrate Judge Hegarty suggested settlement discussions between the parties, and the case settled shortly after the conference for \$15,000.00. Ms. Spalding signed the written settlement agreement, and Respondent signed it as "counsel" for Ms. Fisher on March 5, 2009.²⁴

²¹ See People's Exhibit 11.

²² See People's Exhibits 12 and 13.

²³ See People's Exhibit 14.

²⁴ See People's Exhibit 15.

Respondent then requested from Ms. Fisher one-third of the settlement funds as his fee. Ms. Fisher rejected Respondent's request because she felt he had not represented her at the scheduling conference or facilitated the settlement of the case in any way. On March 9, 2009, after discovering that Ms. Fisher had stated that Respondent no longer represented her and he had no authority to sign the settlement agreement on her behalf, Ms. Spalding sent an e-mail to Magistrate Judge Hegarty's chambers.²⁵ Respondent later sent his own e-mail to Magistrate Judge Hegarty's chambers asking that the final disbursement "be a two party check that includes my office."²⁶ In the e-mail, Respondent asserted that Ms. Fisher was his client and reminded opposing counsel that she should not be communicating with his client.

On March 11, 2009, Ms. Spalding responded to the March 9, 2009, e-mail Respondent had sent to Judge Hegarty. Ms. Spalding advised Respondent that if a settlement agreement existed, Ms. Fisher would be the only payee on the check unless Ms. Fisher stated otherwise in a notarized writing.²⁷ On March 25, 2009, Respondent again contacted Ms. Spalding asking for a check to be made out to him. When Ms. Spalding questioned his motives, Respondent yelled at her over the telephone, after which Ms. Spalding terminated the conversation.

IV. CONCLUSIONS 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.²⁸ "The power of the Supreme Court to determine who should be authorized to practice law would be meaningless if it could not prevent the practice of law by those not admitted to the bar."²⁹ The purpose of the bar and the admission requirements is to protect the public from unqualified individuals who charge fees for providing incompetent legal advice.³⁰

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.³¹ The Supreme Court has also held that one who acts in a representative capacity in protecting, enforcing, or defending the legal rights and duties of another and in counseling, advising

²⁵ See People's Exhibit 17.

²⁶ See People's Exhibit 16.

²⁷ See Petition, ¶ 32; Answer, ¶ 32; and People's Exhibit 18.

²⁸ See C.R.C.P. 228.

²⁹ See *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 823 (Colo. 1982).

³⁰ *Id.* at 826.

³¹ See *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" as articulated through longstanding case authority.

and assisting that person in connection with these rights and duties is engaged in the practice of law.³²

The evidence presented during the hearing supports a finding by a preponderance of the evidence that Respondent engaged in the unauthorized practice of law by providing legal advice to Antonette Manzanares, and by charging and collecting \$1,200.00 for legal services at a time he was not authorized to practice law in any jurisdiction. Respondent's assertion that he simply provided Mrs. Manzanares with investigative services is not credible given the extent and nature of his assistance and given the fact that Mr. and Mrs. Manzanares had already hired an investigator. Mr. and Mrs. Manzanares relied on Respondent to provide Mrs. Manzanares with legal assistance based on his representations of what he could do for her. However, Respondent, as a non-attorney, was not permitted to represent the legal rights of Mrs. Manzanares.³³

The evidence also supports a finding that Respondent engaged in the unauthorized practice of law by representing the legal interests of Katherine Fisher in a pending federal court matter. Respondent held himself out as Ms. Fisher's attorney in the federal court matter with opposing counsel at a time when he was not licensed to practice law in Colorado or the United States District Court for the District of Colorado, and was not otherwise authorized to practice law pursuant to C.R.C.P. 220.³⁴

Accordingly, the PDJ recommends that the Supreme Court enjoin Respondent from the unauthorized practice of law. The People request the maximum fine of \$1,000.00 for each incident where Respondent engaged in the unauthorized practice of law in this case.³⁵ The People allege two such incidents. The PDJ concludes that the egregious nature of Respondent's conduct, particularly as a formerly-licensed attorney, warrants the maximum allowable fine and therefore recommends an aggregate fine of \$2,000.00 in this case.

³² *Denver Bar Ass'n v. Public Utils. Comm'n*, 154 Colo. 273, 279, 391 P.2d 467, 471 (1964).

³³ *Id.*

³⁴ An out-of-state attorney may practice law in the state of Colorado if the attorney has not established domicile in Colorado and the attorney is a member in good standing of the bar of all courts and jurisdictions in which he is admitted to practice. C.R.C.P. 220 (1)(b), (1)(c), and (2). Here, the record demonstrates that Respondent is domiciled in Colorado and is not a member in good standing of the bar of all courts and jurisdictions in which he is admitted to practice.

³⁵ The mandatory fine provision of C.R.C.P. 236(a) became effective on January 1, 2007.

V. RECOMMENDATIONS

The PDJ **RECOMMENDS** that the Supreme Court **ENJOIN** Respondent Richard J. Haas from the unauthorized practice of law.

The PDJ **RECOMMENDS** that the Supreme Court order **RESTITUTION** in the amount of \$1,200.00, payable to Antonette Manzanares.

The PDJ **RECOMMENDS** that the Supreme Court order **COSTS** in the amount of \$883.93, as requested in the "Complainant's Amended Statement of Costs" filed on January 27, 2010.³⁶

Finally, the PDJ **RECOMMENDS** that the Supreme Court **FINE** Respondent the total amount of \$2,000.00 (\$1,000.00 for each of the two incidents), as required by C.R.C.P. 236(a).

DATED THIS 20TH DAY OF AUGUST, 2010.




WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Copies to:

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Susan Festag
Colorado Supreme Court

Via Hand Delivery

³⁶ Respondent did not file a response to "Complainant's Amended Statement of Costs."