

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue, 4th Floor
Denver, Colorado 80203

ORIGINAL PROCEEDING IN UNAUTHORIZED
PRACTICE OF LAW

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO

Respondent:
SUZANNE SHELL

James C. Coyle, #14970
Deputy Regulation Counsel
Attorney for Petitioner
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▲ COURT USE ONLY ▲

Case Number: 04SA093

RESPONSE TO MOTION TO QUASH CONTEMPT CITATION

Petitioner, by James C. Coyle, Deputy Regulation Counsel, hereby responds to the respondent's Motion to Quash Contempt Citation as follows:

1. On February 13, 2004, the Unauthorized Practice of Law ("UPL") Committee, acting pursuant to C.R.C.P. 238(a), determined that contempt proceedings should be instituted against the above respondent for violations of a prior Colorado Supreme Court order of injunction. The UPL Committee directed the Office of Attorney Regulation Counsel ("OARC") to file said petition on behalf of the People of the State of Colorado ("petitioner").

2. On March 18, 2004,¹ petitioner filed a petition for contempt

¹ The undersigned was on a scheduled vacation for the last half of February 2004, and was precluded by the press of other business in March 2004 from filing said petition at an earlier date than March 18, 2004.

citation against the above respondent, also pursuant to C.R.C.P. 238(a). Said petition specifically complied with the requirements of C.R.C.P. 238(b), by alleging facts indicating that the respondent was engaged in the unauthorized practice of law. C.R.C.P. 238 does not require that an affidavit be attached to a petition for contempt involving unauthorized practice of law.

2. On March 29, 2004, the Colorado Supreme Court issued a contempt citation to the above named respondent. The court ordered that the respondent answer in writing within twenty days, and show cause why she should not be held in contempt.

3. On April 20, 2004, the respondent was served with the contempt citation and petition for injunction.

4. On April 20, 2004, the respondent filed a motion to "quash" the contempt citation. The respondent argued that the citation must include an affidavit. The respondent cited C.R.C.P. 107 in support of her argument. The respondent also stated that the contempt citation should have given her twenty days to file an answer (she was under the mistaken impression that the citation only gave her ten days).

5. This contempt proceeding was initiated pursuant to the Unauthorized Practice of Law Rules, C.R.C.P. 228 *et. seq.* C.R.C.P. 238-239 provide the procedural nature of said proceedings. C.R.C.P. 238(a) requires a preliminary determination by the UPL Committee before a petition for contempt may be filed. Said determination was made on February 13, 2004. Thus,

C.R.C.P. 238 does not require an affidavit to initiate contempt proceedings in UPL matters due to such factual review conducted by the UPL Committee.

6. C.R.C.P. 107 is not relied upon in these proceedings for filing requirements,² but instead only for the type of relief that may be sought in any contempt proceeding (see petition, introductory paragraph, referencing “fine or imprisonment pursuant to C.R.C.P. 107”). Thus, the more specific rule (C.R.C.P. 238) applies to this proceeding in determining the sufficiency of the petition and the contempt citation. The respondent’s argument that the contempt citation should be quashed for lack of an affidavit is without merit.

6. The respondent next argued that she was only provided ten days in which to answer and show cause. The respondent is incorrect in this factual assertion. The contempt citation issued by the Colorado Supreme Court on March 29, 2004, clearly states that the respondent is “ordered and directed to appear before the Colorado Supreme Court within twenty (20) days from service hereof and answer in writing and show cause....” (emphasis added).³ Because the respondent is simply mistaken in her belief that she was only provided ten days in which to answer the citation, there is no basis to quash the citation under her subsequently discussed legal theory.

7. As the petition for contempt citation and the contempt citation are in compliance with C.R.C.P. 238, the respondent’s motion to quash said

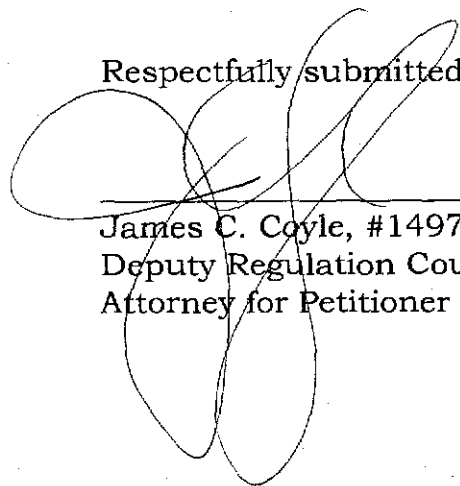
² A district court contempt proceeding initiated pursuant to C.R.C.P. 107 does not have the procedural protection of the Committee review that is provided in C.R.C.P. 238 proceedings.

contempt citation is without merit.

WHEREFORE, petitioner respectfully requests that the respondent's motion to quash contempt citation be denied.

Dated this 21st day of April, 2004.

Respectfully submitted,

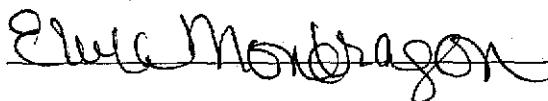


James C. Coyle, #14970
Deputy Regulation Counsel
Attorney for Petitioner

CERTIFICATE OF MAILING

I hereby certify that one copy of the foregoing **Petitioner's Response to Motion to Quash Contempt Citation** was placed in the United States mail, postage prepaid, this 22nd day of April, 2004, and addressed to:

Suzanne Shell
14053 Eastonville Road
Elbert, CO 80106



³ The respondent's argument is misplaced even if the citation had only given her ten days to answer rather than the twenty days that this court provided. C.R.C.P. 238(d) allows the court to "specify the time for response". Nevertheless the March 29 contempt citation clearly provides twenty days for an answer by this respondent.