

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF LAW</p>	<p style="text-align: center;">COURT USE ONLY</p> <hr/> <p>Case Number: 01SA136</p>
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: SUZANNE SHELL</p>	
<p>Suzanne Shell 14053 Eastonville Rd. Elbert, CO 80106</p> <p>Phone number: 719-749-2971 Fax Number: 719-749-2972</p>	
<p style="text-align: center;">RESPONDENT'S REPLY ON REQUEST FOR PRODUCTION OF DOCUMENTS</p>	

1. Pursuant to C.R.C.P. 45 - the request is unreasonable and oppressive and does not include a complete list of documents and items requested. The request is vague and over broad, is not limited to items at issue and constitutes nothing more than a fishing expedition designed to harass the Respondent. The request lacks specificity, is unreasonable, irrelevant and oppressive and lacking good cause.

2. Pursuant to C.R.C.P. 34 - the document requested are not properly set forth by item or category and are not described with reasonable particularity which specifically identifies the materials that fall under the jurisdiction of this investigation and are relevant to the issues of this case. Respondent owns and/or operates no less than three unrelated enterprises, which may involve the storage of client files and agreements evidencing financial arrangements. Since the petitioner's subpoena to produce documents made no distinction as to which specific information from which specific files from which specific enterprise(s) were requested, one can only ask, did the petitioner intend to investigate *all* files from *all* professional and private activities of the respondent, even if those activities are entirely unrelated to the activities described in the subsequent PETITION FOR INJUNCTION AND FOR CONTEMPT CITATION? If so, what would be the authority to enforce that request as it pertains to this investigation? Is it also the desire of the petitioner to inspect all activities of the respondent under the authority of the Colorado Supreme Court? Respondent asserts that certain of the requested files, in fact the majority,

are irrelevant to the scope of this investigation which renders the demand unreasonable, irrelevant, and oppressive, and lacking good cause. At least, in the following case, the defendant did specify what documents he was seeking:

We note, however, that the subpoena duces tecum served on DSS by the defendant specifically demanded “any and ***all records and reports of abuse or possible abuse***” ***concerning A. S. B.*** Records relating to public assistance and welfare are therefore not within the scope of the subpoena. People v. District Court, 743 P.2d 432

The petitioner in this case didn't even do that much.

3. Pursuant to C.R.C.P. 26 - the demand for documents is unreasonable since the information demanded (e.g. copies of all client files maintained by Suzanne Shell, opened Jan. 1, 1998 to the present), consists solely of copies of documents created by others and is as readily available from the originating sources, including the Department of Human Services and the court. Requesting information from the Respondent that was not prepared by or for the Respondent is unseasonable, oppressive, and irrelevant to the issue of this case. The time and expense required to copy these second-hand files would be oppressive.
4. Respondent participates in cases in the United States and Canada as an expert witness/consultant. Consequently, many files maintained by the respondent are protected under work product as part of the development of a case by an attorney, and as such, respondent is compelled to maintain the confidentiality of those files. These files would be irrelevant to the scope of this investigation.
5. The above described files and many other files contain information that was produced by the respondent under the supervision of and/or at the request of an attorney. These files would be irrelevant to the scope of this investigation.
6. Other files consist of writings¹: for publication for which the respondent may or may not have received compensation; speeches and presentations at seminars; correspondence with individuals and organizations around the world who were requesting information related to various issues; and discussions of strategies and tactics which were disseminated to other like-minded activists worldwide. These files would be irrelevant to the scope of this investigation.
7. Remaining files may contain information prepared under the authority of a Colorado Statutory Power of Attorney pursuant to Colorado Revised Statutes 15-1-1301 et. seq. which renders them irrelevant to the scope of this investigation.
8. Consequently, the documents sought by the petitioner have nothing to do with activities

¹Ms. Shell is a published author and writer, a public speaker, an activist, and presents training seminars nationwide.

relating to the unauthorized practice of law.

9. Colorado Revised Statutes expressly prohibits the release of confidential information under the Colorado Children's Code without signed authorizations from the clients. Respondent does not possess the requisite releases. There is no statutory distinction regarding the application of this prohibition, therefore this prohibition applies to the respondent. These provisions are based on Federal Statutes. Respondent has no authority to release this information upon pain of criminal and civil penalties and the respondent has been threatened with liability if she violates this provision. (C.R.S. 19-1-307.) Any records, or contents of those records, in the respondent's possession pertaining to any Dependency and Neglect case, regardless of their origin, are covered by this provision.

"The confidentiality provision of the Child Protection Act covers the entire contents of a child abuse report and the records related thereto". Gillies v. Schmidt, 556 P.2d 82, 38 Colo. App. 233 (Colo.App. 09/02/1976)

"Under section 19-10-115(2)(f), the party seeking access to the child abuse reports has the initial burden of showing the applicability of an exception to the statute's rule of confidentiality. Judkins v. Carpenter, 189 Colo. 95, 98, 537 P.2d 737, 738 (1975) (burden of proof rests upon party seeking to establish truth of a proposition)." People v. District Court, 743 P.2d 432

10. Before the respondent can release these statutorily protected records, the petitioner must prove they contain material evidence directly related to the respondent's activities which constitute the unauthorized practice of law, and even then, the records can only be released to the court for in camera review. The petitioner has not made any (much less an adequate) offer of proof requesting the court to review the subject records in camera pursuant to C.R.S. 19-1-307.

"The court is under no obligation to review the record before there has been a sufficient offer of proof and it has made an initial finding of possible necessity. People v. Overton, 759 P.2d 772 (Colo. App. 1988)." People v. Exline, 775 P.2d 48 (Colo.App. 12/01/1988)

"We note first that even under Pennsylvania v. Ritchie, supra, a defendant cannot require the trial court to search the record in camera "without first establishing a basis for his claim that it contains material evidence." Pennsylvania v. Ritchie, supra, 480 U.S. at 58, 107 S.Ct. at 1002, 94 L.Ed.2d at 58." People v. Turley, 870 P.2d 498 (Colo.App. 05/20/1993)

11. Respondent asserts fifth amendment right against self-incrimination, including turning over requested documents.

12. Respondent respectfully reiterates her previous requests for the court to quash the demand to produce documents.

Respectfully submitted September 14, 2001

Suzanne Shell
Respondent

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the attached document **RESPONDENT'S REPLY ON REQUEST FOR PRODUCTION OF DOCUMENTS** was submitted via fax and placed in the U.S. mail, postage prepaid on September 14, 2001 to the following parties:

James C. Coyle
Assistant Regulation Counsel
Attorney for Petitioner
600 17th Street, Suite 200 South
Denver, CO 80202

Presiding Disciplinary Judge Roger Keithley
600 17th St.
Denver, CO 80202

September 14, 2001

Respondent