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Criminal Contempt Charges Against Immigration Counseling Service Underline a Big Problem in Texas

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In an unusual case, a Houston jury on Sept. 1 found that a non-attorney business owner and his immigration counseling service were in criminal contempt after they violated a permanent injunction 1,023 times that restricts them from representing clients in legal matters.

Officials with the Supreme Court of Texas Unauthorized Practice of Law Committee (UPLC) say complaints about immigration consulting businesses run by nonlawyers are a problem in Texas. Many people who use such services do not speak English. They are unaware that the people who run the businesses may not be attorneys and that their immigration issues might be mishandled by nonlawyers, officials say.

In 2002, the UPLC filed a civil suit -- *Unauthorized Practice of Law Committee v. U.S. Immigration Counseling Service, et al.* -- against Has Mukh D. "Harry" Patel and his business, U.S. Immigration Counseling Service.

Patel, who is not licensed to practice law in Texas, signed an agreed permanent injunction in August 2002 that enjoined him and his business from rendering legal advice on immigration law and representing clients in immigration matters, among other things.

But in August 2009, the UPLC filed a criminal contempt motion after receiving a complaint from a lawyer alleging that Patel was representing clients before U.S. immigration officials. Patel and U.S. Immigration Counseling Service filed a general denial to the contempt motion in September 2009.

Denis Ducran, who represents the UPLC in the case, says while judges usually decide contempt actions, Patel elected to take the matter to a jury -- a move permitted by the Texas Supreme Court's 1984 opinion in *Ex Parte Griffin*. In *Griffin*, the high court held that a defendant in a contempt-of-court case is entitled to a jury trial for a "serious offense," Ducran says.

After a two-day trial, the jury found that Patel and U.S. Immigration Counseling Service knowingly and intentionally advertised to the public that they possessed the skill to help complete various types of immigration forms and rendered legal advice to clients concerning immigration law, among other things. Specifically, the jury found that Patel and U.S. Immigration Counseling Service knowingly represented that they possessed the requisite skills to provide immigration counseling in 331 separate instances and rendered legal advice on 331 separate instances.

Ducran says people and businesses engaged in the unauthorized practice of law usually stop after the UPLC obtains an injunction against them.

"We feel confident that this is the first time that we've had to move for contempt," says Ducran, a member of the Houston subcommittee of the UPLC and an associate with Houston's [Cokinas Bosien & Young](#).

Having a trial on a motion for contempt makes the case unusual, Ducran adds. "Moving for contempt is rare in itself, but trying it before a jury was very rare."

"Most of his [Patel's] clients were from India or Pakistan. And very few of them spoke English," Ducran says. "We made it clear to them [the jury] that this individual was serving people who didn't know any better. The immigrant

community doesn't know any better as to who can practice law. It was our argument to the jury that he basically thumbed his nose at the court and ignored the order," Ducran says.

Patel declines comment. But Don Karotkin, who represents Patel and U.S. Immigration Counseling Service, says his clients did not violate the injunction and the UPLC did not prove its case.

Karotkin says Patel is a businessman. "He's got three or four different businesses. He's got a real estate business. He helps people with tax matters, and between 2002 and 2009 he was counseling immigrants about their immigration status. And that last part is the subject of the motion for contempt because the committee felt that the things that he was doing with immigration clients was practicing law. We disagree. And we felt very strongly that he did not violate the injunction. And I still feel like that they didn't prove that he violated the injunction. They had testimony from lawyers who said they felt like he violated the order. But they didn't prove that," says Karotkin of Houston's [Karotkin & Associates](#).

According to the injunction, Patel and his business are enjoined from "rendering legal advice or counseling for persons concerning immigration law and representation in immigration courts for deportation proceedings."

While he says that Patel is not licensed to practice law in the United States, Karotkin argues that the August 2002 permanent injunction did not prevent Patel from practicing law. "There's nothing in the injunction about not practicing law. Those words weren't in there," he says.

Karotkin says his clients elected to have a jury decide the contempt case instead of a judge because jurors "don't generally share that feeling that the legal profession is a privileged class of people. I felt like they might be a little more objective about the facts of the case."

HUGE CONSEQUENCES

Rahul Reddy, an immigration lawyer and partner in Houston's [Reddy & Neumann](#), provided an affidavit in the contempt case saying that he witnessed Patel "represent to immigration officials that he is an attorney." In that affidavit, which is attached to the UPLC's motion for contempt, Reddy also wrote that several of his clients told him that Patel previously had handled their cases, that Patel represented himself as an attorney and in some cases that Patel had "mishandled" their cases, "requiring correction by a duly licensed attorney."

In an interview, Reddy says he reported Patel to the UPLC. "When I reported to them, they said, 'We already have an injunction on this guy,' " says Reddy, who testified at the trial. "And I said ... 'If you already have an injunction on him, why is he doing all of these actions?' "

Brent Gamble, judge of the 270th District Court who presides over the case, has not yet decided Patel's punishment. Defendants who are found guilty of criminal contempt can be sentenced to up to six months in jail and fined \$500 per instance of contempt, Ducran says, meaning Patel and U.S. Immigration Counseling Service could each be fined more than \$500,000 for the 1,023 findings of contempt.

While the UPLC is not asking that Patel serve jail time, Ducran says Gamble has "reserved the right" to consider jail time in Patel's sentence.

UPLC chairman Leland de la Garza says complaints regarding immigration services comprise a significant number of the committee's investigations. The UPLC has received 25 immigration services-related complaints so far this year -- 11 percent of the complaints assigned for investigation. Many of those complaints are related to immigration consulting businesses run by nonlawyers, he says.

Speaking generally, de la Garza says, "If you go into one of these businesses, they will purport to help you with your immigration case and charge a fee." What immigration clients receive, "in the best-case scenario, is they'll get some forms completed. And they'll hope that the form is completed correctly, and they'll wait for a result. And in the worst-case scenario, nothing is done," but the preparers of the forms take the clients' money, says de la Garza, a partner in Dallas' Shackelford, Melton & McKinley.

"The thing that makes immigration cases so egregious is these people are desperate," he says. A mistake on an immigration form can have huge consequences on a client's immigration status, he says. "And frequently somebody is paying for a family member. And the family member could be deported."