The Changing Role of Court Clerks and Law Librarians

No Legal Advice from Court Personnel!

Sample Staff Guidelines for Providing Information.

What Does That Mean?

By John M. Greacen*

When you enter the clerk's office in any state or federal courthouse, in any part of the United States, you are likely to encounter a sign saying "Clerk's office staff are prohibited from giving legal advice," or equivalent language. Most deputy clerks are taught from their first day on the job that they cannot give legal advice. They dutifully follow this rule, as they understand it, throughout their careers. Most deputy clerks who answer telephone calls from the public or provide service at the public counter invoke the rule several times a day in response to a citizen's question.

The National Association for Court Management has included the principle in its Model Code of Conduct, as subsection B or Article II "Confidentiality:"

Members shall not give legal advice unless specifically required to do so as part of their office position.

But ask a deputy clerk what constitutes legal advice. You will get no answer, or a tautological answer like "Giving legal advice is giving advice about the law," or a variation of Justice Stewart's pornography definition, "I can't define it, but I know it when I see it."

This issue affects more than clerks and deputy clerks. Chambers staff, probations officers, jury staff, even court security officers--in fact, all members of the wider court family--are covered by the same prohibition against giving legal advice and face the same difficulty understanding and applying it.

Does the term have any inherent meaning? Is it a legitimate and useful limitation on the information that a deputy clerk can give the public? If not, can we provide court staff with a better standard, or set of guidelines, to follow in deciding what information is and is not appropriate to provide in answer to a citizen's inquiry?

I will argue that the phrase has no inherent meaning, or even core meaning, and that its current use by courts has serious negative consequences for the ability of courts to provide full and consistent public service. I will attempt to articulate the various separate principles implicit in the phrase, distinguish those that are useful from those that are not, and suggest a set of guidelines that might prove more helpful to court staff in performing their functions, and more helpful to the public they are serving.

The term "legal advise" has no inherent meaning. In the context of the questions that a deputy clerk is called upon to answer, the prohibition against giving "legal advice" provides no guidance. Which of these questions calls for the rendition of "legal advice?"

1. "Has a complaint (or petition, motion, response, answer, certificate of service, objection, etc.) been filed?"

2. "I just got this here summons and complaint. It says I have to file an "answer" or I will be subject to default. I can't afford an attorney and I wouldn't trust one anyway. What is an answer? What does one look like? What does it say? What does "default" mean?"

3. "When is my answer due?"

4. "What does 'interrogatory' mean?"

5. "I got this summons for jury service. My wife and I have tickets for a Mediterranean cruise on the date I have been called to serve. What happens if I don't show up? Well, what should I do then?"

6. "When will the court decide my case?"

7. "Do I have to do anything else?"

8. "Here is the situation I am in. . . . how should I bring this issue before the court for resolution?"

9. Hi. This is Joe Schmoe. I'm a new attorney with the Wizard firm. I need to file a motion for extension of time to file my brief. Does the court have a local rule that I should be aware of? This is my first request for an extension. How is the judge likely to react to it?"

Operating from some inherent meaning in the words "legal advice," it is impossible for a clerk to decide whether to answer any of these questions. Is it legal advice to refer a caller to a rule or statute? Is it legal advice to explain the meaning of a legal term? Is it legal advice to characterize a document according to a term which has legal significance. For example, if the clerk says, "Yes, an objection has been filed," is the clerk making a representation that a document titled "objection" is in the court file, or is she or he stating that the document legally constitutes an objection? Is it legal advice to tell someone what the court's standard practices are? ("The court usually issues an opinion within 45 days of hearing oral argument.") Is it legal advice to tell a citizen when a filing is due? If so, how is it possible for a clerk to comply with the rules that require him or her to send out such notices? If not, what about the clerk's venturing an opinion on the application of

an ambiguous rule to a specific situation? Is it legal advice to answer questions from a lay person, but not to answer questions from a lawyer?

Based on my experience, I would venture the following guesses:

- that most deputy clerks would answer questions 1, 3, 5, and 9 (after answering Question 9 they will slam down the phone and mutter under their breath, "You are the one who went to law school. You are the one who makes the big bucks and drives the beemer. Read the damn rules yourself.");
- that most deputy clerks would not answer questions 2, 4, 6, 7, and 8; and
- that if you asked these questions of clerks in the same court, and in courts in the same state, you would get different responses. You would probably get inconsistent answers from the same clerks on different days.
- A deputy clerk's inability to define the term "legal advice" and to apply it consistently to ambiguous situations puts him or her in pretty good company. Most state and federal trial and appellate judges required to apply the term will begin by stating that it is an unclear one. Whether in the context of the definition of "giving legal advice" or in the definition of "the practice of law," which includes the giving of legal advice, courts and commentators concede the ambiguity of the terms. Wolfram, in Modern Legal Ethics, sec. 15.1 at pp. 835, 838 (West, 1986) states

On the whole, state law has been characterized by its broad sweep and imprecise definition . . . . many definitions of unauthorized practice are obviously inadequate because they would proscribe almost all areas of commercial and governmental activity. . . .

Courts have sometimes characterized a nonlawyer's practice as unauthorized if it involved giving legal advice. The obvious, and now familiar, difficulty with such a definition is its breadth.

The Iowa Supreme Court in 1992 pointed out that Iowa's Code of Professional Responsibility (taken from the American Bar Association's 1969 Model Code of Professional Responsibility) ducked the issue, stating "'It is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law.'" *Committee on Professional Ethics and Conduct of the Iowa State Bar Association v. Baker*, 492 N.W.2d 695, 701.

The New Mexico Supreme Court has taken a similar position, stating:

There is no comprehensive definition of what constitutes the practice of law in our basic law or the cases. The Court has specifically declined to take on the onerous task . . . . Defining the practice of law is an extremely difficult task, which we find unnecessary to undertake at this time. The line between what constitutes practicing law and what is permissible business and professional activity by non-lawyers is indistinct. *State Bar of New Mexico v. Guardian Abstract & Title Co.*, 91 N.M. 434, 439, 575 P.2d 943 (1978).

Some of the attempted definitions look toward the activity performed,

such as "the drafting of legal instruments and contracts by which legal rights are secured," *In re Anderson*, 79 B.R. 482, 485 (Bankr, S.D. Calif. 1987), or "representation of parties before judicial or administrative bodies," *State of New Mexico ex rel Norvell v. Credit Bureau of Albuquerque, Inc.*, 85 N.M. 521, 526, 514 P.2d 40 (1973). Of course, such lists include the phrase "giving legal advice and counsel" without attempting to define it further. *State of New Mexico ex rel Norvell, supra*. Others look toward the level of knowledge and expertise required. For instance, legal advice "requires the use of legal judgment requiring legal knowledge, training, skill, and ability beyond that possessed by the average layman," *O'Connell v. David*, 35 B.R. 141, 144, (Bankr. E.D.Pa. 1983), findings adopted in part, 35 B.R. 146 (E.D.Pa. 1983), aff'd 740 F.2d958 (3d Cir. 1984), or advice is legal advice if it "affects important rights of a person under the law, and if the reasonable protection of the rights and property of those advised and served requires that the persons giving such advice possess legal skill and a knowledge of the law greater than that possessed by the average citizen." *In re Bachmann*, 113 B.R. 769, 772-73 (Bankr. S.D.Fla 1990).

Under these definitions, woe to the poor deputy clerk who answered *any* of the questions above. If the answer touched on law or procedure, it might be legal advice. If the deputy clerk does not possess "knowledge of the law greater than that possessed by the average citizen," he or she should be fired for incompetence. If the true test is the importance of the rights of those "advised," it is evident that questions that court staff should answer are proscribed, such as the time period for filing an appeal, which most courts hold to be jurisdictional.

Some courts have recognized that court personnel do, and must, give advice on legal matters. The West Virginia Supreme Court has said that "a magistrate or magistrate court personnel should not furnish legal *advice* to a party to a proceeding in magistrate court. On the other hand, a magistrate or other magistrate personnel may furnish legal *information* to parties to proceedings in magistrate court, many of whom will not be represented by legal counsel." *State v. Walters*, 186 W. Va. 169, 411 S.E.2d 688, 691 (1991) [emphasis added]. The court did not elaborate further on the distinction between legal "advice" and legal "information." In recently amended court rules, the Florida Supreme Court stated:

For anything you do not understand about the above information and for any additional questions you may have concerning the preparation of your case for trial, please contact the Clerk of the County Court . . . . The clerk is not authorized to practice law and therefore cannot give you legal advice on how to prove your case. However, the clerk can be of assistance to you in questions of procedure. *In re Amendments to the Florida Small Claims Rules*, 601 S.E.2d 1202, 1212, (1992).

Neither of these distinctions--advice versus information and law versus procedure--is satisfactory for the poor deputy clerk who needs to decide whether to answer a question. Cases are often won and lost on procedural issues. It is hard to know what is information, when an inquiring citizen is clearly going to rely and act on what you say.

The term's ambiguity has negative consequences for the courts and the public. The consequence of a fuzzy definition of "giving legal

advice" is to vest unguided discretion in the deputy clerk to answer what he or she wishes to answer and feels comfortable answering, and to refuse to answer any question he or she decides not to answer. The result, as with all unconstrained discretion, is the potential for abuse, favoritism, and undesired consequences.

Deputy clerks may offer advice to persons they like and refuse it to persons they do not. They may help polite citizens and rebuff obstreperous ones. They might help persons of their own race and decline to help persons of other races. They might help people who call during slack business hours and decline to help those who call at peak hours.

Courts have difficulty with persons who chose to represent themselves. Many of them do not trust lawyers, or the legal system, and it is very hard for deputy clerks to deal with them. They will challenge information given. They are not friendly. They often demand services the staff does not usually provide. An easy way to "get rid of" such persons, particularly on the telephone, is to cut the questions short with the useful phrase, "I am not allowed to give legal advice. What you are asking me involves legal advice." The self-represented litigant can, and often will, argue. But he or she cannot prevail, because the deputy clerk is the ultimate arbiter of the meaning of the phrase.

It is clear to many observers that the rates of self-representation are growing, reaching as high as 65 percent of all domestic relations matters in a number of courts. In several federal courts of appeals, half of all appeals are now prosecuted by appellants without lawyers. It is also clear that such litigants cannot successfully get their cases heard and resolved without getting additional help from the courts. Such help can come in the form of simplified procedures, easy-to-understand-and-use forms, and guidebooks written in "plain English." See Robert B. Yegge, *Divorce Litigants without Lawyers: This Crisis for Bench and Bar Needs Answers Now*, 33 Judges' Journal, Spring 1994, No. 2, at 8-13, 44. Volunteer bar efforts are also helpful. But even these efforts will not succeed unless court staff are capable of providing extensive information to litigants without lawyers, and willing to do so.

The Task Force on the Future of California's Courts published *Justice in the Balance, 2020* (December 1993), which recognized the importance of a broader clerk's office information-giving role, and the critical need to refine the traditional limitation on the giving of legal advice to accomplish it.

It is possible to articulate separately the principles currently confused together in the prohibition against giving "legal advice." Several issues are confused in the traditional rule that a clerk of court cannot give legal advice. Three topics can be eliminated from the analysis of the core issues--prohibitions on a clerk's practice of law, the traditional rule that the courts are not estopped from enforcing the rules because of a clerk's incorrect advice, and principles of confidentiality.

Most court clerks and administrators are prohibited by statute, rule, or code of conduct from practicing law while serving in the position of clerk. For instance, Fed. R. App. P. 45(a) provides:

Neither the clerk nor any deputy clerk shall practice as an attorney or counselor in any court while continuing in office.

This principle applies as well to judges (at least to full-time judges). It arises from concern that a clerk might use the power of her or his position in the court to gain an unfair advantage in legal practice. It would certainly be unfair to an opponent for a clerk to be able to represent parties in actions in the court where she or he works. It would also be unfair for a clerk to be able to use the possibility of granting favors to, or imposing punishments on, persons practicing before the court on which the clerk serves in order to obtain an advantage for the clerk's clients in another court. Being engaged in law practice is inconsistent with the clerk's paramount duty to see that all litigants are treated fairly in the court. But this principle is unrelated to restrictions upon the sorts of advice or information that a clerk should provide to litigants and potential litigants asking about court procedures.

A second extraneous issue is that of estoppel. Courts often intone the "no legal advice" theme when counsel attempts to clam that failure to follow a procedural rule is based upon misinformation provided by court staff. For instance, in *Brown v. Quinn*, 406 Mass. 641, 550 N.E.21d 134, 136, 137 (1990), the Massachusetts Supreme Judicial Court stated:

The defendant's counsel was not absolved of his procedural responsibilities by the clerk's error . . . it is the responsibility of the bar, not the court staff, to attend to the progress of pending matters.

The intermediate appellate court in Massachusetts reached the same conclusion in *Krupp v. Gulf Oil Corp.*, 29 Mass. App. 116, 557 N.E. 2d 769, 771 (1990): We know of no authority for treating as excusable neglect reliance on a clerk's incorrect advice concerning a general principle of law.

The Wyoming Supreme Court, in *Wyoming ex rel. Wyoming Workers' Compensation Division v. Halstead*, 795 P.2d 760, 775 (1990) said: She was acting in performance of the ministerial duties of the Clerk of Court. She could not give legal advice, and, if she did, respondent acting through his guardian could not rely thereon for the purpose of estoppel.

While courts may want to prohibit all advice and information giving by court staff in order to forestall all such claims (by giving them a presumptive lack of credibility), the needs of the courts to provide better public service to a growing part of its constituency (*pro se* litigants) makes this simplistic defensive device unavailable. The courts can continue to maintain the non-estoppel doctrine while authorizing staff to give a wider range of information. For instance, signs in court clerk's offices might read: Litigants may not rely on information or advice provided by court staff which proves to be inconsistent with the law or rules of procedure.

A final subject improperly confused with "giving legal advice" issues is that of confidentiality. Note the National Association for Court Management's classification of the rule as a matter of confidentiality. Court staff should be made aware of the need for absolute secrecy concerning the possible outcome of all pending matters. A court staff

member should be fired for leaking the contents or outcome of a court opinion to a party or to the press before it is made public. This is also true for information concerning the actual date that a decision will be rendered (as contrasted to the court's general practices concerning issuing opinions). But disclosing confidential information of this sort would not usually be considered the giving of legal advice. Nor is the throttling of court staff a necessary or appropriate means of preventing the improper disclosure of confidential information.

What are the principles that court staff should keep in mind when providing advice and information to court users? I would suggest these five general notions:

1. Court staff have an obligation to explain court processes and procedures to litigants, the media, and other interested citizens. Court staff have a unique understanding of the way in which the court functions. It is often superior to the understanding of the attorneys who practice in the court. It is to the advantage of the court, the lawyers, and the litigants for court staff to share that knowledge. Court proceedings are more effective and speedy when everyone is operating with the same expectations concerning the ground rules to be applied.

As noted above, the court will not be able to resolve *pro se* litigation fairly or expeditiously unless it provides a great deal of additional information to litigants representing themselves. This information may take the form of sample pleadings and information packets (for instance, on discovery practices, options, and obligations). But it also includes the provision of information by court staff in response to individual inquiries.

2. Court staff have an obligation to inform litigants, and potential litigants, how to bring their problems before the court for resolution. It is entirely appropriate for court staff to apply their specialized expertise to go beyond providing generalized information (how do I file a lawsuit?) to giving detailed procedural guidance (how do I request a hearing?) What does the court like to see in an application for fees, a motion for default, a child support enforcement order, a motion to suppress evidence, or an application for letters testamentary?

Any advice that a court staff member gives, which is limited to this purpose and function, is appropriate--including the provision of references to applicable rules, statutes or court precedents, the supplying of forms or examples of pleadings commonly used by other counsel, or the articulation of the reasons for the court's preferring a particular process. Such advice is helpful to the party receiving it. The party might have committed a fatal procedural mistake if it had not gotten such advice. But the fact that it is helpful does not make it improper. The court system has an interest in seeing that disputes are decided on their merits. Court staff should help litigants to use procedures to reach that end, not erect them as hurdles over which court users will stumble.

3. Court staff cannot advise litigants whether to bring their problems before the court, or what remedies to seek. Court staff cannot advise court users whether to avail themselves of a particular procedural alternative. We can never know enough about a litigant's

personal position to know what is in that litigant's best interest. That is uniquely the lawyer's role.

4. Court staff must always remember the absolute duty of impartiality. They must never give advice or information for the purpose of giving one party an advantage over another. They must never give advice or information to one party that they would not give to an opponent. Giving the sort of procedural information required in answering the nine questions at the beginning of this article does not cross the "impartiality" line. It is equally available to all litigants. It helps both (or all) sides to present their case to the judge for decision on the merits.

Advising a party *what to do* (rather than *how to do* something that a party has already chosen) crosses the line from impartiality to partiality. It invites a deputy clerk to act on behalf of one litigant to the detriment of another. The clerk owes an equal duty to both.

5. Court staff should be mindful of the basic principle that counsel may not communicate with the judge *ex parte*. Court staff should not let themselves be used to circumvent that principle, or fail to respect it, in acting on matters delegated to them for decision. This principle requires a little explanation. Today many courts delegate significant decision-making authority to clerk's offices, especially on procedural matters, and costs and fee awards. The clerk's office staff need to remember to follow traditional principles of avoiding *ex parte* contacts in the way in which they exercise such decision-making discretion--assuring themselves that they have heard from both sides before deciding an issue, and avoiding even the appearance of giving one party an "inside track" in the process. Deputy clerks also need to avoid becoming messengers to the judge of communications that would be improper for the judge to receive directly.

It is clear that the traditional prohibition against "giving legal advice" does not help a staff member understand or correctly apply these five principles. We should rescind the old phrase and substitute these principles in its stead. For staff to understand them thoroughly, clerks should provide full explanations of them and use hypothetical questions to demonstrate their proper application to every day work situations.

One national court administration organization has already recognized the applicability of these more helpful general principles to the provision of information by clerks' offices. The national Conference of Appellate Court Clerks includes the following subsection B of Canon III (titled "An Appellate Court Clerk should Perform the Duties of Office Impartially and Diligently").

An appellate court clerk should exercise great care and discretion in initiating or considering *ex parte* or other communications concerning a pending or impending proceeding. However, an appellate court clerk may be called upon in the course of his or her duties to explain to litigants and their counsel the rules, operating procedures, and other practices of the court. Such explanations should always be rendered in an impartial manner, so as not to advantage or disadvantage any litigant. A clerk should never offer explanations to one party that the clerk would not share with the opposing party.

Sample Staff Guidelines for Providing Information. The following are one clerk's initial attempt to provide useful guidance to staff in dealing with requests for information.

All staff are expected to perform these tasks:

1. Provide information contained in docket reports, case file, indexes, and other reports.

2. Answer questions concerning court rules, procedures, and ordinary practices, such questions often contain the words "Can I?" or "How do I?"

3. Provide examples of forms or pleadings for the guidance of litigants.

4. Answer questions about the completion of forms.

5. Explain the meaning of terms and documents used in the bankruptcy process.

6. Answer questions concerning deadlines or due dates.

In providing information, staff will not:

1. Give information when they are unsure of the correct answer; transfer such questions to supervisors.

2. Advise litigants whether to take a particular course of action. Do not answer questions that contain the words "should I." Suggest that questioners refer such issue to a lawyer.

3. Take sides in a case or proceeding pending before the court.

4. Provide information to one party that you would be unwilling or unable to provide to all other parties.

5. Disclose the outcome of a matter submitted to a judge for decision, until the outcome is part of the public record, or until the judge directs disclosure of the matter.

[Back to Top]

Applying these guidelines to the nine questions posed at the beginning of this discussion would produce these results:

Court staff can and should answer every question except the last part of question 5, in which the person summoned for jury service asks what he should do.

Court staff should be careful in the manner in which they answer question 7. An appropriate answer might be, "The court's rules do not require you to file anything further. I cannot give you advice concerning *whether* you should file anything else. For that you should speak to an attorney."

The answer to question 6 should only be a general one. For example, "The time needed for the court to reach a decision depends upon the difficulty of the issues involved. The court generally hands down opinions within a month of taking a case under advisement. But there is no guarantee that any particular case will be decided that quickly." Staff *may not* disclose more definite information, such as, "I have seen the draft opinion on the judge's secretary's desk. That means it is ready for mailing tomorrow."

In answering all of the questions, staff should follow the general rules (1) not to give information if they are uncertain of the correct answer and (2) to treat all persons, and all parties to a controversy, in the same fashion. If staff is unsure of the right answer, they should not just refuse to answer the question; they should refer it to a supervisor.

This article is intended as an initial discussion of a long-neglected, difficult subject. It is not meant to be the definitive treatment of the topic; rather, it will succeed if it stimulates broader consideration of the issues raised and ultimately produces effective guidance for court staff trying to provide good service day-to-day and hour-by-hour in our courts.

Back to Top

This article is reprinted with permission of *The Judges' Journal,* a quarterly of the ABA Judicial Division. Copyright © 1995, American Bar Association. All rights reserved.

John M. Greacen is the Clerk of the U.S. Bankruptcy Court, District of New Mexico, Albuquerque, New Mexico.
He is a member of the Lawyers Conference Executive Committee and was its chair last year*

*The author greatly acknowledges the assistance of Laura Goldsmith, assistant Tenth Circuit librarian, in preparing this article.

CIASP

Legal information vs. legal advice Developments during the last five years

by John M. Greacen

In 1995 my article "No Legal Advice From Court Personnel What Does That Mean?"[1] was the first published attempt to examine critically the standard court instruction to staff not to give legal advice. It explored legal and practical definitions of the term "legal advice" and suggested guidelines a court could give staff members on what answers they can and cannot provide. This article reviews that article's discussion and recommendations, as well as developments during the past five years.

"No Legal Advice" argued that the phrase "legal advice" had no inherent meaning to the courts or to court staff who were required to interpret it. The use of a vague term has negative consequences for the courts and the public; it causes staff to limit unnecessarily the flow of information to the public about court operations and it creates opportunities for discrimination among different categories of court users. The article addressed the concerns that cause courts to prohibit their staffs from providing information about court processes to the public—concerns about their "practicing law," about their giving incorrect information, and about their binding the judge by such incorrect information. It articulated five general principles that court staff should keep in mind in answering questions:

***JOHN M. GREACEN** is Director of the Administrative Office of the Courts for the state of New Mexico.*

The increase in self-represented litigants nationwide heightens the need for assistance from courts and their staff.

1. Court staff have an obligation to explain court processes and procedures to litigants, the media, and other interested citizens.

2. Court staff have an obligation to inform litigants, and potential litigants, how to bring their problems before the court for resolution.

3. Court staff cannot advise litigants whether to bring their problems before the court, or what remedies to seek.

4. Court staff must always remember the absolute duty of impartiality. They must never give advice or information for the purpose of giving one party an advantage over another. They must never give advice or information to one party that they would not give to an opponent.

5. Court staff should be mindful of the basic principle that neither parties nor their attorneys may communicate with the judge *ex parte*. Court staff should not let themselves be used to circumvent that principle by conveying information to a judge on behalf of a litigant, or fail to respect it in acting on matters delegated to them for decision.

Finally, the article suggested 11 guidelines for staff to use in responding to questions. The first six are positive statements. All staff are expected to perform the following tasks:

1. Provide information contained in docket reports, case files, indexes and other reports.

2. Answer questions concerning court rules, procedures, and ordinary practices. Such questions often contain the words "Can I?" or "How do I?"

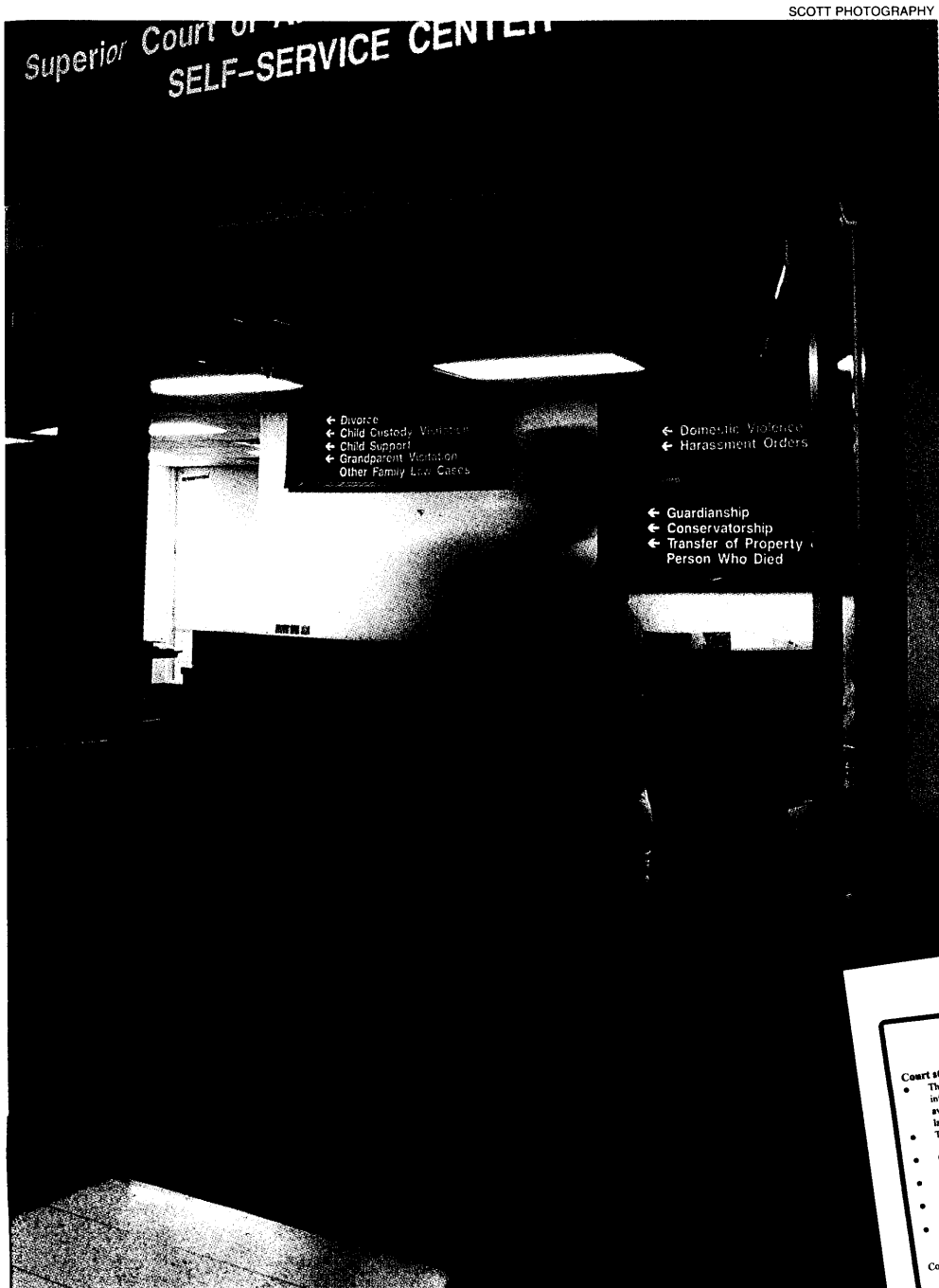
3. Provide examples of forms or pleadings for the guidance of litigants.

4. Answer questions about the completion of forms.

5. Explain the meaning of terms and documents used in the court process.

1. 34 *The Judges Journal* 10 (Winter 1995). A slightly different version appeared contemporaneously in *Clerks, Office Staff Cannot Give Legal Advice: What Does That Mean?* 10 COURT MANAGER 35–40 (Winter 1995).

SCOTT PHOTOGRAPHY



take a particular course of action. Do not answer questions that contain the words "Should I?" Suggest that questioners refer such issues to a lawyer.

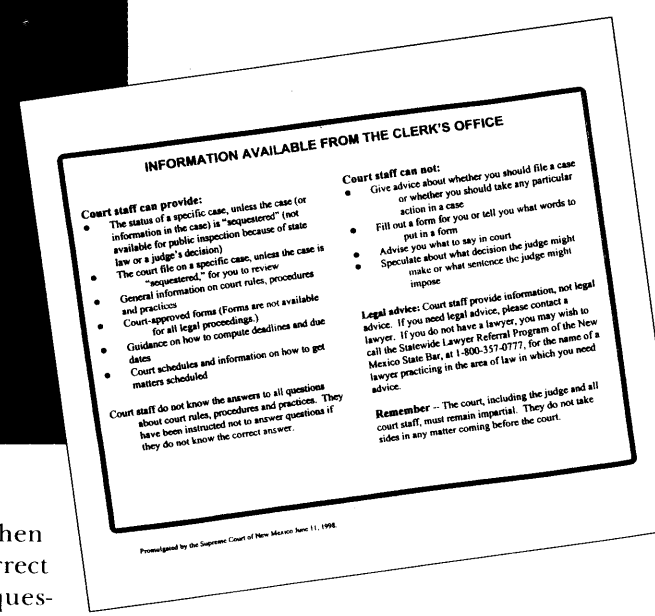
3. Take sides in a case or proceeding pending before the court.

4. Provide information to one party that you would be unwilling or unable to provide to all other parties.

5. Disclose the outcome of a matter submitted to a judge for decision until the outcome is part of the public record, or until the judge directs disclosure of the matter.

Responses to the article

Many judges and court managers used the article and its recommendations in creating policies and training for court staff. And a court manager from Canada reported that it is the standard reference point for the courts of Canada as well. I have con-



INFORMATION AVAILABLE FROM THE CLERK'S OFFICE

Court staff can provide:

- The status of a specific case, unless the case (or information in the case) is "sequestered" (not available for public inspection because of state law or a judge's decision)
- The court file on a specific case, unless the case is "sequestered," for you to review
- General information on court rules, procedures and practices
- Court-approved forms (Forms are not available for all legal proceedings.)
- Guidance on how to compute deadlines and due dates
- Court schedules and information on how to get matters scheduled

Court staff do not know the answers to all questions about court rules, procedures and practices. They have been instructed not to answer questions if they do not know the correct answer.

Court staff can not:

- Give advice about whether you should file a case or whether you should take any particular action in a case
- Fill out a form for you or tell you what words to put in a form
- Advise you what to say in court
- Speculate about what decision the judge might make or what sentence the judge might impose

Legal advice: Court staff provide information, not legal advice. If you need legal advice, please contact a lawyer. If you do not have a lawyer, you may wish to call the Statewide Lawyer Referral Program of the New Mexico State Bar, at 1-800-357-0777, for the name of a lawyer practicing in the area of law in which you need advice.

Remember -- The court, including the judge and all court staff, must remain impartial. They do not take sides in any matter coming before the court.

Promulgated by the Supreme Court of New Mexico June 11, 1998.

6. Answer questions concerning deadlines or due dates.

The last five are negative statements. In providing information, staff will not:

1. Give information when you are unsure of the correct answer. Transfer such questions to supervisors.

2. Advise litigants whether to

ducted training sessions for court administrators and court staff based on the principles set forth in the article in both federal and state courts throughout the country. The guidelines have been included in the curriculum of the "Litigant Without Lawyers" seminars presented by the Maricopa County Superior Court and in educational sessions at conferences of the National Association for Court Management and its Mid Atlantic Association for Court Management.

The Michigan Court Support Training Consortium, under a grant from the Michigan Judicial Institute, developed an interactive training program using compact disk interactive technology, called the Legal Advice CD-i program, based on the principles set forth in the article. That training program has been widely used by courts in other states and received the Justice Achievement Award from the National Association for Court Management in 1998.

Several states have adopted their own guidelines derived from those suggested in the article.

• In 1997, the Michigan Judicial Institute prepared and distributed a booklet entitled, *Legal Advice v. Access to the Courts: Do YOU Know the Difference?* The booklet provides general guidelines, together with specific applications of those guidelines through the use of questions and answers. The booklet was endorsed by the Michigan Supreme Court as a model for providing information to the public and access to the Michigan court system.

• In June 1998, the New Mexico Supreme Court adopted a standard notice entitled "Information Available from the Clerk's Office." It requires all courts to post that notice "in lieu of any other notices pertaining to the topic of information or advice that court staff may or may not provide." The notice sets forth the information that court staff can and cannot provide and includes information on how to find a lawyer; New Jersey has created a similar notice.

• In November, 1998, the Ventura County Superior Court adopted guidelines for its employees staffing its Self Help Legal Access Center.

• The Supreme Court of Florida, with one dissent, has adopted a rule of court, Florida Family Law Rule 12.750, entitled "Family Self Help Programs," that sets forth the services that court "self help" staff can and cannot provide.

• A Customer Service Advisory Committee for the Judicial Branch, created by order of the Iowa Supreme Court, has developed *Guidelines for Clerks Who Assist Pro Se Litigants in Iowa's Courts.* The Iowa Supreme Court recently approved the guidelines. The Advisory Committee also developed a guidebook for clerks containing 25 pages of model responses to frequently asked questions.

• A Task Force on Unrepresented Litigants of the Boston Bar Association conducted a comprehensive study of the needs of self-represented litigants in all levels of courts in Massachusetts. Its August 1998 *Report on Pro Se Litigation* is one of the most thorough treatments of the topic, including extensive recommendations to the courts and the bar for improving their programs. Exhibit F of that report is a set of "Sample Staff Guidelines" for Massachusetts courts.

• Finally, in 2000, the Utah Judicial Council adopted guidelines for all court staff in that state.

Court staff *know the correct answers* to the questions they are asked by the public.

Critiques

Jona Goldschmidt and his colleagues have criticized the suggested guidelines on two grounds. First, they believe that the article does not go far enough in its analysis of the court's obligation to provide information to the public. The United States Constitution, through the privileges and immunities clause, the First Amendment, or the due process or equal protection clauses of the Fourteenth Amendment, may create a fundamental right of access to the courts for persons representing themselves.[2]

The closest that any U. S. Supreme Court opinion has come in articulating such a broad right of access is Justice Brennan's concurring opinion in *Boddie v. Connecticut* (1971), finding that Connecticut's mandatory filing fee for divorce cases violated an indigent person's right to due process. Justice Brennan objected to language in the majority opinion limiting the reach of the decision to divorce proceedings—"the exclusive precondition to the adjustment of a fundamental human relationship." Justice Brennan wrote:

> I cannot join the Court's opinion insofar as today's holding is made to depend upon the factor that only the State can grant a divorce and that an indigent would be locked into a marriage if unable to pay the fees required to obtain a divorce. A State has an ultimate monopoly of all judicial process and attendant enforcement machinery. As a practical matter, if disputes cannot be successfully settled between the parties, the court system is usually 'the only forum effectively empowered to settle their

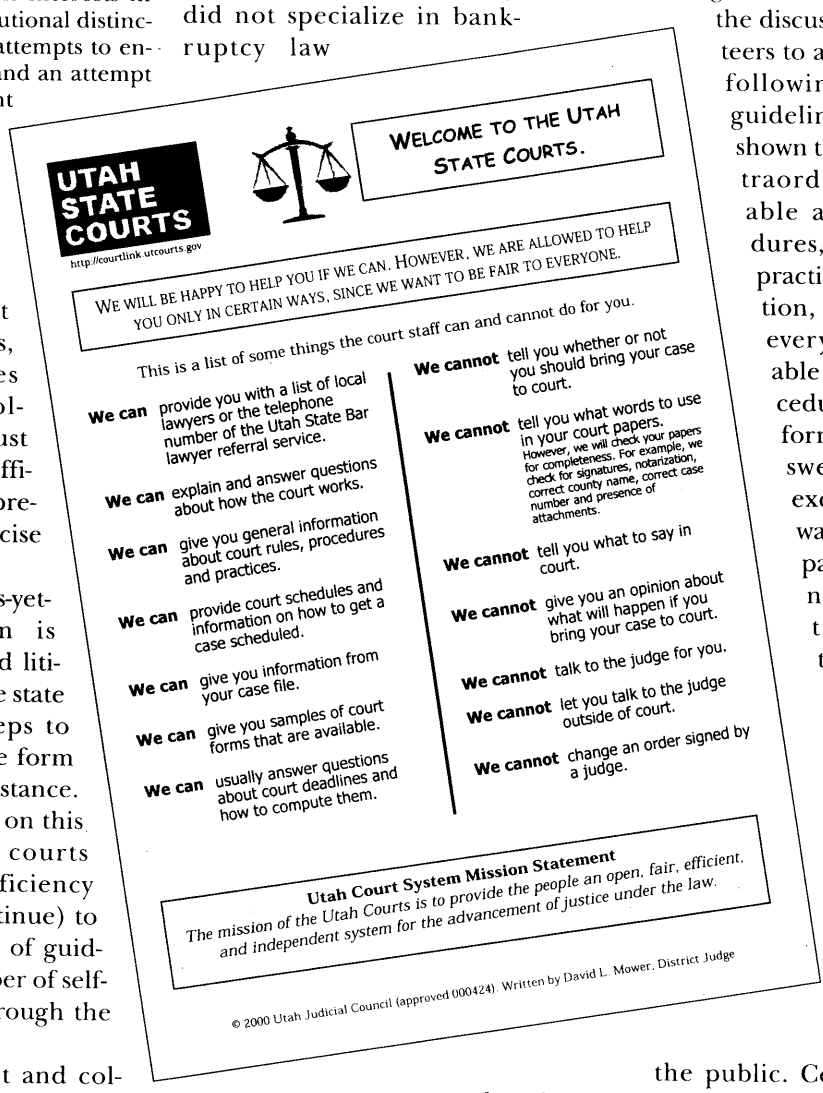
2. See the discussion on pages 19 to 24 in Goldschmidt, Mahoney, Solomon and Green, MEETING THE CHALLENGE OF PRO SE LITIGATION: A REPORT AND GUIDEBOOK FOR JUDGES AND COURT MANAGERS (American Judicature Society, 1998). *Editor's note:* To order, see page 205.

disputes. Resort to the judicial process by these plaintiffs is no more voluntary in a realistic sense than that of the defendant called upon to defend his interests in court.' . . . I see no constitutional distinction between appellants' attempts to enforce this statutory right and an attempt to vindicate any other right arising under federal or state law. . . . The right to be heard in some way at some time extends to all proceedings entertained by courts.

If there is such a right of access to the courts, then, argues Goldschmidt and colleagues, the courts must provide information sufficient to enable self-represented persons to exercise that right.

The significant and as-yet-unanswered question is whether self-represented litigants' rights obligate the state to take affirmative steps to provide them with some form of "adequate" legal assistance. Until a definitive ruling on this question is made, courts should—if only for efficiency reasons—begin (or continue) to develop creative means of guiding the increasing number of self-represented litigants through the legal process.[3]

Second, Goldschmidt and colleagues argue that the guidelines are too general in nature. They believe that court staff need explicit direction on the answers to be given to specific questions, not just general direction differentiating legal information from legal advice. All courts owe their staff the support of an operating manual, describing basic court operations and instructing them how to handle routine matters. These materials, in turn, serve as a reference for staff in answering questions from the public. The most extensive manual of this sort that I have seen is the *Clerk's Practice and Procedure Guide* developed by the United States Bankruptcy Court for the District of New Mexico. The judges of the court instructed the clerk to develop the manual in order to give lawyers who did not specialize in bankruptcy law the basic information they would need to practice before the court. With the help of a committee of the local bankruptcy bar, the court prepared a manual detailing the court's procedures with respect to all parts of the bankruptcy process. The manual is available to the public. It also serves as a resource for court staff in answering questions posed by the public.


UTAH STATE COURTS
http://courtlink.utcourts.gov

WELCOME TO THE UTAH STATE COURTS.

WE WILL BE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE WANT TO BE FAIR TO EVERYONE.

This is a list of some things the court staff can and cannot do for you.

We can provide you with a list of local lawyers or the telephone number of the Utah State Bar lawyer referral service.

We can explain and answer questions about how the court works.

We can give you general information about court rules, procedures and practices.

We can provide court schedules and information on how to get a case scheduled.

We can give you information from your case file.

We can give you samples of court forms that are available.

We can usually answer questions about court deadlines and how to compute them.

We cannot tell you whether or not you should bring your case to court.

We cannot tell you what words to use in your court papers. However, we will check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments.

We cannot tell you what to say in court.

We cannot give you an opinion about what will happen if you bring your case to court.

We cannot talk to the judge for you.

We cannot let you talk to the judge outside of court.

We cannot change an order signed by a judge.

Utah Court System Mission Statement
The mission of the Utah Courts is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

© 2000 Utah Judicial Council (approved 000424). Written by David L. Mower, District Judge

A knowledgeable staff

My experience in providing training on this topic all over the country has convinced me that lack of staff knowledge of procedures is not a significant impediment to the ability of court staff to provide information to the public. In training sessions I ask participants to write down the questions they have the most difficulty answering and use them as the basis for the discussion. I ask for volunteers to answer the questions, following my suggested guidelines. Experience has shown that court staff are extraordinarily knowledgeable about court procedures, requirements, and practices. With one exception, some participant in every seminar has been able to provide the procedural or substantive information needed to answer a question. The exception was in Delaware, where all participants agreed there was no answer to a particular question—their case management information system did not provide the requested information.

My experience suggests, therefore, that court staff throughout this country *know the correct answers* to the questions they are asked by the public. Consequently, courts should not delay authorizing their staff to provide procedural information until they develop detailed guidebooks or reference materials.

As additional courts develop rules and guidelines, they are becoming more detailed. See, for instance, the elaboration provided by the Florida rule of court and the draft Iowa guidelines. In addition, the drafters of the Iowa guidelines have included a substantial number of standard answers to frequently asked questions. Some such standard answers, based on the most common questions that recur in training sessions on this subject, appear on page 202.

A just outcome

Russell Engler, Professor of Law and Director of Clinical Programs at the

3. *Id.* at 24.

Suggested answers to recurring questions

Here are some of the most common questions presented by participants in seminars on this topic, and suggested answers:

Do I need a lawyer?

You are not required to have a lawyer to file papers or to participate in a case in court. You have the right to represent yourself. Whether to hire a lawyer must be your personal decision. You may want to consider how important the outcome of this case is to you in making that decision. A lawyer may not cost as much as you think. I have information on the Lawyer Referral Service if you want help in finding a lawyer who specializes in your kind of case. [Lawyers participating in the Albuquerque Bar Association lawyer referral service offer one half hour of consultation for $25 plus tax.]

Should I hire a lawyer?

Same as above.

Can you give me the name of a good lawyer?

The court cannot recommend a particular lawyer. I have information on the Lawyer Referral Service if you want help in finding a lawyer who specializes in your kind of case.

Should I plead guilty?

You need to decide that for yourself.

What sentence will I get if I plead guilty [or do not plead guilty]?

The judge will decide what sentence to impose based on the facts and the law that apply to your case. I cannot predict what the judge will do.

What will happen in court?

Suggested answer to a plaintiff in a small claims case: The judge will call on you to present your evidence first. Then [he][she] will call on the other side to present its evidence. The judge will ask questions if [he][she] needs clarification. When the judge has heard all the evidence, [he][she] will announce [his][her] decision.

What should I say in court?

You must tell the truth.

How do I get the money that the judge said I am entitled to?

You are responsible for taking the steps necessary to enforce a judgment (or an award of child support). Here is a pamphlet that describes the procedural options available to you. When you decide what option to pursue, I can provide you with the appropriate forms. [It may be appropriate to refer a litigant to an agency for help, e.g, with child support enforcement.]

What should I put in this section of the form?

You should write down what happened in your own words.

What should I put down here where it says "remedy sought"?

You should write in your own words what you want the court to do.

Would you look over this form and tell me if I did it right?

You have provided all of the required information. I cannot tell you whether the information you have provided is correct or complete; only you know whether it is correct and complete.

I am not able to read or write. Would you fill out the form for me?

In that case, I am able to fill out the form for you, but you have to tell me what information to put down. I will write down whatever you say and read it back to you to make sure what I have written is correct.

What do I do next?

Describe the next step in the court process.

I want to see the judge. Where is his office?

The judge talks with both parties to a case at the same time. You would not want the judge to be talking to the [police officer][landlord] about this case if you were not present. Your case is scheduled for hearing on ____ at ____. That is when you should speak with the judge.

The judge heard my case today but did not make a decision. When will he decide?

There is no way for me to know when the judge will issue a decision in your case. In general, judges try to reach a decision within [60] days of taking a case under advisement. But there is no guarantee that the judge will decide your case within that time.

New England School of Law, has written a thought-provoking article arguing that judges, mediators, and court staff *should* provide legal advice to self-represented litigants.[4] Engler argues that most persons representing themselves in court do so because they cannot afford to retain counsel. Without competent advice concerning available options and their advantages and disadvantages, litigants cannot obtain a just outcome. He argues that principles underlying the concept of the court's impartiality must be reconsidered. Instead of giving no advice to either side, Engler believes that the court

4. Engler, *And Justice for All—Including the Unrepresented Poor: Revisiting the Roles of the Judges, Mediators and Clerks*, 67 FORDHAM L. REV. 1987 (1999).

must give whatever help is needed to *both* sides, giving more help to one side than to the other where needed. He argues that true impartiality exists when both parties are fully informed of their rights, their procedural options, and the benefits and detriments arising from exercising them.

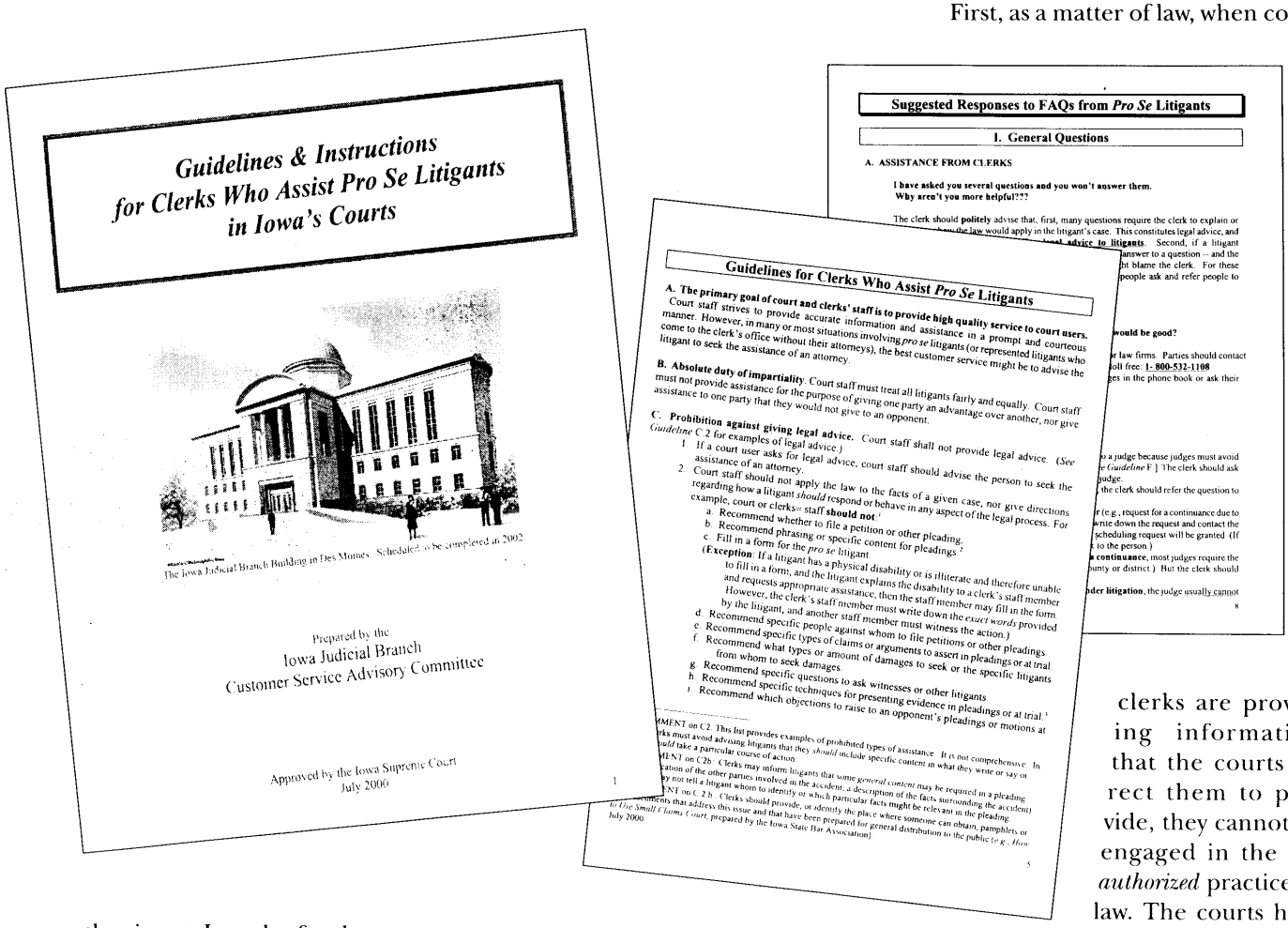
The most obvious instance in which the court has an obligation to provide different levels of help to one side than to the other is when one side is represented by counsel and the other is not. In order for the courts to do justice, Engler argues, the courts must be prepared to provide whatever assistance is needed to both sides in order for them to understand their rights and remedies and make a reasoned, informed judgment of their best interests. Current restrictions on court staff, mediators, and judges inhibit their ability to ensure justice. He poses the problem of the mediator who is prohibited from informing one party that his proposed settlement terms are foregoing a remedy to which he is clearly entitled by law. His article goes on to argue that the type of advice needed, and who should provide it, depends on the context—the nature of the legal proceeding and the type of dispute.

Professor Engler's analysis is thought-provoking. He forcefully points out the injustices that can result from imbalances in the power and knowledge of self-represented parties. However, his view that a dispute cannot be resolved justly without fully informing both parties of every substantive and procedure right and option available is not one to which I am willing to subscribe. It is neither necessary nor realistic to expect the courts to serve not only as dispute resolvers but also as counselors and advocates for both sides.

Unauthorized practice of law

Much of the concern about court staff providing information arises from apprehension they will be practicing law without a license. In my view, laws or court rules prohibiting the unauthorized practice of law do not apply to court staff performing tasks at the direction of the court. Preoccupation with the topic of unauthorized practice of law focuses attention on the wrong issues and provides either too much or too little guidance to the courts on what information their staff should and should not provide.

First, as a matter of law, when court clerks are providing information that the courts direct them to provide, they cannot be engaged in the *unauthorized* practice of law. The courts have authorized them to do what they are doing. When the authorization comes from the state court of last resort, which is the body responsible for deciding what constitutes the practice of law, there can be no doubt that court staff are insulated from any statute or rule prohibiting the unauthorized practice of law. The Supreme Court of Florida recognized this principle in its family court rule on self-help programs. Section (c) of Rule 12.750 reads:


Guidelines & Instructions for Clerks Who Assist Pro Se Litigants in Iowa's Courts

The Iowa Judicial Branch Building in Des Moines. Scheduled to be completed in 2002

Prepared by the Iowa Judicial Branch Customer Service Advisory Committee

Approved by the Iowa Supreme Court July 2000

Suggested Responses to FAQs from *Pro Se* Litigants

I. General Questions

A. ASSISTANCE FROM CLERKS

Guidelines for Clerks Who Assist *Pro Se* Litigants

(e) Unauthorized Practice of Law. The services listed in subdivision (c), when performed by nonlawyer personnel in a self-help program, shall not be the unauthorized practice of law.

A committee of the Washington State Bar Association has reached the same conclusion. The Committee to Define the Practice of Law worked for almost a year and a half to develop a comprehensive definition of the practice of law for the State Bar Association to recommend to the state supreme court for adoption. Section (b)(2) of its Definition of the Practice of Law excludes "serving as a court house facilitator pursuant to court rule". . . "whether or not [it] constitute[s] the practice of law."

The attorney general of Vermont has applied this reasoning to court staff activities authorized by the trial court, not the court of last resort. In Vermont, the unauthorized practice of law is prohibited by rule of the state supreme court. An attorney wrote to the Vermont attorney general asking that it commence a criminal contempt proceeding to enforce that rule, complaining about an advertised job description that included the following duties of a court case manager: "assist litigants to complete court documents and to understand the judicial process" and ensure "that all persons involved in child support actions understand the court process, their rights under the law and all documents that they are asked to file or agree to." The complaint also questioned the court's production and distribution of various booklets that define legal terms and discuss the divorce process. While expressing his opinion that the activities set forth in the job description did not constitute the practice of law, Chief Assistant Attorney General William Griffin noted that "[e]ven if they did, since the activities are authorized by the Court and performed on its behalf, the Attorney General would be hard pressed to argue that they are unauthorized."[5]

Analyzing this issue in terms of the unauthorized practice of law focuses attention on what lawyers do, not on what courts must, and must not, do. First, courts must provide self-represented litigants with the information they need to bring their cases before the court. Whether or not there is a constitutional right to access to the courts, there are overwhelming policy reasons for the courts to provide effective access. That is what courts are for—to serve as the forum for resolving disputes. For the courts to enjoy the public trust and confidence of the people, they must make their services practically, as well as theoretically, available to the public. So, the focus of the courts must be on providing the information that citizens need in order to avail themselves of the courts' dispute-resolving services.

The limitations on the court staff in answering questions from the public arise not from what lawyers do, but from the principle of impartiality central to public trust and confidence in the courts. Court staff should not advise a person accused of crime whether to plead guilty—not because lawyers give such advice, but because that advice causes the court staff, and hence the court itself, to be taking sides in the outcome of the case.

An example where courts are misled by looking to unauthorized practice of law principles, rather than to the needs of the courts, is with respect to court forms. Some courts consider the choice of the appropriate form for a litigant to use to be a function that lawyers perform for their clients and therefore restrict the role that staff can play in pointing out the correct form to a litigant requesting assistance. See, for instance, the discussion of this issue by Goldschmidt and colleagues.[6]

As a practical matter, court staff are fully competent to direct litigants to the correct form. This service constitutes an essential part of the information a litigant needs in order to be able to present his or her case to the court. And, because the court provides equal services to all litigants—e.g., to petitioners as well as respondents—the court does not depart from its impartial role in providing forms and directing litigants to their proper use.[7]

By focusing on the issue of the unauthorized practice of law, courts may not go far enough in limiting the role that staff can play. For instance, does the fact that a particular court staff member is a lawyer free the court from concerns arising from the court's need to remain impartial? Or, in Arizona, where there is no unauthorized practice of law statute, can the courts decide that there are no limitations on the role that their staff should play in assisting litigants?

Finally, the ethical opinions analyzing the functions that clerks can and cannot perform from the standpoint of the unauthorized practice of law draw the same line in the same place as does my analysis based on the principle of maintaining the court's impartiality. The Massachusetts Advisory Committee on Ethical Opinions for Clerks of the Court reviewed five scenarios that regularly occur, approving clerk conduct in three and disapproving it in the remaining two. In summarizing its opinion, it stated:

> [P]roviding assistance with filling out forms and offering procedural advice clearly do not run afoul of the prohibition on the practice of law. Drafting documents, taking over a case and becoming an advocate on behalf of a litigant would clearly violate the prohibition.

***

The increase in numbers of self-represented litigants throughout the nation heightens the need to provide them with information. Court staff are the first people litigants come into contact with, and there are many ways they can assist. Recognizing this, courts are developing guidelines and providing the staff training necessary to ensure access to justice for all.

5. Letter from William Griffin, Assistant Attorney General, to Jan Rickless Paul, Esq., dated August 8, 1994.

6. MEETING THE CHALLENGE, *supra n.* 2, at 43.

7. It is clear that the New Mexico Supreme Court, the state in which an ethics opinion questioned the propriety of a judge's providing litigants with forms he drafted, finds it acceptable for court staff to provide approved court forms to litigants. *See* the New Mexico legal information form.

CODE OF ETHICS
FOR THE COURT EMPLOYEES OF CALIFORNIA

A fair and independent court system is essential to the administration of justice in a democratic society. Proper conduct by court employees inspires public confidence and trust in the courts, and conveys the values of impartiality, equity, and fairness that bring integrity to the court's work. To advance these values and to achieve justice we believe certain moral principles should govern all that we do. We therefore commit ourselves to:

Tenet One Provide impartial and evenhanded treatment of all persons;

Tenet Two Demonstrate the highest standards of personal integrity, honesty, and truthfulness in all our professional and personal dealings, avoiding the misuse of court time, equipment, supplies, or facilities for personal business;

Tenet Three Behave toward all persons with respect, courtesy, and responsiveness, acting always to promote public esteem in the court system;

Tenet Four Safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters;

Tenet Five Refrain from any actual impropriety, such as:

- breaking the law,
- soliciting funds on the job,
- receiving gifts or favors related to court employment,
- accepting outside employment that conflicts with the court's duties, or
- recommending private legal service providers;

Tenet Six Avoid any appearance of impropriety that might diminish the honor and dignity of the court;

Tenet Seven Serve the public by providing procedural assistance that is as helpful as possible without giving legal advice;

Tenet Eight Furnish accurate information as requested in a competent, cooperative, and timely manner;

Tenet Nine Improve personal work skills and performance through continuing professional education and development;

Tenet Ten Guard against and, when necessary, repudiate any act of discrimination or bias based on race, gender, age, religion, national origin, language, appearance, or sexual orientation;

Tenet Eleven Renounce any use of positional or personal power to harass another person sexually or in any other way based on that person's religious beliefs, political affiliation, age, national origin, language, appearance, or other personal choices and characteristics; and

Tenet Twelve Protect the technological property of the court by preserving the confidentiality of electronically stored information and abstain from personal use of court computer systems and hardware.

A code of ethics cannot possibly anticipate every moral dilemma and ethical choice that may arise in the execution of one's day-to-day professional responsibilities. Personal discretion in the interpretation of this Code of Ethics is both necessary and desirable. We who believe in it will continue to try to cultivate within ourselves the moral sensibilities that will inform and enliven our consciences and make us true servants of justice.

Adopted 5/17/94

GUIDELINES

The following guidelines clarify and embellish the tenets to which we subscribe:

Guideline for Tenet One
IMPARTIALITY

All persons coming to the court for assistance are entitled to fair and equital treatment, regardless of their personal behavior or legal situation. Co employees must remember that they are often dealing with people who may having one of the worst experiences of their lives. They must offer to angry, co fused, uneducated, and sometimes deceitful customers the same level of comp tent and policy-neutral help that they provide to those who are pleasant a appreciative. While every court employee has the right to freedom of associati or political expression, he or she does not have the right to take sides in a le dispute, interject himself or herself into the legal decision-making process, s ond-guess a judge's ruling, or give the appearance of partiality on a politi issue that is likely to come before the court. The procedural integrity of t court must be protected at all times.

Guideline for Tenet Two
PERSONAL INTEGRITY

The fundamental attitudes and work habits of individual court employees are vital importance. Honesty and truthfulness are paramount: employees shou not, for example, knowingly make omissions on time cards or personn records; backdate a court document for any reason unless ordered to do so the court; falsely claim reimbursement for mileage or expenses; double dip fr professional associations or other sources; lie about leaving work early fo doctor's appointment; misuse the telephone, facsimile machine, or copyi machine; or take supplies home for private use. Each individual employ should also contribute to the integrity of the entire court staff by striving avoid factionalism and inspire mutual loyalty and trust.

Guideline for Tenet Three
PROFESSIONALISM

Employment in the court system is a public trust engendered by the citize confidence in the professional knowledge and competency and personal integ ty of the officers and employees of the judicial branch. A professional kno every aspect of his or her job and can provide complete, understandat answers to the public's questions. A professional presents a businesslike ima of methodical and systematic efficiency and does not abuse the position power that special knowledge affords. A professional never criticizes a co-wo er in public nor denigrates a customer at the counter. A professional raises co flict resolution to an art form, always seeking to preserve the dignity of the in viduals involved in a dispute, thereby preserving the dignity of the court. T word "respect" is never far from the professional's mind.

Guideline for Tenet Four
CONFIDENTIALITY

Sensitive information acquired by court employees in the course of dischargi their official duties should never be revealed until it is made a matter of pub record. Sometimes breaches of confidentiality do not involve intentional disc sure of official court records but are the result of innocent and casual rema about pending or closed cases, about participants in litigation, or about juri any of which could give attorneys, litigants, and reporters confidential inform tion. Such remarks can seriously compromise a case or a person's standing the community. Court staff should discuss cases only for legitimate reasons, a should handle sensational or sensitive cases with great care.

Guideline for Tenet Five
IMPROPRIETY

Improprieties can take many forms. Examples of improper behaviors include seeking any favor, soliciting any gift, or actually receiving any gift or the promise of one, whether it be money, services, travel, food, entertainment, or hospitality that could be construed as a reward for past or future services; improperly intervening to expedite administrative processes; or accepting private employment in conflict with the proper discharge of official court duties. In addition, any mode of conduct that casts doubt upon the integrity and impartiality of the legal system is forbidden. While court employees cannot regulate the conduct of others, they can conduct themselves in a manner that inspires public confidence in the role they play in the pursuit of justice. Proper conduct involves daily and scrupulous affirmation of moral principles and observance of all laws, rules, policies, and procedures.

Guideline for Tenet Six
APPEARANCE OF IMPROPRIETY

Court employees are expected to refrain from engaging not only in improper behavior, but also in behavior that others might perceive to be improper. Any activity that gives the impression that court employees can be improperly influenced in the performance of their official duties is prohibited. A court employee should not, for example, seek or provide special consideration regarding traffic citations or parking violations; openly discuss the merits of cases pending before the court; or be overly solicitous to litigants or counsel, which could give the appearance of preferential treatment. To gauge the propriety of an action, consider how it would be reported in tomorrow's newspaper. Bear in mind that court employees are required to live up to a higher standard of ethical behavior than the general public.

Guideline for Tenet Seven
PROHIBITION AGAINST GIVING LEGAL ADVICE

Given the experience and visibility of court employees, it is natural for those who deal with the court, including attorneys and litigants as well as the general public, to ask questions such as: "Should I fight this?" "How do I fight this?" "To whom should I go for legal assistance?" "What does the law say?" Court employees can and should patiently explain how to file forms and pay fines, and should clarify legal language and the court's policies attendant to procedural due process. They must not, however, cross the line separating a court employee from a licensed legal practitioner by giving their opinion on the law or, worse, giving their opinion as the law. Court employees should cite this tenet when pressed by those seeking gratuitous legal advice.

Guideline for Tenet Eight
DUTY TO SERVE

A major goal of all court employees is to provide accurate and timely information. When giving information to customers, whether orally or in writing, present it in as easily understandable a format as the inquiry allows, and avoid legal jargon whenever possible. Court personnel are employed to serve and should strive to do everything possible to make things easier for customers rather than for themselves or the court organization. The category of customer should extend not only to the general public but also to attorneys, process servers, staff members of other justice agencies, and especially to fellow court employees. Colleagues are internal customers and should have their information service needs met with the same level of dispatch and consideration as external customers.

Guideline for Tenet Nine
COMPETENCY

Court employees are encouraged to participate in professional activities a associations, and especially to take advantage of internal and external edu tional programs to improve their personal and professional skills. The laws a rules under which the courts operate are continually changing as a result of l islative actions, higher court decisions, and evolving values and technolog Courts and their employees must perform efficiently despite this constant st of flux. Professional development may include attending classes, doing outs reading, participating in professional organizations, and soliciting ideas a information from others both during and after the work day. Court manager all levels of the California court system should initiate and oversee ongoing p fessional growth programs for all court employees that include the study of t Code.

Guideline for Tenet Ten
DISCRIMINATION

Each day court employees assist users of court services of many races, religic national origins, languages, sexual orientations, and varieties of perso appearance. They may deal with accused felons, child abusers, participants painful dissolutions, those grieving from an injury or loss of a loved one, people experiencing any one of numerous kinds of human pain or dysfuncti Court employees are expected to treat each other and each user of court servi equally and with compassion. Equal access to the court system and equal tr ment for all is the cornerstone of the administration of justice. Court employ must expose and discourage discrimination wherever it exists.

Guideline for Tenet Eleven
HARASSMENT

Court employees are to refrain from making sexual advances and insinuati that are inappropriate and offensive, or that could be perceived as such. Har ment may also take nonsexual forms such as verbal, physical, and psychol cal. The investigation of a harassment complaint is difficult because a deter nation will often be based on the credibility of the parties. A supervisor is ob ated, however, to conduct a prompt and thorough investigation of any all tion of harassment. If the investigation reveals that harassment has occur corrective action should be taken immediately. The supervisor should then c duct further inquiry to ensure that the action was effective and that the hara has not retaliated against the complainant.

Guideline for Tenet Twelve
TECHNOLOGY

Information retained in electronic files should be treated like any other off court document. Its confidentiality should be assumed unless otherwise sp fied. To preserve the integrity of electronic systems, court employees shall rect any errors or omissions, guard against sabotage in any form, scan and re viruses when possible, and avoid using court equipment for purposes o than court business. Great care should be taken in the transmission of electr data so that it would not embarrass the court or the sender if read by an u tended recipient. Court employees may not install personal software or eq ment without prior approval of the court executive officer, nor shall they copyrighted software outside the court for personal use. Questions about ownership of intellectual property should be directed to an administrator.

I have been with the Kern County Law Library for 10 years and have seen a change in the patrons we serve. It used to be that the majority of our patrons were attorneys. Today, half of our patrons are non-attorneys, many researching information on their own cases and without any representation by an attorney. The director of the self help center in Maricopa county noted in his speech at the American Association of Law Librarians annual meeting in July 2000, that it seems, this is loosely paraphrased, like the more educated and technology oriented society becomes the more people have a tendency to want to do things themselves. To this end, our level of service and attitude has had to change. The pro per litigant we see in the law library is not the same as the litigant we saw 10 years ago and certainly not the same as we will see in the year 2005. Some of those we see have chosen to represent themselves for a variety of reasons not just economics.

Currently the council of California County Law Librarians is working hard to dispel the belief that law libraries are only for attorneys and judges. Many counties such as San Diego, Fresno and Sacramento have added the word public to their name. As a council we received an LSTA grant through the state library which enabled us to hire a consultant to conduct surveys and focus groups throughout the state of California on how law libraries are perceived, what services each library offers and to inform others of the service we can provide to citizens of the counties. When I first arrived at the Law Library we were not allowed to assist patrons beyond showing them where a particular book was located on the shelf. Today we take the time to actually show them the volumes and chapters within the books that pertain to their topic. We help them understand what they are viewing, not interpreting ,but we explain what the citation is and how to use the citation to find what they are looking for. We explain how to understand the index, some refer to pages some to sections each one is a little different and can be confusing. We explain how to use the footnotes when looking at a publication such as Cal Jur, what the pocket parts are in the back of the codes .We carry a large number of Nolo Press books, which we readily give to people.

When I began preparing for this workshop I thought what do I want to say what are the problems I see everyday. Then I listened to the AALL tape from the 2000 annual meeting and I heard the speakers mention the same problems. We, you and I, see people who are upset and angry every day. The majority of the time when they get to us they have been to court, are in the process of going to court or have been wronged in some way and want justice. These people we see on a day-to-day basis are not normally in court for a happy reason. In fact Bob James, Director of the Self Service Center in Maricopa County, Arizona, pointed out the fact that these people are going to court and a person in a black robe, is going to make some important decisions that will affect their lives, some in more ways than others. I have been fortunate thus far to never have been involved in a court proceeding, but I can understand their helpless feeling. My father was just diagnosed with lung cancer and today he is undergoing yet another test before the doctors will decide what they are going to do. I see his frustration, its one more test after undergoing two tests within the last two days, and then the wait to see what the doctor is going to say. He is in a state at this point of not having any control. I think if each of us stops to think about it, we can remember a situation where we felt helpless and not in

control. This is what the people are feeling that come to the clerk's counter; that come to the law library. To add to their frustration they are entering a different culture, a culture where the normal language they speak is turned into legal jargon. I have had several people say to me this is like a foreign language: I'm totally lost. Then they have to fill out forms or type forms that have to in a certain format. Sometimes they don't type, or the sample doesn't exactly fit their situation. Then when they ask questions they get to hear those famous words" I can't give legal advice". What exactly is legal advice? No one ever has the same answer.

I had one patron come to me totally frustrated. He had been to the clerk's office and had been told his form was not formatted correctly and to look at California Rules of Court 201. I am looking at this form he is showing me and it is a judicial council form a summons. I asked him three times is this the form that they say is not formatted right. He continued to answer yes. I'm thinking this is a judicial council form how can it not be formatted correctly. I then happened to turn over the form and the back of the form was not there. We then looked through his forms and found the back printed separately. I explained that perhaps the clerk did not see the other part of the form and that the form is normally printed on one sheet. I then proceeded to copy the form onto one sheet and told him to go back to the clerk's office and try to talk to someone else to see if this was in fact the problem. Guess what it was. He came back to thank me and to make copies of the rest of his forms. For the clerk to have explained this to him was not in my opinion, legal advice.

In reading John Greacen's articles, he points out that a question that begins with can I or how do I are normally procedural questions. In order to help those that must or choose to represent themselves we need to answer procedural questions. Those include can I serve this myself? How many days do I have to wait to file a default? How many copies do I need? I was speaking to our Family Law Supervisory clerk and she mentioned that the clerks know what needs to be filed out on the form for it to be accepted and telling someone you need to fill this portion out and this portion is not legal advice telling them what to writ in the form is legal advice.

As I mentioned earlier our practices in the law library have changed over the years. In response to the frustration we see our patrons encountering we have changed the library philosophy from a "we can't help you" to "we can get you started in your research." If a patron comes in knowing what type of action they want to take we give them a section on it. We help them understand that the forms they are looking at are a general format and that they need to adjust the form to fit their particular situation. If it is a judicial form then we direct them where to pick up the form, many times we make copies from the form book or from the courtinfo website. If they want information on family support, trusts, drafting legal forms such as leases or by laws for corporations, we refer them to the books that will help them. This usually calms down even the most frustrated patron. You are always going to get those that want an instant answer and who do not want to take the time to read, but at least they do not feel like they have received the run around.

If you know they are stressed and figuring out the copy machine is just one more factor; make the copies for them or at least show them how to use it. Sometimes doing nothing but listening to someone vent for 15 minutes will get us a response of thank you were a big help. I know this isn't always possible at the clerks counter but it is possible to at least acknowledge their frustration not add to their frustration.

One thing that seems to add to the feeling is blind referrals. Make sure that staff understands what the different agencies in the community have to offer. What can Legal Aide do? What does the Law Library offer? What does the Family Law Facilitator offer? And for Law Librarians, where are the different court division counters located and what can they expect to get. How do you look up a local case? What information do they need to give the clerk to review a file? What are their hours, are they closed during lunch. Keep a referral list with phone numbers at the counter and keep the information current. Make contacts in the different departments; let people know who you are and what your department can do to help. This way you have a contact person to ask if something has recently changed or to get quick answers. If I send this person to you can you help or will you direct them somewhere else. Cooperation saves the self-represented litigant the frustration of being directed from department to department. Maricopa County in Arizona has monthly meetings among different departments in order to coincide their efforts

Attitude! An important issue. The first impression many people have of the court system begins at the clerk's office sometimes in the law library. The "government" or government employee may already conjure up bad feelings. You do not want to be perceived as just another employee who won't help: who is keeping them from accessing the courts.
A smile can make all the difference in the world. You could probably get away with saying I can't give legal advice if you were to say it in the right way. My mother has this philosophy that you can say just about anything to anybody if you say it in the right way. Would you rather someone say I can't tell you that and walk away or someone say I understand your frustration but what you are asking is beyond my knowledge. A speech we give when people do come out and ask us direct legal advice questions. And believe me they try every way possible to ask the same question.

Have written policies on customer etiquette. I have heard this mentioned over and over. Make sure the staff reviews these policies. You can have the best customer etiquette policy on paper but if nobody read it; it is just a waste of paper. I am fortunate to only have a staff of three and the least amount of time someone has been at the law library is 7 years. So our policy is unwritten but when each staff member was trained they understood and learned that our job is to assist people not just the attorney's but every patron. We are also fortunate enough to be able to vent our frustrations daily about certain patrons and this is not only the pro per patrons. But I know in larger libraries and in the clerks office staff changes are constant. So continuous training is important and for those that have been working for a while sometimes it is nice to have a refresher course on exactly how we should treat those that come to us for help. (place people at the counter or reference desk who are people oriented some people are not able to deal with the public) There are going to be those days when you just don't want to answer another

question or you just can't deal with that patron that comes in every week wanting something different. Believe me, I don't know about the clerk's office but we have our regulars. When you feel this way please don't take it out on the patron. They don't know they are the hundredth person to ask you that exact same question. When they are gone then you can vent to a co-worker or just go into another room and scream.

Find out what type of service you are providing. We conduct semi annual surveys. These include questions such as: Did you find what you were looking for? Was the staff courteous? Knowledgeable? What brings you to the law library.? In fact this is a form survey that is conducted by law libraries throughout the state of California and one of our county law librarians, Marilyn Josi, tallies the results and sends out a report. In our own library we tally the results and are always anxious to see what comments are made, this gives a good overview of whether or not we are meeting the needs of the citizens.

So what are those things considered out of bounds. John Greason gives us the answers which I have elaborated on somewhat. Answering questions you don't know the answer to. If you don't know don't give an educated quess. Refer them to someone else or say just a moment let me see if my supervisor knows the answer. Refer them to the law library, we have the books they can read, at least giving them a better understanding of their problem.

Do not answer strategic questions. What is the best way for me to proceed? Do I file for divorce, nullity or legal separation? What type of bankruptcy do I file? How much money should I ask for? What would you do if you were me? How do you interpret this code section? The list goes on and on. Invariably, there are those who will ask the same question in five different ways or those that will ask another staff member hoping to get a better answer.

Do not take sides. John Greasen in his article in the January-February issue of Judicature states and I quote" The limitations on the court staff in answering questions from the public arise not from what lawyers do, but from the principle of impartiality central to public trust and confidence in the courts. Court staff should not advise a person accused of committing a crime whether to plead guilty – not because lawyers give such advise. but because the advice causes the court staff and hence the court itself, to be taking sides in the outcome of the case." This holds true in assisting patrons you should never tell one party something that you would not tell the other party. It is our role to remain impartial and to keep our own personal convictions to ourselves. We are not to judge others but to help them in accessing the judicial system whether we believe they are wrong or right.

The more we think about the Court System as a business and become more concerned with customer service the more likely we will be able to assist the self represented litigant.

The Changing Role of Law Librarians – Annette Heath, Kern County Law Library

I have been with the Kern County Law Library for 10 years and have seen a change in the patrons we serve. It used to be that the majority of our patrons were attorneys. Today, half of our patrons are non-attorneys, many researching information on their own cases and without any representation by an attorney. Bob James, the director of the self help center in Maricopa County, Arizona, noted in his speech at the American Association of Law Librarians annual meeting in July 2000, that it seems, this is loosely paraphrased, like the more educated and technology oriented society becomes the more people have a tendency to want to do things themselves. To this end, our level of service and attitude has had to change. The pro per litigant we see in the law library is not the same as the litigant we saw 10 years ago and certainly not the same as we will see in the year 2005. Some of those we see have chosen to represent themselves for a variety of reasons not just economics.

Currently the council of California County Law Librarians is working hard to dispel the belief that law libraries are only for attorneys and judges. Many counties such as San Diego, Fresno and Sacramento have added the word public to their name. As a council we received an LSTA grant through the state library which enabled us to hire a consultant to conduct surveys and focus groups throughout the state of California on how law libraries are perceived, what services each library offers and to inform others of the service we can provide to citizens of the counties. When I first arrived at the Law Library we were not allowed to assist patrons beyond showing them where a particular book was located on the shelf. Today we take the time to actually show them the volumes and chapters within the books that pertain to their topic. We help them understand what they are viewing, not interpreting, but we explain what the citation is and how to use the citation to find what they are looking for. We explain how to understand the index, some refer to pages some to sections each one is a little different and can be confusing. We explain how to use the footnotes when looking at a publication such as Cal Jur, what the pocket parts are in the back of the codes .We carry a large number of Nolo Press books, which we readily give to people.

When I began preparing for this workshop I thought, "What do I want to say?" "What are the problems I see everyday?" Then I listened to the AALL tape from the 2000 annual meeting and I heard the speakers mention the same problems. We, you and I, see people who are upset and angry every day. The majority of the time when they get to us they have been to court, are in the process of going to court or have been wronged in some way and want justice. These people we see on a day-to-day basis are not normally in court for a happy reason. In fact Bob James, Director of the Self Service Center in Maricopa County, Arizona, pointed out the fact that these people are going to court and a person in a black robe, is going to make some important decisions that will affect their lives, some in more ways than others. I have been fortunate thus far to never have been involved in a court proceeding, but I can understand their helpless feeling. My father was just diagnosed with lung cancer and today he is undergoing yet another test before the doctors will decide what they are going to do. I see his frustration. It's one more test after undergoing two tests within the last two days, and then the wait to see what the

doctor is going to say. He is in a state at this point of not having any control. I think if each of us stops to think about it, we can remember a situation where we felt helpless and not in control. This is what the people are feeling that come to the clerk's counter; that come to the law library. To add to their frustration they are entering a different culture, a culture where the normal language they speak is turned into legal jargon. I have had several people say to me this is like a foreign language: I'm totally lost. Then they have to fill out forms or type forms that have to in a certain format. Sometimes they don't type, or the sample doesn't exactly fit their situation. Then when they ask questions they get to hear those famous words "I can't give legal advice." What exactly is legal advice? No one ever has the same answer.

I had one patron come to me totally frustrated. He had been to the clerk's office and had been told his form was not formatted correctly and to look at California Rules of Court 201. I looked at the form and was a Judicial Council summons form. I asked him three times "Is this the form that they say is not formatted right?" He continued to answer yes. I kept thinking "This is a judicial council form, how can it not be formatted correctly?" I then happened to turn over the form and the back of the form was not there. We then looked through his forms and found the back printed separately. I explained that perhaps the clerk did not see the other part of the form and that the form is normally printed on one sheet. I then proceeded to copy the form onto one sheet and told him to go back to the clerk's office and try to talk to someone else to see if this was in fact the problem. Guess what it was. He came back to thank me and to make copies of the rest of his forms. For the clerk to have explained this to him was not in my opinion, legal advice.

In reading John Greacen's articles, he points out that a question that begins with "can I" or "how do I" are normally procedural questions. In order to help those that must or choose to represent themselves, we need to answer procedural questions. Those include: Can I serve this myself? How many days do I have to wait to file a default? How many copies do I need? I was speaking to our Family Law Supervisory clerk and she mentioned that the clerks know what needs to be filed out on the form for it to be accepted and telling someone you need to fill this portion out and this portion is not legal advice. Telling them what to write in the form is legal advice.

As I mentioned earlier, our practices in the law library have changed over the years. In response to the frustration we see our patrons encountering we have changed the library philosophy from a "we can't help you" to "we can get you started in your research." If a patron comes in knowing what type of action they want to take we give them a section on it. We help them understand that the forms they are looking at are a general format and that they need to adjust the form to fit their particular situation. If it is a judicial form then we direct them where to pick up the form. Many times we make copies from the form book or from the "courtinfo" website. If they want information on family support, trusts, drafting legal forms such as leases or by laws for corporations, we refer them to the books that will help them. This usually calms down even the most frustrated patron. You are always going to get those that want an instant answer and who do not want to take the time to read, but at least they do not feel like they have received the run around.

If you know they are stressed and figuring out the copy machine is just one more factor; make the copies for them or at least show them how to use it. Sometimes doing nothing but listening to someone vent for 15 minutes will get us a response of "Thank you, you were a big help." I know this isn't always possible at the clerks' counter, but it is possible to at least acknowledge their frustration not add to their frustration.

One thing that seems to add to the feeling is blind referrals. Make sure that staff understands what the different agencies in the community have to offer. What can Legal Aid do? What does the Law Library offer? What does the Family Law Facilitator offer? And for Law Librarians, where are the different court division counters located and what can they expect to get. How do you look up a local case? What information do they need to give the clerk to review a file? What are their hours, are they closed during lunch? Keep a referral list with phone numbers at the counter and keep the information current. Make contacts in the different departments; let people know who you are and what your department can do to help. This way you have a contact person to ask if something has recently changed or to get quick answers. If I send this person to you, can you help or will you direct them somewhere else. Cooperation saves the self-represented litigant the frustration of being directed from department to department. Maricopa County in Arizona has monthly meetings among different departments in order to coincide their efforts

Attitude! An important issue. The first impression many people have of the court system begins at the clerks' office and sometimes in the law library. The "government" or "government employee" may already conjure up bad feelings. You do not want to be perceived as just another employee who won't help; who is keeping them from accessing the courts.

A smile can make all the difference in the world. You could probably get away with saying "I can't give legal advice" if you were to say it in the right way. My mother has this philosophy that you can say just about anything to anybody if you say it in the right way. Would you rather someone say "I can't tell you that" and walk away or someone says, "I understand your frustration, but what you are asking is beyond my knowledge." That's what we say when people do come out and ask us direct legal advice questions. And believe me, they try every way possible to ask the same question.

Have written policies on customer etiquette. I have heard this mentioned over and over. Make sure the staff reviews these policies. You can have the best customer etiquette policy on paper but if nobody read it; it is just a waste of paper. I am fortunate to only have a staff of three and the least amount of time someone has been at the law library is 7 years. So our policy is unwritten but when each staff member was trained they understood and learned that our job is to assist people, not just the attorneys, but every patron. We are also fortunate enough to be able to vent our frustrations daily about certain patrons and this is not only the pro per patrons. But I know in larger libraries and in the clerks' office, staff changes are constant. So continuous training is important and for those that have been working for a while, sometimes it is nice to have a refresher course on exactly how we should treat those that come to us for help. (Place people at the counter or reference desk who are people oriented. Some people are not able to deal

with the public.) There are going to be those days when you just don't want to answer another question or you just can't deal with that patron that comes in every week wanting something different. Believe me, I don't know about the clerk's office but we have our regulars. When you feel this way please don't take it out on the patron. They don't know they are the hundredth person to ask you that exact same question. When they are gone then you can vent to a co-worker or just go into another room and scream.

Find out what type of service you are providing. We conduct semi annual surveys. These include questions such as: Did you find what you were looking for? Was the staff courteous? Knowledgeable? What brings you to the law library? In fact this is a form survey that is conducted by law libraries throughout the state of California and one of our county law librarians, Marilyn Josi, tallies the results and sends out a report. In our own library we tally the results and are always anxious to see what comments are made. This gives a good overview of whether or not we are meeting the needs of the citizens.

So what are those things considered out of bounds. John Greacen gives us the answers which I have elaborated on somewhat. Answering questions you don't know the answer to. If you don't know, don't give an educated quess. Refer them to someone else or say just a moment let me see if my supervisor knows the answer. Refer them to the law library, we have the books they can read, at least giving them a better understanding of their problem.

Do not answer strategic questions. What is the best way for me to proceed? Do I file for divorce, nullity or legal separation? What type of bankruptcy do I file? How much money should I ask for? What would you do if you were me? How do you interpret this code section? The list goes on and on. Invariably, there are those who will ask the same question in five different ways or those that will ask another staff member hoping to get a better answer.

Do not take sides. John Greacen in his article in the January-February, 2001 issue of Judicature states and I quote "The limitations on the court staff in answering questions from the public arise not from what lawyers do, but from the principle of impartiality central to public trust and confidence in the courts. Court staff should not advise a person accused of committing a crime whether to plead guilty – not because lawyers give such advise, but because the advice causes the court staff and hence the court itself, to be taking sides in the outcome of the case." This holds true in assisting patrons you should never tell one party something that you would not tell the other party. It is our role to remain impartial and to keep our own personal convictions to ourselves. We are not to judge others but to help them in accessing the judicial system whether we believe they are wrong or right.

The more we think about the Court System as a business and become more concerned with customer service the more likely we will be able to assist the self represented litigant.

Title	Signage for Court Clerks' Offices Regarding Assistance Available (adopt Cal. Standards Jud. Admin. § 41)
Summary	This proposed notice would more fully inform litigants of the assistance they can reasonably expect to obtain from the court clerk's office.
Source	Family and Juvenile Law Advisory Committee
Staff	Bonnie Hough, 415-865-7668, Michael Fischer (415) 865-7685
Discussion	The first point of contact for most litigants coming before the courts is the court clerk's office. The signage in that office is particularly critical to conveying the message that the courts are committed to access and fairness. In 1995, John M. Greacen, the Director of the Administrative Office of the Courts in New Mexico, wrote a seminal article for court personnel entitled, "No Legal Advice From Court Personnel' — What Does That Mean?" In that article, he proposed that: 1. Court staff have an obligation to explain court processes and procedures to litigants, the media, and other interested citizens, 2. Court staff have an obligation to inform litigants, and potential litigants, how to bring their problems before the court for resolution, 3. Court staff cannot advise litigants whether to bring their problems before the court or what remedies to seek, 4. Court staff must always remember the absolute duty of impartiality. They must never give advice or information for the purpose of giving one party an advantage over another. They must never give advice or information to one party that they would not give to an opponent, and 5. Court staff should be mindful of the basic principle that counsel may not communicate with the judge ex parte. Court staff should not let themselves be used to circumvent that principle, or fail to respect it, in acting on matters delegated to them for decision. As a result of the article, courts throughout the United States and

Canada have rethought traditional standards regarding provision of legal information. A number of state court systems have developed a form for their clerks similar to the one being circulated for comment with this proposal.

This form would provide a more positive message to potential litigants wanting to file their papers with the court than is currently conveyed in some counties. It would also provide a consistent framework for clerks throughout the state.

Attachments

New section 41 of the California Standards of Judicial Administration would be adopted effected January 1, 2002 to read:

§ 41 – Court clerk's office — signage

Each office of the court clerk shall post a form in substantially the same format as the form attached. This form is intended to more fully inform litigants of the assistance that they can reasonably expect to obtain from the court clerk's office.

Advisory Committee Comment:

2002. The first point of contact for most litigants coming before the courts is the court clerk's office. The signage in that office is particularly critical to conveying the message that the courts are committed to access and fairness.

WELCOME TO THE CALIFORNIA STATE COURTS

http:\\www.courtinfo.ca.gov

WE WILL BE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE MUST BE FAIR TO EVERYONE.

This is a list of some things the court staff can and cannot do for you.

We can	explain and answer questions about how the court works.	**We cannot**	tell you whether or not you should bring your case to court.
We can	provide you with the number of the local lawyer referral service, legal aid program, the family law facilitator program, and other services where you can get legal information.	**We cannot**	tell you what words to use in your court papers. (However, we can check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments.)
We can	give you general information about court rules, procedures, and practices.	**We cannot**	tell you what to say in court.
We can	provide court schedules and information on how to get a case scheduled.	**We cannot**	give you an opinion about what will happen if you bring your case to court.
We can	give you information from your case file.	**We cannot**	talk to the judge for you.
We can	provide you with court forms and instructions that are available.	**We cannot**	let you talk to the judge outside of court.
We can	usually answer questions about court deadlines and how to compute them.	**We cannot**	change an order signed by a judge.

Since court staff may not know the answers to all questions about court rules, procedures, and practices, we have been instructed not to answer questions if we do not know the correct answer.