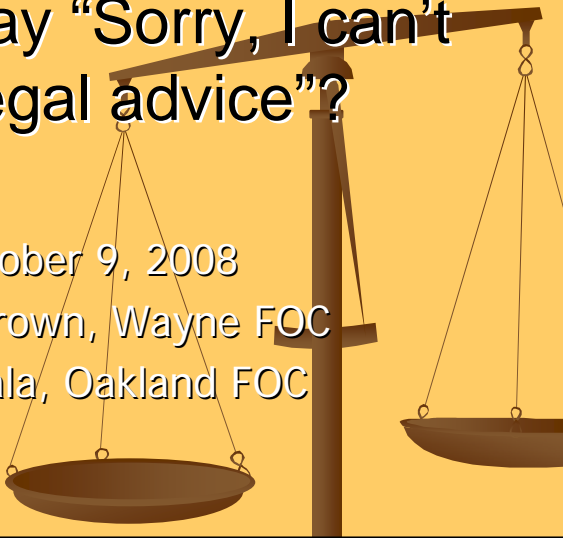


What Exactly Does it Mean When I Say “Sorry, I can’t give legal advice”?



October 9, 2008
Zenell Brown, Wayne FOC
Pam Sala, Oakland FOC

Why is it important to know the difference

- ┌ Self represented population increasing
- ┌ Consequences of unauthorized practice of law
- ┌ Provide customer with the best service possible

WAYNE COUNTY IN PRO PER FILINGS

2007

- ┆ Parenting time 932
- ┆ Payment Plans 1141
- ┆ Other motions 2415
- ┆ Support Mods 4475

Jan-July 2008

- ┆ Parenting time 696
- ┆ Payment Plans 755
- ┆ Other motions 1764
- ┆ Support Mods 2646

Consequences of unauthorized practice of law

Unauthorized practice of law means

- ┆ Someone not legally authorized
- ┆ Says or acts on behalf of another person in a circumstance that involves legal discretion or
- ┆ Makes a decision about legal matters for another person

Consequences of Unauthorized Practice of Law

“Contempt of the supreme court and of the circuit court of the county in which the violation occurred, and upon conviction is punishable as provided by law. “

MCLA 600.916

How to understand the difference between legal advice and information

- ┆ Attend general training to obtain an overall understanding
- ┆ Discussion with your court about local practices and procedures
- ┆ Ongoing dialogue with supervisor as issues arise

Legal Information Guidelines

- ┆ What are your responsibilities as court employees?
 - > Obligation to explain court processes and procedures
 - > Obligation to inform customers how to bring problems before the court
 - > Obligation to remain impartial and maintain confidentiality

Process & Procedures

- ┆ Legal definitions
- ┆ Procedural definitions
- ┆ Cites of court rules and statutes

Legal Definitions

- ┘ Defining legal terms is acceptable and necessary.
- ┘ Define term as defined by legal dictionary, court handbook, statute, court rule, or other acceptable source.

Legal Definitions

Defining does not include applying the definition to a specific circumstance. That is offering a legal interpretation.

Legal Definition vs Interpretation Examples

What is Physical Custody?

What are the child custody factors?

If the child spends 50% of the time with me, don't I have joint physical custody?

If the child has lived with me, won't the court rule that I have the established custodial environment?

Procedural Definitions

- ┌ Explaining what happens at a court process is acceptable
- ┌ Predicting what an outcome of a process will be is unacceptable

Procedural Definitions

You may answer:

- ┆ What the process is for
- ┆ Who will be at the process
- ┆ What to bring for the process
- ┆ What are the possible outcomes of the proceeding
- ┆ What processes to expect at the completion of the process (court orders, hearing before the judge, etc)

Procedural Definitions

Example: Show Cause Hearing

- ┆ What is it?
- ┆ Who will be there?
- ┆ What should I bring?
- ┆ What outcomes are possible?
- ┆ What happens after the show cause?

Procedural Definitions

Does not include giving advice of what a party should do and predicting an outcome.

Procedural Definitions

Procedural Advice Examples
for
Show Cause:

- ┘ Should I bring my doctor's statement?
- ┘ If I bring \$500, will that be enough to avoid jail?

Provide Statutes, Court Rules and Policies Guidelines

- ┆ Commonly used
- ┆ Readily available
- ┆ What's available varies among courts

How to Bring Problems Before the Court

- ┆ Role Play -- parenting time dispute
- ┆ Debrief role play

Remain Impartial and Maintain Confidentiality

- ┆ Should not give information to one party that you would be unwilling or unable to provide to all other parties
- ┆ Advising parties *what* to do rather than *how* to do it crosses the line
- ┆ Public case information
- ┆ Access to information

Customer Service

- ┆ Consistency among staff responses
- ┆ External referrals
- ┆ General knowledge of court operations and child support partners operations

Wrap Up

What is the definition of "legal advice"?

