

LEGAL INFORMATION V. LEGAL ADVICE:

Reframing the discussion

Presenter:

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AGENDA

1. Discuss the traditional approach to this topic
2. Discuss the problems with a binary approach
3. Reframe how we communicate about legal information and legal advice
4. In small groups, create and work through real life questions posed by the public
5. Resources
6. Questions

Why do we talk about the difference between legal information and legal advice?

A photograph of a gravel path in a forest. The path starts from the bottom center and splits into two directions, leading into a dense forest of green trees. The ground is covered with fallen yellow and brown leaves. The text "So what is Legal Information and what is Legal Advice?" is overlaid in yellow on a semi-transparent grey rectangular background in the center of the image.

So what is Legal Information and
what is Legal Advice?

- ▶ General, procedural information about how the court system operates
- ▶ Definitions of legal terms
- ▶ Where to find statutes, forms
- ▶ Provide forms and general instructions on how to complete them
- ▶ Court deadlines as stated on a form, in the Local Court Rules, or in the statutes
- ▶ Refer someone to lawyer referral services, provide links or phone numbers to these services

LEGAL INFORMATION

- ▶ Advise on a specific course of action someone should take in their case
- ▶ Interpretations of legal terms/definitions
- ▶ Perform legal research, advise whether a particular statute applies to someone's case
- ▶ Complete forms on someone's behalf, recommend phrasing, or indicate what to include or exclude
- ▶ Calculate deadlines
- ▶ Refer someone to a specific attorney or law office

LEGAL ADVICE

“How will I be successful in the legal system?”

How the public sees it:

Cake:

- 1 ½ cup all-purpose flour
- 2 Tablespoons natural cocoa powder
- 1 teaspoon baking powder
- ½ teaspoon baking soda
- ½ teaspoon salt
- ¾ cup unsalted butter softened
- 1 cup + 2 Tablespoons granulated sugar
- 2 eggs
- ¾ cup sour cream
- 1 ½ teaspoon vanilla
- ½ teaspoon vinegar
- ½ cup buttermilk*
- 1 Tablespoon blue food coloring*
- ½ teaspoon violet food coloring*

How attorneys view it:



**IF SUCCESS IN COURT WAS
A CAKE MAKING CONTEST:**

WHY SHOULD WE RE-FRAME THE DISCUSSION?

- A. We are public servants because we want to help people
- B. There is a serious shortage of lawyers who can help people
- C. The definitions of legal advice vs. information are not clear
- D. There are ways to navigate this situation which will help people
- E. All of the above

WHY DO WE WORK IN THE COURTS? (THE VALUE OF PUBLIC SERVICE)

1. Stability / Benefits
2. Interesting Work
3. Helping People Access the System
4. Others?



CHIEF JUSTICE SAYS LAWYER SHORTAGE 'CRISIS' AND CASE BACKLOG IS IMPACTING STATE COURTS

"The attorney shortage is particularly acute in our rural counties, where sometimes they don't even have a single lawyer to take a case," Ziegler said. "When we cannot provide members of the public who are exercising their constitutional right to be represented by counsel with an attorney, access to justice is seriously compromised."

FROM THE YALE LAW JOURNAL: THE OVERREACH OF LIMITS ON LEGAL ADVICE

- ▶ Those who work in courts—including judges and clerks—are extremely wary of and typically prohibited from providing legal advice. This Essay argues that current definitions and applications of “legal advice” are overly and unnecessarily broad, confusing those bound by them, severely disadvantaging pro se litigants, undermining the purpose of such limitations, and, in more extreme cases, implicating due-process concerns expressed by the Supreme Court in *Turner v. Rogers*.

Precise definitions of legal advice can be hard to find. John Greacen has argued that “legal advice” has no inherent meaning and that many clerks cannot themselves provide a specific definition, resorting instead to no definition at all, a circular definition (“legal advice is advice about the law”), or the more intuitive “I can’t define it, but I know it when I see it” approach. In most states, legal advice is not actually defined, although the provision of legal advice by nonlawyers is generally prohibited.





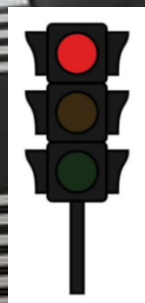
A STRAIGHT PATH BUT... WITH A STOPLIGHT



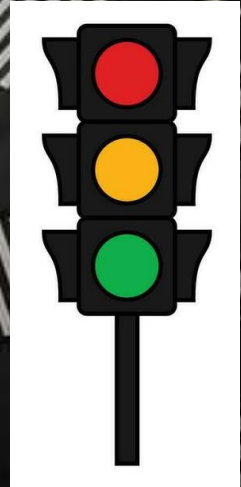
Clearly asking for information



Initially unclear or asking for both

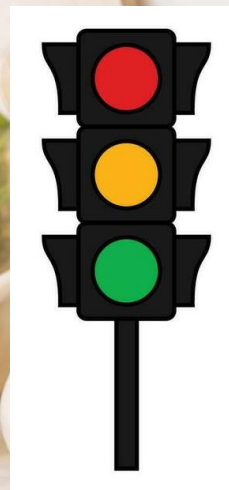


Clearly asking for advice



“I WANT TO FILE A PROBATE CASE, WHAT DO I NEED IN ORDER TO DO THAT?”

- Looking for a “recipe” or checklist of things they need to do to accomplish their goal
- Asking for help to achieve that goal
- Though they may want advice, there is information you can and should provide to them



“I WANT TO FILE A PROBATE CASE, WHAT DO I NEED IN ORDER TO DO THAT?”

What they are looking for:

- A checklist of forms needed
- How to fill them out
- What deadlines apply to them

What you are able to provide:

- Directions to Informal Probate File Checklist on wicourts.gov
- Referral to Register in Probate Association Website
- Provide information for a lawyer referral service

“I AM A PARENT, WHERE CAN I APPLY FOR AN ATTORNEY TO HELP ME WITH A CHIPS CASE?”

Information seeking, you can answer this question directly!

“You can apply with the branch that’s covering your case. They should have copies of the Petition and Order on Petition for the Appointment of an Attorney for you to fill out. Do you need directions to the branch office?”



“CAN YOU TELL ME WHAT THIS COURT ORDER MEANS?”

Advice seeking but can be redirected! I can help you.

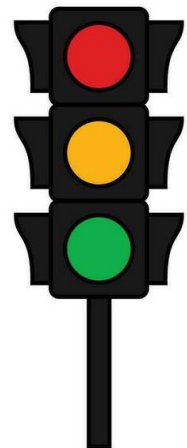
“I can read you the order, but cannot interpret its meaning. (SCR 23.02.) Only a trained and licensed attorney can do that. Here are some resources.”



“I’M TRYING TO GET A RESTRAINING ORDER ON BEHALF OF MY KID, WHICH TRO PACKET SHOULD I FILL OUT?”

While the question may be phrased in a way that they might be seeking advice, or you aren’t sure, there is information you can give!

“I can provide you with a chart that describes the purpose of each restraining order and, once you know which petition you may need, I can provide the correct packet to you. (SCR 23.02.) Only a trained lawyer can tell you which.”



- ▶ [Free Legal Answers](#)
- ▶ [WislawHelp](#)
- ▶ [Probate Self-Help Center - WiCourts](#)
- ▶ [Register in Probate Association](#)
- ▶ [Childrens Court Improvement Program](#)
- ▶ [Restraining Orders – WiCourts](#)
- ▶ [Wisbar Lawyer Referral Service](#)

RESOURCES:



It only takes three steps to reframe how you interact with those at your counter or calling on the phone:

1. Ingredients vs. Method – What are they asking?
2. Stoplight Method – Although someone may be directly asking for advice or phrasing their question in a way that leans towards advice-seeking, take a moment to consider what information you can still give them.
3. No matter the question, how can I help them? – Do not put up a wall

CONCLUDING THOUGHTS:

QUESTIONS?