

May I help you?

Legal Advice v. Legal Information



*A Resource
Guide for
Court
Employees
and Law
Librarians*

**Administrative Office of the Courts and the Nevada Supreme Court
Commission on Law Libraries, Subcommittee on Training.**

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Court Clerk's Office: Signage



Welcome to the Nevada Court System

We are 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

- | | |
|---------------|---|
| We can | Explain and answer questions about how the court works. |
| We can | Provide you with the number of the local lawyer referral service, legal services program, and other services where you can get legal information. |
| 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 | Provide you information from your case file. |
| We can | Provide you with court forms and instructions that are available. |
| We can | Usually answer questions about court deadlines and how to compute them. |

WE CANNOT

- | | |
|------------------|--|
| 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 can check your papers for completeness. For example, we check for signatures, notarization, correct county names, 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. |

Since court staff may not know the answers to all questions about court rules, procedures, and practices, and because we don't want to give you wrong information, we have been instructed not to answer questions if we do not know the correct answers. For additional information, please contact a lawyer or your local law library, or check the Nevada Supreme Court web site at

www.nvsupremecourt.us.

INTRODUCTION

In recent years, courts throughout the country have identified an increase in the number of cases filed by individuals without the assistance of counsel. Because court users are unfamiliar with legal processes, they often look to you, court employees or law librarians, for answers to questions about the legal system.

The Model Code of Conduct for Judicial Employees in the State of Nevada and Nevada Supreme Court Rule 44 require you to furnish accurate information as requested in a competent, cooperative, and timely manner but to avoid “giving legal advice.” You may already know that you are not supposed to give “legal advice” to court users. However, you may not know exactly what that term means and thus may be unsure of yourself in an important area of your daily work. As a result, when people ask questions where the line between legal information and legal advice is blurry, you may avoid giving appropriate information about court procedures because you don’t want to violate the Nevada Code of Conduct and Nevada Supreme Court Rule 44. Meanwhile, court users don’t get the information they need and may become frustrated; more significantly, if they don’t follow the right procedure, they may be denied access to the courts.

In an effort to address these concerns, the Nevada Supreme Court Commission on Law Libraries approved the form *Court Clerks Office: Signage*, for display in court clerks’ offices, courthouses, and law libraries throughout the state. The form is designed for posting at the clerk’s counter or public window at each court or law library location so that court users can read and understand the guidelines that you are required to follow.

This handbook is a quick and easy reference. It is specifically intended for the use of court staff and law librarians who provide telephone and counter assistance as a major part of their job duties. It is recommended that you keep it in a place where it is easily accessible while you perform these tasks.

Of course, this handbook and the guidelines cannot anticipate all the possible questions that court users may ask. When new questions arise, consult your supervisor. Keep in mind, too, that many court users would benefit from legal counsel. When you are uncertain whether you are being asked to give legal advice, keep in mind that you are not prohibited from suggesting that they consult an attorney.

YOU CAN EXPLAIN AND ANSWER QUESTIONS ABOUT HOW THE COURT WORKS AND GIVE GENERAL INFORMATION ABOUT COURT RULES, PROCEDURES, AND PRACTICES.

You have an obligation to explain court processes and procedures to court users. Certainly they will find sample pleadings and information packets useful, but you will also need to answer individual questions.

What happens at the arraignment?

At this hearing people are told about the charges that have been filed against them. They are also informed of their rights, including the right to an attorney, and bail is usually discussed. [Law Librarian response: Let's look in a legal dictionary to find the definition of arraignment. Next, we can check the statutes to see if they provide further information.](#)

You also have an obligation to inform litigants and potential litigants about how to bring their problems before the court for resolution. This includes referring them to applicable state and local court rules, explaining how to file a lawsuit or request a hearing, explaining court requirements for documents requesting relief, and supplying sample forms. If there are court-based self-help centers in the county, you should inform litigants of their availability.

The fact that such information may help a litigant does not mean it is improper. Instead, providing this kind of information is an important part of your responsibility to provide service to the public.

One good way to tell whether it is all right to answer a question is to ask yourself whether the information requested will help someone figure out how to do something. Most of these questions contain the words "How do I?" Telling someone how to do something is almost always appropriate.

How do I get out of jury duty?

Because jury service is a requirement of citizenship, most people have to appear in court on the date shown on the summons. You must call the number on your summons to find out whether you are exempt from service. If you are not excused, the Court expects you to appear for jury duty.

How do I evict my tenant?

If you are going to represent yourself, I can get you the packet of forms you need. You can also get information about evictions at our law library or check the Nevada Supreme Court web site at www.nvsupremecourt.us

DO NOT TELL A LITIGANT WHETHER A CASE SHOULD BE BROUGHT TO COURT OR GIVE AN OPINION ABOUT THE PROBABLE OUTCOME.

Analyzing a litigant's particular fact situation and advising him or her to take a certain course of action based on the applicable law is a job for a lawyer, not for court staff or a law librarian. Advising a party what to do, rather than how to do something that party has already chosen to do, is not permitted.

Even though you may have processed hundreds of similar types of cases, you are not in a position to know what is in a litigant's best interest. Only litigants or their attorneys can make that determination. Your role is to provide information about the court's systems and procedures so that a litigant can know enough to make his or her own decision about how to proceed with a case.

My friend's dog bit me. Should I sue him?

You need to decide that for yourself. You may want to talk to a lawyer to help you make that decision. If you decide to file a lawsuit on your own, *[I can give you a packet of information on how to file a civil action, along with the necessary forms.] And/or [I can refer you to the law library where you can research the applicable laws or statutes.]

What sentence will I get if I plead guilty?

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

Most of the questions that ask whether to take a particular course of action contain the words "Should I?" So whenever you hear the word "should," the court user may be asking for advice that you cannot provide.

Even though you cannot answer these types of questions directly, there are a lot of ways that you can still help the court user. In many cases, you can point out various options that the person can consider in making his or her decision. You can also provide information about legal services, such as the local bar association or legal aid society, but you should not make a referral to private attorneys or a private agency. You can also refer the person to the Nevada Supreme Court web site at www.nvsupremecourt.us and to any court-based self-help center in the county.

Should I get a lawyer?

You are not required to have a lawyer to file papers or to participate in a case in court. I cannot advise you whether you should hire a lawyer in your case. Only you can make that decision. Here is a list of organizations in this area that you can call for free or low-cost legal help if you qualify.

* [] bracketed words are examples.

PLEASE PROVIDE COURT USERS WITH INFORMATION FROM THEIR CASE FILES, AS WELL AS COURT FORMS AND INSTRUCTIONS.

You can provide case information to a court user that is public, including the material in most court files. Court files can be very difficult for many people to read and understand, so you may need to provide assistance. It is always appropriate to answer questions about the court procedures and legal terms reflected in public court files and to assist the court user in finding the specific information he or she is seeking.

I want to see my daughter more than the court order allows. How do I get more time with my daughter?

It sounds like you want to obtain an order from the court modifying your present custody order. Here is a [form] that is usually used to bring that issue before the court, as well as written instructions on how to fill it out [when available.] You may also find additional information at the law library.

Some court files contain confidential information that should never be disclosed. There are many reasons that material in court files may be designated as confidential, including safety and privacy concerns. Disclosure of confidential information could also give an unfair advantage to one side of a case. If you are not sure whether a record is considered public or confidential in your court, check with your supervisor.

Can I see the Kramer adoption file?

I'm sorry. Adoption files are confidential and may not be viewed by the public. [Law Librarian response: Court files are kept in the Clerk's office; you will need to check with that office.](#)

Providing court forms and written instructions, when available, on how to fill out those forms is an important part of a court employee's or law librarian's job. Often court users will not know what forms to request in order to bring their matters before the court. When this happens, you should identify and provide forms that may meet the court user's needs.

Court forms can be confusing, so people frequently ask for help in filling them out. If a court user cannot figure out how to fill out a required form, he or she may be denied access to the court. You can answer questions about how to complete court forms, including where to write in particular types of information and what unfamiliar legal terms mean. You cannot, however, advise a court user on how he or she should phrase responses on a form.

It says "relief requested" next to this blank on the form. What do I put there?

I can't tell you what words to use but you should write in your own words what you want the court to do. If you have any question about the kind of remedies that may be available in your case, you may wish to consult with an attorney or do additional research at the law library.

DO NOT TELL A LITIGANT WHAT WORDS TO USE IN COURT PAPERS OR WHAT TO SAY IN COURT.

You can always answer questions about how to complete court papers and forms. You cannot, however, tell a court user what words to put on the forms. You threaten the court's impartiality if you fill out a form for a court user using your own words. If someone asks you what to say in a form, you should tell the person to use his or her own words to state the information requested.

You can also check a court user's papers for completeness. This includes checking to make sure that he or she has completed each line that is required to be filled in. Also, you can check for such things as signatures, notarization, correct county name and case number and the presence of attachments. If the form is incomplete, you should inform the

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

You have provided all the required information. I cannot tell you whether the information you provided is correct; only you can know that.

My form got sent back to me from the court because it was incomplete. What is wrong with it?

Court Employee would say: It looks like you did not include all the information requested on the back of the form. Once you have filled that out, I'll be happy to file the form for you.

Law Librarian response: I'm not certain you filled this in correctly. You may need to check with the self-help center or the court employee when you file the document.

person completing the form of the specific problem and how to fix it.

The court employee could say, "I'm not certain whether this is going to be sufficient or not. I can accept the document for filing but that does not mean that the judge will accept it in its current condition. If there is something wrong with it, the judge will inform you of that either in open court or by some other appropriate means."

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I have a disability that prevents me from filling out this form.

Would you fill it out for me?

In that case I can 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.

Sometimes a court user will be unable to fill out a form without assistance because of a disability or illiteracy. In these limited situations, you may fill out a form for a court user, writing down the specific words that he or she provides. The fact that you provided such assistance should be noted on the form itself.

Litigants often ask what they should say in court.

You cannot give advice about specific arguments a person should make while in court or tell people what you think would be the best way to handle a court appearance. You can give out general information about appropriate courtroom behavior. Many courts have informational packets that you can give to the litigant and/or law libraries have treatises on how to prepare for court hearings. Clark County has informational packets. Again you may also refer them to the Supreme Court web site at www.nvsupremecourt.us.

What should I say to the judge when he calls my case?

I can't tell you what arguments to make in court. You will need to decide that for yourself.

YOU CANNOT TALK TO A JUDGE ON BEHALF OF A LITIGANT OR ALLOW THAT PERSON TO TALK TO THE JUDGE OUTSIDE OF COURT.

YOU SHOULD PROVIDE COURT USERS WITH SCHEDULES AND INFORMATION ON HOW TO GET A CASE SCHEDULED.

You should always remember the basic principle that neither parties nor attorneys may communicate with the judge *ex parte*.¹ *Ex parte* communication can be defined as

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

The judge only talks with all parties to a case at the same time. You would not want the judge to be talking to the other side about this case if you were not present. The judge will speak to you at your hearing. [Law librarian response: You will need to contact the clerk's office or call the judge's judicial assistant.](#)

occurring when a judge communicates with any person concerning a pending or impending proceeding without notice to the adverse party. The exception is communications that are of an administrative, scheduling or emergency purpose that do not deal with substantive matters or issues on the merits. Be sure

that you do not violate this restriction by carrying a message from a party to a judge or by speaking to a judge on behalf of a litigant. To do so could give one side in a case an unfair advantage.

Many self-represented litigants feel that they have a right to see the judge in the judge's chambers to explain their situations and problems. When a litigant asks to meet with the judge, you should explain that the judge can see a party only at the hearing or trial, when the other side is also present. While you are explaining this rule, it sometimes helps to ask litigants how they would feel if the judge had a private meeting with the other side in their case. You can also explain procedures, such as a motion, that would allow the litigant to properly bring his or her concerns to the court's attention.

What is "ex parte"?

It is a Latin term that refers to one-sided contact with the court. In most cases *ex parte* contacts with the court are not allowed.

Some courts delegate certain decisions to clerk's offices, especially on procedural matters and on cost and fee awards. You should avoid *ex parte* contacts while making such decisions. Be sure that you have heard from both sides before deciding an issue and avoid even the appearance of giving one party an advantage in the process.

You cannot talk to a judge on behalf of a litigant or allow that person to talk to the judge outside of court; however you can provide schedules and information on how to get a case scheduled.

¹ Nevada Code of Judicial Conduct, Canon 3B (7) (2005) and Model Code of Conduct for Judicial Employees in the State of Nevada, Canon 3 (2003).

YOU CANNOT TALK TO A JUDGE ON BEHALF OF A LITIGANT OR ALLOW THAT PERSON TO TALK TO THE JUDGE OUTSIDE OF COURT.

YOU SHOULD PROVIDE COURT USERS WITH SCHEDULES AND INFORMATION ON HOW TO GET A CASE SCHEDULED.

I know that I can't talk to the judge. But you're nice – could you please take her this message for me? I'm sorry, I can't do that for you. It wouldn't be fair for me to present your concerns to the judge when the other side in your case is not there. I can tell you about the procedures for scheduling a hearing. [Law librarian response: I am sorry we can not do that for you. We can provide the phone number for the judge's chambers.](#)

You can always give out information on court calendar settings and tell patrons how to get matters placed on calendar. This is one of the most important things you can do to make sure people have access to the courts. When patrons cannot figure out how to get a case scheduled for hearing, they cannot even begin

the process of getting a judge to decide the case. Some court calendars are available on the court's website.

YOU CAN PROVIDE PHONE NUMBERS FOR THE LOCAL BAR ASSOCIATION REFERRAL SERVICE, LEGAL SERVICES PROGRAMS, COURT BASED SELF-HELP PROGRAMS, AND OTHER LEGAL INFORMATION SERVICES.

It is the policy of the Nevada courts to encourage litigants to use lawyers because court cases often involve legal issues beyond the understanding of the ordinary person. You can always make general referrals to associations and public agencies that provide legal services or information. A good place to start is with the local bar association referral service. You should explain that although this is a free service, the lawyer will charge a fee. You can also provide information regarding other public legal services programs that may meet the needs of court users and refer them to any court-based self-help center in the county.

How do I get my ex to pay child support?

You can start by visiting the family law facilitator in [Room 210]. [You can talk to the family law facilitator for free. The facilitator is an attorney who works for the court and helps people with support issues. He or she can help you fill out the forms and understand more about your case and what your options are.] You can refer them to whatever program or services such as the law library that exists in your jurisdiction.

Since court employees or law librarians must remain neutral and impartial at all times, you cannot make referrals to a specific lawyer, law firm, or paralegal service.

Many courts have prepared handouts that include contact information for local legal services organizations. Such written materials are very useful to court users and can provide you with a handy list of appropriate referral organizations.

You can also tell court users that they can ask friends or colleagues for the name of a lawyer or even find one by checking the yellow pages of the phone book. Many of them are surprised to learn that lawyers will often give an initial consultation at no cost and that some will agree to provide limited representation—giving advice or preparing particular papers— at a reduced fee.

Could you check to see if there are any liens on my property?

We don't have those kinds of records in this office. You can find that information at the County Recorder's office. It's located only a few blocks from here. Let me show you how to get there on this map of local government buildings.

I need a good lawyer. Who is the best?

I can't refer you to an individual lawyer because the court must always remain neutral in all matters. I can give you information on the local bar association's lawyer referral service if you want help in finding a lawyer who specializes in your kind of case. You might also want to check out the web site for the State Bar of Nevada www.nvbar.org, which includes a section on ways to find a good lawyer.

Sometimes people call the court when they don't know whom else to call about their problems. Keep a list of contact numbers for local government agencies and departments so you can point people in the right direction.

