

MAKING THE DISTINCTION BETWEEN LEGAL INFORMATION AND LEGAL ADVICE

A GUIDE FOR COURT EMPLOYEES

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Table of Contents

The Issue	3
Why Court Staff Is Not Allowed to Give Legal Advice	4
Roles and Responsibilities of Court Staff	5
to ANYONE who requires it.Strategies for Addressing Legal Advice	5
Legal Information, Legal Advice and Inappropriate Information	7
Listen to the Question	8
Understanding the Difference.....	9
Explaining Legal Terms vs. Giving Legal Interpretation	10
Procedural Explanations vs. Procedural Advice	11
Cites of Statutes, Court Rules and Ordinances.....	12
vs. Research of Statutes, Court Rules and ordinances	12
Public Case Information vs. Restricted Case Information	13
General Information about Court Operations	14
vs. Confidential or Restricted Information about Court Operations	14
Options vs. Opinions	15
Providing Access vs. Denying Access Etc.	16
General Referrals vs. Subjective or Biased Referrals	16
Forms and Instructions vs. Filling out Forms.....	17
Ex Parte Communications.....	18
Summary.....	19
Commonly Asked Questions	20
How to Order Printed Copies of this Guide	24

The Issue

The following is an excerpt from the article "*How to Provide Access Without Giving Legal Advice: Practical Guidelines for Court Staff*", written by Donna Beaudet, Court Administrator for the Forty-sixth District Court of Michigan and published in *The Court Manager*, Volume 14, Number 2 1999.

The issue of how to provide information without giving legal advice is perhaps the most universal, fundamental, and difficult question confronting court employees who work directly with the public. Every day they face a myriad of questions about cases, laws, procedures, judges, terminology, forms, policies, and attorneys. Every day they must decide what information to provide.

It is important to remember that the issue of what constitutes legal advice concerns more than court clerks. All court staff come in contact with people asking questions about the court system. Judicial secretaries, court reporters, bailiffs, probation officers, security personnel, and law clerks all must answer questions about the courts. Therefore, the term *court staff* is used in this context to refer to all of these groups.

How staff responds to questions from the public can have a tremendous impact on the administration of justice, affecting how citizens view their court experience. Front line staff is the first and sometimes only contact that the public has with the court system. They may form lasting impressions and perceptions about the system from an initial contact with a counter clerk. How staff responds can also directly affect the public's access to the courts because most people are not familiar with court procedures and require some level of assistance. If someone doesn't know how to use the court system and court staff do not provide the information they need, then access is effectively denied. We can only expect this situation to become more difficult as the number of parties representing themselves increases. Finally, staff has a tremendous amount of knowledge about how their court operates as a result of their experience and their access to confidential or restricted information. Consequently, how they respond to questions can affect the outcome of a particular case.

Clearly, court staff has a tremendous amount of responsibility and can significantly affect the administration of justice. There is much they can do to make the courts more accessible and to broaden the public's understanding and appreciation of the courts, increasing the public's trust and confidence in the court system. Therefore, it is critical that all court staff is trained on what information they can provide to the public and what is considered legal advice.

Why Court Staff Is Not Allowed to Give Legal Advice

- 1. NEUTRALITY¹:** Court staff must remain neutral and cannot promote or recommend a particular course of action. Even though a clerk may have processed hundreds of similar types of cases, he or she is not in a position to know what is in a litigant's best interest. Only litigants or their attorneys can make that determination.
- 2. IMPARTIALITY²:** Court clerks have an “absolute duty of impartiality”. A court employee can “never give advice or information for the purpose of favoring one court user over another.” This is very important because court clerks have considerable knowledge about the way in which their court functions. That knowledge must be shared fairly and in a manner that does not involve the disclosure of confidential or ex parte communication. “Advising a party ‘what to do’ rather than ‘how’ a party might do what it has already decided crosses the line from impartiality to partiality, from providing permissible information to giving prohibited ‘legal advice’ or engaging in the unauthorized practice of law.”
- 3. UNAUTHORIZED PRACTICE OF LAW:** Every state, including Alaska, has laws prohibiting the unauthorized practice of law. Only attorneys licensed by the state are permitted to practice law and give legal advice. Even if a court clerk is an attorney, he/she is not allowed to give legal advice as an employee because it violates the concepts of neutrality and impartiality. See [Administrative Rule 2\(d\)](#).

¹ *The Ethics Field Book: Tools for Trainers*, Cynthia Kelly Conlon, J.D., Ph.D. Funded by a grant from the State Justice Institute, @American Judicature Society, 1995.

² *The Ethics Field Book: Tools for Trainers*, *ibid*.

Roles and Responsibilities of Court Staff

- 1. PROVIDE ACCESS:** Most people are not familiar with courts and court procedures. They depend to a large degree on court staff for information. As a result, court clerks play a very important role as “gatekeepers” providing access into the court system. If people do not know *how* to use the system and court staff does not tell them, they are being denied access.
- 2. PROVIDE SERVICE:** An important duty of all court employees is to provide service to the public. Providing information is a very important part of providing service. Thus, it is important to understand what information you may provide and what information you may not provide. We must treat all customers equally: attorneys, defendants, pro se litigants, etc. Remain neutral.
- 3. ASSIST SELF-REPRESENTED LITIGANTS:** An increasing number of people are representing themselves instead of being represented by an attorney. The burden falls on court staff to assist these parties without crossing the legal advice line.
- 4. PROVIDE ACCURATE INFORMATION:** It is essential that court staff provide accurate information because even seemingly small mistakes can affect people’s lives and the outcome of their court cases.

**IT IS NOT UP TO COURT CLERKS TO DETERMINE WHO NEEDS INFORMATION.
CLERKS ARE RESPONSIBLE FOR PROVIDING APPROPRIATE ASSISTANCE
to ANYONE who requires it.**

Strategies for Addressing Legal Advice

It is not always clear whether or not we can answer a question. But there are several things that we can do to make it easier to identify whether someone is asking for legal information or for legal advice.

LISTEN CLOSELY AND ASK QUESTIONS. You must first understand what it is that someone is asking for or needs. This is not always easy, because many people are not familiar with legal terminology and have difficulty communicating effectively in a court or legal setting. The court is scary and frustrating to many people. Often, people give too much or too little information and use incorrect legal terms to describe their problems. Some people also may try to obtain information that will help them win their case. Court staff must take the time to ask questions to clarify what a person needs.

BE PATIENT. Coming to court can be very stressful, confusing and intimidating, especially if someone is not familiar with the court. It is important to remember that, even if you have just explained the same procedure five times in the last hour, it is the first time for the person you are helping at the moment. When helping someone who is frustrated, try to remember how much you would appreciate it if you were in their shoes and someone took the time to carefully explain what was going on.

EXPLAIN THE REASONS. When you are unable to provide information because it falls in the legal advice category, take the time to explain the reasons. Tell the customer that it is important that court staff remain neutral and impartial, while reiterating that you cannot give legal advice. Providing reasons why you cannot give information will minimize the customer's frustration and will increase the public's understanding of the court system.

DON'T HIDE BEHIND "I CAN'T GIVE LEGAL ADVICE". Be careful not to use "legal advice" as an excuse not to provide good customer service. Sometimes we are tired, frustrated or it's not clear whether or not we should provide certain information, but we should never use "We can't give legal advice." as an excuse not to give the best possible service. There is usually some information that can be provided to help the customer, such as explaining the reasons we cannot give legal advice, explaining procedural options or referring the customer to an agency that can help.

Legal Information, Legal Advice and Inappropriate Information

LEGAL INFORMATION

Legal information is generally about court process (how the court and its judges function), court rules, court records and forms. If information can be found in a source that the court makes available to the public, you can either

- tell the customer yourself, if you know, or
- if you are unsure of the answer, direct the customer to the appropriate court staff or other publicly available source.

LEGAL ADVICE

Generally, legal advice can be defined as advice about how a person should describe the legal merits of his or her case to persuade the judge or jury to decide the case or motion in his or her favor.

Giving legal advice means answering questions or providing information related to

- the application of statutes and rules to individual claims or defenses;
- whether the claim should best be brought in a federal or state court;
- whether a complaint properly presents a claim;
- what the best procedures are to accomplish a particular objective; and
- interpretation of case law.

INAPPROPRIATE REQUESTS

Other requests that court staff must not respond to unless authorized include:

- Requests for information that calls for you to show favoritism.
- Requests for information that calls for you to guess at a judge's or a party's intention.
- Requests for you to engage in or allow *ex parte* communication.
- Requests to disclose confidential information.

Listen to the Question

TIP: Listen carefully to what people are asking you. The following phrases are clues as to whether someone is asking you for legal information or legal advice:

Probably asking for **legal information**:

- “What will happen at this hearing?”
- “Does the court have forms?”
- “How do I....?”

Probably asking for **legal advice**:

- “Should I?”
- “Could you tell me whether I should...?”
- “Which of these is best...”

Understanding the Difference

How do you know what information you can provide and what information you can not provide? How do you know when you are crossing the invisible legal advice line? The following specific guidelines can help you understand the difference between legal information and legal advice. These guidelines are further explained, with examples, on the following pages.

We Can Provide:	We Cannot Provide:
Explanation of Legal Terms	Legal Interpretations
Procedural explanation	Procedural advice
Citations of statutes, court rules and ordinances	Research of statutes, court rules and ordinances
Public case information	Restricted case information
General information about court operations	Restricted information about court operations
Options	Opinions
Access	Deny access, discourage access or encourage litigation
General referrals	Subjective or biased referrals
Available court forms and instructions on how to complete them.	Assistance in filling out forms for a party <u>unless</u> specifically authorized by law.
Ex Parte Communications	
<p>Ex parte communications are communications about a pending or impending case made to a judicial officer out of the presence of other parties. With few exceptions, judges cannot talk to a party about a case, or get any information from a party to a case, unless all parties are there to hear and respond to what is being said. Judicial Canon 3 B(7).</p> <p>Court staff should uphold this principle by following the guidelines below:</p> <ul style="list-style-type: none"> • Do not communicate information to a judge about a case that you know through personal knowledge, that you have read in a newspaper, heard on a radio, seen on Facebook, Twitter, or some other social media outlet, or that someone told you. • Screen all calls to a judge. Do not transfer phone calls from parties or attorneys directly to a judge without finding out what the caller wants to talk to the judge about and asking the judge if he or she wants to take the call. • Do not convey verbal information to a judge on behalf of a party or attorney concerning a case unless it involves scheduling or other administrative matters. 	

Explaining Legal Terms vs. Giving Legal Interpretation

In order for us to help people have access to the court, it is necessary for us to assist them to understand legal terms. Providing an explanation of legal terms helps the public understand the court system. While it is appropriate to explain legal terms, it is not appropriate to provide legal interpretations.

Examples:

Legal Definition	Legal Interpretation
<p><i>Question:</i> What does “proof of service” mean?</p> <p><i>Response:</i> Civil Rule 5 requires parties to give copies of any document filed with the court to all other parties in the case. These copies can be delivered by personal delivery, first class mail or by fax. In addition, the rules require parties to file proof with the court that they complied with the requirement to serve other parties. This proof is called “proof of service”. Proof of service can be by a certificate of service or by affidavit of service. (Clerk should go on to explain each of these types of proof of service. See Civil Rule 5(f).)</p>	<p><i>Question:</i> My neighbors leave their kids home all day without supervision. Is that child abuse?</p> <p><i>Response:</i> I am not an attorney and cannot make a legal interpretation. However, I can refer you to the Alaska Department of Health and Social Services, who can help you.</p>

Procedural Explanations vs. Procedural Advice

As a general rule, staff can and should provide information on how to do something and various factors. For example, staff can explain how to get a writ of execution. Explaining procedures increases the public's understanding of the court system and provides parties greater access to the courts.

It is not appropriate for staff to tell a person what is the best course of action for them to take. It is also not appropriate to answer the "how" question when it involves the disclosure of confidential, ex parte or suppressed information.

Examples:

Procedural Explanations	Procedural Advice
<p><i>Question:</i> My tenant hasn't paid rent for two months. How do I get my tenant out of the apartment?</p> <p><i>Answer:</i> You can file a case called a "Forcible Entry and Detainer" or as we call it "FED." The court provides written instructions and forms to help you file this type of lawsuit. You can either use the forms yourself or you can hire an attorney to help you.</p>	<p><i>Question:</i> I'm a landlord and the tenants in one of my apartments did a lot of damage to the apartment before they left and I want to file a small claims case for the damages. The lease was with just one of the tenants, but do you think I should sue everyone who lived there?</p> <p><i>Answer:</i> I cannot tell you who you should sue because I cannot give you legal advice. You may want to talk to an attorney on this one issue. You can still file the small claims case yourself after you talk with an attorney.</p>

Cites of Statutes, Court Rules and Ordinances vs. Research of Statutes, Court Rules and ordinances

It is common for court staff to be knowledgeable of statutory and court rule citations, especially as they apply to procedures; and it is appropriate for staff to share this information. However, it is not appropriate for staff to conduct legal research. How do you tell the difference? There are two factors that help make this distinction:

1. Is the information something that staff should know in the performance of their duties? If it is something staff should know, then it is not considered legal research, even if staff has to look it up in the Rules Book. For example, [Civil Rule 76](#) regarding form of pleadings.
2. Is the information readily available or must it be compiled? If it is available, then it probably would not be considered legal research. If the information has to be compiled, then it is probably research.

Examples:

Cites of Statutes, Court Rules and Ordinances	Research of Statutes, Court Rules and Ordinances
<p><i>Question:</i> Do I have to serve the debtor with a Notice to Judgment Debtor every time the debtor's paycheck is garnished?</p> <p><i>Answer:</i> No. The statute requires you to serve the debtor with a Notice to Judgment Debtor only once with each writ. The procedures are fully explained in the Judgment Creditor Booklet on pages 4-9.</p>	<p><i>Question:</i> Can you tell me what laws govern tort claims?</p> <p><i>Answer:</i> I'm sorry, but I am not allowed to do legal research because that would be considered to be the unauthorized practice of law. You can attempt to do that research yourself or you can contact an attorney to assist you.</p>

Public Case Information vs. Restricted Case Information

Some documents or entire cases are confidential, and court staff cannot disclose confidential information. Be sure to ask your supervisor or a judicial officer if you do not know what records are public and what records are confidential. Generally, there are two categories of confidential records:

1. Cases and documents may be designated confidential by statute, court rule or court order (for example, adoptions, children's cases, search warrants, presentence reports and child custody reports). These records are designated as either "confidential" or "sealed" records. [Administrative Rule 37.5](#) establishes is authorized access to court records:
 - a. Confidential Records – [Administrative Rule 37.5\(c\)\(4\)](#): Unless otherwise ordered by the court, only the following may be given access to confidential records:
 - (1) parties to the action;
 - (2) counsel of record;
 - (3) individuals with a written order from the court authorizing access; and
 - (4) court personnel for case processing purposes only.
 - b. Sealed Records – [Administrative Rule 37.5\(c\)\(5\)](#): Access to these records is restricted to the judge and persons authorized by written order of the court. After a record is sealed, court staff may not open the record without written permission from the court.
2. Internal memoranda, notes, or preliminary drafts prepared by or under the direction of any judicial officer which relates to the adjudication, resolution or disposition of any past, present or future case, controversy or legal issue are not accessible to the public. [Administrative Rule 37.5\(e\)\(1\)\(A\)](#).
 - * Court staff must not disclose the outcome of a matter submitted to a judge for decision until the outcome is part of the public record or the judge directs disclosure of the matter.
 - * Court staff must also not speculate on the possible outcome of a matter submitted to a judge or a jury until the outcome is part of the public record. This also applies in cases where a matter has not yet been submitted to the court (for example: a party asks a clerk to speculate whether he/she thinks the judge would grant a certain type of motion if they filed it.)

NOTE: Court staff may not read confidential/sealed records unless necessary to do their job. Confidential/sealed records contain highly personal information about parties, and it is inappropriate for court staff to read these records for curiosity's sake.

General Information about Court Operations vs. Confidential or Restricted Information about Court Operations

Generally, court staff can answer questions about court policies and procedures. However, there is some information about case assignment procedures, adjournment policies, and scheduling practices that could be inappropriately used to affect the status or outcome of a case. It is important for court staff not to disclose information that would allow one side or another to have an unfair advantage.

As a general rule, it is appropriate for staff to provide information on how to do something; but it not appropriate to answer the “how” question when it involves the disclosure of confidential or suppressed information.

Examples:

General Information on Court Operations	Confidential or Restricted Information on Court Operations
<i>Question:</i> When will my dissolution case be set for hearing?	<i>Question:</i> How can I get Judge Jones assigned to my case?
<i>Answer:</i> Dissolutions are usually scheduled about six weeks from the date they are filed.	<i>Answer:</i> I'm sorry, but I can't give you information about the court's internal assignment procedures.

Options vs. Opinions

Court staff can provide information on the various procedural options that are available, explain the differences between the options, and how to do something. It is important for staff to explain options because the public often is not aware of available options. By explaining options, court staff is providing parties with better access to the courts. It is also important that staff advise customers of all appropriate options. If staff provides only some of the options, they may be indirectly influencing a decision by limiting the person's choice.

Court staff cannot give an opinion, or otherwise advise a person, on whether to bring their problem before the court, what specific remedies to seek or what option the person should use. Staff must remain neutral and cannot take a position that will encourage or discourage a particular course of action.

Examples:

Options	Opinions
<p><i>Question:</i> How can I collect my judgment?</p> <p><i>Answer:</i> You have several options. If you know where the debtor is employed, you can garnish his wages. If you know where the debtor has a bank account or other property, you can get a writ of execution to seize the property. You can also get a writ of execution to seize the debtor's Permanent Fund Dividend. If you don't know if the debtor has assets or where the assets are located, you can ask the court to order the debtor to appear for a judgment debtor examination hearing. At this hearing, you will be allowed to ask the debtor questions about his assets.</p> <p>[Provide the creditor with a copy of the Judgment Creditor Booklet.]</p>	<p><i>Question:</i> My ex-husband hasn't paid the debts that he agreed to pay in our divorce settlement. Now he's filed for bankruptcy and the creditors are coming after me to pay those debts. My credit is being ruined. I don't live in Alaska anymore. Do I have any recourse? Is he in breach of our agreement? Can I make him responsible for this?</p> <p><i>Answer:</i> I am unable to answer your questions about whether you have any recourse against your ex-husband. This matter is further complicated by the fact that your ex-husband has filed for bankruptcy. You may wish to seek the advice of an attorney. You might also contact your local court to find out if there are any free legal advice clinics locally that you could attend to get further information, or whether there are other local resources that are available to you.</p>

Providing Access vs. Denying Access Etc.

Clerks and other court staff are the gatekeepers to the court system. It is our job to ensure that the court system is accessible to all. The information that you provide to customers and the manner in which you present it, affects the accessibility of the court.

Most people are not familiar with court procedures or terminology. If someone does not ask a question in the right way, it is our responsibility to take the time to clarify what is being asked. The phrase “We can’t give legal advice.” should never be used as an excuse not to provide service. Staff should attempt to always offer referrals to other agencies when appropriate or, when suggesting that the person should talk with an attorney, staff should provide information on how a person can find an attorney. (See information about [Finding a Lawyer](#), available on the Family Law Self-Help Center’s website.)

General Referrals vs. Subjective or Biased Referrals

Court staff can refer people to seek the advice of an attorney. Court staff can not suggest what attorney the person should or should not contact.

Court staff should not involve themselves in the relationship between an attorney and a client. For example, if a defendant complains to you that his attorney isn’t doing a very good job, you must refrain from expressing an opinion about the attorney’s competence.

Forms and Instructions vs. Filling out Forms

Another important way to facilitate access to the court is by providing forms and instructions. It is important that staff be knowledgeable about what forms and written instructions are available from the court and other agencies.

It is usually inappropriate for court staff to complete forms for people or tell them what to say. However, there are a few situations when court staff is required by law to assist people in completing forms:

- If the person has a disability that prevents the person from completing the form. Americans with Disabilities Act.
- In small claims cases, District Court Civil Rule 21 provides that court staff will assist parties in completing forms when necessary.
- In domestic violence cases, Alaska Statute 18.66.150(c) provides that court staff will assist people in completing the forms when necessary. Note: AS 18.66.150(c) does not apply to sexual assault or stalking protective order cases.
- If a person is seeking protection from fraud (financial abuse) for themselves or another person under AS 13.26.207-.209. AS 13.26.209(g).

NOTE: When helping someone to complete a form, you should not tell the person what to say or how to say it. Be careful not to correct the person's grammar. Write down exactly what the person dictates. What you write must be word for word. Remember that paraphrasing or changing what someone says can be considered legal advice.

PROCEDURE: After writing the information,

- Confirm with the party that what you have written is correct.
- Write the following in the left margin of the document: "Assisted by clerk" followed by your initials or name.

Ex Parte Communications

Ex parte communications are communications about a pending or impending case made to a judicial officer out of the presence of other parties. With few exceptions, judges cannot talk to a party about a case, or get any information from a party to a case, unless all parties are there to hear and respond to what is being said. Thus, it is improper for staff to transmit information to the judge unless that information has been provided to the other parties in the case.

To uphold this principle, court staff should follow these guidelines:

- Do not communicate to the judge information about a case that you know through personal knowledge, that you have read in the newspaper, heard on the radio, or that someone told you.
- Screen all calls to a judge: Do not transfer phone calls from parties or attorneys directly to a judge without finding out what the caller wants to talk to the judge about and then asking the judge if he/she wants to take the call.
- Do not transmit verbal information to a judge on behalf of a party or attorney concerning a case unless it involves scheduling or other administrative matters.

For example: If an attorney says, "Let the judge know that my secretary messed up and that's why I filed the motion late." - the attorney is asking you to communicate *ex parte* with the judge. You should not communicate this information.

- Communications involving scheduling or other administrative matters are permitted as these communications do not deal with the substance or merits of the litigation and no party gains an advantage as a result of the *ex parte* contact.

For example, if a defense attorney says, "Let the judge know that my client cannot be located and today's hearing should be called off," you should communicate this information to the judge because the communication involves a scheduling matter.

Similarly, if an attorney asks you whether the judge has ruled on a particular motion yet, you may provide this information to the attorney without notifying the other parties of the communication or including them in a conference call. This is an example of an *ex parte* communication that relates to an administrative matter.

Summary

Legal information is generally about court process (how the court and its judges function), court rules, court records and forms.

Legal advice is usually an opinion tailored to help a person decide whether to take a certain action or to weigh advantages to various options.

Court Staff Must:

- Remain neutral.
- Be impartial.
- Not participate in unauthorized practice of law.

TIP: Listen carefully to what people are asking you. The following phrases are clues as to whether someone is asking you for legal information or legal advice.

Probably asking for **legal information**:

- What will happen at this hearing?
- Does the court have forms?
- How do I...?

Probably asking for **legal advice**:

- Should I...?
- Could you tell me whether I should...?
- Which of these is best...?

GIVE GOOD CUSTOMER SERVICE BY REMEMBERING THESE STRATEGIES:

- Listen closely and ask questions.
- Be patient.
- Explain the reasons.
- Don't hide behind "I can't give legal advice."

PROVIDE ACCESS 4 PROVIDE SERVICE 4 PROVIDE ACCURATE INFORMATION 4

Commonly Asked Questions

QUESTION	RESPONSE AND/OR PROCEDURE (LEGAL INFORMATION)	WARNINGS and OTHER TIPS
Joe owes me money. How can I get it back?	You can sue up for up to \$10,000 in small claims. If it is over that amount, you will have to file a civil lawsuit. The court does not provide forms or instructions for civil lawsuits. You may hire an attorney or do the research yourself. If you want to research similar cases, you can request files from the civil case index.	<ul style="list-style-type: none"> • Refrain from getting the entire story and don't talk about possible outcomes. • Don't refer to specific cases as examples. Lastly, don't mention any penalty provisions (like NSF checks) that are allowed by law.
My tenants are not paying their rent. I want them out. What should I do?	<p>The court has a book and forms for evictions. It explains the procedures for the most common type of evictions – unpaid rent. In Alaska, evictions are called “Forcible Entry and Detainer” cases.</p> <p>[Provide Eviction: Information for Landlords and Tenants about Forcible Entry and Detainer (F.E.D.) Actions.]</p>	<ul style="list-style-type: none"> • Don't comment on the character of the other party. • The court's forms are for non-commercial property. Commercial property has special legal requirements. Refer the customer to the Alaska Bar Association's Lawyer Referral Service or the statutes and rules – AS 09.45.060 - .160, AS 34.03.010 – .390, and Civil Rule 85.
What do you think I should do about this ticket?	It depends on whether you want to contest it or not. If you plead not guilty we will set a date for a court trial in the future. If you plead no contest, you will be fined the bail amount along with the surcharge stated on the citation.	Do not encourage the customer to just take care of the ticket here and now.
I want to know if the statute of limitations has run out. Can you tell me?	I'm sorry but I am unable to answer that question because it often involves a very complicated point of law which I am unqualified to provide. You can contact an attorney, research the law, or contact the Alaska Bar Association's Lawyer Referral Service.	Don't explain the statute of limitations timeframe because even if you know the answer, the party may not be telling you everything about the case or timeframe.
I filled this form out in blue ink. Is that OK?	Civil Rule 76 requires that black ink be used. The reason we require black ink is because other colors don't show up when the case is eventually microfilmed.	Check with your clerk of court or area court administrator regarding local practice and local exceptions.

QUESTION	RESPONSE AND/OR PROCEDURE (LEGAL INFORMATION)	WARNINGS and OTHER TIPS
<p>My spouse will not sign the dissolution papers. What should I do now?</p>	<p>You will have to file a divorce case. The court does not provide forms for divorce cases. You can hire an attorney, do the research yourself.</p> <p>[Note: If a class is available in your location, you can suggest that the customer attend the class to learn the appropriate paperwork.]</p>	<ul style="list-style-type: none"> • Don't tell the customer how to file a divorce. • Refrain from getting the entire story. • Don't refer to specific cases as examples. • Don't say, "Tell your spouse that if they don't sign, you'll file for divorce."
<p>Why doesn't the court provide forms for this (like divorce)?</p>	<p>The court provides forms for many types of cases. Unfortunately, we can't make forms for everything because of the complexity of the law in some types of cases.</p>	<ul style="list-style-type: none"> • Don't promise customers that forms are coming. • Don't show customers documents from specific cases. • Don't tell the customer what to say in the body of the letter.
<p>Do I need an attorney to help me with this case?</p>	<p>You are the best person to make that decision. You can research your case, contact the Alaska Bar Association's Lawyer Referral Service or Alaska Legal Services.</p>	<ul style="list-style-type: none"> • Don't answer this question with a "yes," "no," or "depends." • Don't give out the names of any attorneys who handle similar cases.
<p>I need to modify my child support (or visitation, or custody.) What do I do?</p>	<p>There are court forms you can use if you are representing yourself. When you file the motion, a copy must be served along with a blank Response Packet on the opposing party.</p> <p>[Tell the customer about the Family Law Self-Help Center website.]</p>	<p>Don't tell the customer what motion you think they should submit. Don't tell the customer what to say on the form.</p>
<p>What is the best writ packet to use to collect my money?</p>	<p>Let me provide you with a copy of the Judgment Creditor Booklet which describes the different types of writs.</p>	<p>Do not discuss where the debtor has his/her money and what strategy to use to collect it. You may want to verify that a court case with a judgment exists, as this is necessary in order to issue a writ.</p>

QUESTION	RESPONSE AND/OR PROCEDURE (LEGAL INFORMATION)	WARNINGS and OTHER TIPS
<p>Do you think I should use a process server or certified mail to serve this?</p>	<p>Different pleadings and writs require different types of service. (If small claims, refer to Small Claims Handbook.) If either procedure is acceptable you may want to consider whether or not you think the defendant can be served by mail.</p> <p>Another factor that may help you decide is the fee. The fee for a Process Server is around \$45, but you may want to contact the process server to verify the exact cost of his/her services. Certified mail costs run approximately \$6-7, (if small claims, add \$4 court processing fee).</p>	<ul style="list-style-type: none"> • Do not recommend a process or process server. • Do not quote an exact amount for process server fees as there may be other costs such as mileage, additional time, etc. that the process server may charge in addition to their base rate.
<p>What should I write on this form?</p>	<p>All of the information you want the judge to consider – what you want and why you want it.</p>	<p>Refrain from getting the entire story. You can assist the customer in spelling but you cannot assist the customer in selecting a word or phrase to best describe the situation.</p>
<p>What does this order mean?</p>	<p>I cannot interpret the order for you because I could interpret it incorrectly or differently from what is intended. It is best to ask your attorney or consult one, or write the judge for further clarification.</p>	<p>Make sure the customer is not asking you to simply read the order, versus interpret it.</p>
<p>Do you think I should apply to Child Support Services Division (CSSD) to help collect my child support?</p>	<p>That is up to you and whether or not you think you need the agency's assistance (e.g., the collection services, enforcement, record keeping). CSSD can help you decide. Here is Information about CSSD and their services and procedures. Their phone number is included here too.</p>	<p>Do not complain about CSSD to the customer.</p>

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How do court rules and forms get changed?	You should put your request in writing and mail it to: Alaska Court System Administration, 820 W. 4th Avenue, Anchorage, AK 99501. Include your name and phone number in case the court needs to clarify your request.	<ul style="list-style-type: none"> • Don't give the customer the phone number of the person in charge of forms or rules. • Don't promise the customer anything.
This is a stupid law – someone should do something about it! In other words, how do laws (statutes) get changed?	If you want a law changed, you can contact your legislator. Visit the legislature's website at: W3.legis.state.ak.us/docs/pdf/whoswho.pdf or call the Legislative Information Office in Anchorage at 269-0111.	Don't give your opinion of any law. Doing so is unprofessional and can also lead someone to believe that your opinion is that of the Court System.
I can't fill this form out. Will you fill it out for me?	<p><u>If one of the situations listed at right apply:</u></p> <p>I will be happy to write down what you dictate. However, I cannot tell you what to say or suggest how you should say it. Would you like me to read the question/form to you?</p> <p>Procedure: After completing form, write the following in the left margin of the document: "Assisted by clerk" followed by your initials.</p> <p><u>If none of the situations at right apply:</u></p> <p>Response: I'm sorry, but I am not authorized to provide that service. Perhaps you can ask a friend or relative to help you fill in the form.</p>	<p>Clerks are required to assist parties in filling out forms when requested in the following situations:</p> <ul style="list-style-type: none"> • If a person has a disability that prevents him or her from completing the form; • In small claims cases, District Court Civil Rule 21; • In domestic violence cases, AS 18.66.150(c) provides that clerks shall assist litigants in completing and filing forms. (Note: AS 18.66.150(c) does not apply to stalking and sexual assault protective order cases); and • When a person is seeking protection from fraud (financial abuse) for themselves or another person under AS 13.26.207-.209. AS 13.26.209(g). <p>When completing a form, do not tell the person what to say or how to say it. Be careful not to correct the person's grammar. Write down exactly what the person dictates word for word. If you paraphrase or change what they say, that can be considered legal advice.</p>

How to Order Printed Copies of this Guide

Contact Sonja Davis-Wade in the Administrative Office by telephone at 264-8233 or by e-mail, swade@courts.state.ak.us, and let her know how many copies you need.