


Ethics in the Family Law Facilitator's Office

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Your Presenters

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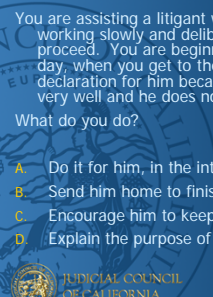


Hypo 1

You are assisting a litigant with a responsive declaration to an RFO. He is working slowly and deliberately and has a lot of questions about how to proceed. You are beginning to wonder if he will finish in time to file that day, when you get to the declaration. The litigant asks you to write his declaration for him because he is not sure what to say, he cannot spell very well and he does not know what the judge wants to read.


What do you do?

- A. Do it for him, in the interest of time
- B. Send him home to finish and tell him his filing deadline
- C. Encourage him to keep working and ask questions as they arise
- D. Explain the purpose of the declaration and why he should do it himself



Ethical Issues:

- Legal Advice
- Integrity of the Court
 - Patience
- Appearance of _____?
 - Impropriety, Partiality
 - Same answer for everyone
- Access to Justice
 - We are SELF-help: help the customer help themselves, so they can explain what is written in court.




Hypo 2

A litigant comes to your office and reports that DCSS sent him to you for help with his current child support and his arrears. He also mentions that he wants a genetic test and that he is sure the child is not his. He is also concerned about his driver license being suspended. His case was filed in another county and the litigant did not bring copies of his orders.


What do you do?

- A Call the LCSA for more information
- B Call the FLF in the other county for more information
- C Send him to the FLF in the other county for assistance
- D Help him prepare an RFO covering all of his issues and encourage him to go to the FLF in the other county before filing it



What ethical issues are raised?

- IV-D = Higher Duty to assist?
- Resources for the customer
 - We don't want to set him up to fail.
- Competence
 - Do you have enough information to help him properly?



Hypo 3

You are working at the front counter and you notice one of your neighbors in the lobby. He greets you when you are between litigants and you exchange pleasantries. Other litigants in the lobby are watching the interaction with interest. When it is your neighbor's turn to be assisted, what should you do?

- A. Assist him as you would any other litigant
- B. Ask him if he is comfortable being assisted by you and, if so, proceed
- C. Have someone else in the office assist him
- D. Assist him in a separate area where other litigants cannot see or hear what is being said



Ethical Issues raised:

- Impropriety
- Appearance of Impropriety
- Impartiality / Neutrality
- Appearance of Impartiality
- Integrity of the Court

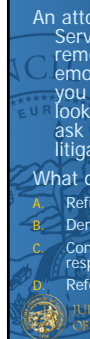


Hypo 4

An attorney comes to your office with a copy of a Proof of Service By Mail that you completed for a litigant. You remember the litigant in question because he was very emotional and needed to be redirected many times before you finished with him. The attorney tells you that she is looking for witnesses for an upcoming trial and would like to ask you some questions about your interaction with the litigant so she can determine whether to subpoena you.

What do you do?

- A. Refuse to speak to her without a subpoena
- B. Deny any recollection of the litigant and do not answer any questions
- C. Confirm your signature and the form of assistance provided, keeping your response general
- D. Refer the matter to your supervisor or manager



What do you do?

- The protocol in this situation should be discussed between you and your supervisor/ court management.
- Is there a local rule regarding this in your county? Should there be?



Hypo 5

A litigant brings a copy of her judgment and says she wants help enforcing it against her former spouse. You read the provision she is seeking to enforce and note that it is poorly worded and will not accomplish what she is seeking to do. It was prepared several years ago by her then attorney of record, who is now a judge on the family law bench.

What do you do?

- A. Point out the deficiencies in the judgment and help her prepare a motion to modify it
- B. Do not assist because of the conflict and refer her to a private attorney
- C. Ignore the deficiencies and help her prepare an abstract of judgment
- D. Without dwelling on the apparent deficiencies, explain the changes she will need to make to the judgment in order to accomplish her goals and help her prepare the appropriate motion



Ethical issues?

- Is it a problem that the previous Attorney is now a FL judge?
 - Impartiality and Neutrality of Court
- Legal advice?
- Beyond the scope / competence?
- Access to Justice for customer



Hypo 6

You are assisting litigants at a case management conference. You find several errors on a proof of service of summons and you tell the litigant that they will have to be corrected or the Summons will need to be re-served before she can proceed with a default. The litigant objects that the server can no longer be found and she already has a wedding scheduled the following month and cannot wait another 30 days before finishing the case. What do you tell her?

- A. File an RFO to ask the Court for permission to proceed to judgment despite the errors
- B. Reschedule the wedding and re-serve the Summons and Petition
- C. Explain the significance of proper service and the possible ramifications of inadequate service and encourage her to discuss her options with an attorney
- D. Encourage her to "find" the server and amend the POSS so she can proceed with her default judgment and her scheduled wedding



Ethical Considerations:

- Rule of Professional Conduct 3-210
 - Do not "advise" a violation of the law
- Canon 3(b)(2)
 - Be faithful to the law
- The Court is your client



Hypo 7

Same facts, but now it is the next day and the litigant is back for help with her default and someone else is helping her. You overhear your colleague telling her how to file her default and get a default hearing.

What do you do?

- A. Politely interrupt and ask the litigant how she managed to correct the POSS deficiencies
- B. Discretely take your co-worker aside and fill him in on what occurred the day before
- C. Interrupt the interaction and do not allow the litigant to be assisted with a default
- D. Allow your co-worker to finish, then alert the filing department to the attempted fraud



Ethical issues:

- Integrity of your FLFO and Court
- Does your Court have an internal check on these issues?
- If she chooses to do it this way, will you continue to help her, or suggest other options: legal advice, law library, amend POSS??