

Legal Information vs. Legal Advice

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Resources

www.txcourts.gov

- Texas Rules of Civil Procedure (TRCP)
- Legal Advice Guidelines and Instructions (Handout 1)

statutes.capitol.texas.gov

- All statutes other than the Rules of Civil Procedure

www.tjctc.org (TJCTC website)

- Deskbooks, including the Officeholding and Ethics Deskbook
- Legal question board, forms, webinars, modules, etc.

Legal Advice = Unauthorized Practice of Law

- Only licensed attorneys and others specifically allowed by the Texas Supreme Court (ex: certain law students, attorneys licensed in another state) may practice law.
- If you are not one of these and you give legal advice, that is considered the unauthorized practice of law.
- This is prohibited by statute and can open you up to liability.

*Government Code Sec. 81.101,
81.102*

Providing Customer Service without Giving Legal Advice

- But just because you cannot give legal **advice** does not mean you cannot be helpful and provide good customer service!
- You can still give legal **information** and refer people to resources (more info on this coming up!).

Legal Advice vs. Legal Information

Let us take a closer look at
the difference between
legal advice and legal
information!

Legal Advice

An oral or written statement that:

- *Interprets* an aspect of the law;
- *Recommends* a specific course of action; or
- Applies the law to a *specific factual circumstance*.

Legal Information

- Legal fact
- Public information that is general and factual
- Court rules, procedures, and administrative practices
- How the court generally functions
- Referrals to law libraries, state statutes, rules, forms, court/constable or TJCTC website, info packets
 - Do not forget TJCTC's SRL packets!
<https://www.tjctc.org/SRL.html>
- Explaining the meaning of terms used in the court process
- Answering questions concerning due dates and deadlines (without calculating specific dates)

Comparing Legal Advice and Legal Information

Legal Advice

- Recommendations
- Confidential or Restricted Info
- Providing Legal Interpretations
- Opinions
- Researching
- Subjective Referrals

Legal Information

- Procedural Explanations
- General or Public Information
- Explaining Legal Terms
- Options
- Citing Statutes and Court Rules
- General Referrals

Provide them with Resources!

- Refer them to use the resources on Slide 3, and:
- www.tsl.texas.gov (Texas State Library)
- <https://texaslawhelp.org>
- www.tjctc.org/srl.html (Self-Represented Litigants Page)
- www.ncsc.org (National Center for State Courts)
 - Short helpful videos—
example on next slide!

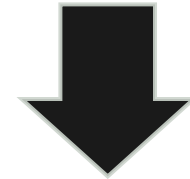
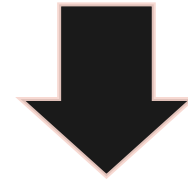


Legal Advice vs. Legal Information Tips

Often, there is a very fine line between legal advice and legal information.

You cannot provide advice, but you can provide information that ends up helping them make a decision.

Whether you can answer a question or not, and what you can say sometimes comes down to how it is phrased.



Example #1

“X happened. What should I do?”

- You cannot advise them.
- You can instead direct them to general information and forms (on the TJCTC SRL page or a court webpage) about the overarching topic.

If you know what someone is asking, do not get hung up on requiring “magic words” to give them legal information and/or a form. (ex: “I need to freeze a bank account” = “I need a writ of garnishment”).

Example #2

you are serving a writ of re-entry and the landlord says, “There wasn’t an illegal lockout. They lied to the judge. They shouldn’t be able to do this.”

- **OK response:** “You have the right to request a hearing with the court if you believe the writ was not properly issued. That right is explained in the writ. If you aren’t sure whether you should request a hearing, you could discuss that with a lawyer. There is lawyer referral info at tjctc.org/SRL.”
- **Not OK response:** “You should request a hearing and tell the judge that.”

Words To Stay Away From

Should

Recommend

What I would do

It's best if

What else?

Listen Closely and Ask Questions

- Let members of the public ask their questions and listen carefully to what they are asking.
- Be an active listener and respond reflectively. If necessary, repeat or rephrase the question to state what you think they are asking.
- Take the time to clarify what they need. If someone asks a question that is not clear, ask follow-up questions to clarify what they mean.
- Ask if they have completely read any paperwork they may have.

Be Patient

Think how much the person will appreciate someone taking the time to answer questions and explain an unfamiliar process.

Remember that this experience can be stressful, confusing, and intimidating for people.

The same questions may have been asked many times before but remember that this may be the first time for a particular person.

Provide Customer Service for All Parties

- You should provide good customer service and any needed legal information to all parties.
- You will often work more closely with the judgment creditor to get the information you need to execute a writ, but you are still a neutral party.

Practice Time!

**Legal Advice or
Legal Info?**

Legal Advice or Legal Info? #1

Responding to: “May I see the docket for today’s court?”

Legal Advice or Legal Info? #2

Responding to: “Should I sue my neighbor?”

Legal Advice or Legal Info? #3

Saying: “Seems like you
will win [or lose]!”

Legal Advice or Legal Info? #4

Saying: “A writ of possession is...”

Legal Advice or Legal Info? #5

Responding to: “How do I
stop this?”

Legal Advice or Legal Info? #6

Responding to: “Can you tell me when Judge Doe will be on vacation, so I don’t have to appear in front of him again?”

Multiple Choice Questions

Multiple Choice Question #1

You are serving an eviction, and the Defendant asks: “How long do I have before I have to be out?”

- A. Tell them “This is the court date, and the Judge will explain everything.” And leave.
- B. Tell them it depends on the outcome of the hearing and if/when a writ of possession is issued. Refer them to the law/resources and tell them that if they have any other questions about options, they will need to consult an attorney.
- C. Tell them they have until the court date; but if they are evicted on that day, they should appeal because that will give them more time.



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Slido app on all computers you use



**You are serving an eviction, and the
Defendant asks: “How long do I have
before I have to be out?”**

① Start presenting to display the poll results on this slide.

Multiple Choice Question #2

A citizen tells you that he went to pick up his children and his ex-wife refused to turn them over to him. He said that she does this all the time and the police never help him. He further stated that he believes that his children are not being taken care of properly.

- A. Tell him to call an attorney.
- B. Tell him that we can't get involved in a custody issue without an order from the court, but he could always file for a modification of custody hearing or file for interfering with child custody.
- C. Tell him that we can't get involved in a custody issue without an order from the court, but he may want to contact an attorney. And if he is genuinely concerned about the children's well-being, he can call for a welfare check or contact Child Protective Services.



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Multiple Choice Question #3

You are serving a Writ of Possession. The current resident at that location tells you that they have been subletting from the defendant. They tell you that they have been paying rent for six months to the defendant, but he must not have been paying that rent to the owner.

- A. Explain to them that you have a legal court order to return the premises to the plaintiff and they will have to move out. Tell them that they will need to contact an attorney to get legal advice on any further options that they may have.
- B. Tell them to call an attorney.
- C. Tell them to sue the defendant for the rent that they have paid.



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Multiple Choice Question #4

An owner of an R.V. park says that one of his residents has not paid rent in three weeks and is refusing to leave. He said that he did post a vacate notice on the door to his camper and wants to know what he should do next.

- A. Tell him to go through the regular eviction process if they refuse to leave.
- B. Tell him that the laws have changed for R.V. Parks, and he can cut off all water and utilities for non-payment. He can also have the camper towed from his R.V. Park. R.V. Parks are treated just like hotels and the person can be arrested for trespassing if they refuse to leave.
- C. Tell him that the eviction process for R.V. parks can be different from other places of residence. Refer him to the law/resources and tell him that he may want to consult an attorney if he has any questions.



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Multiple Choice Question #5

You are serving a Temporary Restraining Order to a Defendant that prevents them from building a fence or putting up a gate to block an access road. The Defendant tells you that it is his property, and he has to have a gate to keep his livestock enclosed. The Plaintiff tells you that they are only putting up the gate to inconvenience them and their livestock can be contained other ways.

- A. Serve the paper and tell them to call an attorney.
- B. Serve the paper, explain what the Judge has temporarily ordered, and show them the hearing date. Explain that this is a court order that must be obeyed until the court says differently.
- C. Tell the Defendant that he has to obey the court order, but he can file a counter suit to force the Plaintiff to open and close a gate for his livestock.



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You are serving a Temporary Restraining Order to a Defendant that prevents them from building a fence or putting up a gate to block an access road. The Defendant tells you that it is his property, and he has to have a gate to keep his livestock enclosed. The Plaintiff tells you that they are only putting up the gate to inconvenience them and their livestock can be contained other ways.

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Scenarios

Scenario #1

Stephen King had a 1958 Plymouth Fury in his car collection named Christine. Mr. Patterson apparently drank too much at a party at Mr. King's house and absconded by driving away in Christine. Mr. King brought a small claims case against Mr. Patterson in your county. Mr. King won the case and has now received a special writ to seize Christine and bring it back to him.

- While you are executing the writ, Mr. Patterson states the car was a gift and tells you Mr. King gave him the keys with some crazy story about the car being possessed. What can you tell him?
- What if he insists that the car is exempt property because it is his only vehicle?
- What if he asks how to dissolve the writ?
- What if he tells you he filed an appeal. Can you check to see if an appeal was filed? What do you say to him if it was? What if it wasn't?

Scenario #2

Bill filed a small claims case against Ted for property damage. You were assigned to provide civil service to Ted. Bill gets your contact information and calls to ask if you have served the small claims yet.

- Can you inform Bill of the status of service?
- Then, while he has you on the phone, Bill says that he has heard of something called a default judgment. He asks what that is and how he can get one. What is your response?
- He asks how long small claims cases usually take. What do you say?
- What if he asks what kind of car the judge drives? What would you say?

Scenario #3

Rocket Prestige Inc. debt collectors file a debt claim against Jimmy Carr. You serve the citation on Mr. Carr, and he asks, “what is my deadline to file an answer to this suit?”

- Can you tell him, in debt claims cases, defendants have 14 calendar days to answer a suit?
- What if he asks what exact date that is?
- What if he asks what is the statute of limitations on debt claims?
- What do you say if Mr. Carr asks what he should say in court?

Scenario #4

You see your neighbor, Pat Sajak, in the grocery store. He comes over to you and says he got a ticket for having an expired license and asks what he should do.

- Can you tell him the charge can be dismissed if he gets it renewed?
- What wording do you use?

Scenario #5

Jordan Peele just lost his eviction case against his former friend, Keegan-Michael Key. He failed to give a proper Notice to Vacate before filing the eviction. You were the bailiff during his hearing. He hangs around after the docket and asks you what a Notice to Vacate is and how to properly deliver it.

- What do you tell him?
- What if he asks if he should make a settlement agreement with Mr. Key?
- Later, he files a new eviction and wins. He comes up to you and asks what his next step is. What do you say?
- A couple weeks later, Mr. Peele calls you because he remembers you from court. He asks how long he has to request a writ of possession in JP Court. What do you tell him?

What Questions Do *You* Get?

What questions do you get asked that you are unsure of how (or if) to answer?

What is the weirdest thing you've ever been asked?
How did you respond?

Thank You!