



Expanding Access to Justice: Ethically Using Non-Lawyers in the Provision of Legal Services

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Unmet Need for Legal Services is only Growing

- 1.9 million low income people turn to LSC funded entities like Judicare every year. On average, 1 in 2 of those applications must be rejected due to inadequate resources in both funding and personnel.
- Legal aid providers in various states have undertaken programs designed to utilize non-attorney advocates to assist unrepresented litigants in addressing their legal issues.



Archetypes

- Provision of Services within Existing UPL rules
- Requests for UPL Amendments or Waivers
- Licensing or Credentialing Regimes for Non-Attorney Providers

Judicare's focus has been on the first of these.





SCR 23 has 23 Exceptions

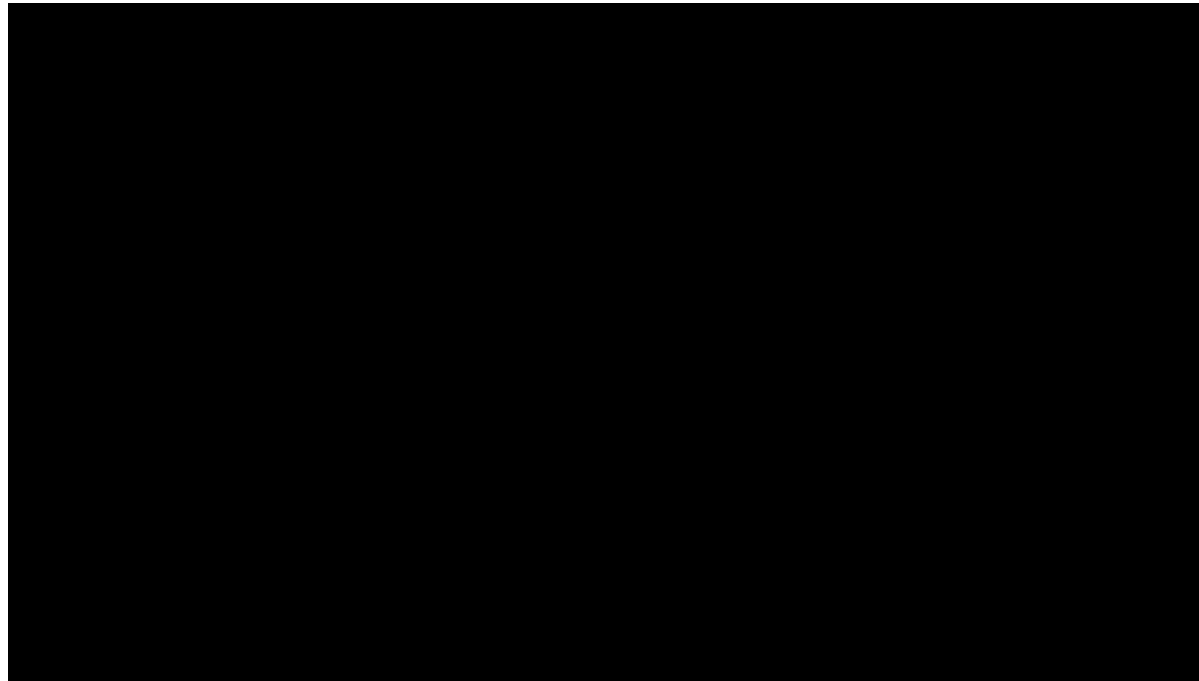
- **Green Light Areas that do NOT constitute the practice of law**
- **Yellow Light Areas that require direct attorney supervision**

Provision of Legal Services by Non- Attorney Advocates

**Let's take a look at
how Judicare Legal
Advocates provide
legal services within
the UPL rules**

Clarifying the Role of the Legal Advocate

SCR 23.02(1)



Green Light Areas

- **There are a number of client services that advocates can provide even absent direct attorney supervision**



Identification of and Assistance in Completing Circuit Court Forms

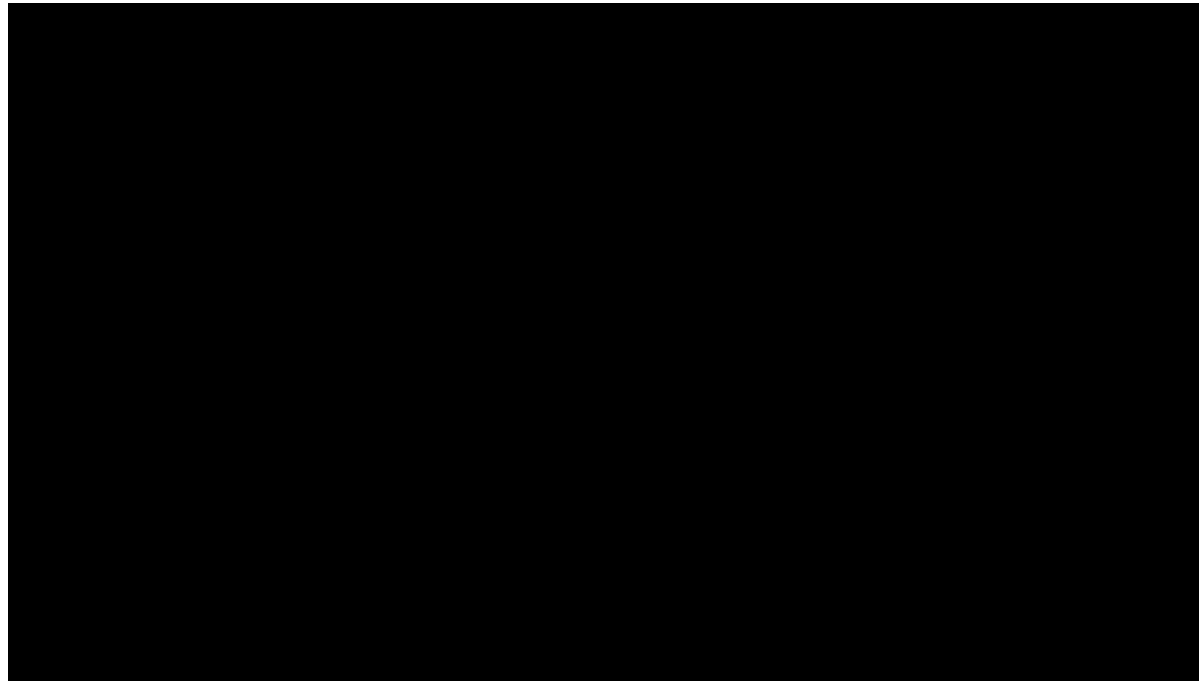
SCR 23.02(2)(i)

Background –

Client has come to Judicare for advice on getting a divorce. The parties have been married for 9 years, and have lived in Wausau for that whole time. They have one child in common, age 8. The client states that both parties agree they want a divorce. Opposing party has moved out of the marital home, but is continuing to pay the mortgage because he has the higher income. Our client is a little concerned he will change his mind about that. The parties still have a decent relationship, and seem to be able to co-parent. Our client would like to have a more formal placement schedule. This scene takes place after those background facts have been established.

Identification of and Assistance in Completing Circuit Court Forms

SCR 23.02(2)(i)



Providing Non-Client Specific Legal Information: Process, Procedure and Statutory Presumptions

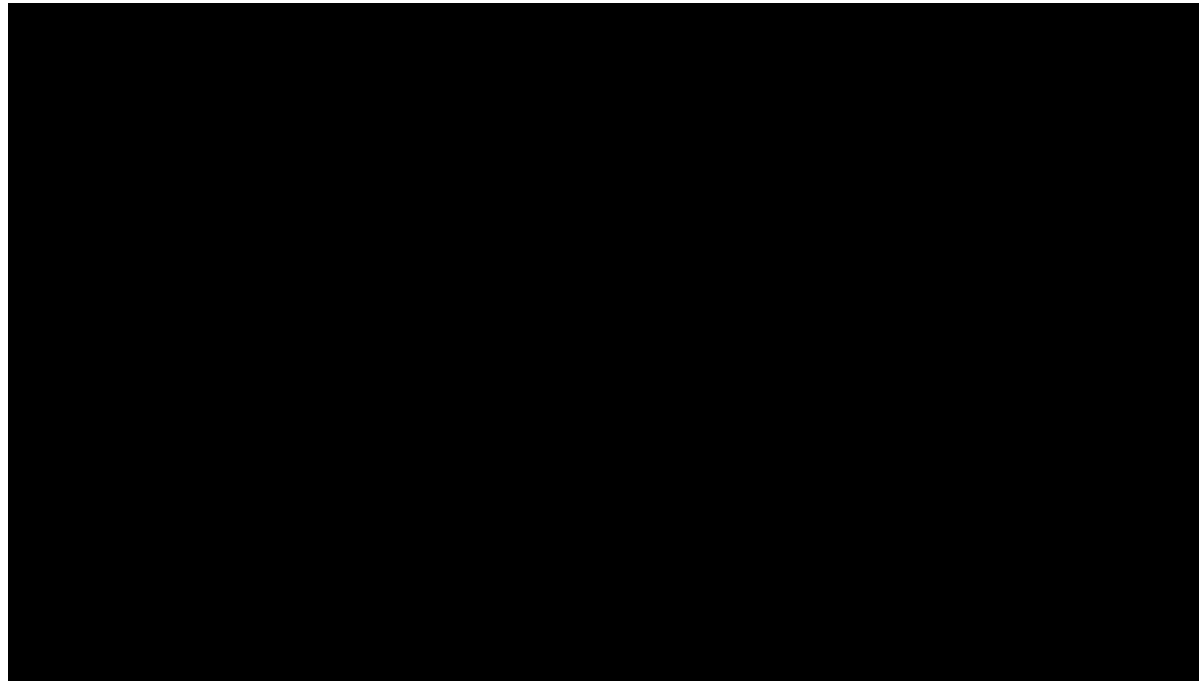
SCR 23.02(2)(w)

Background –

We are picking up with the same client, who has questions about how long this is going to take and how she can get some certainty that her spouse will continue paying the mortgage and sticking to the placement schedule. Our Legal Advocate, Carmen, will provide some basic legal information in addition to some more forms identification.

Providing Non-Client Specific Legal Information

SCR 23.02(2)(w)



Providing Non-Client Specific Legal Information: Process, Procedure and Statutory Presumptions

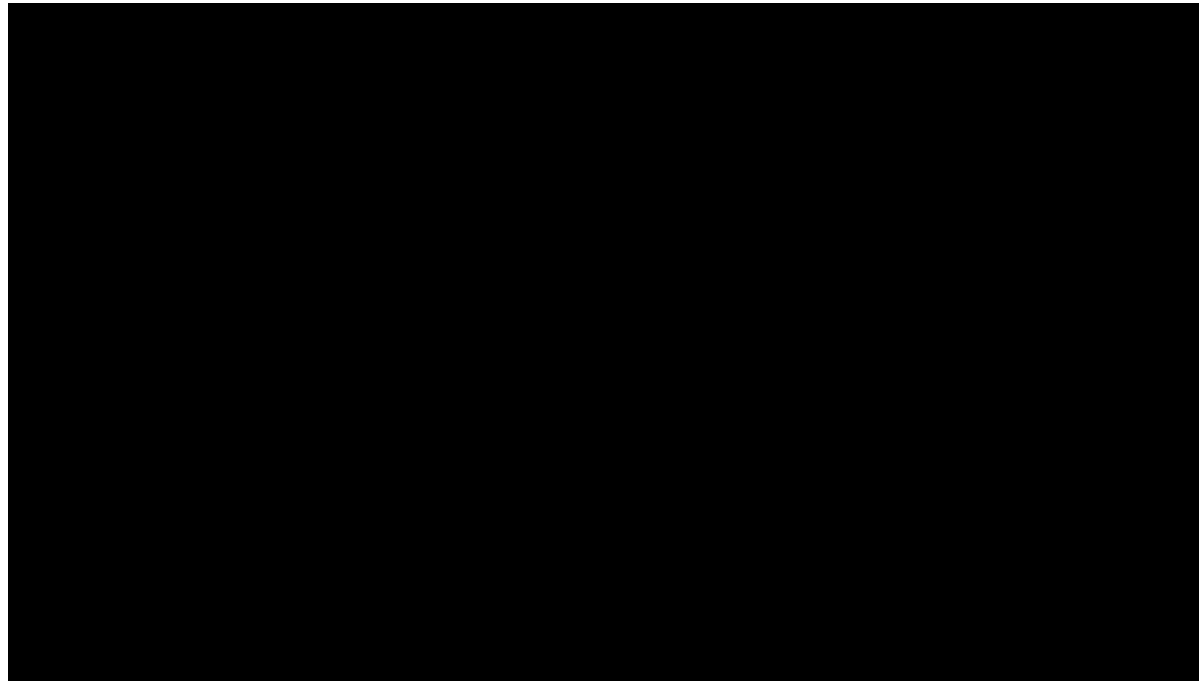
SCR 23.02(2)(w)

Background –

We return to the same client, who wonders how the child custody and placement decision and property distribution will be made. Carmen will provide some plain language definitions for legal terms, help the client understand the usual court process, and identify the statutory presumptions that govern in divorce.

Providing Non-Client Specific Legal Information

SCR 23.02(2)(w)



Providing Non-Client Specific Legal Information: Process, Procedure and Statutory Presumptions

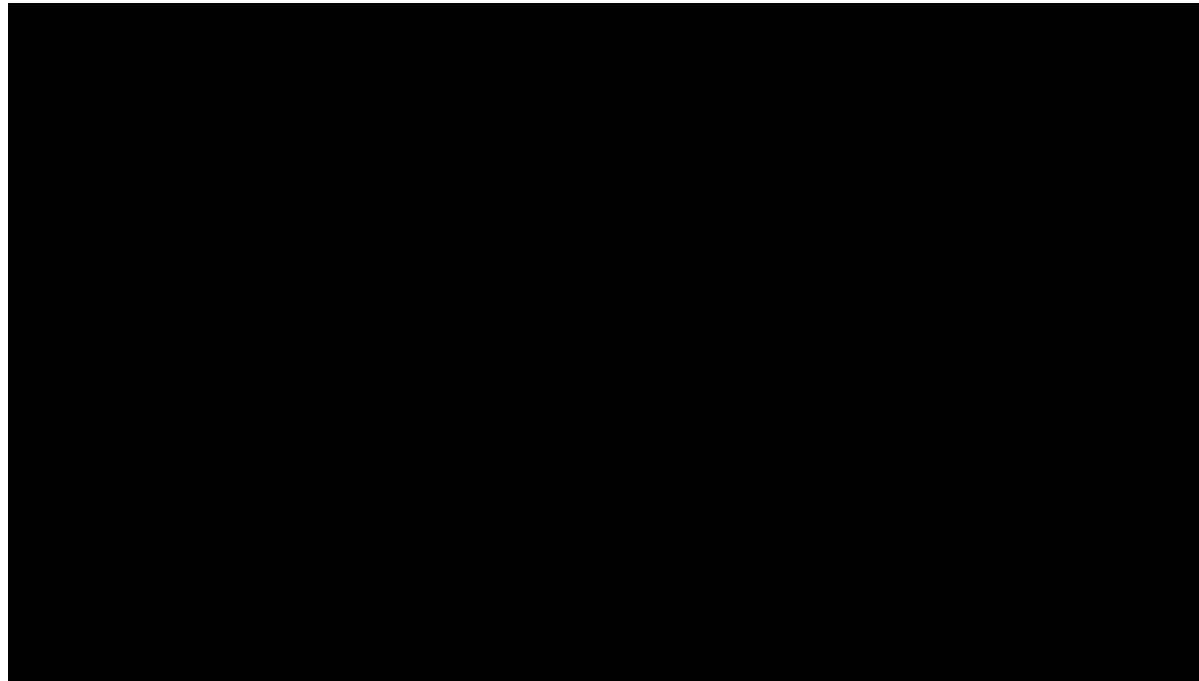
SCR 23.02(2)(w)

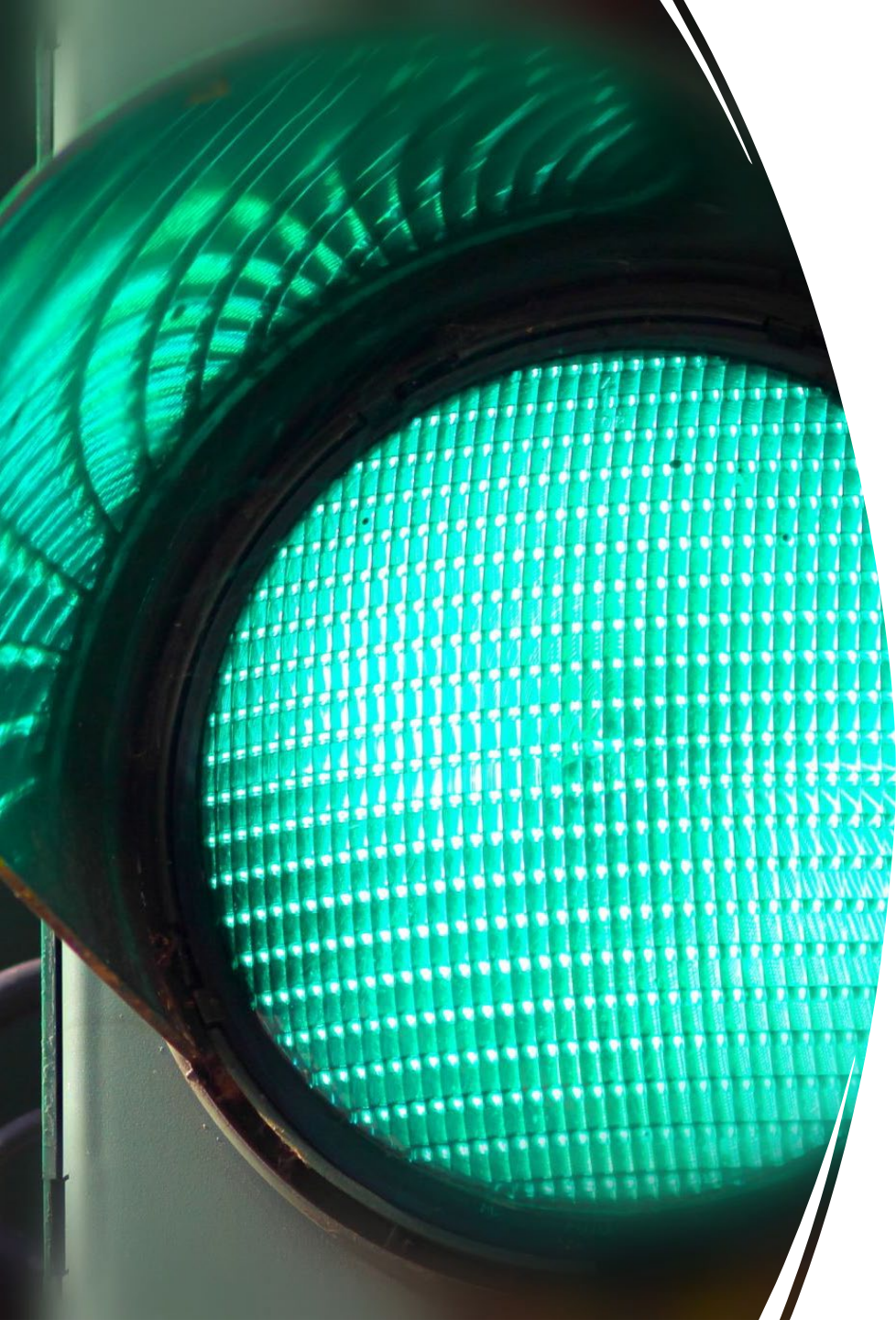
Background –

Our client is moving for their co-parent to be held in contempt for repeatedly refusing to allow our client to exercise placement time with their child. The client has been keeping track of the dates and times that their co-parent either refused or was late to the exchange in a notepad. She also has saved text messages to and from the co-parent about the missed exchanges and a few voicemails. Carmen has already identified for the client the forms they will use to ask that the other party be held in contempt. Now she is walking the client through what the contempt hearing will look like.

Providing Non-Client Specific Legal Information

SCR 23.02(2)(w)





Additional Green Light Areas

- **Acting as a mediator or other third party neutral**
- **Acting as a Courthouse facilitator pursuant to court rule**
- **Representing clients to administrative tribunals or agencies**

Yellow Light Areas

Some work done by non-attorney advocates requires direct supervision from a licensed attorney



Acting as a nonlawyer advocate or assistant under the direct supervision of a lawyer

SCR 23.02(2)(l) and (m)



PRE-CALL - IDENTIFICATION OF
POTENTIAL NEED FOR ADVICE



DURING CALL - NOTING OF
CLIENT QUESTIONS



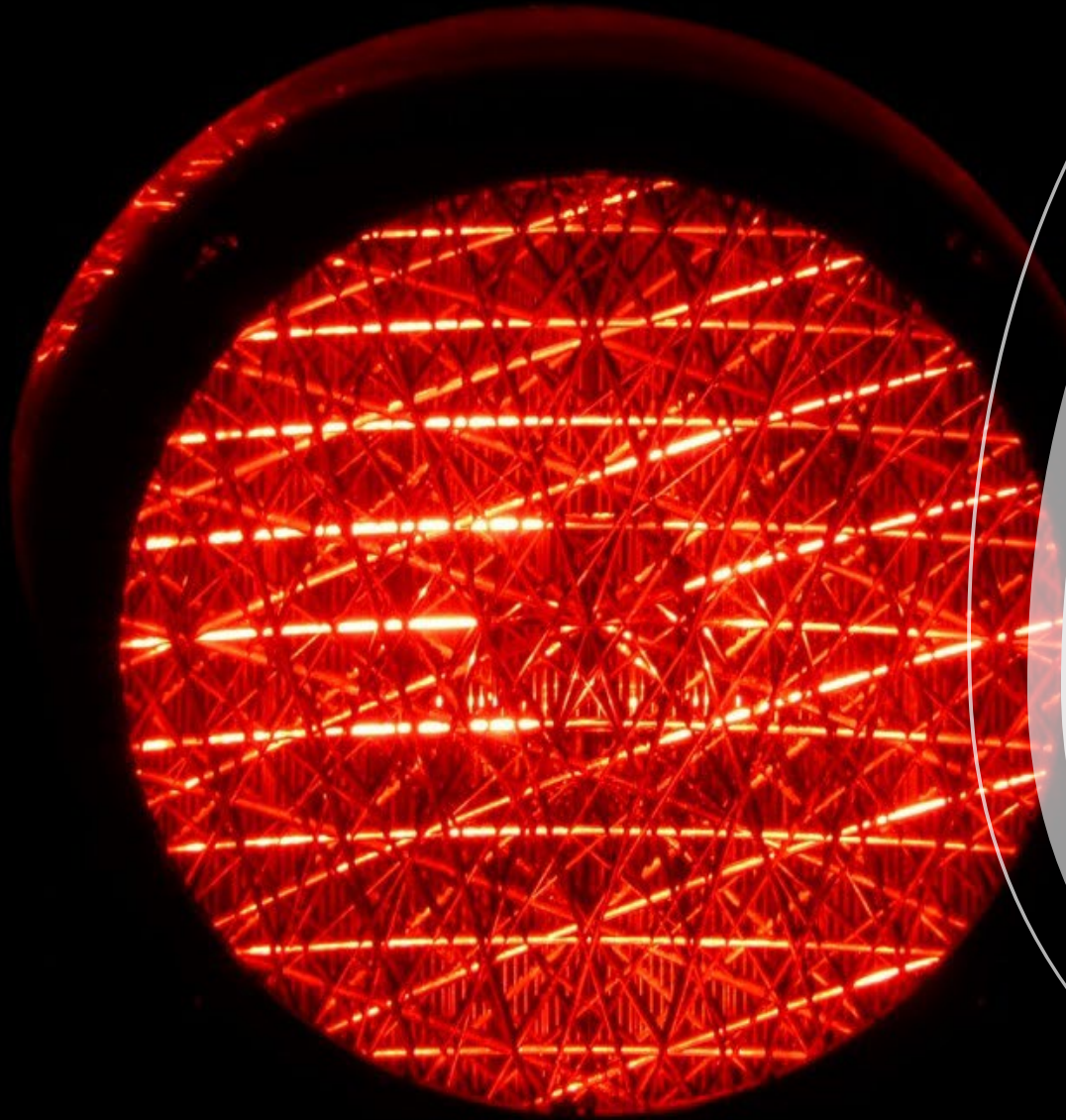
DRAFT CLIENT ADVICE LETTER

Acting as a nonlawyer advocate or assistant under the direct supervision of a lawyer

SCR 23.02(2)(l) and (m)

At each step the supervising attorney must take active steps to ensure that any legal advice provided to the client is coming from the attorney.

1. Pre-call consultation with the advocate on potential issue that might arise
2. Review of case notes for issue that require particularized advice
3. Review, revision, and approval of any client correspondence that contains legal advice
4. Documentation in the case file itemizing attorney involvement



Red Light Areas

Client work that does not fall under any current UPL exceptions:

Negotiations on behalf of a client

Representation in mediation or arbitration

Representation in court*

**Judicare
Legal Aid**

Thank You!

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