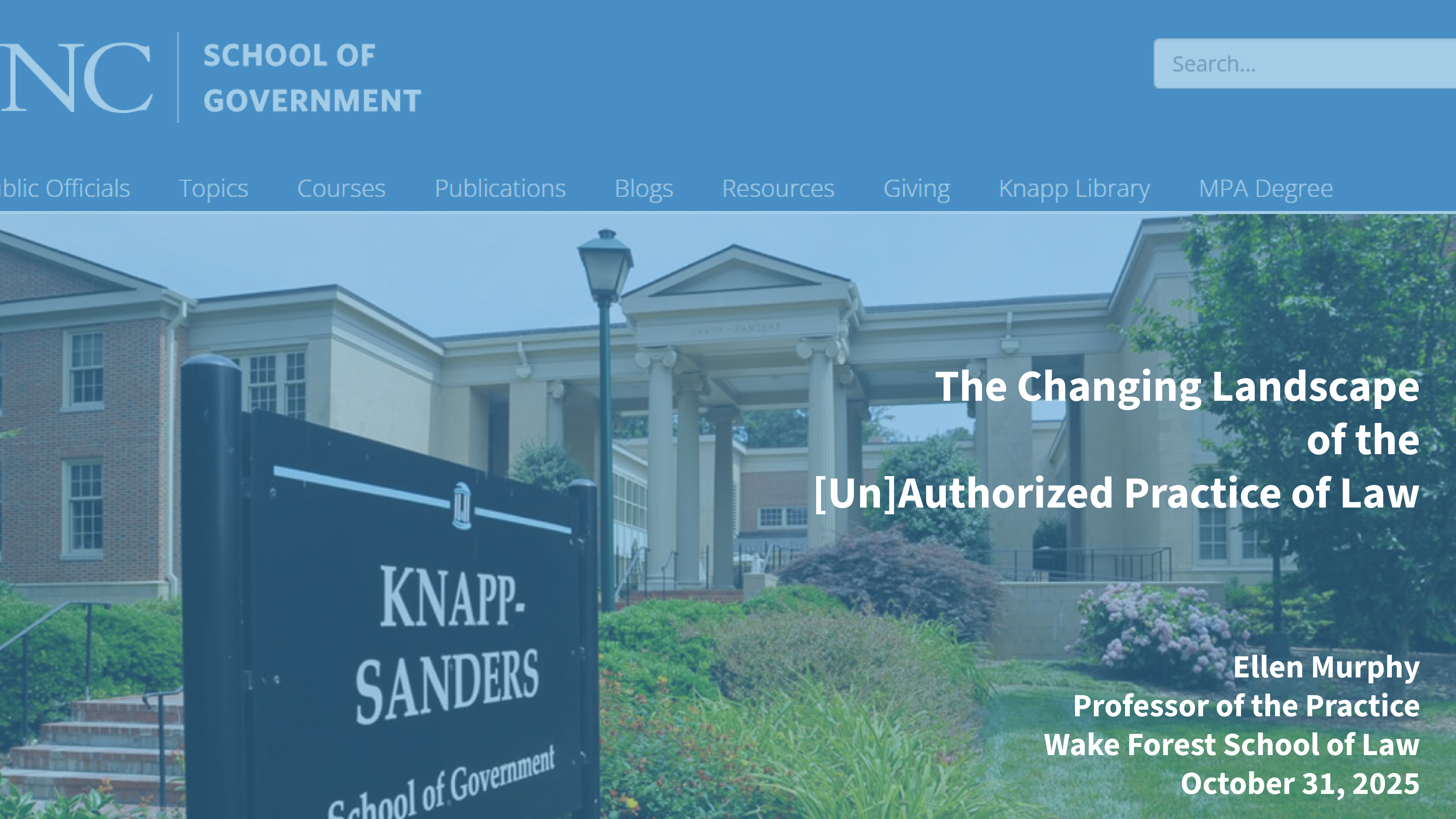


The Changing Landscape of the [Un]Authorized Practice of Law

Ellen Murphy
Professor of the Practice
Wake Forest School of Law

October 31, 2025

Why this topic?

RULES OF PROFESSIONAL CONDUCT

LAW FIRMS AND ASSOCIATIONS

‹ Previous Rule   Next Rule ›

RULE 5.5 UNAUTHORIZED PRACTICE OF LAW

(a) **A lawyer** shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction.

(b) **A lawyer** who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; <u>or</u>

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

RULES OF PROFESSIONAL CONDUCT

(c) **A lawyer** [not licensed in NC]*** does not engage in the unauthorized practice of law in this jurisdiction if the lawyer's conduct is in accordance with these Rules and:

(1) the lawyer is authorized by law or order to appear before a tribunal or administrative agency in this jurisdiction or is preparing for a potential proceeding or hearing in which the lawyer reasonably expects to be so authorized;

(2) the lawyer acts with respect to a matter that arises out of or is otherwise reasonably related to the lawyer's representation of a client in a jurisdiction in which the lawyer is admitted to practice and the lawyer's services are not services for which pro hac vice admission is required;

(3) the lawyer acts with respect to a matter that is in or is reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the lawyer's services arise out of or are reasonably related to the lawyer's representation of a client in a jurisdiction in which the lawyer is admitted to practice and are not services for which pro hac vice admission is required; or

(4) the lawyer is associated in the matter with a lawyer admitted to practice in this jurisdiction who actively participates in the representation and the lawyer is admitted pro hac vice or the lawyer's services are not services for which pro hac vice admission is required.

RULES OF PROFESSIONAL CONDUCT

(c) **A lawyer** [not licensed in NC]*** does not engage in the unauthorized practice of law in this jurisdiction and may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law if the lawyer's conduct is in accordance with these Rules and:

(1) the lawyer provides legal services to the lawyer's employer or its organizational affiliates; the services are not services for which pro hac vice admission is required; and, when the services are performed by a foreign lawyer and require advice on the law of this or another US jurisdiction or of the United States, such advice is based upon the advice of a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or

(2) the lawyer is providing services limited to federal law, international law, the law of a foreign jurisdiction or the law of the jurisdiction in which the lawyer is admitted to practice, or the lawyer is providing services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

(d) **A lawyer** [not licensed in NC]*** does not engage in the unauthorized practice of law in this jurisdiction and may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law if the lawyer's conduct is in accordance with these Rules and:

(1) the lawyer provides legal services to the lawyer's employer or its organizational affiliates; the services are not services for which pro hac vice admission is required; and, when the services are performed by a foreign lawyer and require advice on the law of this or another US jurisdiction or of the United States, such advice is based upon the advice of a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or

(2) the lawyer is providing services limited to federal law, international law, the law of a foreign jurisdiction or the law of the jurisdiction in which the lawyer is admitted to practice, or the lawyer is providing services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

(e) [pending comity application exception].

(f) A lawyer shall not assist another person in the unauthorized practice of law.

***

So what is the [un]authorized practice of law?

- Can be a source of confusion and uncertainty.
- Impossible to define with precision.
- Depends on the specific facts at issue.
- Varies significantly by state, but……is always non-exclusive.
- Has significant policy ramifications.

(Model) Rule 5.5 cmt 2

"[T]he definition of the practice of law is established by law and varies from one jurisdiction to another."

Note:

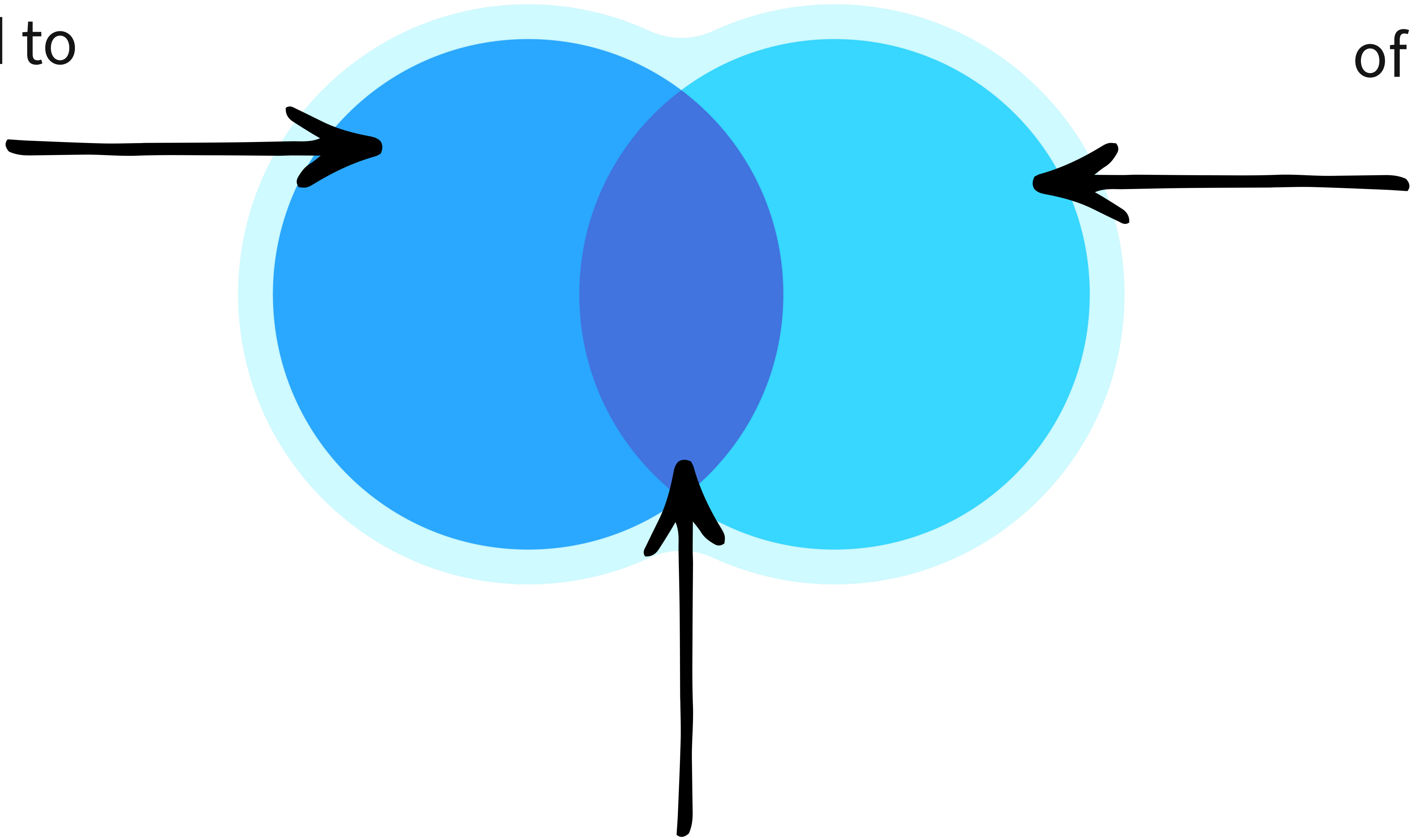
The ABA once tried to define the practice of law – and abandoned the effort.

See Task Force on the Model Definition of the Practice of Law, available at:

https://www.americanbar.org/groups/professional_responsibility/task_force_model_definition_practice_law/

The practice of law (generally) limited to licensed lawyers.

Excluded from the definition of the practice of law.



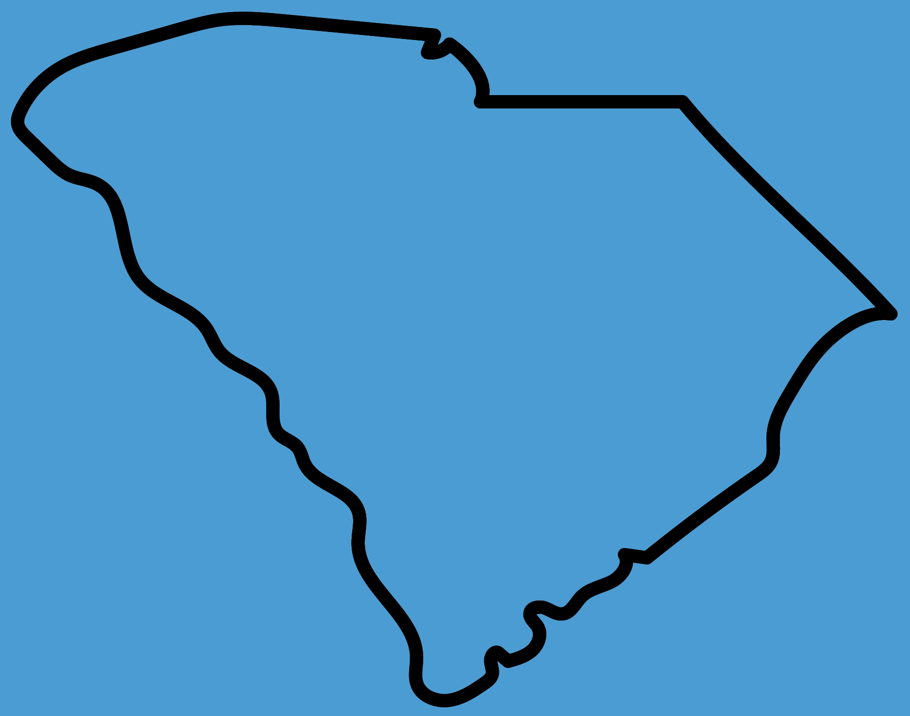
Excepted from the prohibition on the UPL: eg, legislature permits **nonlawyer** to represent others in administrative proceeding.

Restatement (Third) of the Law Governing Lawyers (2000)

§ 4 Unauthorized Practice by a Nonlawyer

Cmt. B. Unauthorized practice by a nonlawyer—in general.

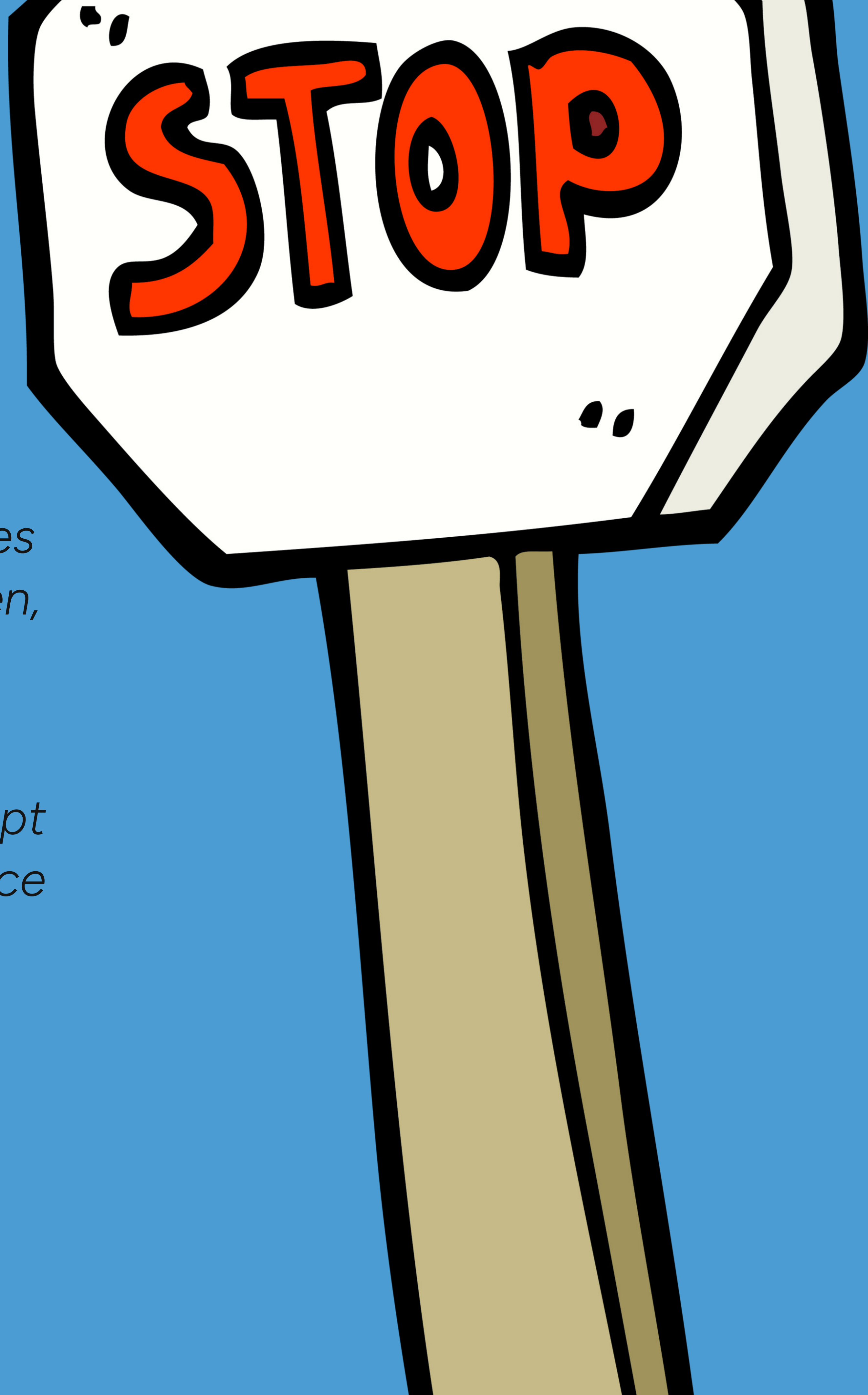
*****The primary justification given for unauthorized practice limitations was that of consumer protection-to protect consumers of unauthorized practitioner services against the significant risk of harm believed to be threatened by the nonlawyer practitioner's incompetence or lack of ethical constraints.**



The practice of law "is not confined to litigation, but extends to activities in other fields which entail specialized legal knowledge and ability. Often, the line between such activities and permissible business conduct by non-attorneys is unclear."

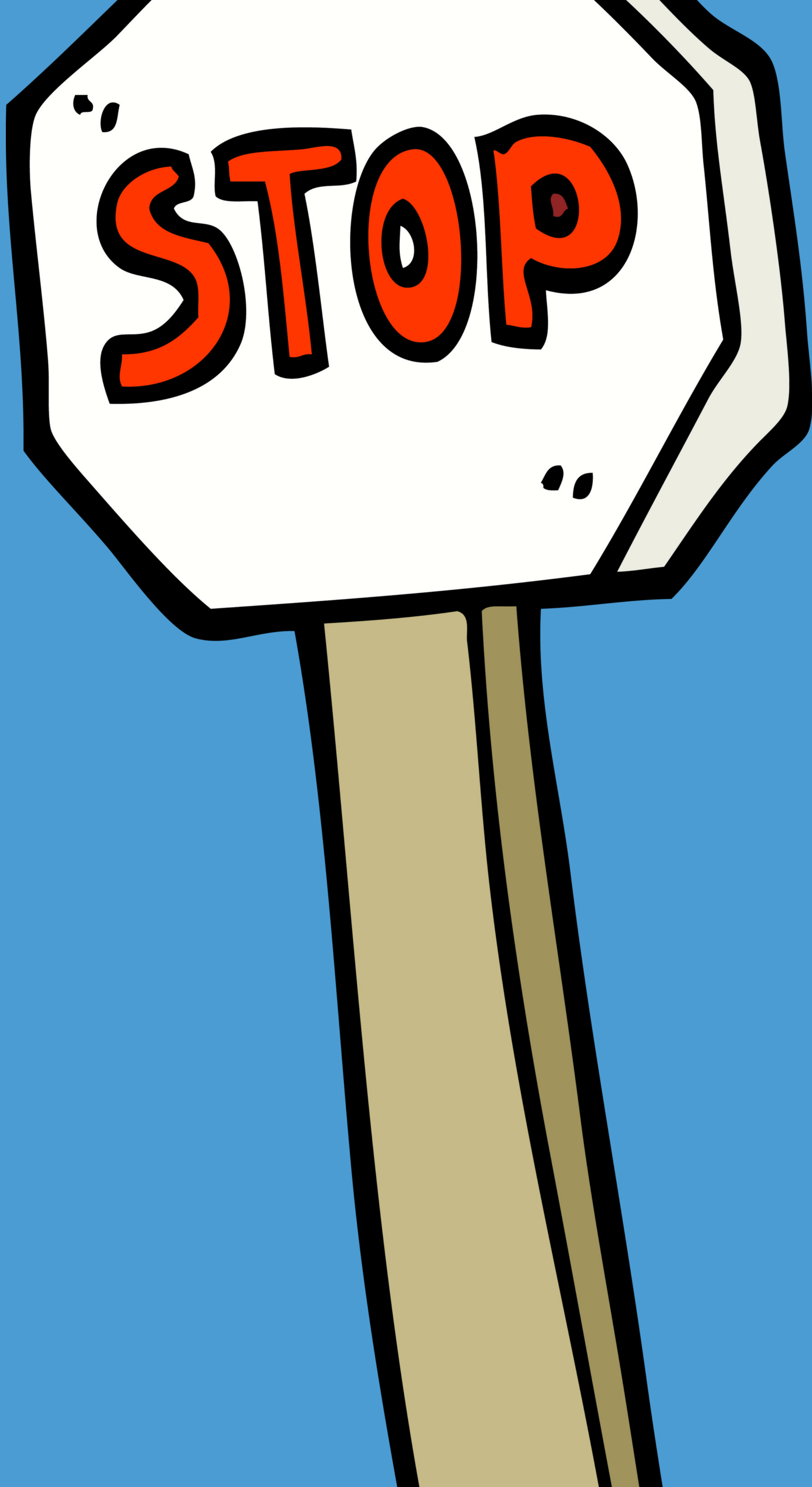
Indeed, we have recognized "it is neither practicable nor wise" to attempt to formulate a comprehensive definition of what constitutes the practice of law. ***Because of this ambiguity, what is, and what is not, the unauthorized practice of law is best decided in the context of an actual case or controversy****.*

Linder v. Insurance Claims Consultants, Inc., 560 S.E.2d 612 (S.C. 2002)



The Pennsylvania Constitution vests with our [Supreme] Court the exclusive authority to regulate the practice of law, which includes the power to define what constitutes the practice of law. What constitutes the practice of law, however, is not capable of a comprehensive definition. For this reason, [the Supreme] Court has not attempted to provide an all-encompassing statement of what activities comprise the practice of law. ***Thus, we have determined what constitutes the practice of law on a case-by-case basis.***

Harkness v. Unemployment Comp. Bd. of Review, 920 A.2d 162 (Pa. 2007)

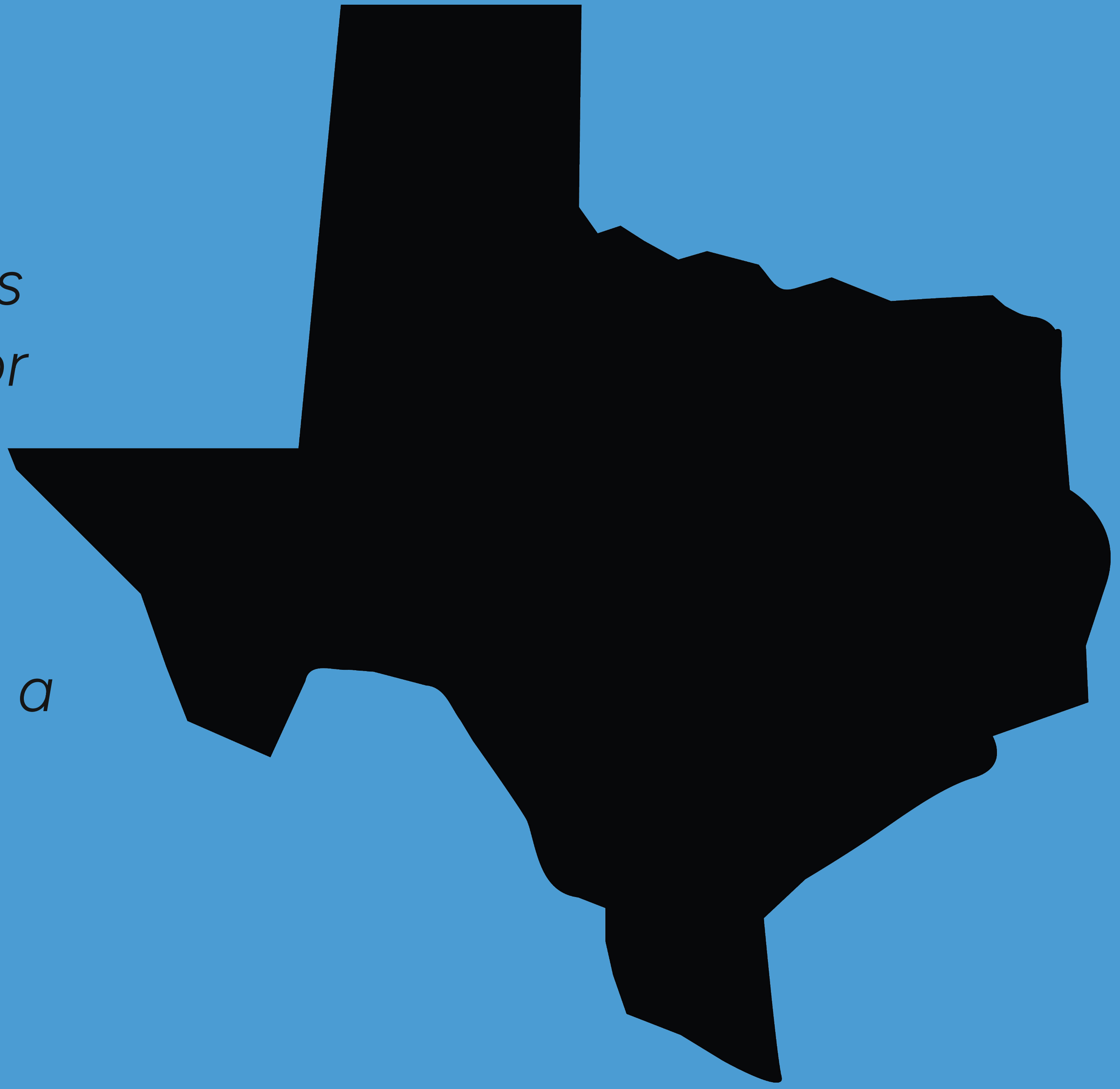


Texas Govt. Code Title 2: Judicial Branch, Subchapter G: Attorneys

Subchapter 81: State Bar; Subchapter G: UPL

Sec. 81.101. DEFINITION. (a) In this chapter the "practice of law" means the preparation of a pleading or other document incident to an action or special proceeding or the management of the action or proceeding on behalf of a client before a judge in court ***as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge****, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined.*

(b) ***The definition in this section is not exclusive*** *and does not deprive the judicial branch of the power and authority under both this chapter and the adjudicated cases to determine whether other services and acts not enumerated may constitute the practice of law.*



UPL Committee v. Parsons Technology, Inc.

1999 WL 47235 (N.D. Tex. 1999)

(aka the Quicken Family Lawyer case)

"QFL goes beyond merely instructing someone how to fill in a blank form. While no single one of QFL's acts, in and of itself" may constitute the practice of law, taken as a whole Parsons, through QFL, has gone beyond publishing a sample form book with instructions, and has ventured into the unauthorized practice of law."

Texas Govt. Code Title 2: Judicial Branch, Subchapter G: Attorneys

Subchapter 81: State Bar; Subchapter G: UPL

Sec. 81.101. DEFINITION.

*****

(c) In this chapter, the "practice of law" ***does not include the design, creation, publication, distribution, display, or sale, including publication, distribution, display, or sale by means of an Internet web site, of written materials, books, forms, computer software****, or similar products if the products clearly and conspicuously state that the products are not a substitute for the advice of an attorney. ****

NC Gen. Stat. 84-2.1 "Practice Law" Defined

(a) The phrase "practice law" *** is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation[.]

Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition.

NC Gen. Stat. 84-2.1 "Practice Law" Defined

(b) The phrase "practice law" does not encompass:

(1) The drafting or writing of memoranda of understanding or other mediation summaries by [certain] mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of employment related matters for The University of North Carolina or a constituent institution, or for an agency, commission, or board of the State of North Carolina.

(2) The selection or completion of a preprinted form by a real estate broker licensed under Chapter 93A of the General Statutes, when the broker is acting as an agent in a real estate transaction and in accordance with rules adopted by the North Carolina Real Estate Commission***

(3) The completion of or assisting a consumer in the completion of various agreements, contracts, forms, and other documents related to the sale or lease of a motor vehicle as defined in G.S. 20-286(10), or of products or services ancillary or related to the sale or lease of a motor vehicle, by a motor vehicle dealer licensed under Article 12 of Chapter 20 of the General Statutes.

NC Gen. Stat. 84-2.2 Exemption and additional requirements for Web site providers.

(a) The practice of law...does not include the operation of a Web site by a provider that offers consumers access to interactive software that generates a legal document based on the consumer's answers to questions presented by the software, provided that all of the following are satisfied:

(1) The consumer is provided a means to see the blank template or the final, completed document before finalizing a purchase of that document.

(2) An attorney licensed to practice law in the State of North Carolina has reviewed each blank template offered to North Carolina consumers,

(3) The provider must communicate to the consumer that the forms or templates are not a substitute for the advice or services of an attorney.(3)

(4) The provider discloses its legal name and physical location and address to the consumer.

(5) The provider does not disclaim any warranties or liability and does not limit the recovery of damages or other remedies by the consumer.

(6) The provider does not require the consumer to agree to jurisdiction or venue in any state other than North Carolina for the resolution of disputes between the provider and the consumer.

(7) The provider must have a consumer satisfaction process. All consumer concerns involving the unauthorized practice of law made to the provider shall be referred to the North Carolina State Bar. The consumer satisfaction process must be conspicuously displayed on the provider's Web site.

(b) A Web site provider subject to this section shall register with the North Carolina State Bar prior to commencing operation in the State and shall renew its registration with the State Bar annually. The State Bar may not refuse registration.

(c) Each Web site provider subject to this section shall pay an initial registration fee in an amount not to exceed one hundred dollars ($100.00) and an annual renewal fee in an amount not to exceed fifty dollars ($50.00).

State v. Pledger

127 S.E.2d 337 (N.C. 1962)

A person, firm or corporation having a primary interest, not merely an incidental interest, in a transaction, may prepare legal documents necessary to the furtherance and completion of the transaction without violating G.S. §84-4.

The statute was not enacted for the purpose of conferring upon the legal profession an absolute monopoly in the preparation of legal documents; its purpose is for the better security of the people against incompetency and dishonesty in an area of activity affecting general welfare.

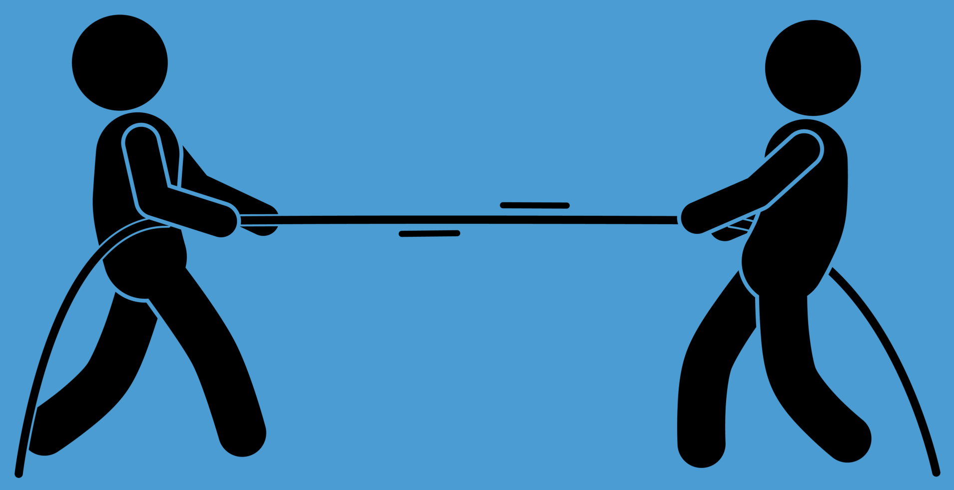
Restatement (Third) of the Law Governing Lawyers (2000)

---

§ 4 Unauthorized Practice by a Nonlawyer

Cmt. B. Unauthorized practice by a nonlawyer—in general.

***The primary justification given for unauthorized practice limitations was that of consumer protection-to protect consumers of unauthorized practitioner services against the significant risk of harm believed to be threatened by the nonlawyer practitioner's incompetence or lack of ethical constraints.



Consumer Protection

Access to Legal Services

THE LEGAL SYSTEM IS SHUTTING OUT MILLIONS OF AMERICANS.

Let's be real: our nation may guarantee equal access to justice, but most people can't afford to hire a lawyer. Meanwhile, so many basic legal rights—housing, healthcare, income assistance, education, and much more—are extremely difficult to access without help from someone who knows what they're doing.

STATS CONTEXT OPPORTUNITY SOLUTION

https://www.frontlinejustice.org/the-crisis

JUSTICE INEQUITY BY THE NUMBERS

92%
of low-income Americans' civil legal problems did not receive any or enough legal help

44%
of veteran households experienced 5 or more legal problems in the last year

70%
of seniors experienced 1 or more legal problems in the last year

IT DOESN'T HAVE TO BE THIS WAY.

Instead of making sure everyone can access legal help, the legal profession imposes rigorous and expensive requirements to become an attorney while pushing for laws that make it illegal for anyone but licensed lawyers to provide legal advice. The end result: an overwhelming majority of low-income Americans have unresolved civil legal issues— like evictions, custody disputes, protective orders, denied benefits, and debt issues. These non-criminal matters impact lives. Timely help is critical.

More lawyers won't solve this problem. Despite a 400% increase in lawyers over five decades, 120 million legal problems go unaddressed each year. We need a community-focused solution to get legal help to the people who need it.

https://www.frontlinejustice.org/the-crisis

Resolution July 30, 2025

In Support of Exploring Access to Justice Through Authorized Justice Practitioner Programs

Resolution 1-2025 In Support of Exploring Access to Justice Through Authorized Justice Practitioner Programs

Download the resolution

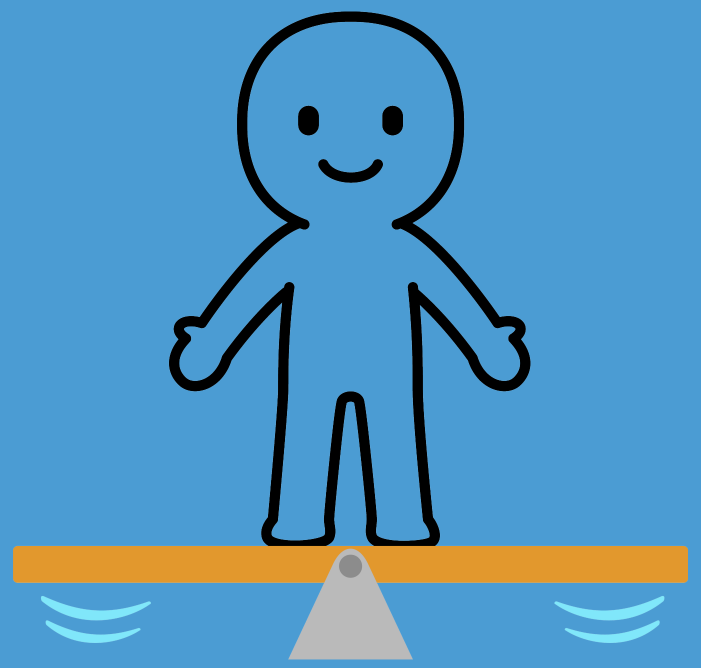
WHEREAS, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) have repeatedly acknowledged that the promise of equal access to justice is not realized for the vast majority of Americans, and the supply of free and affordable legal services is insufficient to meet the demand; and

WHEREAS, most low-income and middle-income individuals cannot afford legal services; and

WHEREAS, in many jurisdictions, individuals residing in rural or underserved urban areas face significant barriers to accessing legal services, leading to the emergence of legal deserts where the availability of qualified legal practitioners is critically low; and

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators have long championed the importance of fair access to justice for all in civil matters, and in 2015, adopted Resolution 5 setting an aspirational goal of 100 percent access to effective legal

Consumer Protection



Access to Legal Services

The New York Times

OPINION
GUEST ESSAY

What's Wrong With Getting a Little Free Legal Advice?

March 17, 2023

Liam Eisenberg

Share full article 408

By Bruce A. Green and David Udell
Mr. Green is a professor at Fordham Law School, where he is the director of the Stein Center for Law & Ethics. Mr. Udell is the executive director of the National Center for Access to Justice.

Illinois Supreme Court approves vision for new Community Justice Worker Program

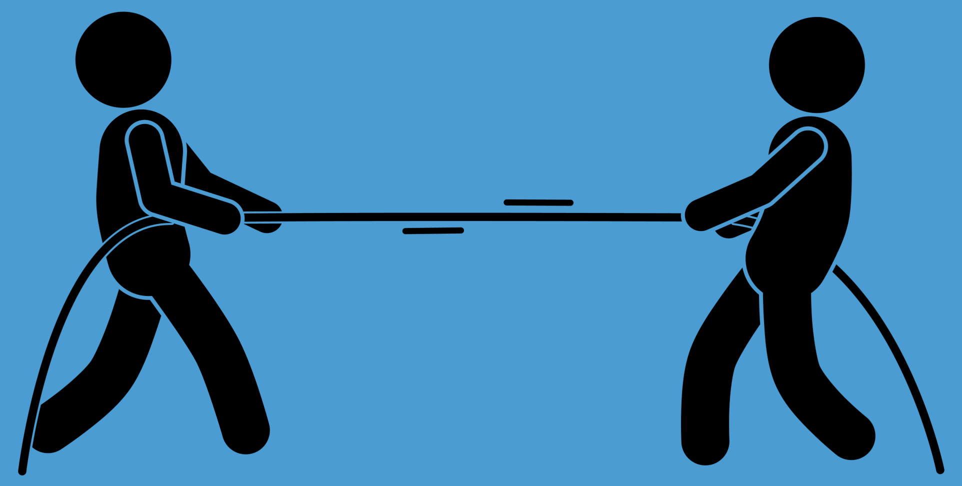
Illinois Supreme Court approves vision for new Community Justice Worker Program

Chief Justice Mary Jane Theis and the Illinois Supreme Court announced the approval in concept of a new Community Justice Worker Program (Program) to allow for certified individuals who are not lawyers to provide limited legal assistance in designated high-need areas of law under the supervision of an Illinois-licensed attorney.

While Illinois is home to over 70 civil legal aid organizations, the need for free civil legal aid far outpaces available services. The approved proposal will position trained and certified community justice workers in legal aid and other non-profit organizations to provide limited legal assistance in areas of law where there is a high unmet need. The most likely beneficiaries of this model of community justice worker assistance are people who are not currently accessing legal services and cannot afford an attorney.

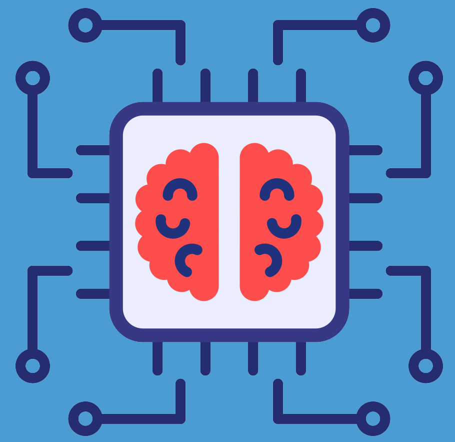
"Far too many Illinoisans cannot find or afford a lawyer who can handle legal issues affecting basic issues of life – custody, divorce, housing, debt relief or what is needed in a will. This has been a problem for decades, in Illinois and elsewhere, and simply asking lawyers to work more pro bono hours is not the answer," said Tim Eaton and Tim Bertschy, who are former Presidents of the Illinois State Bar Association (Eaton also served as President of the Chicago Bar Association) and served as the original Chair and Vice Chair of the Supreme Court Executive Committee on the Practice of Law (Executive Committee). "Providing for certified community justice workers closely supervised by a licensed lawyer and employed by nonprofits only, will be become one important tool in resolving the unmet legal needs of the public while still protecting the tenets of our profession."

The Program is intended to expand access to legal services and help underserved areas, including legal deserts, by leveraging existing resources and people already in those communities. People often look first to known, trusted sources (family, friends, social service agencies) for help with their problems. A community justice worker program can build trust and confidence in the judicial system by equipping trusted sources to provide accurate and effective assistance.



Consumer Protection

Access to Legal Services



Who are the "nonlawyer" legal services providers?

604 F.Supp.3d 97
United States District Court, S.D. New York.

UPSOLVE, INC., and Rev. John Udo-Okon, Plaintiffs,

v.

Letitia JAMES, in her official capacity as Attorney General of the State of New York, Defendant.

No. 22-cv-627 (PAC)

|

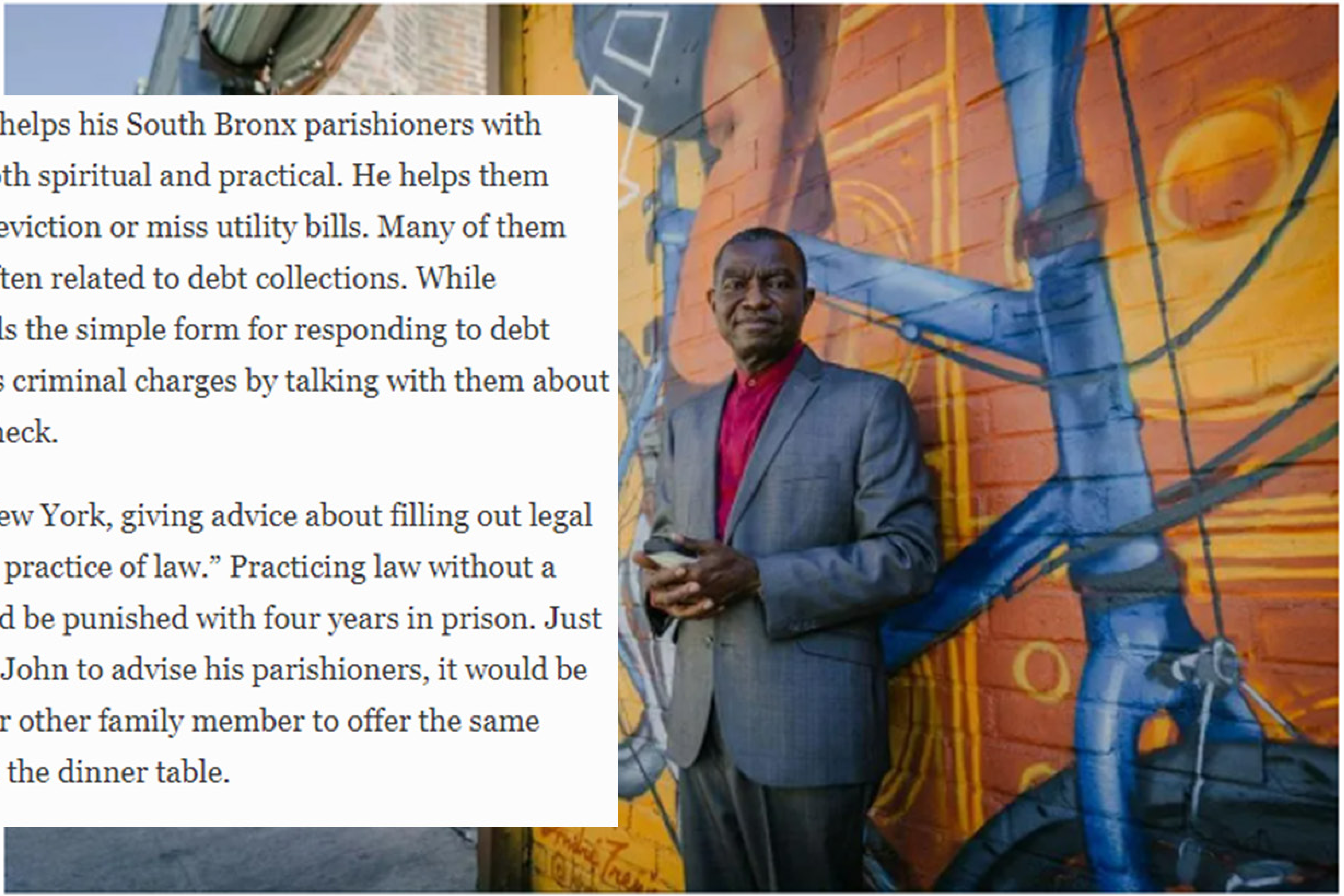
Signed 05/24/2022

Synopsis

Background: Non-profit organization and non-lawyer individual, who had crafted program that would train non-lawyers to give legal advice to low-income citizens who faced debt collection actions, brought action against state attorney general in her official capacity, seeking preliminary injunction barring attorney general from enforcing rules governing unauthorized practice of law (UPL) against them.

Reverend John Udo-Okon helps his South Bronx parishioners with many of their problems, both spiritual and practical. He helps them when they seek work, face eviction or miss utility bills. Many of them also face legal problems, often related to debt collections. While Reverend John understands the simple form for responding to debt collection lawsuits, he risks criminal charges by talking with them about which boxes they should check.

According to the state of New York, giving advice about filling out legal forms is the "unauthorized practice of law." Practicing law without a license is a felony that could be punished with four years in prison. Just as it is illegal for Reverend John to advise his parishioners, it would be illegal for an uncle, sister or other family member to offer the same advice to their loved one at the dinner table.



Reverend John Udo-Okon, who serves a church in the Bronx. INSTITUTE FOR JUSTICE

Source: https://www.forbes.com/sites/instituteforjustice/2023/01/24/talking-about-the-law-around-the-dinner-table-cant-be-a-crime/?sh=2127cedac645

"The orderly functioning of our judicial system and the protection of our citizens require that legal advice should be offered only by those who possess the requisite qualifications and authorization for the practice of law. At the same time, one of the most fundamental principles of our system of government prohibits any restraint on a citizen's right to disseminate his views on important public issues." *Dacey v. New York Cty. Lawyers' Ass'n*, 423 F.2d 188, 189 (2d Cir. 1969). Sometimes these two principles conflict, and one must yield to the other.

Reverend John Ud

This case exemplifies that conflict. Plaintiffs—a non-profit organization and a non-lawyer ***103** individual—seek to encroach upon a small part of what has heretofore been the exclusive domain of members of the Bar. Plaintiffs have crafted a program that would train non-lawyers to give legal advice to low-income New Yorkers who face debt collection actions. Specifically, Plaintiffs want to help those New Yorkers fill out checkboxes on a one-page answer form provided by the State, in the hopes that more people will avoid defaulting outright in such actions. The legal advice would be free and confined to helping clients complete the State's one-page form.

Plaintiffs' proposal faces one problem: by giving legal advice as non-lawyers, their activities would constitute the unauthorized practice of law ("UPL") under several New York statutes. They risk being sued by the Defendant in this case, the New York State Attorney General. Thus, Plaintiffs seek an injunction that prevents the Attorney General from enforcing the UPL rules against them.

New York County Lawyers' Ass'n. v. Dacey

234 N.E.2d 459 (N.Y. 1967)

"Does the writing, publication, advertising, sale and distribution of "How To Avoid Probate!" constitute the unauthorized practice of law * * *? It cannot be claimed that the publication of a legal text which purports to say what the law is amounts to legal practice. And the mere fact that the principles or rules stated in the text may be accepted by a particular reader as a solution to his problem does not affect this. *** So also with forms."

ANSWER: (Check all that apply)

1. ☐ General Denial: I deny the allegations in the Complaint.

SERVICE

2. ☐ I did not receive a copy of the Summons and Complaint.
3. ☐ I received the Summons and Complaint, but service was not correct as required by law.

DEFENSES

4. ☐ It is not my debt. I am a victim of identity theft or mistaken identity.
5. ☐ I have paid all or part of the alleged debt.
6. ☐ I dispute the amount of the debt.
7. ☐ I had no business dealings with Plaintiff (Plaintiff lacks standing).
8. ☐ There is no record of plaintiff having a license to collect debt (only for cases filed in New York City, Buffalo and other municipalities requiring debt collectors to be licensed).
9. ☐ Plaintiff does not allege a debt collector's license number in the Complaint (only for cases filed in New York City, Buffalo and other municipalities requiring debt collectors to be licensed).
10. ☐ Statute of limitations (the time has passed to sue on this debt).
11. ☐ This debt has been discharged in bankruptcy.
12. ☐ The collateral (property) was not sold at a commercially reasonable price.
13. ☐ Failure to provide proper notice before selling collateral (property).
14. ☐ Failure to mitigate damages (Plaintiff did not take reasonable steps to limit damages).
15. ☐ Unjust enrichment (the amount demanded is excessive compared with the original debt).
16. ☐ Violation of the duty of good faith and fair dealing.
17. ☐ Unconscionability (the contract is unfair).
18. ☐ Laches (plaintiff has excessively delayed in bringing this lawsuit to my disadvantage).

19-a. ☐ **OUTSIDE OF NEW YORK CITY ONLY:** Lack of personal jurisdiction under Uniform City Court Act § 213 (applies if you do not work in the city where the case was filed **and** you are not a resident of that city **or** (for all counties except Westchester and Nassau counties) you are not a resident of a town next to that city within the same county).

19-b. ☐ **SUFFOLK COUNTY:** Lack of personal jurisdiction; the defendant is not a resident and/or was not served in, or there was no transaction of business in, that portion of Suffolk County for which a District Court has been established (Towns of Huntington, Babylon, Islip, Smithtown and Brookhaven).

20. ☐ Defendant is in the military.

________________ COURT   COUNTY OF ________________   Part: ________

________________________,
Plaintiff(s)

-against-

________________________,
Defendant(s)

WRITTEN ANSWER
CONSUMER CREDIT TRANSACTION

Index Number: ________________

ANSWER: (Check all that apply)

1. ☐ General Denial: I deny the allegations in the Complaint.

SERVICE

2. ☐ I did not receive a copy of the Summons and Complaint.
3. ☐ I received the Summons and Complaint, but service was not correct as required by law.

DEFENSES

4. ☐ It is not my debt. I am a victim of identity theft or mistaken identity.
5. ☐ I have paid all or part of the alleged debt.
6. ☐ I dispute the amount of the debt.
7. ☐ I had no business dealings with Plaintiff (Plaintiff lacks standing).
8. ☐ There is no record of plaintiff having a license to collect debt (only for cases filed in New York City, Buffalo and other municipalities requiring debt collectors to be licensed).
9. ☐ Plaintiff does not allege a debt collector's license number in the Complaint (only for cases filed in New York City, Buffalo and other municipalities requiring debt collectors to be licensed).
10. ☐ Statute of limitations (the time has passed to sue on this debt).
11. ☐ This debt has been discharged in bankruptcy.
12. ☐ The collateral (property) was not sold at a commercially reasonable price.
13. ☐ Failure to provide proper notice before selling collateral (property).
14. ☐ Failure to mitigate damages (Plaintiff did not take reasonable steps to limit damages).
15. ☐ Unjust enrichment (the amount demanded is excessive compared with the original debt).
16. ☐ Violation of the duty of good faith and fair dealing.
17. ☐ Unconscionability (the contract is unfair).
18. ☐ Laches (plaintiff has excessively delayed in bringing this lawsuit to my disadvantage).

19-a. ☐ **OUTSIDE OF NEW YORK CITY ONLY:** Lack of personal jurisdiction under Uniform City Court Act § 213 (applies if you do not work in the city where the case was filed **and** you are not a resident of that city **or** (for all counties except Westchester and Nassau counties) you are not a resident of a town next to that city within the same county).

19-b. ☐ **SUFFOLK COUNTY:** Lack of personal jurisdiction; the defendant is not a resident and/or was not served in, or there was no transaction of business in, that portion of Suffolk County for which a District Court has been established (Towns of Huntington, Babylon, Islip, Smithtown and Brookhaven).

20. ☐ Defendant is in the military.

OTHER

21. ☐ Other Reasons ________________________
22. ☐ Please take notice that my only source of income is ____________, which is exempt from collection.

COUNTERCLAIM(S)

23. ☐ Counterclaim(s): $__________ Reason: ________________

VERIFICATION

State of New York, County of ____________ss:

________________, being duly sworn, deposes and says: I have read the Answer in Writing and know the contents to be true from my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

Sworn to before me this ____ day of ____________, 20___.

____
Notary Public

____
Signature of Defendant

Defendant's Address: ________________

This case is scheduled to appear on the court calendar as follows:
Date: ________ Part: ________ Room: ________ Time: ________ Both sides notified: Yes No

UCS-CC-1 (Revised 11/15)

"The UPL rules cannot be applied to Plaintiffs' program because the First Amendment protects their legal advice as speech, and the UPL rules are not narrowly tailored to satisfy strict scrutiny in this context," U.S. District Judge Paul Crotty said in the opinion.

Reverend John Udo-Okon, who serves a church in the Bronx. INSTITUTE FOR JUSTICE

Source: https://www.forbes.com/sites/instituteforjustice/2023/01/24/talking-about-the-law-around-the-dinner-table-cant-be-a-crime/?sh=2127cedac645

Upsolve, Inc. v. James

United States District Court, S.D. New York. • May 24, 2022 • 604 F.Supp.3d 97 •

Document | Filings (5) | Negative Treatment (3) | History (2)

KeyCite Negative Treatment

Select all items • No items selected

Negative Direct History

The KeyCited document has been negatively impacted in the following wa

1. Upsolve, Inc. v. James KEYCITED

604 F.Supp.3d 97, S.D.N.Y., May 24, 2022

Vacated and Remanded by

2. Upsolve, Inc. James MOST NEGATIVE

--- F.4th ----, 2nd Cir.(N.Y.), Sep. 09, 2025

Brief It

2025 WL 2598725

Only the Westlaw citation is currently available.

United States Court of Appeals, Second Circuit.

UPSOLVE, INC., Reverend John Udo-Okon, Plaintiffs-Appellees, Letitia JAMES, in her official capacity as Attorney General of New York, Defendant-Appellant.

No. 22-1345

August Term 2023

Argued: May 29, 2024

Decided: September 9, 2025

Synopsis

Background: Nonprofit group and pastor brought action against Attorney General of New York in her official capacity, seeking declaratory and injunctive relief, alleging that application of state's unauthorized practice of law (UPL) statutes to group's proposed program to train nonlawyers to provide free legal advice to New Yorkers facing debt-collection actions would violate their First Amendment right to freedom of speech. The United States District Court for the Southern District of New York, Paul A. Crotty, J., 604 F.Supp.3d 97, granted group's motion for a preliminary injunction. Attorney General appealed.

Holdings: The Court of Appeals, Sullivan, Circuit Judge, held that:

1 group had standing;

2 UPL statutes, as applied to group, regulated speech; and

3 UPL statutes were content neutral and thus subject to intermediate scrutiny.

Vacated and remanded.

Polaski v. Lee (E.D.N.C.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:24-CV-4-BO-BM

MORAG BLACK POLASKI, SHAWANA ALMENDAREZ, and NORTH CAROLINA JUSTICE FOR ALL PROJECT,

Plaintiffs,

v. ORDER

ERNIE LEE, in his official capacity as District Attorney for the 5th Prosecutorial District of the State of North Carolina; BENJAMIN R. DAVID, in his official capacity as District Attorney for the 6th Prosecutorial District of the State of North Carolina; NANCY LORRIN FREEMAN, in her official capacity as District Attorney for the 10th Prosecutorial District of the State of North Carolina; ASHLIE SHANLEY, in her official capacity as District Attorney for the 25th Prosecutorial District of the State of North Carolina; SPENCER B. MERRIWEATHER III, in his official capacity as District Attorney for the 26th Prosecutorial District for the State of North Carolina; and A. TODD BROWN, in his official capacity as President of the North Carolina State Bar and Chair of the Executive Committee of the North Carolina State Bar,

Defendants.

This cause comes before the Court on defenc
amended complaint pursuant to Rule 12(b)(6) of the Fe
have responded, defendants have replied, and a hea

BACKGROUND

Plaintiffs are two North Carolina Certified Paralegals and a nonprofit organization dedicated to expanding access to justice in North Carolina, in particular to those North Carolinians who cannot afford a lawyer to represent them but earn too much to qualify for free legal assistance. Plaintiffs seek to provide simple legal advice to North Carolinians regarding completing common, court-related forms, such as those used for summary ejectments, absolute divorces, and protective orders. But North Carolina prohibits the unauthorized practice of law by anyone who is not an attorney. Plaintiffs now challenge North Carolina's unauthorized practice of law (UPL) statutes under the First Amendment to the United States Constitution, alleging that they impermissibly restrict speech, specifically legal advice.

Polaski v. Lee (E.D.N.C.)

Restricting the practice of law, including the provision of legal advice, to lawyers who have training, oversight, confidentiality restrictions, and against whom clients have recourse, plainly fits within the State's substantial interest in protecting its citizens. *See CAI*, 922 F.3d at 209 (noting that professional integrity may suffer if state permits corporate practice of law). North Carolina attorneys are also governed by the Rules of Professional Conduct, which imposes, *inter alia*, duties of competence and loyalty and requires attorneys to avoid conflicts of interests. N.C. R. Prof'l Conduct r. 1.1; 1.7-1.13. Plaintiffs would not be governed by these rules, and, although they allege they want to provide only "simple legal advice," they also seek to provide advice in circumstances which can have wide-reaching effects, such as child custody matters.

Polaski v. Lee (E.D.N.C.)

Moreover, the restriction on the provision of legal advice does not prevent plaintiffs from sharing and distributing legal information. *See* Amd. Compl. Ex. B at 4 ("Generalized legal statements and opinions, not tailored to any specific or particular situation, do not constitute the unauthorized practice of law."). Paralegals may also assist clients with filling out forms, provided there is appropriate supervision by an attorney. Amd. Compl. ¶¶ 60, 77. In other words, North Carolina has struck a balance between limiting the practice of law and provision of legal advice to licensed attorneys and recognizing that paralegals are well-equipped to assist in the delivery of legal services. Plaintiffs argue that other jurisdictions have adopted different approaches and allow paralegals to provide additional services directly to clients. Plaintiffs also note their own efforts in trying to persuade the North Carolina General Assembly to do the same. That "[a]nother state legislature might balance the interests differently" does not mean that the balance struck by North Carolina runs afoul of the First Amendment. *CAI*, 922 F3d at 209. North Carolina's current limits on the practice of law and the provision of legal advice reasonably fit within its interest in regulating the legal profession.

In re: SC NAACP Housing Advocate Program

Brief It

Download original image (PDF)

442 S.C. 189

Supreme Court of South Carolina.

IN RE: SOUTH CAROLINA NAACP HOUSING ADVOCATE PROGRAM; the South Carolina State Conference of the NAACP; Marvin Neal; Robynne Campbell; De'Ontary Winchester, Petitioners.

Appellate Case No. 2023-001608

February 8, 2024

Synopsis

Background: Civil rights organization, housing program which was created by organization, and prospective non-lawyer volunteer advocates for the housing program brought declaratory judgment action, seeking authorization allowing certified housing program non-lawyer volunteer advocates to provide free, limited assistance to tenants facing eviction in magistrates courts.

Holding: The Supreme Court held that non-lawyer advocates did not engage in unauthorized practice of law.

So ordered.

In re: SC NAACP Housing Advocate Program

Petitioners in this matter include the South Carolina State Conference of the **692 NAACP; the South Carolina Housing Advocate Program ("Housing Program"), which was created by the State Conference; and three prospective nonlawyer volunteers for the Housing Program. They seek authorization from this Court allowing certified Housing Program nonlawyer volunteers ("Advocates") to provide free, limited assistance to tenants facing eviction in South Carolina magistrates courts. Specifically, petitioners seek a declaratory judgment in this Court's original jurisdiction that their proposed activities do not constitute the unauthorized practice of law. *In re Unauthorized Prac. of L. Rules*

After a preliminary review of the petition and the proposed Housing Program documents, the Court informed petitioners that it was considering authorizing the Program on a provisional basis or as a pilot program. The Court requested additional information from petitioners and requested they file a supplement to their petition addressing two issues.

First, this Court inquired as to whether petitioners would agree to share data and performance metrics they intend to collect so the Court could evaluate the Housing Program and the conduct of its Advocates. Second, petitioners were asked *192 to provide additional information about how nonlawyer volunteers for the Housing Program would qualify to be certified as Advocates, the nature of the training they would be provided, and how the Advocates would be supervised.

In re: SC NAACP Housing Advocate Program

According to petitioners, the Housing Program is intended to allow nonlawyer volunteers to provide basic, limited assistance to tenants facing eviction so those tenants may better understand how to exercise their rights and access South Carolina courts. Tenants must give their informed consent, confirmed in writing on standardized Housing Program-approved forms, in order to be eligible for the Program.

Tenants will be specifically advised that the Housing Program Advocates are not lawyers and, according to the petition, Advocates' must strictly limit the information they provide to tenants and they may only:

> (1) confirm that the tenant they are helping has an eviction action filed against them; (2) advise the tenant that they should request a hearing and, based on the text of the eviction notice and checking relevant court records, explain how and when to do so; and (3) provide the tenant with narrow additional advice about the hearing by flagging common defenses, primarily pertaining to notice, that the tenant might be able to raise.

In re: SC NAACP Housing Advocate Program

In their supplement to the petition, petitioners summarize the educational component of the program, which is a prerequisite for nonlawyer volunteers to be certified as Advocates. To become certified Advocates, nonlawyer volunteers must complete a training program with four modules that last between two to four hours each, for a total of twelve hours of training. Volunteers must pass a test after each module and also pass a cumulative final examination to become certified as Advocates and provide assistance.

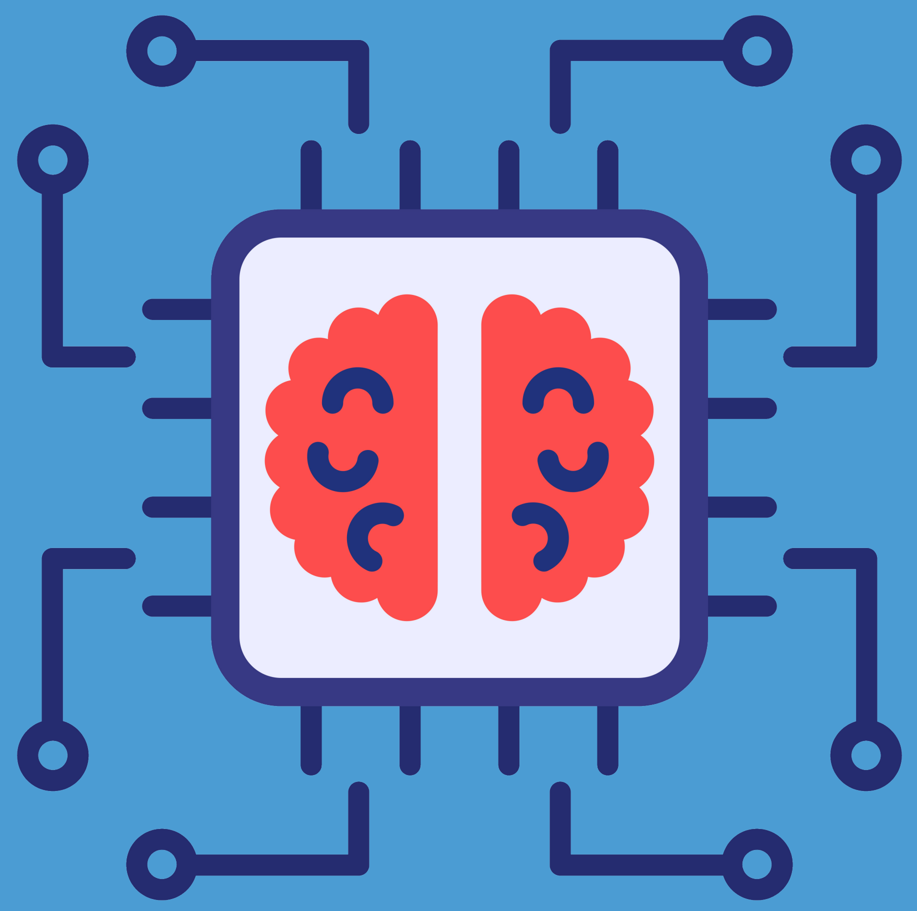
According to petitioners, Module 1 includes an overview of the Advocates' responsibilities and covers in detail a code of conduct that must be followed, together with instruction concerning their obligations to tenants. Advocates will review the relevant Rules of Professional Conduct, discuss the limitations on the information they may provide, and evaluate sample problems.

Module 2 covers general eviction law and the eviction process in magistrates court in South Carolina, including lease and notice requirements, as well as statutory grounds for eviction.

Module 3 includes instruction on the substantive guidance that Advocates will be trained to provide to tenants. Petitioners state Advocates will be trained to determine when a tenant was served with a rule to vacate or show cause and whether notice was proper, review sample scripts advising tenants about requesting a hearing and any specific notice defenses that might be available, and practice providing this information and responding to potential questions.

Module 4 covers mandatory referrals to legal service providers, which as noted previously, must be made whenever a tenant has questions or seeks information or assistance beyond what the Housing Program permits.

Technology (aka the nonhuman service providers)



LegalZoom.com,Inc. v. NC State Bar

2014 WL 1213242 (N.C. Super Ct. Mar. 24, 2014)

The court is not yet comfortable that it understands the overall process of preparing more complex documents, and hopes to develop a greater understanding of how the branching software process is implemented in preparing such documents, including whether and how a customer's answer to one question effects what further parts of the template are offered and what further choices the customer is asked to make.

Questions include, for example, if a customer makes one choice presented to him by the branching software, are there portions of the template that are then never shown to the customer? If so, what is the reasoning behind and the legal significance of the software's determination not to present that portion of the form? *** Does the LegalZoom software effectively make choices for its customer?

Lola v. Skadden, Arps, Slate, Meagher & Flom LLP

620 Fed Appx. 37 (2d Cir. 2015) (applying NC law)

A fair reading of the complaint in the light most favorable to Lola is that he provided services that a machine could have provided. ***The parties themselves agreed at oral argument that an individual who, in the course of reviewing discovery documents, undertakes tasks that could otherwise be performed entirely by a machine cannot be said to engage in the practice of law.***

[Contract lawyer doing document review sued for overtime. Not practicing law, and therefore may be eligible for overtime under FLSA.]

Supreme Court of Florida

No. SC18-149

THE FLORIDA BAR,
Complainant,

vs.

TIKD SERVICES LLC, A FOREIGN LIMITED LIABILITY COMPANY, and CHRISTOPHER RILEY, INDIVIDUALLY AND AS FOUNDER OF TIKD SERVICES, LLC,
Respondents.

October 14, 2021

What = practice of law in Florida?

. . .if the giving of [the] advice and performance of [the] services affect important rights of a person under the law, and if the reasonable protection of the rights and property of those advised and served requires that the persons giving such advice possess legal skill and a knowledge of the law greater than that possessed by the average citizen, then the giving of such advice and the performance of such services by one for another as a course of conduct constitute[s] the practice of law.

The Florida Bar v. Sperry, 140 So. 2d 587, 591 (Fla. 1962), judg. vacated on other grounds, 373 U.S. 379 (1963)

The TIKD Facts

Florida Bar v. TIKD Services LLC, 326 So.3d 1073 (2021)
46 Fla. L. Weekly S295

326 So.3d 1073
Supreme Court of Florida.

The FLORIDA BAR, Complainant,
v.

TIKD Services, LLC is not a law firm, and its chief executive officer, Christopher Riley, is not a member of the Bar. TIKD operates a website and mobile application through which a driver can receive legal assistance in the resolution of a traffic ticket. A driver who receives a traffic ticket in one of the four counties in which TIKD operates can request services by creating an account with TIKD via its website, agreeing to its Terms of Service, and uploading a picture of his or her traffic ticket. TIKD then analyzes the ticket to determine whether it should provide any services to the driver. If TIKD declines the ticket, the driver is notified, and he or she is not charged a fee. If TIKD accepts a ticket, the driver is charged a percentage of the ticket's face value, and his or her contact information is forwarded to a Florida-licensed attorney whom TIKD has contracted with to provide traffic ticket defense services to its customers. All costs associated with defending the traffic ticket are paid by TIKD, including any court costs or assessed fines. TIKD does not guarantee that a driver's case will be resolved favorably and provides a full refund if points are ultimately assessed against a driver's license.

*1075 Original Proceeding – The Florida Bar

The attorneys TIKD contracts with are paid a flat rate per case, regardless of the case's outcome. The fee paid to each attorney is set by TIKD and is paid from the fee it collects from each driver. Each attorney is free to accept or decline representation of any driver, and drivers are likewise free to accept or decline representation from any attorney. If representation is accepted, the attorney communicates directly with the driver and handles all aspects of his or her ticket defense case.

TIKD Terms & Conditions

326 So.3d 1073
Supreme Court of Florida.

The FLORIDA BAR, Complainant,
v.
TIKD SERVICES LLC, a Foreign Limited Liability Company, and Christopher Riley, Individually and as Founder of TIKD Services, LLC, Respondents.

No. SC18-149
|
October 14, 2021

Synopsis
Background: Florida Bar filed petition against nonlawyer foreign limited liability company (LLC) and its chief executive officer (CEO), alleging that, by operating website and mobile application through which drivers could receive legal assistance in resolution of traffic tickets, respondents engaged in the unauthorized practice of law. Referee granted summary judgment in favor of respondents and submitted report recommending that petition be dismissed with prejudice. Bar objected.

Representation. By using the TIKD Properties and purchasing the Services, you authorize us to hire an independent licensed attorney on your behalf to represent you on all matters concerning the license plate number and traffic ticket number submitted by you with the TIKD Properties and to make payments to such independent licensed attorney on your behalf.

Attorneys and Law Firms

Joshua E. Doyle, Executive Director, Kellie D. Scott, Chair, Standing Committee on Unlicensed Practice of Law, William A. Spillias, Unlicensed Practice of Law Counsel, and Algeisa Maria Vazquez, Bar Counsel, The Florida Bar, Tallahassee, Florida; and Chris W. Altenbernd of Banker Lopez Gassler P.A., Tampa, Florida, for Complainant

Christopher M. Kise of Foley & Lardner LLP, Tallahassee, Florida; and Ramón A. Abadin of Ramón A. Abadin, P.A., Coral Gables, Florida, for Respondents

Gregg D. Thomas and James J. McGuire of Thomas & Locicero PL, Tampa, Florida, for Amici Curiae Gold & Associates, P.A. d/b/a The Ticket Clinic, Joseph Lorusso, P.A., The Law Offices of Lou Arslanian, Steven Bell, Esq., and The Law Offices of H. A. Rodriguez

Raoul G. Cantero of White & Case LLP, Miami, Florida, for Amici Curiae Responsive Law and Center for Public Interest Law

TIKD Majority

Florida Bar v. TIKD Services LLC, 326 So.3d 1073 (2021)
46 Fla. L. Weekly S295

326 So.3d 1073
Supreme Court of Florida.

The FLORIDA BAR, Complainant,

October 14, 2021

Synopsis

The Supreme Court, Lawson, J., held that respondents were in the business of selling legal services to the public, and so engaged in the unauthorized practice of law.

*1075 Original Proceeding – The Florida Bar

Attorneys and Law Firms

First, the services TIKD provides have the potential to substantially affect whether a driver timely receives legal representation and the quality of the representation he or she receives. The ability to timely obtain quality representation in a traffic citation

Second, TIKD collects money from its legal clients and promises to use that money to pay any court costs or fines that the legal client incurs as a result of the traffic citation. If a lawyer took up-front money from a client to satisfy monetary obligations

Third, an inherent conflict and corresponding risk to the public arises whenever a nonlawyer like TIKD controls and derives its income from the provision of legal services. Like any other business entity, TIKD is motivated by a desire to maintain and increase profitability. When coupled with the provision of legal services to the public, there is a risk that such motives will

Fourth, as a nonlawyer, TIKD simply lacks the skill or training to ensure the quality of the legal services provided to the public through the licensed attorneys it contracts with, nor does it possess the ability to ensure compliance with the Rules of Professional Conduct or to otherwise guard against the type of conflict discussed above. By contrast, if this were a law firm, its owners would be ethically required to properly supervise any less-experienced lawyers to whom they assigned a legal matter,

TIKD Dissent

326 So.3d 1073
Supreme Court of Florida.

The FLORIDA BAR, Complainant,
v.
TIKD SERVICES LLC, a Foreign Limited Liability Company, and Christopher Riley, Individually and as Founder of TIKD Services, LLC, Respondents.

First, the referee found facts about TIKD's business model. Reduced to its fundamentals, TIKD "provide[d] a technology platform and financial guarantee for drivers who have received a traffic ticket." Report of Referee at 6. The technology platform was familiar to anybody with a smartphone: create an account, read (if you like) the company's terms of service, [4] visit (if you like) a link containing answers to "frequently asked questions," then click in agreement if you decide to proceed. The financial guarantee was perhaps less familiar, [5] but not complicated. TIKD offered its customers a degree of certainty about the financial impact of defending a traffic ticket. Customers paid more than zero, but no more than TIKD's fee, which it set based on its assessment of what was likely to happen. TIKD thus bought the upside potential of a positive financial outcome (when the ticket was resolved for less than what the customer was charged) and bore the downside risk of loss (when it was not, including when financial penalties and points were assessed). TIKD charged no fee to potential customers whose tickets it declined to match with an attorney. If TIKD did, in fact, make a match, it calculated its fee without discussion or negotiation with the customer.

*1075 Original Proceeding – The Florida Bar

Attorneys and Law Firms

Joshua E. Doyle, Executive Director, Kellie D. Scott, Chair, Standing Committee on Unlicensed Practice of Law, William A.

Second, setting aside the majority's conclusion that, as a matter of law, TIKD's advertisements constituted legal advice—to which we will come later—the referee found that, as a matter of fact, TIKD did not give legal advice. *See* Report of Referee at 6

P.A. d/b/a The Ticket Clinic, Joseph Lorusso, P.A., The Law Offices of Lou Arslanian, Steven Bell, Esq., and The Law Offices of H. A. Rodriguez

Raoul G. Cantero of White & Case LLP, Miami, Florida, for Amici Curiae Responsive Law and Center for Public Interest Law

TIKD Dissent

326 So.3d 1073
Supreme Court of Florida.

The FLORIDA BAR, Complainant,
v.
TIKD SERVICES LLC, a Foreign Limited Liability Company, and Christopher Riley, Individually and as Founder of TIKD Services, LLC, Respondents.

No. SC18-149

Third, and again leaving aside the status of this conclusion as a legal matter, the referee found that TIKD's customers did in fact enter into independent relationships with the attorneys matched individually to their cases. Having determined that a ticket met its criteria, TIKD would pass the driver's contact information and ticket to a licensed Florida attorney, who was free to accept or decline the opportunity to work for TIKD's customer, at a rate of compensation set by TIKD. If the attorney accepted, his or her representation of TIKD's customer would be governed by an engagement letter negotiated between the two of them, without any involvement by TIKD. The customer, meanwhile, was free to decline TIKD's proposed match for any reason. If

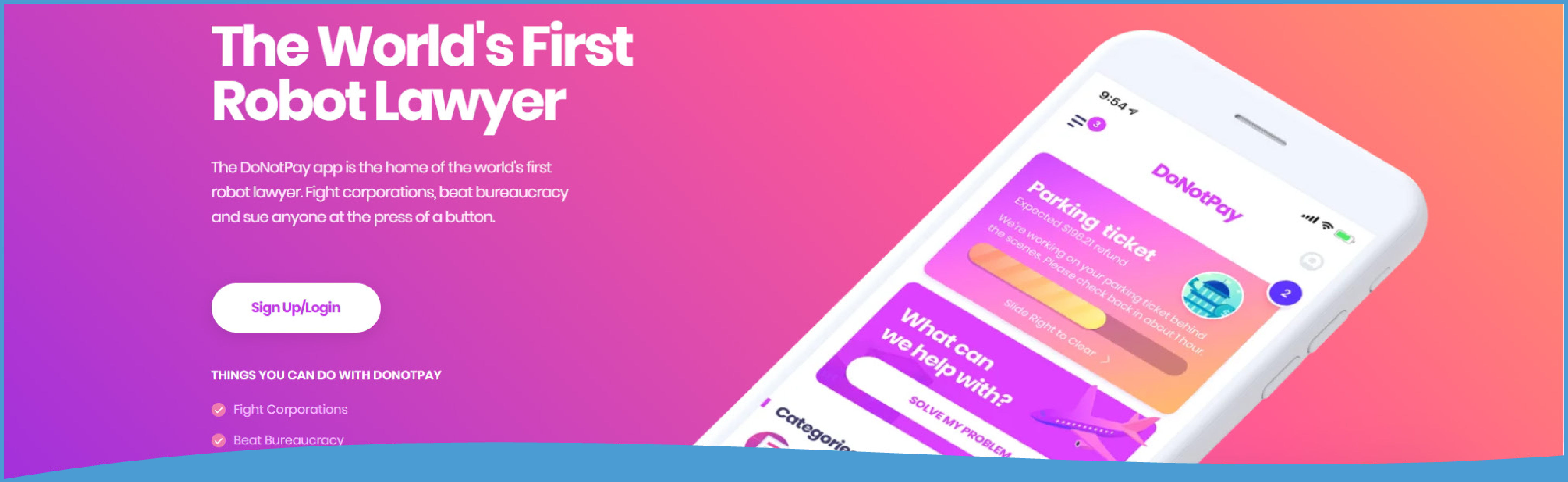
Couriel, J., dissented with an opinion, in which Polston and Muñiz, JJ., concurred.

Procedural Posture(s): Original Jurisdiction.

Fourth, and finally, the Bar does not allege, and provided the referee no evidence, that any customer complained about or was harmed by TIKD's work. The record contains no evidence of any complaints to the Bar about any of the independent lawyers to whom TIKD's customers were introduced.

Gregg D. Thomas and James J. McGuire of Thomas & Locicero PL, Tampa, Florida, for Amici Curiae Gold & Associates, P.A. d/b/a The Ticket Clinic, Joseph Lorusso, P.A., The Law Offices of Lou Arslanian, Steven Bell, Esq., and The Law Offices of H. A. Rodriguez

Raoul G. Cantero of White & Case LLP, Miami, Florida, for Amici Curiae Responsive Law and Center for Public Interest Law



- Calls itself the first “robot lawyer; created by 17- year-old nonlawyer.
- Original purpose was to contest parking tickets.
- Now allows filing small claims with utility providers and others, including credit cards, etc.
- Helps get refunds on hotels, flights, free trials, etc.
- Includes a chatbot that helps obtain visas and green cards.
- In February 2023, DoNotPay was expected to make its debut in a California court in February when a traffic court defendant “planned on using the company’s AI-powered technology to essentially guide him through his defense.” The plan was dropped after state bar officials threatened to prosecute.

DoNotPay Lawsuits: A Setback for Justice Initiatives, via Bloomberg Law March 28, 2023, available at: https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-donotpay-lawsuits-a-setback-for-justice-initiatives

What about generative AI and UPL?

Questions?

Ellen Murphy
Professor of Practice
Wake Forest School of Law
murphyme@wfu.edu