

Rule 4.3. Dealing with Unrepresented Person.

1 (a) In dealing on behalf of a client with a person who is not represented by a lawyer or
2 licensed paralegal practitioner, a licensed paralegal practitioner shall not state or imply that the
3 licensed paralegal practitioner is disinterested. When the licensed paralegal practitioner knows or
4 reasonably should know that the unrepresented person misunderstands the licensed paralegal
5 practitioner’s role in the matter, the licensed paralegal practitioner shall make reasonable efforts
6 to correct the misunderstanding. The licensed paralegal practitioner shall not give legal advice to
7 an unrepresented person, other than the advice to secure counsel, if the licensed paralegal
8 practitioner knows or reasonably should know that the interests of such a person are or have a
9 reasonable possibility of being in conflict with the interests of the client.

10 (b) A licensed paralegal practitioner may consider a person, whose representation by counsel
11 in a matter does not encompass all aspects of the matter, to be unrepresented for purposes of this
12 Rule and Rule 4.2, unless that person’s counsel has provided written notice to the licensed
13 paralegal practitioner of those aspects of the matter or the time limitation for which the person is
14 represented. Only as to such aspects and time is the person considered to be represented by
15 counsel.

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17 Comment

18 [1] An unrepresented person, particularly one not experienced in dealing with legal matters,
19 might assume that a licensed paralegal practitioner is disinterested in loyalties or is a
20 disinterested authority on the law even when the licensed paralegal practitioner represents a
21 client. In order to avoid a misunderstanding, a licensed paralegal practitioner will typically need
22 to identify his or her client and, where necessary, explain that the client has interests opposed to
23 those of the unrepresented person.

24 [2] This rule distinguishes between situations involving unrepresented persons whose
25 interests may be adverse to those of the licensed paralegal practitioner’s client and those in
26 which the person's interests are not in conflict with the client's. In the former situation, the
27 possibility that the licensed paralegal practitioner will compromise the unrepresented person's
28 interests is so great that this rule prohibits the giving of any advice, apart from the advice to
29 obtain counsel. Whether a licensed paralegal practitioner is giving impermissible advice may

30 depend on the experience and sophistication of the unrepresented person, as well as the setting in
31 which the behavior and comments occur.

32 [3] Paragraph (b) recognizes that the scope of representation of a person by counsel may,
33 under Rule 1.2, be limited by mutual agreement. Because a lawyer or licensed paralegal
34 practitioner for another party cannot know which of Rule 4.2 or 4.3 applies under these
35 circumstances, a licensed paralegal practitioner who undertakes a limited representation must
36 assume the responsibility for informing another party's lawyer or licensed paralegal practitioner
37 of the limitations. This ensures that such a limited representation will not improperly or unfairly
38 induce an adversary's lawyer or licensed paralegal practitioner to avoid contacting the person on
39 those aspects of a matter for which the person is not represented by counsel. Note that this
40 responsibility on the licensed paralegal practitioner undertaking limited-scope representation also
41 relates to the ability of another party's lawyer or licensed paralegal practitioner to make certain
42 ex parte contacts without violating Rule 4.2.

Effective November 1, 2018