

Instruction Handbook  
for  
Volunteers



VAN NUYS SELF-HELP  
LEGAL ACCESS CENTER  
AND  
MONROE SELF-HELP  
LEGAL ACCESS CENTER

## WELCOME VOLUNTEER!

Thank you for choosing to volunteer at the Self-Help Legal Access Center. We are thrilled to have you join us in this exciting project to help educate and serve our community. Your commitment of time and energy is greatly appreciated and will have an important and meaningful impact on those we serve.

The Self-Help Center is a free walk-in clinic created to help people help themselves. We offer workshops, legal forms and information to individuals seeking legal recourse without a lawyer. The Center does NOT provide legal advice or representation. Rather, we are a resource Center with information, books, and PEOPLE available to guide an individual through the judicial process.

As a volunteer, you will be working directly with people and promoting the Center's mission of Self-Help. We designed this Handbook to help you succeed in achieving this goal. It includes information on the operations and procedures of the Center as well as important general guidelines for volunteers. It will also give you a better understanding of the Center's mission and philosophy of helping people to help themselves.

We hope you find this handbook helpful, and as always, our staff is readily available to answer any questions you may have. We look forward to working together with you, and we know you will find this to be a valuable and rewarding volunteer experience!

### **Van Nuys Self-Help Legal Access Center Staff:**

Roberta Stovitz - Director  
Sheila McKeown - Staff Attorney  
Mercy Saballos - Paralegal/Intake Screener  
Carolyn Reznik-Camras - Pro Bono Coordinator

### **Monroe Self-Help Legal Access Center Staff:**

Chancela Al-Mansour - Attorney Site Coordinator

### **NLS Self-Help Center Support:**

Caron Caines, Project Coordinator  
Diana Avendaño, Organizational Assistant

## **BASIC RULES FOR WORKING IN THE SHLA CENTER**

1. Do not solicit business from people using the SHLA Center. Attorneys who volunteer in the SHLA Center may be asked for business cards from those whom they are assisting. It is vital that you do not give people your business card or refer them to your office while in the SHLA Center. We must refer people to the Lawyer Referral Service, or other non-profit legal services organizations, but not to private attorneys or firms.

2. Make sure everyone signs an intake form before you assist them. The intake form has important disclosures about the type of services we provide. It is essential that everyone sign an intake form before we provide information or assistance on their case. Other information on the intake form is optional, although we encourage people to complete the form so we know the types of matters presented in the SHLA Center, and can better stock the materials most in demand.

All information requested on the intake application is required by our funders. Most of the people we see in the SHLA Center cannot afford an attorney, although anyone seeking assistance can be helped regardless of his or her income. By providing income information, we are able to prove to private attorneys that we are not taking their clients from them. Often when the public understands the reason for requesting the information, they are more than willing to provide it.

3. Request each person who has received help to complete an evaluation form. We ask persons to evaluate our services so we know how we can improve the SHLA Center. We have evaluation forms in Spanish and English. Sometimes people will be rushing to file an answer in an unlawful detainer case, or have to meet some other filing deadline. In these cases, it is more important that they get to the clerk's office in time, than complete an evaluation form. We should ask them to come back after filing their papers and complete an evaluation form, but we should never delay people from meeting a filing deadline by insisting they complete an evaluation form first.

4. Do not make estimates about the outcome of motions or other matters pending before the court. Many times people will ask what their chance of prevailing on a motion may be, or they might ask about the other side's chances of prevailing. We should never estimate the chances for failure or success. We can explain the showing the court requires to grant, for example, a motion for relief from default, or a motion for summary judgment, but we cannot state what the likely outcome will be. Doing so goes beyond providing legal information, but borders on advocacy which is solely within the realm of private legal counsel.

5. Do not gossip or discuss what you may know about a person or case with people using the SHLA Center. You may personally know someone involved in a case, or may be asked personal questions by people using the Center about others involved in their case. Do not discuss or share your personal knowledge of other people with members of the public who use the Center. It compromises the Center's impartiality, and detracts from the professionalism of the Center.

6. Do not be afraid to tell people you do not know the answer. Many times we will be asked questions to which we do not know the answer. It is best to be honest with people and tell them we do not know. We should, however, try to find the answer. Sometimes we can call a court clerk, or another agency, to get the answer while the person waits. Other times we will have to wait until someone gets back to us before we can get the information we need. Still other times we might have to research the answer ourselves. In cases such as these, you can ask him or her to come back in a few days, but please leave the intake form and the answer to the person's question in a folder with the SHLA Center staff, so they can respond to the individual when he or she returns.

7. Make sure you are referring the person to the correct place before sending him or her there. There is nothing worse than being shuffled from one place to another. We should not be adding to people's frustration by sending them to the wrong place. Make sure you understand what the person needs, or where they have to go, before sending them someplace else.

8. **The SHLA Center works on a "drop-in basis," and does not provide information by telephone.** We are not equipped to provide information, other than location and what we do, over the phone. The SHLA Center is set up as a "drop-in" Center, and in order to serve persons coming in the door, we cannot stay on the phone. Also, it is important to see what papers people have been served with in order to know the type of response they need to file. Often people give inaccurate descriptions over the phone, which can result in our giving incorrect information. It is always prudent to look at a person's papers before determining which forms they need to obtain. Finally, it is necessary for people to read and sign the disclosure statement on the intake forms in the Center before we discuss their case with them so they understand that we are not providing confidential consultations or legal advice.

9. **Dress appropriately.** You are representing the Center, and should dress in a professional manner. We want people to know how to appear in court, so we should set an example by the clothes we wear .

10. **Treat everyone with respect.** Many of the people coming to the SHLA Center will be irritable and frustrated because they have already been to different agencies or departments and did not receive the information they needed. Others will be frustrated because they discover they are unable to accomplish what they are trying to do. Even though we may not be able to tell people what they want to hear, we can always treat people with respect.

Sometimes people have disabilities which make it difficult for them to speak, or be understood. It may take time to listen to them before you will understand what they are trying to say. Try to be patient, and let people express themselves; however, you can help direct the conversation by asking key questions so the person will be able to get to the point, and provide the information you need to assist him or her.

11. **Let us know when you are available and unavailable to work.** We certainly appreciate any time you can give us, and do not require you "punch a clock." However, we do request that you schedule the hours you will work in advance, and that you notify us if you will be unavailable during any time you have already committed to work. This way we can try to schedule full coverage for the SHLA Center at all times.

12. **Do not allow food or drink in the SHLA Center.** If we are to maintain cleanliness and quality of the materials, we need to keep people from eating or drinking in the Center. We can ask people to finish their food or drink before using the Center .

13. **Ask people to control their children or when possible.** Children often get restless in the SHLA Center, and can easily damage equipment and materials if they are not supervised. We have a few toys available for children to use.

# GUIDE FOR HELPING SELF- REPRESENTED LITIGANTS TO HELP THEMSELVES

## I. We are here to help people help themselves.

We are here to give guidance. We cannot give legal advice of the type provided by private legal counsel. Often it is difficult to tell the difference, and know where to draw the line. If a person is asking whether they "should" do something, we cannot answer the question for them. If they are asking if they "could" do something, we can instruct them how. A "should I?" question involves making decisions about options, assessing risks and benefits, and analyzing potential outcomes. This is the sole realm of private legal counsel, which we cannot and must not provide. Once a person knows his or her options, and has made an informed decision, we can assist with the procedure in navigating the court system.

### Here are some examples:

- A. A person comes to the Center asking whether he or she can appeal a decision in the traffic court. We can answer the question by providing information about the time period for filing the appeal and the process for filing the appeal. We can explain whether an appeal will result in a trial de novo, such as in small claims appeals, or whether the appellate judge or justices will be limited to the record in the lower court. The person then asks whether he or she should file the appeal, wanting to know his or her chance for success. We cannot answer whether the person should file the appeal, nor can we estimate the chance for success. We can explain the burden of proof, and the standards used for appellate review. We can also emphasize those factors which may be considered in evaluating the merit of an appeal. We can certainly refer the person to available legal services, such as the Lawyer Referral Service, where one can consult with an attorney for a low fixed fee, and we can refer the person to books and materials here in the Center, and in the Law Library, where he or she can research the law applicable to his or her case.

- B. It is Friday afternoon. A person comes to the Center asking whether he or she can stop an eviction. You look at the paperwork and see that a default judgment was entered in the case, and that a Writ of Possession indicates the sheriff will perform a lockout on Monday morning at 6:01 a.m. You need to explain to the person that the only way to stop the eviction is with a court order. To get a court order, one must bring an ex parte motion to vacate the default judgment and stay its execution. To bring an ex parte motion, the moving papers must be filed by noon the court day before the hearing, and at least 24-hour notice must be given to the other side. There is simply no time to get a court order, even if the facts were there to justify granting the motion. A person in this situation should move their belongings immediately to prevent a lock out. If they believe service was improper, and the landlord falsified papers to complete the eviction without due process, perhaps the only recourse for the tenant, at this late stage, is to bring a separate action against the landlord for damages after the tenant has moved. Before bringing such an action, the tenant must either consult with an attorney about the propriety of bringing such a case, or research the law carefully before proceeding to file an action against the landlord. We can refer the tenant to our Nolo Press book on Tenant Rights, and to *Miller and Starr, California Real Estate, 2d*, published by Bancroft-Whitney.
- C. If we change the example in (b ) above, to have a lock out order scheduled for one week away, instead of the next business day, the tenant has the time to bring an ex parte motion to set aside the default. The question then becomes, should the tenant bring the motion? As previously stated, we cannot answer "should I?" questions. However, the process of bringing a motion to vacate a default judgment is complicated even for attorneys, and a showing of good cause is required to get a court order vacating a default judgment. We can explain to the tenant the burden he or she must meet to establish good cause for not timely answering the complaint. We can also point out that the court may consider whether the tenant would have a valid defense to the unlawful detainer action, if the default were to be set aside. We can suggest the tenant research the case law found in the annotations to Code of Civil Procedure

section 473, which allows for possible relief from mistake, inadvertence, surprise or excusable neglect, to see if appellate courts granted relief to a party under similar factual circumstances. We cannot tell the tenant whether he or she should proceed with the motion. If the tenant decides to proceed, we can explain the filing and notice requirements for an ex parte motion, the components of the motion which include a notice of motion, a memorandum of points and authorities citing the legal authority for the motion, and a factual declaration under penalty of perjury establishing good cause for requesting the relief being sought.

- D. A person comes to the Center wishing to file a civil complaint against an unlicensed contractor who took money to perform work, and never did the work, or did an inadequate job. We can identify the form for a complaint for breach of contract and help explain how to complete the form, but we should also encourage the person to report the incident to the District Attorney's Office Consumer Fraud Unit, and to the State Contractor's License Board. If the person obtained a form for a breach of contract complaint from the clerk's office, but failed to obtain a cause of action form to go with it, we should inform them of the need to have at least one cause of action form to go with the complaint form. The cause of action forms usually used for a complaint of this nature include breach of contract, common count, fraud, and exemplary damages. You can explain what each form represents, but you cannot tell the person whether he or she actually has a claim for fraud, common count, etc. Applying the facts of the individual's case to the law, or vice versa, is the role of private legal counsel, not the Center.

## II. Helping people to conduct their own legal research.

We can show people how to look up a code section, and explain to them the difference between case and statutory law. We can show people how a case is written, beginning with a summary of the facts of the case, then a legal analysis, followed by a conclusion or finding. We have some codes here in the Center as well.

We also have a number of *Nolo Press* books available in the Center. *Nolo Press* books are also widely available in bookstores since they are written for the general public, not the legal profession. Unlike law books, *Nolo Press* books are affordable for those who wish to purchase a book.

The following list of research materials will help people who wish to research their legal questions themselves:

A For real estate related questions, including landlord/tenant, real estate contract disputes, boundary disputes, title disputes, property liens, mechanics' liens and purchase and sale issues:

1. Miller & Stan, *California Real Estate* 2d, published by Bancroft Whitney. This is a multi-volume set and includes citations to statutes and cases. We call this type of work a "treatise," since it provides a summary and analysis of case and statutory law. A treatise is a good starting place to conduct legal research, because it refers the reader to the actual cases and codes; but a treatise is not the law, and the reader should always check to make sure the citations are accurate.
2. Continuing Education of the Bar ("CEB") also publishes a number of books on real estate-related subjects including title insurance, mechanics' liens, construction contract disputes, mortgage and deed of trust practice, condemnation, and purchase and sale of real property. The books can also be found in the Law Library.
3. *California Practice Guides* published by The Rutter Group on Real Estate Law and on Landlord- Tenant.

4. For landlord/tenant law specifically, books by Myron Moskowitz, including:
    - a. *California Eviction Defense Manual, 2d*
    - b. *California Landlord-Tenant Practice, 2d*
    - c. *California Tenant's Handbook*
- B. For civil procedure questions, including drafting complaints and answers, determining causes of actions and defenses, pre-trial motions such as demurrers, motions to strike and motions for summary judgment:
1. Witkin, *California Procedure*, published by Bancroft Whitney. This is also a multi-volume treatise. The index can be found in the last volume. The two volumes on "Pleading" will answer most questions about drafting complaints, answers, demurrers and motions to strike. The volume on "Provisional Remedies" will answer questions about obtaining interim relief, such as preliminary injunctions.
  2. Weil & Brown, *Civil Procedure Before Trial*, a California Practice Guide published by The Rutter Group. This is a three-volume treatise. It has a volume solely devoted to discovery, and is a good place to look for information about different forms of discovery. This treatise also has step-by-step information about pre-trial motions, mandatory settlement conferences, and almost any type of civil proceeding in court.
- C. For drafting legal pleadings, where there is no judicial council form or local court form available, there are form books in the Law Library which show the type of language and structure required for a self-drafted pleading:
1. Matthew Bender's *Forms of Pleading and Practice* has forms for most complaints, petitions and answers. It is a good source for drafting one's "initial pleading" to be filed with the court.
  2. Bancroft- Whitney's *California Civil Practice* also contains some forms.
  3. Matthew Bender's *California Points and Authorities* provides sample heading topics and citations to legal authorities for

drafting a memorandum (or "memoranda") of points and authorities.

D. For preparing for trial there are many books available, including:

1. The Rutter Group's *Civil Trials and Evidence*.
2. *The Evidence Benchbook*
3. Witkin, *Evidence*
4. Witkin, *California Procedure*, the volume on "Trials"

#### IV. How people can use the materials in the Center .

The materials in the Center cannot be removed. The only materials we can give people to take with them are brochures which are provided to us in bulk, free of charge, or brochures which the court generates for public distribution.

#### V. Referring people to other community resources.

We can refer people to other community resources. The Lawyer Referral Service ("LRS") is a program which will benefit many people who need some legal guidance, but cannot afford to an attorney to handle an entire case. The LRS charges a fee of \$30.00 for a thirty-minute consultation with an attorney in a specified field. The attorney donates his or her time for the thirty-minute consultation. If the attorney is hired for services or consultation beyond the initial thirty minutes, the client must pay his or her regular hourly rate. When referring people to the LRS it is important to stress that they tell the receptionist what type of lawyer they need. We need to remind people that many lawyers practice in limited fields, and a lawyer who does divorces, for example, may not know what to do about a boundary dispute between two neighbors.

We have brochures to distribute on the LRS and we also have referrals to distribute for free and low cost legal services.

## VI. Public education.

People's perception of the judicial and legal systems are probably influenced more by their personal experiences, than by any media coverage, movie or television show they watch. Most people coming to court wish they were not here. We will probably not make their court experience enjoyable, unless they are perhaps getting married or adopting a child, but we can make the experience less frightening and more understandable. We will not have all the answers people want, but we can always treat them with respect. By explaining due process, the rule of law, and the reasons we have procedures which they may view as unnecessarily complicated, we can do much to educate the public about our judicial system, and the valid reasons for the complexities they encounter. In so doing, we will hopefully engender greater respect for our democratic institutions, our legal system, and the rule of law.

THANKS FOR HELPING US HELP OTHERS!

## HOW TO DRAW THE LINE BETWEEN LEGAL ADVICE AND LEGAL INFORMATION

One of the most difficult challenges we face is providing self-represented litigants with the vital information they need, without rendering "legal advice." As representatives of the Center, we must remain ever mindful of our absolute duty of impartiality. We must not give information or advice for the purpose of giving one party an advantage over another. We must not give information to one party which we would not give to another party.

Advising a party *what* to do, as opposed to *how* to do what the party desires to do, crosses the impartiality line. Communications and explanations should always be rendered in an impartial manner, so as not to advantage or disadvantage any litigant. The following guidelines may help in differentiating between providing "legal advice" and "legal information":

### Information we CAN provide:

1. Information contained in docket reports, case files, indexes, and other reports.
2. Answers to questions concerning court rules, procedures and ordinary practices. These questions are frequently phrased as "can I. ..." or "how do I. ..."
3. Examples of forms or pleadings to help guide litigants.
4. Answers to questions about completing forms.
5. Explanations as to the meaning of terms and documents used in the court process.
6. Answers to questions concerning the computation of deadlines or due dates.

### Information we CANNOT provide:

1. Information we are unsure about.
2. Advising a litigant whether to take a particular course of action. Questions phrased as "should I ...?" must be referred to private legal counsel, or we can direct people

to various books in the law library where they can read about the law and form their own opinion.

3. Taking sides in a case or proceeding pending before the court.
4. Information to one party that we would be unwilling or unable to provide to all other parties.
5. Disclosing the outcome of a matter submitted to a judge for decision, until the outcome is made public, or the judge directs disclosure of the matter.

John M. Greacen, a Clerk of the United States Bankruptcy Court, District of New Mexico, has written articles on the subject of legal advice versus legal information. He suggests the following five points be followed in dispensing information to the public:

1. **We have an obligation to explain court processes and procedures to litigants, the media and other interested persons.** Court staff have a unique understanding of the way the court functions, which is often superior to the knowledge of attorneys who practice before the court. It works to everyone's advantage for court staff to share their knowledge, and the court will operate more efficiently when everyone is operating under the same expectations regarding the ground rules and procedures applied.
2. **We have an obligation to inform litigants, and potential litigants, about how to bring their problems before the court for resolution.** It is entirely appropriate for the court staff to apply their specialized expertise to go beyond providing generalized information, such as answering a question, "How do I file a lawsuit?" to giving detailed procedural guidance on how to request a hearing. We can also answer questions about what the court looks for in an application for award of attorneys fees, a request to enter default judgment, a child enforcement order, etc. We can also refer people to applicable statutes and rules, published case decisions, and sample pleadings. It is entirely appropriate to inform people as to the reason behind the rules, such as explaining due process requirements in relation to a proof of service. We want the public to understand that the rules are not there to thwart them, or make things difficult for non-lawyers; the rules are there to ensure due process and allow disputes to be decided on their merits.
3. **We cannot advise litigants whether to bring their problem before the court, or what remedies to seek, although we can inform people about alternatives to litigation, and we can direct litigants to sources of information about potential remedies.** We cannot advise litigants whether to avail themselves of a particular procedural alternative, since we cannot possibly know enough about a litigant's personal position to know what is in the litigant's best interest. This is uniquely the role of private legal counsel, where a confidential attorney/client relationship exists.

4. We must always remember the absolute duty of impartiality. We must never give advice or information for the purpose of giving one party an advantage over another. We must never give advice or information to one party which we would not give to an opponent. Giving procedural information, or suggestions on where to access legal information, apply to all sides. Having informed litigants helps the process for all concerned. Advising a party *what to do*, as opposed to *how to do* something the party has already chosen, crosses the line from impartiality to partiality. We owe equal duties to both sides.

5. We should be mindful of the basic principle that counsel may not communicate with the judge *ex parte*. We should not let ourselves be used to circumvent that principle. We must not allow ourselves to be used as *ex parte* "messengers" to the judge or court clerk who will decide a particular matter. Some court clerks can enter judgment, and perform other functions traditionally relegated to a judicial officer. We must be careful not to advocate on behalf of a litigant in our communications with decision-makers in the court.

Knowing where to draw the line is one of the most difficult challenges we face in helping people to help themselves. Practical considerations sometimes blur the lines, but we must remember, above all else, not to give information if we are uncertain about its accuracy, and to treat all persons and all parties to a controversy with the same level of respect, and with equal assistance.

Any questions about whether a question involves legal advice vs. legal information should be referred to the Center coordinator.