

Why It's Best to Have A Lawyer On the Other Side:

Dealing With Pro Se Plaintiffs &  
Lawyer-Less Defendants

**Michael Twomey**

Kane Russell Coleman Logan PC

1

**“Three things can happen when you  
pass, and two of ‘em are bad.”**

**-Darrell K. Royal**

**KANE RUSSELL**   
**COLEMAN LOGAN**

2

## Texas Disciplinary Rule of Professional Conduct 4.03

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested.

When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

**KANE RUSSELL**   
**COLEMAN LOGAN**

3

## Texas Disciplinary Rule of Professional Conduct 4.01

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party to a criminal act or knowingly assisting a fraudulent act perpetrated by a client.

**KANE RUSSELL**   
**COLEMAN LOGAN**

4

## ABA Model Rule 4.3

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested.

When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

*The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.*

**KANE RUSSELL**   
**COLEMAN LOGAN**

## What is impermissible advice?

Whether a lawyer is giving impermissible advice may depend on the experience and sophistication of the unrepresented person, as well as the setting in which the behavior and comments occur.

“So long as the lawyer has explained that the lawyer represents an adverse party and is not representing the person, the lawyer may inform the person of the terms on which the lawyer's client will enter into an agreement or settle a matter, prepare documents that require the person's signature and explain the lawyer's own view of the meaning of the document or the lawyer's view of the underlying legal obligations.” ABA Model Rule 4.3, cmt. 2.

**KANE RUSSELL**   
**COLEMAN LOGAN**

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Why It's Best to Have a Lawyer on the Other Side: Dealing with Pro Se Plaintiffs and Lawyer-Less Defendants

Also available as part of the eCourse

[Employment Litigation Hot Topics \(2024\)](#)

First appeared as part of the conference materials for the  
31<sup>st</sup> Annual Labor and Employment Law Conference session  
"Why It's Best to Have a Lawyer on the Other Side: Dealing with Pro Se Plaintiffs and  
Lawyer-Less Defendants"