



## UNAUTHORIZED PRACTICE OF LAW: HOW MUCH CAN YOUR PARALEGAL DO?



■ **Hon. Douglas D. Dodd**  
U.S. Bankruptcy Court  
Middle District of Louisiana  
707 Florida Street, Room 119  
Baton Rouge, Louisiana 70801

■ **MARK A. CASTILLO**  
Curtis | Castillo PC  
901 Main Street, Suite 6515  
Dallas, Texas 75202  
[www.curtislaw.net](http://www.curtislaw.net)

Curtis  Castillo



## Utilizing Paraprofessionals

2

- I. Proscribing the Unauthorized Practice of Law
  - A. ABA Model Rules
  - B. Texas Disciplinary Rules
  - C. Texas Government Code
  - D. Bankruptcy Rule 9010
- II. Understanding the Unauthorized Practice of Law
  - A. Statutory Guidance
  - B. Judicial Development
- III. Specific Examples to Watch for
  - A. Bankruptcy Petition Preparers
  - B. Section 341 Creditors' Meetings
  - C. Negotiating Agreements
  - D. Other Activities
  - E. Outsourcing



Curtis  Castillo  
[www.curtislaw.net](http://www.curtislaw.net)



## I. Proscribing the Unauthorized Practice of Law

3

- **TDRPC 5.03 Responsibilities Regarding Nonlawyer Assistants**
- With respect to a non-lawyer employed or retained by or associated with a lawyer:
  - (a) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer....
- *See also* ABA MR 5.3



## I. Proscribing the Unauthorized Practice of Law

4

- **TDRPC 5.03 Comments:**
- 1. Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants act for the lawyer in rendition of the lawyer's professional services. A lawyer should give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising non-lawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.
- *See also* ABA MR Comments 5.3



## I. Proscribing the Unauthorized Practice of Law

5

- Federal Rule of Bankruptcy Procedure 9010
  - A debtor, creditor, equity security holder, indenture trustee, committee or other party may
    - (1) appear in a case under the Code and act either in the entity's own behalf or by an attorney authorized to practice in the court, and
    - (2) perform any act not constituting the practice of law, by an unauthorized agent, attorney in fact, or proxy.



## I. Proscribing the Unauthorized Practice of Law

6

- Texas Disciplinary Rules of Professional Conduct 5.05
  - Comment 1
    - Courts generally have prohibited the unauthorized practice of law because of a perceived need to protect individuals and the public from the mistakes of the untrained and the schemes of the unscrupulous, who are not subject to the judicially imposed disciplinary standards of competence, responsibility and accountability.
  - Comment 3
    - Competent professional judgment is the product of a trained familiarity with law and legal processes, a disciplined, analytical approach to legal problems, and a firm ethical commitment; and the essence of the professional judgment of the lawyer is the lawyer's educated ability to relate the general body and philosophy of law to a specific legal problem of a client.

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 \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Unauthorized Practice of Law: How Much Can Your Paralegal Do?

Also available as part of the eCourse

[2017 Consumer Bankruptcy eConference](#)

First appeared as part of the conference materials for the  
13<sup>th</sup> Annual Consumer Bankruptcy Practice session

"Unauthorized Practice of Law: How Much Can Your Paralegal Do?"