

actlaw
society

MARCH MASTERY
a month of intensive cpd learning

CIVIL LITIGATION AFTERNOON

WEDNESDAY 11 MARCH 2026

ACT LAW SOCIETY



actlaw
society

MARCH MASTERY
a month of intensive cpd learning

Best Practice for Dealing with Self-Represented Litigants

PRESENTED BY REGISTRAR HELEN BANKS, JAMIE
RONALD AND JESSICA CRUISE

WEDNESDAY 11 MARCH 2026



Overview

- Professional obligations
- Case studies
- Examples of what not to do
- What you can do – some practical examples
- Safety
- Self represented litigants in trial
- The role of the court
- Q & A

Professional Obligations

Legal Profession (Solicitors) Conduct Rules 2025

- 3. Paramount duty to the Court and the Administration of Justice
- 4. Other Fundamental Ethical Duties:
 - 4.1.2 be honest and courteous in all dealings in the course of legal practice
- 19. Duty to the Court
 - 19.1. A solicitor must not deceive or knowingly or recklessly mislead the Court
 - 19.4. obligations in interlocutory ex parte applications
- 22. Communication with Opponents
- 34. Dealing with Other Persons

Professional Obligations

Legal Profession Act 2006 (ACT)

- Chapter 4 – Complaints and Discipline
 - Unsatisfactory professional conduct
 - Professional misconduct

Case studies

1. The Self Rep who knows best (and has the upper hand)
2. The very unwell Self Rep
3. The very angry Self Rep

What not to do

- Assume someone is self represented
- Avoiding all self reps
- Giving legal advice
- Be rude / unprofessional
- Be too familiar
- Put yourself in danger

What you can do

- Check they are not represented
- Take a formal approach
- Tell them you cannot give them legal advice
- Refer them to services
- Confirm conversations/agreements in writing

Safety

- Put boundaries in place
- Ending conversations if you are being abused
- Having third parties present
- Workplace Orders

The self-represented litigant in trial

- Be guided by your duties – to the Court, to your client, to be courteous.
- Remind yourself to be patient.
- Don't underestimate the SRL – they have lived whatever it is that brought them here.
- Expect everything to take longer, more interlocutory disputes.
- Don't expect any concessions.

Direct questioning by SLR in sensitive circumstances – sexual, violent and family violence proceedings

- No cross examination of witness by self represented accused person – s 48 EMPA 2011.
- Does not apply in civil proceedings e.g. claim for damages for historical child sexual abuse.
- Consider raising issue with the Court at a preliminary stage, ? referral for pro bono assistance.

Referral services

- Small jurisdiction means less resources available.
- Bar Association maintains a list of barristers who will consider providing pro bono assistance.
- Requests for assistance come from the Courts and solicitors.
- Consider also whether it is consistent with your duty to your client to refer SRL opponent to those services, as well as other superior court SRL guides.
- See comments of McWilliam J at [63]-[67] in *Prime Capital Securities Pty Ltd v Nusage Pty Ltd* [2024] ACTSC 36.

Role of the Court

- Solicitors have a duty to assist the court when opposing an unrepresented party
 - prepare proposed directions, any consent orders, court book
- Risk that self-represented party's case not adequately presented – insufficient pleadings, lack of evidence, inability to examine/cross-examine
- Expect that litigation is likely to take longer
- The court has a duty to ensure all parties receive a fair hearing

Role of the Court

- The court is unable to give assistance to an unrepresented litigant if it will conflict with its role as an impartial adjudicator
 - a difficult balance between ensuring unrepresented litigant can progress matter versus potential increase in time and costs to other legally represented party
 - it may appear to your client that the court is providing significant assistance to unrepresented party
- The court will encourage party to obtain legal advice, but limited pro bono services available for civil matters

Resources

Guidelines for solicitors dealing with self-represented parties

The Law Society of New South Wales

<https://www.lawsociety.com.au> › default › files

Self-represented litigants: tackling the challenge

Judicial Commission of NSW

<https://www.judcom.nsw.gov.au> › judicial_officers › sel...

Law Society of the Australian Capital Territory - At Court

ACT Law Society

<https://www.actlawsociety.asn.au> › guidelines › at-court

Questions?



actlaw
society

Law Society of the Australian Capital Territory

Phone 02 6274 0333 | memberconnect@actlawsociety.asn.au

actlawsociety.asn.au