

Main contexts of UPL:

Main commonality in all UPL is lack of legal authority to tell client to take one path or to make one choice over another when one route carries one legal ramification and the other route carries a different legal ramification. Form selection, contrary to popular belief, is not always UPL, ex. Client has informed Legal Document Assistant that they have chosen to sue delinquent debtor in Small Claims and wants to require a third party to produce a document, only one form for this and it is SC-107.

1. Paralegal in the employ of an Attorney can commit UPL if not careful.
2. Non-Lawyer Professional ex. California LDA. Legal Advice and Form Selection when there is a legal significance.
3. Other Professional giving advice in the context of workflow ex. Loan officer advising borrower to hold property in fee simple defeasible.
4. Judgment Purchase on Assignment if explained and approached wrong can be UPL.
5. Couching Legal Advice in the language of opinion.
6. Mediator drawing up contract and/or first giving advice rather than mapping sticking points and agreement points in a bullet point format.
7. Regular Citizens in conversation (not such a big thing to worry about in general, but it can be UPL with somebody who views you as somebody who knows law somehow, i.e. kids.)
8. Marketing Law Clerk and/or Outsourced Paralegal marketing for people who need an attorney and taking on several issues, but only putting some under contract with the attorney.
9. Legal Insurance as a Corporate Benefit provided by Employer through in-house counsel. Conflict of interest because of non-lawyer control of lawyer to provide legal services to employee.
10. Simple Fraudulent hanging of shingle, i.e. holding oneself out to be an Attorney. Unregistered LDA doing LDA in or out of State usually concurrently UPL. Interference with prospective Economic Advantage (Higbee).
11. Information v. Advice. Best Practice is to provide only Attorney written information. (Dacey)

Not UPL:

1. Inmates representing inmates while incarcerated together.
2. Social Security Administration (federal administrative procedures act) (Sperry).
3. Expert Law System = 1st amendment protected work of literature (compare to ghost gunner 2). Battle until Texas UPL Commission v. Parson's Technology.
4. Judgment purchase using discount contingent assignment.
5. Marketing Outsources Paralegal/Law Clerk. Do it right.

One Off:

1. 11 USC 110 requirement that non-lawyer Bankruptcy Document Preparers not in the employ of a BK Attorney to use ONLY FEDERAL BANKRUPTCY PAPERWORK TO DO CLIENT INTAKE. Reynoso.

Lecture outline written by James F. Polk, Executive Director NAOLDP.

These are lecture notes and not a list of what is and what is not UPL. Given different nuanced situations, a person who is usually professionally completely out of the area of UPL can commit UPL.