

ACT I – Finding Out About Representation

(ring ring)

COUNSEL: Hello?

TAXPAYER: Hello, Opposing Counsel? Do you have a few minutes? I was served with the complaint you filed against me a couple weeks ago and I want to discuss my case with you. Maybe we can work this out.

COUNSEL: Great, let's talk.

- What are the rules regarding communications with represented individuals?
- What types of communications are covered?
- Do you know if this individual is represented by an attorney?
- What duty does the attorney have to inquire about representation?
- What can you do to find out if someone is represented?

TAXPAYER: Counsel? Do you have a few minutes?

COUNSEL: I do, but aren't you currently represented in this matter?

TAXPAYER: Yeah.

COUNSEL: I'm sorry, but I can't speak to you without your attorney present.

TAXPAYER: He works for me, and I say it's fine.

- Whose consent do you need in order to proceed with the communication?
- What if taxpayer said, "My attorney said it was ok." What are some things you can do to verify if the communications have been sanctioned by opposing counsel?

COUNSEL: Excuse me, Taxpayer?

TAXPAYER: Talk to my lawyer.

COUNSEL: But you are pro se and no one has made an appearance on your behalf in this case. Are you saying you have now retained counsel?

TAXPAYER: You can't talk to me without my lawyer present.

COUNSEL: That's true. Who is your attorney?

TAXPAYER: I don't have to answer your questions.

-What does the attorney do in this situation?