

**IN THE CIRCUIT COURT FOR THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

THE STRAND ON OCEAN DRIVE  
CONDOMINIUM ASSOCIATION, INC., a  
Florida not-for-profit corporation,

Plaintiff,

vs.

GENERAL JURISDICTION  
DIVISION

CASE NO.  
2017 025588 CA 01

Division: 06

JEFFREY HAYM; JOHN DOE TENANT;  
and, JANE DOE TENANT,

Defendant.

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**DEFENDANT, JEFFREY HAYM'S, RENEWED MOTION TO VACATE  
COURT ORDER<sup>1</sup>**

Defendant, Jeffrey Haym, moves this court to vacate a court order improvidently entered by the Court against the Defendant and in favor of the Plaintiff, The Strand on Ocean Drive Condominium Association, Inc., a Florida not-for-profit corporation, and states as follows:

1. On January 25, 2018, this Court was set to hear Defendant's Motion to Dismiss Complaint and the parties were present (by telephone). However, this Court refused to hear the motion due to its mistaken belief that the Defendant was represented by counsel who needed to be present at the hearing.

2. Additionally, the Court entered an Order, attached here as Exhibit A, stating that "Plaintiff's counsel is awarded an hour (1) of fees..." presumably as a sanction for having

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<sup>1</sup> The Court previously denied Defendant's Motion to Vacate Court Order without prejudice on March 1, 2018. Per the Court's Order, the parties shall coordinate a hearing at which the parties shall provide legal authority for the "limited representation" referenced in the motion. Therefore, Defendant is filing this Renewed Motion to Vacate Court Order in compliance with the Court's March 1st Order.

burdened Plaintiff with paying its counsel to re-appear at another hearing. Again, this stemmed from the Court's mistaken belief that it could not proceed at the January 25th hearing.

3. The Court's concern was triggered by the "Prepared with Assistance of Counsel" language on the Defendant's motion and an apparent belief that *pro se* litigants cannot be assisted by attorneys who do not make an appearance.

4. In reality, assisting clients outside of court or on discrete matters within a case (known as the "unbundling of legal services"<sup>2</sup>) is not only permitted by applicable Bar rules, but actually encouraged by The Florida Bar and the American Bar Association ("ABA") as a means of addressing the access to justice problem facing our community and the nation as a whole.<sup>3</sup>

5. The unbundling of legal services includes ghostwriting motions and preparing *pro se* litigants to handle hearings on their own. The ABA formally endorsed the delivery of legal ghostwriting services by attorneys to *pro se* clients in 2007.<sup>4</sup> As of 2010, thirteen states, including the state of Florida, explicitly permit ghostwriting of legal pleadings.<sup>5</sup>

6. Florida Bar Rule 4-1.2 (c) formally approves of unbundling:

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<sup>2</sup> Unbundled legal services is when the lawyer and client agree that the lawyer will provide some, but not all, of the work involved in traditional full-service representation. Simply put, the lawyers perform only the agreed upon tasks, rather than the whole "bundle," and the clients perform the remaining tasks on their own. [New York City Civil Court: Definitions](#).

<sup>3</sup> Ramón A. Abadin, [Filling the Justice Gap with a New Business Model](#), The Florida Bar Journal (November, 2015) (discussing proposals to facilitate the unbundling of legal services rules beyond the 2003 Supreme Court authorization for family law and certain probate matters); [Florida Commission on Access to Civil Justice, Subcommittee Final Report to the Commission](#), May 20, 2016 (listing unbundling as an area of focus for Florida's permanent access to justice commission); [A National Conference on Pro Se Litigation Florida Team Report, Office of the State Courts Administrator](#), Florida Supreme Court January 3, 2000 (stressing the importance of encouraging unbundling).

<sup>4</sup> *Undisclosed Legal Assistance to Pro Se Litigants*. American Bar Association, Standing Committee on Ethics and Professional Responsibility, "[Formal Opinion 07-446](#)".

<sup>5</sup> Ira P. Robbins, *Ghostwriting: Filling in the Gaps of Pro se Prisoners' Access to the Courts*, 23 Geo. J. Legal Ethics 271, 286 and n. 81, 82 (2010).

If not prohibited by law or rule, a lawyer and client may agree to limit the objectives or scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing. If the attorney and client agree to limit the scope of the representation, the lawyer shall advise the client regarding applicability of the rule prohibiting communication with a represented person.

7. The comments to this rule requires that lawyers ghostwriting pleadings and motions inserted the words “Prepared With Assistance of Counsel” in the document:

In addition, a lawyer and client may agree that the representation will be limited to providing assistance out of court, including providing advice on the operation of the court system and drafting pleadings and responses. If the lawyer assists a pro se litigant by drafting any document to be submitted to a court, the lawyer is not obligated to sign the document. However, the lawyer must indicate ‘Prepared with the assistance of counsel’ on the document to avoid misleading the court, which otherwise might be under the impression that the person, who appears to be proceeding pro se, has received no assistance from a lawyer.

Agreements limiting scope of representation Comments to Rule 4-1.2 R. Regulating Fla. Bar.

8. The comment codifies Florida Bar Ethics Opinion 79-7 (Reconsideration), issued on February 15, 2000, which held:

Any pleadings or other papers prepared by an attorney for a *pro se* litigant and filed with the court must indicate ‘Prepared with the Assistance of Counsel.’ An attorney who drafts pleadings or other filings for a party triggers an attorney-client relationship with that party even if the attorney does not represent the party as attorney of record.

9. Ironically, the fact that Defendant’s limited-representation counsel complied with the Bar rules triggered this Court’s concern that proceeding without the presence of limited-representation counsel would be improper.

10. As a consequence, any cost to the Plaintiff for having counsel appear for a second hearing is not a consequence of Defendant’s actions or any action or inaction by his limited-representation counsel. Therefore, there was no basis for the Court to impose a sanction of one hour of attorneys’ fees as there was nothing improper with proceeding on the Defendant’s Motion

to Dismiss on January 25, 2018.<sup>6</sup> Indeed, if sanctions are to be awarded, they should be in favor of Defendant who is now burdened with writing this motion twice (by way of limited-representation counsel) and attending yet another hearing.

11. This Court has asked for additional authority beyond that supplied by the previous motion. However, it appears that this court's order, which sanctions Defendant for using unbundled legal services in accordance with the Florida Bar Rules, is unprecedented in the State of Florida.<sup>7</sup> Notably, the already-cited authority has not been disputed by opposing counsel. Yet counsel for Plaintiff persists in attempting to collect an improper sanction against the Defendant and continues to lead this Court into error. The Plaintiff's continued insistence on a remedy that it knows is frivolous—essentially sanctioning the Defendant for having the temerity to defend himself *pro se*—is itself sanctionable and the Defendant should be awarded his own attorneys' fees for having to repeatedly fend of such a frivolous claim.

WHEREFORE, Defendant requests this Court to enter an order vacating the Court Order on Defendant's Motion to Dismiss Complaint and the imposition of attorney fees entered on January 25, 2018.

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<sup>6</sup> Notably, at the hearing and in response to the Court's request, Plaintiff's counsel called Defendant's limited-assistance counsel and confirmed the limited-assistance relationship and advised the Court about that fact.

<sup>7</sup> The American Bar Association collects cases dealing with ghostwriting of pleadings for *pro se* litigants, and according to their webpage, this court's decision is the first case in Florida in which a court has sanctioned a *pro se* litigant for obtaining unbundled legal services. See: [https://www.americanbar.org/groups/delivery\\_legal\\_services/resources/pro\\_se\\_unbundling\\_resource\\_center/cases.html](https://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/cases.html). See also *An Analysis of Rules That Enable Lawyers to Serve Self-Represented Litigants*, A White Paper by the ABA Standing Committee on the Delivery of Legal Services, August, 2014, a copy of which is attached hereto as Exhibit "A".

Dated: March 6, 2018.

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*/s/ Jeffrey Haym*  
Jeffrey Haym

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this March 6, 2018 to all parties on the attached service list. Service was by email to all parties not exempt from Rule 2.516 Fla. R. Jud. Admin. at the indicated email address on the service list, and by U.S. Mail to any other parties.

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**AN ANALYSIS OF RULES  
THAT ENABLE LAWYERS  
TO SERVE SELF-REPRESENTED LITIGANTS**

A White Paper

by the

ABA Standing Committee on the  
Delivery of Legal Services

ABA Standing Committee on the Delivery of Legal Services  
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August, 2014

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## I. Introduction

This white paper has been prepared by the American Bar Association’s Standing Committee on the Delivery of Legal Services. The purpose of the paper is to provide policy-makers with information and analysis on the ways in which various states are formulating or amending rules of professional conduct, rules of procedure and other rules and laws to enable lawyers to provide a limited scope of representation to clients who would otherwise proceed on a pro se basis, and to regulate that representation.

Specific policies cover: defining the scope of representation; clarifying communications between counsel and parties; creating parameters for the lawyer’s role in document preparation, including disclosure of the lawyer’s assistance; governing the entry of appearances and withdrawals for limited scope representation; and excusing conflicts checks for some limited scope services.

These specific issues are discussed below, following a brief background section. In addition, the white paper concludes with two appendices. Appendix A provides policy-makers with a worksheet focused on the decisions that need to be addressed to enable lawyers to provide assistance to self-represented litigants. Appendix B includes the specific rules that are discussed throughout the paper.

## II. Background

When going to state court, most people proceed pro se most of the time. High volume state courts, including traffic, housing and small claims, are dominated by self-represented litigants.<sup>1</sup> Over the course of the past 25 years, domestic relations courts in many jurisdictions have shifted from those where litigants were predominately represented by lawyers to those where self-represented litigants are most common. In these areas of the courts, self-representation is no longer a matter of growth, but rather a status at a saturated level.<sup>2</sup> Anecdotal evidence suggests that self-representation is increasing in other personal civil matters, as well.<sup>3</sup>

The courts have responded to the paradigm where litigants are frequently self-represented by providing a variety of services to assist these litigants. Within the courthouse, some courts have added services. Some courts now provide guides, who give directions and offer general information.<sup>4</sup> Courts in Washington, California<sup>5</sup> and Florida<sup>6</sup> have established courthouse

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<sup>1</sup> See *Self-Represented Litigants and Court Legal Services Responses to Their Needs: What We Know*, by John Greacen (undated), at <http://www.courts.ca.gov/partners/documents/SRLwhatwewknow.pdf>, reporting on an internal analysis of four California counties, where 91.1 percent of small claims and 81.1 of landlord/tenant proceedings went forward with at least one pro se litigant. See also, *No Time for Justice: A Study of Chicago Eviction Court*, by the Chicago Lawyers Committee for Better Housing and the Chicago-Kent College of Law Class of 2004 Honors Scholar (December 2003), finding that in 96 percent of observed eviction cases at least one party was unrepresented.

<sup>2</sup> Id., Greacen, at 7

<sup>3</sup> See the poll of court administrators and judges reported in *Meeting the Challenge of Pro Se Litigation*, Goldschmidt, et al., American Judicature Society (1998).

<sup>4</sup> For example, the Hawai’i State Judiciary has sponsored the Ho’okele Court Navigation Project, which includes a “court concierge” desk located at the entrances of main court buildings.

<sup>5</sup> See, *A Description of California Courts’ Programs for Self-Represented Litigants*, Hough, 2003, at <http://www.courts.ca.gov/partners/documents/harvard.pdf>

<sup>6</sup> See Florida Rule 12.750 Family Self-Help Programs, at [http://phonl.com/fl\\_law/rules/famlawrules/famrul12750.htm](http://phonl.com/fl_law/rules/famlawrules/famrul12750.htm)

facilitators who assist with detailed procedural information and form preparation on a one-to-one basis. Other courts have established desks staffed by volunteer lawyers who provide similar individual information.<sup>7</sup> And, many courts have established self-help centers, based on a model originated in the Maricopa County branch of the Superior Court of Arizona.<sup>8</sup> These centers provide forms, packets of information and sometimes, technological tools to provide directions and answers for an array of procedural questions.

State courts have also provided extensive information through the Internet. Many courts provide downloadable forms and a few incorporate document assembly tools so that litigants can either fill in the forms online or answer questions that are used to assemble the forms needed for the litigant's matter.<sup>9</sup>

Self-represented litigants also now have the widely available resources of private document preparation services, both online and over-the-counter. The demand for this assistance appears high. Despite facing allegations of unauthorized practice of law, one online document preparation company reports serving over two million customers since operations began in 2001.<sup>10</sup>

Even though the courts and the marketplace are providing substantial assistance to self-represented litigants, the scope of this assistance is limited.<sup>11</sup> Many, if not most, litigants need more than the procedural assistance offered by these resources. They need to know more than which forms to use, how to docket their cases and what time to appear in court. They need assistance with decision-making and judgment. They need to know their options, possible outcomes and the strategies to pursue their objectives.<sup>12</sup> In some cases, self-represented litigants need advocates for some portion of their matter. These services can only come from lawyers.

With the input of lawyers, self-represented litigants can benefit from getting legal advice specific to their factual issues. Beyond mere advice, some self-represented litigants also need direction on completing their forms in ways that not only make the forms legally compliant, but strategically advantageous to the litigant. They can benefit from document preparation that is not done merely mechanically, but executed with foresight and judgment. Additionally, some self-represented litigants can optimize their outcomes if they have a lawyer advocate their interests before the tribunal. This may not be necessary for the entire litigation, but only for a limited purpose.

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<sup>7</sup> See, for example, the Minnesota Legal Advice Clinics & Self-Help Centers at <http://www.mncourts.gov/selfhelp/?page=251>.

<sup>8</sup> See, <https://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/>

<sup>9</sup> For a list of online self-service centers, see the ABA Pro Se/Unbundling Resource Center, at [http://www.americanbar.org/groups/delivery\\_legal\\_services/resources.html](http://www.americanbar.org/groups/delivery_legal_services/resources.html)

<sup>10</sup> See, [www.legalzoom.com](http://www.legalzoom.com)

<sup>11</sup> Services in the marketplace are limited by state-based statutes governing the unauthorized practice of law. Limitations to court-based programs are found within their own enabling legislation. See *supra* note 7. See also the Supreme Court of Wisconsin order 1-18 (2002), In the matter of the creation of rules providing guidance on assistance to individual court users, at <http://www.wicourts.gov/sc/rulhear/DisplayDocument.pdf?content=pdf&seqNo=1129>

<sup>12</sup> In *The Self-Help Friendly Court*, National Center for State Courts (2002), Richard Zorza labels this the Analysis Barrier, and states, "Most self-help assistance programs report as the key problem that telling people the law was not enough. Litigants often need far more help than the program could give them in analyzing the implications of the law, in applying that law to the facts, and then in forging out of the law and the facts a coherent and persuasive legal argument" at 17.

The added input from lawyers not only assists the litigants, but the courts, as well. The better the litigant is prepared, the more efficiently the court operates. While judges would no doubt prefer fully represented litigants, the choice in most venues is a self-represented litigant who is well prepared or one who is not. Courts can avoid litigants who are in a procedural revolving door when those litigants have access to the services lawyers provide.

Yet lawyers who provide personal civil legal services frequently do not meet the needs of self-represented litigants.<sup>13</sup> While they offer the full spectrum of legal services, lawyers are often unwilling to separate or unbundle their services and provide a limited scope of representation to litigants, although they typically do so when representing business interests and in transactional matters. Indeed the litigation system is not designed to accommodate this limited scope of representation model for the most part, although it does occur within some situations. For example, the process of challenging a court's jurisdiction is in itself a limited scope of representation. Similarly, when a lawyer represents a client through the trial stage, but not on appeal, the scope of representation is limited.

Twenty years ago the courts were ill-equipped to handle self-represented litigants in domestic relations, but many have since re-tooled themselves to do so through courthouse facilitators, self-help centers, online resources and related projects. The traditional services offered by lawyers combined with the more recent innovations in the courts result in a dichotomy in many states, however, where people are either represented by a lawyer or proceed with their matter on a pro se basis, relying on resources other than lawyers.

Until recently, neither the court system nor the legal profession had been fully prepared to embrace a model in which lawyers provide some, but not all, of the services of value to a litigant. Yet some courts and bar associations are moving forward, often collaboratively with other stakeholders such as legal aid providers, to facilitate limited scope representation, and to clearly define the circumstances under which these services are permissible.

Policies to enable lawyers to provide limited scope representation of civil litigants are being advanced through two concurrent initiatives. One is the result of Ethics 2000, the ABA endeavor to review and amend the ABA Model Rules of Professional Conduct, which began in 1997 and concluded with adopted revisions to the Model Rules in 2002.<sup>14</sup> States are in the process of reviewing the revised Model Rules, and adopting, adapting or rejecting the specific changes, including Model Rules 1.2(c) and 6.5, which are discussed in detail below.

The second initiative involves individual state collaborative analyses of limited scope representation policies. Rather than focusing on the ethics rules as a whole, as Ethics 2000 did, these initiatives are statewide efforts that examine the dynamics of self-represented litigation. Many of these state initiatives stem from the 1999 National Conference on Pro Se Litigation, produced by the American Judicature Society. All jurisdictions have amended at least some of

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<sup>13</sup> See, for example, Recommendations from the Boston Bar Association Task Force on Unrepresented Litigants, calling for an increase in the availability of lawyers who provide unbundled services, at <http://www.bostonbar.org/prs/reports/unrepresented0898.pdf>

<sup>14</sup> Details about Ethics 2000 are at [http://www.americanbar.org/groups/professional\\_responsibility/policy/ethics\\_2000\\_commission.html](http://www.americanbar.org/groups/professional_responsibility/policy/ethics_2000_commission.html)

their rules in response to their analysis of the specific aspects of limited scope representation.<sup>15</sup> Some states are at earlier stages of this process than other states, however.

The policy issues that have been addressed as a result of both of these initiatives thus far are:

- Defining the scope of representation;
- Clarifying communications between counsel and parties;
- Creating parameters for the lawyer's role in document preparation, including disclosure of the lawyer's assistance;
- Governing the entry of appearances and withdrawals for limited scope representation; and
- Excusing conflicts checks for limited services programs.

States that have analyzed issues of self-represented litigation have stressed various directions. Several have recommended further research into specific areas. Some have suggested on-going entities,<sup>16</sup> and others have identified specific issues that they do, or do not, wish to explore further.<sup>17</sup> But these reports express a common need to address the changes in the delivery of legal services, most often with rules that give a greater certainty to the process.

### III. Rules Authorizing Limited Scope Representation

#### ABA Model Rule 1.2(c)

As part of Ethics 2000, the ABA amended Model Rule 1.2(c) to explicitly and unambiguously permit a lawyer to limit the scope of the representation. According to the Reporter's Explanation of Changes:

The Commission recommends that paragraph (c) be modified *to more clearly permit, but also more specifically regulate*, agreements by which a lawyer limits the scope of the representation to be provided a client. Although lawyers enter into such agreements in a variety of practice settings, this proposal in part is intended to provide a framework within which lawyers may expand access to legal services by providing limited but nonetheless valuable legal services to low or moderate-income persons who otherwise would be unable to obtain counsel. (Ital. added)<sup>18</sup>

Prior to the Ethics 2000 amendment, Model Rule 1.2(c) had stated:

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<sup>15</sup> See Court Rules at the ABA Pro Se/Unbundling Resource Center, at [http://www.americanbar.org/groups/delivery\\_legal\\_services/resources/pro\\_se\\_unbundling\\_resource\\_center/court\\_rules.html](http://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/court_rules.html)

<sup>16</sup> See the Report of the Nebraska Supreme Court Committee on Pro Se Litigation (Nov 2002) at <http://www.americanbar.org/content/dam/aba/migrated/legalservices/delivery/downloads/nebraskaproserereport.authcheckdam.pdf>

<sup>17</sup> The Recommendations and Report of the Minnesota State Bar Association Pro Se Implementation Committee (July 2002) specifically recommends inter alia that its rules of professional responsibility be amended to relax conflicts of interest for non-profit and court-annexed limited legal services programs. Cf. the Report and Recommendations on Unbundled Legal Services of the Commission on Providing Access to Middle Income Consumers of the New York State Bar Association, which states that "Limited appearances in litigation matters should not be permitted as a general matter."

<sup>18</sup> Model Rule 1.2 Reporter's Explanation of Changes (undated)

“A lawyer may limit the objective of the representation if the client consents after consultation.”

The rule was amended to state:

“A lawyer may limit the scope of representation *if the limitation is reasonable under the circumstances and the client gives informed consent.*” (Emphasis added)

In addition to the rule change, the comment to Model Rule 1.2 was substantially changed to explicitly permit limited scope representation. The comment offers examples of reasonable limitations, for instance, a brief telephone call when a client is seeking to secure general information about the law in order to handle a common and typically uncomplicated legal problem.<sup>19</sup>

One thing worth noting about Model Rule 1.2(c) is that informed consent does not require a client to provide *written* consent under the Model Rule. The Standing Committee on the Delivery of Legal Services opposed efforts to include a pervasive writing requirement when the Ethics 2000 Commission considered this issue.<sup>20</sup> While written consent to a limited scope representation is clearly a best practice that should be encouraged in many settings, the Committee believed that such an ethical requirement would frustrate the ability of lawyers to provide services through telephone hotlines, such as Hotlines for the Elderly, sponsored by AARP, or other electronic communications that do not lend themselves to an exchange of written or signed documents.

## **State Rules: Varying Written Consent Requirements**

### ***No Written Consent Mandate***

Most states<sup>21</sup> that have adopted the revisions to Model Rule 1.2(c) have followed the ABA model that includes an informed consent requirement, but does not mandate that it be in writing. Similarly, eight states<sup>22</sup> have retained rules that resemble the version of the ABA Model Rule from before Ethics 2000, where rather than informed consent, “consent after consultation” is required and there is no indication that this needs to be in writing.

### ***Written Consent Preferred***

Two states include statements in their rules that it is *preferred* that consent be in writing. Tennessee Rule 1.2(c) is almost identical to the Model Rule except that it indicates a preference that the client gives informed consent in writing.<sup>23</sup> Ohio Rule 1.2(c) does not require informed consent and adds that limits to the scope of representation be communicated to the client “preferably in writing.”<sup>24</sup> Like those states articulating a preference for written consent within the rule itself, five states articulate a similar preference for written consent in their comment

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<sup>19</sup> For the complete change to the comment, see paragraphs 6 through 8, at <http://www.abanet.org/cpr/e2k/e2k-rule12.html>

<sup>20</sup> See testimony of John Skilton, then chair of the ABA Standing Committee on the Delivery of Legal Services, in Los Angeles, February 1999, at [http://www.americanbar.org/groups/professional\\_responsibility/policy/ethics\\_2000\\_commission/skilton.html](http://www.americanbar.org/groups/professional_responsibility/policy/ethics_2000_commission/skilton.html)

<sup>21</sup> AZ, AR, CO, CT, DC, DE, GA, ID, IL, IN, KY, LA, MD, MN, MS, NE, NV, NH, NJ, NM, NY, NC, OK, OR, PA, RI, SC, SD, UT, VT, WA, and WI

<sup>22</sup> AK, HI, ME, MA, MI, ND, TX, VA, and WV

<sup>23</sup> See, <http://www.tncourts.gov/rules/supreme-court/8>

<sup>24</sup> <http://www.supremecourt.ohio.gov/LegalResources/Rules/ProfConduct/profConductRules.pdf>

sections. Commentary indicating a preference comes in various forms. For instance, comment [8] for North Carolina Rule 1.2(c) says “although paragraph (c) does not require that the client’s informed consent to a limited scope representation be in writing, a specification of the scope of representation will normally be a necessary part of any written communication of the rate or basis of the lawyer’s fee.”<sup>25</sup> Comment [8] for Idaho Rule 1.2 indicates that it is “encouraged” that consent be in writing.<sup>26</sup> Comment [6A] for Maine Rule 1.2 indicates that while written agreements aren’t required, “to the extent a writing can be obtained, it is a better practice to do so for both the lawyer and the client.”<sup>27</sup> And finally, New Hampshire indicates that writing is not required, but then provides a form “to facilitate disclosure and explanation of the limited nature of representation in litigation.”<sup>28</sup>

### ***Written Consent Required***

Other states *require* that consent be in writing. One such state is Kansas, its Supreme Court Rule 1.2(c) as well as its U.S. District Court, District of Kansas Local Rule 83.5.8(a) providing that “a lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing.”<sup>29</sup> Another example is Florida, which has simply modified its version of Rule 1.2(c) to require the client to consent to the limited scope representation in writing after consultation.<sup>30</sup>

A few states<sup>31</sup> have identically modified their versions of Rule 1.2(c) requiring written consent, but, in doing so, create several exceptions. These exceptions include representation that consists solely of telephone consultation, representation provided by a lawyer employed by or participating in a nonprofit or court-annexed legal services program that consists solely of information, advice or the preparation of court forms, and representation that occurs as the result of court appointment for a limited purpose. A few states also clarify that when written consent is required, it creates the presumption that the “representation is limited to the services described in writing and that the attorney does not represent the client generally, or in any matters other than those identified in the writing”<sup>32</sup>

On the other hand, Missouri and Wyoming have created amendments to their versions of Rule 1.2(c) that have the client and attorney contract for the scope of the representation and the specific aspects of the limitation within a designated form. These forms have been appended to the rules and are a part of their rules of professional conduct.<sup>33</sup>

Missouri Rule 4-1.2(c) requires informed consent in writing, signed by the client. The written notice must be substantially similar to the court approved form “Notice and Consent to Limited

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<sup>25</sup> <http://www.ncbar.com/rules/rules.asp?page=5>

<sup>26</sup> See, <http://isb.idaho.gov/pdf/rules/irpc.pdf>

<sup>27</sup> [http://www.maine.gov/tools/whatsnew/index.php?topic=mebar\\_overseers\\_bar\\_rules&id=87817&v=article](http://www.maine.gov/tools/whatsnew/index.php?topic=mebar_overseers_bar_rules&id=87817&v=article)

<sup>28</sup> [http://www.courts.state.nh.us/rules/pcon/pcon-1\\_2.htm](http://www.courts.state.nh.us/rules/pcon/pcon-1_2.htm)

<sup>29</sup> <http://www.ksd.uscourts.gov/rule-83-5-8-limited-scope-representation-in-civil-cases-2/>

<sup>30</sup> See, <http://www.floridabar.org/divexe/trtfb.nsf/FV/AE46B451CFA28E2885257170006BA282>

<sup>31</sup> IA, AL, MT and WI

<sup>32</sup> AL, IA and WI

<sup>33</sup> See Appendix to Maine Rule 3.4(i) at [http://mebaroverseers.org/attorney\\_regulation/bar\\_rules.html?id=63312](http://mebaroverseers.org/attorney_regulation/bar_rules.html?id=63312)

Scope Representation” provided in the comment to Rule 4-1.2. Similar to the Maine Limited Scope Representation Agreement, the Missouri form defines limits to the lawyer’s representation, and explicitly states that the lawyer will not provide any other service without a written revision to the agreement. The form contains a checklist of services the lawyer may provide and identifies costs and fees associated with the representation. The client must indicate that he or she understands the provisions set out in the limited scope representation agreement, and must provide contact information for the court.<sup>34</sup>

Wyoming’s Rule 1.2(c) requires the lawyer who limits the objective or means of representation to fully disclose the limitations to the client. The rule includes a provision that requires written consent, but carves out telephone consultations. Rule 1.2(c)(3) states, “Unless the representation of the client consists solely of telephone consultation, the disclosure and consent required by this subsection shall be in writing.” The rule then indicates that the use of a written notice and consent form set out by the Board of Judicial Policy and Administration creates the presumptions that the representations are limited as described in the form and the attorney does not otherwise represent the client. The form, set out as an appendix to the rule, provides for the lawyer and client to fill in the limitations of the representation, under general topics of advice, document preparation or review and going to court. The form also stresses the need for the client to include an address where the opposing party and the court may reach him or her.<sup>35</sup>

As states examine policies governing the limited scope of representation, many will address the obligation to define the scope through writings. However, the policies do not have to conclude that a written agreement is always necessary, or conversely, never required. States should consider the circumstances where a written agreement is valuable and those where it is likely to create barriers. The rules should then advance those considerations.

### **The Conflict Between ABA Model Rules 1.2(c) and 1.1**

As noted in the introduction, court administrators and non-lawyer legal service providers in the marketplace, such as document preparation services, provide general *legal information* that is not based on the specific individual facts, while only lawyers are capable of providing clients with *legal advice* about specific matters. This raises a question about whether a lawyer can provide a client with only legal information, such as that provided by a document preparation service, *without further inquiry*. The question is important in relation to the limited scope of representation because a lawyer who cannot limit the scope of services in a way that includes an option for merely giving legal information loses the ability to provide a full array of unbundled services and to compete with the document preparation services and other legal service providers. The challenge is to craft policy that maintains legal services dedicated specifically for the skills particular to lawyers while at the same time enabling lawyers to serve a marketplace that sometimes wants something other than those skills.

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<sup>34</sup> See,

<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/8195dff3462d90ba86256ca6005211c1?OpenDocument>

<sup>35</sup> See, [http://courts.state.wy.us/CourtRules\\_Entities.aspx?RulesPage=AttorneysConduct.xml](http://courts.state.wy.us/CourtRules_Entities.aspx?RulesPage=AttorneysConduct.xml)

The difficulty is in the relationship between the obligations created by Model Rule 1.1, addressing competence, and Model Rule 1.2(c), addressing the scope of limited services. The comment to Model Rule 1.1 provides an expansive definition of “competence” and states in part, “Competent handling of a particular matter includes *inquiry into and analysis of the factual and legal elements of the problem*...An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible.”<sup>36</sup> (Ital. added) The comment then makes reference to Model Rule 1.2(c). The comment to Model Rule 1.2(c) states on this point, “Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”<sup>37</sup>

If, by definition, competent representation necessitates some degree of inquiry and analysis and a lawyer may not limit representation to the extent that the representation exempts the lawyer from competent representation, then the logical conclusion is that a lawyer may not limit representation to the extent that the lawyer is excused from the obligation to conduct inquiry and analysis. Regardless of the intention of those drafting (and adopting) Model Rule 1.2(c), it would appear the outcome is one that handicaps the ability of the lawyer to limit his or her services and to compete with those who provide only legal information.

### **Reconciling ABA Model Rules 1.2(c) and 1.1**

If policy-makers want to provide a full range of limited scope representation options and enable lawyers to provide clients with the services those clients are demanding in the marketplace, they could address this issue by:

- (a) Modifying the comments to Rules 1.1 and 1.2(c) to clarify that a lawyer and client may agree to limit the representation to nothing more than legal information when that is all the client wants the lawyer to provide, and that in those instances accurate information is deemed competent without the requirement of the lawyer to make further inquiry or analysis. Amending the comments in this way would advance the objective of Ethics 2000 to “more clearly permit” limited scope representations;<sup>38</sup> or
- (b) More explicitly enabling lawyers to compete with document preparation services by making reference in the comment of MR 1.2(c) to MR 5.7, which governs law-related services. The reference would indicate that the lawyer may provide services such as document preparation as long as they are provided separate from the lawyer’s practice. This alternative is more difficult than merely excusing the lawyer’s obligation to make reasonable inquiry because it requires the lawyer to institutionalize the separate law-related service, rather than fold it into the practice of law.

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<sup>36</sup> See, [http://www.abanet.org/cpr/mrpc/rule\\_1\\_1\\_comm.html](http://www.abanet.org/cpr/mrpc/rule_1_1_comm.html)

<sup>37</sup> See, [http://www.abanet.org/cpr/mrpc/rule\\_1\\_2\\_comm.html](http://www.abanet.org/cpr/mrpc/rule_1_2_comm.html)

<sup>38</sup> Supra note 21.

Many states<sup>39</sup> have addressed this issue by adopting the ABA Model Rule 1.2(c) comment section (or a substantially similar version) addressing competency, which reads:

Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Other states<sup>40</sup> have adopted versions that indicate that limited scope representation agreements must accord with competency requirements set out in other state rules. For example, the comments for Alabama Rule 1.2 say "an agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue."<sup>41</sup>

Furthermore, many states have addressed the competency issue as it applies to limited scope representation in the comment section for Rule 1.1. Most of these states<sup>42</sup> have chosen to include the clause from Comment [5] for the ABA Model Rule which states "an agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible."

Alabama, Ohio and Wyoming have included their own additions to this clause. The comments for Alabama Rule 1.1 add "in such circumstances, competence means the knowledge, skill, thoroughness, and preparation reasonably necessary for such limited representation."<sup>43</sup> Comments [4] and [5] to Wyoming Rule 1.1 states, in part, "A lawyer may accept representation where the requisite level of competence can be achieved in reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person...A lawyer and client may agree, pursuant to Rule 1.2(c) or Rule 6.5, to limit the scope of the representation. In such circumstances, competence means the legal knowledge, skill, thoroughness and preparation reasonably necessary for the limited representation..."<sup>44</sup> The comments for Ohio Rule 1.1 add

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<sup>39</sup> AK, AZ, AR CO, CT, DE, FL, GA, ID, IL, IN, IA, KY, ME, MD, MN, MS, NE, ND, NH, NM, NY, NC, OH, OK, PA, SC, SD, TN, UT, VT, WA, WI, and WY.

<sup>40</sup> AL, AZ, DC, HI, MA, MI, MO, VA, and RI

<sup>41</sup> [http://judicial.alabama.gov/library/rules/cond1\\_2.pdf](http://judicial.alabama.gov/library/rules/cond1_2.pdf)

<sup>42</sup> AR, CO, CT, DE, ID, IL, IN, IA, KY, ME, MN, MS, MO, NE, NH, NM, NY, NC, ND, OK, PA, RI, SC, SD, TN, UT, VT, WA, and WI.

<sup>43</sup> [http://judicial.alabama.gov/library/rules/cond1\\_1.pdf](http://judicial.alabama.gov/library/rules/cond1_1.pdf)

<sup>44</sup> See, <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=62>

“the lawyer should consult with the client about the degree of thoroughness and the level of preparation required, as well as the estimated costs involved under the circumstances.”<sup>45</sup>

## IV. Rules Clarifying Communications between Counsel and Parties

### ABA Model Rules 4.2 and 4.3

ABA Model Rules 4.2<sup>46</sup> and 4.3<sup>47</sup> govern the communications of parties. Rule 4.2 protects a person who is represented by counsel and prohibits an adverse lawyer from communicating with a person he or she knows to be represented in the matter, unless the lawyer has consent from the opposing lawyer or has legal authority for the communication. Rule 4.3 is designed to prevent an adverse lawyer from taking advantage of an unrepresented opposing party and prohibits the lawyer from stating or implying that he or she is disinterested and prohibits the lawyer from giving the unrepresented party legal advice other than to obtain a lawyer.

These rules, of course, address the dichotomy of those who are fully represented and those who are self-represented. They do not effectively address the circumstance of when a self-represented litigant receives limited scope representation from a lawyer. However, the thirteen states that have adopted policies governing this paradigm have amended their counterpart rules, giving direction to lawyers who oppose self-represented litigants in court.<sup>48</sup>

### State Rules Governing Communications

Arizona has adopted a rule with nearly identical language as Model Rule 4.2.<sup>49</sup> While Nebraska has also adopted the Model Rule 4.2, it has additionally added a comment meant to govern communication in limited scope representation. The comment, however, only partially explains such communication expectations. Comment [10] to Nebraska Rule 3-504.2 states, “In the event an “Entry of Limited Appearance” is filed, opposing counsel may communicate with such lawyer’s client on matters outside the scope of limited representation, and by filing such limited appearance, the lawyer and the client shall be deemed to have consented to such communication.” As the rule indicates, it is applicable only in matters where the limited scope representation attorney has entered a limited appearance with the court and does not govern communication in other circumstances.<sup>50</sup>

Nine states address the issues with nearly identical language.<sup>51</sup> The rules provide that the party receiving limited scope representation is to be considered by opposing counsel to be unrepresented unless that opposing counsel is provided with written notice of the limited scope

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<sup>45</sup> <http://www.supremecourt.ohio.gov/LegalResources/Rules/ProfConduct/profConductRules.pdf>

<sup>46</sup> See, [http://www.abanet.org/cpr/mrpc/rule\\_4\\_2.html](http://www.abanet.org/cpr/mrpc/rule_4_2.html)

<sup>47</sup> See, [http://www.abanet.org/cpr/mrpc/rule\\_4\\_3.html](http://www.abanet.org/cpr/mrpc/rule_4_3.html)

<sup>48</sup> AL, AK, AZ, CO, FL, IA, ME, MT, MO, NE, NH, UT and WA

<sup>49</sup> See <http://www.azcourts.gov/Portals/20/2013%20Aug%20Rules/R%2012%200027.pdf>

<sup>50</sup> See, <http://www.supremecourt.ne.gov/rules/pdf/Ch3Art5.pdf>

<sup>51</sup> AL, FL, IA, ME, MT, NH, UT, WA and WI; see the ABA Pro Se/Unbundling Resource Center at <http://www.abanet.org/legalservices/delivery/delunbundrules.html> for links to each of these state rules.

representation. Comment [11] to Washington Rule 4.2 states, “An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of representation.”<sup>52</sup> Alabama Rule 4.2(b),<sup>53</sup> Florida Rule 4-4.2(b),<sup>54</sup> Iowa Rule 32:4.2(b),<sup>55</sup> Maine Rule 4.2(b),<sup>56</sup> Montana Rule 4.2,<sup>57</sup> New Hampshire Rule 4.2<sup>58</sup> and Utah Rule 4.2(b)<sup>59</sup> are all virtually identical.

Colorado’s rules are somewhat inconsistent. It first places the burden on the self-represented party to communicate the fact of any limited scope representation to opposing counsel. Comment [9A] for Rule 4.2, governing communications with a person represented by counsel, states, in part, “A *pro se* party to whom limited representation has been provided . . . is considered to be unrepresented for purposes of this rule unless the lawyer has knowledge to the contrary.”<sup>60</sup> However, Comment [2A] for Colorado Rule 4.3, governing a lawyer’s dealings with an unrepresented party, states that self-represented litigants who receive limited scope representation should be considered unrepresented for the purposes of that rule.<sup>61</sup>

Florida, Washington and Utah all have similar versions of Rule 4.3, which call for parties who have received limited assistance to be treated as unrepresented parties unless they have been notified in writing of the representation.

Alaska and Missouri address communication in limited scope representation as part of a modified version of ABA Model Rule 1.2(c). The language in Alaska Rule 1.2(c) (3)<sup>62</sup> and Missouri Rule 4-1.2 (e)<sup>63</sup> are nearly identical and find that an otherwise unrepresented person to whom limited scope representation is being provided is considered unrepresented for Rule 4.2 and 4.3. Exceptions to this rule include written notice of the matters or time period for which opposing counsel should communicate with the limited scope representation lawyer.

Creating a common understanding among lawyers about when a self-represented litigant is represented may be a difficult challenge. While state rules are designed to protect self-

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<sup>52</sup> See, [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=RPC&ruleid=garpc4.2](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=RPC&ruleid=garpc4.2)

<sup>53</sup> See, [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=RPC&ruleid=garpc4.2](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=RPC&ruleid=garpc4.2)

<sup>54</sup> See, <http://www.floridabar.org/divexe/rtfb.nsf/FV/D9F2CB6782C1A3A585257171006BBE07>

<sup>55</sup> See, <http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

<sup>56</sup> See, [http://www.maine.gov/tools/whatsnew/index.php?topic=mebar\\_overscers\\_bar\\_rules&id=88232&v=article](http://www.maine.gov/tools/whatsnew/index.php?topic=mebar_overscers_bar_rules&id=88232&v=article)

<sup>57</sup> See, [http://courts.mt.gov/library/montana\\_laws.mcp.x](http://courts.mt.gov/library/montana_laws.mcp.x)

<sup>58</sup> See, [http://www.courts.state.nh.us/rules/pcon/pcon-4\\_2.htm](http://www.courts.state.nh.us/rules/pcon/pcon-4_2.htm)

<sup>59</sup> See, [http://www.utcourts.gov/resources/rules/ucja/ch13/4\\_2.htm](http://www.utcourts.gov/resources/rules/ucja/ch13/4_2.htm)

<sup>60</sup> See, <http://www.cobar.org/index.cfm/ID/20495/subID/22459/CETH/>

<sup>61</sup> Id

<sup>62</sup> See, <http://www.state.ak.us/courts/prof.htm#1.2>

<sup>63</sup> See,

<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/8195dff3462d90ba86256ca6005211c1?OpenDocument>

represented litigants and also assure that counsel receives information from opposing counsel, counsel should also have the responsibility of complying with the terms of the limited scope representation as communicated to opposing counsel. Rules should be considered that impose an obligation on counsel for the represented party to communicate with counsel for the self-represented litigant only to the extent of the limited scope representation as identified by counsel for the self-represented litigant.

## **V. Rules Creating Parameters for the Lawyer's Role in Document Preparation**

### **The Conflict Between Limited Scope Document Preparation and the Certification of Pleadings**

Model Rule 1.2(c) seems to permit a lawyer to ethically provide the limited service of document preparation on behalf of otherwise self-represented litigants. However, rules of civil procedure sometimes create obstacles that make it impractical for a lawyer to provide limited services. The rules of civil procedure typically require a lawyer who represents a party to sign the pleadings.

The signing, under the rules, serves as a verification or certification that the pleadings are well grounded in fact, warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and not interposed for any improper purpose, such as harassment. In full representation, a lawyer must make these representations after reasonable inquiry. This reasonable inquiry is not necessarily based solely on representations from the litigant.

While it is important to take steps to avoid frivolous litigation, the lawyer's obligation to certify pleadings is not consistent with the limited nature of document preparation. The state rules of civil procedure generally work toward preserving the dichotomy of full representation versus self-representation when placing the burden on the lawyer to make reasonable inquiry pursuant to this segmented service.

### **State Rules of Civil Procedure Governing Certification of Pleadings**

A handful of states have addressed aspects of civil procedure, giving direction for issues that pertain to document preparation. Since the ABA's Ethics 2000 initiative examined only the Rules of Professional Conduct, and not rules of civil procedure, the states that have examined this issue have done so as independent state initiatives. This began with rule changes in Colorado in 1999.

#### ***Point 1: Factual Representation of Litigant vs. Independent Inquiry***

Some states require lawyers who draft pleadings as a discrete function to certify those pleadings, but allow the lawyer to primarily rely on the factual representation of the litigant rather than to conduct an independent inquiry.

Some states have addressed this issue by permitting the lawyer to rely on the self-represented party's representation of facts in most situations.<sup>64</sup> For instance, Alabama Rule of Civil Procedure 11(b), which is fundamentally identical to a handful of other states'<sup>65</sup> rules, reads:

In providing such drafting assistance, *the attorney may rely on the otherwise self-represented person's representation of the facts, unless the attorney has reason to believe that such representation is false or materially insufficient.*<sup>66</sup> (ital. added)

Some states' rules add that if the attorney has reason to believe that such representation is false or materially insufficient, the attorney shall make an independent reasonable inquiry into the facts.<sup>67</sup>

Maine Bar Rule 3.6(a)(2) clarifies conduct during limited scope representation and is applicable to the provision of drafting assistance. It states, "[A lawyer shall not] handle a legal matter without preparation adequate in the circumstances, provided that, with respect to the provision of limited representation, the lawyer may rely on the representation of the client and the preparation shall be adequate within the scope of the limited representation."<sup>68</sup>

### ***Point 2: Notifying the Court***

Some states are concerned that the courts will be misled if the role of the lawyer in drafting is not revealed to the court. In some jurisdictions, the lawyer's name and contact information must be disclosed. In others, the court must merely be advised that the litigant had the assistance of a lawyer.

Some jurisdictions believe it is important to formally notify the court in some manner that the self-represented litigant has had the assistance of counsel in the drafting of pleadings. This belief is generated from the notion that the courts give self-represented litigants greater leeway and that if a litigant has had the undisclosed assistance of counsel, the litigant then stands to get both that assistance and the court's leeway. It is sometimes said that such an outcome would deceive the court. Professor Jona Goldschmidt rebuts this idea in his law review article, *In Defense of Ghostwriting*,<sup>69</sup> in which he notes that rules require the courts to liberally construe pleadings regardless of whether they are drafted by a lawyer or a litigant. Therefore, he concludes it is irrelevant whether the self-represented litigant received the benefit of counsel in the preparation of pleadings.

Accordingly, five jurisdictions have adopted provisions requiring that pleadings and other documents include both notice of the lawyer's role in drafting as well as the lawyer's contact information. Colorado C.R.C.P. 11(b)<sup>70</sup> and Rule of County Court Civil Procedure 311(b)<sup>71</sup>

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<sup>64</sup> AL, AR, CO, IL, IA, MO, MT, WA and WI

<sup>65</sup> AZ, CO, IA, MO, MT, and WA

<sup>66</sup> <http://judicial.alabama.gov/library/rules/cv11.pdf>

<sup>67</sup> AR, IA, WA and WI

<sup>68</sup> See, <http://mebaroverseers.org/Maine%20Bar%20Rules/rule%203.6.htm>

<sup>69</sup> 29 Fordham Urban L J 1145 (2002)

<sup>70</sup> See, [http://www.michie.com/colorado/lpext.dll/corules/2/3/242/447?f=templates&fn=document-frame.htm&2.0#JD\\_2-r11](http://www.michie.com/colorado/lpext.dll/corules/2/3/242/447?f=templates&fn=document-frame.htm&2.0#JD_2-r11)

<sup>71</sup> See, <http://www.michie.com/colorado/lpext.dll?f=templates&fn=main-h.htm&cp>

provide that pleadings drafted by a lawyer must include the lawyer's name, address, telephone number and registration number. Iowa Rule 1.423 also requires disclosure, including the name and contact information for the attorney providing drafting assistance. The rule clarifies that an attorney need not sign the document.<sup>72</sup>

The rules in Nebraska, Nevada and Oregon all share similarities with Colorado and Iowa by requiring disclosure and contact information, but add their own slight variations. Nebraska Rule of Professional Conduct 3-501.2(c)<sup>73</sup> and Court Rule of Pleading in Civil Cases 6-1111(b)<sup>74</sup> both allow attorneys to prepare pleadings and other documents to be filed with the court as long as the filings include the phrase "prepared by" along with the name, business address, and bar number of the lawyer preparing the documents. A Nebraska lawyer is not required to sign the document once the nature of assistance and contact information has been disclosed.<sup>75</sup> Nevada Rule 5.28 requires that a lawyer who contracts to limit the scope of representation state that limitation "in the first paragraph of the first paper or pleading filed on behalf of that client."<sup>76</sup> Oregon Uniform Trial Court Rule 2.010(7)<sup>77</sup> adds that any document not bearing the name and Bar number of the attorney must bear or be accompanied by a certificate provided by the roles (or one that is substantially similar).<sup>78</sup>

Four jurisdictions have provisions that require disclosure of the attorney's assistance with the pleadings, but do not require the attorney's name and contact information. In the Florida Family Law Rules of Procedure Rule 12.040, a party who has received a lawyer's assistance in document preparation must certify that fact in the pleadings or documents.<sup>79</sup> The Florida Rules of Professional Conduct state in the comment to Rule 4-1.2, "If a lawyer assists a *pro se* litigant by drafting any document to be submitted to a court, the lawyer is not obligated to sign the document. However, the lawyer must indicate "Prepared with the assistance of counsel" on the document to avoid misleading the court which otherwise might be under the impression that the person, who appears to be proceeding *pro se*, has received no assistance from a lawyer."<sup>80</sup> Similarly, Wisconsin

The rules in Alabama, Kansas and New Hampshire closely resemble the rules in Florida, by requiring disclosure but not the attorney's name or contact information. Alabama's Rule of Civil Procedure 11 states that any pleading, motion, or other paper that an attorney assists with must end with the following statement: "This document was prepared with the assistance of a licensed

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<sup>72</sup> See, <http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

<sup>73</sup> See, <http://www.supremecourt.ne.gov/rules/pdf/Ch3Art5.pdf>

<sup>74</sup> See, <http://supremecourt.ne.gov/supreme-court-rules/ch3/art5> and <http://supremecourt.ne.gov/supreme-court-rules/2284/%C2%A7-6-1111-signing-pleadings>

<sup>75</sup> See, <http://www.supremecourt.ne.gov/rules/pdf/Ch3Art5.pdf>

<sup>76</sup> See, <http://www.leg.state.nv.us/courtrules/EighthDCR.html>

<sup>77</sup> See, [http://courts.oregon.gov/OJD/docs/programs/utcr/2010\\_UTCR\\_ch02.pdf](http://courts.oregon.gov/OJD/docs/programs/utcr/2010_UTCR_ch02.pdf)

<sup>78</sup> See, [http://courts.oregon.gov/OJD/docs/programs/utcr/2010\\_UTCR\\_ch02.pdf](http://courts.oregon.gov/OJD/docs/programs/utcr/2010_UTCR_ch02.pdf)

<sup>79</sup> See,

[http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/\\$FILE/311%20Family%20Law.pdf](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/$FILE/311%20Family%20Law.pdf)

<sup>80</sup> See, <http://www.floridabar.org/divexe/trtfb.nsf/FV/AE46B451CFA28E2885257170006BA282>

Alabama lawyer pursuant to Rule 1.2(c), Alabama Rules of Professional Conduct.”<sup>81</sup> Likewise, Kansas Supreme Court Rule 115A(c) indicates that an attorney assisting in preparing a pleading, motion, or other paper, must insert at the bottom of the paper: “prepared with assistance of a Kansas licensed attorney.”<sup>82</sup> Similarly, Wisconsin rules require that the filings “clearly indicate” that “This document was prepared with the assistance of a lawyer.”<sup>83</sup> And, New Hampshire Rule of Civil Procedure 17(g) indicates that any pleading drafted by a limited scope representation attorney must “conspicuously” contain the statement “This pleading was prepared with the assistance of a New Hampshire attorney.” The stipulation only applies when the attorney has not entered an appearance with the court, or when a previously filed appearance does not include representation related to the specified document.<sup>84</sup> However, U.S. District Court, District of Kansas Local Rule 83.5.8(b) provides that 115A(c) does not apply in the District of Kansas instead requires that any attorney preparing a pleading, motion or other paper for a specific case enter a limited appearance and sign the document.<sup>85</sup>

While Massachusetts does not have a rule addressing such document preparation scenarios, its Supreme Court issued an Order effective May 1, 2009 stating that an attorney assisting a client in preparing a document only needs to insert the following notation: “prepared with assistance of counsel.”<sup>86</sup>

On the other hand, the California Rules of Court explicitly excuses the lawyer who drafts documents in a family matter from the obligation to disclose. Family Law Rule 5.70(a) states, “In a family law proceeding, an attorney who contracts with a client to draft or assist in drafting legal documents, but not to make an appearance in the case, is not required to disclose within the text of the document that he or she was involved in preparing the document.”<sup>87</sup> California Civil Rule 3.37 creates a nearly identical provision for document preparation in civil matters not related to family law.<sup>88</sup>

Missouri Rule 55.03 resembles the California rules and states, in part, “...An attorney who assists in the preparation of a pleading, motion, or other filing for an otherwise self-represented person is not required to sign the document...”<sup>89</sup>

Neither North Carolina nor Utah has promulgated official rules on this issue, but both have published ethics opinions on the topic. North Carolina’s 2008 Formal Ethics Opinion 3 declares “a lawyer may assist a pro se litigant by drafting pleadings and giving advice without making an appearance in the proceeding and without disclosing or ensuring the disclosure of his assistance

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<sup>81</sup> See, <http://judicial.alabama.gov/library/rules/cv11.pdf>

<sup>82</sup> See, [http://www.kscourts.org/Rules/District\\_Rules/Rule%20115A.pdf](http://www.kscourts.org/Rules/District_Rules/Rule%20115A.pdf)

<sup>83</sup> See, <http://www.wicourts.gov/supreme/docs/1310petition.pdf>

<sup>84</sup> See, <http://www.nhbar.org/uploads/pdf/RulesCivilProcedureDraft011807.pdf>

<sup>85</sup> See, <http://www.ksd.uscourts.gov/rule-83-5-8-limited-scope-representation-in-civil-cases/>

<sup>86</sup> See, <http://www.mass.gov/courts/case-legal-res/rules-of-court/sjc/lar.html>

<sup>87</sup> See, [http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_70](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_70)

<sup>88</sup> See, [http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3\\_37](http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_37)

<sup>89</sup> See, <http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/0/7db1c05900034fdc86256ca60052152c?OpenDocument>

to the court unless required to do so by law or court order.”<sup>90</sup> Likewise, Utah Opinion No. 08-01 states that in the absence of an express court rule to the contrary, an attorney may help prepare written submissions for a self-represented litigant “without disclosing or ensuring the disclosure to others of the nature or extent of such assistance.” A rare dissenting opinion appears, arguing that the main opinion is logically inconsistent with the Tenth Circuit decision *Duran v Carris*, incompatible with judicial and ethics opinions in other jurisdictions, and potentially harmful to equal justice ideals.<sup>91</sup>

### ***Point 3: Appearances as a Result of Signing Pleadings***

The obligation to sign pleadings may result in an appearance and where it does, several states have recognized the need to create an exception and preclude the lawyer who is providing limited services from an obligation to provide more expanded services than he or she agreed to provide.

The obligation to disclose is significant because in some states the signing of pleadings can create an appearance, obligating the lawyer to perform services beyond those that he or she contracted with the client to perform. Wyoming has explicitly carved out an exception to such an obligation. Wyoming Rule 102(a)(1) states in part, “An attorney appears in a case: . . . (B) By permitting the attorney’s name to appear on any pleadings or motions, except that an attorney who assisted in the preparation of a pleading and whose name appears on the pleading as having done so shall not be deemed to have entered an appearance in the matter . . .”<sup>92</sup>

Iowa Rule 1.423(3) makes a similar exception for attorneys who provide drafting assistance by stating in part, “The identification of an attorney who has provided drafting assistance in the preparation of a pleading or paper shall not constitute an entry of appearance by the attorney . . .”<sup>93</sup> Nebraska Rule of Professional Conduct 3-501.2 (c) and the Wisconsin Supreme Court Rule 20:1.2 (cm) both create an almost identical provision.<sup>94</sup>

To summarize:

- Some states require lawyers who draft pleadings as a discrete function to certify those pleadings, but allow the lawyer to primarily rely on the factual representation of the litigant rather than to conduct an independent inquiry.
- Some states are concerned that the courts will be misled if the role of the lawyer in drafting is not revealed to the court. In some jurisdictions, the lawyer’s name and contact information must be disclosed. In others, the court must merely be advised that the litigant had the assistance of a lawyer.

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<sup>90</sup> <http://www.ncbar.com/ethics/ethics.asp?page=1&keywords=114>

<sup>91</sup> [http://utahbar.org/rules\\_ops\\_pols/ethics\\_opinions/op\\_08\\_01dissent.html](http://utahbar.org/rules_ops_pols/ethics_opinions/op_08_01dissent.html)

<sup>92</sup> See, <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=32>

<sup>93</sup> See, <http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

<sup>94</sup> See, <http://supremecourt.ne.gov/supreme-court-rules/ch3/art5> and <http://legis.wisconsin.gov/rsb/scr/5200.pdf>

- The obligation to sign pleadings may result in an appearance and where it does, several states have recognized the need to create an exception and preclude the lawyer who is providing limited services from an obligation to provide more expanded services than he or she agreed to provide.

## **VI. Rules Governing the Entry of Appearances and Withdrawals in Court**

Just as some litigants can benefit from lawyers who assist them with document preparation, others can benefit from lawyers who represent them in court for a portion of their legal matter. For example, a litigant in a divorce proceeding may not be able to afford a lawyer for the entire case, but have the need for a lawyer for a hearing to obtain an order of protection.

Under the traditional model of full representation, a lawyer who enters an appearance and, therefore becomes the attorney of record, is presumed to be the litigant's representative for all matters within that case. This is a convenient arrangement that facilitates court administration and case management. The lawyer receives all notices, is responsible for progressing the case and can only withdraw with leave of the court after motion and hearing. While there is no doubt this system is beneficial to the court and to opposing parties, it also perpetuates the dichotomy where litigants are assumed either to have representation or to be proceeding self-represented. As with limits on document preparation, a system that contributes to this dichotomy is likely to result in more self-represented litigants who are less prepared to efficiently advance their legal matter. If we presume that self-represented litigation administratively encumbers the courts, it seems reasonable that a system clarifying limited appearances, and expediting withdrawals, would contribute to the smooth functioning of the courts.

As part of state initiatives to adopt policies advancing limited scope representation, many states have now revised rules to permit and clarify procedures for limited appearances and expedited withdrawals. Note that this discussion focuses only on limited scope representation, and does not refer to limited appearances entered for the purpose of challenging jurisdiction.

The rules of the states address three issues: 1) the manner in which the lawyer creates the limited appearance, 2) the obligation to provide the opposing side with notice, and 3) the procedure for withdrawal.

### **Creating the Limited Appearance**

A limited appearance may be created by oral or written declaration to the court. Nevada Rule 5.28 permits a lawyer to merely appear in court and provide notice of the limitation. It states, in part, "...[I]f the attorney appears at a hearing on behalf of a client pursuant to a limited scope contract, the attorney shall notify the court of that limitation at the beginning of the hearing."<sup>95</sup>

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<sup>95</sup> See, <http://www.leg.state.nv.us/courtrules/EighthDCR.html>

More commonly, states require a written document that sets out the limitation in some manner. Wyoming Rule 102 allows a written appearance to be limited “by its terms, to a particular proceeding or matter.”<sup>96</sup> Missouri Rule 55.03 contains a nearly identical requirement.<sup>97</sup>

New Mexico Rule of Professional Conduct 16-303(E) requires the lawyer who appears for a client in a limited manner to disclose the scope of the representation to the court. New Mexico Rules of Civil Procedure clarify that the disclosure must occur in the form of a written notice that identifies the nature of the limitation. The rules require that the attorney note the limitation in the signature block of any paper the attorney files and also require that the signature block include an address where service may be made on the client.<sup>98</sup>

Several states require the use of court approved forms to notify the court of an attorney’s limited appearance. California Civil Rule 3.36 permits an attorney to make a limited appearance in a civil case, other than a family law matter, so long as the party and attorney provide written notice of their agreement. The rule requires the filing and service of the court-approved Notice of Limited Scope Representation, which outlines the representation and includes signatures from both client and attorney.<sup>99</sup> California Family and Juvenile Rule 5.71 creates a provision that requires a Notice of Limited Scope Representation in family court matters.<sup>100</sup>

Similarly, Arizona Rule of Civil Procedure 5.1(c) states that an attorney may make a limited appearance “by filing and serving a Notice of Limited Scope Representation” and that the notice shall specify the matters, hearings, or issues with regard to which the limited scope representation applies.<sup>101</sup> Arizona Rule of Family Law Procedure 9(b) governs limited appearances in family law proceedings and requires the filing of a Notice of Limited Scope Representation that specifies the matter or issues for which the attorney will represent the party. While specifically allowing limited appearances with written notification, it clarifies that “nothing in the rule shall limit an attorney’s ability to provide limited services to a client without appearing of record in any judicial proceedings”.<sup>102</sup>

Delaware Family Court Rule of Civil Procedure 5(b)(2) permits an attorney to enter an appearance by filing a written notice of appearance using a Family Court generated form. The notice must specify the matter for which the attorney will appear, and the appearance is then limited to the specific petition filed.<sup>103</sup>

New Hampshire Rule of Professional Conduct 1.2(f)(1) stipulates that a lawyer may provide limited scope representation to a client involved in a proceeding before a tribunal, if the

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<sup>96</sup> See, <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=62>

<sup>97</sup> See, <http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/0/7db1c05900034fdc86256ca60052152c?OpenDocument>

<sup>98</sup> See, Rule of Civil Procedure for the District Court 1-089, Rule of Civil Procedure for the Magistrate Courts 2-107 and Rule of Civil Procedure for the Metropolitan Courts 3-107 at <http://www.nmonesource.com/nmnxtadmin/NMPublic.aspx>

<sup>99</sup> See, [http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3\\_36](http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_36)

<sup>100</sup> See, [http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_71](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_71)

<sup>101</sup> See, <http://www.azcourts.gov/Portals/20/2013%20Aug%20Rules/R%2012%200027.pdf>

<sup>102</sup> See, [http://www.supreme.state.az.us/rules/ramd\\_pdf/R-05-0008.pdf](http://www.supreme.state.az.us/rules/ramd_pdf/R-05-0008.pdf)

<sup>103</sup> See, [http://courts.delaware.gov/Rules/?FCcivill\\_jan06.pdf](http://courts.delaware.gov/Rules/?FCcivill_jan06.pdf)

limitations are fully disclosed and explained, and the client gives informed consent. The sample form provided in Rule 1.2(g) was devised to meet the requirement for full disclosure when an attorney makes a limited appearance.<sup>104</sup> Rule of Professional Conduct 1.2(f)(1) is supplemented by Rule of Civil Procedure 17(c). The rule further clarifies that an attorney providing limited scope representation may file a limited appearance in a non-criminal case. It states in part “...An attorney who has filed a Limited Appearance and who later files a pleading or motion outside the scope of the limited representation, shall be deemed to have amended the Limited Appearance to extend to such filing...”<sup>105</sup>

Illinois Rule 13(c)(6) indicates that when an attorney has entered into a written agreement with a party to provide limited scope representation, the attorney shall file notice using the form attached to the rule. The attorney must identify each aspect of the proceeding to which the limited scope appearance pertains. The rule then indicates that a new Notice of Limited Scope Appearance must be filed for any additional aspects of the proceeding in which the attorney intends to appear, but that the party will not be required to pay more than one appearance fee per case.<sup>106</sup>

Louisiana District Court Rule 9.12 requires written notice that specifically states the limitation of legal services by subject matter, proceeding, date, or time period. Such notice must be filed with or prior to the initial pleading or prior to the initial hearing. Both the signatures of the attorney and client are required, unless the client is unavailable to sign at filing in which case the client must file a certificate attesting to the scope of the representation within 10 days.<sup>107</sup>

The Massachusetts Supreme Court clarified its limited scope representation rules in a May 1, 2009 Order. The Order includes a Notice of Limited Appearance form and indicates that the attorney must state precisely the event to which the limited appearance pertains and any discrete issues within the event that the appearance covers. Then, the Order clarifies that an attorney may file a notice for more than one court event within a case.<sup>108</sup>

Kansas Supreme Court Rule 115A(b)(1) establishes that an attorney entering a limited appearance must file a notice with the court. The notice must state the court proceeding to which the limited appearance pertains and any specific issues covered by the appearance. A form is provided and the Rule states that “notice is sufficient if it is on the judicial council form.”<sup>109</sup>

Several states have rules stating that notice must be filed with the court, but do not provide a specific form. North Dakota Court Rule 11(e) simply indicates that the party receiving assistance of an attorney on a limited basis “must file the notice of limited representation with the court.”<sup>110</sup>

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<sup>104</sup> See, [http://www.courts.state.nh.us/rules/pcon/pcon-1\\_2.htm](http://www.courts.state.nh.us/rules/pcon/pcon-1_2.htm)

<sup>105</sup> See, <http://www.nhbar.org/uploads/pdf/RulesCivilProcedureDraft011807.pdf>

<sup>106</sup> See, <http://www.state.il.us/court/SupremeCourt/Rules/Amend/2013/061413.pdf>

<sup>107</sup> See, [http://www.lasc.org/rules/dist.ct/11\\_27\\_12DistrictCourtAmendmentsOrder.pdf](http://www.lasc.org/rules/dist.ct/11_27_12DistrictCourtAmendmentsOrder.pdf)

<sup>108</sup> See, <http://www.mass.gov/courts/case-legal-res/rules-of-court/sjc/lar.html>

<sup>109</sup> See, [http://www.kscourts.org/Rules/District\\_Rules/Rule%20115A.pdf](http://www.kscourts.org/Rules/District_Rules/Rule%20115A.pdf)

<sup>110</sup> See, <http://www.ndcourts.gov/court/rules/CIVIL/rule11.htm>

Others include additional clauses to their requirements that notice be filed suggesting that such notice must articulate the scope of and/or matters for which the attorney will appear.<sup>111</sup> Indiana Rule of Trial Procedure 3.1(I) states that an attorney limiting the scope of representation “shall file a notice of temporary or limited representation,” adding that the notice shall contain contact information and a description of the temporary or limited status.<sup>112</sup> And in Wisconsin, Milwaukee County Family Division Rule 5.6(a) indicates that notice of appearance filed by an attorney limiting the scope of representation “shall state the proceedings at which the court may expect the attorney to be present or other function for which the court may expect the attorney to be responsible.<sup>113</sup> Similarly, Wisconsin statute 802.045(2) requires that the notice of limited appearance contain “The specific proceeding(s) or issue(s) within the scope of the limited representation.”<sup>114</sup>

Florida Rule 12.040 adds a requirement that the litigant acknowledge the limited appearance by stating that an attorney of record shall be attorney of record throughout the family law matter, “unless at the time of appearance the attorney files a notice, signed by the party, specifically limiting the attorney’s appearance only to the particular proceeding or matter in which the attorney appears.”<sup>115</sup>

Nebraska includes a similar requirement. Nebraska Rule 3-501.2 permits limited appearances, with a written requirement. It states, “If, after consultation, the client consents in writing, a lawyer may enter a “Limited Appearance” on behalf of any otherwise unrepresented party involved in a court proceeding, and such appearance shall clearly define the scope of the lawyer’s limitation.”<sup>116</sup>

Maine Rule 11(b) specifically addresses limited appearances and states in part, “To the extent permitted by the Maine Bar Rules, an attorney may file a limited appearance on behalf of an otherwise unrepresented litigant. The appearance shall state precisely the scope of the limited representation...”<sup>117</sup>

Tennessee Rule of Civil Procedure 11.01(b) indicates that an attorney shall file “at the beginning of the representation an initial notice of limited scope representation with the court.” The rule then goes on to specify that such written notice does not need to disclose the terms of the agreement.<sup>118</sup>

A number of states include provisions requiring the limited appearance to be filed at the beginning of the proceeding, preventing lawyers from essentially abandoning their clients, which is a risk when a client is unable to pay fees beyond the initial retainer. The Washington CR 70.1

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<sup>111</sup> FL, NE, ME, IN, WI and TN

<sup>112</sup> See, [http://www.in.gov/judiciary/rules/trial\\_proc/index.html#\\_Toc313019747](http://www.in.gov/judiciary/rules/trial_proc/index.html#_Toc313019747)

<sup>113</sup> See, <http://county.milwaukee.gov/ImageLibrary/Groups/cntyCourts/documents/lrgencivcrimfam4152010.pdf>

<sup>114</sup> See, <http://www.wicourts.gov/supreme/docs/1310petition.pdf>

<sup>115</sup> See, [http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/\\$FILE/311%20Family%20Law.pdf](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/$FILE/311%20Family%20Law.pdf)

<sup>116</sup> See, <http://www.supremecourt.ne.gov/rules/pdf/Ch3Art5.pdf>

<sup>117</sup> See, [http://www.courts.maine.gov/rules\\_adminorders/rules/MRCivPONLY7-10.pdf](http://www.courts.maine.gov/rules_adminorders/rules/MRCivPONLY7-10.pdf)

<sup>118</sup> [http://www.tncourts.gov/sites/default/files/sc\\_order\\_amending\\_tn\\_rules\\_of\\_civil\\_procedure.pdf](http://www.tncourts.gov/sites/default/files/sc_order_amending_tn_rules_of_civil_procedure.pdf)

states in part, “If specifically so stated in a notice of limited appearance *filed and served prior to or simultaneous with the proceeding*, an attorney’s role may be limited to one or more individual proceedings in the action.”<sup>119</sup> [Ital. added] Alabama Rule of Civil Procedure 87,<sup>120</sup> Colorado Rule of Civil Procedure 121,<sup>121</sup> Iowa Rule 1.404(3),<sup>122</sup> Administrative Order 14-10 of the Superior Court of DC<sup>123</sup> and Montana Rule of Civil Procedure 4.2<sup>124</sup> are substantively similar.

Similarly, Alaska Rule of Civil Procedure 81(d) explicitly allows limited appearances, and requires that an attorney file and serve an entry of appearance before or during the proceeding. The entry of appearance must state that the attorney’s appearance is limited and must identify the limitation by date, time period or subject matter. It then requires the attorney to serve all parties of record with the limited entry of appearance.<sup>125</sup>

Utah and Vermont permit limited appearances so that an attorney may act as counsel for a specific motion, discovery procedure, or hearing. Utah Rule 75(b) more clearly defines limited appearances and requires the attorney to file a Notice of Limited Appearance signed by attorney and self-represented party. It states, in part, “. . .The Notice shall specifically describe the purpose and scope of the appearance and state that the party remains responsible for all matters not specifically described in the notice. The clerk shall enter on the docket the attorney’s name and a brief statement of the limited appearance. . .”<sup>126</sup> Vermont Rule 79.1(1) is nearly identical.<sup>127</sup>

### **Notice to the Opposing Side**

In addition to rules that specifically address limited appearances, several states have amended their rules of civil procedures to govern service of pleadings and other papers in limited appearances. While requirements for service vary, a number of states have rules that specifically define when, if at all, service is required upon the limited scope representation attorney.

Most of the states that have addressed this require notice to the lawyer who has filed a limited appearance, but only in connection with the proceedings or matters for which the attorney has appeared. For example, Washington Rules CR 70.1 and CRLJ 70.1 set out the obligation to give notice to the lawyer who has filed a limited appearance. The rules state, “Service on an attorney who has made a limited appearance for a party shall be valid . . .only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders.”<sup>128</sup> Other rules that only require service on the attorney in matters within the scope of the Notice of Limited

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<sup>119</sup> See, [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=sup&set=CR&ruleid=supcr70.1](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=CR&ruleid=supcr70.1)

<sup>120</sup> <http://judicial.alabama.gov/library/rules/cv87.pdf>

<sup>121</sup> [http://www.courts.state.co.us/userfiles/file/Court\\_Probation/Supreme\\_Court/Rule\\_Changes/2011/2011\\_13\\_redlined.pdf](http://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2011/2011_13_redlined.pdf)

<sup>122</sup> See, <http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

<sup>123</sup> See, <http://pdfserver.amlaw.com/nlj/Limited%20Scope%20Representation%20order.pdf>

<sup>124</sup> <http://leg.mt.gov/bills/mca/25/20/25020001042.htm>

<sup>125</sup> See, <http://www.state.ak.us/courts/civ2.htm#81>

<sup>126</sup> See, <http://www.utcourts.gov/resources/rules/urcp/urcp075.html>

<sup>127</sup> See, <http://www.utcourts.gov/resources/rules/urcp/urcp075.html>

<sup>128</sup> See, [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=sup&set=CR&ruleid=supcr70.1](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=CR&ruleid=supcr70.1)

Appearance include those in: Alabama, Colorado, Delaware, the District of Columbia Superior Court, Idaho, Iowa, Kansas, Massachusetts, Montana, North Dakota and Utah.

Some states require service in all matters.<sup>129</sup> New Hampshire Rule of Civil Procedure 3(b) states, in part, “When an attorney has filed a limited appearance under Rule 14(d) on behalf of an opposing party, copies of pleadings filed and communications to the court shall be furnished both to the opposing party who is receiving the limited representation and to the limited representation attorney...” Once the attorney files a withdrawal of limited appearance, service is only made on the self-represented litigant.<sup>130</sup> California Civil Rule 3.36(b) is substantially similar.<sup>131</sup>

Arizona Rule of Civil Procedure 5.1(c)(2) and Rule of Family Law Procedure 9(B) create similar provisions, and require service on the limited scope representation attorney for all matters. It is clarified that service on an attorney who has made a limited appearance does not extend the attorney’s responsibility for representation beyond the specific matter for which the attorney appeared.<sup>132</sup> Similarly, Administrative Order 14-10 for the Superior Court of the District of Columbia states that service on attorneys for matters outside the scope of the limited appearance does not extend the scope of the attorney’s representation; 14-10 further states that an attorney may extend a limited appearance only by filing and serving a new notice.<sup>133</sup>

Wisconsin statute 801.14 (2m) provides that “anything required to be served under sub. (1) shall be served upon both the otherwise self-represented person who is receiving the limited scope representation and to the limited scope representation attorney,” and clarifies that once a notice of termination form is filed, no further service is required.<sup>134</sup>

Vermont Rule of Civil Procedure 79.1(4) says “every paper required by Rule 5 to be served upon a party’s attorney that is to be served after entry of a limited appearance shall be served upon the party and upon the attorney entering that appearance unless the attorney has been granted leave to withdraw.” Vermont’s Rule of Family Proceedings 15(h) is similarly broad.<sup>135</sup>

Florida creates a similar provision, but with one addition. Florida Family Law Rule of Procedure 12.040(f) adds that if notice of a hearing that is not within the scope of the representation is received, “the attorney shall notify the court and the opposing party that the attorney will not attend the court proceeding or hearing because it is outside the scope of the representation.”<sup>136</sup>

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<sup>129</sup> NH, CA, AZ, FL, VT, TN and WI

<sup>130</sup> See, <http://www.nhbar.org/uploads/pdf/RulesCivilProcedureDraft011807.pdf>

<sup>131</sup> See, California Rule 3.36(b) at [http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3\\_36](http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_36)

<sup>132</sup> See, [http://www.supreme.state.az.us/rules/ramd\\_pdf/R-05-0008.pdf](http://www.supreme.state.az.us/rules/ramd_pdf/R-05-0008.pdf) and <http://www.azcourts.gov/Portals/20/2013%20Aug%20Rules/R%2012%200027.pdf>

<sup>133</sup> See, <http://pdfserver.amlaw.com/nlj/Limited%20Scope%20Representation%20order.pdf>

<sup>134</sup> See, <http://www.wicourts.gov/supreme/docs/1310petition.pdf>

<sup>135</sup> See, <http://www.lexisnexis.com/hottopics/vtstatutesconstctrules/>

<sup>136</sup> [http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/\\$FILE/311%20Family%20Law.pdf](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/$FILE/311%20Family%20Law.pdf)

Tennessee Rule of Civil Procedure 11(b) similarly indicates that an attorney shall file notice to the court when having received notice on a matter that is outside the scope of representation.<sup>137</sup>

Illinois Supreme court Rule 11 requires service of all documents on both the attorney and the party represented on a limited scope basis. Such service must continue until the court enters an order allowing the attorney to withdraw or the attorney's representation automatically terminates under Rule 13(c)(7)(ii).

Missouri Rule 43.01(b) requires service on the self-represented person and not the attorney unless the attorney serves the opposing party with a copy of the notice of limited appearance that establishes a time period for service on the attorney.<sup>138</sup>

In contrast, Maine Rule 5(b) requires service only upon the self-represented person. It states, in part, "...When an attorney has filed a limited appearance under Rule 11(b), service upon the attorney is not required..."<sup>139</sup>

### **Procedures for Withdrawal**

Although the ABA Model Rules do not specifically address limited appearances and their withdrawals, Rule 1.16 sets out the appropriate circumstances for terminating representation. The comment to this rule notes, "Ordinarily, a representation in a matter is completed when the agreed-upon assistance has been concluded." It then refers to Rules 1.2(c), addressing the scope of limited representation and 6.5, establishing procedures for a lawyer's participation in a limited scope legal services program. While policy-makers should be certain to examine the role of the ethics rules governing this area, both limited and appearances and their withdrawals are most often addressed through rules of procedure.

Withdrawals of limited appearance are done in the states on a *de facto* basis or through an administrative process. They do not require leave of court in these particular states, except as noted below.

Wyoming and Maine explicitly provide a *de facto* withdrawal. Wyoming Rule 102 states, in part, "An attorney who has entered a limited entry of appearance shall be deemed to have withdrawn when the attorney has fulfilled the duties of the limited entry of appearance."<sup>140</sup> Maine rules create a nearly identical provision.<sup>141</sup>

Vermont Rule 79.1 states, in part, "An attorney who has entered a limited appearance shall be granted leave to withdraw as a matter of course when the purpose for which the appearance was

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<sup>137</sup> [http://www.tncourts.gov/sites/default/files/sc\\_order\\_amending\\_tn\\_rules\\_of\\_civil\\_procedure.pdf](http://www.tncourts.gov/sites/default/files/sc_order_amending_tn_rules_of_civil_procedure.pdf)

<sup>138</sup> See, <http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/0/f54a7a01ed6d17e186256ca600521339?OpenDocument>

<sup>139</sup> See, [http://www.courts.maine.gov/rules\\_adminorders/rules/MRCivPONLY7-10.pdf](http://www.courts.maine.gov/rules_adminorders/rules/MRCivPONLY7-10.pdf)

<sup>140</sup> See, <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=32>

<sup>141</sup> See, Maine Bar Rule 3.4(a)(3) at [http://mebaroverseers.org/attorney\\_regulation/bar\\_rules.html?id=63312.htm](http://mebaroverseers.org/attorney_regulation/bar_rules.html?id=63312.htm) and Maine Rule of Civil Procedure 89(a) at [http://www.courts.maine.gov/rules\\_adminorders/rules/MRCivPONLY7-10.pdf](http://www.courts.maine.gov/rules_adminorders/rules/MRCivPONLY7-10.pdf)

entered has been accomplished.” It also outlines a procedure for termination when the attorney seeks to withdraw before completing limited scope representation.<sup>142</sup>

Delaware Rule 5(b)(2) creates a similar provision. It states, in part, “[an appearance] shall terminate when the time for appeal has elapsed from the final order entered by the Court.” The rule clarifies that withdrawal before this time period is possible only through application by the attorney and by order of the court.<sup>143</sup>

Administrative Order 14-10 of the Superior Court of DC provides a *de facto* withdrawal if the notice of limited representation specifically states the scope of the appearance by date or time period, but otherwise requires the attorney to file a notice of completion, to be served on each of the parties, including the attorney’s client.<sup>144</sup> Rule 14-10 also states that if a case continues to a jury trial, the attorney must either withdraw prior to *voir dire* or continue representation through the return of the verdict.<sup>145</sup>

Some states’ rules require the lawyer to file a notice of completion or termination.<sup>146</sup> Each state requires the filing to provide the court with the name and address of the person the lawyer had represented in the proceeding. Washington Rules CR 70.1 and CRLJ 70.1 state, in part, “At the conclusion of such proceedings the attorney’s role terminates without the necessity of leave of court, upon the attorney filing notice of completion of limited appearance which notice shall include the client information required by rule 71(c)(1).”<sup>147</sup> Florida Rule 12.040(c)<sup>148</sup>, Iowa Rule 1.404(4)<sup>149</sup> and Alaska Rule 81(e)<sup>150</sup> are adaptations of this provision and require notice to be upon the client and all other parties. Massachusetts addresses withdrawal requirements in a similar manner, but adds that the court may impose sanctions for the failure to file such notice.<sup>151</sup> Wisconsin similarly allows a limited scope attorney to terminate representation without leave of court by serving upon all parties (including the client) a notice of termination. The rule requires that the notice include the client’s contact information, a statement that the attorney has completed all services within the scope of the Notice of Limited Appearance, and a statement that the attorney has completed all acts ordered by the court.<sup>152</sup>

Several states require written notice, but do not require such notice to include contact information for the otherwise self-represented litigant. Missouri Rule 55.03(c) states, “An attorney who files a notice of limited appearance withdraws when the attorney has fulfilled the

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<sup>142</sup> See, [http://michie.lexisnexis.com/vermont/lpext.dll/vtrules/e/198/1a8?f=templates&fn=document-frame.htm&2.0#JD\\_vrcp-791](http://michie.lexisnexis.com/vermont/lpext.dll/vtrules/e/198/1a8?f=templates&fn=document-frame.htm&2.0#JD_vrcp-791)

<sup>143</sup> See, <http://courts.delaware.gov/forms/download.aspx?id=39308>

<sup>144</sup> <http://pdfserver.amlaw.com/nlj/Limited%20Scope%20Representation%20order.pdf>

<sup>145</sup> Id.

<sup>146</sup> WA, FL, IA, AK, MA, WI

<sup>147</sup> See, [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=sup&set=CR&ruleid=supcr70.1](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=CR&ruleid=supcr70.1)

<sup>148</sup> See,

[http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/\\$FILE/311%20Family%20Law.pdf](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/$FILE/311%20Family%20Law.pdf)

<sup>149</sup> See, <http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

<sup>150</sup> See, [www.state.ak.us/courts/civ2.htm#81](http://www.state.ak.us/courts/civ2.htm#81)

<sup>151</sup> <http://www.mass.gov/obcbbo/rpc1.htm>

<sup>152</sup> See, <http://www.wicourts.gov/supreme/docs/1310petition.pdf>

duties set forth in the notice and files a termination of limited appearance with the court.”<sup>153</sup> Missouri Rule of Professional Conduct 4-1.16(c) supplements Rule 55.03(c). Rule 4-1.16(c) clarifies that a lawyer who files a notice of termination of limited appearance need not comply with the law requiring permission from the tribunal. It states, in part, “...Except when such notice [termination of limited appearance] is filed, a lawyer shall continue representation when ordered to do so by a tribunal notwithstanding good cause for terminating the representation.”<sup>154</sup>

Utah Rule 74(b),<sup>155</sup> Indiana Rule of Trial Procedure 3.1,<sup>156</sup> Montana Rule of Civil Procedure 4.2,<sup>157</sup> Idaho Rule of Civil Procedure 11(b)(5) addressing limited pro bono,<sup>158</sup> and Colorado Rule of Civil Procedure 121<sup>159</sup> are all substantively similar to Missouri Rule 55.03(c), but do not include counterparts in their Rules of Professional Conduct.<sup>160</sup> Colorado’s rule contains a clarifying sentence that such service is valid only in connection with the specific proceeding for which the attorney appears.

Alabama, Wisconsin and North Dakota also have similar provisions requiring notice of termination, but add that upon filing a notice, the attorney must provide certification of service on the client. Alabama Rule of Civil Procedure 87 simply states “The attorney’s role terminates without the necessity of leave of court upon the attorney’s filing a notice of completion of limited scope representation with a certification of service on the client.”<sup>161</sup> Milwaukee County Family Division Rule 5.6(d) indicates that upon submitting a proposed order for withdrawal, the attorney must serve a copy upon the client and all parties.<sup>162</sup> North Dakota Rule of Civil Procedure 11(e)<sup>163</sup> is substantially similar and North Dakota Rule of Court 11.2(d) adds that the rules governing withdrawal of attorneys do not apply to attorneys representing a party under a notice of limited scope representation unless the attorney seeks to withdraw from the limited scope representation itself.<sup>164</sup>

Deviating from the states that require notice of termination, New Hampshire Rule 17(f) permits automatic termination, so long as the attorney provides the court, and all other parties, with a “withdrawal of appearance.” The rule also addresses withdrawal when the attorney has not yet completed all limited scope representation tasks. In such circumstances, the attorney must

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<sup>153</sup> See, <http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/0/7db1c05900034fdc86256ca60052152c?OpenDocument>

<sup>154</sup> See, <http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/202f47458d8080c986256ca6005211aa?OpenDocument>

<sup>155</sup> See, <http://www.utcourts.gov/resources/rules/urcp/urcp074.html>

<sup>156</sup> [http://www.in.gov/judiciary/rules/trial\\_proc/index.html#\\_Toc313019747](http://www.in.gov/judiciary/rules/trial_proc/index.html#_Toc313019747)

<sup>157</sup> <http://supremecourtdocket.mt.gov/view/AF%2007-0157%20Rule%20Change%20--%20Order?id=%7b74651E53-E69E-4101-B614-4D48E1FF894D%7d>

<sup>158</sup> <http://www.isc.idaho.gov/ircp11b5>

<sup>159</sup> [http://www.courts.state.co.us/userfiles/file/Court\\_Probation/Supreme\\_Court/Rule\\_Changes/2011/2011\\_13\\_redlined.pdf](http://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2011/2011_13_redlined.pdf)

<sup>160</sup> See, <http://www.utcourts.gov/resources/rules/urcp/urcp074.html>

<sup>161</sup> See, <http://judicial.alabama.gov/library/rules/cv87.pdf>

<sup>162</sup> <http://county.milwaukee.gov/ImageLibrary/Groups/cntyCourts/documents/lrgencivcrimfam4152010.pdf>

<sup>163</sup> <http://www.ndcourts.gov/court/rules/CIVIL/rule11.htm>

<sup>164</sup> <http://www.ndcourts.gov/court/rules/NDROC/rule11.2.htm>

follow traditional procedures for withdrawal.<sup>165</sup> New Mexico rules create nearly identical requirements for withdrawal from limited appearances.<sup>166</sup>

Nebraska Rule 3-501.2(e) creates a similar provision, but with an additional requirement. It requires the limited scope representation attorney to file a “Certificate of Completion of Limited Representation” within ten days of completion of representation and for copies to be served on all other parties. The rule further clarifies that filing of such certificate does not require court approval.<sup>167</sup>

Other states have more detailed procedures for withdrawal from limited appearances. Nevada requires a lawyer to file a “Substitution of Attorney,” substituting the client for the lawyer. The lawyer must state that he or she was hired to perform a limited service and the service has been completed. The lawyer must also include a copy of the limited services retainer agreement showing the scope of the service the lawyer was hired to perform. The lawyer must also serve copies of the substitution on the client and all other parties or their lawyers.<sup>168</sup>

California Civil Rule 3.36<sup>169</sup> and Family and Juvenile Rule 5.71<sup>170</sup> include safeguards with a slightly more formal system. A lawyer who has completed tasks set out in the court’s Notice of Limited Scope Representation form, serves the client with an Application to be Relieved as Counsel Upon Completion of Limited Scope Representation and a form for the client to file an objection to the application. If no objection is filed within 15 days, the lawyer then files an updated form and order with the clerk of the court. After the order has been signed, the lawyer must serve copies on the client and all parties who have appeared. If the client objects within the 15 days, a hearing is set to determine whether the lawyer will be given leave to withdraw.

Arizona Rule of Civil Procedure 5.2(C) and Rule of Family Law Procedure 9(B) both outline two ways in which an attorney may withdraw- either with or without consent. In the event an attorney completes all tasks specified in the limited scope representation agreement, the attorney may file a Notice of Withdrawal and Consent. The notice states the attorney will no longer represent the party, and includes contact information for the self-represented party. A copy is provided to all other parties.

In the event an Arizona attorney has completed the tasks specified in the Notice of Limited Scope Representation but the client has not signed a Notice of Withdrawal with Consent, the attorney may make a motion to withdraw. If, after served upon client and all other parties, no objection is filed in ten dates, the court will sign the motion. If an objection is filed, the court may conduct a hearing to determine if they attorney did complete all tasks outlined in the limited scope representation agreement.<sup>171</sup>

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<sup>165</sup> See, <http://www.nhbar.org/uploads/pdf/RulesCivilProcedureDraft011807.pdf>

<sup>166</sup> See, Rule of Civil Procedure for the District Court 1-089, Rule of Civil Procedure for the Magistrate Court 2-108, Rule of Civil Procedure for the Metropolitan Court 3-108 at <http://www.nmonesource.com/nmnxtadmin/NMPublic.aspx>

<sup>167</sup> See, <http://www.supremecourt.ne.gov/rules/pdf/Ch3Art5.pdf>

<sup>168</sup> See, <http://www.leg.state.nv.us/courtrules/EighthDCR.html>

<sup>169</sup> See, [http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3\\_36](http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_36)

<sup>170</sup> See, [http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_71](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_71)

<sup>171</sup> See, [http://www.supreme.state.az.us/rules/ramd\\_pdf/R-05-0008.pdf](http://www.supreme.state.az.us/rules/ramd_pdf/R-05-0008.pdf)

Tennessee requires an attorney to file a notice of completion of limited scope representation that is accompanied by a declaration that the terms of the limited scope agreement have been satisfied. The attorney is required to give the unrepresented person at least 14 days advance written notice of this notice of completion.<sup>172</sup>

Illinois Supreme Court Rule 13 addresses both withdrawal upon completing representation as well as withdrawal for any other reason other than completion of the representation. Upon completion of the representation, an attorney shall withdraw by oral motion or by filing a Notice of Withdrawal of Limited Scope Appearance. Opportunities for a party to object to the withdrawal are included in the rule and if the ground for the Objection is that the attorney has not completed the representation, the court must hold an evidentiary hearing.<sup>173</sup>

Kansas requires an attorney to file a notice of withdrawal of limited appearance, serving the notice on the clients and parties, and allows a 14 day period of time for an objection to be filed before the withdrawal becomes effective. A judicial council form is provided and the client's contact information is required. A notice of withdrawal is required for each proceeding for which the attorney has filed and the court may impose sanctions for failure to file a notice of withdrawal according to the rules.<sup>174</sup>

And finally, Louisiana's rules address both procedures for filing a motion to withdraw as well as ex parte withdrawal procedures. If the limited scope representation has been completed, the attorney may make a motion to withdraw, including a certification that the services have been completed. The court may allow an attorney to withdraw by ex parte motion if the representation has been concluded. The court may also allow an attorney to withdraw by ex parte motion if no hearing or trial is scheduled.<sup>175</sup>

## VII. Excusing Conflicts Checks for Limited Services Programs

As noted in the introduction, volunteer lawyers are often involved in court-sponsored programs that provide pro se litigants with individual consultations and document preparation in civil legal matters such as domestic relations, guardianships, housing and small claims. Similarly, legal aid offices and nonprofit law firms sponsor clinics, operate telephone hotlines and otherwise lend limited support, short of full representation.

### Limited Scope Representation as Legal Information

Some courts and programs have concluded that the services the participating lawyers provide in these settings are merely legal information and not legal advice, reasoning that general legal information does not give rise to the creation of an attorney-client relationship and therefore the rules of professional conduct do not apply.

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<sup>172</sup> See, [http://www.tncourts.gov/sites/default/files/sc\\_order\\_amending\\_tn\\_rules\\_of\\_civil\\_procedure.pdf](http://www.tncourts.gov/sites/default/files/sc_order_amending_tn_rules_of_civil_procedure.pdf)

<sup>173</sup> See, <http://www.state.il.us/court/SupremeCourt/Rules/Amend/2013/061413.pdf>

<sup>174</sup> [http://www.kscourts.org/Rules/District\\_Rules/Rule%20115A.pdf](http://www.kscourts.org/Rules/District_Rules/Rule%20115A.pdf)

<sup>175</sup> See, [http://www.lasc.org/rules/dist.ct/11\\_27\\_12DistrictCourtAmendmentsOrder.pdf](http://www.lasc.org/rules/dist.ct/11_27_12DistrictCourtAmendmentsOrder.pdf)

This perspective has a number of adverse consequences. First, the program unnecessarily limits the assistance it provides. On the one hand, it has lawyers who are trained advocates offering their services. Yet, the program limits that level of service and tells the lawyers they cannot serve as advocates or even give fact-specific advice. In this respect, the abilities of the lawyers are underutilized. Second, the self-represented litigants are short-changed. They have a resource that has the capacity to answer their questions to optimize their outcomes, but is unable to provide that advice. Perhaps most importantly, the litigants are not given the protections otherwise available to clients of lawyers under the Rules of Professional Responsibility. The litigants are not protected from conflicts of interest, their communications are not confidential, and the lawyers are not required to be competent when providing these services.

### **Limited Scope Representation as Legal Advice**

On the other hand, if a program were to deem its services legal advice tantamount to the creation of an attorney-client relationship, participating lawyers would be required to check for conflicts of interests not only for themselves, but also for imputed conflicts with the other members of their firms. This, of course, limits the pool of lawyers who are available to participate. However, volunteer lawyers may be willing to extend their services to provide short-term limited legal advice if they have no obligation to check conflicts of interests, but only face conflicts when the lawyer has actual knowledge of one. This is the basis for ABA Model Rule 6.5, a new rule promulgated as a result of the Ethics 2000 initiative.<sup>176</sup>

### **ABA Model Rule 6.5**

According to the Reporter's Explanation of Changes, "Rule 6.5 is a new Rule in response to the Commission's concern that a strict application of the conflict-of-interest rules may be deterring lawyers from serving as volunteers in programs in which clients are provided short-term limited legal services under the auspices of a nonprofit organization or a court-annexed program."<sup>177</sup>

While lawyers should always consider a full conflict check with the lawyer's firm to be a best practice, MR 6.5 excuses from the obligation to check for conflicts of interest lawyers who are participating in nonprofit or court programs offering limited legal services where there is no expectation of continuing representation. If the lawyer has actual knowledge of a conflict, the rules governing conflicts for the attorney and imputed conflicts for members of the attorney's firm continue to apply. In such a case, the lawyer would need to terminate any representation upon learning of the conflict.

Not only does the rule remove the disincentive preventing lawyers from participating, but it also preserves protection of the clients where there is a risk of harm from a conflict. When the representation begins and ends with a single brief encounter, the lawyer who is not personally aware of a conflict cannot jeopardize the interests of the client.

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<sup>176</sup> See, [http://www.abanet.org/cpr/mrpc/rule\\_6\\_5.html](http://www.abanet.org/cpr/mrpc/rule_6_5.html)

<sup>177</sup> Model Rule 6.5 Reporter's Explanation of Changes, at <http://www.americanbar.org/content/dam/aba/migrated/leadership/2002/401/65rem.authcheckdam.pdf>

The scope of this rule should be examined when considering limited scope representation. Model Rule 6.5 encompasses lawyers who participate in nonprofit organizations or courts. It does not limit the scope to *pro bono* programs, nor to lawyers who volunteer their services. The rule goes beyond a mere rationale to facilitate greater participation by lawyers in volunteer programs. It also advances the ability of people to access limited legal services in a way that maintains protection against the adverse consequences of conflicts of interests.

### State Rules Governing Conflicts

Forty-five states have either adopted Model Rule 6.5,<sup>178</sup> or have adopted a substantively similar rule.<sup>179</sup> States that have adopted a substantially similar version of Model Rule 6.5 include Arizona, California, Connecticut, Maine, Minnesota, Mississippi, New Hampshire, North Dakota, Wisconsin, and Wyoming.<sup>180</sup>

One slight variation of the Model Rule that states have adopted involves the indicated types of programs to which the rule applies. Rather than indicating that the rule to “programs sponsored by a nonprofit organization or court,” Minnesota Rule of Professional Conduct 6.5<sup>181</sup> and Mississippi Rule of Professional Conduct 6.5<sup>182</sup> indicate that the rule applies to pro bono programs or services. California Rule of Professional Conduct 1-650<sup>183</sup> and Wisconsin Rule of Professional Conduct 6.5<sup>184</sup> list the types of programs to which the rule applies, including nonprofit organizations, bar associations, and law schools. California adds “government agency” to this list.

The other states that have adopted substantially similar versions of the Model Rule vary in a number of ways. New Hampshire Rule of Professional Conduct 6.5 applies to “one-time consultations” rather than “short-term limited legal services.”<sup>185</sup> Maine Rule of Professional Conduct 6.5 uses the word “aware” rather than “knows” in clause (a)(1) in reference to knowledge of a conflict for the purposes of being subject to Rules 1.7 and 1.9(a).<sup>186</sup> Connecticut Rule of Professional Conduct 6.5 has an added clause that addresses securing the client’s informed consent and the terms by which an attorney may offer advice to the client.<sup>187</sup> Wyoming Rule of Professional Conduct 6.5 also indicates that informed consent is necessary and adds a clause indicating that consent shall be in writing unless the representation consists solely of

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<sup>178</sup> AL, AK, AZ, AR, CO, DE, DC, HI, ID, IL, IN, IA, KY, LA, MD, MA, MI, MT, NE, NV, NJ, NM, NC, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA and WI

<sup>179</sup> Research conducted by the StC on the Delivery of Legal Services

<sup>180</sup> For a chart showing the status of state action on Ethics 2000, see [http://www.americanbar.org/groups/professional\\_responsibility/policy/ethics\\_2000\\_commission.html](http://www.americanbar.org/groups/professional_responsibility/policy/ethics_2000_commission.html)

<sup>181</sup> <http://lprb.mncourts.gov/rules/Documents/MN%20Rules%20of%20Professional%20Conduct.pdf>

<sup>182</sup> <http://courts.ms.gov/Images/Opinions/167564.pdf>

<sup>183</sup> <http://rules.calbar.ca.gov/Rules/RulesofProfessionalConduct/CurrentRules/Rule1650.aspx>

<sup>184</sup> <http://www.wicourts.gov/sc/scrule/DisplayDocument.html?content=html&seqNo=45324#Nonprofit>

<sup>185</sup> [http://www.courts.state.nh.us/rules/pcon/pcon-6\\_5.htm](http://www.courts.state.nh.us/rules/pcon/pcon-6_5.htm)

<sup>186</sup> [http://www.maine.gov/tools/whatsnew/index.php?topic=mebar\\_overseers\\_bar\\_rules&id=88269&v=article](http://www.maine.gov/tools/whatsnew/index.php?topic=mebar_overseers_bar_rules&id=88269&v=article)

<sup>187</sup> <http://www.jud.ct.gov/Publications/PracticeBook/PB.pdf>

telephone consultation(s).<sup>188</sup> North Dakota Rule of Professional Conduct 6.5 has an added clause clarifying how the rule interacts with Rules 1.9 and 1.10.<sup>189</sup> And, Arizona Ethics Rule 6.5 adds that Ethics Rule 1.5 (governing fees) does not apply to a representation governed by this rule and for which the lawyer does not charge a fee.<sup>190</sup>

Washington and New York both have adopted rules that govern conflicts within the nonprofit or court program with more detail. Washington Rule of Professional Conduct 6.5 clarifies that the rules do not prohibit a lawyer from providing limited legal services for the purpose of determining eligibility of a client for assistance by the program. It also details when an attorney will be subject to rules 1.7, 1.9(a), 1.10 and 1.18(e), providing an exception. In order to qualify for the exception, a program must adhere to the standards indicated for screening procedures, notices of conflict to clients, and the prohibition of disseminating information related to the representation.<sup>191</sup>

New York Rule of Professional Conduct 6.5 provides a much more detailed version of the Model Rule as well. Notably, it includes an extra clause that defines short-term limited legal services as services “providing legal advice or representation free of charge as part of a program described in paragraph (a) with no expectation that the assistance will continue beyond what is necessary to complete an initial consultation, representation or court appearance.” It also adds that lawyers providing short-term limited legal services must secure the client’s informed consent. And finally, it adds a more expanded clause addressing conflicts of interest:

This Rule shall not apply where the court before which the matter is pending determines that a conflict of interest exists or, if during the course of the representation, the lawyer providing the services becomes aware of the existence of a conflict of interest precluding continued representation.<sup>192</sup>

Florida Family Law Rule of Procedure 12.750 governing family self-help programs does not follow the Model Rule, but instead details the establishment of, a list of services provided, limitations on such services, and ethical guidelines for family self-help programs.<sup>193</sup> Florida’s Rules of Professional Conduct do not include a rule addressing self-help programs more generally.

## VIII. Conclusion

The information provided in this white paper serves as a basis for understanding the policies addressed by those states that have confronted the challenges of self-represented litigation. Each of these states has taken steps to allow lawyers to provide a broader range of legal services and

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<sup>188</sup> <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=62>

<sup>189</sup> <http://www.ndcourts.gov/court/rules/Conduct/rule6.5.htm>

<sup>190</sup> <http://www.azcourts.gov/Portals/20/2013%20Aug%20Rules/R%2012%200027.pdf>

<sup>191</sup> See, Washington RPC 6.5, at [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=RPC&ruleid=garp6.5](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=RPC&ruleid=garp6.5)

<sup>192</sup> [http://www.nycla.org/siteFiles/NYRulesofProfessionalConduct4109\\_362.pdf](http://www.nycla.org/siteFiles/NYRulesofProfessionalConduct4109_362.pdf)

<sup>193</sup> [http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/\\$FILE/311%20Family%20Law.pdf](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/$FILE/311%20Family%20Law.pdf)

represent self-represented litigants under systems that are clearly set out in their policies and that are understood by the courts, the litigants and the lawyers.

The attached worksheet presents a checklist of the issues and specific state remedies. It is designed to assist other policy-makers to comprehensively address this fundamental shift in the delivery of legal services from a system that mandates litigants to either have lawyers or go it alone to one where lawyers can agree with their clients to provide services along a continuum of legal needs.

**APPENDIX A:  
WORKSHEET**

A Worksheet to Determine Rule Changes that Enable Lawyers to Serve *Pro Se* Litigants

- I. Defining the Scope of Representation
  - A. Will lawyers and clients benefit if the state defines the scope of a lawyer’s representation explicitly and with clarity? See ABA Model Rule 1.2(c), generally.
  
- II. Required Writing for Limited Tasks
  - A. When a lawyer agrees with a client to provide limited representation, should the rules require the agreement to be written? See Florida Rule 4-1.2(c) Missouri 4-1.2(c)
    1. Will a writing requirement preclude the delivery of legal services through hotlines or electronic media or should it include exemptions? See Iowa Rule 32:1.2(c) and Wyoming Rule 1.2(c) for exceptions.
    2. Consider when a writing advances the representation and when it creates a barrier.
  
- III. Standardized Form
  - A. Should a writing be in a standardized form?
    1. For a checklist, see Maine Rule 3.4(i) and Missouri Rule 4-1.2 appendices.
    2. For an open-ended form, see Wyoming Rule 1.2(c) appendix.
  
- IV. Contact Information
  - A. Should the writing inform the otherwise unrepresented client of the need to provide contact information to the court and opposing party or counsel? See Wyoming Rule 1.2(c) and Missouri Rule 4-1.2 appendices.
  
- V. Setting the Limits of Limited Scope Representation – Obligation to Make Inquiry
  - A. Should the scope of representation be defined in a way that permits a lawyer to give a client only legal information, without an obligation to make inquiry and analysis as set forth in the comment to ABA Model Rule 1.1, governing competence? This would allow the lawyer to offer the same degree of services as those offered by lay-sponsored legal document preparation services and still provide the benefits inherent in an attorney-client relationship. See Comment [5] to Wyoming Rule 1.1.
  
  - B. If the jurisdiction decides to enable the lawyer to limit the scope of representation in a way that allows the lawyer to compete with a document preparation service, it should reconcile the comments to Rules 1.1 and 1.2(c) so that accurate factual information is deemed competent without the

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requirement of the lawyer to make further inquiry or analysis. The comment to Rule 1.2(c) could also reference MR 5.7, regarding the lawyer's obligations when providing law-related services.

- VI. Clarifying Communications Between Counsel and Opposing *Pro Se* Parties
- A. Should opposing counsel be prohibited from communicating with a party who receives limited scope representation?
1. Allow counsel to presume the opposing party is unrepresented (and thus allow counsel to communicate with the opposing party) unless the lawyer for the otherwise self-represented party informs counsel otherwise. See Colorado Rule 4.2, Florida Rule 4-4.2(b), Iowa Rule 32:4.2(b), Maine Rule 3.6(f), New Hampshire Rule 4.2, Utah Rule 4.2(b), Washington Rule 4.2, Alaska Rule 1.2(c)(3) and Missouri Rule 4-1.2(e).
  2. Allow counsel to presume the opposing party is unrepresented (and prohibit opposing counsel from giving the opposing party advice) unless the lawyer for the otherwise self-represented party informs opposing counsel in writing. See Washington 4.3, Florida 4-4.3(b) and Utah 4.3(b).
- B. Should opposing counsel be required to communicate according to the directions from the counsel for the *pro se* litigant and not continue contacting counsel for the *pro se* litigant outside of that counsel's direction? See Comment [10] to Nebraska Rule 3-504.2.
- VII. Document Preparation – Certification of Pleadings
- A. Should a lawyer who provides the limited representation of document preparation be required to certify pleadings?
1. The lawyer may rely on the litigant's representation of facts unless there is reason to believe they are false or materially insufficient. See Washington CR 11(b) and CRLJ 11(b), Colorado CRCP Rule 11(b), Iowa Rule 1.423(2), Maine Rule 3.6(a)(2) and Missouri Rule 55.03(c)(3).
- VIII. Document Preparation – Obligation to Inform the Court
- A. Should the court be formally notified that a lawyer drafted the pleadings? Is the court at risk of being misled if the lawyer does not identify himself or herself? Is it sufficient to indicate that a lawyer has prepared the documents, or is there justification that requires full individual identification of the lawyer?
1. Must include the lawyer's name, address, telephone and registration numbers. See Colorado CRCP 11(b) and Rule of County Court Civil Procedure 11(b), Iowa Rule 1.423, and Nebraska Rule 3-501.2(c).
  2. Lawyer must state the limitation of the services in first paragraph of pleading. See Nevada Rule 5.28.

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3. Lawyer's assistance must be certified in the pleadings or documents, See Florida Family Law Rules of Procedure 12.040
  4. Document must state, "Prepared with the assistance of counsel" See Florida 4-1.2(c) and New Hampshire Rule 17.
  5. No obligation to disclose that the lawyer prepared the forms. See California Rules 5.70(a) and 3.37 and Missouri Rule 55.03.
- IX. Document Preparation – Entry of Appearance
- A. If the filing of signed pleadings creates the entry of an appearance, should the rule be amended to exempt lawyers providing limited scope representation? See Wyoming Rule 102(a)(1), Iowa Rule 1.423(3) and Nebraska Rule 3-501.2(c).
- X. Limited Appearance – Entry
- A. How may a lawyer who appears in court in a limited role enter an appearance?
    1. Requirement for lawyer to give notice of limited representation to the court at the beginning of a hearing. See Nevada Rule 5.28 and New Mexico Rules 16-303(E), 1-089(A), 2-107(C), and 3-107(C).
    2. Permit written appearance to be limited by its terms to a particular proceeding or matter. See Wyoming Rule 102 and Missouri Rule 55.03.
  - B. How do we assure the otherwise self-represented litigant understands the limits of the representation?
    1. Require litigant to sign an acknowledgement, See Florida Rule 12.040 and Nebraska 3-501.2(d).
    2. Require the appearance to state the precise scope of the limited representation. See Arizona Rule 9(b), California Civil Rule 3.36, Delaware Rule 5(b)(2), Maine Rule 11(b), New Hampshire Rule 1.2(f)(1), Utah Rule 75 and Vermont Rule 79.1(1). See also Maine Rule 3.4(i) appendix, New Hampshire Rule 1.2(g) and Arizona Rule 97, Form 1.
  - C. How do we protect against *de facto* limited representation, where the lawyer leaves the client before the matter is concluded?
    1. Require notice of limited appearance to be filed prior to or simultaneously with the proceeding. See WA Rules CR 70.1 and CRLJ 70.1, Iowa Rule 1.404(3), Alaska 81(d).
- XI. Limited Appearance – Obligation to Serve Pleadings and Other Papers
- A. What is the opposing side's obligation to serve pleadings and other papers to counsel who files a limited appearance?
    1. Service is required only in connection with the specific proceedings for which the lawyer has appeared. See Washington Rules CR 70.1 and CRLJ 70.1, Utah 5(b)(1), Delaware Rule 5(b)(2), and Iowa Rule 1.442(2) .

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2. Service is required for all matters until the attorney files a withdrawal of limited appearance. See New Hampshire Rule 3, California 3.36(b), and Arizona Rule 9(B).
3. Service is required only if opposing party served with copy of limited appearance that establishes a time period for service on attorney. See Missouri Rule 43.01(b).
4. Service is not required. See Maine Rule 5(b).

### XII. Limited Appearance – Withdrawal

#### A. How may a limited appearance be concluded? Is leave of court required?

1. The appearance ends when the lawyer fulfills his or her duties. See Wyoming Rule 102, Maine Rule 3.4(a)(3), Vermont Rule 79.1, and Delaware Rule 5(b)(2).
2. The appearance ends with the filing of a notice of completion that provides the court with the name and address of the person represented. See Washington Rules CR 70.1 and CRLJ 70.1, Florida Rule 12.040, Iowa Rule 1.404(4) and Alaska Rule 81(e).
3. The appearance ends with the filing of a notice of completion (no contact information required). See Missouri Rules 55.03, Missouri Rule 4-1.16(c), Utah Rule 74(b) and New Mexico Rules 1-089, 2-108 and 3-108.
4. The appearance ends when the lawyer files a substitution of attorney, substituting the client, or files a withdrawal of appearance. A copy of the limited services retainer agreement must be attached and copies filed served on the client, all parties or their lawyers. See Nevada Rule 5.28(b), New Hampshire Rule 17(f) and Nebraska 3-501.2(e).
5. With notice and opportunity for a hearing. See California Rules 5.71 and 3.36.
6. The appearance ends when the attorney files a notice of withdrawal and obtains client consent. If no consent obtained, a motion of withdrawal required. See Arizona Rule 9(B)(2).

### XIII. Excusing Conflicts Checks for Limited Services Programs

#### A. Should lawyers providing short-term limited services be excused from checking conflicts when they have no knowledge of a conflict of interest?

1. Stimulates *pro bono* involvement by lawyers who cannot practically check conflicts with their firm's clients.
2. Causes no harm to client who has no further interaction with the lawyer. See ABA Model Rule 6.5.

#### B. What is the proper scope of the rule?

1. MR 6.5 is limited to lawyers working in nonprofit and court-annexed service

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## **ABA Model Rules of Professional Conduct**

### **Client-Lawyer Relationship**

#### **Rule 1.1 Competence**

##### **Comment**

##### **Thoroughness and Preparation**

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c).

### **Client-Lawyer Relationship**

#### **Rule 1.2: Scope of Representation And Allocation Of Authority Between Client And Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

##### **Comment**

##### **Agreements Limiting Scope of Representation**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and

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preparation reasonably necessary for the representation. See Rule 1.1.

### Public Service

#### Rule 6.5 Nonprofit And Court-Annexed Limited Legal Services Programs

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

#### **Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services — such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2).

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Alabama Rules of Professional Conduct**

#### **Rule 1.1: Competence**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A lawyer and client may agree, pursuant to Rule 1.2(c), to limit the scope of the representation with respect to a matter. In such circumstances, competence means the knowledge, skill, thoroughness, and preparation reasonably necessary for such limited representation.

#### **Rule 1.2: Scope of Representation**

(c) A lawyer may limit the objectives of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(1) The client's informed consent must be confirmed in writing unless:

(i) the representation of the client consists solely of telephone consultation;

(ii) the representation is provided by a lawyer employed by a nonprofit legal-services program or participating in a pro bono program approved by the Alabama State Bar pursuant to Rule 6.6 and the lawyer's representation consists solely of providing information and advice or the preparation of legal documents; or

(iii) the court appoints the attorney for a limited purpose that is set forth in the appointment order.

(2) if the client gives informed consent in writing signed by the client, there shall be a presumption that:

(i) the representation is limited to the attorney and the services described in the writing; and

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(ii) the attorney does not represent the client generally or in matters other than those identified in the writing.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(e) When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

### **Comment**

The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent.

An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

### **Rule 4.2: Communication with Person Represented by Counsel**

(b) A person to whom limited-scope representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer has been provided with a written notice of the limited-scope representation. If such notice is provided, the opposing lawyer shall not communicate with the person regarding matters designated in the notice of limited-scope representation without consent or authorization as provided by Rule 4.2(a).

### **Rule 4.3: Dealing with Unrepresented Person**

(b) A person to whom limited-scope representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer has been provided with a written notice of the limited-scope representation. If such notice is provided, the person is considered to be unrepresented regarding matters not designated in the notice of limited-scope representation.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or a court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client to whom the lawyer is providing short-term limited legal services involves a conflict of interest, and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to representation governed by this rule.

**Alabama Rules of Civil Procedure**

**Rule 11: Signing of Pleadings, Motions, or Other Papers**

(b) Limited-scope representation. An attorney may draft or help to draft a pleading, motion, or other paper filed by an otherwise self represented person. The attorney need not sign that pleading, motion, or other paper but shall include a notation at the end stating: "This document was prepared with the assistance of a licensed Alabama lawyer pursuant to Rule 1.2(c), Alabama Rules of Professional Conduct." In providing such drafting assistance, the attorney may rely on the otherwise self represented person's representation of the facts, unless the attorney has reason to believe that such representation is false or materially insufficient.

**Rule 87: Limited-Scope Representation**

(a) *Permitted*. In accordance with Rule 1.2(c) of the Alabama Rules of Professional Conduct, an attorney may provide limited-scope representation to a person involved in a court proceeding.

(b) *Notice*. If specifically so stated in a notice of limited-scope representation filed and served prior to or simultaneously with the initiation of a proceeding, an attorney's role may be limited as set forth in the notice.

(c) *Termination*. The attorney's role terminates without the necessity of leave of court upon the attorney's filing a notice of completion of limited-scope representation with a certification of service on the client.

(d) *Service*. Service on an attorney providing limited- scope representation is required only for matters within the scope of the representation as set forth in the notice.

**Alaska Rules of Professional Conduct**

**Rule 1.2: Scope of Representation**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client consents after consultation.

(1) If a written fee agreement is required by Rule 1.5, the agreement shall describe the limitation on the representation.

(2) The lawyer shall discuss with the client whether a written notice of representation should be provided to other interested parties.

(3) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with this rule is considered to be unrepresented for purposes of Rules 4.2 and 4.3 unless the opposing lawyer knows of or has been provided with:

(A) a written notice stating that the lawyer is to communicate only with the limited representation lawyer as to the subject matter of the limited representation; or

(B) a written notice of the time period during which the lawyer is to communicate only with the limited representation lawyer concerning the subject matter of the limited representation.

**Comment**

[6] The objectives or scope of services provided by a lawyer may be limited by agreement or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. An agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, although the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6 and COMMENT to Rule 1.3, paragraph 3.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

(SCO 1680 effective April 15, 2009)

**Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services – such as advice or the completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics, or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9, and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a), and 1.10 become applicable.

### **Alaska Rules of Civil Procedure**

#### **Rule 81: Attorneys**

(d) Limited Appearance By Counsel. A party in a non-criminal case may appear through an attorney for limited purposes during the course of an action, including, but not limited to, depositions, hearings, discovery, and motion practice, if the following conditions are satisfied:

(1) The attorney files and serves an entry of appearance with the court before or during the initial action or proceeding that expressly states that the appearance is limited, and all parties of record are served with the limited entry of appearance; and.

(2) The entry of appearance identifies the limitation by date, time period, or subject matter.

(e) Withdrawal of Attorney.

(1) An attorney who has appeared for a party in an action or proceeding may be permitted to withdraw as counsel for such party only as follows:

(A) For good cause shown, upon motion and notice of hearing served upon the party in accordance with Rule 77 and after the withdrawing attorney provides

(i) to the client a list of pending pretrial or post-trial deadlines, appellate deadlines, motion deadlines, and hearing dates and times; and

(ii) to the court the last known address and telephone number of the attorneys client and a certification that the attorney has complied with (e)(1)(A)(i) of this rule; or

(B) Where the party has other counsel ready to be substituted for the attorney who wishes to withdraw; or

(C) Where the party expressly consents in open court or in writing to the withdrawal of the party's attorney, the party has provided in writing or on the record a current service address and telephone number, and the attorney who wishes to withdraw has provided to the client a list of

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

pending pretrial or post-trial deadlines, appellate deadlines, motion deadlines, and hearing dates and times; or

(D) In accordance with the limitations set forth in any limited entry of appearance filed pursuant to Civil Rule 81(d). An attorney may withdraw under this subparagraph by filing a notice with the court, served on all parties of record, stating that the attorney's limited representation has concluded; certifying that the attorney has taken all actions necessitated by the limited representation; and providing to the court a current service address and telephone number and to the client a list of pending pretrial or post-trial deadlines, appellate deadlines, motion deadlines, and hearing dates and times. Upon the filing of such notice, the withdrawal shall be effective, without court action or approval.

### **Arizona Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See ER 1.1.

[8] Although paragraph (c) does not require that the client's informed consent to a limited representation be in writing, a specification of the scope of representation will normally be a

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necessary part of the lawyer's written communication of the rate or basis of the lawyer's fee as required by ER 1.5(b). See ER 1.0(e) for the definition of "informed consent".

[9] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., ERs 1.1, 1.8 and 5.6.

### **Rule 1.5: Fees**

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated in writing before the fees or expenses to be billed at higher rates are actually incurred. The requirements of this subsection shall not apply to:

- (1) court-appointed lawyers who are paid by a court or other governmental entity, and
- (2) lawyers who provide pro bono short-term limited legal services to a client pursuant to ER 6.5.

### **Rule 4.2: Communication with Person Represented by Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

#### **Comment**

[4] A person to whom limited-scope representation is being provided or has been provided in accordance with ER 1.2 (c) is considered to be unrepresented for the purposes of this rule unless the opposing party or lawyer knows of the limited-scope representation and the identity of the lawyer providing limited representation. With the consent of the client, a lawyer providing limited-scope representation should consider informing the opposing party or lawyer of the limited-scope representation with instructions as to when opposing counsel may communicate directly with the client. Such instructions may include, for example, whom the opposing counsel should contact on specific matters, to whom and where opposing counsel should send pleadings, correspondence and other notices, and whether the lawyer performing limited-scope services is authorized to accept service on the client's behalf.

[2013 Amendment]

### **Rule 4.3: Dealing with Unrepresented Person**

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

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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.

### **Comment**

[3] A person to whom limited-scope representation is being provided or has been provided in accordance with ER 1.2 (c) is considered to be unrepresented for the purposes of this rule unless the opposing party or lawyer knows of the limited-scope representation and the identity of the lawyer providing limited representation. With the consent of the client, a lawyer providing limited-scope representation should consider informing the opposing party or lawyer of the limited-scope representation with instructions as to when opposing counsel may communicate directly with the client. Such instructions may include, for example, whom the opposing counsel should contact on specific matters, to whom and where opposing counsel should send pleadings, correspondence and other notices, and whether the lawyer performing limited-scope services is authorized to accept service on the client's behalf.

[2013 Amendment]

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Service Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to ERs 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to ER 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by ERs 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), ER 1.10 is inapplicable to a representation governed by this Rule.

### **Comment**

[1] Legal service organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services – such as advice or the completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., ERs 1.7, 1.9 and 1.10.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See ER 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including ERs 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with ERs 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with ER 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by ERs 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with the other matters being handled by the lawyer's firm, paragraph (b) provides that ER 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with ER 1.10 when the lawyer knows that the lawyer's firm is disqualified by ERs 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, ERs 1.7, 1.9(a) and 1.10 become applicable.

### Arizona Rules of Civil Procedure

#### Rule 5.1: Duties of Counsel

**(c) Limited Appearance.** In accordance with ER 1.2, Arizona Rules of Professional Conduct, an attorney may undertake limited representation of a person involved in a court proceeding.

(1) An attorney may make a limited appearance by filing and serving a Notice of Limited Scope Representation. The notice shall:

(A) state that the attorney and the party have a written agreement that the attorney will provide limited scope representation to the party for the purpose of representing the party in such an action; and

(B) specify the matters, hearings, or issues with regard to which the attorney will represent the party.

(2) Service on an attorney making a limited appearance on behalf of a party shall constitute effective service on that party under Rule 5(c) with respect to all matters in the action, but shall not extend the attorney's responsibility for representing the party beyond the specific matters, hearings, or issues for which the attorney has appeared.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(3) Upon an attorney's completion of the representation specified in the Notice of Limited Scope Representation, the attorney may withdraw from the action as follows:

(A) **With Consent.** If the client consents to withdrawal, the attorney may withdraw from the action by filing a Notice of Withdrawal with Consent, signed by both the attorney and the client, stating: (i) the attorney has completed the representation specified in the Notice of Limited Scope Representation and will no longer be representing the party; and (ii) the last known address and telephone number of the party who will no longer be represented. The attorney shall serve a copy of the notice on the party who will no longer be represented and on all other parties. The attorney's withdrawal from the action shall be effective upon the filing and service of the Notice of Withdrawal with Consent.

(B) **Without Consent.** If the client does not consent to withdrawal or to sign a Notice of Withdrawal with Consent, the attorney may file a motion to withdraw, which shall be served upon the client and all other parties, along with a proposed form of order.

(i) If no objection is filed within ten (10) days from the date the motion is served on the client, the court shall sign the order unless it determines that good cause exists to hold a hearing on whether the attorney has completed the limited scope representation for which the attorney has appeared. If the court signs the order, the withdrawing attorney shall serve a copy of the order on the client. The withdrawing attorney also shall promptly serve a written notice of the entry of such order, together with the name, last known address, and telephone number of the client, on all other parties.

(ii) If an objection is filed within ten (10) days of the service of the motion, the court shall conduct a hearing to determine whether the attorney has completed the limited scope representation for which the attorney appeared.

### **Rule 5.2: Limited Scope Representation in Vulnerable Adult Exploitation Actions Brought under A.R.S. § 46-451, et seq.**

**(a) Limited Appearance.** An attorney may make a limited appearance on behalf of a claimant in a vulnerable adult exploitation action brought under A.R.S. § 46-451, *et seq.*, by filing and serving a Notice of Limited Scope Representation in the form prescribed in Rule 84, Form 8. The notice shall:

(1) state that the attorney and the party have a written agreement that the attorney will provide limited scope representation to the party for the purpose of representing the party in such an action; and

(2) specify the matters, hearings or issues with regard to which the attorney will represent the party.

**(b) Service; Limits on Scope of Appearance.** Service on an attorney making a limited appearance on behalf of a party shall constitute effective service on that party under Rule 5(c) with respect to all matters in the action, but shall not extend the attorney's responsibility for representing the party beyond the specific matters, hearings or issues for which the attorney has appeared. Nothing in this Rule shall limit an attorney's ability to provide limited services to a client without appearing of record in any judicial proceedings.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

**(c) Withdrawal.** Upon an attorney's completion of the representation specified in the Notice of Limited Scope Representation, the attorney may withdraw from the action as follows:

(1) *With Consent.* If the client consents to withdrawal, the attorney may withdraw from the action by filing a Notice of Withdrawal with Consent, signed by both the attorney and the client, stating: (i) the attorney has completed the representation specified in the Notice of Limited Scope Representation and will no longer be representing the party; and (ii) the last known address and telephone number of the party who will no longer be represented. The attorney shall serve a copy of the notice on the party who will no longer be represented and on all other parties. The attorney's withdrawal from the action shall be effective upon the filing and service of the Notice of Withdrawal with Consent.

(2) *Without Consent.* If the client does not consent to withdrawal or sign a Notice of Withdrawal with Consent, the attorney may file a motion to withdraw, which shall be served upon the client and all other parties, along with a proposed form of order.

(i) If no objection is filed within ten (10) days from the date the motion is served on the client, the court shall sign the order unless it determines that good cause exists to hold a hearing on whether the attorney has completed the limited scope representation for which the attorney has appeared. If the court signs the order, the withdrawing attorney shall serve a copy of the order on the client. The withdrawing attorney also shall promptly serve a written notice of the entry of such order, together with the name, last known address and telephone number of the client, on all other parties.

(ii) If an objection is filed within ten (10) days of the service of the motion, the court shall conduct a hearing to determine whether the attorney has completed the limited scope representation for which the attorney appeared.

**(d) Experimental Rule.** This rule shall be deemed experimental in nature and shall be reviewed in approximately four years by a committee to be appointed by the Supreme Court.

(Added Sept. 16, 2008, effective Jan. 1, 2009)

### **Rule 11(a): Signing of pleadings, motions and other papers; sanctions**

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee. An attorney may help to draft a pleading, motion or document filed by an otherwise self-represented person, and the attorney need not sign that pleading, motion, or document. In providing such drafting assistance, the attorney may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

### **Arizona Rules of Family Law Procedure**

#### **Rule 9: Duties of Counsel**

##### **B. Limited Scope Representation: Appearance and Withdrawal.**

This provision shall be deemed experimental in nature and shall expire three (3) calendar years from the initial effective date of these rules unless otherwise extended.

1. *Limited Appearance.* An attorney may make a limited appearance subject to E.R.1.2, *Arizona Rules of Professional Conduct*, by filing a Notice of Limited Scope Representation as prescribed in Rule 97, Form 1, stating that the attorney and the party have a written agreement that the attorney will provide limited scope representation to the party and specifying the matter or issues with regard to which the attorney will represent the party. Service on an attorney who has made a limited appearance for a party shall be valid, to the extent permitted by statute and Rule 43(C), in all matters in the case but shall not extend the attorney's responsibility for representation of the client beyond the specific matter for which the attorney has appeared. Nothing in this rule shall limit an attorney's ability to provide limited services to a client without appearing of record in any judicial proceedings.

2. *Withdrawal and Substitution.* In addition to the provisions for withdrawal of counsel pursuant to paragraph A of this rule, an attorney who has made a limited appearance in an action shall be permitted to withdraw, or be substituted, as attorney of record in any pending action as set forth in this rule.

a. *With Consent.* Upon the attorney's completion of the task specified in the Notice of Limited Scope Representation, the attorney shall file a Notice of Withdrawal of Attorney with Consent, signed by both the attorney and the party, stating that the attorney will no longer be representing the party, and, unless protected pursuant to Rule 7, stating the last known address and telephone number of the party who will no longer be represented, and shall lodge a form of order to be signed by the court. The attorney shall provide a copy of the notice to the party who will no longer be represented and to all other parties or their attorneys, if they are represented by counsel.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

b. *Without Consent.* Notwithstanding paragraph A, an attorney who has completed the task specified in the Notice of Limited Scope Representation may use the procedure in this rule to request that the attorney be withdrawn as counsel in the case in which the attorney has appeared before the court as attorney of record and the client has not signed a Notice of Withdrawal with Consent. Such request shall be made by motion and shall be served upon the client and all other parties or their attorneys, along with a proposed form of order. If no objection is filed within ten (10) days from the date the motion is served on the client, the court shall sign the order. After the order is signed, the attorney shall serve a copy of the signed order on the client. If an objection is filed within ten (10) days of service of the motion, the court may conduct a hearing to determine whether the task for which the attorney appeared has been completed.

APPENDIX B: RULES OF ETHICS AND PROCEDURE

**Rule 97, FORM 1: NOTICE OF LIMITED SCOPE REPRESENTATION**

FORM 1: NOTICE OF LIMITED SCOPE REPRESENTATION

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Daytime Phone Number: \_\_\_\_\_  
Evening Phone Number: \_\_\_\_\_  
Representing:  Self  Petitioner  Respondent  
State Bar Number: \_\_\_\_\_

ARIZONA SUPERIOR COURT, COUNTY OF \_\_\_\_\_

Case No. \_\_\_\_\_

\_\_\_\_\_  
Petitioner/Plaintiff

ATLAS No. \_\_\_\_\_

\_\_\_\_\_  
Respondent/Defendant

NOTICE OF LIMITED SCOPE  
REPRESENTATION

COMES NOW the undersigned attorney and enters a Notice of Limited Appearance for  Petitioner  
 Respondent \_\_\_\_\_, pursuant to ARFLP 27.

1. Counsel's appearance in this matter shall be limited in scope to the following matter(s): (Select all that are applicable, and provide detailed description of services, including any scheduled appearances, as needed.)

- Protective Orders
  - Order of Protection
  - Injunction Against Harassment
  - Injunction Against Workplace Harassment
- Voluntary acknowledgment of paternity
- Establishment of Child Support (IV-D)
- Rule 38(b) motion (specify) \_\_\_\_\_
- \_\_\_\_\_
- U.C.C.J.E.A. Hearing \_\_\_\_\_
- \_\_\_\_\_
- Temporary Orders (Pre-Decree) (specify any limitations) \_\_\_\_\_
- \_\_\_\_\_
- Accelerated or Expedited Petition (Pre-Decree) \_\_\_\_\_
- \_\_\_\_\_
- Resolution Management Conference
- Arbitration
- Mediation
- Other ADR Process (specify) \_\_\_\_\_
- Settlement Conference

APPENDIX B: RULES OF ETHICS AND PROCEDURE

Case No. \_\_\_\_\_

- Expedited Services Conference (specify type, e.g. child support establishment, enforcement, or modifications; custody or parenting time enforcement or modification; or other) \_\_\_\_\_
- Enforcement of Decree or Order (specify, as follows):
  - Child support \_\_\_\_\_
  - Custody & parenting time \_\_\_\_\_
  - \_\_\_\_\_
  - Spousal maintenance \_\_\_\_\_
  - Property/debt issues \_\_\_\_\_
  - Other: \_\_\_\_\_
  - \_\_\_\_\_
- Modification of Decree or Order (specify as follows):
  - Child support \_\_\_\_\_
  - Custody & parenting time \_\_\_\_\_
  - \_\_\_\_\_
  - Spousal maintenance \_\_\_\_\_
  - Other: \_\_\_\_\_
  - \_\_\_\_\_
- Emergency Petition (Post-Decree) \_\_\_\_\_
- Qualified Domestic Relations Order \_\_\_\_\_
- Filing of Foreign Decree \_\_\_\_\_
- Warrant to take Physical Custody \_\_\_\_\_
- Child Custody or Parenting Time by a Non-parent \_\_\_\_\_
- Other motion and hearing thereon, specifically: \_\_\_\_\_
- Attend Deposition(s) of (names) \_\_\_\_\_
- Conduct the following discovery: \_\_\_\_\_
- \_\_\_\_\_
- Other: \_\_\_\_\_
- \_\_\_\_\_

APPENDIX B: RULES OF ETHICS AND PROCEDURE

Case No. \_\_\_\_\_

- 2. Counsel named above is attorney of record and available for service of process in accordance with Rule 27, ARFLP. Service on counsel shall be valid, to the extent permitted by statute and Rule 43(C), in all matters in the case but shall not extend the counsel's responsibility for representation of the client beyond the specific matter for which the attorney has appeared. For service directly upon the party, the party's name, address and phone number are listed below.

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State Zip Code: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

- 3. The opposing party, or his/her counsel [ ] may [ ] may not directly contact the party represented by the undersigned attorney regarding matters outside the scope of this limited representation without first consulting the undersigned attorney.
- 4. Counsel's representation of client will terminate at the conclusion of the hearing noted above, if shown, or at the conclusion of the matter noted above, upon the filing of a Notice of Withdrawal of Attorney, pursuant to Rule 27, ARFLP.
- 5. This accurately sets forth the terms of the written agreement between counsel and the party for limited scope legal representation.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney

I have read and approve of this notice.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Client

ORIGINAL of the foregoing filed with the Clerk of the Superior Court;  
COPIES of the foregoing mailed/delivered this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to:

The Honorable \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attorney for \_\_\_\_\_

**Arkansas Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent

**Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### Comment

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **California Rules of Professional Conduct**

#### **Rule 1-650 Limited Legal Services Programs**

(A) A member who, under the auspices of a program sponsored by a court, government agency, bar association, law school, or nonprofit organization, provides short-term limited legal services

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

to a client without expectation by either the member or the client that the member will provide continuing representation in the matter:

(1) is subject to rule 3-310 only if the member knows that the representation of the client involves a conflict of interest; and

(2) has an imputed conflict of interest only if the member knows that another lawyer associated with the member in a law firm would have a conflict of interest under rule 3-310 with respect to the matter.

(B) Except as provided in paragraph (A)(2), a conflict of interest that arises from a member's participation in a program under paragraph (A) will not be imputed to the member's law firm.

(C) The personal disqualification of a lawyer participating in the program will not be imputed to other lawyers participating in the program.

### *Discussion:*

[1] Courts, government agencies, bar associations, law schools and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services - such as advice or the completion of legal forms that will assist persons in addressing their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, whenever a lawyer-client relationship is established, there is no expectation that the lawyer's representation of the client will continue beyond that limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation.

[2] A member who provides short-term limited legal services pursuant to rule 1-650 must secure the client's informed consent to the limited scope of the representation. If a short-term limited representation would not be reasonable under the circumstances, the member may offer advice to the client but must also advise the client of the need for further assistance of counsel. See rule 3-110. Except as provided in this rule 1-650, the Rules of Professional Conduct and the State Bar Act, including the member's duty of confidentiality under Business and Professions Code § 6068(e)(1), are applicable to the limited representation. (Added by order of the Supreme Court, operative August 28, 2009.)

[3] A member who is representing a client in the circumstances addressed by rule 1-650 ordinarily is not able to check systematically for conflicts of interest. Therefore, paragraph (A)(1) requires compliance with rule 3-310 only if the member knows that the representation presents a conflict of interest for the member. In addition, paragraph (A)(2) imputes conflicts of interest to the member only if the member knows that another lawyer in the member's law firm would be disqualified under rule 3-310.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the member's law firm, paragraph (B) provides that imputed conflicts of interest are inapplicable to a representation governed by this rule except as provided

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

by paragraph (A)(2). Paragraph (A)(2) imputes conflicts of interest to the participating member when the member knows that any lawyer in the member's firm would be disqualified under rule 3-310. By virtue of paragraph (B), moreover, a member's participation in a short-term limited legal services program will not be imputed to the member's law firm or preclude the member's law firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with rule 1-650, a member undertakes to represent the client in the matter on an ongoing basis, rule 3-310 and all other rules become applicable. (Added by order of the Supreme Court, operative August 28, 2009.)

### California Civil Rules

#### Civil Rule 3.35: Definition of Limited Scope Representation; application of rules

(a) Definition. "Limited scope representation" is a relationship between an attorney and a person seeking legal services in which they have agreed that the scope of the legal services will be limited to specific tasks that the attorney will perform for the person.

(b) Application. Rules 3.35 through 3.37 apply to limited scope representation in civil cases, except in family law cases. Rules 5.70 and 5.71 apply to limited scope representation in family law cases.

(c) Types of limited scope representation. These rules recognize two types of limited scope representation:

(1) *Noticed representation*. Rule 3.36 provides procedures for cases in which an attorney and a party notify the court and other parties of the limited scope representation.

(2) *Undisclosed representation*. Rule 3.37 applies to cases in which the limited scope representation is not disclosed.

#### Civil Rule 3.36: Notice of limited scope representation and application to be relieved as attorney

##### **(a) Notice of limited scope representation**

A party and an attorney may provide notice of their agreement to limited scope representation by serving and filing a *Notice of Limited Scope Representation* (form MC-950).

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### **(b) Notice and service of papers**

After the notice in (a) is received and until either a substitution of attorney or an order to be relieved as attorney is filed and served, papers in the case must be served on both the attorney providing the limited scope representation and the client.

### **(c) Procedures to be relieved as counsel on completion of representation**

Notwithstanding rule 3.1362, an attorney who has completed the tasks specified in the *Notice of Limited Scope Representation* (form MC-950) may use the procedures in this rule to request that he or she be relieved as attorney in cases in which the attorney has appeared before the court as an attorney of record and the client has not signed a *Substitution of Attorney-Civil* (form MC-050).

### **(d) Application**

An application to be relieved as attorney on completion of limited scope representation under Code of Civil Procedure section 284(2) must be directed to the client and made on the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955).

### **(e) Filing and service of application**

The application to be relieved as attorney must be filed with the court and served on the client and on all other parties or attorneys for parties in the case. The client must also be served with a blank *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956).

### **(f) No objection**

If no objection is served and filed with the court within 15 days from the date that the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955) is served on the client, the attorney making the application must file an updated form MC-955 indicating the lack of objection, along with a proposed *Order on Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-958). The clerk must then forward the order for judicial signature.

### **(g) Objection**

If an objection to the application is served and filed within 15 days, the clerk must set a hearing date on the *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956). The hearing must be scheduled no later than 25 days from the date the objection is filed. The clerk must send the notice of the hearing to the parties and the attorney.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### **(h) Service of the order**

If no objection is served and filed and the proposed order is signed under (f), the attorney who filed the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955) must serve a copy of the signed order on the client and on all parties or the attorneys for all parties who have appeared in the case. The court may delay the effective date of the order relieving the attorney until proof of service of a copy of the signed order on the client has been filed with the court.

Rule 3.36 adopted effective January 1, 2007.

### **Civil Rule 3.37: Nondisclosure of attorney assistance in preparation of court documents**

#### **(a) Nondisclosure**

In a civil proceeding, an attorney who contracts with a client to draft or assist in drafting legal documents, but not to make an appearance in the case, is not required to disclose within the text of the documents that he or she was involved in preparing the documents.

Rule 3.37 adopted effective January 1, 2007.

### **California Family and Juvenile Rules**

### **Family and Juvenile Rule 5.70: Nondisclosure of attorney assistance in preparation of court documents**

#### **(a) Nondisclosure**

In a family law proceeding, an attorney who contracts with a client to draft or assist in drafting legal documents, but not to make an appearance in the case, is not required to disclose within the text of the document that he or she was involved in preparing the documents.

#### **(b) Attorney's fees**

If a litigant seeks a court order for attorney's fees incurred as a result of document preparation, the litigant must disclose to the court information required for a proper determination of attorney's fees-including the name of the attorney who assisted in the preparation of the documents, the time involved or other basis for billing, the tasks performed, and the amount billed.

(Subd (b) amended effective January 1, 2007.)

#### **(c) Applicability**

This rule does not apply to an attorney who has made a general appearance or has contracted with his or her client to make an appearance on any issue that is the subject of the pleadings.

**Family and Juvenile Rule 5.71: Application to be relieved as counsel on completion of limited scope representation**

**(a) Applicability of this rule**

Notwithstanding rule 3.1362, an attorney who has completed the tasks specified in the *Notice of Limited Scope Representation* (form FL-950) may use the procedure in this rule to request that the attorney be relieved as counsel in cases in which the attorney has appeared before the court as attorney of record and the client has not signed a *Substitution of Attorney—Civil* (form MC-050).

*(Subd (a) amended effective July 1, 2007.)*

**(b) Notice**

An application to be relieved as counsel on completion of limited scope representation under Code of Civil Procedure section 284(2) must be directed to the client and made on the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955).

*(Subd (b) amended effective January 1, 2007.)*

**(c) Service**

The application must be filed with the court and served on the client and on all other parties and counsel who are of record in the case. The client must also be served with *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956).

*(Subd (c) amended effective January 1, 2007.)*

**(d) No objection**

If no objection is filed within 15 days from the date that the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955) is served upon the client, the attorney making the application must file an updated form FL-955 indicating the lack of objection, along with a proposed *Order on Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-958). The clerk will then forward the file with the proposed order for judicial signature.

**(e) Objection**

If an objection is filed within 15 days, the clerk must set a hearing date on the *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956). The hearing must be scheduled no later than 25 days from the date the objection is filed. The clerk must send the notice of the hearing to the parties and counsel.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### **(f) Service of the order**

After the order is signed, a copy of the signed order must be served by the attorney who has filed the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955) on the client and on all parties who have appeared in the case. The court may delay the effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court.

*Rule 5.71 amended effective July 1, 2007; adopted as rule 5.171 effective July 1, 2003; previously renumbered effective January 1, 2004; previously amended effective January 1, 2007*

### **California Judicial Administration Rules**

#### **Rule of Court 10.960: Court self-help centers**

**(a) Scope and application.** This rule applies to all court-based self-help centers whether the services provided by the center are managed by the court or by an entity other than the court.

**(b) Purpose and core court function.** Providing access to justice for self-represented litigants is a priority for California courts. The services provided by court self-help centers facilitate the timely and cost-effective processing of cases involving self-represented litigants and improve the delivery of justice to the public. Court programs, policies, and procedures designed to assist self-represented litigants and effectively manage cases involving self-represented litigants at all stages must be incorporated and budgeted as core court functions.

**(c) Staffing.** Court self-help centers provide assistance to self-represented litigants. A court self-help center must include an attorney and other qualified staff who provide information and education to self-represented litigants about the justice process, and who work within the court to provide for the effective management of cases involving self-represented litigants.

**(d) Neutrality and availability.** The information and education provided by court self-help centers must be neutral and unbiased, and services must be available to all sides of a case.

**(e) Guidelines and procedures.** The Administrative Office of the Courts, in collaboration with judges, court executives, attorneys, and other parties with demonstrated interest in services to self-represented litigants, must develop and disseminate guidelines and procedures for the operation of court self-help centers to the trial courts by March 1, 2008. The guidelines and procedures must address the following topics:

- (1) Location and hours of operation;
- (2) Scope of services;
- (3) Attorney qualifications;
- (4) Other staffing qualifications and supervision requirements;
- (5) Language access;
- (6) Contracts with entities other than the court that provide self-help services;
- (7) Use of technology;

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

- (8) Ethics;
- (9) Efficiency of operation; and
- (10) Security.

The Administrative Office of the Courts, in collaboration with judges, court executives, attorneys, and other parties with demonstrated interest in services to self-represented litigants, must review and update the guidelines and procedures at least every three years.

**(f) Budget and funding.** A court must include in its annual budget funding necessary for operation of its self-help center. In analyzing and making recommendations on the allocation of funding for a court self-help center, the Administrative Office of the Courts will consider the degree to which individual courts have been successful in meeting the guidelines and procedures for the operation of the self-help center.

*Rule 10.960 adopted effective January 1, 2008.*

### **Colorado Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer**

(c) A lawyer may limit the scope or objectives, or both, of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. A lawyer may provide limited representation to pro se parties as permitted by C.R.C.P. 11(b) and C.R.C.P. 311(b).

#### **Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 4.2: Communication with Person Represented by Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

#### **Comment**

[9A] A pro se party to whom limited representation has been provided in accordance with C.R.C.P. 11(b) or C.R.C.P. 311(b), and Rule 1.2, is considered to be unrepresented -for purposes of this Rule unless the lawyer has knowledge to the contrary.

### **Rule 4.3: Dealing with Unrepresented Person**

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.

[2A] The lawyer must comply with the requirements of this Rule for pro se parties to whom limited representation has been provided, in accordance with C.R.C.P. 11(b), C.R.C.P. 311(b), Rule 1.2, and Rule 4.2. Such parties are considered to be unrepresented for purposes of this Rule.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

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### Comment

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services – such as advice or the completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer’s representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

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(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### Colorado Rules of Civil Procedure

#### Rule 11: Signing of Pleadings

**(b) Limited Representation.** An attorney may undertake to provide limited representation in accordance with Colo.RPC 1.2 to a pro se party involved in a court proceeding. Pleadings or papers filed by the pro se party that were prepared with the drafting assistance of the attorney shall include the attorney's name, address, telephone number and registration number. The attorney shall advise the pro se party that such pleading or other paper must contain this statement. In helping to draft the pleading or paper filed by the pro se party, the attorney certifies that, to the best of the attorney's knowledge, information and belief, this pleading or paper is (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney, (2) is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The attorney in providing such drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts. Assistance by an attorney to a pro se party in filling out pre-printed and electronically published forms that are issued through the judicial branch for use in court are not subject to the certification and attorney name disclosure requirements of this Rule 11(b).

Limited representation of a pro se party under this Rule 11(b) shall not constitute an entry of appearance by the attorney for purposes of C.R.C.P. 121, section 1-1 or C.R.C.P. 5(b), and does not authorize or require the service of papers upon the attorney. Representation of the pro se party by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the pro se party constitutes an entry of an appearance pursuant to C.R.C.P. 121, section 1-1. The attorney's violation of this Rule 11(b) may subject the attorney to the sanctions provided in C.R.C.P. 11(a).

**Source:** Entire rule amended and adopted June 17, 1999, effective July 1, 1999.

#### Rule 121: Entry of Appearance and Withdrawal

(5) Notice of Limited Representation Entry of Appearance and Withdrawal.

In accordance with C.R. C.P. 11(b) and C.R.C.P. Rule 311(b), an attorney may undertake to provide limited representation to a pro se party involved in a court proceeding. Upon the request and with the consent of a pro se party, an attorney may make a limited appearance for the pro se

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party in one or more specified proceedings, if the attorney files and serves with the court and the other parties and attorneys (if any) a notice of the limited appearance prior to or simultaneous with the proceeding(s) for which the attorney appears. At the conclusion of such proceeding(s), the attorney's appearance terminates without the necessity of leave of court, upon the attorney filing a notice of completion of limited appearance. Service on an attorney who makes a limited appearance for a party shall be valid only in connection with the specific proceeding(s) for which the attorney appears.

### **Comment**

The purpose of section 1-1(5) is to implement Colorado Rules of Civil Procedure 11(b) and 311(b), which authorize limited representation of a pro se party either on a pro bono or fee basis, in accordance with Colorado Rule of Professional Conduct 1.2. This provision provides assurance that an attorney who makes a limited appearance for a pro se party in a specified case proceeding(s), at the request of and with the consent of the pro se party, can withdraw from the case upon filing a notice of completion of the limited appearance, without leave of court.

(adopted by the Court en banc October 20, 2011)

### **Rule of County Court Civil Procedure 311: Signing of Pleadings**

**(b) Limited representation.** An attorney may undertake to provide limited representation in accordance with Colo. RPC 1.2 to a pro se party involved in a court proceeding. Pleadings or papers filed by the pro se party that were prepared with the drafting assistance of the attorney shall include the attorney's name, address, telephone number and registration number. The attorney shall advise the pro se party that such pleading or other paper must contain this statement. In helping to draft the pleading or paper filed by the pro se party, the attorney certifies that to the best of the attorney's knowledge, information and belief, this pleading or paper is (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney, (2) is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The attorney in providing such drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts. Assistance by an attorney to a pro se party in filling out pre-printed and electronically published forms that are issued through the judicial branch for use in court are not subject to the certification and attorney name disclosure requirements of this Rule 311(b).

Limited representation of a pro se party under this Rule 311(b) shall not constitute an entry of appearance by the attorney for purposes of C.R.C.P. 121, section 1-1 or C.R.C.P. 305, and does not authorize or require the service of papers upon the attorney. Representation of the pro se party by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the pro se party constitutes an entry of an appearance pursuant to C.R.C.P. 121, section 1-1. The attorney's violation of this Rule 311(b) may subject the attorney to the sanctions provided in C.R.C.P. 311(a).

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Source: Entire rule amended July 22, 1993, effective January 1, 1994; entire rule amended and adopted June 17, 1999, effective July 1, 1999

### **Colorado Appellate Rules**

#### **Rule 5: Entry of Appearance and Withdrawal**

(e) Notice of Limited Representation Entry of Appearance and Withdrawal. An attorney may undertake to provide limited representation to a pro se party involved in a civil appellate proceeding. Upon the request and with the consent of a pro se party, an attorney may make a limited appearance for the pro se party to file a notice of appeal and designation of record in the court of appeals or the supreme court, to file or oppose a petition or cross-petition for a writ of certiorari in the supreme court, to respond to an order to show cause issued by the supreme court or the court of appeals, or to participate in one or more specified motion proceedings in either court, if the attorney files and serves with the court and the other parties and attorneys (if any) a notice of the limited appearance prior to or simultaneous with the proceeding(s) for which the attorney appears. At the conclusion of such proceeding(s), the attorney's appearance terminates without the necessity of leave of court, upon the attorney filing a notice of completion of limited appearance in the appellate court in which the attorney appeared, a copy of which may be filed in any other court, except that an attorney filing a notice of appeal or petition or cross-petition for writ of certiorari is obligated, absent leave of court, to respond to any issues regarding the appellate court's jurisdiction. Service on an attorney who makes a limited appearance for a party shall be valid only in connection with the specific proceedings(s) for which the attorney appears. The provisions of this C.A.R. 5(e) shall not apply to an attorney who has filed an opening or answer brief pursuant to C.A.R. 31.

(f) Termination of Representation. When an attorney has entered an appearance, other than a limited appearance pursuant to C.A.R. 5(e), on behalf of a party in an appellate court without having previously represented that party in the matter in any other court, the attorney's representation of the party shall terminate at the conclusion of the proceedings in the appellate court in which the attorney has appeared, unless otherwise directed by the appellate court or agreed to by the attorney and the party represented. Counsel may file a notice of such termination of representation in any other court.

#### **Comment**

The purpose of C.A.R. 5(e) is to establish a procedure similar to that set forth in Colorado Rule of Civil Procedure 121 Section 1-1(5). This procedure provides assurance that an attorney who makes a limited appearance for a pro se party in a specified appellate case proceeding(s), at the request of and with the consent of the pro se party, can withdraw from the case upon filing a notice of completion of the limited appearance, without leave of court. The purpose of C.A.R. 5(f) is to make clear that when an attorney appears for a party, whom he or she has not previously represented, in an appellate court and the proceedings in that court have concluded, the attorney is not obligated to represent the party in any other proceeding on remand or in any review of the appellate court's decision by any other court. Nothing in this provision would prevent the attorney from entering a limited or general appearance on behalf of the party in

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another court (for example, on a writ of certiorari to the supreme court), if agreed to by the attorney and the party.

[Adopted by the Court, En Banc, October 11, 2012, effective immediately.]

### **Connecticut Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. Such informed consent shall not be required when a client cannot be located despite reasonable efforts where the lawyer is retained to represent a client by a third party which is obligated by contract to provide the client with a defense.

#### **Comment**

**Agreements Limiting Scope of Representation.** The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, when a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent. Nothing in Rule 1.2 shall be construed to authorize limited appearances before any tribunal unless otherwise authorized by law or rule.

Although this Rule affords the lawyer and client substantial latitude to limit the scope of representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

#### **Rule 1.5: Fees**

(b) The scope of the representation, the basis or rate of the fee and expenses for which the client will be responsible, shall be communicated to the client, in writing, before or within a reasonable

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time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client in writing before the fees or expenses to be billed at higher rates are actually incurred. In any representation in which the lawyer and the client agree that the lawyer will file a limited appearance, the limited appearance engagement agreement shall also include the following: identification of the proceeding in which the lawyer will file the limited appearance; identification of the court events for which the lawyer will appear on behalf of the client; and notification to the client that after the limited appearance services have been completed, the lawyer will file a certificate of completion of limited appearance with the court, which will serve to terminate the lawyer's obligation to the client in the matter, and as to which the client will have no right to object. Any change in the scope of the representation requires the client's informed consent, shall be confirmed to the client in writing, and shall require the lawyer to file a new limited appearance with the court reflecting the change(s) in the scope of representation. This subsection shall not apply to public defenders or in situations where the lawyer will be paid by the court or a state agency.

### **Rule 1.16: Declining or Terminating Representation**

- (a) Except as stated in subsection (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
- (1) The representation will result in violation of the Rules of Professional Conduct or other law;
  - (2) The lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
  - (3) The lawyer is discharged.
- (b) Except as stated in subsection (c), a lawyer may withdraw from representing a client if:
- (1) withdrawal can be accomplished without material adverse effect on the interests of the client;
  - (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
  - (3) the client has used the lawyer's services to perpetrate a crime or fraud;
  - (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;
  - (5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
  - (6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
  - (7) other good cause for withdrawal exists.
- (c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.
- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of the fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law. If the representation of the client is terminated either by the lawyer withdrawing from representation or by the client

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discharging the lawyer, the lawyer shall confirm the termination in writing to the client before or within a reasonable time after the termination of the representation.

### **Comment**

**Withdrawal of Limited Appearance.** When the lawyer has filed a limited appearance under Practice Book Section 3-8(b) and the lawyer has completed the representation described in the limited appearance, the lawyer is not required to obtain permission of the tribunal to terminate the representation before filing the certificate of completion.

### **Rule 4.2: Communication with Person Represented by Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so. An otherwise unrepresented party for whom a limited appearance has been filed pursuant to Practice Book Section 3-8 (b) is considered to be unrepresented for purposes of this Rule as to anything other than the subject matter of the limited appearance. When a limited appearance has been filed for the party, and served on the other lawyer, or the other lawyer is otherwise notified that a limited appearance has been filed or will be filed, that lawyer may directly communicate with the party only about matters outside the scope of the limited appearance without consulting with the party's limited appearance lawyer.

### **Rule 4.3: Dealing with Unrepresented Person**

In dealing on behalf of a client with a person who is not represented by counsel, in whole or in part, 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.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9 (a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

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(b) A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9 (c) are applicable to the limited representation.

(c) Except as provided in subsection (a) (2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comment**

Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services— such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal advice hotlines, advice only clinics or self-represented party counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, subsection (a) requires compliance with Rules 1.7 or 1.9 (a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9 (a) in the matter.

Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, subsection (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by subsection (a) (2). Subsection (a) (2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9 (a). By virtue of subsection (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9 (a) and 1.10 become applicable.

TECHNICALCHANGE: In 2012, references to “pro se” have been replaced with “self-represented.”

**Delaware Rules of Professional Conduct**

**Rule 1.2: Scope of Representation**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

**Comment**

[6] *Agreements limiting scope of representation.* -- The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

**Rule 6.5: Non-profit and court-annexed limited legal-service programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Delaware Family Court Rules of Civil Procedure**

**Rule 5: Service and filing of pleadings and other papers.**

**(b)(2) Appearance of attorney: When; how made; withdrawal. --**

(A) An attorney shall appear for the purpose of representing a party by filing a written notice of appearance using a Family Court generated form. The notice of appearance shall specify the matter(s) in which the attorney will represent the party. Once an attorney has filed a notice of appearance in a particular matter, copies of all notices given to the party with regard to that matter shall also be given to the party's counsel. No appearance shall be withdrawn except upon application by the attorney and order of the Court for good cause.

(B) Any appearance by an attorney in accordance with subparagraph (A) shall be limited to representation with respect to the specific petition filed and shall terminate when the time for appeal has elapsed from the final order entered by the Court.

**District of Columbia Rules of Professional Conduct**

**Rule 1.2: Scope of Representation**

(c) A lawyer may limit the objective of the representation if the client gives informed consent.

**Comment**

[4] The objectives or scope of services provided by the lawyer may be limited by agreement with the client or by terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent. Rule 1.5(b) requires a lawyer to communicate the scope of the lawyer's representation when the lawyer establishes a new lawyer-client relationship, and it is generally prudent for the lawyer to explain in writing any limits on the objectives or scope of the lawyer's services.

[5] An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

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(1) is subject to Rules 1.7 and 1.9 only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9 with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this rule.

### **Comment**

[1] Legal services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services, such as advice or the completion of legal forms, that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or *pro se* counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. *See, e.g.*, Rules 1.7, 1.9 and 1.10. For the purposes of this rule, short-term limited legal services normally do not include appearing before a tribunal on behalf of a client.

[2] A lawyer who provides short-term limited legal services pursuant to this rule must secure the client's informed consent to the limited scope of the representation. *See* Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, the Rules of Professional Conduct, including Rule 1.6, are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9 only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9 in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9. By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the

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personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9 and 1.10 become applicable.

[6] This rule serves the public interest by making it easier for lawyers affiliated with firms to provide *pro bono* legal services. Rule 1.10(e) contains a similarly-motivated exception from imputation for attorneys who, while affiliated with a firm, assist the District of Columbia Attorney General with certain matters.

### **Superior Court of the District of Columbia**

#### **Administrative Order 14-10**

#### **Limited Appearances in the Civil Division, Probate Division, Tax Division, Family Court, and Domestic Violence Unit – Supersedes Administrative Order Nos. 08-02, 11-07 and 12-08**

**ORDERED**, that to the extent not inconsistent with the Rules of this Court, an attorney may enter a limited appearance when representing paid or *pro bono* clients in the following divisions and branches of the Superior Court of the District of Columbia: Civil Division, Probate Division, Tax Division, Family Court, and Domestic Violence Unit; and it is further

**ORDERED**, that in accordance with Rule 1.2(c) of the District of Columbia Rules of Professional Conduct, an attorney may enter a limited appearance in a court proceeding including, but not limited to, discovery, motions practice, or hearings; and it is further

**ORDERED**, that limited scope representation is not permitted in a jury trial. Attorneys who accept representation in a matter that continues to a jury trial must withdraw before *voir dire* begins or continue representation through the return of the verdict; and it is further

**ORDERED**, that an attorney's appearance may be limited by date, time period, activity, or subject matter when specifically stated in a Notice of Limited Appearance filed and served prior to or simultaneous with the proceeding(s) for which the attorney appears; and it is further

**ORDERED**, that the attorney's appearance terminates without the necessity of leave of court (1) if the notice of limited appearance specifically states the scope of the appearance by date or time period; or (2) upon the attorney filing a Notice of Completion, which must be served on each of the parties, including the attorney's client; and it is further

**ORDERED**, that (1) service on an attorney who has entered a limited appearance is required only for matters within the scope of the representation as stated in the notice; (2) any such service also must be made on the party; and (3) service on the attorney for matters outside the scope of the limited appearance does not extend the scope of the attorney's representation; and it is further

**ORDERED**, that an attorney may extend a limited appearance only by filing and serving a new notice of limited appearance or a notice of general appearance prior to or simultaneous with the proceeding(s) for which the attorney appears; and it is further

APPENDIX B: RULES OF ETHICS AND PROCEDURE

**ORDERED**, that this Administrative Order shall take effect on the date of this Order and supersedes Administrative Order 08-02: Temporary Appearances for L&T Court – Pilot Project, Administrative Order 11-07: Temporary Appearances for the Paternity and Child Support Branch, and Administrative Order 12-08: Temporary Appearances in the Small Claims and Conciliation Branch and the Civil Actions Branch Collections Calendar – Pilot Project.

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

- CIVIL DIVISION**
- DOMESTIC VIOLENCE UNIT**
- FAMILY COURT**
- PROBATE DIVISION**
- TAX DIVISION**

\_\_\_\_\_  
Plaintiff/Petitioner

v.

Case No. \_\_\_\_\_

\_\_\_\_\_  
Defendant/Respondent

**NOTICE OF LIMITED APPEARANCE**

THE CLERK OF THE COURT will please note that I am entering an appearance limited to (select one and specify):

date: \_\_\_\_\_

time period: \_\_\_\_\_

activity: \_\_\_\_\_

subject matter: \_\_\_\_\_

which will terminate without necessity of leave of court. If the appearance is limited by activity or subject matter, it will terminate upon my filing a Notice of Completion. If the appearance is limited by date or time period, it will terminate without filing a Notice of Completion.

I have informed my client that my appearance is limited and does not extend beyond what is specified above without mutual and informed consent and unless a new Notice of Limited Appearance is filed.

Notices and documents concerning the date, time period, activity, or subject matter described above must be served on me and my client. All other notices and documents must be served only on my client and/or any counsel who has entered an appearance on my client's behalf.

APPENDIX B: RULES OF ETHICS AND PROCEDURE

I hereby certify that the foregoing information is true and correct to the best of my knowledge and belief and that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I served a copy of this Notice of Limited Appearance on all parties or their counsel and on my client by hand, first-class mail, or electronically by agreement of the parties, court rule or court order.

|                                    |                           |
|------------------------------------|---------------------------|
| _____<br>Signature                 | _____<br>Street Address   |
| _____<br>Print Name and Bar Number | _____<br>City, State, ZIP |
| _____<br>Phone Number              | _____<br>Email Address    |
| _____<br>Date                      |                           |

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

- CIVIL DIVISION**
- DOMESTIC VIOLENCE UNIT**
- FAMILY COURT**
- PROBATE DIVISION**
- TAX DIVISION**

\_\_\_\_\_  
Plaintiff/Petitioner

v.

Case No. \_\_\_\_\_

\_\_\_\_\_  
Defendant/Respondent

**NOTICE OF COMPLETION**

THE CLERK OF THE COURT will please note that as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I completed the (select one):

- activity
- subject matter

specified in my Notice of Limited Appearance. The filing of this Notice hereby terminates my appearance without necessity of leave of court. I informed my client that my appearance was temporary and will terminate upon the filing of this Notice of Completion.

Any new notices or documents pertaining to this case must be served only on my client and/or any counsel who has entered an appearance on my client's behalf.

I hereby certify that the foregoing information is true and correct to the best of my knowledge and belief and that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I served a copy of this Notice of Completion on all parties or their counsel and on my client by hand, first-class mail, or electronically by agreement of the parties, court rule or court order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Print Name and Bar Number

\_\_\_\_\_  
City, State, ZIP

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Date

**Florida Rules of Professional Conduct**

**Rule 4-1.2: Objectives and Scope of Representation**

(c) Limitation of Objectives and Scope of Representation. If not prohibited by law or rule, a lawyer and client may agree to limit the objectives or scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing. If the attorney and client agree to limit the scope of the representation, the lawyer shall advise the client regarding applicability of the rule prohibiting communication with a represented person.

**Comment**

The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent, or which the client regards as financially impractical.

Although this rule affords the lawyer and client substantial latitude to limit the representation if not prohibited by law or rule, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. In addition, a lawyer and client may agree that the representation will be limited to providing assistance out of court, including providing advice on the operation of the court system and drafting pleadings and responses. If the lawyer assists a pro se litigant by drafting any document to be submitted to a court, the lawyer is not obligated to sign the document. However, the lawyer must indicate "Prepared with the assistance of counsel" on the document to avoid misleading the court which otherwise might be under the impression that the person, who appears to be proceeding pro se, has received no assistance from a lawyer. If not prohibited by law or rule, a lawyer and client may agree that any in-court representation in a family law proceeding be limited as provided for in Family Law Rule of Procedure 12.040. For example, a lawyer and client may agree that the lawyer will represent the client at a hearing regarding child support and not at the final hearing or in any other hearings. For limited in-court representation in family law proceedings, the attorney shall communicate to the client the specific boundaries and limitations of the representation so that the client is able to give informed consent to the representation.

Regardless of the circumstances, a lawyer providing limited representation forms an attorney-client relationship with the litigant, and owes the client all attendant ethical obligations and duties imposed by the Rules Regulating The Florida Bar, including, but not limited to, duties of

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

competence, communication, confidentiality and avoidance of conflicts of interest. Although an agreement for limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See rule 4-1.1.

An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and law. For example, the client may not be asked to agree to representation so limited in scope as to violate rule 4-1.1 or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

### **Rule 4-4.2: Communication with Person Represented by Counsel**

(b) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule Regulating the Florida Bar 4-1.2 is considered to be unrepresented for purposes of this rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, the opposing lawyer is to communicate with the limited representation lawyer as to the subject matter within the limited scope of the representation.

#### **Comment**

This rule does not prohibit communication with a party, or an employee or agent of a party, concerning matters outside the representation. For example, the existence of a controversy between a government agency and a private party, or between 2 organizations, does not prohibit a lawyer for either from communicating with nonlawyer representatives of the other regarding a separate matter. Also, parties to a matter may communicate directly with each other and a lawyer having independent justification for communicating with the other party is permitted to do so. Permitted communications include, for example, the right of a party to a controversy with a government agency to speak with government officials about the matter.

### **Rule 4-4.3: Dealing with Unrepresented Persons**

(b) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule Regulating The Florida Bar 4-1.2 is considered to be unrepresented for purposes of this rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, the opposing lawyer is to communicate with the limited representation lawyer as to the subject matter within the limited scope of the representation.

## **Florida Family Law Rules of Procedure**

### **Rule 12.040: Attorneys**

(a) **Limited Appearance.** An attorney of record for a party, in a family law matter governed by these rules, shall be the attorney of record throughout the same family law matter, unless at the

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

time of appearance the attorney files a notice, signed by the party, specifically limiting the attorney's appearance only to the particular proceeding or matter in which the attorney appears.

### **(b) Withdrawal or Limiting Appearance.**

(1) Prior to the completion of a family law matter or prior to the completion of a limited appearance, an attorney of record, with approval of the court, may withdraw or partially withdraw, thereby limiting the scope of the attorney's original appearance to a particular proceeding or matter. A motion setting forth the reasons must be filed with the court and served upon the client and interested persons.

(2) The attorney shall remain attorney of record until such time as the court enters an order, except as set forth in subdivision (c) below.

**(c) Scope of Representation.** If an attorney appears of record for a particular limited proceeding or matter, as provided by this rule, that attorney shall be deemed "of record" for only that particular proceeding or matter. Any notice of limited appearance filed shall include the name, address and telephone number of the attorney and the name, address and telephone number of the party. At the conclusion of such proceeding or matter, the attorney's role terminates without the necessity of leave of court, upon the attorney filing notice of completion of limited appearance. The notice, which shall be titled "Termination of Limited Appearance," shall include the names and last known addresses of the person(s) represented by the withdrawing attorney.

**(d) Preparation of Pleadings or Other Documents.** A party who files a pleading or other document of record pro se with the assistance of an attorney shall certify that the party has received assistance from an attorney in the preparation of the pleading or other document. The name, address and telephone number of the party shall appear on all pleadings or other documents filed with the court.

**(e) Notice of Limited Appearance.** Any pleading or other document filed by a limited appearance attorney shall state in bold type on the signature page of that pleading or other document: "Attorney for [Petitioner] [Respondent] [attorney's address and telephone number] for the limited purpose of [matter or proceeding]" to be followed by the name of the petitioner or respondent represented and the current address and telephone number of that party.

**(f) Service.** During the attorney's limited appearance, all pleadings or other documents and all notices of hearing shall be served upon both the attorney and the party. If the attorney receives notice of a hearing that is not within the scope of the limited representation, the attorney shall notify the court and the opposing party that the attorney will not attend the court proceeding or hearing because it is outside the scope of the representation.

**Georgia Code of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope and objectives of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

**Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and the client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

**Hawaii Rules of Professional Conduct**

**Rule 1.2: Scope of Representation**

(c) A lawyer may limit the objectives of the representation if the client consents after consultation

**Comment**

[4] The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent.

[5] An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue. This rule does not affect a lawyer's right to withdraw under Rule 1.16.

### **Rule 6.5 Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comment**

[1] Legal services organizations, courts, and various nonprofit organizations have established

programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a lawyer-client relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the

client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation. [3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

(Added December 13, 2011, effective January 1, 2012.)

### **Revised Code of Judicial Conduct**

#### **Rule 2.2 Comment [4]**

*[4]It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.*

### **Idaho Rules of Professional Conduct**

#### **Rule 1.2(c): Scope of Representation**

A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent

#### **Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] Although paragraph (c) does not require that the client's informed consent to a limited representation be in writing, it is encouraged. See Rule 1.0(e) for the definition of "informed consent."

[9] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Commentary**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services — such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Idaho Rules of Civil Procedure**

#### **Rule 11(b)(5): Limited Pro Bono Appearance**

In accordance with the Idaho Rules of Professional Conduct 1.2(c), an attorney may appear to provide pro bono assistance to an otherwise pro se party in one or more individual proceedings in an action. An attorney making a limited pro bono appearance must file and serve on the opposing party a notice of limited appearance prior to or simultaneous with the proceeding or proceedings, specifying all matters that are to be undertaken on behalf of the party. The attorney shall have no authority to act on behalf of the party on any matter not specified in the notice or any properly filed and served amendment thereto. Service on an attorney who has made a limited appearance for a party shall be valid only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders. Upon the conclusion of the matters specified for the attorney's limited appearance, the attorney shall file a notice of completion of limited appearance with the court. Upon such filing, the attorney's role terminates without the necessity of leave of the court.

### **Idaho Court Administrative Rules**

#### **Rule 53: Court Assistance Services**

(a) Statement of Policy: It is the policy of the Supreme Court to ensure access to the courts by all persons, including those who may not have the benefit of legal representation. The purpose of this rule is to provide a means for assisting persons who do not have legal representation, by

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

authorizing Court Assistance Officers to provide those litigants with educational materials, court approved forms, limited assistance in completing court forms, and information about court procedures so they might better understand the legal requirements of the court system, and to provide referrals to legal, community and social services organizations and resources providing similar assistance.

(b) Definitions: For the purposes of this rule, the following words have the following meanings:

(1) Court Assistance Officer is a person qualified under guidelines adopted by the Supreme Court to provide a full range of court assistance services.

(2) Deputy Clerk is an employee of the District Court Clerk who is assigned the responsibility of providing a limited range of court assistance services under guidelines adopted by the Supreme Court, as part of his or her overall clerical duties.

(3) Project Director is person appointed by the Administrative Director of the Courts to oversee and coordinate the statewide operation of court assistance services.

(c) Court Assistance Services: Full or limited court assistance services shall be provided in every county.

(1) Where feasible, those services should be provided through a court assistance office staffed with a full or part time Court Assistance Officer, who has the training to provide a full range of court assistance services and referrals under guidelines established by the Supreme Court.

(2) Where the appointment of a Court Assistance Officer is not feasible, the District Court Clerk shall appoint a Deputy Clerk to provide limited court assistance services as defined by the Supreme Court's guidelines. The Project Director shall be notified of the assignment, and provide input on the selection if requested.

(d) Assignment of Court Assistance Officers: A Court Assistance Officer may be an employee of the District Court Clerk, or another county employee who is under the direction of the Administrative District Judge or Trial Court Administrator, or an independent contractor retained by the Supreme Court who is under the direction of the Administrative District Judge or Trial Court Administrator. The Administrative District Judge or Trial Court Administrator, the Project Director, and the District Court Clerk shall provide advice and consent in the selection and assignment of Court Assistance Officers under guidelines for minimum qualifications established by the Supreme Court for that position.

(e) Management of Daily Operations: The Administrative Judge or Trial Court Administrator shall be responsible for managing and supervising the day-to-day activities of Court Assistance Officers who have been retained by the Court or are county employees other than deputy clerks. The District Court Clerk shall be responsible for managing and supervising the day-to-day activities of Court Assistance Officers who are employees of the District Court Clerk, and Deputy Clerks who provide limited court assistance services. The Administrative District Judge

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

or Trial Court Administrator, and the Program Director, may, from time to time, provide input on the performance of employees of the District Court Clerk providing court assistance services, which shall be considered by the District Court Clerk, in good faith.

(f) Policy and Rules of Conduct: The Supreme Court shall establish guidelines for court assistance services which specifically define the types of referrals, instructions, forms, educational materials, and information about the court and court processes, which may be provided by a Court Assistance Officer or Deputy Clerk, as well as requirements for education and training of court assistance personnel.

(g) Unauthorized Practice of Law: It is the policy of the Supreme Court to encourage the use of attorneys whenever possible. The materials and assistance provided through court assistance services are not intended as a substitute for legal advice. Services, materials or information provided by Court Assistance Officers or Deputy Clerks providing court assistance services under the guidelines established by the Supreme Court shall not constitute the unauthorized practice of law.

(h) Schedule of Fees: Charges for forms, materials and other services provided under this rule shall not exceed the amounts defined in the following Cost Recovery Fee Schedule, adopted by the Supreme Court pursuant to the authority of section 32-1406, Idaho Code. Fees collected for court assistance services shall be distributed as required by section 32-1406, Idaho Code.

### **Illinois Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield

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advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, *e.g.*, Rules 1.1, 1.8 and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

(Adopted July 1, 2009, effective January 1, 2010.)

### **Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, *e.g.*, Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

(Adopted July 1, 2009, effective January 1, 2010)

### **Illinois Supreme Court Rules**

#### **Rule 11: Manner of Serving Documents Other Than Process and Complaint on Parties Not in Default in the Trial and Reviewing Courts**

(e) **Limited Scope Appearance.** After an attorney files a Notice of Limited Scope Appearance in accordance with Rule 13(c)(6), service of all documents shall be made on both the attorney and the party represented on a limited scope basis until:

- (1) the court enters an order allowing the attorney to withdraw under Rule 13(c) or
- (2) the attorney's representation automatically terminates under Rule 13(c)(7)(ii).

#### **Rule 13: Appearances--Time to Plead--Withdrawal**

##### **(c) Appearance and Withdrawal of Attorneys.**

(6) *Limited Scope Appearance.* An attorney may make a limited scope appearance on behalf of a party in a civil proceeding pursuant to Rule of Professional Conduct 1.2(c) when the attorney has entered into a written agreement with that party to provide limited scope representation. The attorney shall file a Notice of Limited Scope Appearance in the form attached to this rule, identifying each aspect of the proceeding to which the limited scope appearance pertains.

An attorney may file a Notice of Limited Scope Appearance more than once in a case. An attorney must file a new Notice of Limited Scope Appearance before any additional aspect of the proceeding in which the attorney intends to appear. A party shall not be required to pay more than one appearance fee in a case.

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### *(7) Withdrawal Following Completion of Limited Scope Representation.*

Upon completing the representation specified in the Notice of Limited Scope Appearance filed pursuant to paragraph (6), the attorney shall withdraw by oral motion or written notice as provided in parts (i)-(ii) of this paragraph. A withdrawal for any reason other than completion of the representation shall be requested by motion under paragraphs (c)(2) and (c)(3).

(i) If the attorney completes the representation at or before a court hearing attended by the party the attorney represents, the attorney may make an oral motion for withdrawal without prior notice to the party the attorney represents or to other parties. The court must grant the motion unless the party objects on the ground that the attorney has not completed the representation. The order granting the withdrawal may require the attorney to give written notice of the order to parties who were neither present nor represented at the hearing. If the party objects that the attorney has not completed the representation, the court must hold an evidentiary hearing on the objection, either immediately or on a specified later date. After hearing the evidence, the court must grant the motion to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance.

(ii) An attorney also may withdraw by filing a Notice of Withdrawal of Limited Scope Appearance in the form attached to this rule. The attorney must serve the Notice on the party the attorney represents and must also serve it on other counsel of record and other parties not represented by counsel, unless the court by order excuses service on other counsel and other parties. The attorney must also serve the Notice on the judge then presiding over the case. The attorney must file proof of service in compliance with this paragraph. Within 21 days after the service of the Notice, the party may file an Objection to Withdrawal of Limited Scope Appearance in the form attached to this rule. The party must serve the Objection on the attorney and must also serve it on other counsel of record and other parties not represented by counsel unless the court by order excuses service on other counsel and other parties. If no timely Objection is filed, the attorney's limited scope appearance automatically terminates, without entry of a court order when the 21-day period expires. If a timely Objection is filed, however, the attorney must notice a hearing on the Objection. If the ground for the Objection is that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance, the court must hold an evidentiary hearing. After the requisite hearing, the court must enter an order allowing the attorney to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance.

### **Committee Comments** (June 14, 2013)

Paragraph (c)(6) addresses the provision of limited scope representation to clients under Rule of Professional Conduct 1.2(c). The paragraph is not intended to regulate or impede appearances made pursuant to other types of limited engagements by attorneys, who may appear and withdraw as otherwise provided by Rule 13.

An attorney making a limited scope appearance in a civil proceeding must first enter into a written agreement with the party disclosing the limited nature of the representation. The limited appearance is then effected by using the form Notice of Limited Scope Appearance appended to this Rule. Utilizing this standardized form promotes consistency in the filing of limited scope

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

appearances, makes the notices easily recognizable to judges and court personnel, and helps ensure that the scope of the representation is identified with specificity.

A party on whose behalf an attorney has filed a Notice of Limited Scope Appearance remains responsible, either personally or through an attorney who represents the party, for all matters not specifically identified in the Notice of Limited Scope Appearance.

Paragraph (c)(6) does not restrict (1) the number of limited scope appearances an attorney may make in a case, (2) the aspects of the case for which an attorney may file a limited scope appearance such as, for example, specified court proceedings, depositions, or settlement negotiations, or (3) the purposes for which an attorney may file a limited scope appearance. Notwithstanding the absence of numeric or subject matter restrictions on filing limited scope appearances, nothing in the Rule restricts the ability of a court to manage the cases before it, including taking appropriate action in response to client or lawyer abuse of the limited scope representation procedures.

Paragraph (c)(7) provides two alternative ways for an attorney to withdraw when the representation specified in the Notice of Limited Scope Appearance has been completed. The first method—an oral motion—can be used whenever the representation is completed at or before a hearing attended by the party the attorney represents. Prior notice of such a hearing is not required. The attorney should use this method whenever possible, because its use ensures that withdrawal occurs as soon as possible and that the court knows of the withdrawal.

The second method—filing a Notice of Withdrawal of Limited Scope Appearance—enables the attorney to withdraw easily in other situations, without having to make a court appearance, except when there is a genuine dispute about the attorney’s completion of the representation. The Notice must be served on the party represented and on other counsel of record and other parties not represented by counsel unless the court excuses service on other counsel of record and other parties not represented by counsel. The Notice must also be served on the judge then presiding over the case to ensure that the judge is made aware that the limited scope representation has been completed, subject to the client’s right to object. The attorney’s withdrawal is automatic, without entry of a court order, unless the client files a timely Objection to Withdrawal of Limited Scope Appearance.

If the attorney makes an oral motion to withdraw pursuant to paragraph (c)(7)(i), with or without client objection, or if the client files a timely Objection to Withdrawal of Limited Scope Appearance pursuant to paragraph (c)(7)(ii), the court must allow the attorney to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance. An evidentiary hearing is required if the client objects to the attorney’s withdrawal based on the attorney’s failure to complete the representation. A nonevidentiary hearing is required if the client objects on a ground other than the attorney’s failure to complete the representation, although the primary function of such a hearing is to explain to the client that such an objection is not well-founded. A court’s refusal to permit withdrawal of a completed limited scope representation, or even its encouragement of the attorney to extend the representation, would disserve the interests of justice by discouraging attorneys from undertaking limited scope representations out of concern that agreements with clients for such representations would not be enforced.

A limited scope appearance under the rule is unrelated to “special and limited” appearances formerly used to object to the lack of personal jurisdiction. The use of such appearances ended with the adoption of Public Act 91-145, which amended section 2-301 of the Code of Civil Procedure (735 ILCS 5/2-301) effective January 1, 2000.

**Form for Limited Scope Appearance in Civil Action**

IN THE CIRCUIT COURT OF THE \_\_\_\_\_ JUDICIAL CIRCUIT

\_\_\_\_\_ COUNTY, ILLINOIS

(OR, IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS)

|                      |   |
|----------------------|---|
| _____                | ) |
| Plaintiff/Petitioner | ) |
|                      | ) |
| v.                   | ) |
|                      | ) |
|                      | ) |
| _____                | ) |
| Defendant/Respondent | ) |

No.

**NOTICE OF LIMITED SCOPE APPEARANCE**

1. The \_\_\_\_\_ attorney,  
 and \_\_\_\_\_ the \_\_\_\_\_ Party,  
 \_\_\_\_\_, have entered  
 into a written agreement dated \_\_\_\_\_  
 the attorney will provide limited  
 scope representation to the Party in the above-captioned matter in accordance with Paragraphs 3  
 and 4, below.

2. The Party is Plaintiff Petitioner Defendant Respondent in this matter. (Circle one)

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3. The attorney appears pursuant to Supreme Court Rule 13(c)(6). This appearance is limited in scope to the following matter(s) in which the attorney will represent the Party (check and complete all that apply):

In the court proceeding (identify) on the following date: \_\_\_\_\_

And in any continuance of that proceeding

At the trial on the following date: \_\_\_\_\_

And in any continuance of that trial

And until judgment

At the following deposition(s): \_\_\_\_\_

If a family law matter, specify the scope and limits of representation:

\_\_\_\_\_

Other (specify the scope and limits of representation):

\_\_\_\_\_

4. If this appearance does not extend to all matters to be considered at the proceeding(s) above, identify the discrete issues within each proceeding covered by this appearance:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. The attorney may withdraw following completion of the limited scope representation specified in this appearance as follows:

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a. orally move to withdraw at a hearing attended by the Party, at which the Party may object to withdrawal if the Party contends that the limited scope representation specified in this appearance has not been completed; or

b. file a Notice of Withdrawal of Limited Scope Representation in the form attached to Supreme Court Rule 13. If the attorney files such a Notice, the attorney shall serve it upon the Party and upon all counsel of record and other parties not represented by counsel unless the court excuses service upon other counsel and other unrepresented parties, and upon the judge then presiding over this case. The method of service shall be as provided in Supreme Court Rule 11 unless the court orders otherwise. If the Party objects to the withdrawal, the Party may, within 21 days after the date of the attorney's service of the Notice of Withdrawal of Limited Scope Appearance, file an Objection to Withdrawal of Limited Scope Appearance in the form attached to Supreme Court Rule 13. The attorney will provide a copy of the form of Objection to the Party with the attorney's Notice, including instructions for filing and service of an Objection. If the Party timely serves an Objection, the attorney shall notice the matter for hearing to rule on the Objection.

6. Service of pleadings on the attorney and party named above shall be made in accordance with Supreme Court Rule 11(e).

7. By signing below, the Party being represented under this Limited Scope Appearance:

a. agrees to the delivery of all court papers to the addresses specified below; and

b. agrees to inform the court, all counsel of record, and all parties not represented by counsel of any changes to the Party's address information listed below during the limited scope representation.

\_\_\_\_\_

Signature of Attorney

\_\_\_\_\_

Name of Attorney

\_\_\_\_\_

Attorney's Address

\_\_\_\_\_

Attorney's Telephone Number

\_\_\_\_\_

Attorney's E-Mail Address

\_\_\_\_\_

Attorney Number



\_\_\_\_\_  
Defendant/Respondent

**NOTICE OF WITHDRAWAL OF LIMITED SCOPE APPEARANCE**

I withdraw my Notice of Limited Scope Appearance for \_\_\_\_\_ [party], pursuant to Supreme Court Rule 13(c)(7).

I have completed all services within the scope of the Notice of Limited Scope Appearance, and I have completed all acts ordered by the court within the scope of that appearance.

Service of documents upon me under Supreme Court Rule 11(e) will no longer be required upon the later of: (a) 21 days after service of this Notice or, (b) if \_\_\_\_\_ [party] files and serves an Objection to Withdrawal of Limited Scope Appearance within 21 days after service of this Notice, entry of a court order allowing my withdrawal. Service of documents on \_\_\_\_\_[party] continues to be required.

**NOTICE TO \_\_\_\_\_[party]:** You have the right to object to my withdrawal as your lawyer if you believe that I have not finished everything that I had agreed to do. To object, you must:

1. Fill in the blanks in the attached form of Objection to Withdrawal of Limited Scope Appearance, including the Certificate of Service and sign where indicated.
2. File the original Objection with the court by \_\_\_\_\_, \_\_\_\_\_, [date to be filled in by lawyer] which is 21 days after the date that I am filing and serving this Notice.
3. On the same day that you file the Objection with the court, send copies of it to me and to the other persons listed in the Certificate of Service attached to the Objection. Also, check the boxes in the Certificate of Service to show how you sent the copy to each person.



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The Honorable \_\_\_\_\_  US Mail, Postage Prepaid  Messenger  
\_\_\_\_\_  
 Personal Delivery  Facsimile  
\_\_\_\_\_  
 Email  
\_\_\_\_\_

[Client] \_\_\_\_\_  US Mail, Postage Prepaid  Messenger  
\_\_\_\_\_  
 Personal Delivery  Facsimile  
\_\_\_\_\_  
 Email  
\_\_\_\_\_

[Repeat Same Information for Each Other Counsel of Record and Unrepresented Party]

\_\_\_\_\_

Signature of Attorney

**Form for Objection To Withdrawal of Limited Scope Appearance**

\*\*\*\*\*

*[To Withdrawing Attorney: On the Copy of This Form Sent to the Client, List the Parties and Addresses in the Certificate of Service and Complete All Parts of the Form Except the Statement of Grounds, the Signature Block Information, the Date of Filing and Service of the Objection, the Client's Method of Service, and the Client's Signatures]*

\*\*\*\*\*

IN THE CIRCUIT COURT OF THE \_\_\_\_\_ JUDICIAL CIRCUIT  
\_\_\_\_\_ COUNTY, ILLINOIS

APPENDIX B: RULES OF ETHICS AND PROCEDURE

(OR, IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS)

|                      |   |     |
|----------------------|---|-----|
| _____                | ) |     |
| Plaintiff/Petitioner | ) |     |
|                      | ) |     |
| v.                   | ) | No. |
|                      | ) |     |
|                      | ) |     |
| _____                | ) |     |
| Defendant/Respondent | ) |     |

OBJECTION TO WITHDRAWAL OF LIMITED SCOPE APPEARANCE

I, \_\_\_\_\_, object to my attorney’s Notice of Withdrawal of Limited Scope Appearance filed on \_\_\_\_\_.

My attorney has not finished everything he or she had agreed to do in the Notice of Limited Scope Appearance. I understand this is the only basis for me to present a valid objection to my attorney’s notice of withdrawal. The specific services that my attorney has not completed are:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

I understand that my objection will be set for a court hearing and I will be required to appear at that hearing and explain to a judge what services my attorney has not completed that he or she had agreed to do for me.

\_\_\_\_\_

\_\_\_\_\_

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Signature of Party

Name of Party

\_\_\_\_\_

Party's Address

Party's Telephone Number

\_\_\_\_\_

Party's E-Mail Address

\_\_\_\_\_

Date

**Proof of Filing and Service**

I certify that this Objection has been filed with the court on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and on the same day I served this Objection on the following by the method checked below for each.

[List Name and Address of Each]

[Check Method of Service]

[Attorney Who Represented Client]

US Mail, Postage Prepaid

\_\_\_\_\_

Messenger

\_\_\_\_\_

Personal Delivery  Facsimile

\_\_\_\_\_

Email

[Repeat Same Information for Each Other Counsel of Record and Unrepresented Party]

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Signature of Party

**Rule 137: Signing of Pleadings, Motions and Other Documents—Sanctions**

**(e) Attorney Assistance Not Requiring an Appearance or Signature.** An attorney may assist a self-represented person in drafting or reviewing a pleading, motion, or other paper without making a general or limited scope appearance. Such assistance does not constitute either a general or limited scope appearance by the attorney. The self-represented person shall sign the pleading, motion, or other paper. An attorney providing drafting or reviewing assistance may rely on the self-represented person’s representation of facts without further investigation by the attorney, unless the attorney knows that such representations are false.

**Committee Comments** (June 14, 2013)

Under Illinois Rule of Professional Conduct 1.2(c), an attorney may limit the scope of a representation if the limitation is reasonable under the circumstances and the client gives informed consent. Such a limited scope representation may include providing advice to a party regarding the drafting of a pleading, motion or other paper, or reviewing a pleading, motion or other paper drafted by a party, without filing a general or limited scope appearance. In such circumstances, an attorney is not required to sign or otherwise note the attorney’s involvement and the certification requirements in Rule 137 are inapplicable. Moreover, even if an attorney is identified in connection with such a limited scope representation, the attorney will not be deemed to have made a general or limited scope appearance.

Consistent with the limited scope of services envisioned under this drafting and reviewing function, attorneys may rely on the representation of facts provided by the self-represented person. This rule applies, for example, to an attorney who advises a caller to a legal aid telephone hotline regarding the completion of a form pleading, motion or other paper or an attorney providing information at a pro bono clinic.

All obligations under Rule 137 with respect to signing pleadings and certifications apply fully in those limited scope representations where an attorney has filed a general or limited scope appearance. Drafting a pleading, motion or other paper, or reviewing a pleading, motion or paper drafted by a party does not establish any independent responsibility not already applicable under current law.

**Indiana Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

- (c) A lawyer may limit the scope and objectives of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

**Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant, unethical, or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

- (a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
- (1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and
  - (2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.
- (b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### Comment

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -- such as advice or the completion of legal forms -- that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### Indiana Rules of Trial Procedure

#### Rule 3.1 Appearance

**(I) Temporary or Limited Representation.** If an attorney seeks to represent a party in a proceeding before the court on a temporary basis or a basis that is limited in scope, the attorney shall file a notice of temporary or limited representation. The notice shall contain the information set out in Section (A) (1) and (2) above and a description of the temporary or limited status, including the date the temporary status ends or the scope of the limited representation. The court

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

shall not be required to act on the temporary or limited representation. At the completion of the temporary or limited representation, the attorney shall file a notice of completion of representation with the clerk of the court.

### **Iowa Rules of Professional Conduct**

#### **Rule 32:1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(1) The client's informed consent must be confirmed in writing unless:

(i) the representation of the client consists solely of telephone consultation;

(ii) the representation is provided by a lawyer employed by a nonprofit legal services program or participating in a nonprofit court-annexed legal services program and the lawyer's representation consists solely of providing information and advice or the preparation of court-approved legal forms; or

(iii) the court appoints the attorney for a limited purpose that is set forth in the appointment order.

(2) If the client gives informed consent in a writing signed by the client, there shall be the presumption that:

(i) the representation is limited to the attorney and the services described in the writing; and

(ii) the attorney does not represent the client generally or in matters other than those identified in the writing.

#### **Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered

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when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. *See* rule 32:1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Iowa Rules of Professional Conduct and other law. *See, e.g.*, rules 32:1.1, 32:1.8, and 32:5.6.

### **Rule 32:4.2: Communication with Person Represented by Counsel**

An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with rule 32:1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, the opposing lawyer is to communicate with the limited-representation lawyer as to the subject matter within the limited scope of representation.

### **Rule 32:6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

- (a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
- (1) is subject to rules 32:1.7 and 32:1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and
  - (2) is subject to rule 32:1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by rule 32:1.7 or 32:1.9(a) with respect to the matter.
- (b) Except as provided in paragraph (a)(2), rule 32:1.10 is inapplicable to a representation governed by this rule.

### **Comment**

[1] Legal services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics, or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. *See, e.g.*, rules 32:1.7, 32:1.9, and 32:1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this rule must secure the client's informed consent to the limited scope of the representation. *See* rule 32:1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, the Iowa Rules of Professional Conduct, including rules 32:1.6 and 32:1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

compliance with rule 32:1.7 or 32:1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with rule 32:1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by rule 32:1.7 or 32:1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that rule 32:1.10 is inapplicable to a representation governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with rule 32:1.10 when the lawyer knows that the lawyer's firm is disqualified by rule 32:1.7 or 32:1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, rules 32:1.7, 32:1.9(a), and 32:1.10 become applicable.

### **Rule 32:7.2: Advertising**

(g) The following information may be communicated to the public in the manner permitted by this rule, provided it is presented in a dignified style:

(1) name, including name of law firm, names of professional associates, addresses, telephone numbers, Internet addresses and URLs, and the designation "lawyer," "attorney," "J.D.," "law firm," or the like;

(2) the following descriptions of practice:

(i) "general practice";

(ii) "general practice including but not limited to" followed by one or more fields of practice descriptions set forth in rule 32:7.4(a)-(c);

(iii) fields of practice, limitation of practice, or specialization, but only to the extent permitted by rule 32:7.4; and

(iv) limited representation as authorized by rule 32:1.2(c);

(3) date and place of birth;

(4) date and place of admission to the bar of state and federal courts;

(5) schools attended, with dates of graduation, degrees, and other scholastic distinctions;

(6) public or quasi-public offices;

(7) military service;

(8) legal authorships;

(9) legal teaching positions;

(10) memberships, offices, and committee and section assignments in bar associations;

(11) memberships and offices in legal fraternities and legal societies;

(12) technical and professional licenses;

(13) memberships in scientific, technical, and professional associations and societies; and

(14) foreign language ability.

**Iowa Rules of Civil Procedure**

**Rule 1.404: Appearances**

**(3) Limited appearance.** Pursuant to Iowa R. Prof'l Conduct 32:1.2(c), an attorney's role may be limited to one or more individual proceedings in the action, if specifically stated in a notice of limited appearance filed and served prior to or simultaneously with the proceeding. If the attorney appears at a hearing on behalf of a client pursuant to a limited representation agreement, the attorney shall notify the court of that limitation at the beginning of that hearing.

**(4) Termination of limited appearance.** At the conclusion of a proceeding in which an attorney has appeared pursuant to a limited representation agreement, the attorney's role terminates without the necessity of leave of court upon the attorney's filing a notice of completion of limited appearance. The notice of completion of limited appearance shall state that the attorney was retained to perform a limited service; shall describe the limited service; shall state that the service has been completed; and shall include the personal identification number, address, telephone number and, if available, facsimile transmission number of the client. The attorney shall serve a copy of the notice on the client and all other parties to the action or their attorneys. [Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; March 12, 2007, effective May 15, 2007]

**Rule 1.423: Limited Representation Pleadings and Papers**

**1.423(1) Disclosure of limited representation.** Every pleading or paper filed by a pro se party that was prepared with the drafting assistance of an attorney who contracted with the client to limit the scope of representation pursuant to Iowa R. Prof'l Conduct 32:1.2(c) shall state that fact before the signature line at the end of the pleading or paper that was prepared with the attorney's assistance. The attorney shall advise the client that such pleading or other paper must contain this statement. The pleading or paper shall also include the attorney's name, personal identification number, address, telephone number and, if available, facsimile transmission number, but shall not be signed by the attorney. If the drafting assistance was provided as part of services offered by a nonprofit legal services organization or a volunteer component of a nonprofit or court-annexed legal services program, the name, address, telephone number and, if available, facsimile transmission number of the program may be included in lieu of the business address, telephone number, and facsimile transmission number of the drafting attorney.

**1.423(2) Drafting attorney's duty.** In providing drafting assistance to the pro se party, the attorney shall determine, to the best of the attorney's knowledge, information, and belief, that the pleading or paper is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not filed for any improper purpose, such as to harass or to cause an unnecessary delay or needless increase in the cost of litigation. The attorney providing drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representation is false or materially insufficient, in which instance the attorney shall make an independent, reasonable inquiry into the facts.

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**1.423(3) Not an appearance by attorney.** The identification of an attorney who has provided drafting assistance in the preparation of a pleading or paper shall not constitute an entry of appearance by the attorney for purposes of rule 1.404(1) and does not authorize service on the attorney or entitle the attorney to service as provided in rule 1.442. [Report March 12, 2007, effective May 15, 2007]

### **Rule 1.442: Service and Filing of Pleadings and Other Papers**

**1.442(2) How service is made.** Service upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the court. Service on an attorney who has made a limited appearance for a party shall constitute valid service on the represented party only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared. Service shall be made by delivering, mailing, or transmitting by fax (facsimile) a copy to the attorney or to the party at the attorney's or party's last known address or, if no address is known, by leaving it with the clerk of court. Delivery within this rule means: handing it to the attorney or to the party; leaving it at the attorney's or party's office; or, if the office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion residing therein. Service by mail is complete upon mailing.

### **Kansas Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing.

### **Kansas Supreme Court Rules**

#### **Rule 115A Commencement of Actions, Pleadings, and Related Matters; Limited Representation**

(a) Written Consent Required. An attorney may limit the scope of representation if the limitation is reasonable under the circumstances, and the client gives informed consent, confirmed in writing.

(b) Limited Appearance. An attorney, pursuant to this rule, may make a limited appearance on behalf of an otherwise unrepresented party.

(1) Notice of Limited Entry of Appearance Required. An attorney making a limited appearance must file a notice of limited entry of appearance. The notice is sufficient if it is on the judicial council form. The notice must:

(A) state precisely the court proceeding to which the limited appearance pertains; and  
(B) if the appearance does not extend to all issues to be considered at the proceeding, identify the specific issues covered by the appearance.

(2) Scope and Number of Limited Appearances. An attorney may file a notice of limited entry of appearance for one or more court proceedings in a case. At any time-including during a

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

proceeding-an attorney may, with the client's consent, file a new notice of limited entry of appearance.

(3) A Paper Filed In a Limited Appearance.

(A) Statement Required on Signature Page. A pleading, motion, or other paper filed by an attorney making a limited appearance must state in bold type on the signature page of the document: "Attorney for [party] under limited entry of appearance dated \_\_ ."

(B) Filing Outside Scope of Limited Appearance Constitutes General Appearance. If an attorney files a pleading, motion, or other paper that is outside the scope of a limited appearance without filing a new notice of limited entry of appearance, the attorney will be deemed to have entered a general appearance in the case.

(4) Service. When service is required or permitted to be made on a party represented by an attorney making a limited appearance under this rule:

(A) for all matters within the scope of the limited appearance, service must be made on both the attorney and the party;

(B) the party must be served at the party's address stated in the notice of limited entry of appearance, but if the party's address has been made confidential by court order or rule, service on the party must be made in accordance with the court order or rule; and

(C) service on the attorney is not required for matters outside the scope of the limited appearance.

(5) Restrictions on Limited Appearances.

(A) An attorney may not enter a limited appearance for the sole purpose of making evidentiary objections.

(B) An attorney making a limited appearance and the litigant for whom the attorney appears may not argue on the same legal issue during the period of the limited appearance.

(6) Withdrawal.

(A) On Completion of Limited Appearance. On completion of a limited appearance-including completion and filing of an order or journal entry resolving the court proceeding for which the attorney was retained-an attorney must withdraw by filing a notice of withdrawal of limited appearance and serving the notice on the client and parties. The notice must state that the withdrawal is effective unless an objection is filed not later than 14 days after the notice is filed. The notice is sufficient if it is on the judicial council form and-unless otherwise provided by law must include the client's name, address, and telephone number. The attorney must file a notice of withdrawal of limited entry of appearance for each court proceeding for which the attorney has filed a notice of limited appearance. The court may impose sanctions for failure to file a notice of withdrawal under this paragraph.

(B) Before Completion of Limited Appearance. If an attorney wishes to withdraw from a limited appearance before it is completed-including before completion and filing of an order or journal entry documenting the court proceeding for which the attorney was retained-the attorney must comply with Rule 117.

(c) Document Preparation Assistance. An attorney may help a party prepare a pleading, motion, or other paper to be signed and filed in court by the client. The following rules apply:

(1) The attorney or party preparing a pleading, motion, or other paper under this rule must insert at the bottom of the paper the notation "prepared with assistance of a Kansas licensed attorney";

(2) The attorney is not required to sign the paper; and

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(3) The filing of a pleading, motion, or other paper prepared under this rule does not constitute an appearance by the preparing attorney.

### **Comment**

Making a legal form available to a self-represented litigant to complete for themselves, whether in person, by mail, electronically, or through the Internet (at no cost), is not considered document preparation assistance and is not covered by this rule.

### **U.S. District Court, District of Kansas Local Rules**

#### **Rule 83.5.8: Limited Scope Representation in Civil Cases**

(a) **In General.** A lawyer may limit the scope of representation in civil cases if the limitation is reasonable under the circumstances and the client gives informed consent in writing.

(b) **Procedures.** A lawyer who provides limited representation must comply with Kansas Supreme Court Rule 115A, as later amended or modified, with two exceptions. First, the lawyer must use the federal forms rather than the Kansas State Court forms.

Second, Rule 115A(c) does not apply in the District of Kansas. Any attorney preparing a pleading, motion or other paper for a specific case must enter a limited appearance and sign the document. The Bankruptcy Court may have additional Local Rules that govern its limited scope practice.

(c) **Participation.** The United States District Court for the District of Kansas allows any attorney registered as active to practice before this court to offer limited scope representation.

### **Kentucky Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

### **Comment**

(6) The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

(7) Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

(8) All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

HISTORY: Adopted by Order 2009-05, eff. 7-15-09

### **Comment**

(1) Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services, such as advice or the completion of legal forms, that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

(2) A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

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(3) Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

(4) Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

(5) If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Louisiana Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Rules for Louisiana District Courts**

**Rule 9.12 Enrollment as Counsel of Record**

All licensed Louisiana attorneys in good standing may enroll as counsel of record: (1) by oral notice made in open court when all parties or their counsel are present; or (2) by filing a written Notice of Enrollment or a written Notice of Limited Appearance in accordance with La. Code Civ. Proc. art. 853 with the clerk of court, with copies to all other enrolled counsel or self-represented parties and to the court.

A Notice of Limited Appearance shall specifically state the limitation of legal services by subject matter, proceeding, date, or time period in accordance with Rule 1.2(c) of the Rules of Professional Conduct. *See* forms in Appendix 9.12A (family law) and Appendix 9.12B (non-family law).

The applicable Appendix Form 9.12 form shall be filed if an attorney is making a limited appearance, with or prior to the initial pleading or prior to the initial hearing. The Notice shall bear the signatures of both the appearing attorney and the client, unless the client is unavailable to sign at filing. If the Notice does not bear the client's signature, a certificate attesting to the scope of limited enrollment, signed by the client, shall be filed into the record within ten (10) days of the filing of the initial Notice of Limited Appearance.

Any pleading filed by an attorney making a limited appearance shall state in bold type on the signature page of that pleading: "Attorney for limited purpose of [matter or proceeding]."

**Comments**

Attorneys enrolling pro hac vice shall comply with Rule XVII, Section 13 of the Rules of the Louisiana Supreme Court.

Filing the initial petition or first responsive pleading constitutes enrollment, and no further notice of enrollment is needed unless the attorney is making a limited appearance as authorized by Rule 1.2(c) of the Rules of Professional Conduct.

Rule 1.2(c) of the Rules of Professional Conduct allows an attorney to limit the scope of the representation if the limitation is reasonable and the client gives informed consent. See also Rule 1.0(e) of the Rules of Professional Conduct.

The use of standard forms for limited appearances makes the notices easily recognizable to judge, court staff, opposing parties and the client. The form notices require the attorney to identify the scope of a limited representation with specificity.

**Maine Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of representation if the limitation is reasonable under the circumstances and the client provides informed consent after consultation. If, after consultation, the client consents, an attorney may enter a limited appearance on behalf of an otherwise unrepresented party involved in a court proceeding. A lawyer who signs a complaint, counterclaim, cross-claim or any amendment thereto that is filed with the court, may not thereafter limit representation as provided in this rule, without leave of court.

(d) A lawyer, who under the auspices of a non-profit organization or a court-annexed program provides limited representation to a client without expectation of either the lawyer or the client that the lawyer will provide continuing representation in the matter, is subject to the requirements of Rules 1.7, 1.9, 1.10 and 1.11 only if the lawyer is aware that the representation of the client involves a conflict-of-interest.

**Comment**

*Agreements Limiting Scope of Representation*

[6] Both lawyer and client have authority and responsibility to determine the objectives and means of representation. The scope of services to be provided by a lawyer may be limited by agreement with the client. In situations where the lawyer will not be providing limited representation in court, the limited representation agreement must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law and the client's needs in order to handle a common and typically uncomplicated legal problem, the lawyer and the client may agree that the lawyer's services will be limited to a brief telephone consultation or office visit. Such a limitation, however, will not be reasonable if the time allotted was not sufficient to yield advice upon which the client can rely. Although an agreement for limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A lawyer's advice may be based upon the scope of the representation agreed upon by the lawyer and client, and the client's representation of the facts.

[6A] While a writing memorializing the agreement is not required, to the extent a writing can be obtained, it is a better practice to do so for both the lawyer and the client.

[6B] In situations involving limited representation in court of an otherwise unrepresented party, an agreement outlining the scope of representation is required, and a written memorandum of the scope of representation is recommended. A lawyer providing limited representation in court proceedings should include in the consultation with the client an explanation of the risks and benefits of the limited representation. A general form of the agreement is attached for reference.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

[6C] An attorney reasonably may rely on the information provided by the limited representation client. This rule does not reduce an attorney's obligation to provide competent representation, but makes clear the preparation for the legal matter is limited along with the scope of the representation.

[7] Rule 1.2(c) allows the client and lawyer to agree to the parameters, including time limitations, on the scope of representation, and allows the attorney to withdraw from pending litigation or otherwise terminate representation in accordance with the agreement with the client, or when permitted by the court as set forth in 1.2(c). Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[7A] Legal service organizations, courts, and various non-profit organizations have established programs through which lawyers provide limited legal services—typically advice—that will assist persons with limited means to address their legal problems without further representation by a lawyer. In these programs, such as legal advice hotlines, advice-only clinics, lawyer for the day programs in criminal or civil matters, or *pro se* counseling programs, an attorney-client relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. It is the purpose of this Rule to provide guidance to lawyers about their professional responsibilities when serving a client in this capacity.

[7B] The phrase “is aware” as used in Rule 1.2(d) should be distinguished from the term “knows” as defined in Rule 1.0: Definitions and Terminology. “Knows,” according to the definition, means actual knowledge of the fact in question, which may be inferred from circumstances. In contrast, “is aware” allows a lawyer, in the limited circumstances described in Rule 1.2(d), to represent clients without risk of a violation of Rules 1.7, 1.9, 1.10 and 1.11, if the lawyer knows, based on reasonable recollection and information provided by the client in the ordinary course of the consultation, that the representation does not present a conflict-of-interest. In such a case, knowledge may not be inferred from circumstances. This is because a lawyer who is representing a client in the circumstances addressed by Rule 1.2(d) is not able to check systematically for conflicts. A conflict-of-interest that would otherwise be imputed to a lawyer because of the lawyer's association with a firm will not preclude the lawyer from representing a client in a limited services program. Nor will the lawyer's participation in such a program preclude the lawyer's firm from undertaking or continuing the representation of clients with interests adverse to a client being represented under the program's auspices.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### LIMITED REPRESENTATION AGREEMENT

(Used in conjunction with Rule 1.2 the following form shall be sufficient to satisfy the rule. The authorization of this form shall not prevent the use of other forms consistent with this rule.)

To Be Executed in Duplicate

Date: \_\_\_\_\_, 20\_\_

1. The client, \_\_\_\_\_, retains the attorney, \_\_\_\_\_, to perform limited legal services in the following matter:    v   .
2. The client seeks the following services from the attorney (indicate by writing "yes" or "no"):
  - a. \_\_\_\_\_ Legal advice: office visits, telephone calls, fax, mail, e-mail;
  - b. \_\_\_\_\_ Advice about availability of alternative means to resolving the dispute, including mediation and arbitration;
  - c. \_\_\_\_\_ Evaluation of client self-diagnosis of the case and advising client about legal rights and responsibilities;
  - d. \_\_\_\_\_ Guidance and procedural information for filing or serving documents;
  - e. \_\_\_\_\_ Review pleadings and other documents prepared by client;
  - f. \_\_\_\_\_ Suggest documents to be prepared;
  - g. \_\_\_\_\_ Draft pleadings, motions, and other documents;
  - h. \_\_\_\_\_ Factual investigation: contacting witnesses, public record searches, in depth interview of client;
  - i. \_\_\_\_\_ Assistance with computer support programs;
  - j. \_\_\_\_\_ Legal research and analysis;
  - k. \_\_\_\_\_ Evaluate settlement options;
  - l. \_\_\_\_\_ Discovery: interrogatories, depositions, requests for document production;
  - m. \_\_\_\_\_ Planning for negotiations;
  - n. \_\_\_\_\_ Planning for court appearances;
  - o. \_\_\_\_\_ standby telephone assistance during negotiations or settlement conferences;

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- p. \_\_\_\_ Referring client to expert witnesses, special masters, or other counsel;
- q. \_\_\_\_ Counseling client about an appeal;
- r. \_\_\_\_ Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;
- s. \_\_\_\_ Provide preventive planning and/or schedule legal check-ups;
- t. \_\_\_\_ Other:

1. The client shall pay the attorney for those limited services as follows:

a. Hourly Fee: The current hourly fee charged by the attorney or the attorney's law firm for services under this agreement are as follows:

i. Attorney:

ii. Associate:

iii. Paralegal:

iv. Law Clerk:

Unless a different fee arrangement is established in clause b.) of this paragraph, the hourly fee shall be payable at the time of the service. Time will be charged in increments of one-tenth of an hour, rounded off for each particular activity to the nearest one-tenth of an hour.

b. Payment from Deposit:

For a continuing consulting role, client will pay to attorney a deposit of \$\_\_\_\_\_, to be received by attorney on or before \_\_\_\_\_, and to be applied against attorney fees and costs incurred by client. This amount will be deposited by attorney in attorney trust account. Client authorizes attorney to withdraw funds from the trust account to pay attorney fees and costs as they are incurred by client. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by client for attorney fees and costs is less than the amount of the deposit, the difference will be refunded to client. Any balance due shall be paid within thirty days of the termination of services.

c. Costs:

Client shall pay attorney out-of-pocket costs incurred in connection with this agreement, including long distance telephone and fax costs, photocopy expense and postage. All costs payable to third parties in connection with client case, including filing fees, investigation fees, deposition fees, and the like shall be paid directly by client. Attorney shall not advance costs to third parties on client behalf.

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1. The client understands that the attorney will exercise his or her best judgment while performing the limited legal services set out above, but also recognizes:
  - a. the attorney is not promising any particular outcome.
  - b. the attorney has not made any independent investigation of the facts and is relying entirely on the client limited disclosure of the facts given the duration of the limited services provided, and
  - c. the attorney has no further obligation to the client after completing the above described limited legal services unless and until both attorney and client enter into another written representation agreement.
1. If any dispute between client and attorney arises under this agreement concerning the payment of fees, the client and attorney shall submit the dispute for fee arbitration in accordance with Rule 9(e)-(k) of the Maine Bar Rules. This arbitration shall be binding upon both parties to this agreement.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

---

Signature of client

---

Signature of attorney

### **Rule 1.16: Declining or Terminating Representation**

(c) A lawyer must comply with applicable law and rules requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation. This subsection (c) does not apply to the automatic withdrawal of a lawyer upon completion of a limited representation made pursuant to Rule 1.2.

### **Rule 4.2: Communications with Person Represented by Counsel and Limited Representation**

(b) An otherwise unrepresented party to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule, except to the extent the limited representation attorney provides other counsel written notice of a time period within which other counsel shall communicate only with the limited representation attorney.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services and Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer is aware that the representation of the client involves a conflict-of-interest; and

(2) is subject to Rule 1.10 only if the lawyer is aware that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer’s representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client’s informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict-of-interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer’s firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer’s firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer’s firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer’s participation in a short-term limited legal services program will not preclude

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

[6] The phrase "is aware" as used in paragraphs (a) (1) and (2) should be distinguished from the term "knows" as defined in Rule 1.0: Terminology. "Knows," according to the definition, means actual knowledge of the fact in question, which may be inferred from circumstances. In contrast, "is aware" allows a lawyer, in the limited circumstances described in this Rule, to represent clients without risk of a violation of Rules 1.7, 1.9, 1.10 and 1.11, if the lawyer knows, based on reasonable recollection and information provided by the client in the ordinary course of the consultation, that the representation presents a conflict-of-interest. In such a case, knowledge may not be inferred from circumstances. This is because a lawyer who is representing a client in the circumstances addressed by this Rule is not able to check systematically for conflicts. A conflict-of-interest that would otherwise be imputed to a lawyer because of the lawyer's association with a firm will not preclude the lawyer from representing a client in a limited services program. Nor will the lawyer's participation in such a program preclude the lawyer's firm from undertaking or continuing the representation of clients with interests adverse to a client being represented under the program's auspices.

### **Maine Rules of Civil Procedure**

#### **Rule 5: Service and Filing of Pleadings and Other Papers**

**(b) Same: How Made.** Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party personally is ordered by the court. When an attorney has filed a limited appearance under Rule 11(b), service upon the attorney is not required. Service upon an attorney who has ceased to represent a party is a sufficient compliance with this subdivision until written notice of change of attorneys has been served upon the other parties. Service upon an attorney or upon a party shall be made by delivering a copy to the attorney or to the party or by mailing it to the last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the office of the attorney or of the party with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein, or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

**Rule 11: Signing of Pleadings and Motions; Sanctions**

(b) **Limited Appearance of Attorneys.** To the extent permitted by the Maine Bar Rules, an attorney may file a limited appearance on behalf of an otherwise unrepresented litigant. The appearance shall state precisely the scope of the limited representation. The requirements of subdivision (a) shall apply to every pleading and motion signed by the attorney. An attorney filing a pleading or motion outside the scope of the limited representation shall be deemed to have entered an appearance for the purposes of the filing.

**Rule 89: Withdrawal of Attorneys; Visiting Lawyers; Temporary Practice with Limited Legal Services Organizations**

(a) **Withdrawal of Attorneys.** An attorney may withdraw from a case in which the attorney appears as sole counsel for a client, by serving notice of withdrawal on the client and all other parties and filing the notice, provided that (1) such notice is accompanied by notice of the appearance of other counsel, (2) there are no motions pending before the court, and (3) no trial date has been set. Unless these conditions are met, the attorney may withdraw from the case only by leave of court. A motion for leave to withdraw shall state the last known address of the client and shall be served on the client in accordance with Rule 5. This subdivision shall not apply to a limited appearance filed under Rule 11(b) unless the attorney seeks to withdraw from the limited appearance itself.

**Maryland Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule

**Massachusetts Rules of Professional Conduct**

**Rule 1.2: Scope of Representation**

(c) A lawyer may limit the objectives of the representation if the client consents after consultation.

**Comment**

[4] The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent.

[5] An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is not subject to Rule 1.5(b);

(2) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(3) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(3), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -- such as advice or the completion of legal forms -- that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Massachusetts Supreme Judicial Court Order**

#### ***In Re: Limited Assistance Representation***

#### **ORDER**

Limited Assistance Representation may be implemented in any Department of the Trial Court in such Divisions and in connection with such matters as each Trial Court Department Chief Justice, in his or her discretion and with the approval of the Chief Justice for Administration and Management, may prescribe. Notwithstanding any provision to the contrary in any Rule of Court or Standing Order, it is hereby **ORDERED** that the following procedures shall apply with respect to Limited Assistance Representation.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### 1. Limited Assistance Representation.

A qualified attorney may limit the scope of his or her representation of a client if the limitation is reasonable under the circumstances and the client gives informed consent.

An attorney shall not be deemed a "qualified attorney" unless he or she completes an information session on Limited Assistance Representation approved by the Chief Justice of the Trial Court Department in which the attorney seeks to represent a client on a limited basis.

### 2. Limited Appearance.

An attorney making a limited appearance on behalf of an otherwise unrepresented party shall file a Notice of Limited Appearance in the form attached to this Order. The Notice shall state precisely the court event to which the limited appearance pertains, and, if the appearance does not extend to all issues to be considered at the event, the Notice shall identify the discrete issues within the event covered by the appearance. An attorney may not enter a limited appearance for the sole purpose of making evidentiary objections. Nor shall a limited appearance allow both an attorney and a litigant to argue on the same legal issue during the period of the limited appearance. An attorney may file a Notice of Limited Appearance for more than one court event in a case. At any time, including during an event, an attorney may file a new Notice of Limited Appearance with the agreement of the client.

A pleading, motion or other document filed by an attorney making a limited appearance shall comply with Rule 11(a), Mass. R.Civ.P., and/or cognate Departmental Rules, and shall state in bold type on the signature page of the document: "**Attorney of [party] for the limited purpose of [court event].**" An attorney filing a pleading, motion or other document outside the scope of the limited appearance shall be deemed to have entered a general appearance, unless the attorney files a new Notice of Limited Appearance with the pleading, motion or other document.

Upon the completion of the representation within the scope of a limited appearance, an attorney shall withdraw by filing a Notice of Withdrawal of Limited Appearance in the form attached to this Order, which notice shall include the client's name, address and telephone number, unless otherwise provided by law. The attorney must file a Notice of Withdrawal of Limited Appearance for each court event for which the attorney has filed a Notice of Limited Appearance. The court may impose sanctions for failure to file such notice.

### 3. Service.

Whenever service is required or permitted to be made upon a party represented by an attorney making a limited appearance, for all matters within the scope of the limited appearance, the service shall be made upon both the attorney and the party. Service upon a party shall be at the address listed for the party in the Notice of Limited Appearance. If the party's address has been impounded by court order or rule, service of process on the party shall be made in accordance with the court order or rule. Service upon an attorney making a limited appearance shall not be required for matters outside the scope of the limited appearance.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### 4. Assistance in the preparation of documents.

An attorney may assist a client in preparing a pleading, motion or other document to be signed and filed in court by the client, a practice sometimes referred to as "ghostwriting."

In such cases, the attorney shall insert the notation "prepared with assistance of counsel" on any pleading, motion or other document prepared by the attorney. The attorney is not required to sign the pleading, motion or document, and the filing of such pleading, motion or document shall not constitute an appearance by the attorney.

### **Michigan Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation**

(b) A lawyer may limit the objectives of the representation if the client consents after consultation.

#### **Comment**

The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal-aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent.

An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

#### **Rule 6.6: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### Comment

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -- such as advice or the completion of legal forms -- that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Minnesota Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

**Comment**

[6] The objectives or scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

**Rule 6.5: Pro Bono Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program offering pro bono legal services, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this rule.

**Comment**

[1] Legal services organizations, courts and various organizations have established programs through which lawyers provide short-term limited legal services — such as advice or the completion of legal forms — that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in 103 this rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rule 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rule 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rule 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Minnesota General Rules of Practice for the District Courts**

#### **Rule 110: Authority for Self-Help Programs**

110.01. A District Court for any county may establish a Self-Help Program to facilitate access to the courts. The purpose of a Self-Help Program is to assist Self-Represented Litigants, within the bounds of this rule, to achieve fair and efficient resolution of their cases, and to minimize the delays and inefficient use of court resources that result from misuse of the court system by litigants who are not represented by lawyers. There is a compelling state interest in resolving cases efficiently and fairly, regardless of the financial resources of the parties.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### 110.02 Staffing

The Self-Help Program may be staffed by lawyer and non-lawyer personnel, and volunteers under the supervision of regular personnel. Self-Help Personnel act at the direction of the district court judges to further the business of the court.

(Added effective January 1, 2004.)

### 110.03 Definitions

(a) “Self-Represented Litigant” means any individual who seeks information to file, pursue, or respond to a case without the assistance of a lawyer authorized to practice before the court.

(b) “Self-Help Personnel” means lawyer and non-lawyer personnel and volunteers under the direction of paid staff in a Self-Help Program who are performing the limited role under this rule. “Self-Help Personnel” does not include lawyers who are providing legal services to only one party as part of a legal services program that may operate alongside or in conjunction with a Self-Help Program.

(c) “Self-Help Program” means a program of any name established and operating under the authority of this rule.

(Added effective January 1, 2004.)

### 110.04 Role of Self-Help Personnel

**(a) Required Acts.** Self-Help Personnel shall

- (1) Educate Self-Represented Litigants about available pro bono legal services, low cost legal services, legal aid programs, lawyer referral services and legal resources provided by state and local law libraries;
- (2) Encourage Self-Represented Litigants to obtain legal advice;
- (3) Provide information about mediation services;
- (4) Provide services on the assumption that the information provided by the litigant is true; and
- (5) Provide the same services and information to all parties to an action, if requested.

**(b) Permitted, but Not Required, Acts.** Self-Help Personnel may, but are not required to:

- (1) provide forms and instructions;
- (2) assist in the completion of forms;
- (3) provide information about court process, practice and procedure;
- (4) offer educational sessions and materials on all case types, such as sessions and materials on marriage dissolution;
- (5) answer general questions about family law and other issues and how to proceed with such matters;

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

- (6) explain options within and outside of the court system;
- (7) assist in calculating guidelines child support based on information provided by the Self-Represented Litigant;
- (8) assist with preparation of court orders under the direction of the court; and
- (9) provide other services consistent with the intent of this rule and the direction of the court, including programs in partnership with other agencies and organizations.

**(c) Prohibited Acts.** Self-Help Personnel may not:

- (1) represent litigants in court;
- (2) perform legal research for litigants;
- (3) deny a litigant's access to the court;
- (4) lead litigants to believe that they are representing them as lawyers in any capacity or induce the public to rely on them for personal legal advice;
- (5) recommend one option over another option;
- (6) offer legal strategy or personalized legal advice;
- (7) tell a litigant anything she or he would not repeat in the presence of the opposing party;
- (8) investigate facts pertaining to a litigants case, except to help the litigant obtain public records; or
- (9) disclose information in violation of statute, rule, or case law.

(Added effective January 1, 2004.)

### **110.05 Disclosure**

Self-Help Programs shall provide conspicuous notice that:

- (a) no attorney-client relationship exists between Self-Help Personnel and Self-Represented Litigants;
- (b) communications with Self-Help Personnel are neither privileged nor confidential;
- (c) Self-Help Personnel must remain neutral and may provide services to the other party; and
- (d) Self-Help personnel are not responsible for the outcome of the case.

Program materials should advise litigants to consult with their own attorney if they desire personalized advice or strategy, confidential conversations with an attorney, or if they wish to be represented by an attorney in court.

(Added effective January 1, 2004.)

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### **110.06 Unauthorized Practice of Law**

The performance of services by Self-Help Personnel in accordance with this rule shall not constitute the unauthorized practice of law.

(Added effective January 1, 2004.)

### **110.07 No Attorney-Client Privilege or Confidentiality**

Except as provided in Rule 110.09, information given by a Self-Represented Litigant to court administration staff or Self-Help Personnel is neither confidential nor privileged. No attorney-client relationship exists between Self-Help Personnel and a Self-Represented Litigant. Notwithstanding the foregoing, Self-Help Personnel who are also lawyers and are permitted to practice law outside the role of Self-Help Personnel under this rule must abide by all applicable Rules of Professional Conduct regarding confidentiality and conflicts of interest.

(Added effective January 1, 2004.)

### **110.08 Conflict**

Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, there shall be no conflict of interest when Self-Help Personnel provide services to both parties, provided, however, that Self-Help Personnel who are also lawyers and are permitted to practice law outside the role of Self-Help Personnel under this rule, must abide by all applicable Rules of Professional Conduct regarding conflicts of interest. (Added effective January 1, 2004.)

### **110.09 Access to Records**

All records made or received in connection with the official business of a Self-Help Program relating to the address, telephone number or residence of a Self-Represented Litigant are not accessible to the public or the other party. (Added effective January 1, 2004.)

### **Advisory Committee Comment—2003 Adoption**

Rule 110 is a new rule adopted in 2003 on the recommendation of a pro se implementation committee to facilitate access to and use of the courts by pro se litigants. It is modeled after similar family law provisions in other jurisdictions. See, e.g., Ca. Fam. Code §§ 10000–100015 (West 2003); Fla. Fam. L. R. P. 12.750 (West 2003); Or. Rev. Stat. § 3.428 (2003); Wash. Rev. Code § 26.12.240 (2003); Wash. R. Gen. GR 27 (West 2003).

The rule defines and communicates to interested parties the role of Self-Help Personnel. Definition of roles is important because of the potential for confusion.

Rule 110.03(b) intentionally limits the definition of Self-Help Personnel to exclude lawyers who provide services to one party, as is commonly done by legal service program attorneys. Because of this definition, Rule 110.07 does not limit the creation of an attorney-client relationship in such attorney-client relationships. Rules 110.07-.08 recognize that Self-Help Personnel who are otherwise engaged in or authorized to engage in the practice of law may have obligations to

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

clients outside the Self-Help Program that can affect their relationships to Self-Represented Litigants within the Self-Help Program.

### **Mississippi Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation**

(c) A lawyer may limit the objectives or scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comment**

**Services Limited in Objectives or Means.** The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage.

A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

Limited scope representation is an important means of providing access to justice for all persons regardless of financial resources. Lawyers are encouraged to offer limited services when appropriate, particularly when a client's financial resources are insufficient to secure full scope of services. For example, lawyers may provide counsel and advice and may draft letters or pleadings.

Lawyers may assist clients in preparation for litigation with or without appearing as counsel of record. Within litigation, lawyers may limit representation to attend a hearing on a discrete matter, such as a deposition or hearing, or to a specific issue in litigation.

Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited pro bono legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including the duty of confidentiality set out in Rule 1.6 and 1.9(b) are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. The lawyer participating in the pro bono representation is disqualified from continued representation of the pro bono client or from participating in his firm's representation of a client with interests adverse to the pro bono client. However, his personal disqualification will not be imputed to other lawyers in his firm.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable

### **Missouri Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation**

(c) A lawyer may limit the scope of representation if the client gives informed consent in a writing signed by the client to the essential terms of the representation and the lawyer's limited role. Use of a written notice and consent form substantially similar to that contained in the comment to this Rule 4-1.2 creates the presumptions:

- (1) the representation is limited to the lawyer and the services described in the form, and
- (2) the lawyer does not represent the client generally or in any matters other than those identified in the form.

(d) The requirement of a writing signed by the client does not apply to:

- (1) an initial consultation with any lawyer, or
- (2) pro bono services provided through a nonprofit organization, a court-annexed program, a bar association, or an accredited law school,
- (3) services provided by a not-for-profit organization funded in whole or in part by the Legal Services Corporation established by 42 USC Sec. 2996b.

(e) An otherwise unrepresented party to whom limited representation is being provided or has been provided is considered to be unrepresented for purposes of communication under Rule 4-4.2 and Rule 4-4.3 except to the extent the lawyer acting within the scope of limited representation provides other counsel with a written notice of a time period within which other counsel shall communicate only with the lawyer of the party who is otherwise self-represented.

**Comment**

**Scope of Representation**

[1] Both lawyer and client have authority and responsibility in the objectives and means of representation. The client has ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. Within those limits, a client also has a right to consult with the lawyer about the means to be used in pursuing those objectives. At the same time, a lawyer is not required to pursue objectives or employ means simply because a client may wish that the lawyer do so. A clear distinction between objectives and means sometimes cannot be drawn, and in many cases the client-lawyer relationship partakes of a joint undertaking. In questions of means, the lawyer should assume responsibility for technical and legal tactical issues, but should defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Law defining the lawyer's scope of authority in litigation varies among jurisdictions.

[2] A lawyer may assist a self-represented litigant on a limited basis without undertaking the full representation of the client on all issues related to the legal matter for which the lawyer is engaged. Any doubt about the scope of representation should be resolved in a manner that promotes the interests of justice and those of the client and opposing party. Use of a written agreement for limited representation is required, except as provided in this Rule 4-1.2. If a written agreement is not required by Rule 4-1.2, the better practice is for the attorney to memorialize in writing the contact and services provided. The initial consultation ends when the lawyer and the client agree that the lawyer will or will not undertake the representation. A lawyer may provide legal advice during an initial consultation. The lawyer shall explain to the client the risks and benefits of limited representation during consultation on limiting the scope of representation. An agreement for limited representation does not exempt a lawyer from the duty to provide competent representation; however, the limitation of the scope of representation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation as required in Rule 41.1.

The following is a notice and consent to limited representation form that is appropriate:

**Notice and Consent to Limited Representation**

To help you with your legal matters, you, the client, and \_\_\_\_\_, the lawyer, agree that the lawyer will limit the representation to helping you with a certain legal matter for a short time or for a particular purpose.

The lawyer must act in your best interest and give you competent help. When a lawyer and you agree that the lawyer will provide limited help:

- The lawyer DOES NOT HAVE TO GIVE MORE HELP than the lawyer and you agreed; and
  - The lawyer DOES NOT HAVE TO HELP WITH ANY OTHER PART of your legal matter.
- While performing the limited legal services, the lawyer:

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

- Is not promising any particular outcome; and
- Is relying entirely on your disclosure of facts and will not make any independent investigation unless expressly agreed to in writing in this document.

If short-term limited representation is not reasonable, a lawyer may give advice, but will also tell you of the need to get more or other legal counsel.

I, the lawyer, agree to help you by performing the following limited services listed below and no other service, unless we revise this agreement in writing.

[INSTRUCTIONS: Check every item either **Yes** or **No** - do not leave any item blank. Delete all text that does not apply.]:

**Y N**

- a) \_\_\_ \_\_\_ Give legal advice through office visits, telephone calls, facsimile (fax), mail or e-mail
- b) \_\_\_ \_\_\_ Advise about alternate means of resolving the matter including mediation and arbitration
- c) \_\_\_ \_\_\_ Evaluate the client's self-diagnosis of the case and advise about legal rights and responsibilities.
- d) \_\_\_ \_\_\_ Review pleadings and other documents prepared by you, the client
- e) \_\_\_ \_\_\_ Provide guidance and procedural information regarding filing and serving documents
- f) \_\_\_ \_\_\_ Suggest documents to be prepared
- g) \_\_\_ \_\_\_ Draft pleadings, motions and other documents
- h) \_\_\_ \_\_\_ Perform factual investigation including contacting witnesses, public record searches, in-depth interview of you, the client
- i) \_\_\_ \_\_\_ Perform legal research and analysis
- j) \_\_\_ \_\_\_ Evaluate settlement options
- k) \_\_\_ \_\_\_ Perform discovery by interrogatories, deposition and requests for admissions
- l) \_\_\_ \_\_\_ Plan for negotiations
- m) \_\_\_ \_\_\_ Plan for court appearances

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n) \_\_\_ \_\_\_ Provide standby telephone assistance during negotiations or settlement conferences

o) \_\_\_ \_\_\_ Refer you, the client, to expert witnesses, special masters or other attorneys

p) \_\_\_ \_\_\_ Provide procedural assistance with an appeal

q) \_\_\_ \_\_\_ Provide substantive legal arguments in an appeal

r) \_\_\_ \_\_\_ Appear in court for the limited purpose of \_\_\_\_\_

\_\_\_\_\_

s) \_\_\_ \_\_\_ Other: \_\_\_\_\_

I will charge to the Client the following costs: \_\_\_\_\_

\_\_\_\_\_

I will charge to the Client the following fee for my limited legal representation:

\_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

[Type Lawyer's name)

**CLIENT'S CONSENT**

I have read this Notice and Consent form and I understand it. I agree that the legal services listed above are the ONLY legal services to be provided by the lawyer. I understand and agree that the lawyer who is helping me with these services is not my lawyer for any other purpose and does not have to give me more legal help. If the lawyer is giving me advice or is helping me with legal or other documents, I understand the lawyer will stop helping me when the services listed above have been completed. The address I give below is my permanent address where I can be reached. I understand that it is important that the court handling my case and other parties to the case be able to reach me at the address after the lawyer ends the limited representation. I therefore agree that I will inform the Court and other parties of any change in my permanent address.

In exchange for the Lawyer's limited representation, I agree to pay the attorney's fee and costs described above.

Sign your name: \_\_\_\_\_

Print your name: \_\_\_\_\_

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Print your address: \_\_\_\_\_

Phone number: \_\_\_\_\_ FAX: \_\_\_\_\_

Message Phone: \_\_\_\_\_ Name: \_\_\_\_\_

Email address: \_\_\_\_\_

### **Rule 1.16: Declining or Terminating Representation**

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation unless the lawyer has filed a notice of termination of limited appearance. Except when such notice is filed, a lawyer shall continue representation when ordered to do so by a tribunal notwithstanding good cause for terminating the representation.

### **Rule 6.5: Nonprofit and Court-annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 4-1.7 and 4-1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 4-1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rules 4-1.7 or 4-1.9(a) with respect to the matter.

(b) Except as provided in Rule 4-6.5(a)(2), Rule 4-1.10 is inapplicable to a representation governed by this Rule 4-6.5.

### **Comment**

[1] Legal services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services — such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics, or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 4-1.7, 4-1.9, and 4-1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule 4-6.5 must secure the client's informed consent to the limited scope of the representation. See Rule 4-1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the

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lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule 4-6.5, the Rules of Professional Conduct, including Rules 4-1.6 and 4-1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule 4-6.5 ordinarily is not able to check systematically for conflicts of interest, Rule 4-6.5(a) requires compliance with Rules 4-1.7 or 4-1.9(a), only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 4-1.10, only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 4-1.7 or 4-1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, Rule 4-6.5(b) provides that Rule 4-1.10 is inapplicable to a representation governed by this Rule 4-6.5 except as provided by Rule 4-6.5(a)(2). Rule 4-6.5(a)(2) requires the participating lawyer to comply with Rule 4-1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 4-1.7 or 4-1.9(a). By virtue of Rule 4-6.5(b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule 4-6.5, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 4-1.7, 4-1.9(a), and 4-1.10 become applicable.

(Adopted July 1, 2007, eff. July 1, 2007)

### **Missouri Rules of Civil Procedure**

#### **Rule 43.01: Service of Pleadings and Other Papers**

(b) Service on Attorney. Whenever under these rules or any of the statutes of this state service is required or permitted to be made upon a party represented by an attorney of record, the service shall be made upon the attorney unless service upon the party is ordered by the court. When a party is represented by more than one attorney, service may be made upon any such attorney. If an attorney has filed a notice of limited appearance for an otherwise self-represented person, service shall be made on the self-represented person and not on the attorney unless the attorney acting within the scope of limited representation serves the other party or the other party's attorney with a copy of the notice of limited appearance setting forth a time period within which service shall be upon the attorney.

#### **Rule 55.03: Signing of Pleadings, Motions and Other Papers; Appearance and Withdrawal of Counsel; Representations to Court; Sanctions**

(a) Signature Required. Every pleading, motion and other filing shall be signed by at least one attorney of record in the attorney's individual name or, if the party is not represented by an

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attorney, shall be signed by the party. An attorney who assists in the preparation of a pleading, motion, or other filing for an otherwise self-represented person is not required to sign the document. Every filing made electronically must add a certificate verifying that the original was signed by the attorney or party shown as the filer. The original signed filing must be maintained by the filer for a period of not less than the maximum allowable time to complete the appellate process.

Each filing shall state the filer's address, Missouri bar number, if applicable, telephone number, facsimile number, and electronic mail address, if any.

An unsigned filing or an electronic filing without the required certification shall be stricken unless the omission is corrected promptly after being called to the attention of the attorney or party filing same.

(b) **Appearance and Withdrawal of Counsel.** An attorney who appears in a case shall be considered as representing the parties for whom the attorney appears for all purposes in that case, except as otherwise provided in a written notice of limited appearance. If a notice of limited appearance is filed, service shall be made as provided in Rule 43.01(b).

An attorney appears in a case by:

(1) Participating in any proceeding as counsel for any party unless limited by a notice of limited appearance;

(2) Signing the attorney's name on any pleading, motion, or other filing except that an attorney who assisted in the preparation of a pleading, motion, or other filing and whose name appears on the pleading, motion, or other filing solely in that limited capacity has not entered an appearance in the matter; or

(3) Making a written appearance. A written entry of appearance may be limited by its terms to a particular proceeding or matter by filing a notice of limited appearance.

An attorney who files a notice of limited appearance withdraws when the attorney has fulfilled the duties set forth in the notice and files a termination of limited appearance with the court

(c) **Representation to the Court.** By presenting and maintaining a claim, defense, request, demand, objection, contention, or argument in a pleading, motion, or other paper filed with or submitted to the court, an attorney or party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that:

(1) The claim, defense, request, demand, objection, contention, or argument is not

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presented or maintained for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. An attorney providing drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney knows that such representations are false; and

(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

### **Rule 88.09: Parties Not Represented By Counsel**

Every party not represented by counsel who participates in a proceeding for dissolution of marriage, legal separation, parentage or the modification of a judgment in any such proceeding shall:

(a) Complete a litigant awareness program that includes an explanation of the risks and responsibilities of self-representation, unless waived by the circuit court. The awareness program shall be prepared by a committee designated by this Court, but each circuit may determine the manner and means by which the training shall be provided and the proof of compliance; and

(b) Unless such use is waived by the trial court, use the pleadings, forms, and proposed judgment prepared by a committee designated by this Court that have been approved by this Court. These forms shall be accepted by the courts of this state, until disapproved or superseded by this Court.

(c) Nothing in this Rule 88.09 prevents a court from determining the legal sufficiency of any pleading nor prevents a court from entering judgment in a form different from the judgment form approved pursuant to Rule 88.09(b).

\* The materials can be accessed at <http://www.selfrepresent.mo.gov/page.jsp?id=5240>  
"Representing Yourself in Missouri Courts: Access to Family Courts."

(Adopted Dec. 21, 2007, eff. July 1, 2008; Amended June 23, 2008, eff. July 1, 2008; Amended Dec. 23, 2008, eff. April 1, 2009.)

## **Montana Rules of Professional Conduct**

### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

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(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing.

(1) The client's informed consent must be confirmed in writing unless:

(i) the representation of the client consists solely of telephone consultation;

(ii) the representation is provided by a lawyer employed by a nonprofit legal services program or participating in a nonprofit court-annexed legal services program and the lawyer's representation consists solely of providing information and advice or the preparation of court-approved legal forms; or

(iii) the court appoints the attorney for a limited purpose that is set forth in the appointment order.

(2) If the client gives informed consent in writing signed by the client, there shall be a presumption that:

(i) the representation is limited to the attorney and the services described in the writing; and

(ii) the attorney does not represent the client generally or in matters other than those identified in the writing.

### **Rule 4.2: Communication with Person Represented by Counsel**

(b) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing party or lawyer has been provided with a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation.

### **Rule 4.3: Dealing with Unrepresented Person**

(b) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing party or lawyer has been provided with a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Montana Rules of Civil Procedure**

#### **Rule 4.1: Limited Representation Permitted -- Process**

(a) In accordance with Rule 1.2(c) of the Montana Rules of Professional Conduct, an attorney may undertake to provide limited representation to a person involved in a court proceeding.

(b) Providing limited representation of a person under these rules shall not constitute an entry of appearance by the attorney for purposes of Rule 5(b) and does not authorize or require the service or delivery of pleadings, papers, or other documents upon the attorney under Rule 5(b).

(c) Representation of the person by the attorney at any proceeding before a judge or other judicial officer on behalf of the person constitutes an entry of appearance, except to the extent that a limited notice of appearance as provided for under Rule 4.2 is filed and served prior to or simultaneous with the actual appearance. Service on an attorney who has made a limited appearance for a party shall be valid only in connection with the specific proceedings for which the attorney appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders.

(d) The attorney's violation of this Rule may subject the attorney to sanctions provided in Rule 11.

History: En. Sup. Ct. Ord. No. AF 07-0157, April 26, 2011, eff. Oct. 1, 2011.

#### **Rule 4.2: Notice of Limited Appearance and Withdrawal as Attorney**

(a) Notice of limited appearance. If specifically so stated in a notice of limited appearance filed and served prior to or simultaneous with the proceeding, an attorney's role may be limited to one or more individual proceedings in the action.

(b) At the conclusion of such proceedings the attorney's role terminates without the necessity of leave of court, upon the attorney filing notice of completion of limited appearance.

History: En. Sup. Ct. Ord. No. AF 07-0157, April 26, 2011, eff. Oct. 1, 2011.

**Rule 11: Signing of Pleadings, Motions, and other Papers -- Sanctions**

(e) Limited Scope Representation. An attorney may help to draft a pleading, motion, or document filed by an otherwise self-represented person, and the attorney need not sign that pleading, motion, or document. The attorney in providing such drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

**Nebraska Rules of Professional Conduct**

**Rule 3-501.2: Scope of Representation and Allocation of Authority Between Client and Lawyer**

(a) Subject to paragraphs (b), (c), (d), (e), and (f), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer may limit the scope of his or her representation of a client if the limitation is reasonable in the lawyer's judgment under the circumstances and the client gives informed consent to such limited representation.

(c) A lawyer may prepare pleadings, briefs, and other documents to be filed with the court so long as such filings clearly indicate thereon that said filings are "Prepared By" and the name, business address, and bar number of the lawyer preparing the same. Such actions by the lawyer shall not be deemed an appearance by the lawyer in the case. Any filing prepared under this rule shall be signed by the litigant designated as "pro se," but shall not be signed by the lawyer preparing the filing.

(d) If, after consultation, the client consents in writing, a lawyer may enter a "Limited Appearance" on behalf of an otherwise unrepresented party involved in a court proceeding, and such appearance shall clearly define the scope of the lawyer's limited representation.

(e) Upon completion of the "Limited Representation," the lawyer shall within 10 days file a "Certificate of Completion of Limited Representation" with the court. Copies shall be provided to the client and opposing counsel or opposing party if unrepresented. After such filing, the lawyer shall not have any continuing obligation to represent the client. The filing of such certificate shall be deemed to be the lawyer's withdrawal of appearance which shall not require court approval.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(f) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

§ 3-501.2(a) through (f) amended August 28, 2008; § 3-501.2(c) amended October 21, 2008.

### **Comment**

[5] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[6] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[7] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 3-504.2: Communication with Person Represented by Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

### **Comment**

[10] In the event an "Entry of Limited Appearance" is filed, opposing counsel may communicate with such lawyer's client on matters outside the scope of limited representation, and by filing such limited appearance, the lawyer and the client shall be deemed to have consented to such communication.

Comment [10] of § 3-504.2 adopted August 27, 2008.

**Rule 3-506.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services – such as advice or the completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(b). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude

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the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Nebraska Court Rules of Pleading in Civil Cases**

#### **Rule 6-1109: Pleading Special Matters**

(h) If, after consultation, the client consents in writing, an attorney may enter a “Limited Appearance” on behalf of an otherwise unrepresented party involved in a court proceeding, and such appearance shall clearly define the scope of the lawyer’s limited representation. A copy shall be provided to the client and

opposing counsel or opposing party if unrepresented.

(i) Upon completion of the limited representation, the lawyer shall within 10 days file a “Certificate of Completion of Limited Appearance” with the court. Copies shall be provided to the client and opposing counsel or opposing party if unrepresented. After such filing, the lawyer shall not have any continuing obligation to represent the client. The filing of such certificate shall be deemed to be the lawyer’s withdrawal of appearance which shall not require court approval.

#### **Comment**

Neb. Ct. R. Pldg. §§ 6-1109(h) and (i) should be viewed in conjunction with Neb. Ct. R. of Prof. Cond. § 3-501.2 which specifically authorizes Limited Scope Representation in Nebraska. Neb. Ct. R. Pldg. §§ 6-1109(h) and (i) formalize the method by which lawyers enter a case for a limited purpose and how such representation is formally ended.

#### **Rule 6-1111: Signing of Pleadings**

(b) When a lawyer is not an attorney of record, such lawyer may prepare pleadings, briefs, and other documents to be filed with the court so long as such filings clearly indicate thereon that said filings are “Prepared By” along with the name, business address, and bar number of the lawyer preparing the same, and that preparing such filings shall not be deemed an appearance by the lawyer in the case.

### **Nevada Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is (c) reasonable under the circumstances and the client gives informed consent.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

A lawyer who, under the auspices of a program sponsored by a nonprofit (a) organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

Is subject to Rules 1.7 and 1.9(a) only if (1) the lawyer knows that the representation of the client involves a conflict of interest; and Is subject to Rule 1.10 only if the lawyer (2) knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter. Except as provided in paragraph (a)(2), Rule 1.10 is (b) inapplicable to a representation governed by this Rule.

[Added; effective May 1, 2006.]

**Rules of Practice for the Eighth Judicial District of Nevada**

**Rule 5.28: Withdrawal of attorney in limited services (“unbundled services”) contract.**

(a) An attorney who contracts with a client to limit the scope of representation shall state that limitation in the first paragraph of the first paper or pleading filed on behalf of that client. Additionally, if the attorney appears at a hearing on behalf of a client pursuant to a limited scope contract, the attorney shall notify the court of that limitation at the beginning of that hearing.

(b) An attorney who contracts with a client to limit the scope of representation shall be permitted to withdraw from representation before the court by filing a Substitution of Attorney with the clerk’s office. The Substitution of Attorney shall state that the attorney is withdrawing from the case because the attorney was hired to perform a limited service, that service has completed, and shall include a copy of the limited services retainer agreement between the attorney and the client. The Substitution of Attorney shall also state that the client will be representing himself or herself in proper person unless another attorney agree to represent the client and shall contain the client’s address, or last known address, and telephone number at which the client may serve with notice of further proceedings taken in the case. The attorney must serve a copy of the Substitution of Attorney upon the client and all other parties to the action or their attorneys.

[Added; effective August 21, 2000.]

**New Hampshire Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. In providing limited representation, the lawyer's responsibilities to the client, the court and third parties remain as defined by these Rules as viewed in the context of the limited scope of the representation itself; and court rules when applicable.

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(f) In addition to requirements set forth in Rule 1.2(c),

(1) a lawyer may provide limited representation to a client who is or may become involved in a proceeding before a tribunal (hereafter referred to as litigation), provided that the limitations are fully disclosed and explained, and the client gives informed consent to the limited representation. The form set forth in section (g) of this Rule has been created to facilitate disclosure and explanation of the limited nature of representation in litigation. Although not prohibited, the provision of limited representation to a client who is involved in litigation and who is entitled as a matter of law to the appointment of counsel is discouraged.

(2) a lawyer who has not entered an applicable limited appearance, and who provides assistance in drafting pleadings, shall advise the client to comply with any rules of the tribunal regarding participation of the lawyer in support of a pro se litigant.

(g) *Sample form.*

### CONSENT TO LIMITED REPRESENTATION

#### Limited Representation

To help you in litigation, you and a lawyer may agree that the lawyer will represent you in the entire case, or only in certain parts of the case. "Limited representation" occurs if you retain a lawyer only for certain parts of the case.

When a lawyer agrees to provide limited representation in litigation, the lawyer must act in your best interest and give you competent help. However, when a lawyer and you agree that the lawyer will provide only limited help,

-- the lawyer DOES NOT HAVE TO GIVE MORE HELP than the lawyer and you agreed.

-- the lawyer DOES NOT HAVE TO help with any other part of your case.

If you and a lawyer have agreed to limited representation in connection with litigation, you should complete this form and sign your name at the bottom. Your lawyer will also sign to show that he or she agrees. If you and the lawyer both sign, the lawyer agrees to help you by performing the following limited services:

1. \_\_\_ Provide you general advice about your legal rights and responsibilities in connection with potential litigation concerning:

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which advice shall be provided as:

\_\_\_ consultation at a one-time meeting, or

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\_\_\_\_\_ consultation at an initial meeting and further meetings, telephone calls or correspondence (by mail, fax or email) as needed, or as requested by you.

2. \_\_\_\_\_ Assist in the preparation of your court or mediation matter regarding

\_\_\_\_\_

by:

[Case name]

\_\_\_\_\_ explaining court procedures

\_\_\_\_\_ legal research and analysis regarding \_\_\_\_\_

\_\_\_\_\_ reviewing court papers and other documents prepared by you or for you

\_\_\_\_\_ preparation for court hearing regarding \_\_\_\_\_

\_\_\_\_\_ suggesting court papers for you to prepare

\_\_\_\_\_ preparation for mediation

\_\_\_\_\_ drafting the following court papers for your use:

\_\_\_\_\_ other: \_\_\_\_\_

3. \_\_\_\_\_ Representing you in Court regarding \_\_\_\_\_, [Case name]

but only for the following specific matter(s):

\_\_\_\_\_ Motion for \_\_\_\_\_

\_\_\_\_\_ Temporary hearing

\_\_\_\_\_ final hearing

\_\_\_\_\_ trial

\_\_\_\_\_ other:

4. \_\_\_\_\_ Other limited service:

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Consent

I have read this Consent to Limited Representation Form and I understand what it says. As the lawyer's client, I agree that the legal services specified above are the only legal help this lawyer will give me. I understand and agree that:

- the lawyer who is helping me with these services is not my lawyer for any other purpose and does not have to give me any more legal help;
- the lawyer is not promising any particular outcome;
- because of the limited services to be provided, the lawyer has limited his or her investigation of the facts to that necessary to carry out the identified tasks with competence and in compliance with court rules;
- if the lawyer goes to court with me, the lawyer does not have to help me afterwards, unless we both agree in writing.

I agree the address below is my permanent address and telephone number where I may be reached. I understand that it is important that my lawyer, the opposing party and the court handling my case, if applicable, be able to reach me at this address. I therefore agree that I will inform my lawyer or any Court and opposing party, if applicable, of any change in my permanent address or telephone number.

A separate fee agreement (\_\_\_\_ was / \_\_\_\_ was not) also signed by me and my lawyer.

\_\_\_\_\_  
[print or type your name] Client's Name

\_\_\_\_\_  
[print or type your full mailing street/apartment address]

\_\_\_\_\_  
[sign your name]

\_\_\_\_\_  
[print or type City, State and Zip Code]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[print or type your Phone Number]

\_\_\_\_\_  
[print or type your name] Lawyer's Name

\_\_\_\_\_  
[print or type name of law firm]

\_\_\_\_\_  
[sign your name]

\_\_\_\_\_  
[print or type Street,

City, State and Zip Code]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[print or type your Phone Number]

**Rule 4.2: Communication with Person Represented by Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order. An otherwise unrepresented party to whom limited representation is being provided or has been provided in accordance with Rule 1.2(f)(1) is considered to be unrepresented for purposes of this Rule, except to the extent the limited representation lawyer provides other counsel written notice of a time period within which other counsel shall communicate only with the limited representation lawyer.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Service Programs**

(a) A lawyer who, under the auspices of a program sponsored by the New Hampshire Bar Association, a nonprofit organization or court, provides one-time consultation with a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

(c) Rules 1.6 and 1.9(c) are applicable to a representation governed by this Rule.

**Ethics Committee Comment**

**1. New Hampshire’s version differs from the Model Rule as follows:**

a. Application of this Rule in (a) is limited to a “one time consultation with a client” instead of the ABA’s version “short-term limited legal services to a client”.

b. Section (c) is added.

2. The change in (a) is intended to give the attorney some clarity as to the scope of this Rule. This Rule relaxes certain of the normal conflicts limitations to allow this important pro bono

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service; this Rule applies only under circumstances where it is not reasonably possible for the attorney to otherwise comply with normal conflict of interest records checks procedures. Therefore, the situation where an attorney provides repeated services for the same client, and not a “one time consultation”, would not permit any deviation from the normal conflicts rules.

3. The addition of Section (c) is intended simply to emphasize the attorney's continuing responsibility to maintain confidences under Rule 1.6, and the attorney's duties to a former client under Rule 1.9(c). This inclusion raises this language, already contained in ABA Comment [2], to Rule status.

4. The value of the services rendered to the public in this pro bono context is important enough to justify carving out a special exception to the normal conflicts rules applicable in general client representation. In this special context, not even the protective “screening” rules, such as those adopted in 1.11(b), were employed.

5. Should a lawyer participating in a one-time consultation under this Rule later discover that the lawyer's firm was representing or later undertook the representation of an adverse client, the prior participation of the attorney will not preclude the lawyer's firm from continuing or undertaking representation of such adverse client. But the participating lawyer will be disqualified and must be screened from any involvement with the firm's adverse client. *See* ABA Comment [4].

### **New Hampshire Rules of Civil Procedure**

#### **Rule 3: Filing and Service**

(b) When an attorney has filed a limited appearance under Rule 14(d) on behalf of an opposing party, copies of pleadings filed and communications addressed to the court shall be furnished both to the opposing party who is receiving the limited representation and to the limited representation attorney. After the limited representation attorney files that attorney's “withdrawal of limited appearance” form, as provided in Rule 15(e), no further service need be made upon that attorney. All such pleadings or communications shall contain a statement of compliance herewith.

#### **Rule 17: Appearance and Withdrawal**

(c) Limited Appearance of Attorneys. To the extent permitted by Rule 1.2 of the New Hampshire Rules of Professional Conduct, an attorney providing limited representation to an otherwise unrepresented litigant may file a Limited Appearance in a non-criminal case on behalf of such unrepresented party. The Limited Appearance shall state precisely the scope of the limited representation, and the attorney's involvement in the matter shall be limited only to what is specifically stated. The requirements of Rule 7(c) and (d) of these Rules shall apply to every pleading and motion signed by the limited representation attorney. An attorney who has filed a Limited Appearance, and who later signs a motion or other filing outside the scope of the limited representation, shall be deemed to have amended the Limited Appearance to extend to such filing. An attorney who signs a pleading (see Rule 6) or any amendment thereto that is filed with

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the court will be considered to have filed a General Appearance and, for the remainder of that attorney's involvement in the case, shall not be considered as a limited representation attorney under these rules; provided, however, if such attorney properly withdraws from the case and the withdrawal is allowed by the court, the attorney could later file a Limited Appearance in the same matter.

(f) Automatic Termination of Limited Representation. Any Limited Representation Appearance filed by an attorney, as authorized under Rule 17(c) and Professional Conduct Rule 1.2(f), shall automatically terminate upon completion of the agreed representation, without the necessity of leave of court, provided that the attorney shall provide the court a "withdrawal of limited appearance" form giving notice to the court and all parties of the completion of the limited representation and termination of the limited appearance. Any attorney having filed a Limited Appearance who seeks to withdraw prior to the completion of the limited representation stated in the Limited Appearance, however, must comply with Rule 17(d).

(g) Pleading Prepared for Unrepresented Party. When an attorney provides limited representation to an otherwise unrepresented party, by drafting a document to be filed by such party with the court in a proceeding in which (1) the attorney is not entering any appearance, or (2) the attorney has entered a Limited Appearance which does not include representation regarding such document, the attorney is not required to disclose the attorney's name on such pleading to be used by that party; any pleading drafted by such limited representation attorney, however, must conspicuously contain the statement "This pleading was prepared with the assistance of a New Hampshire attorney." The unrepresented party must comply with this required disclosure. Notwithstanding that the identity of the drafting attorney need not be required to be disclosed under this rule, by drafting a pleading to be used in court by an otherwise unrepresented party, the limited representation attorney shall be deemed to have made those same certifications as set forth in Rule 7(d) despite the fact the pleading need not be signed by the attorney.

### **New Jersey Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Service Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to RPC 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

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(2) is subject to RPC 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by RPC 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), RPC 1.10 is inapplicable to a representation governed by this RPC.

Note: Adopted November 17, 2003 to be effective January 1, 2004.

### **New Mexico Rules of Professional Conduct**

#### **Rule 16-102: Scope of Representation and Allocation of Authority between Client and Lawyer**

C. **Limitation of representation.** A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent

[7] Although this rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. *See* Rule 16-101 NMRA of the Rules of Professional Conduct.

[8] With regard to Paragraph C, limitations on the scope of representation may include drafting specific, discrete pleadings or other documents to be used in the course of representation without taking on the responsibility for drafting all documents needed to carry the representation to completion. For example, a lawyer may be retained by a client during the course of an appeal for the sole purpose of drafting a specific document, such as a docketing statement, memorandum in opposition, or brief. A lawyer who agrees to prepare a discrete document under a limited representation agreement must competently prepare such a document and fully advise the client

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

with respect to that document, which includes informing the client of any significant problems that may be associated with the limited representation arrangement. However, by agreeing to prepare a specific, discrete document the lawyer does not also assume the responsibility for taking later actions or preparing subsequent documents that may be necessary to continue to pursue the representation. While limitations on the scope of representation are permitted under this rule, the lawyer must explain the benefits and risks of such an arrangement and obtain the client's informed consent to the limited representation. Upon expiration of the limited representation arrangement, the lawyer should advise the client of any impending deadlines, pending tasks, or other consequences flowing from the termination of the limited representation. *See* Rule 16-303 NMRA.

[9] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. *See, e.g.*, Rules 16-101, 16-108 and 16-506 NMRA of the Rules of Professional Conduct.

### **Rule 16-303: Candor Toward the Tribunal**

E. Limited entry of appearance; lawyer's duty. In all proceedings where a lawyer appears for a client in a limited manner, that lawyer shall disclose to the tribunal the scope of representation.

### **Rule 16-605: Nonprofit and Court-Annexed Limited Legal Services Programs**

A. A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rule 16-107 NMRA and Paragraph A of Rule 16-109 NMRA of the Rules of Professional Conduct only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 16-110 NMRA of the Rules of Professional Conduct only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 16-107 NMRA or Paragraph A of Rule 16-109 NMRA of the Rules of Professional Conduct with respect to the matter.

B. Except as provided in Subparagraph (2) of Paragraph A, Rule 16-110 NMRA of the Rules of Professional Conduct is inapplicable to a representation governed by this Rule.

### **Committee Commentary**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services — such as advice or the completion of legal forms — that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited

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consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. *See, e.g.*, Rules 16-107, 16-109 and 16-110 NMRA of the Rules of Professional Conduct.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. *See* Paragraph C of Rule 16-102 NMRA of the Rules of Professional Conduct. If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rule 16-106 NMRA and Paragraph C of Rule 16-109 NMRA, are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, Paragraph A requires compliance with Rule 16-107 NMRA or Paragraph A of Rule 16-109 NMRA of the Rules of Professional Conduct only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 16-110 NMRA of the Rules of Professional Conduct only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rule 16-107 NMRA or Paragraph A of Rule 16-109 NMRA of the Rules of Professional Conduct in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, Paragraph B provides that Rule 16-110 NMRA of the Rules of Professional Conduct is inapplicable to a representation governed by this Rule except as provided by Subparagraph (2) of Paragraph A. Subparagraph (2) of Paragraph A requires the participating lawyer to comply with Rule 16-110 NMRA of the Rules of Professional Conduct when the lawyer knows that the lawyer's firm is disqualified by Rule 16-107 NMRA or Paragraph A of Rule 16-109 NMRA of the Rules of Professional Conduct. By virtue of Paragraph B, however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rule 16-107 NMRA, Paragraph A of Rule 16-109 NMRA, and Rule 16-110 NMRA of the Rules of Professional Conduct become applicable.

(adopted by Supreme Court Order No. 08-8300-29, effective November 3, 2008)

**New Mexico Rules of Civil Procedure**

**District Court Rule 1-089: Entry of Appearance; Withdrawal or Substitution of Attorneys**

**A. Entry of appearance.** When an attorney represents a party, the attorney shall file an entry of appearance, unless the court filed an order appointing the attorney. Filing a pleading pursuant to Rule 1-007 NMRA signed by an attorney constitutes an entry of appearance under this rule.

If an attorney's appearance is limited pursuant to Paragraph C of Rule 16-102 NMRA, the attorney shall:

- (1) file an entry of appearance entitled "Limited Entry of Appearance" that identifies the nature of the limitation;
- (2) note the limitation in the signature block of any paper the attorney files; and
- (3) include in the signature block of any paper the attorney files an address where service may be made on the party.

**C. Withdrawal upon completion of limited representation.** An attorney whose appearance is limited as set forth in Paragraph A of this rule and who has completed the purpose of the limited representation need not obtain a court order permitting withdrawal. Such an attorney shall file with the clerk and serve on all parties a notice of withdrawal or substitution of counsel. If an attorney ceases to act without complying with the provisions of this rule, upon motion of any party or upon the court's own motion, the court may enter an order requiring any actions that the court deems necessary.

**Magistrate Court Rule 2-107: Pro Se and Attorney Appearance**

**C. Attorney appearance.** A party may appear, prosecute, defend and appeal any proceeding by an attorney. Whenever an attorney undertakes to represent a party, the attorney shall file a written entry of appearance showing the attorney's name, address and telephone number. For the purpose of this rule, the filing of any pleading or paper signed by counsel constitutes an entry of appearance. If entry of appearance is made by the filing of a pleading on behalf of a party, the attorney shall set forth on the pleading the attorney's address and telephone number. If an attorney's appearance is limited pursuant to Paragraph C of Rule 16-102 NMRA, the attorney shall:

- (1) file an entry of appearance entitled "Limited Entry of Appearance" that identifies the nature of the limitation;
- (2) note the limitation in the signature block of any paper the attorney files; and
- (3) include in the signature block of any paper the attorney files an address at which service may be made on the client.

**Magistrate Court Rule 2-108: Withdrawal or Substitution of Attorneys**

**A. Approval of court.** An attorney or firm who has appeared without limitation in a cause may withdraw from it upon motion and approval of the court. The motion shall be substantially

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in the form approved by the Supreme Court. Approval of the court may be conditioned upon substitution of other counsel or the filing by a party of an address at which service may be made upon the party, with proof of service on all other parties, or otherwise. Following withdrawal by counsel, an unrepresented party shall have twenty (20) days within which to secure counsel or be deemed to have entered an appearance pro se. Withdrawing counsel or substitute counsel shall serve on all parties a copy of the motion requesting written consent to withdraw and shall file proof of service with the court prior to entry of the court's order. Attorneys whose appearances are limited as set forth in Paragraph C of Rule 2-107 NMRA need not obtain consent of the court before withdrawing or otherwise ceasing to act in the matter, except if the purpose of the limited representation is not completed.

### Metropolitan Court Rule 3-107: Pro Se and Attorney Appearance

**C. Attorney appearance.** A party may appear, prosecute, defend and appeal any proceeding by an attorney. Whenever an attorney undertakes to represent a party, the attorney shall file a written entry of appearance showing the attorney's name, address and telephone number. For the purpose of this rule, the filing of any pleading or paper signed by counsel constitutes an entry of appearance. If entry of appearance is made by the filing of a pleading on behalf of a party, the attorney shall set forth on the pleading the attorney's address and telephone number. If an attorney's appearance is limited pursuant to Paragraph C of Rule 16-102 NMRA, the attorney shall:

- (1) file an entry of appearance entitled "Limited Entry of Appearance" that identifies the nature of the limitation;
- (2) note the limitation in the signature block of any paper the attorney files; and
- (3) include in the signature block of any paper the attorney files an address at which service may be made on the client.

### Metropolitan Court Rule 3-108: Withdrawal or Substitution of Attorneys

**A. Consent and notice.** An attorney or firm who has appeared without limitation in a cause may withdraw from it upon motion and approval of the court. The motion shall be substantially in the form approved by the Supreme Court. Approval of the court may be conditioned upon substitution of other counsel or the filing by a party of an address at which service may be made upon the party, with proof of service on all other parties, or otherwise. Following withdrawal by counsel, an unrepresented party shall have twenty (20) days within which to secure counsel or be deemed to have entered an appearance pro se. Withdrawing counsel or substitute counsel shall serve on all parties a copy of the motion requesting written consent to withdraw and shall file proof of service with the court. Attorneys whose appearances are limited as set forth in Paragraph C of Rule 3-107 NMRA need not obtain consent of the court before withdrawing or otherwise ceasing to act in the matter, except if the purpose of the limited representation is not completed.

**New Mexico Supreme Court General Rules**

**Rule 23-113 Providing Court Information to Self-Represented Litigants**

A. **Self-represented litigant, court staff; defined.** For purposes of this rule, a self-represented litigant is any person who appears, or is contemplating an appearance, in any court in this state without attorney representation and court staff includes all judicial branch employees except judges, settlement facilitators, and mediators.

B. **Permitted information.** When communicating with a self-represented litigant, court staff are permitted to:

- (1) encourage the self-represented litigant to obtain legal advice from a licensed New Mexico attorney without recommending a specific attorney;
- (2) provide information about available pro bono, free or low-cost civil legal services, legal aid programs and lawyer referral services without endorsing a specific service;
- (3) provide information about available statutory or court-approved forms, pleadings and instructions without providing advice or recommendations as to any specific course of action;
- (4) answer questions about what information is being requested on forms without providing the self-represented litigant with the specific words to put in a form;
- (5) provide, orally or in writing, definitions of legal terminology from widely accepted legal dictionaries or other dictionaries, if available, and without advising whether a particular definition is applicable to the self-represented litigant's situation;
- (6) provide, orally or in writing, citations to constitutions, statutes, administrative rules or regulations, court rules and case law, but are not required to search for the citation and are not permitted to perform legal research as defined in Subparagraph (4) of Paragraph C of this rule or advise whether a particular provision is applicable to the self-represented litigant's situation;
- (7) provide publically available, non-sequestered information on docketed cases;
- (8) provide general information about court processes, procedures and practices, including court schedules and how to get matters scheduled;
- (9) provide information about mediation, parenting courses, courses for children of divorcing parents and any other appropriate information approved by the court for self-represented litigants;
- (10) provide, orally or in writing, information on local court rules and administrative orders;
- (11) provide information regarding proper courtroom conduct and decorum; and

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(12) provide general information about community resources without endorsing a specific resource.

**C. Prohibited information.** When communicating with a self-represented litigant, court staff are prohibited from:

(1) providing, orally or in writing, any interpretation or application of legal terminology, constitutional provisions, statutory provisions, administrative rules or regulations, court rules and case law based on specific facts or the self-represented litigant's particular circumstances;

(2) providing, orally or in writing, information that must be kept confidential by statute, administrative rule or regulation, court rule, court order or case law;

(3) creating documents or filling in the blanks on forms on behalf of self-represented litigants;

(4) performing direct legal research by applying the law to specific facts or expressing an opinion regarding the applicability of any constitutional provisions, statutes, administrative rules or regulations, court rules, court orders or case law to the self-represented litigant's particular circumstances;

(5) explaining court orders or decisions except as permitted by Subparagraph (8) of Paragraph B of this rule;

(6) telling the self-represented litigant what to say in court;

(7) assisting or participating in any unauthorized or inappropriate communications with a judge on behalf of the self-represented litigant outside the presence of the other party;

(8) indicating, orally or in writing, whether the self-represented litigant should file a case in court;

(9) predicting the outcome of a case filed in court; and

(10) indicating, orally or in writing, what the self-represented litigant should do or needs to do.

**D. Immunity.** Despite any information provided to self-represented litigants pursuant to this rule, self-represented litigants remain responsible for conducting themselves in an appropriate manner before the court and representing themselves in compliance with all applicable constitutional and statutory provisions, administrative rules or regulations, court rules, court orders and case law. Court staff shall be immune from suit, as provided by statute or common law, for any information provided to a self-represented litigant.

**New York Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances, the client gives informed consent and where necessary notice is provided to the tribunal and/or opposing counsel.

**Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to issues related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[6A] In obtaining consent from the client, the lawyer must adequately disclose the limitations on the scope of the engagement and the matters that will be excluded. In addition, the lawyer must disclose the reasonably foreseeable consequences of the limitation. In making such disclosure, the lawyer should explain that if the lawyer or the client determines during the representation that additional services outside the limited scope specified in the engagement are necessary or advisable to represent the client adequately, then the client may need to retain separate counsel, which could result in delay, additional expense, and complications.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted were not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. *See* Rules 1.1, 1.8 and 5.6.

**Rule 6.5: Participation in Limited Pro Bono Legal Service Programs**

(a) A lawyer who, under the auspices of a program sponsored by a court, government agency, bar association or not-for-profit legal services organization, provides short-term limited legal

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services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) shall comply with Rules 1.7, 1.8 and 1.9, concerning restrictions on representations where there are or may be conflicts of interest as that term is defined in these Rules, only if the lawyer has actual knowledge at the time of commencement of representation that the representation of the client involves a conflict of interest; and

(2) shall comply with Rule 1.10 only if the lawyer has actual knowledge at the time of commencement of representation that another lawyer associated with the lawyer in a law firm is affected by Rules 1.7, 1.8 and 1.9.

(b) Except as provided in paragraph (a)(2), Rule 1.7 and Rule 1.9 are inapplicable to a representation governed by this Rule.

(c) Short-term limited legal services are services providing legal advice or representation free of charge as part of a program described in paragraph (a) with no expectation that the assistance will continue beyond what is necessary to complete an initial consultation, representation or court appearance.

(d) The lawyer providing short-term limited legal services must secure the client's informed consent to the limited scope of the representation, and such representation shall be subject to the provisions of Rule 1.6.

(e) This Rule shall not apply where the court before which the matter is pending determines that a conflict of interest exists or, if during the course of the representation, the lawyer providing the services becomes aware of the existence of a conflict of interest precluding continued representation.

### **Local Rules of the United States District Court for Southern and Eastern Districts of New York, Civil Rules**

#### **Rule 7.2: Authorities to Be Provided to Pro Se Litigants**

In cases involving a pro se litigant, counsel shall, when serving a memorandum of law (or other submissions to the Court), provide the pro se litigant (but not other counsel or the Court) with copies of cases and other authorities cited therein that are unpublished or reported exclusively on computerized databases. Upon request, counsel shall provide the pro se litigant with copies of such unpublished cases and other authorities as are cited in a decision of the Court and were not previously cited by any party.

#### **COMMITTEE NOTE**

The Committee recommends the addition of an additional sentence to Local Civil Rule 7.2 in order to facilitate compliance with the decision of the Second Circuit in *Lebron v. Sanders*, 557 F.3d 76 (2d Cir. 2009).

**North Carolina Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances.

**Comment**

*Agreements Limiting Scope of Representation*

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] Although paragraph (c) does not require that the client's informed consent to a limited representation be in writing, a specification of the scope of representation will normally be a necessary part of any written communication of the rate or basis of the lawyer's fee. See Rule 1.0(f) for the definition of "informed consent."

[9] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. *See, e.g.* , Rules 1.1, 1.8 and 5.6.

**Rule 6.5: Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services - such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. *See, e.g.*, Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. *See* Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a

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lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

History Note: Statutory Authority G. 84-23

Adopted March 1, 2003.

### **North Carolina General Statute**

#### **Rule 50B-2: Institution of Civil Action; Motion for Emergency Relief; Temporary Orders; Temporary Custody**

(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms that are necessary or appropriate to enable them to proceed pro se pursuant to this section. The clerk shall, whenever feasible, provide a private area for complainants to fill out forms and make inquiries. The clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section. (1979, c. 561, s. 1; 1985, c. 113, ss. 2, 3; 1987 (Reg. Sess., 1988), c. 893, s. 2; 1989, c. 461, s. 1; 1994, Ex. Sess., c. 4, s. 1; 1997-471, s. 2; 2001-518, s. 4; 2002-126, s. 29A.6(a); 2004-186, ss. 17.2, 19.1; 2009-342, s. 2.)

### **North Dakota Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the client consents after consultation.

#### **Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. Paragraph (c) allows the lawyer to limit the scope of representation if the client consents. Obtaining the client's consent in writing is the preferred practice. Lack of a writing may make it difficult to prove client consent if a dispute arises later. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

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[8] All agreements concerning a lawyer's representation of a client must accord with these Rules and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) or (b) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) or (b) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

(c) A client who has been served under the circumstances authorized under paragraph (a) is, for purposes of Rule 1.9, a former client of the lawyer providing the service, but that lawyer's disqualification is not imputed to lawyers associated with that lawyer for purposes of Rule 1.10.

#### **Comment**

[1] Legal services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -- such as advice or the completion of legal forms -- that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9, and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's consent after consultation to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) or (b) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) or (b) in the matter.

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[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) or (b). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) or (b), and 1.10 become applicable.

*Reference:* Minutes of the Joint Committee on Attorney Standards on 11/14/03, 02/27/04, 06/08/04, 05/21/04.

### **North Dakota Rules of Civil Procedure**

#### **Rule 5: Service and Filing of Pleadings and Other Papers**

##### **(b) Service--How made.**

(1) Serving an Attorney. If a party is represented by an attorney, service under this rule must be made on the attorney unless the court orders service on the party. If an attorney is providing limited representation under Rule 11(e), service must be made on the party and on the attorney for matters within the scope of the limited representation.

(2) Service in General. A paper is served under this rule by:

(A) handing it to the person;

(B) leaving it:

(i) at the person's office with a clerk or other person in charge or, if no one is in charge, leaving it in a conspicuous place in the office; or,

(ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(C) mailing it to the person's last known address, in which event service is complete upon mailing;

(D) sending it by a third-party commercial carrier to the person's last known address, in which event service is complete upon deposit of the paper to be served with the commercial carrier;

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(E) if no address is known, on order of the court by leaving it with the clerk of court;

(F) sending it by electronic means if the person consented in writing, in which event service is complete on transmission, but is not effective if the serving party learns that it did not reach the person to be served; or

(G) delivering it by any other means that the person consented to in writing.

### **Rule 11: Signing of Pleadings, Motions and Other Papers; Representation to Court; Sanctions**

#### **(e) Limited Representation.**

(1) Notice. An attorney who assists an otherwise self-represented party on a limited basis must serve a notice of limited representation on each party involved in the matter. The notice must state precisely the scope of the limited representation. An attorney who seeks to act beyond the stated scope of the limited representation must serve an amended notice of limited representation. The attorney must also serve a notice of termination of limited representation on each party involved in the matter.

(2) Filing. If the action is filed, the party who received assistance of an attorney on a limited basis must file the notice of limited representation with the court.

(3) Scope of Rule. The requirements of this rule apply to every pleading, written motion and other paper signed by an attorney acting within the scope of a limited representation.

#### **Comment**

Subdivision (e) was added, effective March 1, 2009, to permit an attorney to file a notice of limited representation indicating an intent to represent a party for one or more matters in a case, but not for all matters. An attorney must also serve a notice of termination of limited representation when the attorney's involvement ends. Rule 5, Rule 11 and N.D.R.Ct. 11.2, were amended to permit attorneys to assist an otherwise self-represented party on a limited basis without undertaking full representation of the party. Under N.D.R. Prof. Conduct 1.2 (c) a lawyer may limit the scope of the representation if a client consents after consultation.

### **North Dakota Rules of Court**

#### **Rule 11.2: Withdrawal of Attorneys**

**(d) Limited Appearance.** This rule does not apply to attorneys representing a party under a notice of limited representation served under N.D.R.Civ.P. 11(e) unless the attorney seeks to withdraw from the limited representation itself.

**Comment**

Subdivision (d) was added, effective March 1, 2009, to make it clear that an attorney who serves a notice of limited representation to represent a party for one or more matters in a case is not required to formally withdraw upon completion of activity covered by the notice. Under N.D.R.Civ.P. 11(e), however, the attorney must serve a notice of termination of limited representation when the attorney's involvement ends. Rule 11.2 and N.D.R.Civ.P. 5 and 11 were amended to permit attorneys to assist otherwise unrepresented parties on a limited basis without undertaking full representation of the party.

**Ohio Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of a new or existing representation if the limitation is *reasonable* under the circumstances and communicated to the client, preferably in *writing*.

**Comment**

[7] Although division (c) affords the lawyer and client substantial latitude in defining the scope of the representation, any limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law that the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives.

Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. See Rule 1.1.

[7A] Written confirmation of a limitation of a new or existing representation is preferred and may be any writing that is presented to the client that reflects the limitation, such as a letter or electronic transmission addressed to the client or a court order. A lawyer may create a form or checklist that specifies the scope of the client-lawyer relationship and the fees to be charged. An order of a court appointing a lawyer to represent a client is sufficient to confirm the scope of that representation.

[8] All agreements concerning a lawyer's representation of a client must accord with the Ohio Rules of Professional Conduct and other law. See, *e.g.*, Rules 1.1, 1.8 and 5.6.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter is subject to both of the following:

(1) Rules 1.7 and 1.9(a) only if the lawyer *knows* that the representation of the client involves a conflict of interest;

(2) Rule 1.10 only if the lawyer *knows* that another lawyer associated with the lawyer in a *law firm* is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in division (a)(2) of this rule, Rule 1.10 is inapplicable to a representation governed by this rule.

**Comment**

[1] Legal services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics, or *pro se* counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer’s representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See *e.g.*, Rules 1.7, 1.9, and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this rule must communicate with the client, preferably in writing, regarding the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, the Ohio Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, division (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer’s firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer’s firm, division (b) provides that Rule 1.10 is inapplicable to a representation governed by this rule except as provided by division (a)(2). Division (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer

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knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of division (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a), and 1.10 become applicable.

### **Comparison to former Ohio Code of Professional Responsibility**

The Ohio Code of Professional Responsibility does not have a specifically comparable rule regarding short-term limited legal services for programs sponsored by a nonprofit organization or court. Rule 6.5 codifies an exception to the general conflict provisions of Rule 1.7 (formerly DR 5-105) in order to encourage lawyers in firms to participate in short-term legal service projects sponsored by courts or nonprofit organizations.

(no substantive changes to the ABA Model Rule)

## **Oklahoma Rules of Professional Conduct**

### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

### **Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor

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to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services — such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

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[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Oregon Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(b) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Rule 6.5 Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rule 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Oregon Uniform Trial Court Rules**

#### **Rule 2.010 Form of Documents**

(7) Attorney or Litigant Information

All documents must include the author's name, address, telephone number, fax number, if any, and, if prepared by an attorney, the name, e-mail address, and the Bar number of the author and the trial attorney assigned to try the case. Any document not bearing the name and Bar number of

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an attorney as the author or preparer of the document must bear or be accompanied by a certificate in substantially the form as set out in Form 2.010.7 in the UTCR Appendix of Forms.

### **Pennsylvania Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comment**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

#### **Rule 6.5: Nonprofit and Court Appointed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

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(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comment:**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services – such as advice or the completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer’s representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client’s informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer’s firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer’s firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer’s firm is disqualified by Rule 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer’s participation in a short-term limited legal services program will not preclude the lawyer’s firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program’s auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

**Rhode Island Rules of Professional Conduct**

**Rule 1.2 Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

**Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule. (As adopted by the court on February 16, 2007, eff. April 15, 2007.)

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### Comments

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **South Carolina Rules of Professional Conduct**

#### **[Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer](#)**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### Comment

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### Rule 6.5: Nonprofit and Court Annexed Limited Legal Services Programs

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### Comment

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short term limited legal services such as advice or the completion of legal forms that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal advice hotlines, advice once clinics

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or pro se counseling programs, a client lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **South Dakota Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be

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limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

- (a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
  - (1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and
  - (2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.
- (b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comments**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -- such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

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[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Tennessee Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent, preferably in writing.

##### Comments

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in

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order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. See RPC 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., RPCs 1.1, 1.8, and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term, limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to RPCs 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to RPC 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by RPC 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), RPC 1.10 is inapplicable to a representation governed by this Rule.

#### Comment

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term, limited legal services – such as advice or the completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., RPCs 1.7, 1.9, and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See RPC 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including RPCs 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with RPCs 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with RPC 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by RPCs 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that RPC 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with RPC 1.10 when the lawyer

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knows that the lawyer's firm is disqualified by RPCs 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term, limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term, limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, RPCs 1.7, 1.9(a), and 1.10 become applicable.

### **Tennessee Rules of Civil Procedure**

#### **Rule 5.02 Service and Filing of Pleadings and Other Papers**

Whenever under these rules service is required or permitted to be made on a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is ordered by the court. Service shall be made pursuant to the methods set forth in (1) or (2). If an attorney has filed a notice of limited scope representation or a notice of limited appearance for an otherwise self-represented person, pursuant to Rule 11.01(b), service shall be made on the self-represented person and on the attorney until such time as a notice of completion of limited scope representation has been filed. After notice of completion of limited scope representation has been filed, service upon the attorney previously providing limited scope representation shall no longer be necessary.

(1) Service upon the attorney or upon a party shall be made by delivering to him or her a copy of the document to be served, or by mailing it to such person's last known address, or if no address is known, by leaving the copy with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at such person's office with a clerk or other person in charge thereof; or, if there is none in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. Items which may be filed by facsimile transmission pursuant to Rule 5A may be served by facsimile transmission

(2) (a) Service upon any attorney may also be made by sending him or her the document in Adobe PDF format to the attorney's email address, which shall be promptly furnished on request. The sender shall include language in the subject line designed to alert the recipient that a document is being served under this rule. On the date that a document served under this rule is electronically sent to an attorney, the sender shall send by mail, facsimile or hand-delivery a certificate that advises that a document has been transmitted electronically. The certificate shall state the caption of the action; the trial court file number; the title of the transmitted document; the number of pages of the transmitted document (including all exhibits thereto); the sender's name, address, telephone number and electronic mail address; the electronic mail address of each recipient; and the date and time of the transmission. The certificate shall also include words to this effect: "If you did not receive this document, please contact the sender immediately to

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receive an electronic or physical copy of this document." The certificate shall be sent to all counsel of record.

(b) An attorney who sends a document to another attorney electronically and who is notified that it was not received must promptly furnish a copy of the document to the attorney who did not receive it.

(c) A document transmitted electronically shall be treated as a document that was mailed for purposes of computation of time under Rule 6.

(d) For good cause shown, an attorney may obtain a court order prohibiting service of documents on that attorney by electronic mail and requiring that all documents be served under subsection (1).

### **Advisory Commission Comments [2012]**

The first paragraph of Rule 5.02 is amended to address service of pleadings and other papers in cases in which an attorney has filed a notice of limited scope representation or a notice of limited appearance for an otherwise self-represented person, pursuant to Rule 11.01(b)

### **Rule 11.01 Signing of Pleadings, Motions, and Other Papers; Representations to Court; Sanctions**

(b) Appearance of Counsel and Notification by Counsel Subject to Limited Scope Representation. An attorney providing limited scope representation to an otherwise unrepresented party shall file at the beginning of the representation an initial notice of limited scope representation with the court, simply stating that the representation is subject to a written limited scope representation agreement without disclosing the terms of the agreement. In addition to the initial notice of limited scope representation, when provided notice by another party, attorney or the court of a motion, pleading, discovery, hearing or other proceeding that is outside of the scope of the services provided pursuant to the limited scope representation agreement, an attorney shall promptly file a notice of limited appearance that the attorney does not represent the otherwise unrepresented party for purposes of the motion, pleading, discovery, hearing or other proceeding. The notice of limited appearance shall simply state that the limited scope representation does not include representation for purposes of the motion, pleading, discovery, hearing or other proceeding noticed and shall not otherwise disclose the terms of the limited scope representation agreement. The notice of limited appearance shall provide the otherwise unrepresented client with the deadline(s), if any, for responding to the motion, pleading, discovery, hearing or other proceeding and shall state the date, place and time of any hearing or other proceeding. If an initial notice of limited scope representation or a notice of limited appearance is filed, service shall be made as provided in Rule 5.02.

(c) Withdrawal of Counsel Upon Completion of a Limited Scope Representation Upon the filing of a notice of completion of limited scope representation that is accompanied by a declaration from the attorney indicating that the attorney's obligations under a limited scope representation agreement have been satisfied, and that the attorney provided the otherwise unrepresented person

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at least fourteen (14) days advance written notice of the filing of notice of completion of limited scope representation, the attorney shall have withdrawn from representation in the case.

Advisory Commission Comments [2012]

Rule 11.01 is amended to add new paragraphs (b) and (c), concerning an attorney's limited scope representation of a client. An attorney's obligations under this Rule of Civil Procedure are also governed by Tenn. Sup. Ct. R. 8, RPC 1.2(c), which states: "A lawyer may limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent, preferably in writing." *See also* Tenn. Sup. Ct. R. 8, RPC 1.2(c), Comments [6] – [8]. Note, however, that paragraph (b) of this Rule goes further than RPC 1.2(c) and requires that an agreement for limited scope representation, as it relates to a proceeding governed by this Rule, must be in writing.

Nothing in this rule prohibits an attorney providing limited scope representation from withdrawing with leave of court prior to completion of the terms set forth in the limited scope representation agreement.

### **Texas Rules of Professional Conduct**

#### **Rule 1.02: Scope and Objectives of Representation**

(b) A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation.

#### **Comments**

4. The scope of representation provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined objective. Likewise, representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. Similarly when a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The scope within which the representation is undertaken also may exclude specific objectives or means, such as those that the lawyer or client regards as repugnant or imprudent.

5. An agreement concerning the scope of representation must accord with the Texas Disciplinary Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.01, or to surrender the right to terminate the lawyer's services or the right to settle or continue litigation that the lawyer might wish to handle differently.

6. Unless the representation is terminated as provided in Rule 1.15, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's representation is limited to a specific matter or matters, the relationship terminates when the matter has been resolved. If a lawyer has represented a client over a substantial period in a variety of matters, the client may sometimes assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice to the contrary. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the

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lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client but has not been specifically instructed concerning pursuit of an appeal, the lawyer should advise the client of the possibility of appeal before relinquishing responsibility for the matter.

### **Utah Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted were not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

#### **Rule 4.2: Communication with Persons Represented by Counsel**

(b) Rules Relating to Unbundling of Legal Services. A lawyer may consider a person whose representation by counsel in a matter does not encompass all aspects of the matter to be unrepresented for purposes of this Rule and Rule 4.3, unless that person's counsel has provided written notice to the lawyer of those aspects of the matter or the time limitation for which the person is represented. Only as to such aspects and time is the person considered to be represented by counsel.

**Rule 4.3: Dealing with Unrepresented Persons**

(b) A lawyer may consider a person, whose representation by counsel in a matter does not encompass all aspects of the matter, to be unrepresented for purposes of this Rule and Rule 4.2, unless that person's counsel has provided written notice to the lawyer of those aspects of the matter or the time limitation for which the person is represented. Only as to such aspects and time is the person considered to be represented by counsel.

**Comment**

[3] Paragraph (b) recognizes that the scope of representation of a person by counsel may, under Rule 1.2, be limited by mutual agreement. Because a lawyer for another party cannot know which of Rule 4.2 or 4.3 applies under these circumstances, the lawyer who undertakes a limited representation must assume the responsibility for informing another party's lawyer of the limitations. This ensures that such a limited representation will not improperly or unfairly induce an adversary's lawyer to avoid contacting the person on those aspects of a matter for which the person is not represented by counsel. Note that this responsibility on the lawyer undertaking limited-scope representation also relates to the ability of another party's lawyer to make certain ex parte contacts without violating Rule 4.2.

[3a] Utah Rule of Professional Conduct 4.3(b) and related Comment [3] are Utah additions to the ABA Model Rules clarifying that a lawyer may undertake limited representation of a client under the provisions of Rule 1.2.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(a)(1) is subject to Rule 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(a)(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services such as advice or the completion of legal forms that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g. Rules 1.7, 1.9 and 1.10.

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[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rule 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rule 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Utah Rules of Civil Procedure**

#### **Rule 5: Service and Filing of Pleadings and Other Papers**

(b)(1) If a party is represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. If an attorney has filed a Notice of Limited Appearance under Rule 75 and the papers being served relate to a matter within the scope of the Notice, service shall be made upon the attorney and the party.

#### **Rule 74: Withdrawal of Counsel**

(b) An attorney who has entered a limited appearance under Rule 75 shall withdraw from the case by filing and serving a notice of withdrawal upon the conclusion of the purpose or proceeding identified in the Notice of Limited Appearance. An attorney who seeks to withdraw before the conclusion of the purpose or proceeding shall proceed under subdivision (a).

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### **Rule 75: Limited Appearance**

(a) An attorney acting pursuant to an agreement with a party for limited representation that complies with the Utah Rules of Professional Conduct may enter an appearance limited to one or more of the following purposes:

- (a)(1) filing a pleading or other paper;
- (a)(2) acting as counsel for a specific motion;
- (a)(3) acting as counsel for a specific discovery procedure;
- (a)(4) acting as counsel for a specific hearing, including a trial, pretrial conference, or an alternative dispute resolution proceeding; or
- (a)(5) any other purpose with leave of the court.

(b) Before commencement of the limited appearance the attorney shall file a Notice of Limited Appearance signed by the attorney and the party. The Notice shall specifically describe the purpose and scope of the appearance and state that the party remains responsible for all matters not specifically described in the Notice. The clerk shall enter on the docket the attorney's name and a brief statement of the limited appearance. The Notice of Limited Appearance and all actions taken pursuant to it are subject to Rule 11.

(c) Any party may move to clarify the description of the purpose and scope of the limited appearance.

(d) A party on whose behalf an attorney enters a limited appearance remains responsible for all matters not specifically described in the Notice.

### **Vermont Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

#### **Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is

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limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this rule.—Added June 17, 2009, eff. Sept. 1, 2009.

### **Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services - such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

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[3] Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Vermont Rules of Civil Procedure**

#### **Rule 79.1: Appearance and Withdrawal of Attorneys**

##### **Limited Appearance**

(1) An attorney acting pursuant to an agreement with a client for limited representation that complies with the Vermont Rules of Professional Conduct may enter an appearance limited to one or more of the following purposes on behalf of a client who is pro se and who has entered, or will enter, a general appearance:

- (A) Filing a complaint or other pleading.
- (B) Filing or arguing a specific motion or motions.
- (C) Conducting one or more specific discovery procedures.
- (D) Participating in a pretrial conference or an alternative dispute resolution proceeding.
- (E) Acting as counsel for a particular hearing or trial.
- (F) Taking and perfecting an appeal.
- (G) With leave of court, for a specific issue or a specific portion of a trial or hearing.

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(2) An attorney who wishes to enter a limited appearance shall do so by filing with the clerk and serving pursuant to Rule 5 a written notice of limited appearance as soon as practicable prior to commencement of the appearance. The purpose and scope of the appearance shall be specifically described in the notice, which shall represent that the client is pro se and has entered, or will forthwith enter, a general appearance. The attorney's name and a brief statement of the purpose of the limited appearance shall be entered upon the docket. The notice and all actions taken pursuant to it shall be subject to the obligations of Rule 11.

(3) An attorney who has entered a limited appearance shall be granted leave to withdraw as a matter of course when the purpose for which the appearance was entered has been accomplished. An attorney who seeks to withdraw before that purpose has been accomplished may do so only on motion and notice, for good cause and on terms, as provided in Rule 79.1(f).

(4) Every paper required by Rule 5 to be served upon a party's attorney that is to be served after entry of a limited appearance shall be served upon the party and upon the attorney entering that appearance unless the attorney has been granted leave to withdraw pursuant to paragraph (3) of this subdivision.

Amended Dec. 12, 1985, eff. April 1, 1986; Nov. 25, 1986, eff. March 1, 1987; Feb. 6, 2006, eff. April 14, 2006; March 15, 2006, eff. June 30, 2006.

### **Vermont Rules of Family Proceedings**

#### **Rule 15: Appearance and Withdrawal of Attorneys**

(h) Limited Appearance.

(1) Except in a proceeding under Rule 2 or 3 of these rules, an attorney acting pursuant to an agreement with a client for limited representation that complies with the Vermont Rules of Professional Conduct may enter an appearance limited to one or more of the following purposes on behalf of a client who is pro se and who has entered, or will enter, an initial appearance in accordance with paragraph (4) of subdivision (a) or pursuant to subdivision (g):

(A) Filing a complaint or other pleading.

(B) Conducting one or more specific discovery procedures.

(C) Participating in a case management or status conference, an alternative dispute resolution or parent coordination proceeding, or a proceeding before a property or visitation master.

(D) Acting as counsel for a particular hearing or court event.

(E) Filing a notice of appeal from a decision of a family court magistrate or judge and taking any subsequent actions concerning the record, briefing, or argument in connection with an appeal.

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(F) With leave of court, for a specific issue or a specific portion of a hearing.

(2) An attorney who wishes to enter a limited appearance shall do so by filing with the clerk and serving pursuant to Civil Rule 5 a written notice of limited appearance as soon as practicable prior to commencement of the appearance. The purpose and scope of the appearance shall be specifically described in the notice, which shall represent that the client is pro se and has entered, or will forthwith enter, an initial appearance. The attorney's name and a brief statement of the purpose of the limited appearance shall be entered upon the docket. The notice and all actions taken pursuant to it shall be subject to the obligations of Civil Rule 11.

(3) An attorney who has entered a limited appearance shall be granted leave to withdraw on motion without notice and hearing pursuant to paragraph (2) of subdivision (f) when the purpose for which the appearance was entered has been accomplished. An attorney who seeks to withdraw before that purpose has been accomplished may do so only on motion and notice, for good cause and on terms, as provided in paragraphs (3) and (4) of subdivision (f).

(4) Every paper required by Civil Rule 5 to be served upon a party's attorney that is to be served after entry of a limited appearance shall be served upon the party and upon the attorney entering that appearance unless the attorney has been granted leave to withdraw pursuant to paragraph (3) of this subdivision.

### **Virginia Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation**

(b) A lawyer may limit the objectives of the representation if the client consents after consultation.

#### **Comment**

[6] The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent.

[7] An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

[8] *ABA Model Rule Comment* not adopted.

**Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

**Comment**

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services - such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal advice hotlines, advice-only clinics or *pro se* counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. *See, e.g.,* Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. *See* Rule 1.2(b). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude

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the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Washington Rules of Professional Conduct**

#### **Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

Additional Washington Comment (14)

#### **Agreements Limiting Scope of Representation**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

[14] An agreement limiting the scope of a representation shall consider the applicability of Rule 4.2 to the representation. (The provisions of this Comment were taken from former Washington

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RPC 1.2(c.) See also Comment [11] to Rule 4.2 for specific considerations pertaining to contact with an otherwise represented person to whom limited representation is being or has been provided.

[Amended effective September 1, 2006.]

### **Rule 1.5: Fees**

f) Fees and expenses paid in advance of performance of services shall comply with Rule 1.15A, subject to the following exceptions:

(1) A lawyer may charge a retainer, which is a fee that a client pays to a lawyer to be available to the client during a specified period or on a specified matter, in addition to and apart from any compensation for legal services performed. A retainer must be agreed to in a writing signed by the client. Unless otherwise agreed, a retainer is the lawyer's property on receipt and shall not be placed in the lawyer's trust account.

(2) A lawyer may charge a flat fee for specified legal services, which constitutes complete payment for those services and is paid in whole or in part in advance of the lawyer providing the services. If agreed to in advance in a writing signed by the client, a flat fee is the lawyer's property on receipt, in which case the fee shall not be deposited into a trust account under Rule 1.15A. The written fee agreement shall, in a manner that can easily be understood by the client, include the following: (i) the scope of the services to be provided; (ii) the total amount of the fee and the terms of payment; (iii) that the fee is the lawyer's property immediately on receipt and will not be placed into a trust account; (iv) that the fee agreement does not alter the client's right to terminate the client-lawyer relationship; and (v) that the client may be entitled to a refund of a portion of the fee if the agreed-upon legal services have not been completed. A statement in substantially the following form satisfies this requirement:

[Lawyer/law firm] agrees to provide, for a flat fee of  
\$ \_\_\_\_\_, the following services:

\_\_\_\_\_. The flat fee shall be paid  
as follows: \_\_\_\_\_. Upon [lawyer's/law  
firm's] receipt of all or any portion of the flat fee, the funds  
are the property of [lawyer/law firm] and will not be placed in a  
trust account. The fact that you have paid your fee in advance does  
not affect your right to terminate the client-lawyer relationship.  
In the event our relationship is terminated before the agreed-upon  
legal services have been completed, you may or may not have a right  
to a refund of a portion of the fee.

### **Rule 4.2: Communication with Person Represented by Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

### Additional Washington Comments (10 - 11)

[11] An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation. (The provisions of this Comment were taken from former Washington RPC 4.2(b)).

### **Rule 4.3: Dealing with an Unrepresented Person**

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.

### Additional Washington Comments (3 - 4)

[3] An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation. (The provisions of this Comment were taken from former Washington RPC 4.3(b))

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Service Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter and without expectation that the lawyer will receive a fee from the client for the services provided:

(1) is subject to Rules 1.7, 1.9(a), and 1.18(c) only if the lawyer knows that the representation of the client involves a conflict of interest, except that those Rules shall not prohibit a lawyer from providing limited legal services sufficient only to determine eligibility of the client for assistance by the program and to make an appropriate referral of the client to another program;

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter; and

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(3) notwithstanding paragraphs (1) and (2), is not subject to Rules 1.7, 1.9(a), 1.10, or 1.18(c) in providing limited legal services to a client if:

(i) the program lawyers representing the opposing clients are screened by effective means from information relating to the representation of the opposing client;

(ii) each client is notified of the conflict and the screening mechanism used to prohibit dissemination of information relating to the representation; and

(iii) the program is able to demonstrate by convincing evidence that no material information relating to the representation of the opposing client was transmitted by the personally disqualified lawyers to the lawyer representing the conflicting client before implementation of the screening mechanism and notice to the opposing client.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comment**

[1] [Washington revision] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services - such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9, 1.10, and 1.18.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] [Washington revision] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a), or 1.18(c) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

(a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### **Additional Washington Comments (6 - 7)**

[6] Washington's version of this Rule differs from the Model Rule. The differences accommodate the unique civil legal services delivery system, which uses a statewide centralized telephone intake and referral system for low-income persons to access free civil legal services. The Rule recognizes that lawyers who provide intake and referral services such as these will necessarily at times receive confidential information from adverse parties. The risk that such information will be used against the material interests of either party is relatively low in comparison to the need for services, and when such a risk exists, protections of lawyer screening and notice to the client are required by the Rule.

[7] Paragraph (a)(3) was taken from former Washington RPC 6.5(a)(3) as enacted in 2002. The replacement of "confidences and secrets" in paragraph (a)(3) with "information relating to the representation" was necessary to conform the language of the Rule to a terminology change in Rule 1.6. No substantive change is intended. See Comment [19] to Rule 1.6.

[Adopted effective September 1, 2006.]

## **Washington Superior Court Civil Rules and Civil Rules of Limited Jurisdiction**

### **Rule CR 4.2: Process- Limited Representation**

(a) An attorney may undertake to provide limited representation in accordance with RPC 1.2 to a person involved in a court proceeding.

(b) Providing limited representation of a person under these rules shall not constitute an entry of appearance by the attorney for purposes of CR 5(b) and does not authorize or require the service or delivery of pleadings, papers or other documents upon the attorney under CR 5(b).

Representation of the person by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the person constitutes an entry of appearance pursuant to RCW 4.28.210 and CR 4(a)(3), except to the extent that a limited notice of appearance as provided for under CR 70.1 is filed and served prior to or simultaneous with the actual appearance. The attorney's violation of this Rule may subject the attorney to the sanctions provided in CR 11(a).

[Effective October 29, 2002]

**Rule CR 11: Signing of Pleadings, Motions and Legal Memoranda: Sanctions**

(b) In helping to draft a pleading, motion or document filed by the otherwise self-represented person, the attorney certifies that the attorney has read the pleading, motion, or legal memorandum, and that to the best of the attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact, (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. The attorney in providing such drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

[Amended effective January 1, 1974; September 1, 1985; September 1, 1990; September 17, 1993; October 15, 2002; September 1, 2005.]

**Rule CR 70.1: Appearance by Attorney**

(a) Notice of Appearance. An attorney admitted to practice in this state may appear for a party by serving a notice of appearance.

(b) Notice of Limited Appearance. If specifically so stated in a notice of limited appearance filed and served prior to or simultaneous with the proceeding, an attorney's role may be limited to one or more individual proceedings in the action. Service on an attorney who has made a limited appearance for a party shall be valid (to the extent permitted by statute and rule 5(b)) only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders. At the conclusion of such proceedings the attorney's role terminates without the necessity of leave of court, upon the attorney filing notice of completion of limited appearance which notice shall include the client information required by rule 71(c)(1).

[Effective October 29, 2002.]

**Rule CRLJ 4.2: Process – Limited Representation**

(a) An attorney may undertake to provide limited representation in accordance with RPC 1.2 to a person involved in a court proceeding.

(b) Providing limited representation of a person under these rules shall not constitute an entry of appearance by the attorney for purposes of CR 5(b) and does not authorize or require the service or delivery of pleadings, papers or other documents upon the attorney under CRLJ 5(b).

Representation of the person by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the person constitutes an entry of appearance pursuant to RCW

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

4.28.210 and CRLJ 4(a)(3), except to the extent that a limited notice of appearance as provided for under CRLJ 70.1 is filed and served prior to or simultaneous with the actual appearance. The attorney's violation of this Rule may subject the attorney to the sanctions provided in CRLJ 11(a).

[Effective October 29, 2002]

### **Rule CRLJ 11: Signing and Drafting of Pleadings, Motions and Legal Memoranda: Sanctions**

(b) In helping to draft a pleading, motion or document filed by the otherwise self-represented person, the attorney certifies that the attorney has read the pleading, motion, or legal memorandum, and that to the best of the attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact, (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. The attorney in providing such drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

[Amended effective September 1, 1990; September 1, 1994; October 15, 2002; September 1, 2005.]

### **Rule CRLJ 70.1: Appearance by Attorney**

(a) Notice of Appearance. An attorney admitted to practice in this state may appear for a party by serving a notice of appearance.

(b) Notice of Limited Appearance. If specifically so stated in a notice of limited appearance filed and served prior to or simultaneous with the proceeding, an attorney's role may be limited to one or more individual proceedings in the action. Service on an attorney who has made a limited appearance for a party shall be valid (to the extent permitted by statute and rule 5(b)) only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders. At the conclusion of such proceedings the attorney's role terminates without the necessity of leave of court, upon the attorney filing notice of completion of limited appearance which notice shall include the client information required by Rule 71(c)(1).

**West Virginia Rules of Professional Conduct**

**Rule 1.2: Scope of Representation**

(c) A lawyer may limit the objectives of the representation if the client consents after consultation.

**Wisconsin Rules of Professional Conduct**

**Rule 1.2: Scope of Representation and Allocation of Authority between Lawyer and Client**

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. The client's informed consent must be in writing except as set forth in sub. (1).

(1) The client's informed consent need not be given in writing if:

- a. the representation of the client consists solely of telephone consultation;
- b. the representation is provided by a lawyer employed by or participating in a program sponsored by a nonprofit organization, a bar association, an accredited law school, or a court and the lawyer's representation consists solely of providing information and advice or the preparation of court approved legal forms;
- c. the court appoints the lawyer for a limited purpose that is set forth in the appointment order; or
- d. the representation is provided by the state public defender pursuant to Wis. Stat. Ch. 977, including representation provided by a private attorney pursuant to an appointment by the state public defender.

(2) If the client gives informed consent in writing signed by the client, there shall be a presumption that:

- (i) the representation is limited to the lawyer and the services described in the writing, and
- (ii) the lawyer does not represent the client generally or in matters other than those identified in the writing.

**Comments**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

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[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

### **Rule 1.5: Fees**

(b)(1) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, except before or within a reasonable time after commencing the representation when the lawyer will charge a regularly represented client on the same basis or rate as in the past. If it is reasonably foreseeable that the total cost of representation to the client, including attorney's fees, will be \$1000 or less, the communication may be oral or in writing. Any changes in the basis or rate of the fee or expenses shall also be communicated in writing to the client.

### **Rule 3.1: Meritorious claims and contentions**

A lawyer providing limited scope representation pursuant to SCR 20:1.2 (c) may rely on the otherwise self-represented person's representation of facts, unless the lawyer has reason to believe that such representations are false, or materially insufficient, in which instance the lawyer shall make an independent reasonable inquiry into the facts.

### **Rule 4.2: Communication with person represented by counsel**

(b) An otherwise unrepresented party to whom limited scope representation is being provided or has been provided in accordance with Rule 20:1.2(c) is considered to be unrepresented for purposes of this rule unless the lawyer providing limited scope representation notifies the opposing lawyer otherwise.

### **Rule 4.3: Dealing with unrepresented person**

(b) An otherwise unrepresented party to whom limited scope representation is being provided or has been provided in accordance with Rule 20:1.2 (c) is considered to be unrepresented for purposes of this rule unless the lawyer providing limited scope representation notifies the opposing lawyer otherwise.

### **Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs**

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization, a bar

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

association, an accredited law school, or a court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to SCR 20:1.7 and SCR 20:1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to SCR 20:1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by SCR 20:1.7 or SCR 20:1.9(a) with respect to the matter.

(b) Except as provided in par. (a)(2), SCR 20:1.10 is inapplicable to a representation governed by this rule.

### Comments

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

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[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

### Wisconsin Statutes

#### 800.035

**(1m)** An attorney may provide limited scope representation to a person involved in a municipal court action as provided in s. 802.045 and 802.05.

#### 801.14: Service and Filing of Pleadings and Other Papers

**(2m)** When an attorney has filed a limited appearance under s. 802.045(2) on behalf of an otherwise self-represented person, anything required to be served under sub. (1) shall be served upon both the otherwise self-represented person who is receiving the limited scope representation and to the limited scope representation attorney. After the limited scope representation attorney files that attorney's notice of termination form, as provided in s. 802.045(4), no further service upon that attorney is required.

#### 802.045: Limited Scope Representation Permitted – Process

**(1)** An attorney may provide limited scope representation to a person involved in a court action.

**(2) Notice of Limited Appearance.** An attorney's role in an action may be limited to one or more individual proceedings or issues in an action if specifically so stated in a notice of limited appearance filed and served upon the parties prior to or simultaneous with the proceeding. Providing limited scope representation of a person under this section does not constitute a general appearance by the attorney for purposes of s. 801.14. The notice of limited appearance shall contain the following information:

- (a) The name and the party designation of the client.
- (b) The specific proceeding(s) or issue(s) within the scope of the limited representation.
- (c) A statement that the attorney will file a notice of termination upon completion of services.
- (d) A statement that the attorney providing limited scope representation shall be served with all matters while providing limited scope representation.
- (e) Contact information for the client including current address and phone number.

**(3) Service.** Service shall be made under s. 801.14(2m).

**(4) Termination of Limited Appearance.** At the conclusion of the representation for which a notice of limited appearance has been filed, the attorney's role terminates without further order of the court upon the attorney filing with the court, and serving upon the parties, a notice of the termination of limited appearance. Any such notice of termination of limited appearance shall contain the following information:

- (a) A statement that the attorney has completed all services within the scope of the Notice of Limited Appearance.
- (b) A statement that the attorney has completed all acts ordered by the court.
- (c) A statement that the attorney has served the notice of termination of limited appearance on all parties, including the client.
- (d) Contact information for the client including current address and phone number.

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(5) **Forms.** The director of state courts shall provide forms for use in filing notices required under this section to the clerk of circuit court in each county.

### 802.05: Additional Representations to Court as to Preparation of Pleadings or Other Documents

An attorney may draft or assist in drafting a pleading, motion or document filed by an otherwise self-represented person. The attorney is not required to sign the pleading, motion or document. Any such document must contain a statement immediately adjacent to the person's signature that "This document was prepared with the assistance of a lawyer." The attorney providing such drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false, or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

### 809.19

(1) (h) The signature of the attorney who files the brief, or, if the party who files the brief is not represented by an attorney, the signature of the party. If the brief was prepared with the drafting assistance of an attorney under s. 802.05(2m), the brief must contain a statement that "This document was prepared with the assistance of a lawyer."

### 809.80: Filing and service of papers

(2) (a) A person shall serve and file a copy of any paper required or authorized under these rules to be filed in a trial or appellate court as provided in s. 801.14 (1), (2), (2m) and (4).

## Wisconsin Supreme Court Rules of Judicial Administration

### Rule 70.41: Assistance to Court Users; Court Staff Guidelines

- (1) Definitions. In this rule:
  - (a) "Court" means an appellate, circuit, or municipal court.
  - (b) "Court staff" means persons under the supervision of the clerk of the supreme court and court of appeals, a clerk of circuit court, a circuit court commissioner, a register in probate, a district court administrator, a circuit court judge, or a municipal court judge.
  - (c) "Forms" means any of the following:
    1. Forms that have been approved by the records management committee.
    2. Forms that have been approved by a circuit court or municipal judge for use in that jurisdiction.
  - (d) "Individual" means any person who seeks court-related information, including information needed to file, pursue, or respond to a case.
  - (e) "Should" is directory only, not mandatory, and connotes a duty or obligation to pursue a goal or objective.
- (2) Purpose. The purpose of this rule is to assist the court in communicating with individual court users without practicing law. The rule is intended to enable court staff to provide

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

the best service possible to individuals within the limits of the individual staff member's responsibility. The rule is not intended to restrict powers of court staff otherwise provided by statute or rule nor is it intended to eliminate the collection of applicable fees or costs. The rule is not intended to list all assistance that can be provided. The rule recognizes that the best service the court staff may provide in many proceedings is advising an individual to seek the assistance of an attorney.

(3) Impartiality. Court staff shall remain impartial and may not provide or withhold assistance for the purpose of giving one party an advantage over another.

(4) Authorized information and assistance. Court staff shall do all of the following:

(a) Provide public information contained in any of the following:

1. Dockets or calendars.
2. Case files.
3. Indexes.
4. Existing reports.

(b) Provide a copy of, or recite, any of the following:

1. Common, routinely employed state and local court rules.
2. Common, routinely employed court procedures.
3. Common, routinely employed applicable fees and costs.

(c) Advise an individual where to find statutes and rules, without advising whether a particular statute or rule is applicable.

(d) Identify and provide applicable forms and written instructions without providing advice or recommendations as to any specific course of action.

(e) Answer questions about how to complete forms, such as where to write in particular types of information, but not questions about how the individual should phrase his or her responses on the forms.

(f) Define terms commonly used in court processes.

(g) Provide phone numbers for lawyer referral services, local attorney rosters, or other assistance services, such as Internet resources, known to the court staff.

(h) Provide appropriate aids and services for individuals with disabilities to the extent required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

(5) Unauthorized information and assistance. Court staff may not do any of the following:

(a) Provide legal advice or recommend a specific course of action for an individual.

(b) Apply the law to the facts of a given case, or give directions regarding how an individual should respond or behave in any aspect of the legal process.

(c) Recommend whether to file a petition or other pleading.

(d) Recommend phrasing for or specific content of pleadings.

(e) Fill in a form, unless required by sub. 4 (h).

(f) Recommend specific people against whom to file petitions or other pleadings.

(g) Recommend specific types of claims or arguments to assert in pleadings or at trial.

(h) Recommend what types or amount of damages to seek or the specific individuals from whom to seek damages.

(i) Recommend specific questions to ask witnesses or litigants.

(j) Recommend specific techniques for presenting evidence in pleadings or at trial.

(k) Recommend which objections to raise regarding an opponent's pleadings or motions at trial or when and how to raise them.

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

- (l) Recommend when or whether an individual should request or oppose an adjournment.
- (m) Recommend when or whether an individual should settle a dispute.
- (n) Recommend whether an individual should appeal a judge's decision.
- (o) Interpret the meaning or implications of statutes or appellate court decisions as they might apply to an individual case.
- (p) Perform legal research.
- (q) Predict the outcome of a particular case, strategy, or action.
- (6) Referral to supervisor. When a court staff member is uncertain whether the advice or information requested is authorized, the staff member should seek the assistance of a supervisor. If a supervisor is not available, the staff member should advise the individual to seek assistance from an attorney.

### **Comment**

Court staff shall provide a copy of a common rule, but court staff should not attempt to apply the rule to the facts in the individual's case. Sometimes, after court staff provides a rule, an individual will ask whether or how the rule would apply, or if the rule might be applied differently, given the facts in his or her case. This calls for an interpretation of the law or rule of procedure. Court staff shall avoid offering interpretations of laws or rules.

In providing assistance regarding forms, court staff may inform individuals that some general content may be required in a pleading, such as identification of the other parties involved in the accident or a description of the facts surrounding the accident. But court staff may not tell an individual whom to identify or which particular facts might be relevant in the pleading.

Court staff should, if possible, provide or direct an individual to pamphlets or other documents that may address an individual's question and that have been prepared for general distribution to the public.

Court staff may not compute deadlines specified by statute or rule.

Court staff may not perform legal research. Court staff may refer individuals to sections of the Wisconsin supreme court rules, local court rules, or Wisconsin statutes that govern matters of routine administration, practice, or procedure and they may give definitions of common, well-defined legal terms used in those sections. However, court staff shall not interpret the meaning of statutes or rules.

The list of prohibited types of assistance set forth under sub. 70.41(5) is not comprehensive. The list is consistent with the statutory directives in ss. 757.22 and 757.30(2), stats., regarding the practice of law by judicial officers and the unauthorized practice of law.

### **Milwaukee County Family Division Rules**

#### **Rule 5.6: Appearances of Counsel**

C. If a party and the party's attorney have agreed pursuant to Supreme Court Rule 20:1.2(c) to limit the scope of the attorney's representation in any way which limits the appearances an attorney is expected to make on behalf of the client in court, then the notice of appearance shall state the proceedings at which the court may expect the attorney to be present or other function for which the court may expect the attorney to be responsible.

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D. An attorney whose appearance is limited under paragraph C. may withdraw at the point in the proceedings contemplated by the limited appearance agreement by submitting a proposed order for withdrawal under Rule 1.21 (the five-day rule) and serving a copy of the proposed order upon the client and all parties.

### **Wyoming Rules of Professional Conduct**

#### **Rule 1.1: Competence**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

##### **Comment**

Thoroughness and Preparation [5]

Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more treatment than matters of lesser complexity and consequence. A lawyer and a client may agree, pursuant to Rule 1.2(c) or Rule 6.5, to limit the scope of the representation. In such circumstances, competence means the legal knowledge, skill, thoroughness and preparation reasonably necessary for the limited representation.

#### **Rule 1.2: Scope of Representation**

(c) A lawyer may limit the scope of the representation pursuant to Rule 6.5 or if the limitation is reasonable under the circumstances and the client makes an informed decision.

(1) The limitation(s) must be fully disclosed and explained to the client in a manner which can reasonably be understood by the client.

(2) Unless the representation of the client consists solely of telephone consultation, the disclosure and consent required by this subsection shall be in writing.

(3) The use of a written notice and consent form approved by, or substantially similar to, a form approved by the Board of Judicial Policy and Administration shall create the presumptions that:

- (i) the representation is limited to the attorney and the services described in the form; and
- (ii) the attorney does not represent the client generally or in any matters other than those identified in the form.

##### **Comment**

[7] Subsection (c) is intended to facilitate the provision of unbundled legal services, especially to low-income clients. “Unbundled” means that a lawyer may agree to perform a limited task for a client without incurring the responsibility to investigate or consider other aspects of the client’s matter. Accordingly, a lawyer and a client may agree, in writing, that the lawyer will perform discrete, specified services. The agreement need not be in writing if the representation consists solely of telephone consultation between the lawyer and the client. In such circumstances, the

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

lawyer should maintain a written summary of the conversation(s), including the nature of the requested legal assistance and the advice given. Pursuant to paragraph (c), therefore, a lawyer and a client may agree that the lawyer will: (1) provide advice and counsel on a particular issue or issues; (2) assist in drafting or reviewing pleadings or other documents; or (3) make a limited court appearance. If a lawyer assists in drafting a pleading, the document shall include a statement that the document was prepared with the assistance of counsel and shall include the name and address of the lawyer who provided the assistance. Such a statement does not constitute an entry of appearance or otherwise mean that the lawyer represents the client in the matter beyond assisting in the preparation of the document(s). Further, any limited court appearance must be in writing pursuant to Rule 102 of the Uniform Rules for the District Courts of Wyoming, and must describe the extent of the lawyer's involvement. See also, Rule 6.5, Non-profit Limited Legal Services Programs. To further facilitate the provision of unbundled services, the Board of Judicial Policy and Administration has approved a notice and consent form which may be used to comply with this rule. As paragraph (c)(4) indicates, using such a form will create the presumption that the lawyer has complied with this rule, as well as the presumption that the lawyer owes no additional duties to the client. The approved notice and consent form is attached as an appendix to these rules.

## APPENDIX I: Appendix to Rule 1.2 of the Rules of Professional Conduct

### NOTICE AND CONSENT TO LIMITED REPRESENTATION NOTICE

To help you with your legal problems, a lawyer may agree to give you some of the help you want, but not all of it. In other words, you and the lawyer may agree that the lawyer will limit his representation to helping you with a certain legal problem for a short time or for a particular purpose. Limited representation is available only in civil cases.

When a lawyer agrees to help you for a short time or for a particular purpose, the lawyer must act in your best interest and give you competent help. When a lawyer and you agree that the lawyer will provide such limited help,

--- The lawyer DOES NOT HAVE TO GIVE MORE HELP than the lawyer and you agreed.

--- The lawyer DOES NOT HAVE TO help with any other part of your legal problem.

If short-term limited representation is not reasonable, a lawyer may give advice, but will also tell you of the need to get another lawyer.

If you agree to have this lawyer give you limited help, sign your name at the bottom of this form. The lawyer will also sign to show that he or she agrees. If you and the lawyer both sign, the lawyer agrees to help you by performing the following limited services, and need not give you any more help.

Advise you about the following issues:

Write or read and advise you about the following legal documents:

Go to court to represent you only in the following matter(s):

\_\_\_\_\_  
Attorney's Name

Consent

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

I have read this Notice and Consent form and I understand what it says. I agree that the legal services specified above are the ONLY legal help this lawyer will give me. I understand and agree that the lawyer who is helping me with these services is not my lawyer for any other purpose and does not have to give me any more legal help. If the lawyer is giving me advice, or is helping me with legal or other documents, I understand the lawyer may decide to stop helping me whenever the lawyer wants. I also understand that if the lawyer goes to court for me, he or she does not have to help me after he goes to court unless we both agree in writing. I agree that the address I give below is my permanent address where I may be reached. I understand that it is important that both the opposing party and the court handling my case be able to reach me at this address in the event my attorney ends his limited representation. I therefore agree that I will inform the Court and the opposing party of any change in my permanent address.

\_\_\_\_\_  
Print Your Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Sign Your Name

\_\_\_\_\_  
City State and Zip Code

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone Number

### **Rule 6.5: Nonprofit Limited Legal Services Programs**

(a) A lawyer may, under the auspices of a program sponsored by a nonprofit organization, the state or county bar association, or a court, provide short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter if the lawyer informs the client of the scope of the representation at the time legal services are provided and the client makes an informed decision to the limited scope. In such circumstances, the lawyer:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer actually knows that the representation of the client involves a conflict of interest;

(2) is subject to Rule 1.10 only if the lawyer actually knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9 with respect to the matter.

(b) Unless the representation of the client consists solely of telephone consultation(s), the disclosure and consent required by subsection (a) shall be in writing.

(c) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

### **Comments**

[1] Various nonprofit organizations, bar associations, and courts have established or may establish programs through which lawyers provide short-term limited legal services – such as advice or completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines,

## APPENDIX B: RULES OF ETHICS AND PROCEDURE

advice-only clinics or pro se counseling programs, a short-term, limited client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides in-person, short-term limited legal services pursuant to this Rule must provide written notice to the client of the limited scope of the representation and secure the client's written, informed decision to the limited scope of the representation. The disclosure and agreement need not be in writing if the representation consists solely of telephone consultation between the lawyer and the client. In such circumstances, if a lawyer gives legal advice, the lawyer should maintain a written summary of the conversation. See also, Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rule 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of disqualifying conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rule 1.7 or 1.9(a). By virtue of paragraph (b) however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

(Added January 9, 2002, effective April 1, 2002; amended April 11, 2006, effective July 1, 2006.)

**Uniform Rules of the District Court of the State of Wyoming**

**Rule 102: Appearance and Withdrawal of Counsel**

(a)(1) An attorney appears in a case:

(A) By attending any proceeding as counsel for any party;

(B) By permitting the attorney's name to appear on any pleadings or motions, except that an attorney who assisted in the preparation of a pleading and whose name appears on the pleading as having done so shall not be deemed to have entered an appearance in the matter; or

(C) By a written appearance. Except in a criminal case, a written entry of appearance may be limited, by its terms, to a particular proceeding or matter.

(a)(2) Except as otherwise limited by a written entry of appearance, an appearing attorney shall be considered as representing the party or parties for whom the attorney appears for all purposes.

(b) All pleadings shall contain the name, address and telephone number of counsel or, if pro se, the party. All notices shall be mailed to the address provided. Each party or counsel shall give notice in writing of any change of address to the clerk and other parties.

(c) Counsel will not be permitted to withdraw from a case except upon court order. Except in the case of extraordinary circumstances, the court shall condition withdrawal of counsel upon the substitution of other counsel by written appearance. In the alternative, the court shall allow withdrawal upon a statement submitted by the client acknowledging the withdrawal of counsel for the client, and stating a desire to proceed pro se. An attorney who has entered a limited entry of appearance shall be deemed to have withdrawn when the attorney has fulfilled the duties of the limited entry of appearance.

(amended January 8, 2002, effective April 1, 2002)