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January 12, 2004

FAMILY LAW LIMITED SCOPE REPRESENTATION

RISK MANAGEMENT MATERIALS

The Limited Representation Committee of the California Commission on Access to Justice is pleased to send you this Family Law Limited Scope Representation Risk Management packet.

It is important that limited scope representation (“unbundling”) be done competently and ethically. These materials are designed to help advocates do just that. Among the documents are suggested guides and standards on best practices, sample fee agreements, checklists, and recently approved Judicial Council forms. Attorneys should modify these materials for use in their own practice.

The committee is very interested in hearing from those who use these materials and have any feedback or suggestions for future additions.

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**FAMILY LAW
LIMITED SCOPE
REPRESENTATION**

**RISK MANAGEMENT
MATERIALS**

**Limited Representation Committee
California Commission on Access to Justice**

January 12, 2004

**Family Law
Limited Scope Representation
Draft Risk Management Materials**

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PREAMBLE

These materials are suggested forms, guidelines and handouts which have been developed to use in limited scope representation matters. They offer a variety of suggestions that you should tailor to your particular practice. Each case, each client, and each opportunity for limited scope representation presents its own unique professional and ethical issues and nothing in these materials is intended to be a substitute for your own professional judgment and opinion.

**Family Law Limited Scope Representation
Risk Management Package
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INSTRUCTIONS FOR USING THIS SET OF DRAFT RISK MANAGEMENT MATERIALS

Attached is a package of family law risk management materials designed to help you document your file and ensure that you and the client are in agreement on the limitations on the scope of your representation, which tasks you are going to perform and, more importantly, which ones you are NOT going to perform. They are designed as templates which should be tailored to your needs. Since limited scope arrangements can be fluid, it is essential that you document not only the limitations in scope, but ALL changes to the scope and the representation's ultimate conclusion. They include a number of checklists to document the limitations, and note any changes, which are designed to allow you and your staff to easily track these issues so nothing is overlooked.

Use your judgment in tailoring the forms. You may use some or all of them, modify others, and select which ones best suit a given limited scope arrangement. A brief overview of the materials and their intended use follows:

1. **Limited Scope Representation Description (Client Handout).** This form was designed to educate the client about the options available for limited scope representation. Modify it to reflect your practice. Many clients will initially be unfamiliar with the many ways in which they can participate in their own representation. This form, or a variation, will help you educate them on the ways you can assist them in a limited scope context. Use it as a basis for discussion as you do your intake and evaluate their legal needs. Give them a copy and note on the tickler checklist the date on which you did so.
2. **Best Practices Tips .** These are designed to assist you in flagging the areas of special concern in limited scope representation. Read them carefully and add to them as new issues arise in your practice. Check for updates at <http://www.unbundledlaw.org/>.
3. **Flow Charts.** There are two flow charts designed to visually set forth the steps from both the client's and the attorney's perspective. Use the client flow chart as a handout as part of educating your client on the options for limited scope. Use the attorney one as a tool to document your own file.
4. **Sample Intake Sheet.** Tailor this form for use as an intake tool for every new limited scope family law client. Note the topics discussed, included related topics about which you advised them, and use it to document your discussions about the nature and scope of your representation. Before the client leaves, you should each initial it, and then give the client a copy. Do a new one each time a new issue comes up.
5. **Sample Tasks to be Apportioned/Issues to be Apportioned Checklists.** Use these forms to document the issues you discussed with the client, the apportionment of responsibility, and to identify the areas where the client agrees you are not to assume responsibility. You should each initial it and the client should take a copy. *Do a new one each time the scope changes*, initial and date it, give a copy to the client and note on the Tickler Checklist the date on which you did this. If you're defining the limited scope in an attachment to your fee agreement rather than in the body, use these as attachments and modify them as needed. Attach these forms as the exhibits to Fee Agreement #4 at page 39, or any other fee agreement where the limitation on scope is in an attachment rather than the body of the agreement.

6. **Sample Fee Agreements.** Four sample fee agreements are contained in Section 6, each tailored to a different form of limited scope representation, from a single appointment/single task to coaching, ongoing consulting, document preparation, and making court appearances. ***Do not perform services until you have a signed agreement limiting the scope of your involvement. If the scope changes, do a new agreement.*** If the form of agreement you use includes a checklist to define the scope, do a new checklist to document the changed scope, sign and date (both attorney and client). Don't just send a confirming letter to the client. If the scope changes, attach the tasks/issues checklists. Check for others at the following web site: <http://www.unbundledlaw.org>.
7. **Sample Change of Scope Letter.** This is a sample letter to send the client when the scope changes. The change in scope usually occurs either when a new issue arises which was unanticipated in the initial allocation of tasks, or the client finds s/he is unable to competently perform the tasks s/he has undertaken and asks the attorney to take it back.
8. **Sample Follow Up Checklist.** This form is designed to keep track of who is responsible for performing which tasks in an ongoing limited scope representation. Fill it out as you talk to your client about responsibilities, give a copy to the client and retain one for your records. Use it as often as necessary.
9. **Sample Tickler Checklist.** This is the key to keeping track of all of the above. Tailor it to your specific needs, photocopy it on brightly colored paper and keep it on top of your file. Note the dates on which you obtained each of the checklists, retainer letters, documentation of changes in scope, and file closing. Add other tasks and forms which you find recur in your practice and train your staff to keep the checklist current.
10. **California Judicial Council Forms.** These forms became effective July 1, 2003. File and serve a Notice of Limited Scope only if you are going to go of record or make a court appearance in California, and serve the client and opposing counsel with copies. If you went of record or appeared in court, and if the client does not sign a substitution of attorney, use the Application to be Relieved and Order to document the end of your involvement. Instructions for use of the forms are included.
11. **Other Handouts.** You will do your clients a service if you collect or create other handouts which will assist them in performing their agreed-upon tasks. A list of suggested additional client handouts is included. Consider gathering these materials and making them available to your clients. They augment others which you may have developed for internal use, such as descriptions of how to obtain a *pro per* restraining order, divide personal property, and other similar issues which recur frequently. When creating them, include mapquest directions to your local court and family law facilitator, Family Court Services, DCSS (child support collection), and information on self-help web sites, and programs (*pro bono*, legal aid, modest means panels and the like). If you offer services in a language other than English, provide these materials in the primary language of the client.
12. **Sample Closing Letter.** It is equally important to document your exit from the case as it is your entry into the case. When you have performed all the tasks for which you were engaged, tailor the Sample Closing Letter to clearly communicate that fact to the client. Invite the client to advise you immediately if s/he disagrees that all tasks for which you were engaged are completed. If you have made an appearance as part of your representation, file either a Substitution of Attorney or use the Judicial Council Forms (#10 above).

SECTION 1

Limited Scope Representation Description (Client Handout)

LIMITED SCOPE REPRESENTATION DESCRIPTION

What is limited scope representation?

Limited scope representation (sometimes called “unbundling”) is a way that an attorney can help you with part of your case while you do the rest of your case. For example:

1. You can consult with an attorney to prepare or review your paperwork, but attend the hearing yourself;
2. You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
3. You can do the preparation yourself and hire an attorney just to make the court appearance for you;
4. You may want to do your own investigation of the facts (“discovery”) and ask the attorney to assist you in putting the information in a format which is useful to the court;
5. You may ask the attorney to be on “standby” while you attend the settlement conference yourself.

With limited scope assistance, you may be able to handle the whole case yourself, except for a few technical areas, such as pension rights, where the attorney can help you. It really is between you and the attorney how much of your case you hire them to do. If you do this, it is important to keep returning to the same attorney. Otherwise, you’re paying a new person to get up to speed on your case each time that you consult.

Some areas of the law are *extremely technical* and it is rare for non-attorneys to effectively handle them. Among these are pension rights, stock options, and business interests. You will almost certainly need the assistance of an attorney if your case involves any of these issues.

Why it is important to discuss your case thoroughly with your attorney

It is important to thoroughly discuss **all aspects** of your case (even those which **you** think are simple) with your attorney before deciding which parts you want to do yourself and which ones the attorney will assist you with. It is equally important to realize that there may be important issues presented by your case that you aren’t even aware of. You could be at serious legal risk about an issue you don’t even realize exists. If you don’t discuss them with your attorney, how will you know?

Never make assumptions about the law which applies to your case. **The law shows you’ve seen on TV are rarely accurate**, and just because you’ve “seen it on TV,” doesn’t mean it is correct, or even “legal.” The **only** way you know this is to talk it over with a qualified attorney.

Sometimes new issues will pop up after your case is started. If they do, it is important to advise your attorney and discuss them, so that you know the potential legal consequences to you. Remember that your attorney can only advise you on matters you tell him/her about, so it is essential that you provide complete information about your case.

Remember, you and your attorney are working as a team. That means good communication and a clear understanding of each person’s assignments is essential.

SECTION 2

**Best Practices for
Limited Scope/Discrete Task Legal Services
Looking at Issues of Liability and Good Practice**

Best Practices for Limited Scope/Discrete Task Legal Services: Looking at issues of liability and good practice

Limited Scope/Discrete Task Legal Services (sometimes called “unbundling”) refers to matters in which a client hires an attorney to assist with specific elements of a matter such as legal advice, document preparation or document review, and/or limited appearances. The client and attorney agree on the specific discrete tasks to be performed by the client and the attorney. Depending on the nature of the attorney's involvement, the attorney may or may not enter an appearance with the court. The client represents him/herself in all other aspects of the case.

The special issues governing limited scope fall into three general categories:

- 1. The limitations on scope must be informed and in writing;**
- 2. Changes in scope must be documented;**
- 3. An attorney has an affirmative duty to advise the client on related matters, even if not asked.**

The following guidelines are designed to assist attorneys in addressing and avoiding malpractice liability in a limited scope/discrete task representation. Limited scope representation does not differ substantially from the rest of your practice, and most of the suggestions which follow are equally applicable to full scope service. However, there are some specialized issues which require consideration.

It is important to note that limiting the scope of your representation does not limit your ethical obligations to the client, including the duty to maintain confidentiality, the duty to act competently, the duty not to communicate with another person known by you to be represented by legal counsel in the matter (absent written permission from counsel to do so), and the duty to avoid conflicts of interest. It is also important to note that limiting the scope of your representation does not limit your exposure to liability for work you have agreed to perform, nor is such a limitation permissible.

Deciding on whether to take the case

- 1. Work within your expertise.** As with full scope service, strongly consider rejecting a limited scope matter in areas of law in which you or your firm have little or no experience. Taking a case for the “learning experience” is unwise in limited representation, or any representation. It takes significant expertise in family law to be able to anticipate what issues will arise in a matter, and it is necessary to give good counsel and avoid liability. **Even where your representation is limited to particular tasks, you may still owe a duty to alert the client to legal problems outside the scope of your representation that are reasonably apparent and that may require legal assistance. Therefore, you should inform the client not only of the limitation of your representation, of the possible need for other counsel regarding issues you have not agreed to handle.**

- 2. Don't be pressured by emergencies.** Pay particular attention to prospective clients who have last-minute emergencies and seek limited scope representation. Limited scope representation does not mean that you do not have to provide competent assistance or zealous advocacy. Being pressured to conduct a “quick document review” because of an upcoming deadline is much riskier if you will only be involved in that brief transaction. Consider advice on ways to move the deadline, if possible, to allow adequate time for review or representation.
- 3. Be wary of clients who take a “musical chairs” approach to finding legal help.** Consider carefully the requests from prospective limited scope clients who have involved multiple attorneys in the same case. Bouncing around may be an indicator that the client is searching for the “right” answer after being given what they believe are unsatisfactory responses to previous analyses of their situation. You should avoid helping to facilitate situations in which a client may blame you for his/her discontent with the outcome. *On the other hand*, you may find that previous attorneys were uncomfortable with taking a “piece” of the case and that your prospective client simply had trouble finding an attorney like yourself who was willing to work effectively with them on a limited scope basis. The client may have been viewed as “difficult” because s/he was seeking more of a partnership relationship than the traditional full scope representation envisions.
- 4. Be careful of clients who have unrealistic expectations.** A prospective client may be unrealistic about what s/he can achieve alone or about the nature of your limited scope representation. Part of your obligation in offering limited scope services is to teach the client about the legal system and the available remedies. Few non-attorneys will arrive on your doorstep with totally realistic expectations. Their beliefs are likely to have been shaped by what they have seen on TV, what they believe is fair, or what they have been told by neighbors or friends. You bring your knowledge and experience with the legal system to the relationship. If you believe that you will not be successful at reining in a client’s unrealistic expectations, you should decline the representation. It is important that the *pro se* litigants “hear” your advice in order to partner successfully with you in the representation and carry out a plan with your guidance. Not every client is temperamentally suited to representing him/herself.
- 5. Clients with limited capacity or language barriers may not be good candidates.** Since limitations on scope by definition must be informed and in writing. Clients who lack the capacity to give informed consent or assist in their own representation should be avoided. If the limitation is mental, the client is probably not a good candidate. If the limitation is one of language (and many potential limited scope clients have limited English skills) special issues are presented. If you are not bilingual yourself, you should insist on a translator. It is your responsibility to ensure that the client understands the limitations on scope and has the capacity to assist in their representation. This is an individualized assessment. Be creative in your fees or look for sources of *pro bono* or low cost assistance for these people.

6. **Identify those with hidden motives.** Be wary if the prospective client has trouble focussing on the legal outcome even after you have carefully explained the possible remedies available to them. Emotional needs may be driving the request for assistance. While many cases involve an emotional component, *pro per* litigants who seek revenge are likely to be unhappy with the limited results that the legal system provides and even unhappier with limited scope services. Clients who require a lot of hand holding are also unsuited to limited scope representation.
7. **Make sure the limited scope of your services is reasonable.** Although you and your client have substantial latitude in limiting the scope of your representation, the limitation must be reasonable under the circumstances and the client must give you informed consent. If you conclude that a short-term limited representation would not be reasonable under the circumstances, you may offer advice to the client but must also advise the client of the need for further assistance of legal counsel.
8. **Identify those with a history of domestic violence seeking limited scope legal assistance in cases involving the batterer.** Survivors of domestic violence face special issues when considering self-representation. The power inequities and intimidation present in an abusive situation must be considered. They may raise serious questions about her/his ability to maintain the balance necessary to pursue an action against the batterer. On the other hand, coaching the domestic violence survivor to successfully confront the batterer for the first time may be the best service you can render. The client may not be seeking limited scope services solely for financial reasons; they may be looking specifically for someone who can give them the tools to successfully enforce their own rights. Discuss these issues openly with the client.
9. **Clearly address the fee structure and its relation to services.** If during your initial interview you find that the prospective client is reluctant to discuss or agree on fees, be cautious. It is critical that the client understands that limited scope services not only limit your fees but *also* limit the services that you will perform for them. If anything, your fee arrangement must be clearer in limited scope representation than in full service. You must ensure that there is no misunderstanding about what limited services you have agreed to perform. In limited scope representation, it is crucial to be on a “pay as you go” basis, as you may never see the client again.
10. **A good diagnostic interview is critical.** It is critical to perform a good diagnostic interview to pick up all the critical issues in the case. Both experienced and inexperienced attorneys will find a checklist of issues in the relevant practice area to be extremely helpful in conducting a good diagnostic interview.
11. **Develop and use an intake form.** A good form should list the key issues and allow room to insert unusual ones. Give a completed copy to the client. It is a contemporaneous record which documents your file, reminds you to ask about related issues, memorializes the limitations on scope, and educates the client. Use and tailor the forms which appear in these materials to make them work for you.
12. **Advise the client of their right to seek advice on issues outside the scope of the limited assignment.** It is probably a good idea to include in your intake sheet or handouts a statement that the client has been advised of the right to seek counsel on other issues.

After you take the case

- 13. Use checklists.** This documents who is going to do what before the next meeting. Give a copy to the client. Sample checklists have been included in these materials. Tailor them to your specific practice, fill them out while the client is present, and make sure that you and your client each have an initialed copy.
- 14. Use a clear fee agreement detailing the scope of representation.** A good limited services fee agreement will spell out exactly what you are doing for the client, and even more importantly, what you are *not* doing, and will detail what responsibilities the client will assume. There should be no confusion about the scope of the representation. Look at the www.unbundledlaw.org website for sample fee agreements. Four sample fee agreements are included, for situations in which you consult on a single occasion, ongoing consulting, drafting and assistance with strategy and paperwork, and making an appearance for part of the case. Tailor them to each case and to your individual practice. A fee agreement which puts the limitations and checklist in an attachment is probably better suited to a case where you anticipate a change in scope.
- 15. Create a support group of experienced colleagues.** Limited experience with handling limited scope representation poses special challenges for newer attorneys or those new to a particular practice area. An experienced practitioner can confirm your analysis, suggest additional issues to explore or divert you from a particular proposed course of action. You might want to locate colleagues who are experienced with offering limited scope representation, and consider creating a study group, referral sources, or general references for each other. Meet with them periodically to discuss common problems and solutions. Most of the issues which will come up in a limited scope practice are practical rather than ethical, and it can be immensely helpful to talk to other practitioners who have faced the issues and developed solutions.
- 16. Practice defensively and document all decisions.** This is good advice in any type of legal work. It is particularly essential to document instances in which you offer advice on a particular path for the *pro per* litigant to take. Use the “Follow Up Checklist” in the materials to document your file and educate the client easily and efficiently.
- 17. Memorialize any changes in the scope of your limited representation as they occur.** *Never* do work outside the scope of the original retention without a new limitation signed by the client. Checklists that attach to the fee agreement are a simple and reliable way to do this. A confirming letter that the client doesn’t sign will probably be insufficient to effectively document the new limit in scope. Be sure that you and the client both sign off on any changes in scope. Use the “Tickler Checklist” in the materials to make sure you’ve done this. Adapt it for your full service cases as an additional risk management device.
- 18. Use prepared handouts.** Many of you will already have prepared handouts on common questions which arise in your practice. It is helpful to have one which describes limited scope representation and details the specific options available. Note on your intake sheet which handouts you gave to the client and on what date. A sample client handout on limited scope representation is included in the materials.

- 19. Explain the “why.”** Limited scope matters are pursued in partnership with the client. A client who understands the “big picture” and the tradeoffs will not only be more successful in self-representation but also less likely to blame you for unwanted outcomes.
- 20. Making non-client laypersons part of your team is hazardous.** Limited scope representation may create an informal feeling to the attorney-client relationship. Remember that, despite the apparent informality, this is an attorney-client relationship. It is between you and your client, not you, your client, Aunt Mary, and others the client may want to have involved. Allowing third parties to participate may destroy the attorney-client privilege. If the client insists on utilizing non-clients, clearly advise them, in writing, in advance, of the risks involved.
- 21. Refrain from providing forms with no assistance or review.** Some of the forms which will be required are simply too complicated for a *pro per* litigant to complete without assistance. Your expert assistance in the completion of these forms is not only a best practice but will also reduce any potential liability.
- 22. Do not encourage a *pro per* litigant to handle a matter that is too technical or difficult.** A prime example of this problem is preparation of a QDRO. Part of your responsibility as an attorney is to counsel a person *against* handling such a matter in *pro per* and to help them understand the cost/benefit analysis of using their litigation budget wisely to acquire the expert assistance in the areas where they most need it. This is an individualized assessment.
- 23. Do not expose a client to possible Rule 11 or CCP §128.7 sanctions.** A best practice is to satisfy yourself that the pleading you assist the client to prepare would withstand §128.7 scrutiny if your name were on it; or if not, at least advise the client about his/her responsibilities under §128.7

Ending the relationship

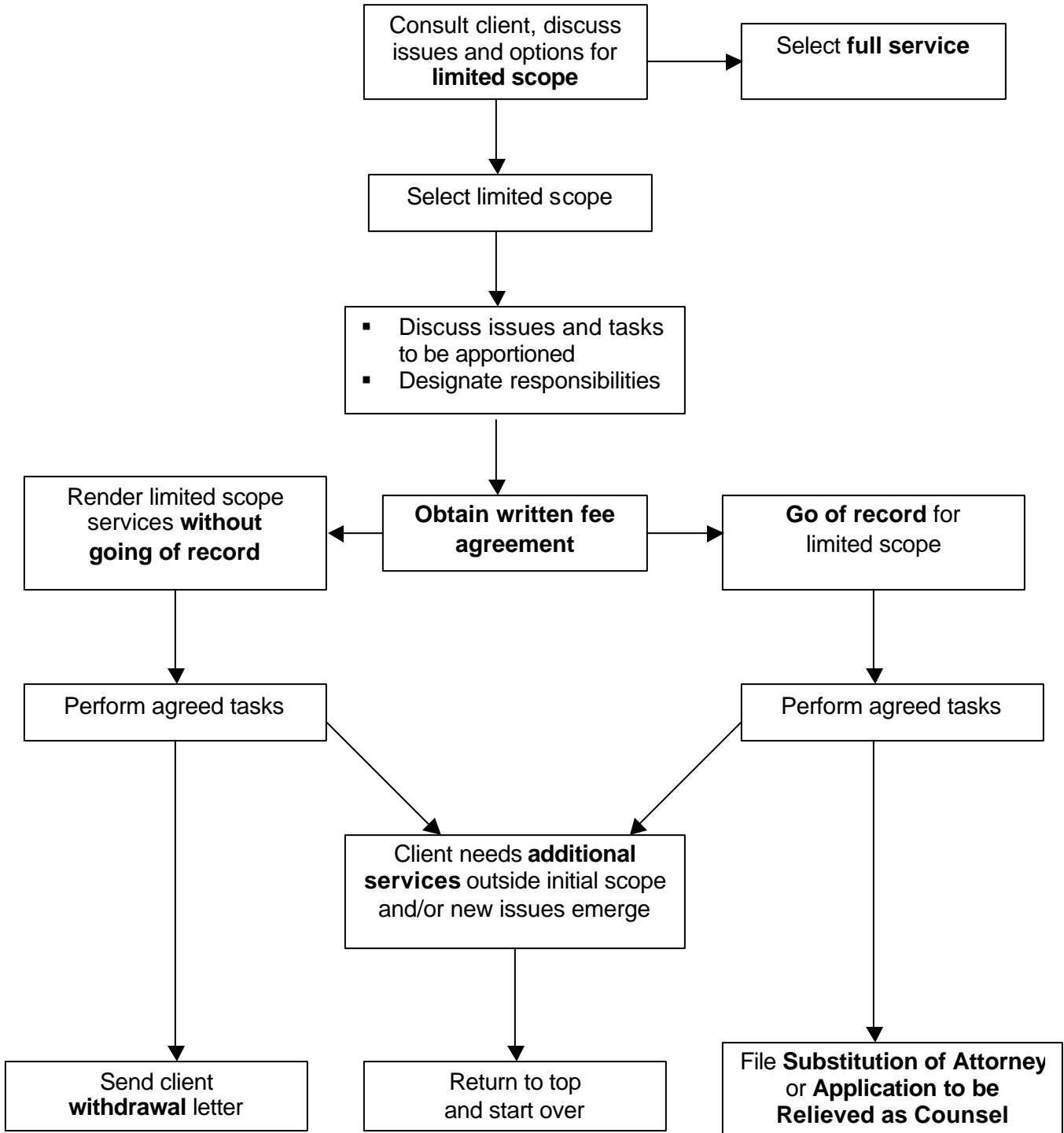
- 24. Let the client know when your involvement has ended.** There should be no surprises either to you or the client about when your involvement in the matter has ended, and no unstated expectations of continued participation on your part. Send out a notice at the end of your involvement in a matter that involves a series of steps. See the sample “closing letter” in the materials. Notify the client that you believe you have completed your part and advise him/her to get in touch with you immediately if s/he disagrees.
- 25. If you have entered an appearance, let the court know about ending the relationship as well.** Use a substitution of attorney or application to be relieved as counsel (see Judicial Council forms enclosed). Don’t attach your limited scope representation agreement to your application to be relieved, since that is a confidential communication.

Use good judgment. Many of these suggestions apply equally to full service representation. Your limited scope clients are likely to be more satisfied than your full service clients if you follow these simple practices. They don’t take much effort and will document your file and educate your clients in ways which substantially increase the likelihood of a satisfactory relationship for each of you.

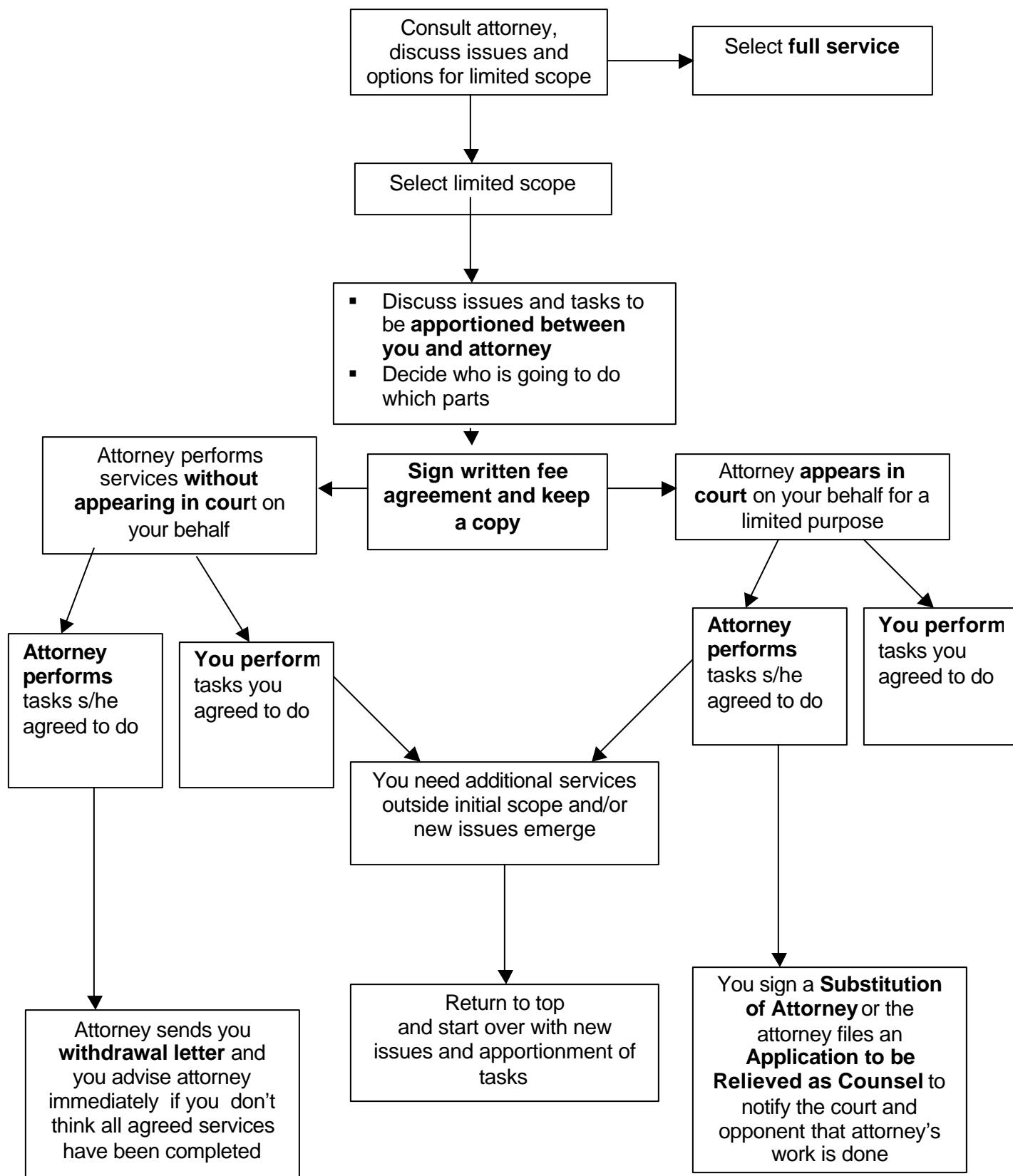
SECTION 3

Flow Charts

LIMITED SCOPE REPRESENTATION FLOW CHART FOR ATTORNEYS



LIMITED SCOPE REPRESENTATION FLOW CHART FOR CLIENTS



SECTION 4

Initial Interview Checklist

INITIAL INTERVIEW CHECKLIST

I met with _____ on _____, 200__
regarding _____

I performed a conflicts check on:

We discussed the following issues:

Date of Separation

Custody	Visitation	Move Away
---------	------------	-----------

Child Support	I did / did not run Dissomasters
---------------	----------------------------------

Spousal Support	Amount	Duration
-----------------	--------	----------

Restraining orders re

Division of real property	Valuation of real property
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Characterization of real property

Business Interests	Bank Accounts	Personal Property
--------------------	---------------	-------------------

Employee Benefits	Medical Insurance
-------------------	-------------------

Collection of past due support	Wage Assignment
--------------------------------	-----------------

Stock Options	Stocks and bonds
---------------	------------------

Advised client of right to seek counsel on issues outside the scope:

Other:

We discussed the following coaching options:

I gave the client the following materials:

Issues checklist	Tasks checklist	Fee agreement #
------------------	-----------------	-----------------

Client's Guide to Limited Legal Services

Handout re restraining orders	Handout re personal property division
-------------------------------	---------------------------------------

Blank court forms:

Other:

Attorney initials:	Client initials:
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SECTION 5

Tasks/Issues to be Apportioned

Tasks/Issues to be Apportioned

Two checklists follow. They address the two ways in which limited scope representation arrangements break down. In the first, the client and attorney agree which tasks are to be performed by each of them. This is by far the most common arrangement. In the other model, the attorney handles one or more discrete issues from start to finish, with the client assuming responsibility for the other issues.

The checklists should be tailored to your practice and to each case and may be used in two ways:

1. Use them as part of your intake to memorialize your discussions with the client regarding the limitations on scope, and do a new one each time the scope changes (as it frequently does).
2. Use them as exhibits to the fee agreement of your choice, and replace them each time the scope changes.

Tasks to Be Apportioned May Look Like This:

Client instructs attorney not to do discovery, and undertakes the information gathering role;
Client asks attorney to draft moving or responsive pleadings for a hearing the client attends in *pro per*;
Client consults with attorney on strategy and tactics;
Client appears at the hearing and asks the attorney to draft the order;
Client asks attorney to review correspondence or pleadings which the client has drafted;
Client asks attorney to prepare subpoenas;
Client asks attorney to write a brief to be filed in *pro per*;
Client asks attorney to run computer support programs on her, or review and analyze computer support calculations proposed by the opposing party;

Issues to Be Apportioned May Look Like This:

Attorney represents client in connection with custody and visitation issues (maybe including support); client is in *pro per* on property issues.
Attorney collects past due child support which client enforces the order to sell the house;
Attorney obtains supervised visitation and drug testing orders, and client is in *pro per* on support issues;
Attorney prepares QDRO dividing pension or order apportioning stock options, while client self-represents on other issues;

Note: Each limited scope arrangement is different, and *must* be tailored to the client, case and issues presented. These checklists are designed to be flexible and should be tailored to each case.

**ATTACHMENT TO LIMITED SCOPE FEE AGREEMENT
TASKS TO BE APPORTIONED**

Use this form to allocate tasks between attorney and client. Attach this form to your revised fee agreement if the scope of representation changes.

TASK	ATTORNEY TO DO:	DATE COMPLETED	CLIENT TO DO:
Draft papers to start divorce			
File and serve papers			
Draft Motions			
Draft affidavits and declarations			
Analyze case and advise of legal rights			
Procedural advice			
Formulating strategy and tactics			
Investigate facts; which issues?			
Obtain documents; which ones?			
Draft correspondence			
Review correspondence and pleadings			
Appear in court			
Run computer support programs			
Prepare subpoenas for documents			
Take depositions			
Review depositions and documents obtained from others			

Attorney Initials _____

Client Initials _____

TASKS TO BE APPORTIONED, cont'd

TASK	ATTORNEY TO DO:	DATE COMPLETED	CLIENT TO DO:
Legal research and analysis			
Contact witnesses			
Draft or analyze settlement proposals			
Contact expert witnesses			
Draft orders and judgments			
Outline testimony			
Trial or negotiation preparation			
Review orders and judgments that client drafts			
Draft orders			
Draft disclosure documents			
Advise regarding appeal			
Enforce orders			
Draft other papers as necessary			
Other:			
Other:			
Other:			
Dated:	Dated:		
Attorney signature	Client signature		

**ATTACHMENT TO LIMITED SCOPE FEE AGREEMENT
ISSUES TO BE APPORTIONED**

ISSUE	ATTORNEY TO DO:	DATE COMPLETED	CLIENT TO DO:
Custody/Visitation dispute			
Set or modify child support			
Collect past due child support			
Collect past due spousal support			
Real property valuation and division			
Personal property division ¹			
Business interests			
Bank accounts			
Investments			
Pension rights ²			
Stocks and bonds			
Stock options ³			
Value and divide employee benefits			
Health insurance			
Life insurance			
Value or divide other assets/debts			

Attorney Initials _____ **Client Initials** _____

¹ This means furniture and pots and pans. Think twice before you pay someone to do this for you. It rarely justifies the cost of the professional fees.

² This is extremely technical. Most attorneys farm this out to specialists because it is so easy to make a mistake.

³ See comments on pension rights; this is extremely technical and should be handled by a professional.

ISSUES TO BE APPORTIONED, cont'd

ISSUE	ATTORNEY TO DO:	DATE COMPLETED	CLIENT TO DO:
Enforce orders (describe)			
Pursue an appeal			
Other issues:			
Other issues:			
Other Issues:			
Dated:	Dated:		
Attorney signature	Client signature		

SECTION 6

Sample Fee Agreements

**FEE AGREEMENT #1
SINGLE CONSULTATION AGREEMENT**

On _____, 200_, _____ (Client) consulted with _____ (Attorney), who performed a conflicts check on _____ for limited scope assistance and advice. At that time, attorney provided the following services:

	Review of court documents (describe)
	Information about document preparation:
	Assistance with document preparation:
	Advice regarding client's rights and responsibilities
	Advice about the law and strategy relevant to issues as identified by Client
	Preparing computer support guideline calculations
	Information about fact gathering and discovery
	Guidance about procedural information, filing and service of documents
	Advice about negotiation and the preparation and presentation of evidence
	Advice about law and strategy related to an ongoing mediation/negotiation or litigation
	Legal Research
	Advising on trial or negotiating techniques
	Advising regarding property rights
	Review and analysis of Client's case or trial strategy
	Other (specify):
	<p>Client has paid Attorney for her/his time. All tasks which Client requested of Attorney have been completed and no further services are requested or expected from Attorney. Neither Client nor Attorney contemplates or expects a further professional relationship. Client acknowledges that he/she has been advised of the Client's right to seek separate legal advice from other counsel of the client's choice with regard to all legal matters that are outside the scope of the specific limited services provided by Attorney under this agreement.</p> <p>Dated: _____</p>
Client signature	Attorney signature

FEE AGREEMENT #2
CONSULTING SERVICES AGREEMENT

Identification of Parties: This agreement, executed in duplicate with each party receiving an executed original, is made between _____, hereafter referred to as “Attorney,” and _____, hereafter referred to as “Client.”

Nature of Case: Client consulted Attorney in the following matter:

- 1. Client Responsibilities and Control:** Client will remain responsible for and in control of his/her own case at all times. This means that Client will be responsible for understanding the issues, resolution options and potential consequences of those resolution options. In addition, Client agrees to:
- a. Cooperate with Attorney or his/her office by complying with all reasonable requests for information in connection with the matter for which Client is requesting services.
 - b. Inform Attorney of the specific parts of the case that Client requests Attorney’s assistance with.
 - c. Review and evaluate all information provided by Attorney.
 - d. Keep Attorney or his/her office advised of Client’s concerns and any information pertinent to Client’s case.
 - e. Provide Attorney with copies of all correspondence to and from Client relevant to the case.
 - f. Notify Attorney of any pending negotiations, hearings, contractual deadlines or litigation.
 - g. Keep all documents related to the case in a file for review by Attorney.
 - h. Sign all relevant papers, agreements or findings relative to the case.
 - i. Immediately notify Attorney of any changes of work or home addresses or telephone numbers of the Client.
 - j. Immediately notify Attorney if the Client receives any new pleading, motion, letter, or other documents from the other party, the other party’s lawyer, any expert, appraiser, or evaluator hired by either party or appointed by the Court, or any Special Master, or any documents from the Court, and provide the Attorney with a copy of the item received, as well as the date it was received by the Client.

2. Scope of Services: Client requests Attorney to perform or *not to perform* the following services related to the family law issues identified here or on the following page or attachment hereto:

(Indicate Yes or No in box)

a.		Advice about law and strategy related to an ongoing mediation, negotiation or litigation
b.		Information about document preparation
c.		Assistance with document preparation
d.		Information about fact gathering and discovery
e.		Assistance with drafting discovery requests
f.		Assistance with computer support programs
g.		Guidance and procedural information regarding filing and serving documents
h.		Advice about negotiations and the preparation and presentation of evidence
i.		Legal research
j.		Coaching on trial or negotiating techniques
k.		Review and analysis of Client's trial strategy
l.		Advice about an appeal
m.		Procedural assistance with an appeal
n.		Assistance with substantive legal argument
o.		Other:

3. Limitation of Attorney's Responsibilities: Attorney will perform the specific legal tasks identified by the word "Yes" in paragraph 2 above consistent with Attorney's ethical and professional responsibilities, including observing strict confidentiality, and based on the information available to Attorney. In providing those services, Attorney *will not*:

- a. Represent, speak for, appear for, or sign papers on Client's behalf.
- b. Provide services in paragraph 2 which are identified with the word "No."
- c. Make decisions for Client about any aspect of the case.
- d. Determine the assets and obligations of Client's marriage, their character, or their value.
- e. Determine an appropriate division of the assets and obligations of Client's marriage
- f. Litigate Client's case on Client's behalf
- g. Protect Client's property by means of restraining orders while discovery and/or negotiations are in progress.

Attorney will NOT perform any services identified by the word "NO" in paragraph 2 above. The Client may request that Attorney provide additional services. If Attorney agrees to provide additional services, those additional services will be specifically listed in an amendment to this Agreement, and initiated and dated by both parties. The date that both the Attorney and the Client initial any such list of additional services to be provided will be the date on which the Attorney becomes responsible for providing those additional services. If the Client decides to retain the Attorney as the Client's Attorney of record for handling the entire case on the Client's behalf, the Client and the Attorney will enter into a new written Agreement setting forth that fact, and the Attorney's additional responsibilities in the Client's case.

Right to Seek Advice of Other Counsel: Client is advised of the right to seek the advice and professional services of other counsel with respect to those services in paragraph 2 which are identified with the word "no" at any time during or following this limited consulting services agreement.

4. Method of Payment for Services:

- a. **Hourly Fee:** The current hourly fee charged by Attorney for services under this agreement is \$_____. Unless a different fee arrangement is established in clause 4b of this Paragraph, the hourly fee will be payable at the time of service. Attorney will charge in increments of one tenth of an hour, rounded off for each particular activity to the nearest tenth of an hour. The hourly fee will be payable at the time of the service.

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's fees and costs incurred by Client. This amount will be deposited by Attorney in Attorney's trust account. Client authorizes Attorney to withdraw the principal from the trust account to pay Attorney's fees and costs as they are incurred by Client. Any interest earned will be paid, as required by law, to the State Bar of California to fund legal services for indigent persons. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by Client for Attorney's fees and costs is less than the amount of the deposit, the difference will be refunded to Client.

c. Costs: All costs payable to third parties in connection with Client's case including filing fees, investigation fees, deposition fees and the like shall be paid directly by Client. Attorney will not advance costs to third parties on Client's behalf.

Client acknowledges that Attorney has made no promises about the total amount of Attorney's fees to be incurred by Client under this agreement.

5. Discharge of Attorney: Client may discharge Attorney at any time by written notice effective when received by Attorney. Unless specifically agreed by Attorney and Client, Attorney will provide no further services after receipt of the notice. Notwithstanding the discharge, Client will remain obligated to pay Attorney at the agreed rate for all services provided prior to such discharge.

6. Withdrawal of Attorney: Attorney may withdraw at any time as permitted under the Rules of Professional Conduct of the State Bar of California. The circumstances under which the Rules permit such withdrawal include, but are not limited to, the following:

- a. The Client consents,
- b. The Client's conduct renders it unreasonably difficult for the Attorney to carry out the employment effectively, and
- c. The Client fails to pay Attorney's fees or costs as required by his or her agreement with the Attorney.

Notwithstanding Attorney's withdrawal, Client will remain obligated to pay Attorney at the agreed rate for all services provided. At the termination of services under this agreement, Attorney will release promptly to Client on request all of Client's papers and property.

7. Disclaimer of Guarantee: Although Attorney may offer an opinion about possible results regarding the subject matter of this agreement, Attorney cannot guarantee any particular result. Client acknowledges that Attorney has made no promises about the outcome and that any opinion offered by Attorney in the future will not constitute a guarantee.

8. Arbitration of Fee Dispute: If a dispute arises between Attorney and Client regarding Attorney's fees or costs under this agreement and Attorney files suit in any court other than small claims court, Client will have the right to stay that suit by timely electing to arbitrate the dispute under Business and Professions Code sections 6200-6206, in which event Attorney must submit the matter for such arbitration.

9. Entire Agreement: This Agreement is the complete Agreement between the Client and the Attorney. If the Client and the Attorney decide to change or amend this Agreement in any way, the change must be in writing and attached to this Agreement.

10. Effective Date of Agreement: The effective date of this agreement will be the date when, having been executed by Client, one copy of the agreement is received by Attorney and Attorney receives the deposit required by Paragraph 4b. Once effective, this agreement will, however, apply to services provided by Attorney on this matter before its effective date.

The foregoing is agreed to by:

(Client)

(Attorney)

(Date)

(Date)

FEE AGREEMENT #3
ONGOING CONSULTING AGREEMENT

Identification of Parties: This agreement, executed in duplicate with each party receiving an executed original, is made between _____, hereafter referred to as "Attorney," and _____, hereafter referred to as "Client."

1. Nature of Case: The Client is requesting ongoing consulting services from Attorney in the following matter:

2. Client Responsibilities and Control. Client shall remain responsible for the conduct of the case and understands that he/she will remain in control of and be responsible for all decisions made in the course of the case. Client agrees to:

- a. Cooperate with Attorney or office by complying with all reasonable requests for information in connection with the matter for which Client is requesting services;
- b. Keep attorney or office advised of Client's concerns and any information that is pertinent to Client's case;
- c. Provide Attorney with copies of all pleadings and correspondence to and from Client regarding the case;
- d. Immediately provide Attorney with any new pleadings or motions received from the other party;
- e. Keep all documents related to the case in a file for review by Attorney.

3. Services to be performed by Attorney. Client and Attorney have agreed that Attorney will provide the following services, indicated by writing YES or NO (Attorney will not perform any services indicated by the word NO):

- a. _____ Legal advice: office visits, telephone calls, fax, mail, email;
- b. _____ Advice about availability of alternative means to resolving the dispute, including mediation and arbitration;
- c. _____ Evaluation of Client's 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, including simulated role-playing with Client;
- n. _____ Planning for court appearances, including simulated role-playing with Client;
- o. _____ Standby telephone assistance during negotiations or settlement conferences;
- p. _____ Backup and troubleshooting during the hearing or trial;
- q. _____ Referring Client to expert witnesses, special masters or other counsel;
- r. _____ Counseling Client about an appeal;
- s. _____ Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;
- t. _____ Provide preventive planning and/or schedule legal check-ups;
- u. _____ Other: _____

4. Attorney's Responsibilities: Attorney will exercise due professional care and observe strict confidentiality in providing the services identified by the word "YES" in Paragraph 4 above. In providing those services, Attorney WILL NOT:

- a. Represent, speak for, appear for, or sign papers on the Client's behalf;
- b. Become attorney of record on any court papers or litigate on Client's behalf;
- c. Provide services which are not identified by the word "YES" in Paragraph 4;
- d. Make decisions for Client about any aspect of the case;
- e. Protect Client's property by means of restraining orders while discovery and/or negotiations are in progress.

- f. The Client may request that Attorney provide additional services. If Attorney agrees to provide additional services, those additional services will be specifically listed in an amendment to this Agreement, and initialed and dated by both parties. The date that both the Attorney and the Client initial any such list of additional services to be provided will be the date on which the Attorney becomes responsible for providing those additional services. If the Client decides to retain the Attorney as the Client's Attorney of record for handling the entire case on the Client's behalf, the Client and the Attorney will enter into a new written Agreement setting forth that fact, and the Attorney's additional responsibilities in the Client's case.

- g. **Right to Seek Advice of Other Counsel:** Client is advised of the right to seek the advice and professional services of other counsel with respect to those services in paragraph 3 which are identified with the word “no” at any time during or following this Ongoing Consulting Agreement.

5. Method of Payment for Services:

a. Hourly Fee:

The current hourly fee charged by Attorney for services under this agreement is \$_____. 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. Attorney will charge in increments of one tenth of an hour, rounded off for each particular activity to the nearest one tenth of an hour.

If, while this agreement is in effect, Attorney increases the hourly rate(s) being charged to clients generally for Attorney's fees, that increase may be applied to fees incurred under this agreement, but only with respect to services provided thirty days or more after written notice of the increase is mailed to Client. If Client chooses not to consent to the increased rate(s), Client may terminate Attorney's services under this agreement by written notice effective when received by Attorney.

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's fees and costs incurred by Client. This amount will be deposited by Attorney in Attorney's trust account. Client authorizes Attorney to withdraw the principal from the trust account to pay Attorney's fees and costs as they are incurred by Client. Any interest earned will be paid, as required by law, to the State Bar of California to fund legal services for indigent persons. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by Client for Attorney's fees and costs is less than the amount of the deposit, the difference will be refunded to Client.

Costs: Client will pay Attorney's 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's case including filing fees, investigation fees, deposition fees and the like will be paid directly by Client. Attorney will not advance costs to third parties on Client's behalf.

Client acknowledges that Attorney has made no promises about the total amount of Attorney's fees to be incurred by Client under this agreement.

- c. Should it be necessary to institute any legal action for the enforcement of this agreement, the prevailing party shall be entitled to receive all court costs and reasonable attorney fees incurred in such action from the other party.

6. Discharge of Attorney: Client may discharge Attorney at any time by written notice effective when received by Attorney. Unless specifically agreed by Attorney and Client, Attorney will provide no further services and advance no further costs on Client's behalf after receipt of the notice. Notwithstanding the discharge, Client will remain obligated to pay Attorney at the agreed rate for all services provided and to reimburse Attorney for all costs incurred prior to such discharge.

7. Withdrawal of Attorney: Attorney may withdraw at any time as permitted under the Rules of Professional Conduct of the State Bar of California. The circumstances under which the Rules permit such withdrawal include, but are not limited to, the following: a) The client consents, b) the client's conduct renders it unreasonably difficult for the Attorney to carry out the employment effectively, and c) the client fails to pay Attorney's fees or costs as required by his or her agreement with the Attorney.

Notwithstanding Attorney's withdrawal, Client will remain obligated to pay Attorney at the agreed rate for all services provided, and to reimburse Attorney for all costs incurred before the withdrawal.

At the termination of services under this agreement, Attorney will promptly release all of Client's papers and property to Client on request.

8. Resolving Disputes between Client and Attorney

- a. **Notice and Negotiation.** If any dispute between Client and Attorney arises under this agreement regarding the payment of fees, Attorney's professional services rendered to or for Client, and any other disagreement, regardless of the nature of the facts or legal theories involved, both Attorney and Client agree to meet and confer within ten (10) days of written notice by either Client or Attorney that the dispute exists. The purpose of this meeting and conference will be to negotiate a solution short of further dispute resolution proceedings.

b. Mediation. If the dispute is not resolved through negotiation, Client and Attorney will attempt, within fifteen (15) days of failed negotiations, to agree on a neutral mediator whose role will be to facilitate further negotiations within fifteen (15) days. If the Attorney and Client cannot agree on a neutral mediator, they will request that the Contra Costa County Bar Association select a mediator. The mediation shall occur within fifteen (15) days after the mediator is selected. The Attorney and Client shall share the costs of the mediation, provided that the payment of costs and any attorney's fees may be mediated. Nothing in this provision shall constitute a waiver of Client's rights to State Bar fee arbitration or a trial *de novo* after a State Bar fee arbitration.

9. Amendments and Additional Services. This written Agreement governs the entire relationship between Client and Attorney. All amendments shall be in writing and attached to this agreement. If Client wishes to obtain additional services from Attorney as defined in Paragraph 4, a photocopy of Paragraph 4 which clearly denotes which extra services are to be provided, signed and dated by both Attorney and Client and attached to this Agreement, shall qualify as an amendment.

10. Severability in Event of Partial Invalidity. If any provision of this agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire agreement will be severable and remain in effect.

11. Statement of Client's Understanding. I have carefully read this Agreement and believe that I understand all of its provisions. I signify my agreement with the following statements by initialing each one:

- a. _____ I have accurately described the nature of my case in Paragraph 1.
- b. _____ I will be responsible for the conduct of my case and will be in control of my case at all times as described in Paragraph 2.
- c. _____ The services Attorney has agreed to perform in my case are identified by the word "YES" in Paragraph 3. I take responsibility for all other aspects of my case.
- d. _____ I understand and agree to the limitations on the scope of Attorney's responsibilities identified in Paragraph 4 and understand Attorney will not be responsible for my conduct in handling my case.
- e. _____ I will pay Attorney for services as described in Paragraph 5.

- f. _____ I will resolve any disputes I may have with Attorney under this Agreement in the manner described in Paragraph 8.

- g. _____ I understand that any amendments to this Agreement shall be in writing, as described in Paragraph 9.

- h. _____ I acknowledge that I have been advised by Attorney that I have the right to consult with another independent attorney to review this Agreement and to advise me on my rights as a client *before* I sign this Agreement.

(Client)

(Attorney)

(Date)

(Date)

FEE AGREEMENT #4*
LIMITED REPRESENTATION AGREEMENT INCLUDING COURT APPEARANCE

Identification of Parties: This agreement, executed in duplicate with each party receiving an executed original, is made between _____, hereafter referred to as "Attorney," and _____, hereafter referred to as "Client."

- 1. Nature of Case:** The Client is requesting ongoing consulting services from Attorney in the following matter:

These services are likely to require Attorney to appear of record for a limited issue.

- 2. Client Responsibilities and Control.** Client intends to retain control over all aspects of the case except those specifically assigned to Attorney, and understands that he/she will remain in control of the case and be responsible for all decisions made in the course of the case. Client agrees to:

- a. Cooperate with Attorney or office by complying with all reasonable requests for information in connection with the matter for which Client is requesting services;
- b. Keep attorney or office advised of Client's concerns and any information that is pertinent to Client's case;
- c. Provide Attorney with copies of all pleadings and correspondence to and from Client regarding the case;
- d. Immediately provide Attorney with any new pleadings or motions received from the other party;
- e. Keep all documents related to the case in a file for review by Attorney.

3. Services to be performed by Attorney

- a. Client seeks the services from Attorney as set forth in the Tasks and Issues to be Apportioned checklist attached as Exhibit A. Client and Attorney shall designate the services to be rendered by Attorney by writing the word "Yes" in the column labeled "Attorney Shall Do" next to the services they agree Attorney will do, and shall designate the services Client shall undertake him/herself by writing the word "Yes" under the column labeled "Client to Do" next to those services. If a service is to be rendered by another attorney or some other third person, the word "Other Attorney" or other similar designation shall be written in the blank opposite the service. Attorney and Client shall each retain an original of this agreement and the designation of services in Exhibit A attached.

*Use in conjunction with the Tasks/Issues checklists at pages 22-25.

- b. The Client may request that Attorney provide additional services. If Attorney agrees to provide additional services, those additional services will be specifically listed in an amendment to this Agreement, and initialed and dated by both parties. The date that both the Attorney and the Client initial any such list of additional services to be provided will be the date on which the Attorney becomes responsible for providing those additional services. If the Client decides to retain the Attorney as the Client's Attorney of record for handling the entire case on the Client's behalf, the Client and the Attorney will enter into a new written Agreement setting forth that fact, and the Attorney's additional responsibilities in the Client's case.
 - c. **Right to Seek Advice of Other Counsel:** Client is advised of the right to seek the advice and professional services of other counsel with respect to those services in paragraph 2 and Exhibit A and successor exhibits detailing the scope of representation which are identified with the words "*no*" or "*client to do*" at any time during or following this Limited Representation Agreement.
4. **Attorney of Record.** It is the intention of Attorney and Client that Attorney shall only perform those services specifically requested of Attorney. Some of those services may require Attorney to become attorney of record or make a court appearance in Client's case in order to perform the service requested. Attorney and Client specifically agree that Attorney's becoming attorney of record for such purposes shall not authorize or require Attorney to expand the scope of representation beyond the specific services designated. In the event that any court requires Attorney, as attorney of record for one or more authorized issues or tasks, to assume the responsibility for other tasks or issues reserved to client or a third party professional, Attorney may, at his/her option, elect to withdraw from representation, and Client agrees to execute any Substitution of Attorney forms reasonably requested by Attorney.

5. Method of Payment for Services:

a. Hourly Fee

The current hourly fee charged by Attorney for services under this agreement is as follows:

- 1) Attorney _____
- 2) Associate _____
- 3) Paralegal _____
- 4) 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. Attorney will charge in increments of one tenth of an hour, rounded off for each particular activity to the nearest one tenth of an hour.

If, while this agreement is in effect, Attorney increases the hourly rate(s) being charged to clients generally for Attorney's fees, that increase may be applied to fees incurred under this agreement, but only with respect to services provided thirty days or more after written notice of the increase is mailed to Client. If Client chooses not to consent to the increased rate(s), Client may terminate Attorney's services under this agreement by written notice effective when received by Attorney.

- 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's fees and costs incurred by Client. This amount will be deposited by Attorney in Attorney's trust account. Client authorizes Attorney to withdraw the principal from the trust account to pay Attorney's fees and costs as they are incurred by Client.

Any interest earned will be paid, as required by law, to the State Bar of California to fund legal services for indigent persons. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by Client for Attorney's fees and costs is less than the amount of the deposit, the difference will be refunded to Client.

Costs: Client will pay Attorney's 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's case including filing fees, investigation fees, deposition fees and the like will be paid directly by Client. Attorney will not advance costs to third parties on Client's behalf.

Client acknowledges that Attorney has made no promises about the total amount of Attorney's fees to be incurred by Client under this agreement.

6. Resolving Disputes between Client and Attorney

- a. Notice and Negotiation.** If any dispute between Client and Attorney arises under this agreement, both Attorney and Client agree to meet and confer within ten (10) days of written notice by either Client or Attorney that the dispute exists. The purpose of this meeting and conference will be to negotiate a solution short of further dispute resolution proceedings.
- b. Mediation.** If the dispute is not resolved through negotiation, Client and Attorney shall attempt, within fifteen (15) days of failed negotiations, to agree on a neutral mediator whose role will be to facilitate further negotiations within fifteen (15) days. If the Attorney and Client cannot agree on a neutral mediator, they shall request that the Contra Costa County Bar Association select a mediator. The mediation shall occur within fifteen (15) days after the mediator is selected. The Attorney and Client shall share the costs of the mediation, provided that the payment of costs and any attorney's fees may be mediated. Nothing in this provision shall constitute a waiver of Client's rights to State Bar fee arbitration or a trial *de novo* after a State Bar fee arbitration.

7. Amendments and Additional Services. This written Agreement governs the entire relationship between Client and Attorney. All amendments shall be in writing and attached to this agreement. If Client wishes to obtain additional services from Attorney as defined in Paragraph 3b, a photocopy of Paragraph 3b which clearly denotes which extra services are to be provided, signed and dated by both Attorney and Client and attached to this Agreement, shall qualify as an amendment.

8. Severability in Event of Partial Invalidity: If any provision of this agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire agreement will be severable and remain in effect.

9. I have carefully read this Agreement and believe that I understand all of its provisions. I signify my agreement with the following statements by initialing each one:

- a. _____ I have accurately described the nature of my case in Paragraph 1.
- b. _____ I will be responsible for the conduct of my case and will be in control of my case at all times as described in Paragraph 2.
- c. _____ The services that I want Attorney to perform in my case are identified by the word “YES” in Paragraph 3. I take responsibility for all other aspects of my case.
- d. _____ I understand and accept the limitations on the scope of Attorney’s responsibilities identified in Paragraph 4 and understand that Attorney will not be responsible for my conduct in handling my own case.
- e. _____ I will pay Attorney for services as described in Paragraph 5.
- f. _____ I will resolve any disputes I may have with Attorney under this Agreement in the manner described in Paragraph 6.
- g. _____ I understand that any amendments to this Agreement will be in writing, as described in Paragraph 7.
- h. _____ I acknowledge that I have been advised by Attorney that I have the right to consult with another independent attorney to review this Agreement and to advise me on my rights as a client *before* I sign this Agreement.

(Client)

(Attorney)

(Date)

(Date)

SECTION 7

Sample Change in Scope Letter

Sample Change in Scope Letter

Re: Limited Scope Representation

Dear _____:

Per our [telephone] conversation of _____, 200_, you have asked me to perform additional tasks for you that are not included in our original Agreement for Limited Scope Representation dated _____ [and modified _____] (copies enclosed).

You have requested and I have agreed to do the following:

[Enumerate the specific tasks/issues that you have agreed to undertake for the client.]

(e.g. to prepare _____ in response to the motion recently filed.)

I understand that you wish to continue handling all other matters yourself as set forth in our original Agreement.

It is essential that we both have the same understanding of our respective responsibilities in connection with your case. **I am unable to begin to work on the new task[s] until one copy of the signed revised checklist has been returned to me.** [If applicable] Some of the tasks you want me to undertake have significant time constraints which could seriously impact your legal rights. It is therefore **extremely important** that you complete and initial a new Tasks/Issues checklist to memorialize the new scope of my involvement in your case. I've prepared and enclosed two copies of a new checklist, which I believe covers the changes to the prior Agreement for Limited Scope Representation. If time is of the essence in taking the necessary steps to protect your rights in this new area, you should consider either coming to my office to sign the checklist, or fax me a signed copy so I can start.

Please review it carefully and, if you agree, initial BOTH copies, and return one to me in the envelope provided. The other copy is for your records and should be attached to your copy of our Agreement for Limited Scope Representation.

I encourage you to seek the advice of other counsel in connection with tasks which I have not undertaken. Also, please feel free to consult with another attorney of your choice regarding this revised Agreement before signing and returning it to me.

I look forward to working with you on this new matter.

Very truly yours,

Enclosures:

Two copies of Revised Task/Issues Checklist
Return envelope for your convenience

SECTION 8

Checklists

FOLLOW-UP CHECKLIST

Client:

Attorney and Client consulted on

By _____ **(fill in date) Client will:** _____

Obtain the following documents:

Contact the following witnesses:

Complete the following forms:

Prepare the following information for coach:

By _____ **(fill in date) Attorney will:** _____

Draft the following documents:

Prepare the following forms:

Contact the following witnesses:

Research the law/procedure on:

Review the following documents:

Other:

Other assignments:

Attorney initials:

Client initials:

TICKLER CHECKLIST

(***Keep on top of file***)

Client:

Case opened:

Initial Intake Checklist completed and copy given to client on _____

**Revised
dated:**

Materials given to Client

Date

Unbundling Description

Brochure

Referral information

Directions to court

Family Court Services

Facilitator

DCSS

Other

Worksheet re scope of services and services NOT performed _____

Modified and signed by attorney and client (new form for each change in scope)

Dated:

Notice of Limited Scope Representation served and filed (if going of record)

Documents in hand signed by Client

Date

Modified on

Intake Checklist

Issues to be Apportioned

Tasks to be Apportioned

Retainer Agreement No.

Other:

Other:

Other:

Case Conclusion

Closing letter sent:

Substitution of attorney sent to client _____ (date), signed by client _____ (date) filed _____.

Application to be Relieved as Counsel served and filed _____. Order granting application filed _____.

Case Closed:

Other Comments:

SUGGESTED CLIENT HANDOUTS

LIMITED SCOPE FAMILY LAW REPRESENTATION

There are lots of handouts which you can have available to assist your limited scope clients. Consider having some or all of the following available:

1. MapQuest directions to the local courts, Family Court Services, law library, Family Law Facilitators, etc.
2. A list of web sites with information for self-represented litigants, such as online forms and information sources, Judicial Council self-help sites and the like.
3. Referral information for legal assistance programs for which they may qualify, including Modest Means Programs, Pro Bono and other similar low fee panels.
4. Handouts with suggested methods for dividing personal property, severing joint tenancies and the like.

Note: Always note on the Tickler Checklist what handouts you gave them and when.

SECTION 9

Sample Closing Letter

Sample Closing Letter

Re: Limited Scope Representation

Dear _____:

I have now completed all of the tasks which we agreed I would do in our agreement dated _____ [and modified on _____]. I know of no other matters on which you have requested my assistance. **If you believe that I am incorrect, and you are relying on my assistance for some additional task, please contact me *immediately*.**

[Use only if attorney has appeared of record with the court]. [Option 1] If I do not hear from you within the next week, I will file the enclosed Notice of Completion with the court notifying the court that my representation of you is concluded. **[Option 2]** I am enclosing a substitution of attorney for you to sign and return indicating that I am no longer serving as your attorney. If you don't sign this substitution and return it within the week, I will be required to file a motion with the court asking to be relieved of your attorney.

[If applicable.] Don't forget that there is still a hearing on _____ at which time you will be representing yourself. **Your opposition paperwork must be served and filed on _____.**

You also agreed to contact _____ at ()____-____ to prepare the order transferring your pension benefits.]

The following issues, on which you have declined my assistance, are still pending:

- 1.
- 2.

I am enclosing the following original documents. Please be sure to keep them in a safe place in the event you need to refer to them in the future.

- 1.
- 2.

I would like to take this opportunity to thank you for allowing me to assist you in this matter. If you need further assistance in the future, I hope you will not hesitate to contact me.

Very truly yours,

Enclosures

SECTION 10

APPENDICES

APPENDIX 1

**Judicial Council Report and Rules
adopted April 15, 2003, effective July 1, 2003**

NOTE: Rules 5.170 and 5.171 were renumbered 5.70 and 5.71 respectively as of January 1, 2004 to conform to the new Judicial Council rules numbering system.

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Michael Nash, Co-chairs
Michael A. Fischer, Committee Co-counsel
Bonnie Hough, Supervising Attorney, 415-865-7668,
bonnie.hough@jud.ca.gov

DATE: March 14, 2003

SUBJECT: Family Law: Limited Scope Representation (adopt Cal. Rules of Court, rules 5.170 and 5.171; adopt form FL-950 and approve forms FL-955, FL-956 and FL-958) (Action Required)

Issue Statement

Family law courts serve increasing numbers of litigants who represent themselves in court. Many of these litigants would like the assistance of an attorney for parts of their cases even if they cannot afford full representation. At the request of the State Bar, the California Commission on Access to Justice prepared the *Report on Limited Scope Legal Assistance with Initial Recommendations*, which made a number of recommendations aimed at encouraging attorneys to provide limited scope representation. The Board of Governors of the State Bar has adopted these recommendations, which include asking the Judicial Council to develop rules and forms to enable limited scope representation so that attorneys can assist self-represented litigants, thereby increasing access to justice and encouraging court efficiency.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2003, adopt rules 5.170 and 5.171 of the California Rules of Court; adopt form FL-950; and approve forms FL-955, FL-956 and FL-958 to facilitate attorneys providing limited scope representation in family law courts.

Rationale for Recommendation

Limited scope representation is a relationship between an attorney and a person seeking legal services in which it is agreed that the scope of the legal services will be limited to specific tasks that the person asks the attorney to perform. This is also called “unbundling” and “discrete task representation.” This issue is of concern to the judiciary as it faces increasing numbers of self-represented litigants at a time of reduced funding. Reports from courts indicate that as many as 80 percent of the litigants in family law matters are self-represented.

At the request of the president of the State Bar of California, the Commission on Access to Justice established a Limited Representation Committee. The committee was composed of representatives from the private bar and the judiciary, legal ethics specialists, and legal services representatives. Their work was informed by legal research and discussion as well as by a series of focus groups that included private attorneys, judicial officers, legal services representatives, insurance company representatives, lawyer referral service representatives, litigants, family law facilitators, and legal ethics specialists. Focus groups and individual interviews were also conducted with current and potential users of limited scope services.

In October 2001 the committee issued a *Report on Limited Scope Legal Assistance With Initial Recommendations*. The Board of Governors of the State Bar of California approved those initial recommendations on July 28, 2001. Some of the recommendations, categorized by the committee as “court-related,” called for the committee to work with the Judicial Council to adopt rules and forms.

Limited scope representation helps self-represented litigants:

- Prepare their documents legibly, completely, and accurately;
- Prepare their cases based on a better understanding of the law and court procedures than they would if left on their own;
- Obtain representation for portions of their cases, such as court hearings, even if they cannot afford full representation; and
- Obtain assistance in preparing, understanding, and enforcing court orders.

This assistance can reduce the number of errors in documents; limit the time wasted by the court, litigants, and opposing attorneys because of the procedural difficulties and mistakes of self-represented litigants; and decrease docket congestion and demands on court personnel. In focus groups on this topic, judges indicated a strong interest in having self-represented litigants obtain as much information and assistance from attorneys as possible. They pointed to the California courts’ positive experience with self-help programs such as the family law facilitator program, which educates litigants and assists them with paperwork. These programs, however, cannot meet the needs of all self-represented litigants and, because of existing regulations, must limit the services they can offer.

The proposed forms and rules are designed to help facilitate attorneys providing this assistance as called for in the report of the Limited Representation Committee:

- A rule of court that would allow attorneys to help litigants prepare pleadings without disclosing that they assisted the litigants (unless they appear as attorneys of record or seek the award of attorney fees based on such work);
- A form to be filed with the court clarifying the scope of representation when the attorney and client have contracted for limited-scope legal assistance; and
- A simplified notice of withdrawal for cases when an attorney is providing limited scope assistance.

Rule 5.170, Nondisclosure of attorney assistance in preparation of court documents

The proposed rule provides that an attorney may assist in the preparation of family law pleadings without disclosure if he or she is not the attorney of record. Limiting the scope of representation to the preparation of family law pleadings is a widespread practice in California. Currently, there is no California statute or rule that expressly permits or prohibits attorneys' assistance of clients in the preparation of pleadings or other documents to be filed without disclosing their role to the court.

Some courts in other jurisdictions have expressed concern that providing anonymous assistance to a self-represented litigant defrauds the court by implying that the litigant has had no attorney assistance. The concern is that this might lead to special treatment for the litigant or allow the attorney to evade the court's authority. However, California's family law courts have allowed ghostwriting for many years. Family law facilitators, domestic violence advocates, family law clinics, law school clinics, and other programs and private attorneys serving low-income persons often draft pleadings on behalf of litigants.

Judicial officers in the focus groups reported that it is generally possible to determine from the appearance of a pleading whether an attorney was involved in drafting it. They also reported that the benefits of having documents prepared by an attorney are substantial.

In focus groups, private attorneys who draft pleadings on behalf of their clients revealed that they would be much less willing to provide this service if they had to put their names on the pleadings. Their reasons included:

- Fear of increased liability;
- Worry that a judicial officer might make them appear in court despite a contractual arrangement with the client limiting the scope of representation;
- Belief that they are helping the client tell his or her story, and that the client has a right to say things that attorneys would not include if they were directing the case;
- Concern that the client might change the pleading between leaving the attorney's office and filing the pleading in court;
- Apprehension that their reputation might be damaged by a client's inartful or inappropriate arguing of a motion;
- Concern that they would be violating the client's right to a confidential relationship with his or her attorney; and
- Worry that they may not be able to verify the accuracy of all the statements in the pleading, given the short time available with the client.

It does not appear that the filing of ghostwritten documents deprives the court of the ability to hold a party responsible for filing frivolous, misleading, or deceptive pleadings. A self-represented litigant makes representations to the court by filing a pleading or other document about the accuracy and appropriateness of those pleadings. (Code Civ. Proc., §128.7(b).) In the event that a court finds that section 128.7(b) of the Code of Civil Procedure has been violated, the court may sanction the self-represented litigant. The court could also inquire of the litigant who assisted in preparation of the pleading and lodge a complaint with the State Bar about the attorney's participation in the preparation of a frivolous or misleading document, whether or not his or her name is on the pleading. (See Los Angeles County Bar Association, Formal Opinion 502, November 4, 1999.) Given that the current practice is to not require ghostwriters to disclose their participation in a case and no widespread problems have been noted, there seems to be no reason to adopt a rule requiring disclosure of the drafter's identity in every case. Such a rule would likely discourage access to the courts, leave more litigants without attorney assistance in the drafting of pleadings, require more courts to decipher pleadings by unassisted self-represented litigants, and cause continuances to allow time for filing and service of correct and complete pleadings.

Under the proposed rule, an attorney providing limited scope representation must disclose his or her involvement if the litigant is requesting attorney fees to pay for those services, so that the court and opposing counsel can determine the appropriate fees. Awarding attorney fees when a litigant receives assistance with paperwork or preparations for a hearing may also help encourage attorneys to provide this service. Family Code section 2032 states that the court "shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately." The only counsel many litigants can afford, even with attorney fees awards, is counsel willing to provide limited scope legal services. If a litigant were able to present a case "adequately" through coaching or assistance with preparation of a pleading, an award of fees might also be appropriate.

Rule 5.171, Application to be relieved as counsel upon completion of limited scope representation

This new rule clarifies that attorneys who have completed the tasks specified in an agreement with a client for limited scope representation may use either the procedure set forth in rule 376 or forms FL-955, FL-956, and FL-958 to request that they be relieved as counsel in cases where they have appeared before the court as attorney of record and the client has not signed a *Substitution of Attorney—Civil* (form MC-050).

Notice of Limited Scope Representation (new form FL-950)

One of the key attorney services desired by the self-represented litigants in focus groups was the argument of a motion or trial in court. This service is generally in the best interest of the judiciary, since attorneys are aware of local rules and procedures, rules of evidence, and the scope of legally relevant issues. Counsel can give judicial officers a clear presentation of the case, saving significant court resources.

However, this is an area in which attorneys often are cautious about providing limited scope services. Lawyers need certainty that the courts will abide by the limitations contained in the retainer agreement. In general, while the court may prefer that an attorney represent a litigant for the entire case, the court's desire for more litigants to be represented in court proceedings can effectively be fulfilled by allowing limited scope services.

Form FL-950 is intended to clarify to the court and other parties that an attorney is making an appearance for a limited issue or for only one hearing. The form would provide notice to the court and the other party and would ensure a clear understanding between the client and lawyer regarding the scope of the service. It would also inform clerks and opposing counsel who the attorney of record is and to whom notice should be sent for various stages of a case.

Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation (new form FL-955)

This form is designed to provide the court and opposing party notice when the limited scope of the representation has been terminated if form MC-050 *Substitution of Attorney–Civil* is not completed. It also provides notice to a litigant that the attorney believes that the representation is completed so that the litigant has the ability to respond if he or she believes that the representation is not completed.

This form is designed to meet the requirements of Code of Civil Procedure section 284, which requires that if the consent of the client and attorney is not filed with the clerk or entered upon the minutes then application must be made to the court by either the attorney or the client, after notice from one to the other, and the court must make an order.

This proposed form and procedure to be relieved as counsel upon completion of limited scope representation are somewhat simpler than those procedures set forth in rule 376 of the California Rules of Court due to the different nature of the relationship between the attorney and client in a limited scope representation arrangement. Warning language contained in the forms for limited scope representation has been simplified and designed to be more reflective of family law proceedings.

Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation (new form FL-956)

This new form has been developed to allow a party who does not believe that his or her attorney has completed the tasks contracted for to file an objection with the court and request that the attorney not be relieved as counsel. This form provides space for a hearing date to be set by the clerk.

Order On Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation (new form FL-958)

This new form was developed to meet the requirements of Code of Civil Procedure section 284 and provide a clear record for the court and all parties to the litigation that the attorney providing limited scope representation is relieved as counsel in cases where a *Substitution of Attorney–Civil* (form MC-050) has not been filed.

Alternative Actions Considered

The Judicial Council could choose not to take any action. Ghostwritten pleadings would still be allowed, since there is no prohibition by statute or rule. However, it appears that many reputable attorneys would be reluctant to assist litigants in preparing pleadings without the council's clarification of this established practice. Attorneys might make appearances on limited issues before the court, but there would be no form or mechanism to alert the court that the appearance was for a limited purpose and no way to ascertain the clients' awareness of the limited scope of representation. Fewer attorneys would be likely to provide limited representation to clients, precluding clients from receiving much-needed assistance and the courts from receiving the benefit of an attorney-argued motion.

Comments From Interested Parties

A version of these proposed rules and forms was circulated in spring 2002. The comments were generally very positive, but a number of suggestions were made to improve the forms. Given the significance of the changes and the importance of this initiative, this proposal was recirculated for comment. Two additional forms and an additional rule regarding withdrawal of counsel have been developed based upon the comments received.

This new invitation to comment was circulated to the Administrative Office of the Courts' main mailing list of presiding judges and executive officers, the State Bar, and other groups interested in the administration of justice. In addition, it was circulated to all family law facilitators, family law information centers, child support commissioners, and legal services programs, as well as the Family and Juvenile Law Advisory Committee's list of family law practitioners. Thirty-two written comments were received. The comment chart is attached at pages 21–45.

Ten of the 32 commenters approved of the proposed rules and forms as circulated, with no changes required. Many applauded the Judicial Council on its commitment to increasing meaningful access to the court for litigants who are generally unrepresented.

Twenty commenters approved of the proposal and suggested ways to make the forms clearer, including adding a proof of service to the objection, allowing multiple parties to be listed on a proof of service, and putting some warnings to the client in bold to help them stand out.

One commenter took no position. Another commenter, the Orange County Bar Association, opposed the entire proposal, stating that it does not support the concept of limited scope representation. However, the rules and forms committee of the Superior Court of Orange County suggested that the forms and rules be approved as they would “formalize procedures our court has put into place.”

Five commenters responded specifically to the question of whether the court should retain the authority to require attorneys to remain attorneys of record beyond the scope of the agreement for limited scope representation. All of them responded negatively to that suggestion. The committee agrees that it is not appropriate for the court to violate the express agreement between the attorney and client regarding the scope of representation and that clients and courts would not receive the benefit of attorneys arguing parts of the case if the attorneys were uncertain whether they would be relieved as counsel.

There were a number of concerns raised about the proposed procedure for withdrawal by attorneys upon completion of limited scope representation if the client has not signed a substitution of attorney form as agreed. Those issues included how to track the request in the clerk’s office, who sends the notice of hearing, and concerns by attorneys that the process was too cumbersome. The committee recommends that the proposed process be amended to eliminate the clerk’s responsibility of calendaring the request for withdrawal and instead, require the attorney to resubmit the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955) after the waiting period. As the attorney is primarily interested in being relieved as counsel and this procedure can be accomplished by mail, this seemed a better option than placing the responsibility on the court clerk.

As previously noted, the Board of Governors of the State Bar of California approved the recommendations to develop these rules and forms. The State Bar’s Standing Committee on the Delivery of Legal Services supported the proposal as submitted. The State Bar’s Committee on Professional Responsibility provided significant support and informal comments prior to circulation of the proposal.

Some courts have included in their local strategic plans the development of panels of attorneys willing to provide limited scope representation. Some are already piloting the proposed forms.

Implementation Requirements and Costs

The use of the new forms would involve printing costs. Training on issues such as courtroom management in cases when attorneys are providing limited scope representation is already contemplated in the training for family law judicial officers. The State Bar is developing trainings for attorneys regarding ethical and effective limited scope representation. A workshop on limited scope representation will be offered at its annual meeting in September.

Attachments

Rules 5.170 and 5.171 of the California Rules of Court are adopted, effective July 1, 2003, to read:

***Rule 5.170. 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 fees]** If a litigant seeks a court order for attorney fees incurred as a result of document preparation, the litigant must disclose to the court information required for a proper determination of attorney 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.
- (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.

***Rule 5.171. Application to be relieved as counsel upon completion of limited scope representation**

- (a) **[Applicability of this rule]** Notwithstanding rule 376, 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).
- (b) **[Notice]** An application to be relieved as counsel upon 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).
- (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 form FL-956, *Objection to Application to be Relieved as Counsel Upon Completion of Limited Scope Representation*.
- (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

- (e) 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.
- (f) **[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.
- (g) **[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.

***NOTE: Rules 5.170 and 5.171 were renumbered 5.70 and 5.71 respectively as of January 1, 2004 to conform to the new Judicial Council rules numbering system.**

APPENDIX 2

a. Judicial Council Forms

Adopted April 15, 2003, effective July 1, 2003

b. Flow Chart

**How to Withdraw from Limited Scope
Representation after a Court Appearance**

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i> <hr style="width: 20px; margin-left: 0;"/> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	
<p style="text-align: center;">NOTICE OF LIMITED SCOPE REPRESENTATION</p> <input type="checkbox"/> Amended	CASE NUMBER:

1. Attorney *(name):*
and party *(name):*
have a written agreement that attorney will provide limited scope representation to the party.

2. Attorney will represent the party
 at the hearing on: and for any continuance of that hearing
 until submission of the order after hearing
 until resolution of the issues checked on page 1 by trial or settlement
 other *(specify duration of representation):* _____

3. Attorney will serve as "attorney of record" for the party **only** for the following issues in this case:
 - a. Child support: (1) Establish (2) Enforce (3) Modify *(describe in detail):* _____

 - b. Spousal support: (1) Establish (2) Enforce (3) Modify *(describe in detail):* _____

 - c. Restraining order: (1) Establish (2) Enforce (3) Modify *(describe in detail):* _____

 - d. Child custody and visitation: (1) Establish (2) Enforce (3) Modify *(describe in detail):* _____

 - e. Division of property *(describe in detail):* _____

 - f. Pension issues *(describe in detail):* _____

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

g. Contempt (*describe in detail*):

h. Other (*describe in detail*):

i. See attachment 3i.

4. By signing this form, the party agrees to sign form MC-050, *Substitution of Attorney–Civil* at the completion of the representation as set forth above.

5. The attorney named above is "attorney of record" and available for service of documents only for those issues specifically checked on pages 1 and 2. For all other matters, the party must be served directly. The party's name, address, and phone number are listed below for that purpose.

Name:

Address (*for the purpose of service*):

Phone:

Fax:

This notice accurately sets forth all current matters on which the attorney has agreed to serve as "attorney of record" for the party in this case. The information provided herein is not intended to set forth all of the terms and conditions of the agreement between the party and the attorney for limited scope representation.

Date:

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PARTY)

Date:

 (TYPE OR PRINT NAME)



 (SIGNATURE OF ATTORNEY)

_____ PETITIONER/PLAINTIFF: _____ RESPONDENT/DEFENDANT: _____ OTHER PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

PROOF OF SERVICE BY **PERSONAL SERVICE** **MAIL**

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. I served a copy of the *Notice of Limited Scope Representation* as follows (check either a. or b. below):
 - a. **Personal service.** The *Notice of Limited Scope Representation* was given to:
 - (1) Name of person served:
 - (2) Address where served:

 - (3) Date served:
 - (4) Time served:

 - b. **Mail.** I placed a copy of the *Notice of Limited Scope Representation* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
 - (1) Name of person served:
 - (2) Address:

 - (3) Date of mailing:
 - (4) Place of mailing (*city and state*):
 - (5) I live in or work in the county where the *Notice* was mailed.

3. Server's information:
 - a. Name:
 - b. Home or work address:

 - c. Telephone number:

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PERSON SERVING NOTICE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY CASE NUMBER: _____
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITIONER/PLAINTIFF: _____ RESPONDENT/DEFENDANT: _____ OTHER PARENT/CLAIMANT: _____	
APPLICATION TO BE RELIEVED AS COUNSEL UPON COMPLETION OF LIMITED SCOPE REPRESENTATION	

1. I request an order to be relieved as counsel in this matter.
2. In accordance with the terms of an agreement between (*name*): petitioner respondent
 other parent/claimant and myself, I agreed to provide limited scope representation.
3. I was retained as attorney of record for the following limited scope services (*describe in detail*):

 see *Notice of Limited Scope Representation* (form FL-950).
4. I have completed all services within the scope of my representation and have completed all acts ordered by the court.
5. The last known address for the petitioner respondent other parent/claimant is:
6. The last known telephone number for the petitioner respondent other parent/claimant is:

NOTICE TO PARTY/CLIENT: Your attorney has filed this *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* with the court stating that he or she no longer represents you in this action because the tasks that you agreed the attorney would perform for you have been completed.

If you do not agree that these tasks have been completed and you want the attorney to continue to represent you until the tasks are completed, you must file an *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956) with the court within 15 calendar days of the date that this notice was served on you, asking the court to require the attorney to remain your attorney in the action until these tasks are completed. You must also serve this *Objection* on your attorney and the other party. If you do not file a form FL-956, the court will grant your attorney's request.

Please refer to the *Proof of Service* on page 2 of this form to determine the date that this notice was served on you (if this form was served by mail, the date of service is 5 days after the date of mailing).

This procedure may be used ONLY if you believe that the attorney has not completed the tasks that he or she agreed to perform for you. It is NOT to be used to resolve other disagreements you may have with the attorney, such as disagreements concerning fees.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF ATTORNEY)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

PROOF OF SERVICE BY PERSONAL SERVICE MAIL

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the completed *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* and all attachments as well as a blank *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* as follows (check either a. or b. below):
 - a. **Personal service.** I personally delivered the forms listed above and any attachments as follows:
 - (1) Name of person served:
 - (2) Address where served:
 - (3) Date served:
 - (4) Time served:
 - b. **Mail.** I placed copies of the forms listed above in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
 - (1) Name of person served:
 - (2) Address:
 - (3) Date of mailing:
 - (4) Place of mailing (*city and state*):
 - (5) I live in or work in the county where the forms were mailed.
3. Server's information:
 - a. Name:
 - b. Home or work address:
 - c. Telephone number:

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

(TYPE OR PRINT SERVER'S NAME)
▶
(SERVER TO SIGN HERE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	
OBJECTION TO APPLICATION TO BE RELIEVED AS COUNSEL UPON COMPLETION OF LIMITED SCOPE REPRESENTATION	CASE NUMBER:
Hearing Date: _____ Time: _____ Dept.: _____ Room: _____	

1. I am the petitioner/plaintiff respondent/defendant other parent/claimant in this case.
2. I do not believe that all the services that my attorney agreed to do for me are completed.
3. I request that the court not allow my attorney to withdraw from representation until those services have been completed. The services that were agreed upon that remain to be completed are (*specify*):

The reason that I think these tasks are supposed to be completed is (*specify*):

NOTICE

If you object to your attorney's *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955), you must file this notice with the clerk of the court where the *Application* was filed within 20 days of the day that the form was put in the mail to you. If you were personally served, you have to file this form 15 days from the day you were served. That date is on the proof of service on the third page of the *Application* (form FL-955). You must have the attorney and the other party served with this *Objection* form (FL-956) as well. A blank proof of service is on the back of this form.

I declare under penalty of perjury under the laws of the State of California that the above information is true and correct.

Date: _____ ▶ _____
(SIGNATURE)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
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PROOF OF SERVICE BY PERSONAL SERVICE MAIL

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the completed *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* as follows (check either a. or b. below):
 - a. **Personal service.** I personally delivered the forms and any attachments as follows:
 - (1) Name of person served:
 - (2) Address where served:
 - (3) Date served:
 - (4) Time served:
 - b. **Mail.** I deposited the forms and any attachments in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
 - (1) Name of person served:
 - (2) Address:
 - (3) Date of mailing:
 - (4) Place of mailing (*city and state*):
 - (5) I am a resident of or employed in the county where the forms were mailed.
 - c. My residence or business address is (*specify*):
 - d. My phone number is (*specify*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PERSON SERVING NOTICE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLANTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMAINT:	
ORDER ON APPLICATION TO BE RELIEVED AS COUNSEL UPON COMPLETION OF LIMITED SCOPE REPRESENTATION	CASE NUMBER(S):

1. The application of (*name of attorney*):
to be relieved as counsel of record for (*name of client*):
a party to this action or proceeding, was filed on (*specify date*):

2. **UNCONTESTED**

- a. Fifteen calendar days have elapsed since the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955) and any attachments were served on the party.
- b. The client was
 - (1) personally served with the papers.
 - (2) served by mail.
- c. No *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956) has been received from the client.
- d. It appears from the application to be relieved as counsel and any attached documents that the attorney has completed the tasks that the client and attorney agreed that the attorney would perform as well as any acts ordered by the court.

3. **CONTESTED**

- a. The party filed an *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956) on (*date*):
- b. The proceeding was heard on (*date*): _____ at (*time*): _____ in Dept.: _____ Room: _____
by Judge (*name*): _____ Temporary Judge
- c. The following persons were present at the hearing:

<input type="checkbox"/> Petitioner/plaintiff	<input type="checkbox"/> Attorney for petitioner/plaintiff
<input type="checkbox"/> Respondent/defendant	<input type="checkbox"/> Attorney for respondent/defendant
<input type="checkbox"/> Other parent/claimant	<input type="checkbox"/> Attorney for other parent/claimant
- d. Attorney demonstrated that he or she has completed the service that the party and attorney agreed that the attorney would perform on the *Notice of Limited Scope Representation* (form FL-950) as well as any acts ordered by the court.

PETITIONER/PLANTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMAINT:	CASE NUMBER(S):
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ORDER

4. Attorney is relieved as attorney of record for client:
- a. effective immediately
 - b. effective upon the filing of the proof of service of this signed order upon the client
 - c. effective on *(specify date)*:
 - d. **NOTICE TO CLIENT/PARTY:** You now represent yourself in all aspects of your case. You may wish to seek other legal counsel regarding your case.

The court needs to know how to contact you. It is your responsibility to keep the court informed of your address. If the address below is wrong, you need to let the court and the other parties of the case know your correct mailing address as soon as possible. You can use form MC-040, *Notice of Change of Address and Telephone Number*, for this notification.

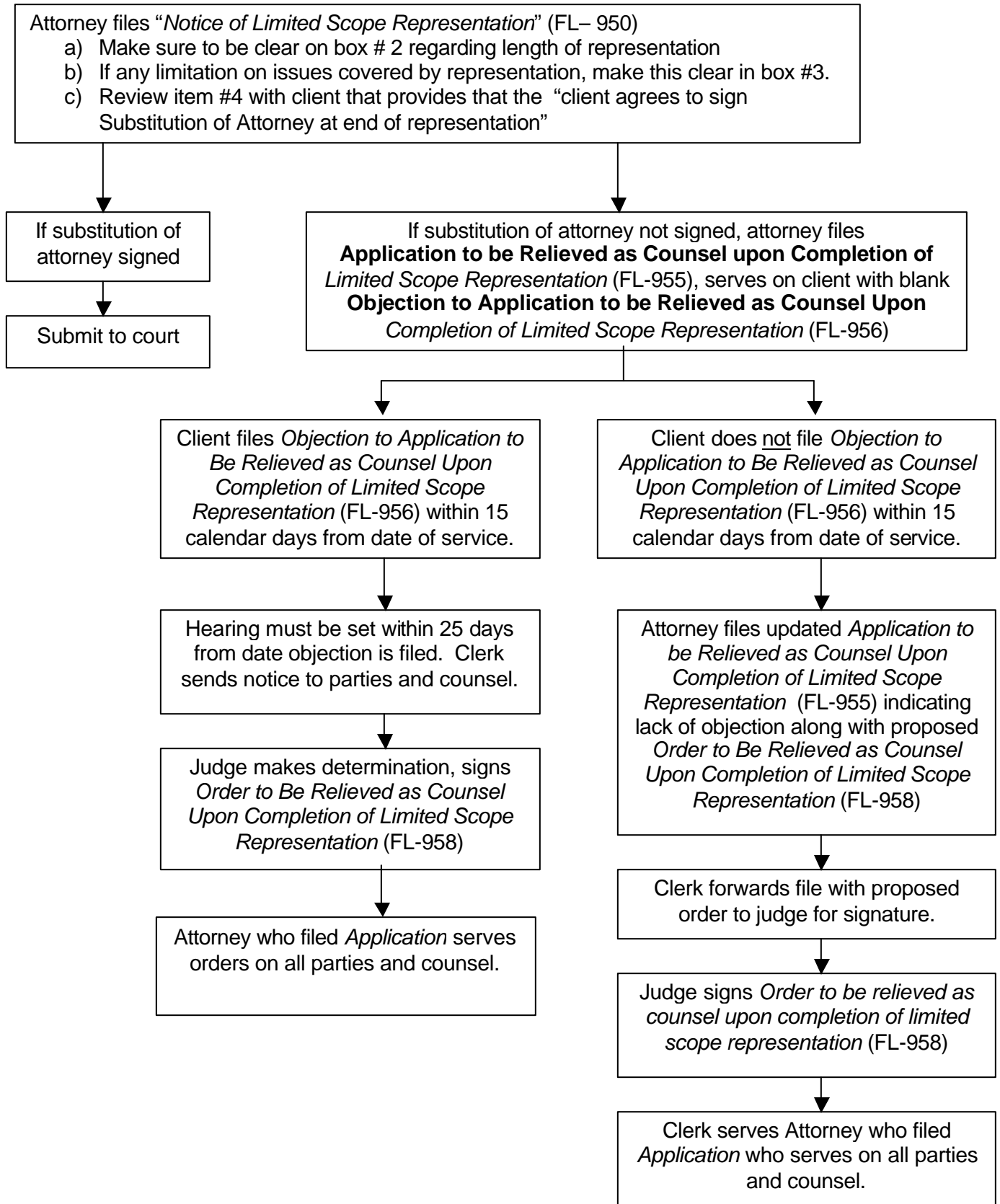
If you do not let the court and the other parties to the case know where to send you copies of papers, you may not get notices of hearings or orders in your case. Decisions may be made without your participation, and your case could be ended.

- e. Current mailing address for client/party:
5. The application of counsel to be relieved upon completion of limited scope representation is denied for the following reasons:
6. The court further orders *(specify)*:

NOTICE TO ATTORNEY WHO FILED APPLICATION FOR RELIEF: You must serve copies of the order on the parties and opposing counsel. Proof of service must be filed with the court.

Date: _____  _____
(JUDGE/JUDICIAL OFFICER)

HOW TO WITHDRAW FROM LIMITED SCOPE REPRESENTATION AFTER A COURT APPEARANCE



APPENDIX 3

**20 Things Judicial Officers can do to
Encourage Attorneys to Provide
Limited Scope Representation**

As many as 80% of litigants in family law courts represent themselves. Many would like the assistance of an attorney for parts of their cases even if they cannot afford full representation. The Board of Governors of the State Bar recently adopted recommendations made by the California Commission on Access to Justice aimed at encouraging attorneys to provide limited scope representation of pro per litigants. The Judicial Council also adopted new rules and forms to enable limited scope representation, effective July 1, 2003.

20 things judicial officers can do to encourage attorneys to provide Limited Scope Representation

How judges can get more attorneys to draft intelligible declarations and enforceable orders for self-represented litigants.

Support the General Idea

Limited Scope Representation Committee of the California Commission on Access to Justice

1) **Make positive comments** about limited scope representation and how it's great to have attorneys involved in self-represented cases—you appreciate getting forms you can understand, orders you can enforce, and having attorneys for appearances. Let it be known that you think it is not only okay, but beneficial for attorneys to provide limited scope representation. Let litigants know that they may get limited scope assistance if they are unable to afford (or choose not to have) full representation.

This is a win/win/win (court, litigant and attorney) and it helps everyone if done correctly.

2) **Hold a training for other judicial officers** on the issue of limited scope representation. Offer similar sessions to the local bar.

Consider an annual training in limited scope representation put on by the local bar in each county so that new forms, procedures and "bugs" can be addressed. This can also serve as a vehicle to address concerns that arise between bench and bar and train new lawyers.

3) **Mention 'unbundling'** as you also mention pro bono when doing public speaking to lawyers or the public.

4) **Encourage the Bar Association** to set up a limited representation panel and have at least a listing of persons who will help with prepar-

ing and negotiating judgments, especially in low asset cases.

5) **Get the local Bar Board of Directors** to pass a resolution in favor of Limited Scope of Representation and have it publicized in their newsletter. Having it come from the Bench will add credibility to the resolution. Consider a joint resolution.

6) **Educate.** Rather than complaining of problems with the narrow scope of the work, make suggestions to help counsel improve the quality of the "package" of services they supply in certain areas.

7) **Show that you understand** and believe that partial representation is helpful to the court. (Tell the lawyers that the years they spent sweating through law school do make a difference.)

Modify Courtroom Conduct

8) **If the client has agreed to limited** representation, you've got to let the attorney out once the scope of the representation is completed. If the word gets out that you are not honoring these agreements, attorneys will feel they're being held hostage for their good intentions and attempts to help, and won't want to make limited appearances in the future. That means you won't be able to get attorneys to assist when you need them to.

9) **If an attorney is appearing on only one** issue in a matter, try to bifurcate that in the hearing so that the attorney isn't either sitting through issues he or she is not authorized to address (and not getting paid for) or being tempted to expand the scope of representation beyond that which the attorney and client have negotiated. If the attorney decides that he or she can't keep quiet on the other issues, consider taking a break in the hearing and giving the attorney the opportunity to revise the scope of the representation with his or her client.

10) **Recognize that clients** who have consulted with an attorney may not present that attorney's advice fully or even accurately. Trust that it is unlikely that the attorney told them "not to bother with service" or similar misconceptions. If there appear to be consistent problems, consider addressing them as general issues with the local bar.

Limited Scope Representation, *continued*

11) **Resist attempts by opposing counsel** to broaden the scope of the representation.

12) **Be open to discussing with counsel**, when necessary, clarification of the issues so that opposing counsel will know which issues require contact through counsel and which issues permit contact with the client..

Review Forms, Papers and Processes

13) **Review your local rules** to modify any that may contradict limited scope of representation rules.

14) **Work out procedures with the court clerk's office** to make sure they know how to reflect the representational status of the litigant in their case management system. They are on the front line in dealing with many of the issues surrounding limited scope representation and need to be aware of the issues and techniques for dealing with them.

15) **Use the Judicial Council form** or a similar draft while that form is in the comment process. Have a copy provided to the other side. Get a clear understanding of the limitations on scope from the attorney.

16) **Send comments on the proposed Judicial Council form** so that it can be made as useful as possible. Let the Administrative Office of the Courts staff attorneys know as issues and problems come up so that they can be considered and addressed with the State Bar.

17) **When problems arise**, work with the local bar to develop practical solutions. For example, if you want to be sure that settlement conferences don't have to be continued so the self-represented litigants can consult with their advisory counsel, let them know that they are responsible for notifying their consulting/advisory counsel and making

arrangements for them to be available on standby or otherwise as appropriate. It is most effective if you meet periodically with the bar to discuss these issues and work out solutions which work for both of you.

Monitor Quality

18) **Convene meetings of the family law bar** and legal service programs to discuss limited scope representation and suggest that they continue a working group to develop standards of care (as in Contra Costa), informational materials for litigants, fee agreements and office tools, and develop working relationships, referral systems and protocols.

Financial Issues

19) **Award attorneys fees for limited scope services** when otherwise appropriate and let attorneys know what forms or information they need to provide to substantiate the claim for fees. This is especially important if the attorney is not appearing of record, but assisting in the preparation of forms, declarations and the like.

20) **Be sensitive to the economic issues.** For example, if an attorney is in court for limited scope, even a routine continuance can impose a real hardship by pricing the service outside the client's reach. If there's only money for one appearance, and it is wasted, no net benefit is acquired and the funds which might have been properly applied to a limited appearance are wasted. Likewise, be sensitive when opposing counsel is delaying or otherwise obstructing for tactical reasons.

Lawyers and litigants are looking to you for guidance and approval, and they will pick up on subtle signals. By letting them know that you are aware of the practical problems they face, you are creating a climate of creative innovation and mutual problem solving. ■

APPENDIX 4

Limited Scope Legal Assistance List of Resources

Limited Scope Legal Assistance (“Unbundling”) List of Resources January 12, 2004

<http://www.unbundledlaw.org>

This website came out of the first national conference on unbundling in October 2000. It includes the conference program and recommendations, and is continually updated with the latest activities and reports from around the country. They have a section on sample retainer agreements and are working on one on Malpractice Avoidance Tips. If you’re doing this work, check it regularly for recent postings.

<http://www.selfhelpsupport.org>

This is another national web site, funded by the State Justice Institute, with invaluable information on unbundling.

<http://www.cobar.org>

This is the Colorado Bar Association web site. Look for Ethics Opinion 101 for a comprehensive discussion of the ethical issues, and citations to opinions in other states.

<http://www.lacba.org>

This is the Los Angeles County Bar web site. Look for Ethics opinion 502. It is the only California opinion, and was very thoughtfully written by some ethics and malpractice experts.

<http://www.calbar.ca.gov/calbar/pdfs/unbundlingreport01.pdf>

This is the California State Bar web site, where you can read the Report on Limited Scope Legal Assistance with Preliminary Recommendations by the Limited Representation Committee of the Commission on Access to Justice. It’s very thorough and supportive, and the recommendations were unanimously approved by the Board of Governors in 2001. Don’t miss the appendix, which has lots of other cross links and resources.

<http://www.abanet.org/genpractice/magazine/octnov2001/mosten.html>

This is Woody Mosten’s unbundling article in the GP Solo magazine of the ABA which appeared in the October-November 2001 issue.

<http://www.abalegalservices.org/delivery>

Report on the Public Hearing on Access to Justice, conducted by the ABA Standing Committee on the Delivery of Legal Services, August 10, 2002. This report suggests that the legal profession change the way it provides personal civil legal services to potential clients by broadening the types of services available, particularly to low- to moderate-income people.

<http://www.divorceinfo.com/unbundlingbiblio.htm>

<http://www.zorza.net/resources/Ethics/mosten-borden.htm>

<http://www.equaljustice.org/ethics/unbund.htm>

http://www.digital-lawyer.com/copy_of_justice/prose/proseresource.htm

<http://www.pro-selaw.org>

<http://www.courtinfo.ca.gov/selfhelp/>

<http://www.lawhelpcalifornia.org/>

<http://www.peoples-law.org>