GENERAL CIVIL LIMITED SCOPE REPRESENTATION

RISK MANAGEMENT MATERIALS

Limited Representation Committee
California Commission on Access to Justice

Civil
Limited Scope Representation

Draft Risk Management Materials

Limited Representation Committee
California Commission on Access to Justice

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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.

General Civil Limited Scope Representation
Risk Management Package
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INSTRUCTIONS FOR USING THIS SET OF CIVIL RISK MANAGEMENT MATERIALS

Attached is a package of general civil 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. The following information and materials may be adapted for use in other types of matters such as bankruptcy, probate guardianships, small claims preparation, landlord/tenant, or traffic infractions, but keep in mind that not every type of legal proceeding is appropriate for limited scope representation.

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 conduct 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 selfhelpsupport.org.

3. **Flow Charts.** There are three 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. A third flow chart contains a simplified diagram of the common steps in civil litigation.

4. **Sample Intake Sheet.** Tailor this form for use as an intake tool for every new limited scope 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 40, 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.** 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 website: http://www.selfhelpsupport.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 handle them.

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. **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 a civil case proceeds, discovery deadlines, and other similar issues which recur frequently. When creating them, include mapquest directions to your local court and self-help centers, and information on self-help web sites, and applicable programs (*pro bono*, legal aid, modest means panels and the like). If you offer services to non-English speaking or limited English proficient clients, provide these materials in the language in which you communicated with the client. One place to obtain basic information is on the AOC's self-help website www.courtinfo.ca.gov/selfhelp/. A Spanish version of the website can be found at www.sucorte.ca.gov.

11. **Sample Closing Letter.** It is equally important to document your exit from the case as it is to document 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 a Substitution of Attorney.

12. **Notice of Limited Scope Representation** If your agreement with your client requires you to appear in court, you should use form MC-950 to put both the court and opposing parties on notice of the limitation on the scope of your representation.

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 "law and motion," where an attorney can help you. It really is between you and your attorney to decide how much of your case you hire him or her to do. If you do this, it is important to **keep returning to the same attorney.** Otherwise, you are paying someone new to get up to speed on your case each time you consult.

Some areas of the law and procedure are *extremely technical* and it is rare for non-attorneys to effectively handle them. Among these are motions to compel discovery, motions attacking the pleadings or summary judgment motions, and preparing trial briefs. Also included are substantive areas of law that generally require legal expertise or cases where the offers of proof or burden of proof may be difficult or complicated, such as someone's intent, a breach of the duty of care in a professional negligence suit, the existence of a verbal agreement, competing claims to title to real property, etc. You will almost certainly need extensive assistance from, or often full representation by, 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 of which you are not even aware. You could be at serious legal risk about an issue you don't even realize exists. If you don't discuss all potential legal issues with your attorney, how will you know?

Never make assumptions about the law that applies to your case. **The law programs 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 can be sure 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. 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 four general categories:

1. **The limitations on scope must be informed and in writing;**
2. **They must be reasonable under the circumstances;**
3. **Changes in scope must be documented;**
4. **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 professional 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 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 any representation, but particularly risky in limited representation. It takes significant expertise in particular areas of law to be able to anticipate what issues will arise in a matter, and it is necessary to give good advice 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, but 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 s/he believes are unsatisfactory responses to previous analyses of her/his 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 him/her 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 to the relationship your knowledge and experience with the legal system. 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 his/her own representation. This is an individualized assessment. Be creative in your fees or look for sources of *pro bono* or low cost assistance for those facing these challenges.

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 her/him. 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 limitation on the scope of your services is reasonable.** Although you and your client have substantial latitude in determining the scope of your representation, the limitation must be reasonable under the circumstances and the client must give 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. **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. 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.

9. **A good diagnostic interview is critical.** It is critical to perform a good diagnostic interview to pick up all the potential 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.

10. **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.

11. **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

12. **Use checklists.** Checklists are a good way to document who is going to do what before the next meeting or event in the case. 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.

13. **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. Check the resources available at www.selfhelpsupport.org. 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 there may be a change in scope.

14. **Create a support group of experienced colleagues.** Minimal 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 problematic proposed course of action. You might want to locate colleagues who are experienced with offering limited scope representation, and consider creating a study group, list serve, 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.

15. **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 cost-effectively.

16. **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 informed consent to 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.

17. **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.

18. **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.

19. **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 waive the attorney-client privilege. If the client insists on utilizing laypersons as part of their team, clearly advise them, in writing, in advance, of the risks involved.

20. **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.

21. **Do not encourage a *pro per* litigant to handle a matter that is too technical or difficult.** A prime example of this problem is bringing or opposing a motion for summary judgment, or a motion to compel discovery. 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.

22. **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

23. **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.

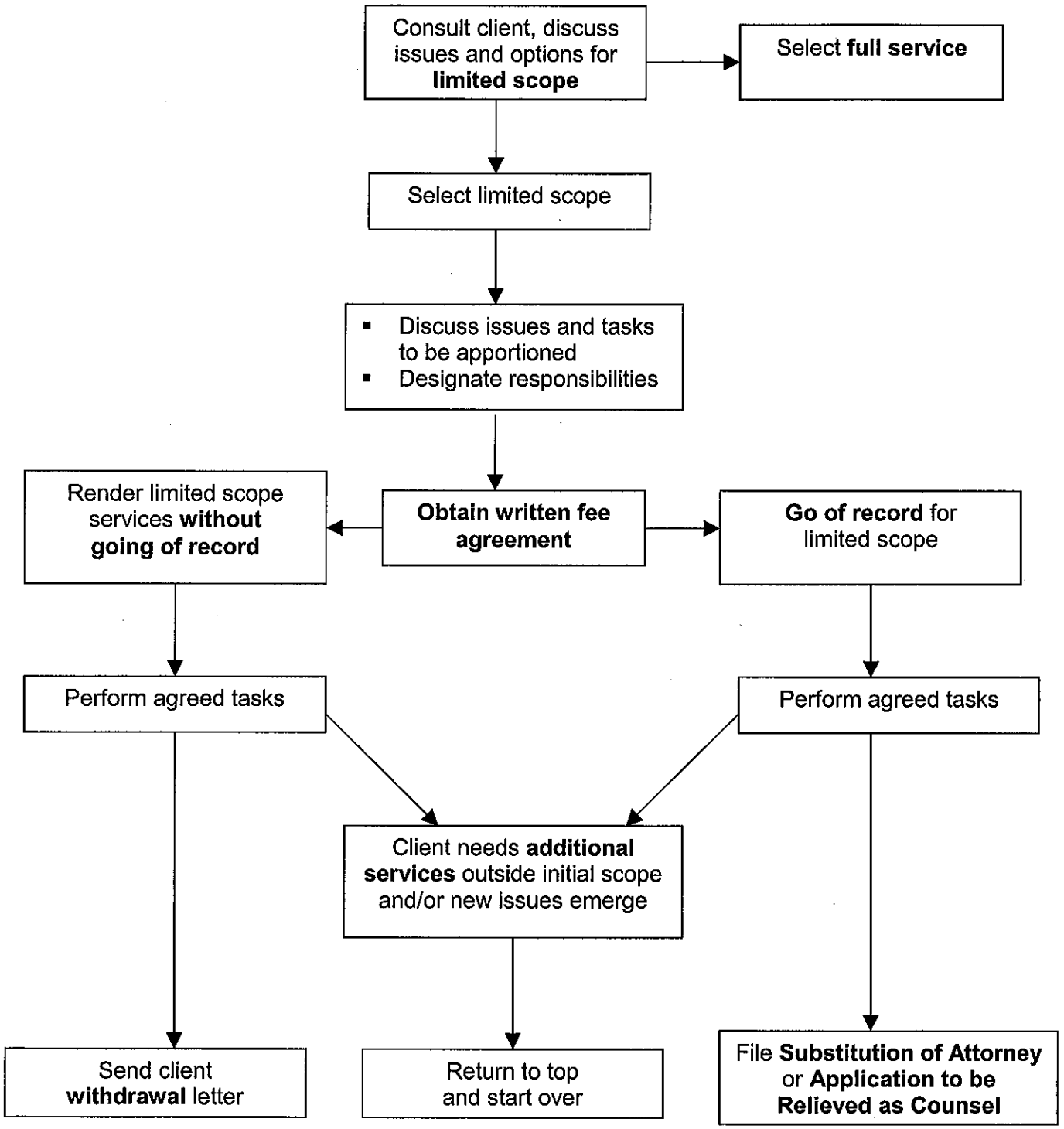
24. **If you have entered an appearance, let the court know about ending the relationship as well.** The best practice is to use a substitution of attorney (civil) to advise the court and opposing party of the end of your involvement. If that is unavailable, use the simplified procedures and forms MC-955k MC-956 and MC-958 to be relieved as counsel. If you file a motion to be relieved as counsel, 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. These suggestions 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.

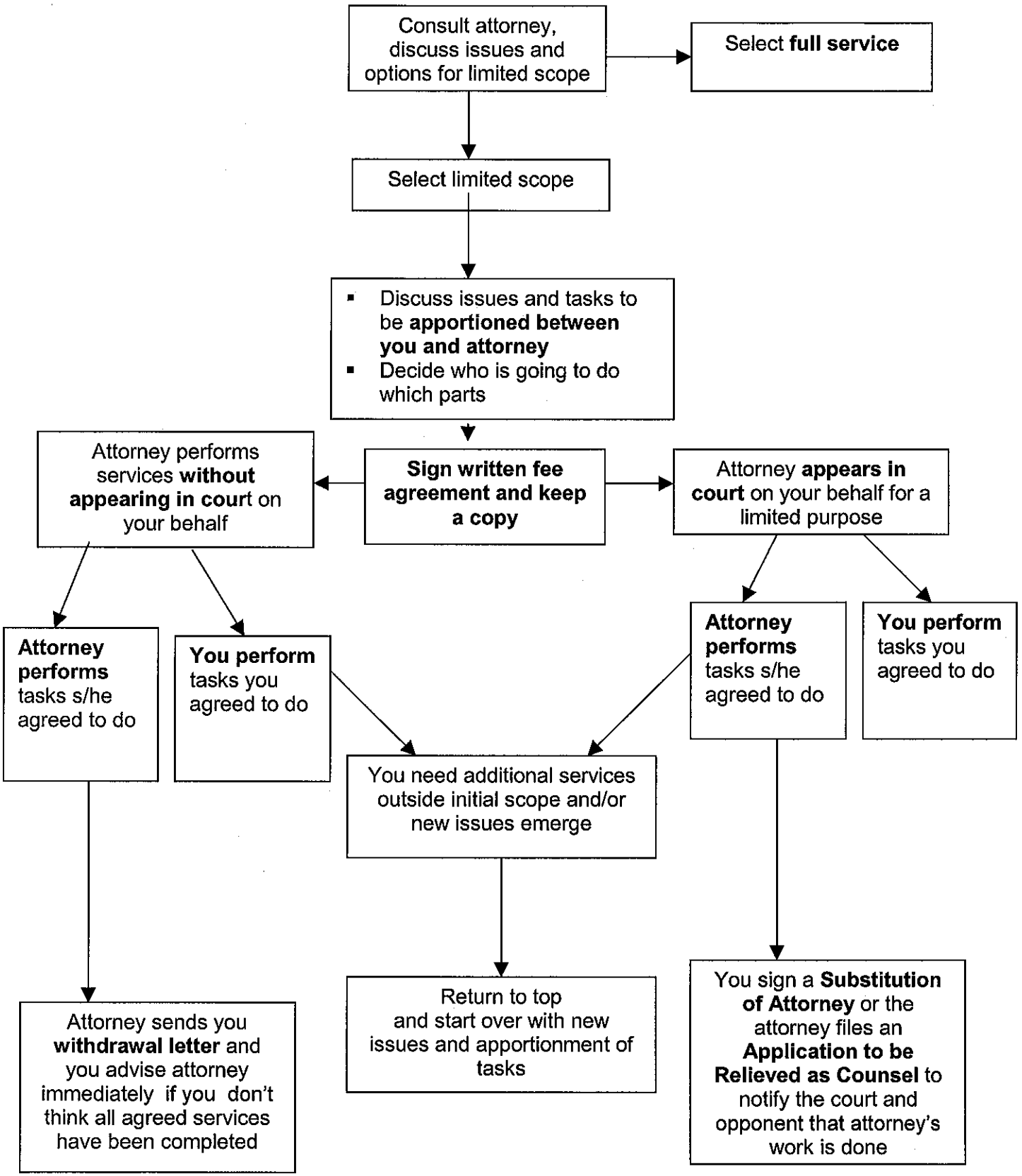
SECTION 3

Flow Charts

LIMITED SCOPE REPRESENTATION FLOW CHART FOR ATTORNEYS

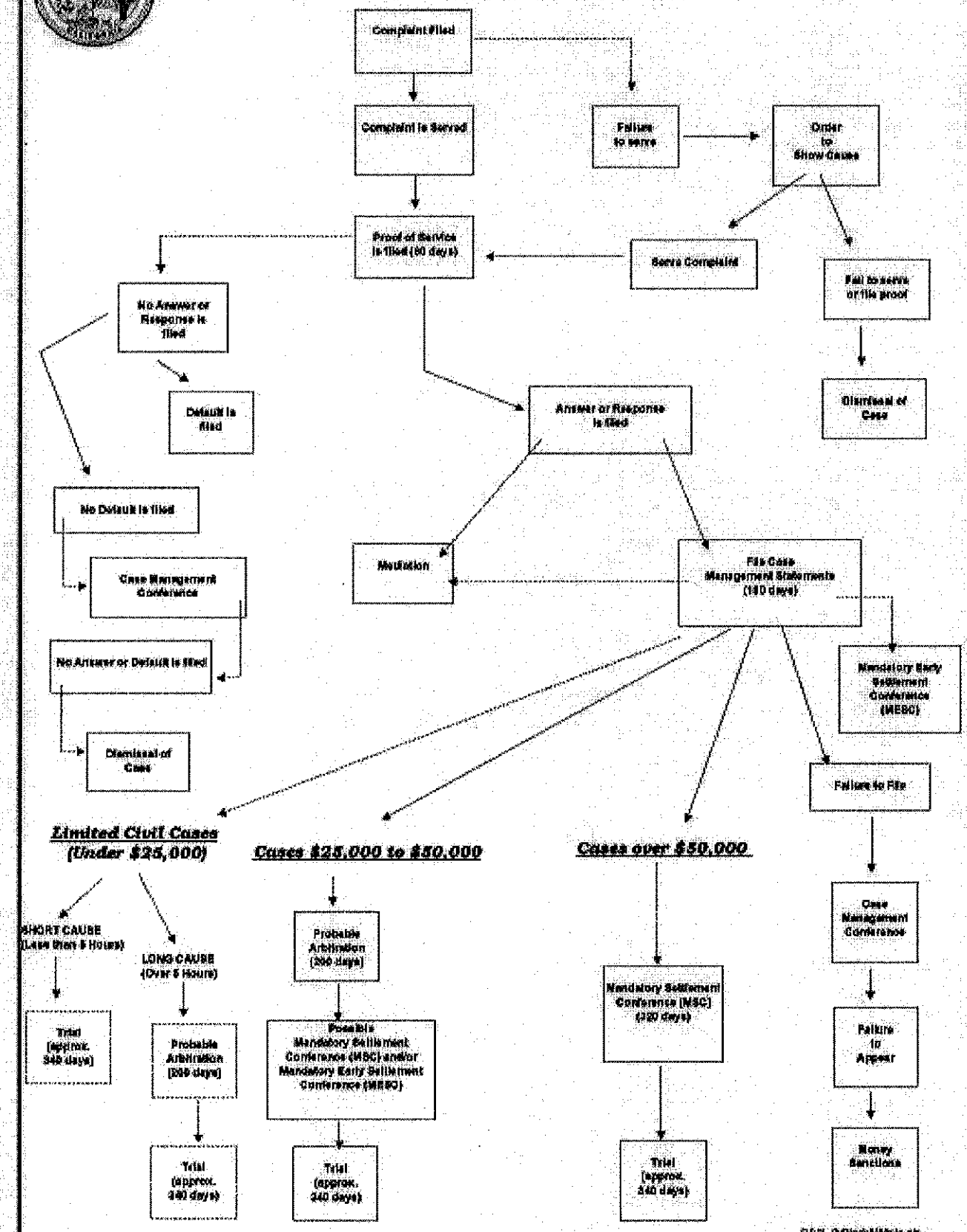


LIMITED SCOPE REPRESENTATION FLOW CHART FOR CLIENTS



Superior Court of California

Life & Times of a Standard Track Civil Case



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 Incident/Occurrence		Statute of Limitations
Legal Theories/Causes of Action/Elements of Claim or Defense	Burdens of Proof	Costs of Litigation
Evidence	Motions Attacking the Pleadings	
Defenses	Possible Settlement	Duration of Case
Ability to Collect Judgment		
Witnesses	Alternatives to Litigation	
Other Related Matters (i.e. relationship of parties)		
Underlying Goals	Challenges of Case	Likely Response from Other Side
Ability to Self-Represent	Possible Insurance Coverage	
Possible Bankruptcy (either debtor or creditor)	Possible Service of Process Challenges	
Discovery	Possible Demand for Bill of Particulars	
Jurisdictional options (i.e. small claims, limited civil, general civil)	Proper notice given to tenant	
Rent control issues	Lease terms	
Habitability defenses	Other tenant defenses	
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 information handouts		
Handout re preparing evidence	Handout re unlawful detainer cases	
Blank court forms:		
Other:		
Attorney initials:	Client initials:	

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 complete a new one each time the scope changes (as it often 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 conduct informal discovery, and undertakes the information gathering role, but has the attorney prepare formal evidence as needed;
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 that the client has drafted;
Client asks attorney to prepare or respond to formal discovery and/or prepare a motion to compel;
Client asks attorney to write a brief to be filed in *pro per*;
Client asks attorney to respond to law and motion either by drafting opposition papers, or drafting opposition and appearing in court;

Issues to Be Apportioned May Look Like This:

Attorney represents client in connection with matters raised in a cross-complaint, client handles defense of underlying lawsuit;
Attorney represents client in connection with emergency injunctive orders, client handles the rest of the case.
Attorney prepares and organizes the exhibits and scripts the presentation and questions for the opposing party's witnesses, but does not appear at court.
Attorney drafts pleadings and provides instructions on service and filing, while the client is responsible for court appearances;
Attorney advises client on possible settlement alternatives and coaches on negotiation strategy. Client attends the settlement conference in pro per and the attorney is on telephone standby in the event of questions regarding acceptability of settlement offers.

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 initial demand prior to filing suit			
Draft papers to start/respond to suit			
File and serve papers			
Draft Motions / Respond to Motions			
Draft Written Discovery			
Respond to Written Discovery			
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			
Prepare Case Management Statement			
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			
Prepare for Judicial Arbitration, Mediation or Voluntary Settlement Conference			
Appear at Judicial Arbitration, Mediation or Voluntary Settlement Conference			
Review orders and judgments that client drafts			
Draft orders			
Draft disclosure documents, including witness and evidence lists			
Draft Proposed Jury Instructions			
Issue subpoenas for witnesses to appear at trial			
Conduct trial			
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:
Prosecuting complaint			
Answering/defending complaint			
Prosecuting Cross-Complaint			
Answering/defending Cross-Complaint			
Seeking injunctive orders			
Opposing request for injunctive orders			
Compelling arbitration or ADR			
Opposing petition to compel arbitration or ADR			
Enforce judgments or orders (describe)			
Pursue an appeal or writ			
Other issues:			
Other issues:			
Other Issues:			

Dated:	**Dated:**
Attorney signature	**Client signature**

Attorney Initials _____ **Client Initials** _____

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
	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):
	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. Dated: _____

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, or from any other court, such as a bankruptcy 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 legal 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 law and motion matters
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 likely outcomes of disputed matters in court
   e. Determine an appropriate settlement of the case.
   f. Litigate Client's case on Client's behalf
   g. Protect Client's property or position 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. _____ Legal research and analysis;

j. _____ Evaluate settlement options;

k. _____ Discovery: interrogatories, depositions, requests for document production;

l. _____ Planning for negotiations, including simulated role-playing with Client;

m. _____ Planning for court appearances, including simulated role-playing with Client;

n. _____ Standby telephone assistance during negotiations or settlement conferences;

o. _____ Backup and troubleshooting during the hearing or trial;

p. _____ Referring Client to expert witnesses, special masters or other counsel;

q. _____ Counseling Client about an appeal;

r. _____ Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;

s. _____ Provide preventive planning and/or schedule legal check-ups;

t. _____ Other: _____

_____

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 or position 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 local bar association or community based non-profit mediation program 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 that 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 local bar association or community based non-profit mediation center 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 that 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**
Limited Scope ("Unbundling") Description	
Brochure	
Referral information	
Directions to court	
Self-Help Court Services	
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:						

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 GENERAL CIVIL 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, Self-Help Center Services, law library, 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 your clients may qualify, including Modest Means Programs, Pro Bono and other similar low fee panels.

4. Handouts with suggested methods for resolving certain types of disputes, such as neighbor disputes, employment disputes, business disputes, etc.

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 would like to take this opportunity to thank you for allowing me to assist you in this matter. 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 for 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 do not sign this substitution and return it within the week, I will be required to file a motion with the court asking to be relieved as 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 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.

Thank you again for allowing me the opportunity 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

Rules 3.35, 3.36 and 3.37 of the California Rules of Court

2007 California Rules of Court

Rule 3.35. Definition of limited scope representation; application of rules

(a) Definition

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

(b) Application

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

(c) Types of limited scope representation

These rules recognize two types of limited scope representation:

(1) *Noticed representation*

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

(2) *Undisclosed representation*

Rule 3.37 applies to cases in which the limited scope representation is not disclosed.

Rule 3.35 adopted effective January 1, 2007.

2007 California Rules of Court

Rule 3.36. Notice of limited scope representation and application to be relieved as attorney

(a) Notice of limited scope representation

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

(b) Notice and service of papers

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

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

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

(d) Application

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

(e) Filing and service of application

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

(f) No objection

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

(g) Objection

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

(h) Service of the order

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

Rule 3.36 adopted effective January 1, 2007.

TOP

2007 California Rules of Court

Rule 3.37. Nondisclosure of attorney assistance in preparation of court documents

(a) Nondisclosure

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

(b) Attorney's fees

If a litigant seeks a court order for attorney's fees incurred as a result of document preparation, the litigant must disclose to the court information required for a proper determination of the attorney's fees, including:

(1) The name of the attorney who assisted in the preparation of the documents;

(2) The time involved or other basis for billing;

(3) The tasks performed; and

(4) The amount billed.

(c) Application of rule

This rule does not apply to an attorney who has made a general appearance in a case.

Rule 3.37 adopted effective January 1, 2007.

APPENDIX 2

- **Judicial Council Forms MC-950**
- **Flow Chart: How to Withdraw from Limited Scope Representation After a Court Appearance**
- **Judicial Council Forms MC-955, MC-956 and MC-958**

ATTORNEY *(Name, State Bar number, and address)*:	FOR COURT USE ONLY
TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR *(Name)*:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:
NOTICE OF LIMITED SCOPE REPRESENTATION ☐ Amended	JUDGE: DEPT.:

[Note: This form is for use in civil cases other than family law. For family law cases, use form FL-950.]

1. Attorney *(name)*:
   and party *(name)*:
   who is the ☐ petitioner/plaintiff ☐ respondent/defendant ☐ other *(describe)*:

   have an agreement that the attorney will provide limited scope representation in this case to the party.

2. The attorney will represent the party
   a. ☐ at the hearing on *(date)*:
      ☐ and at any continuance of that hearing
      ☐ until submission of the order after hearing

   b. ☐ at the trial on *(date)*:
      ☐ and at any continuance of that trial
      ☐ until judgment

   c. ☐ other *(specify nature and duration of representation)*:

3. By signing this form, the party agrees to sign *Substitution of Attorney–Civil* (form MC-050) at the completion of the representation described above.

Form Adopted for Mandatory Use
Judicial Council of California
MC-950 [New January 1, 2007]

Cal. Rules of Court, rule 3.36
www.courtinfo.ca.gov

American LegalNet, Inc.
www.Forms*Workflow*.com

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:

4. During the limited scope representation, parties and the court must serve papers on both the attorney named above and directly on the party. (Cal. Rules of Court, rule 3.36.) The party's name and address for purpose of service are as follows:

Name:

Address *(for the purpose of service)*:

Telephone: Fax:

This notice accurately states all current matters and issues on which the attorney has agreed to serve as an attorney for the party in this case. The information provided on this form is not intended to state all of the terms and conditions of the agreement between the party and the attorney for limited scope representation.

Date:

(TYPE OR PRINT NAME OF PARTY) (SIGNATURE OF PARTY)

Date:

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

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:

PROOF OF SERVICE BY FIRST-CLASS MAIL

1. I am at least 18 years old and **not a party to this action.** I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify):*

2. I served copies of the *Notice of Limited Scope Representation* (form MC-950) by enclosing each of them in a sealed envelope with first-class postage fully prepaid and *(check one):*
   a. ☐ deposited the sealed envelopes with the United States Postal Service.
   b. ☐ placed the sealed envelopes for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. Copies of the *Notice of Limited Scope Representation* (form MC-950) were mailed:
   a. on *(date):*
   b. from *(city and state):*

4. The envelopes were addressed and mailed as follows:

   a. Name of person served:
      Street address:
      City:
      State and zip code:

   b. Name of person served:
      Street address:
      City:
      State and zip code:

   c. Name of person served:
      Street address:
      City:
      State and zip code:

   d. Name of person served:
      Street address:
      City:
      State and zip code:

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

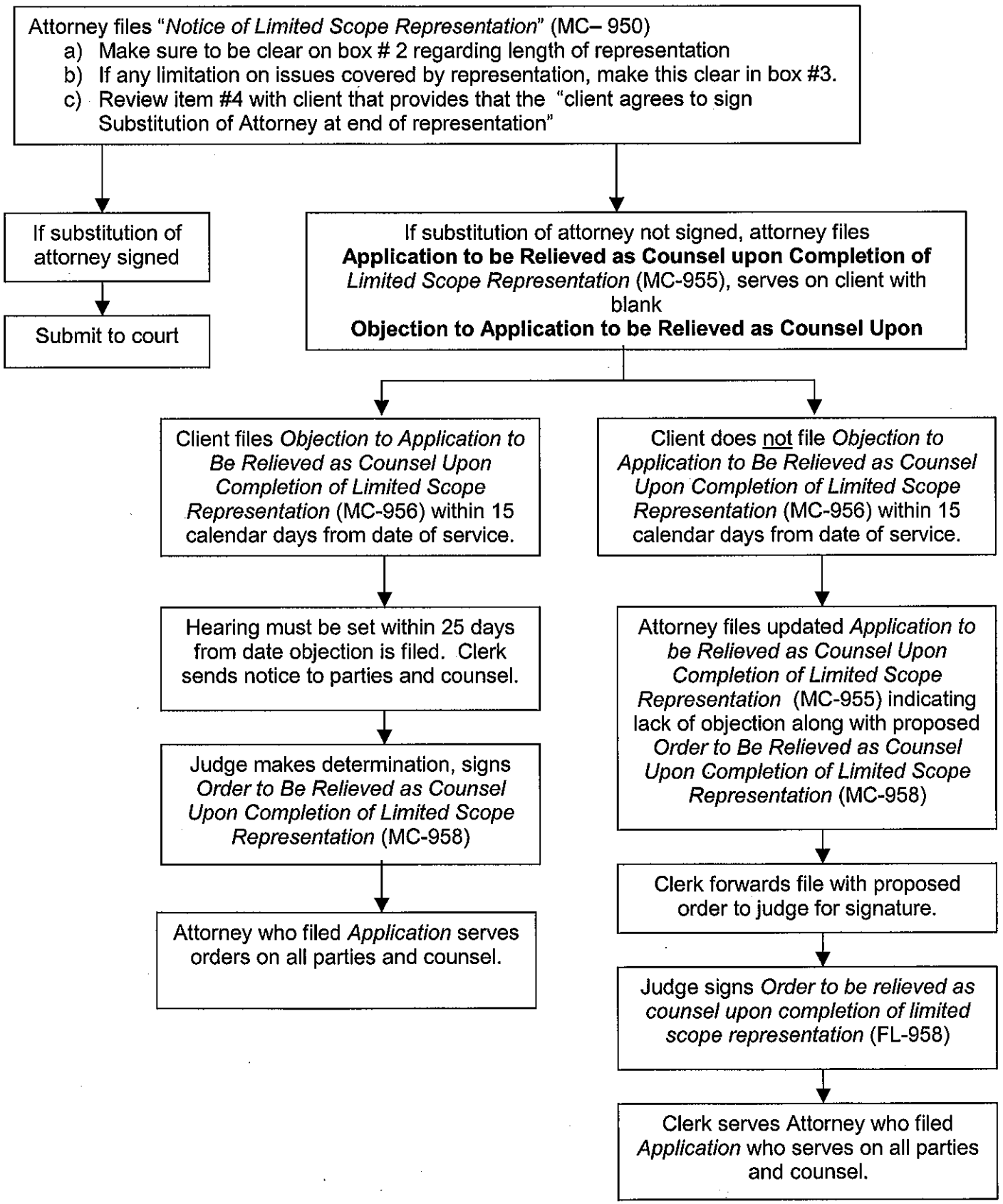
I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

HOW TO WITHDRAW FROM LIMITED SCOPE REPRESENTATION AFTER A COURT APPEARANCE



[Note: This form is for use in civil cases other than family law. In family law cases, use form FL-955.] MC-955

ATTORNEY *(Name, State Bar number, and address)*:	FOR COURT USE ONLY
TELEPHONE NO.: E-MAIL ADDRESS: FAX NO.: ATTORNEY FOR *(Name)*:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:
APPLICATION TO BE RELIEVED AS ATTORNEY ON COMPLETION OF LIMITED SCOPE REPRESENTATION ☐ **UPDATED APPLICATION**	JUDGE: DEPT.:

1. I request an order to be relieved as attorney in this matter.
2. In accordance with the terms of an agreement in this case between *(name)*:

   who is the ☐ plaintiff/petitioner ☐ defendant/respondent ☐ other *(describe)*:
   and me, I agreed to provide limited scope representation.
3. I was retained as attorney for the following limited scope services *(describe in detail)*:

   ☐ See *Notice of Limited Scope Representation* (form MC-950). ☐ Continued in Attachment 3.
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 party identified in item 2 is:

6. The last known telephone number for the party identified in item 2 is:
7. ☐ a. The party identified in item 2 was served with a copy of this application by ☐ mail ☐ personal delivery.
   b. ☐ 20 ☐ 15 days have passed since the application was served.
   ☐ c. I have not been served with any objection by the party in item 2.

Form Approved for Optional Use
Judicial Council of California
MC-955 [New January 1, 2007]

Cal. Rules of Court, rule 3.36
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsWorkflow.com

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:

NOTICE TO PARTY: Your attorney has filed this *Application to Be Relieved as Attorney on 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 Attorney on Completion of Limited Scope Representation* (form MC-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. If you were served with this notice by mail, you must file the *Objection* (form MC-956) within 20 days of the date you were served. You must also serve this objection on your attorney and any other parties in the case. If you do not file a form MC-956, the court will grant your attorney's request to be relieved as counsel.

Please refer to the *Proof of Service* to determine the date that this application was served on you. (If this form was served by mail in California, 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.

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning or sign language interpreter services are available on request if at least 5 days' notice is provided. Contact the clerk's office or go to *www.courtinfo.ca.gov/forms* for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civil Code section 54.8.)

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

Date:

▶

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

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:

PROOF OF SERVICE BY FIRST-CLASS MAIL

1. I am at least 18 years old and **not a party to this action.** I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify):*

2. I served copies of the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* and a blank *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* by enclosing each of them in a sealed envelope with postage fully prepaid and *(check one):*
   a. ☐ deposited the sealed envelopes with the United States Postal Service.
   b. ☐ placed the sealed envelopes for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* and a blank *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* were mailed:
   a. on *(date):*
   b. from *(city and state):*

4. The envelopes were addressed and mailed as follows:

   a. Name of person served:
      Street address:
      City:
      State and zip code:

   b. Name of person served:
      Street address:
      City:
      State and zip code:

   c. Name of person served:
      Street address:
      City:
      State and zip code:

   d. Name of person served:
      Street address:
      City:
      State and zip code:

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

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 OF DECLARANT)

(SIGNATURE OF DECLARANT)

[Note: This form is for use in civil cases other than family law. In family law cases, use form FL-956.] **MC-956**

PARTY *(Name and address)*:	FOR COURT USE ONLY
TELEPHONE NO.: FAX NO. *(Optional)*: E-MAIL ADDRESS *(Optional)*:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:
OBJECTION TO APPLICATION TO BE RELIEVED AS ATTORNEY ON COMPLETION OF LIMITED SCOPE REPRESENTATION	JUDGE: DEPT.:
Hearing Date: Time: Dept.: Room:	

1. I am the ☐ plaintiff/petitioner ☐ defendant/respondent ☐ other *(describe)*: 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 on that remain to be completed are *(specify)*:

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

☐ Continued in Attachment 3.

NOTICE

If you object to your attorney's *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955), you must file this objection with the clerk of the court where the application was filed within 20 days of the day that the application 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 at the end of the application (form MC-955). Also, you must have the attorney and any other parties in the case served with this *Objection* (form MC-956). 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 and all attachment are true and correct.

Date:

(TYPE OR PRINT NAME OF PARTY) (SIGNATURE OF PARTY)

Form Approved for Optional Use
Judicial Council of California
MC-956 [New January 1, 2007]

OBJECTION TO APPLICATION TO BE RELIEVED AS ATTORNEY ON COMPLETION OF LIMITED SCOPE REPRESENTATION

Cal. Rules of Court, rule 3.36
www.courtinfo.gov

American LegalNet, Inc.
www.FormsWorkflow.com

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:

PROOF OF SERVICE BY FIRST-CLASS MAIL

(NOTE: You cannot serve the* Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation *if you are a party in the action. The person who served the Notice of Limited Scope Representation must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action.** I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify):*

2. I served copies of the *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956) by enclosing each of them in a sealed envelope with first-class postage fully prepaid and *(check one):*
   a. ☐ deposited the sealed envelopes with the United States Postal Service.
   b. ☐ placed the sealed envelopes for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is paced for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. Copies of the *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation (form MC-956)* were mailed:
   a. on *(date):*
   b. from *(city and state):*

4. The envelopes were addressed and mailed as follows:

   a. Name of person served:
      Street address:
      City:
      State and zip code:

   b. Name of person served:
      Street address:
      City:
      State and zip code:

   c. Name of person served:
      Street address:
      City:
      State and zip code:

   d. Name of person served:
      Street address:
      City:
      State and zip code:

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

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

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

[Note: This form is for use in civil cases other than family law. In family law cases, use form FL-958.] **MC-958**

ATTORNEY *(Name, State Bar number, and address)*:	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR *(Name)*:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLANTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER(S):
ORDER ON APPLICATION TO BE RELIEVED AS ATTORNEY ON COMPLETION OF LIMITED SCOPE REPRESENTATION	JUDGE: DEPT.: DATE:

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

2. ☐ **UNCONTESTED**
   a. The *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955) and any attachments, and a blank *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956) were served on the client.
   b. The client was
      (1) ☐ personally served with the papers.
      (2) ☐ served by mail.
   c. No *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956) was filed or served within the time prescribed under rule 3.36 of the California Rules of Court.
   d. It appears from the application to be relieved as attorney 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 Attorney on Completion of Limited Scope Representation* (form MC-956) on *(date)*:
   b. ☐ Attorney demonstrated that he or she has completed the tasks that the party and attorney agreed that the attorney would perform on the *Notice of Limited Scope Representation* (form MC-950) as well as any acts ordered by the court.

ORDER

4. ☐ Attorney is relieved as attorney for the party identified in 1:
   a. ☐ effective immediately.
   b. ☐ effective on the filing of the proof of service of this signed order on the client.
   c. ☐ effective on *(date)*:

Form Approved for Optional Use
Judicial Council of California
MC-956 [New January 1, 2007]

Code of Civil Procedure, § 284;
Cal. Rules of Court, rule 3.36
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsWorkflow.com

PLANTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:

5. ☐ The *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* is denied for the following reasons:

6. ☐ The court further orders *(specify):*

7. The current mailing address for of the party identified in 1 is:

NOTICE TO PARTY: When this order becomes effective, you will represent yourself in all aspects of your case.

The court and the other parties in the case need to know how to contact you. It is your responsibility to keep the court and the other parties informed of your address. If the address in item 7 above is wrong, you must let the court and the parties know your correct mailing address as soon as possible. You can use form MC-040, *Notice of Change of Address,* for this notification.

If you do not let the court and the other parties 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.

NOTICE TO ATTORNEY WHO FILED APPLICATION FOR RELIEF: You must serve copies of this order on all parties or their attorneys in this case. Proof of service must be filed with the court.

Date:

(JUDICIAL OFFICER)

PLANTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	CASE NUMBER:

PROOF OF SERVICE BY FIRST-CLASS MAIL

1. I am at least 18 years old and **not a party to this action.** I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify):*

2. I served copies of the *Order on Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-958) by enclosing each of them in a sealed envelope with first-class postage fully prepaid and *(check one):*
   a. ☐ deposited the sealed envelopes with the United States Postal Service.
   b. ☐ placed the sealed envelopes for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. Copies of the *Order on Application to Be Relieved as Attorney on Completion of Limited Scope Representation (form MC-958)* were mailed:
   a. on *(date):*
   b. from *(city and state):*

4. The envelopes were addressed and mailed as follows:

   a. Name of person served:
      Street address:
      City:
      State and zip code:

   b. Name of person served:
      Street address:
      City:
      State and zip code:

   c. Name of person served:
      Street address:
      City:
      State and zip code:

   d. Name of person served:
      Street address:
      City:
      State and zip code:

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

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

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

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.

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

Support the General Idea

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 preparing 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.

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. ■

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APPENDIX 4

An Ethics Primer on Limited Scope Representation by the State Bar of California Committee on Professional Responsibility and Conduct

An Ethics Primer on Limited Scope Representation

By The State Bar of California
Committee on Professional Responsibility and Conduct

Have you ever asked yourself this question: If I needed to hire a lawyer, could I afford to pay someone the fees I charge my clients? For many of us, the cost of legal services to handle even a routine legal matter is a "luxury" we simply cannot afford. For the indigent, getting the services of an attorney is often out of the question when, despite their eligibility for legal aid, they are unable to obtain representation due to the shortage of legal services attorneys. Thus, resorting to self-representation has become an economic necessity, not just for indigent individuals, but for large numbers of middle class litigants who find the cost of legal representation prohibitive. Moreover, while many litigants opt for partial self-representation because they have no financial alternative, others who have the resources to pay a lawyer to handle all aspects of their legal matter are choosing limited scope representation either to exert greater control and input, or to hold down the cost of legal services.

Therefore, it is not surprising that self-represented litigants (also called *pro per* or *pro se* litigants) are increasing in numbers and placing a strain on the limited resources of our judges and court system. Self-represented litigants are frequently unaware of the issues or procedures necessary to adequately represent their own interests, and repeatedly clog the courts with inaccurately prepared or inappropriately filed documents. As such, the courts and the legal profession have been challenged to find solutions to promote access to justice while at the same time limiting the burdens self-represented litigants place on the administration of justice.

One approach that has been increasingly utilized to bring down the costs of legal services is for lawyers and clients to allocate the duties and responsibilities for handling a legal matter between themselves, thereby limiting the scope of the lawyer's representation to specific services or discrete tasks. Such "limited scope" or "discrete task" representation can provide the layperson with much-needed legal expertise and advice and limit the burdens placed on the courts by self-represented litigants, while keeping the cost of legal representation at an affordable level.[1]

While limited scope representation promotes the core value of improving access to justice, attorneys who attempt to limit the scope of their representation must be mindful of their professional obligations, and must take care to communicate fully with the client and put appropriate procedures in place to ensure that the client receives competent representation and is not prejudiced. Thus, lawyers engaging in limited scope representation need to ask the right questions, identify the issues, make the necessary

[1] Throughout this article, the terms "limited scope representation" and "discrete task representation" are used interchangeably. Limiting the scope of legal representation is also sometimes referred to as "unbundling" a lawyer's legal services.

disclosures, and develop the procedures that facilitate the proper handling of the client's legal matter.[2]

Some of the most important questions facing lawyers who provide limited scope or discrete task representation are:

(1) *Have I carefully evaluated whether limited scope representation is appropriate in my area of practice?*

We want to emphasize that not every type of practice is conducive to limited scope representation. Attorneys should carefully consider whether their practice lends itself to limited scope representation. For example, in family law limited scope representation has been successfully used for years. As a result, the Judicial Council has promulgated new forms to facilitate limited scope representation in family law cases. Others areas in which limited scope representation has proven effective include landlord-tenant disputes and consumer advocacy. Legal services providers have also utilized discrete task representation very effectively in a variety of matters in order to provide at least limited assistance to indigent clients who cannot afford the services of an attorney. Many of these efforts have been directed toward assisting self-represented litigants to navigate the legal system and conform to court practice and procedures. On the other hand, it is wise to avoid limited scope representation in very sophisticated and/or complicated litigation. In fact, attorneys practicing in some areas (e.g., immigration law) may not be allowed to limit their representation for a particular aspect of a judicial or quasi-judicial proceeding.

(2) *Have I adequately communicated the risks as well as the benefits of this type of legal service to the client?*

Attorneys engaging in limited scope representation should endeavor to fully advise their clients of the limitations on the representation, including the matters the attorneys are *not handling*. Clients also should be advised of the possible adverse implications of the limited scope representation, and to consult with other counsel about legal matters their attorney is not handling. It also may be advisable to recommend against a proposed allocation of responsibility or even to decline the representation if the attorney believes the client's proposed split of responsibility is a prescription for disaster.

(3) *Have I put procedures in place to ensure that in limiting the scope of representation I am still providing the client with competent representation?*

As noted, attorneys need to communicate with their clients regarding not only the limitations on the scope of the representation, but the risks and benefits arising from the arrangement. Amongst the most important procedures to ensure competent representation are written fee agreements and other written risk management tools

[2] In this article the authors do not intend to set or to define the standard of care or the duties of attorneys with respect to any of the issues discussed.

designed to ensure that clients understand the specific nature and ramifications of their specific arrangement. Some suggested materials have already been prepared for family law practitioners and can be adapted by attorneys in other practice areas as a checklist to ensure that all matters relating to the limited scope representation are covered either by the attorney or the client or both, and that both parties fully understand their respective assignments and responsibilities.

(4) *If my scope of work does not include representing the client from start to finish, have I put procedures in place to avoid prejudice to my client upon my withdrawal?*

In many limited scope or discrete task representations, the attorney and the client have an understanding from the outset that the lawyer is not going to see the matter through to its conclusion. However, in withdrawing from representation before the conclusion of a client's matter, an attorney must take reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client. (Cal. Rule of Prof. Conduct 3-700.) These obligations apply irrespective of whether the client and attorney agreed at the outset that the attorney's representation would not extend through the conclusion of the matter. Thus, from the beginning of the representation, the attorney should pay particular attention to the need to educate and inform the client in order to avoid reasonably foreseeable prejudice to the client's rights upon the completion of the attorney's services. In many situations this will include informing the client about matters pending at the time of the attorney's withdrawal, applicable deadlines, etc. The attorney should also check California Rule of Professional Conduct 3-700 as well as applicable statutes and rules of court to ensure compliance with the law in connection with the termination of the relationship.

(5) *Have I put procedures in place to ensure that I am treating limited scope clients the same as all other clients for purposes of fulfilling my duties of undivided loyalty and confidentiality?*

Attorneys who offer limited scope representation are required to comply with the same fiduciary duties of undivided loyalty and confidentiality as lawyers providing full service representation for a legal matter. Therefore, conducting conflicts checks and avoiding the disclosure of confidential client information remain the attorney's responsibility.

(6) *Have I fulfilled my duties to the ethical administration of justice?*

Each limited scope representation is different, and these questions should be answered in the context of each client matter. The following discussion highlights the issues which each attorney should carefully consider before undertaking a limited scope representation.

A. Agreements Defining the Limited Scope of Legal Representation

In California, most attorney-client arrangements involving payment for the attorney's services must be memorialized in writing. [See Bus. & Prof. Code §6147 (pertaining to contingency fee agreements) and §6148 (pertaining to non-contingency fee agreements)].[3] These statutory mandates apply whether the attorney is providing full service representation for a particular matter, or has, instead, limited the scope of his or her representation. However, because of the nature of discrete task representation and the importance of educating the client concerning the scope, risks and benefits of that representation, it is of paramount importance that any fee agreement that purports to limit the scope of the attorney's representation be in writing, and be clear, unambiguous, and reasonable regarding the services to be performed by the attorney and client, respectively.

Thus, in limited scope representation, no part of the written fee agreement is more important than the provision defining the scope of the attorney's representation – what the attorney will be doing -- and often, even more importantly, what the attorney will ***not*** be doing -- and what the client will be doing. It is easy enough for clients and attorneys to develop misunderstandings about their respective responsibilities when the attorney is providing full service representation for a transaction or litigated matter. In limited scope representation, the potential for misunderstandings, serious adverse consequences and malpractice exposure increases dramatically when the agreement is not memorialized in a writing signed by both the attorney and client. In addition, agreements regarding the scope of the representation may change over the course of the representation, and it is equally essential that these changes be memorialized in writing as well.

Because of the particular risks created when attorneys limit the scope of their representation in any specific matter, we recommend incorporating language in the agreement to the effect that the client has read the provisions of the agreement defining the limited scope of the engagement, that the scope of the attorney's services has been limited by express agreement (and at the client's request if that is the case), that the attorney has fully explained the nature and risks of the arrangement, and that the client understands the potential adverse consequences of limiting the scope of the attorney's representation.

While the definition of scope is generally included in the fee agreement, it can be set forth in a separate document. If a separate document is used, it should be prepared and signed by both the attorney and the client contemporaneously with the fee agreement as well as when changes in the scope of representation are agreed to by the attorney and client.

[3] Failure to comply generally renders the agreement voidable at the option of the client and limits the attorney to recovery of the reasonable value of the services rendered.

B. The Duty of Competence

Once you have determined that limited scope representation is appropriate to handle your client matter, you must be prepared to comply with California Rule of Professional Conduct 3-110 by performing competently. The competency of an attorney's performance can become an issue in limited scope matters when the client and attorney disagree over whether the attorney has performed (a) as agreed or (b) as otherwise required. The latter issue is highlighted in the case of *Nichols v. Keller* (1993) 15 Cal.App.4th 1672, in which an attorney desiring to limit the scope of his representation of an injured client to prosecuting a workers' compensation claim drafted an agreement so limiting the scope of representation. The agreement made no mention of a potential third party tort claim, and when the client learned that his tort case was time barred, he sued his attorney for negligently failing to put him on notice of that potential remedy.

In analyzing the malpractice claim, the court of appeal addressed an attorney's duty to advise clients, stating:

> One of an attorney's basic functions is to advise. Liability can exist because the attorney failed to provide advice. ***Not only should an attorney furnish advice when requested, but he or she should also volunteer opinions when necessary to further the client's objectives. The attorney need not advise and caution of every possible alternative, but only of those that may result in adverse consequences if not considered.***"
>
> *Nichols v. Keller, supra,* 15 Cal.App. 4th 1672, 1683-1684 (emphasis added).

In explaining the rationale for its decision, the court stated: "A trained attorney is more qualified to recognize and analyze legal needs than a lay client, and, at least in part, this is the reason a party seeks out and retains an attorney to represent and advise him or her in legal matters." (*Nichols v. Keller, supra,* 15 Cal.App.4th 1672, 1686.)

In the specific context of a lawyer representing a client in a workers' compensation matter, the *Nichols* court held that the lawyer could limit the scope of services to the workers' compensation action, but to avoid exposure to the client for negligence, the attorney had to inform the client of: (1) the limitations on the scope of the attorney's services; and (2) the possible adverse implications of the limited scope representation.

As to explaining the possible adverse implications of the limited scope representation, the court noted that the attorney should disclose: (a) that there may be other remedies or issues pertaining to the client's legal matter that the attorney is not investigating (e.g., third party tort claims); (b) apparent legal problems pertaining to the limited scope of services (e.g., time deadlines would impact the client's ability to pursue

other claims); and (c) the advisability of consulting different counsel for other aspects of the client's legal matter. (*Nichols v. Keller, supra,* 15 Cal.App. 4th 1672, 1686-1687.)

Nichols teaches that because we, as attorneys, have greater knowledge than lay clients about the law and the potential pitfalls our clients may encounter, we have an obligation to alert our clients to matters that may result in adverse consequences if not considered. Although *Nichols* involved a situation where it was the attorney, rather than the client, who sought to limit the scope of the legal services being provided, the case provides a helpful roadmap for attorneys entering into limited scope or discrete task representation agreements with clients, particularly with respect to the fact that in defining a limited scope of representation it can be as important to *alert the client to what the attorney is not doing* as it is to identify the tasks the attorney is doing.

There are additional authorities to which attorneys may look for guidance in defining the limited scope of legal services. In the family law arena, Judicial Council Form FL-950 (July 1, 2003) entitled "Notice of Limited Scope Representation" specifies whether the attorney or the client will be "attorney of record" with respect to the following general issues and matters, each of which is then broken down in more detail: (a) Child Support; (b) Spousal Support; (c) Restraining Orders; (d) Child Custody and Visitation; (e) Division of Property; (f) Pension Issues; (g) Contempt; and (h) Other. The form also requires the attorney to verify the existence of a written fee agreement. As this Judicial Council form has been approved for use in family law cases, attorneys can consider the panoply of services provided in their own areas of practice and adapt forms that reference those specific services, leaving a place for "other" to cover matters that might be unique to a specific legal representation. The Limited Scope Representation Committee of the California Commission on Access to Justice also has created helpful and critical Risk Management Materials for attorneys to utilize in family law limited scope representation that may be adapted to your particular limited scope representation matters. These forms may be obtained by contacting the State Bar of California Office of Legal Services or online from a link to the Commission on Access to Justice, which can be reached through http://www.calbar.ca.gov.

It is also important to keep in mind that there are contexts in which the duty of competence prohibits limiting the scope of representation in a particular manner. [See, *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 521 ("there is no 'limited' appearance of counsel in immigration proceedings.") and *Janik v. Rudy, Exelrod & Zieff* (2004) 119 Cal.App.4th 930 (an attorney's obligations may extend beyond a document purporting to limit scope to include the duty to assert claims arising out of the same facts that the client would reasonably expect to be asserted to accomplish the objectives of the representation.)]

C. The Duty to Avoid Prejudice to the Client's Interests Upon Withdrawal

Before withdrawing from representation of a client in any matter, whether the representation is full or limited in scope, an attorney must comply with California Rule of Professional Conduct 3-700, and therefore must take:

reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, complying with rule 3-700(D), and complying with all applicable laws and rules."[4]

[Cal. Rule of Prof. Conduct 3-700 (A)(2).]

In addition, if an attorney is of record in a litigated matter, permission of the client and/or tribunal is generally required. [Cal. Rule of Prof. Conduct 3-700(A)(1)].

In the context of a limited scope representation in which the attorney and client agree the representation will cease before the conclusion of the client's matter, the obligations of the withdrawing attorney pursuant to subdivisions (A)(1) and (A)(2) of California Rule of Professional Conduct 3-700 should be addressed in the initial agreement between the attorney and client. In the context of limited scope representation, the avoidance of prejudice to the client is apt to depend upon the extent to which the attorney has disclosed: (1) the limitations on the scope of the attorney's services; (2) apparent legal problems that are reasonably likely to exist at the projected time of withdrawal; and (3) the advisability of consulting different counsel for those aspects of the client's legal matter the parties expect to be pending at the time of completion of the attorney's services. Litigation attorneys, particularly those practicing in the tort arena, have included such limitations in their fee agreements for years by explaining that their scope of representation does not include an appeal or collection of a judgment.

If the circumstances pertaining to the conclusion of the attorney's services have been adequately addressed at the outset of the attorney-client relationship, and there have been no unforeseen developments that have materially altered the situation, an advance agreement between the attorney and client setting forth the parameters for withdrawal may be sufficient to prevent reasonably foreseeable prejudice to the rights of the client. On the other hand, if these issues have not been adequately addressed in advance, the attorney will need to take precautions prior to the proposed withdrawal to ensure compliance with California Rule of Professional Conduct 3-700(A)(2).

Another related issue is whether a client can agree in advance to execute a substitution of attorney form upon the conclusion of a limited representation. There is no case law to suggest that it would be unethical for an attorney and client to agree at the outset to execute the documents necessary to formalize the conclusion of the relationship, such as a substitution of attorneys, when the terms of the engagement have been completed. The ability to enter into such an agreement also furthers the personal autonomy of a client to choose limited scope, rather than full service, legal representation for a particular matter.

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[4] Rule 3-700(D) pertains to the release of client papers and property, and to the return of unearned fees.

However, an attorney who obtains a pre-signed substitution *for filing in the attorney's sole discretion* will run afoul of California Rule of Professional Conduct 3-700. (See, Los Angeles County Bar Association Formal Opinion 371.) This is particularly true when the client disagrees that the services were completed and the timing of the withdrawal prejudices the client's rights. In Family Law matters, the Judicial Council has created a form that permits the attorney to request an order relieving him or her as counsel because the limited scope representation has been completed as agreed. This application is served on the client, and if the client disagrees, he or she has the right to file an objection with the court.

If an attorney providing limited scope representation in a litigated matter desires to withdraw and the client does not agree to sign a substitution of attorney, the attorney must seek permission from the tribunal to withdraw, and in so doing, should note completion of the limited scope representation. Because written fee agreements are confidential communications under California Business and Professions Code section 6149, there is a question as to whether it is permissible for an attorney to use a written fee agreement limiting the scope of services as a basis for a motion to withdraw. In order to assure that there is an understanding between the attorney and client as to the attorney's intention to place the agreement before the court, the attorney can obtain an advance waiver of California Business and Professions Code section 6149 from the client. (See, e.g., Cal. Rule of Prof. Conduct 3-310(C)(1) and (2); *Zador Corp. v. Kwan,* (1995) 31 Cal.App.4th 1285; California State Bar Formal Opn. No. 1989-115.) However, because submission to a court or other tribunal can result in dissemination of the agreement to the adversary and the public, an *in camera* production or protective order may be appropriate in certain circumstances.

Even if the attorney has not obtained the client's consent to disclose the agreement in advance, if the agreement defines the limitations on the scope of representation, and the client is nevertheless unwilling to sign a substitution when the scope has been completed, the attorney can use the limited scope agreement without violating California Business and Professions Code section 6068, subdivision (e) or the attorney-client privilege, on grounds that the issue for which it is offered is the client's breach of the agreement. (Cal. Evid. Code §958; *Fox Searchlight v. Paladino* (2001) 89 Cal.App.4th 294, 313).) However, to protect client confidentiality, *in camera* review or a protective order may be warranted.

D. <u>The Duties of Loyalty and Confidentiality</u>

The fiduciary duties of loyalty and confidentiality apply with equal force and effect whether an attorney is providing full service representation for a transactional or litigation matter, or representing the client only on a limited scope basis. The duty of confidentiality is "fundamental to our legal system" and attaches upon formation of the attorney-client relationship, or even in the absence of such a relationship where a person has consulted an attorney in confidence. (See, Cal. Bus. & Prof. Code, § 6068, subd. (e); Cal. Evid. Code, §§950 et seq., *People ex rel. Department of Corporations v. Speedee Oil*

Change Systems, Inc. (1999) 20 Cal. 4th 1135; California State Bar Formal Opn. No. 2003-161.)

For conflict of interest purposes, the duty of undivided loyalty attaches whenever "the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result." (*People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc., supra,* 20 Cal. 4th 1135, 1148; *see also, Flatt v. Superior Court* (1995) 9 Cal. 4th 275, 284; Cal. Rule of Prof. Conduct 3-310.) Thus, this core value of the legal profession must be honored irrespective of the limited scope of the representation.

E. The Duty to the Administration of Justice

Pursuant to California Rule of Professional Conduct 5-200 (A) & (B), an attorney has a duty to be truthful and not to "mislead the judge, judicial officer, or jury by an artifice." Self-represented litigants are often given more latitude by the court in the preparation of pleadings. Thus, federal courts have expressed concern that if an attorney has authored pleadings and guided the course of litigation for a self-represented litigant it may improperly disadvantage an adverse party. (*Ricotta v. State of California* (S.D. Cal. 1998) 4 F.Supp.2d 961.) Thus, if a "behind the scenes" attorney providing limited scope representation in the form of coaching or ghostwriting appears to be "guiding the course of the litigation with an unseen hand," (*Id.* at 986) or preparing a brief "in any substantial part," some courts have suggested that the attorney is obligated to advise the court of his or her role in the matter. (*Ellis v. State of Maine* (1st Cir. 1971) 448 F.2d 1325, 1328.) While indicating concern, the *Ricotta* court found no case law or local rules prohibiting ghostwriting in California.

Due to the overwhelming number of *pro per* litigants (approximately 80% in family law matters alone), the courts are finding new ways to encourage greater attorney participation to alleviate the strain on judicial resources caused by self-represented litigants. For example, in 2003, the California Judicial Council adopted Rule of Court 5.70 specifically providing that 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.

F. Conclusion

Most attorneys either have been, or soon will be, faced with client requests for limited scope legal representation. As our initial question suggested, it is not difficult to understand why consumers of legal services are increasingly seeking this flexible, economical and empowering option from attorneys.

All attorneys who are considering or engaging in limited scope representation should carefully consider the issues raised in this article (1) to determine whether their practice area can accommodate limited representation on particular matters, and if so (2)

to establish procedures that not only reduce the cost of legal representation through limiting the attorneys role, but also foster compliance with all of the duties attorneys owe their clients. Those attorneys who provide limited scope representation responsibly and ethically will not only increase the public's access to justice, but should also experience increased client satisfaction flowing from the collaborative effort of achieving the client's desired goals.

APPENDIX 5

Limited Scope Legal Assistance List of Resources

Unbundling Web Links

Risk Management Materials The California Commission on Access to Justice has developed a complete set of risk management materials for use in family law limited scope representation, including checklists, best practices, four variations on fee agreements, and the official California court forms. It can be located on the California State Bar website by clicking on CalBarJournal and locating the archived issue for February 2004. It is available in either pdf or Word. To get a pdf copy, go to the website at http://calbar.ca.gov. From the home page, click public services, then assistance programs, then access to justice and follow the links to the risk management materials. For a Word version, email Chris.Zupanovich@calbar.ca.gov and she will get it to you. This is an essential resource for anyone contemplating limited scope family law representation. California adopted court rules and forms for civil limited scope representation effective January 1, 2007. A companion set of civil risk management materials is in the final stages of editing.

California Judicial Council Website
http://www.courtinfo.ca.gov/programs/equalaccess/ethiss.htm#limited This is the link to a wealth of unbundling materials on the California Judicial Council website. This has direct links to some of the materials listed here, as well as the **Report of the Limited Representation Committee of the California Commission on Access to Justice (2001)** many more resources.

Ethics Primer The California State Bar's Committee on Professional Responsibility and Conduct has posted an Ethics Primer on Limited Scope Representation at
http://calbar.ca.gov/calbar/pdfs/ethics/COPRAC/COPRAC_02-0005_11-17-04.pdf

Colorado Ethics Opinion 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.

Los Angeles County Ethics Opinion 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.

Access to Justice Commission Report and Appendix
http://calbar.ca.gov/calbar/pdfs/accessjustice/Risk-Management-Packet_2004-01- 12.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.

Webinar and Resource Library http://www.selfhelpsupport.org This is a wealth of information designed to assist litigants and the attorneys assisting them. Check it frequently for updates. It has an excellent resource library which is continually being updated. There is a free webinar on limited scope representation.

PLI 3 Hour Limited Scope Training http://www.pli.edu As a public service, PLI recorded a three hour family law unbundling training which is available for **FREE** on their website. Just log in and search for family law. It is the only family law program they have. Put it in your shopping cart (the cost will be $0). It uses the Risk Management Packet referenced above as its written materials, which is downloadable from the California State Bar website (see link above).