Ethics

1. ABA Model Rules of Professional Conduct

2. California Rules of Court, Appendix, Division VI: *Guidelines for Operation of Family Law Information Centers and Family Law Facilitators Offices*

3. Judicial Council form FL-940 *Office of the Family Law Facilitator Disclosure*

4. Judicial Council form FL-800 *Court Clerks Office: signage*

Governing Rules and Models

Model Rules of Professional Conduct

Note: These are the ABA model rules, and in and of themselves have no force of law. The law of each jurisdiction must be reviewed to ascertain the governing law with respect to these matters. The ABA attempts to track the adoption of changes to state rules reflecting the changes it recently recommended through its Ethics 2000 process at http://www.abanet.org/cpr/jclr/state_contact_list.doc, although this source should not be regarded as authoritative.

CLIENT-LAWYER RELATIONSHIP

RULE 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

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

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

Relevant Portion of Comment to Rule 1.2

Agreements Limiting Scope of Representation

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

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

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

RULE 6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES PROGRAMS

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

> **(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and**
>
> **(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.**

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

Comment to Rule 6.5

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

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

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

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

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

California Rules of Court

Appendix

Division V

Guidelines for Operation of Family Law Information Centers and Family Law Facilitators Offices

(1) *(Independence and integrity)* An attorney and other staff working in a family law information center or family law facilitator office should, at all times, uphold the independence and integrity of the center or o ffice in conjunction with its role within the court and the legal system.

(2) *(Role as representative of the court)* An attorney and other staff working in a family law information center or family law facilitator office should recognize that they are representatives of the court and, as such, should avoid all acts of impropriety and the appearance of impropriety at all times.

(3) *(Impartiality and diligence)* An attorney working in a family law information center or family law facilitator office should perform his or her duties impartially and diligently. Impartiality means delivering services to all eligible litigants in a neutral manner. Diligence requires that the attorney provide the litigants with pertinent information to allow them to bring their matter before the court. This may include appropriate referrals to other resources as well as direct information and assistance at the center or office. The attorney should require similar conduct of all personnel.

(4) *(Respect and patience)* An attorney working in a family law information center or family law facilitator office should be aware of the social and economic differences that exist among litigants and maintain patience with and respect for the litigants who seek the services of the center or office. The attorney should require similar conduct of all personnel. However, if a litigant becomes unruly or disruptive, the attorney may ask the litigant to leave the center or office.

(5) *(Bias and prejudice)* An attorney working in a family law information center or family law facilitator office should assist the litigants who seek assistance without exhibiting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors, and should require similar conduct of all personnel.

(6) *(Competent legal information)* An attorney working in a family law information center or family law facilitator office and his or her staff should provide the litigants who seek assistance with procedural and legal information and education so that the litigants will have increased access to the court. Family law information centers and family law facilitator offices are not intended to replace private counsel.

(7) *(Full notification of limits of service)* An attorney working in a family law information center or family law facilitator office should ensure that conspicuous notice is given, as set forth in Family Code section 15010(g) or Family Code section 10013, respectively, that no attorney-client relationship exists between the center or office, or its staff, and the family law litigant. The notice should include the advice that the absence of an attorney-client relationship means that communications between the party and the family law information center or family law facilitator office are not privileged and that the services may be provided to the other party. Additionally, the family law information center must use Judicial Council form 1294.5, *Family Law Information Center Disclosure,* or provide similar notice of the warnings set forth in Family Code section 15010(i). The family law facilitator office must use Judicial Council form 1294, *Office of the Family Law Facilitator Disclosure,* or provide similar notice of the warnings set forth in Family Code section 10015.

(8) *(Public comment)* An attorney working in a family law information center or family law facilitator office and his or her staff must at all times comply with Family Code section 15010(h) or Family Code section 10014, respectively, and must not make any public comment about the litigants or about any pending or impending matter in the court.

(9) *(Gifts or payments)* An attorney working in a family law information center or family law facilitator office and his or her staff should not accept any gifts, favors, bequests, or loans from the litigants whom they assist, since this may give the appearance of impropriety or partiality--except for nominal gifts such as baked goods, as allowed by local rules.

(10) *(Communications with bench officers)* An attorney working in a family law information center or family law facilitator office and his or her staff should avoid all ex parte communications with a bench officer, except as provided in accordance with Family Code section 10005. In addition, an attorney should avoid all communications with a bench officer in which he or she offers an opinion on how the bench officer should rule on a pending case. Communications about purely procedural matters or the functioning of the court are allowed and encouraged.

(11) *(Communications with represented litigants)* An attorney working in a family law information center or family law facilitator office and his or her staff should not assist a litigant who is represented by an attorney unless the litigant's attorney consents or the court has referred the litigant for assistance.

(Adopted, eff. Jan. 1, 2002.)

OFFICE OF THE FAMILY LAW FACILITATOR DISCLOSURE

The Family Law Facilitator is available to help both parents and all other parties who have questions about family law issues, including child support, spousal support, health insurance, and the availability of community resources to help families. The Family Law Facilitator can help you in preparing your own forms and can give you general information. The Family Law Facilitator cannot go with you to court.

The Family Law Facilitator IS NOT YOUR LAWYER, but is a neutral person who does not represent any parent or party. There is no attorney-client relationship between you and the Family Law Facilitator.

The Family Law Facilitator may provide information and services to the other party in your case.

Communications between you and the Family Law Facilitator are not confidential. You should consult with your own attorney if you want personalized advice or strategy, to have a confidential conversation, or to be represented by an attorney in court.

The Family Law Facilitator is not responsible for the outcome of your case.

I have read this *Disclosure* or have had it read to me. I understand this document.

Date:

_____ ▶ _____

(TYPE OR PRINT NAME) (SIGNATURE)

I have translated or read the statement to the person requesting services.

Date:

_____ ▶ _____

(TYPE OR PRINT NAME) (SIGNATURE)

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WELCOME TO THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF

WE ARE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE MUST BE FAIR TO EVERYONE.

This is a list of some things the court staff can and cannot do for you.

We can	explain and answer questions about how the court works.	**We cannot**	tell you whether or not you should bring your case to court.
We can	provide you with the number of the local lawyer referral service, legal services program, family law facilitator program, and other services where you can get legal information.	**We cannot**	tell you what words to use in your court papers. (However, we can check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number, and presence of attachments.)
We can	give you general information about court rules, procedures, and practices.	**We cannot**	tell you what to say in court.
We can	provide court schedules and information on how to get a case scheduled.	**We cannot**	give you an opinion about what will happen if you bring your case to court.
We can	provide you information from your case file.	**We cannot**	talk to the judge for you.
We can	provide you with court forms and instructions that are available.	**We cannot**	let you talk to the judge outside of court.
We can	usually answer questions about court deadlines and how to compute them.	**We cannot**	change an order signed by a judge.

Since court staff may not know the answers to all questions about court rules, procedures, and practices, and because we don't want to give you wrong information, we have been instructed not to answer questions if we do not know the correct answers. For additional information, please contact a lawyer or your local law library, or check the California Courts Self-Help Center Web site at *www.courtinfo.ca.gov/selfhelp.*

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