

Memorandum



To: Texas Supreme Court Advisory Committee

From: Subcommittee on Tex. R. Civ. P. 1-14c
Hon. Jane Bland, Chair
Pamela Stanton Baron, Past Chair and Vice Chair
Hon. Robert H. Pemberton
Evan Young
Chris Nickelson

Date: June 28, 2018

Re: Limited Scope Representation rules

I. Matters referred to subcommittee

Texas Disciplinary Rule of Professional Conduct 1.02(b) specifically permits a lawyer to limit the scope, objectives, and general methods of representation if the client consents after consultation. While limited-scope representation is authorized, existing state-wide procedural rules are not tailored for it. In its referral letter of July 5, 2017, the Texas Supreme Court has asked the subcommittee to draft procedural rules that are more tailored to limited-scope representation as follows:

Procedural Rules on Limited-Scope Representation. In its December 6, 2016 report, the Texas Commission to Expand Civil Legal Services recommends that the Court adopt procedural rules to address issues raised by limited-scope representation. The Court requests the Committee to draft rules for the Court's consideration. The Committee should solicit input from the family-law bar in doing so. The Commission's report is available through the Court's website.

Referral Letter (Tab A) at 2. The Texas Commission to Expand Civil Legal Services concluded that:

The Texas Commission recommends that the Court (1) solicit input from the bar on the use of limited-scope representation to provide some affordable legal assistance to modest-means clients who otherwise would proceed unrepresented,

and (2) commission a review of Texas court rules to determine whether amendments should be made to promote the use of limited-scope representation in Texas.

Commission Report at 17 (excerpted at Tab B).

II. Resources

In carrying out the tasks in the referral letter, the subcommittee has had the benefit of a wealth of resources:

Report of the Texas Commission to Expand Civil Legal Services, Dec. 6, 2016 (excerpted at Tab B).

Report of the Limited Scope Representation COmmittee to the Texas Commission to Expand Civil Legal Services, Sept. 29, 2016 (Tab C). The LSR Committee members were: Kennon L. Wooten, Chair; Hon. Jane Bland; Hon. Ann Crawford McClure; F. Scott McCown; Chris Nickelson; and Hon. Lee H. Rosenthal. That report provided an invaluable analysis of the issues to be addressed in drafting rules to better accommodate limited scope representation and considerable research on the issues.

Appendices to the Report of the Limited Scope Representation Subcommittee, Sept. 29, 2016 (Tab C). Extensive materials were attached to the Report that were of great assistance to the SCAC subcommittee:

- App. 1: Texas Supreme Court Order Creating the Texas Commission to Expand Civil Legal Services
- App. 2: ABA Unbundling Fact Sheet
- App. 3: Texas Access to Justice Commission, Limited Scope Representation Fact Sheet
- App. 4: ABA Chart Summarizing Adoption of LSR Rules
- App. 5: Texas Disciplinary Rule 1.02
- App. 6: ABA Model Rule 1.2
- App. 7: ABA Model Rule 6.5
- App. 8: Travis County Local Rule 20
- App. 9: Chart Summarizing Limited Scope Representation (LSR) Provisions on a State-by-State Basis

Assistance from the Texas Access to Justice Commission. Trish McAllister and Kristen Levins at TAJC provided input and their substantial knowledge about limited scope representation as well as the tools kits that TAJC has developed for use in family law cases (Tab D) and for general civil law matters (Tab E).

Assistance from the Family Law Section of the State Bar of Texas. The Family Law Section has provided its full support to our subcommittee. Chris Nickelson, Vice-Chair of the Family Law Section, has served as a member of our subcommittee, provided great insight and resources, and has served as a liaison between our subcommittee and the Family Law Section. The Family Law Section provided input and full support for surveying its members on issues related to limited scope representation.

Assistance from Members Services at the State Bar of Texas. Tracy Nuckols at the State Bar worked with our subcommittee to send a survey on limited scope representation to family law practitioners in the State.

III. Subcommittee actions and analysis

The subcommittee met by conference call on September 26, 2017. The purpose was to have a preliminary conversation based on the materials in the Reports of the Texas Commission to Expand Civil Legal Services and its Limited Scope Representation Committee. The subcommittee further had the benefit that two of its members, Justice Jane Bland and Chris Nickelson, had served on the Limited Scope Representation Committee. It was a productive discussion on the issues raised in the reports. Chris Nickelson indicated that he had informed the Family Law Section's Executive Committee about our subcommittee's charge and that the Committee indicated its willingness to survey its members on issues delineated by our subcommittee. The subcommittee agreed that its next steps would be to create a list of issues that it would need to consider in proposing any rule adjustments to better accommodate limited scope representation and, following that, to draft a survey addressing those issues to be sent to family law practitioners. The subcommittee further decided that, if possible, it would be helpful to have two surveys – one to family law practitioners in Travis County because Travis County had in place a local rule providing procedures for limited scope representation and one to practitioners outside of Travis County. The subcommittee also discussed those portions of the Report of the Limited Scope Representation Committee that suggested possible changes to the disciplinary rules – including requiring informed consent of the client to agree to limited scope representation and waiving conflict rules for walk-in clinics. Given the complexities of obtaining a change to the disciplinary rules, our subcommittee decided to focus its efforts on identifying changes to the rules of procedure to better accommodate limited scope representation.

On September 27, 2017, then-chair of our subcommittee, Pamela Baron, reported on the subcommittee's discussions and next steps in a call with Trish McAllister and Kristen Levins at the Texas Access to Justice Commission. Both offered to assist the subcommittee. On October 11, 2017, as a follow up, Kristin Levins provided an updated report on LSR rules in all 50 states (Tab F).

The subcommittee drafted and revised an issues list (Tab G). The issues covered a range of topics, including disclosure/appearance, notice, service, and withdrawal.

Based on the issues list, Chris Nickelson drafted two proposed surveys – one for Travis County family law practitioners and one for those outside Travis County. The subcommittee revised the surveys. One of our objectives was to keep the survey narrow in scope to specific experiences or specific questions rather than inviting general comments about whether limited scope was a good idea or a bad idea. At a meeting of the Family Law Section’s Executive Committee on December 9, 2017, Chris solicited input on the contents of the surveys and obtained permission to survey the section members. He then worked with Tracy Nuckols at the State Bar about coordinating the survey distribution. The subcommittee determined that release of the survey should not occur until after the holidays in the hope of increasing the response rate.

The survey period ran from February 9, 2018 until April 1, 2018. The survey was sent to 12,458 Texas family law attorneys (5,830 of whom were members of the Family Law Section). Excluded from the survey were practitioners who had opted out of participating in surveys and those who had not reported the Texas county they practiced in. The survey questions and responses are attached at Tab H.

The subcommittee met by conference call on May 10, 2018 to discuss the survey results. The subcommittee was disappointed with the overall response rate, which was 3.6% of those surveyed. The subcommittee agreed that the low response rate called into question how much the study should be relied on in formulating changes to the procedural rules. That given, the subcommittee concluded that the survey results did support the adoption of state-wide rules to clarify court procedures in a limited scope representation context. Nearly half the respondents outside of Travis County indicated that problems had arisen in a limited scope representation “because there are no procedural rules specifically governing limited scope representation.” And almost 84% of respondents outside Travis County agreed that it would be helpful to have “procedural rules specifically addressing limited scope representation, including appearance, service, and withdrawal.” The survey respondents favored limiting the trial court’s ability to deny withdrawal after the tasks within the limited scope had been completed, favored disclosure of an attorney’s involvement, and were split on the best method for accomplishing service.

The subcommittee’s analysis of written comments identifying problems with limited scope representation found three areas of concern. The primary one was client-based, where the client did not understand the scope of the representation. The second was the additional burden placed on opposing counsel who often must engage in extra work because of a lack of knowledge of the scope of the representation to be provided by opposing counsel and problems with service and notice. And the third problem area related to the trial court’s refusal to permit withdrawal, even when all services had been performed. The subcommittee concluded that the first area of concern could not be addressed in a procedural rule, but that practitioners need to

be educated in the best ways to draft a limited scope agreement to ensure a clear defining of the tasks to be performed and to make certain the client's understanding of the limited nature of the representation. The subcommittee concluded that the second area could be addressed in a procedural rule that permitted an attorney to enter a limited appearance that disclosed the tasks to be performed and that clearly provided the manner of service in such cases. The subcommittee also concluded that the third area, withdrawal, could be addressed in a procedural rule, although the disciplinary rules would still give the trial court some discretion to deny withdrawal in certain circumstances. Justice Jane Bland and Evan Young volunteered to draft proposed changes to the procedural rules; the subcommittee agreed that Travis County Local Rule 20 would serve as an excellent starting point.

The subcommittee met by conference call on June 18, 2018 to discuss the proposed changes to procedural rules to accommodate limited scope representation. Justice Jane Bland presented proposed draft rules. The subcommittee began by addressing several preliminary issues. The subcommittee determined that it would propose only changes to court procedural rules to accommodate limited scope representation. The subcommittee determined that the best placement for any proposed rule changes would be in Tex. R. Civ. P. 8 and 10 which currently govern attorney in charge and withdrawal; the subcommittee considered a separate limited scope rule but decided the better fit would be to amend Rules 8 and 10. The subcommittee also decided to address service within the proposed changes to make clear how service is accomplished in limited scope situations rather than relying on the general provisions in Rule 21a. Finally, the subcommittee determined that the parameters for appearance and withdrawal would be specific-issue based rather than on a hearing-by-hearing basis. After these preliminaries, the subcommittee made adjustments to the draft. Justice Bland agreed to circulate a revised version for the subcommittee's input via email.

The subcommittee proposes for discussion changes to Tex. R. Civ. P. 8 and 10 as set out in the following section. Prior to the July 13, 2018 SCAC meeting, the subcommittee will solicit input on the proposed rules from the Executive Committee of the Family Law Section and the Texas Access to Justice Commission. That input will be presented at the July 13, 2018 meeting.

IV. Subcommittee proposed rule changes

The subcommittee unanimously recommends the following rule changes to accommodate limited scope representation:

Proposed Amendments to Texas Rules of Civil Procedure 8 and 10
(Subcommittee Draft 7/28/18)

Rule 8. Attorney in Charge

Rule 8.1. General Appearance [Current text of Rule 8]

On the occasion of a party's first appearance through counsel, the attorney whose signature first appears on the initial pleadings for any party shall be the attorney in charge, unless another attorney is specifically designated therein. Thereafter, until such designation is changed by written notice to the court and all other parties in accordance with Rule 21a, said attorney in charge shall be responsible for the suit as to such party.

All communications from the court or other counsel with respect to a suit shall be sent to the attorney in charge.

Rule 8.2. Limited Appearance

- (a) Notice Required. An attorney making a limited appearance in a case must file a notice of limited appearance with the court. The notice must identify:
- (1) the attorney making the limited appearance;
 - (2) the issues for which the attorney will represent the client;
 - (3) the party the attorney represents; and
 - (4) the service information for the attorney and the party.
- (b) Limited Scope. An attorney who files a notice of limited appearance is the attorney for the issues designated in the notice of limited appearance but is not the attorney for matters outside the scope of the notice.

- (c) Duration. A limited appearance continues until the court orders that the attorney may withdraw under Rule 10.2 or the case is finally concluded in the trial court. If the appearance is for a preliminary or temporary issue and the court defers its ruling, then the attorney's obligation to the court ends with the attorney's appearance at the preliminary hearing and the attorney may move to withdraw under Rule 10.2. An interim order subject to further consideration by the trial court at a later date does not extend the attorney's obligation to the court.
- (d) Service. Service must be made on the attorney and the party in accordance with Rule 21a for issues designated in the notice of limited appearance. For matters outside the scope of the notice of limited appearance, service must be made on the party at the address listed for the party on the notice of limited appearance. Service directed to an attorney and not the party for matters outside the scope of the notice of limited appearance is not effective.
- (e) Court notices. Where these rules require the trial court to provide written notice to the parties, the trial court must provide that notice to the attorney and the party in the manner directed by these rules.

Comment—2018

Consistent with Texas Disciplinary Rule of Professional Conduct 1.02(b), an attorney may limit the scope, objectives, and general methods of representation if the client consents after consultation. This rule addresses the attorney's responsibilities to the court and opposing counsel when an attorney represents a client in court for a limited purpose. The rule does not otherwise define the scope or method of representation by a lawyer, and instead leaves this to the lawyer and client to address within their engagement agreement.

Rule 10. Withdrawal of Attorney

Rule 10.1. Withdrawal from General Appearance [Current text of Rule 10]

An attorney may withdraw from representing a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion shall state: the name, address, telephone number, telecopier number, if any, and State Bar of Texas identification number of the substitute attorney; that the party approves the substitution; and that the withdrawal is not sought for delay only. If another attorney is not to be substituted as attorney for the party, the motion shall state: that a copy of the motion has been delivered to the party; that the party has been notified in writing of his right to object to the motion; whether the party consents to the motion; the party's last known address and all pending settings and deadlines. If the motion is granted, the withdrawing attorney shall immediately notify the party in writing of any additional settings or deadlines of which the attorney has knowledge at the time of the withdrawal and has not already notified the party. The Court may impose further conditions upon granting leave to withdraw. Notice or delivery to a party shall be either made to the party in person or mailed to the party's last known address by both certified and regular first class mail. If the attorney in charge withdraws and another attorney remains or becomes substituted, another attorney in charge must be designated of record with notice to all other parties in accordance with Rule 21a.

Rule 10.2. Withdrawal from Limited Appearance

- (a) *Motion required.* An attorney seeking to withdraw from a limited appearance filed under Rule 8.2 must move to withdraw from the representation. The trial court must permit the withdrawal if the motion includes:
- (1) the client's consent in writing to the withdrawal;
 - (2) a statement that the other parties do not oppose the motion;

- (3) the last known mailing address of the client;
 - (4) a statement of any pending trial setting; and
 - (5) the attorney's certification that all the tasks required by the notice of limited appearance have been completed.
- (b) *Substitution.* If a motion to withdraw includes an appearance by another attorney to substitute for the withdrawing attorney, then the motion need only state that the substituting attorney has assumed responsibility for all uncompleted matters within the scope of the notice of limited appearance and the client has consented to the substitution. The motion must be signed by the withdrawing and the substituting attorney.
- (c) *Order.* If the motion to withdraw is opposed by the client or another party, then the court must determine whether the attorney has fulfilled the attorney's responsibilities to the court for matters included in the notice of limited representation, and if so, permit the attorney to withdraw. The court must not impose further conditions upon granting leave to withdraw.
- (d) *Service.* The withdrawing attorney must serve a copy of the court's order permitting withdrawal on all parties.



The Supreme Court of Texas

CHIEF JUSTICE
NATHAN L. HECHT

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

JUSTICES
PAUL W. GREEN
PHIL JOHNSON
DON R. WILLETT
EVA M. GUZMAN
DEBRA H. LEHRMANN
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JOHN P. DEVINE
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GENERAL COUNSEL
NINA HESS HSU

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

PUBLIC INFORMATION OFFICER
OSLER McCARTHY

July 5, 2017

Mr. Charles L. "Chip" Babcock
Chair, Supreme Court Advisory Committee
Jackson Walker L.L.P.
cbabcock@jw.com

Re: Referral of Rules Issues

Dear Chip:

The Supreme Court requests the Advisory Committee to study and make recommendations on the following matters.

Rules on Enforcement of a Foreign Judgment or Arbitration Award in Family Law Cases. HB 45, passed by the 85th Legislature, directs the Court to adopt evidentiary and procedural rules to ensure that neither the Constitution nor public policy is violated by the application of foreign law or the recognition or enforcement of a foreign judgment or arbitration award in an action under the Family Code. Section 2 of the bill adds to the Government Code Section 22.0041, which contains the rulemaking directive and enumerates requirements for the rules. The Family Law Section of the State Bar and the Texas Family Law Foundation have offered to assist in writing these rules, and the Committee should work with them in preparing its recommendations. Because section 3 of the bill requires that the rules be adopted by January 1, 2018, the Committee should conclude its work by its October 27, 2017 meeting.

Supersedeas Rules for State-Actor Appellants. HB 2776, passed by the 85th Legislature, amends the Government Code to direct the Court to adopt rules providing that the right of a state-actor appellant under Section 6.001(b)(1)-(3) of the Civil Practice and Remedies Code to supersede a judgment or order on appeal is not subject to being counter-superseded under Rule of Appellate Procedure 24, except in an appeal involving a contested-case, administrative-enforcement action. Section 2 of the bill requires the rules to be adopted by May 1, 2018.

Forms for an Application for Injunctive Relief in Cyberbullying Cases. SB 179, known as David's Law and passed by the 85th Legislature, amends several state statutes to address cyberbullying of minors. Section 11 of the bill adds Chapter 129A to the Civil Practice and Remedies Code and authorizes a victim of cyberbullying to seek injunctive relief against the perpetrator. Civil Practice and Remedies Code Section 129A.003 directs the Court to promulgate forms for an application for injunctive relief under the chapter and enumerates requirements for the forms.

Texas Rule of Appellate Procedure 11. In the attached memorandum, the State Bar Court Rules Committee proposes amendments to Rule of Appellate Procedure 11.

Procedural Rules on Limited-Scope Representation. In its December 6, 2016 report, the Texas Commission to Expand Civil Legal Services recommends that the Court adopt procedural rules to address issues raised by limited-scope representation. The Court requests the Committee to draft rules for the Court's consideration. The Committee should solicit input from the family-law bar in doing so. The Commission's report is available through the Court's website.

Local Rules. Rule of Civil Procedure 3a and Rule of Judicial Administration 10 require the Court to approve any new or amended local rule of a trial court. The Court asks the Committee to propose a new process and corresponding rule amendments that remove the primary responsibility for approving the local rules of trial courts from the Supreme Court. The Committee should consider:

- whether statewide rules should define what must be in a local rule, rather than a standing order;
- whether the regional presiding judge, the regional court of appeals, or both should be required to approve local rules of trial courts and whether the process should be different for rules that only apply to criminal cases;
- whether trial courts should be able to adopt certain kinds of rules without prior approval of a supervising court; and
- a process for Supreme Court review of a proposed or enacted local rule at the request of any person.

Texas Rule of Civil Procedure 99. Subsections (b) and (c) set the deadline for filing an answer as "10:00 a.m. on the Monday next after the expiration of twenty days after the date of service." The Court asks the Committee to consider whether the deadline should be simplified and to draft any recommended amendments.

Subsection (d) states: "The party filing any pleading upon which citation is to be issued and served shall furnish the clerk with a sufficient number of copies thereof for use in serving the parties to be served, and when copies are so furnished the clerk shall make no charge for the copies." The advent of e-filing has rendered this language outdated. Filers want to avoid paying additional fees for service copies of the petition by printing out the copies themselves and having the clerk return the citation by email. But some trial court clerks refuse to provide a citation by email. The Court asks the Committee to consider what changes to Rule 99 are needed to update the process for issuing a citation on an e-filed petition and to draft any recommended amendments. The Committee should consider whether the rule should instruct the clerk to return a citation on an e-filed petition by email.

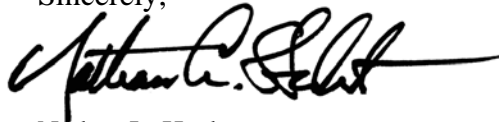
The Court asks the Committee to consider whether any other changes are necessary to conform the text of Rule 99 to modern practice.

Civil Case Information Sheet. Texas Rule of Civil Procedure 78a requires the filing of a civil case information with a petition that initiates a new civil lawsuit or requests modification or enforcement of an order in a family-law case. Appendix A to the Rules of Civil Procedure contains a form for the civil case information sheet. The Office of Court Administration has reported to the Court that all the information required by the civil case information sheet is captured independently by the e-filing system when a petition is e-filed. The Court asks the Committee's advice whether Rule 78a and Appendix A should be repealed or amended to apply to a smaller subset of cases.

Texas Rule of Civil Procedure 167. Rule 167.2(e)(2) imposes a 60-day waiting period after the appearance of the offeror or offeree, whichever is later, before an offer of settlement can be made under the rule. Subsection (b)(4) requires that the terms of a settlement offer include "attorney fees . . . that would be recoverable up to the time of the offer." Practitioners report that the 60-day waiting period is often unnecessary and increases the amount required to settle a claim under the rule. The Court asks the Committee's advice whether the 60-day waiting period should be eliminated or shortened.

As always, the Court is grateful for the Committee's counsel and your leadership.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan L. Hecht", with a long, sweeping horizontal line extending to the right.

Nathan L. Hecht
Chief Justice

Attachment

Report of the Texas Commission to Expand Civil Legal Services

December 6, 2016

Other incubators and incubator-type programs are in development across the state.⁴⁷ Legal incubators alone cannot close the justice gap. Since the first one was created in 2007, only about 530 lawyers in the country have graduated from an incubator.⁴⁸ But incubators have an important part to play in the modest-means pipeline. They can meet the needs of some clients and some new law-school graduates; they can teach lawyers how to make a living serving modest-means clients; and they can serve as a visible reminder to the legal community that serving clients who are unable to pay full price “is a moral obligation of each lawyer as well as the profession generally.”⁴⁹ The Texas Commission thus urges the Court to endorse and promote both existing incubators and the creation of additional legal incubators in the state.

Recommendation 7. The Court should consider amending court and ethics rules to address and clarify issues raised by limited-scope representation.

a. Limited-Scope Representation: What It Is and How It Can Help

Limited-scope representation—also called “unbundling”—is a legal-services model that enables litigants who would otherwise be self-represented to receive some assistance of counsel.⁵⁰ In short, a lawyer provides discrete, agreed-upon legal services to a client rather than making a general appearance or handling all aspects of the client’s legal problem.⁵¹ Examples of tasks that may be appropriate for limited-scope representation include:

- advising a client about procedures for filing a claim;
- appearing on behalf of a client at a single hearing;
- preparing or “ghostwriting” a letter or court document;
- preparing or responding to a demand letter; and
- negotiating a settlement.

⁴⁷ See LEGAL INCUBATORS SUBCOMMITTEE REPORT, *supra* note 44, at 4–5.

⁴⁸ STANDING COMM. ON THE DELIVERY OF LEGAL SERVS., AM. BAR ASS’N, 2016 COMPREHENSIVE SURVEY OF LAWYER INCUBATORS 12 (August 2016), http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_comprehensive_survey_lawyer_incubators.authcheckdam.pdf (on file with the Court).

⁴⁹ TEX. DISCIPLINARY RULES PROF’L CONDUCT pmb. ¶ 6.

⁵⁰ See generally KENNON L. WOOTEN ET. AL, REPORT OF THE LIMITED SCOPE REPRESENTATION SUBCOMMITTEE TO THE TEXAS COMMISSION TO EXPAND CIVIL LEGAL SERVICES (2016) [hereinafter LIMITED SCOPE REPRESENTATION SUBCOMMITTEE REPORT] (Appendix E).

⁵¹ See STANDING COMM. ON THE DELIVERY OF LEGAL SERVS., AM. BAR ASS’N, UNBUNDLING FACT SHEET (June 2, 2011), http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_unbundling_fact_sheet.authcheckdam.pdf (on file with the Court).

Limited-scope representation is not appropriate for every case or client. It is not suitable for matters that are complex or that cannot be divided into discrete legal tasks.⁵² But it can and is being used successfully in many types of civil legal matters to provide some assistance to litigants who cannot afford full-service representation. One commentator has noted that limited-scope representation “is likely to be used more in uncontested and modestly-contested family law cases than in any other field of litigation.”⁵³ Other cases that may lend themselves to limited-scope representation are consumer law, probate, insurance coverage, landlord–tenant, and small claims.⁵⁴ Outside the litigation context, it may be suitable for real-estate and small-business transactions.

Promoting the increased use of limited-scope representation in Texas could provide affordable legal services for some clients, spur the development of more cost-efficient legal-services models, and bolster the practice of law in underserved communities.⁵⁵ Some lawyers and judges have expressed concerns about limited-scope representation, including that:

- a lawyer’s involvement in only part of the case could leave the client worse off;
- the client may not know how to proceed at the conclusion of the representation;
- the court and opposing counsel will not know whether to send court papers and legal notices to the limited-scope attorney or the client; and
- the court may refuse to permit a lawyer retained under a limited-scope agreement to withdraw from a case after the lawyer has completed the agreed-upon tasks.

But these concerns can be mitigated by careful case evaluation by the lawyer, clear lawyer–client agreements, and rules that address issues that frequently arise from limited-scope representation.

The Texas Access to Justice Commission’s website provides many resources on limited-scope representation, including templates for a service agreement, a task- and issue-assignment checklist, a notice of limited representation, and a motion to withdraw.⁵⁶ Although the Texas Disciplinary Rules of Professional Conduct allow for it, the Texas Rules of Civil Procedure lack specific guidance on how to handle limited-scope representation in Texas courts.

⁵² See M. Sue Talia, *Limited Scope Representation*, in STANDING COMM. ON THE DELIVERY OF LEGAL SERVS., AM. BAR ASS’N, REINVENTING THE PRACTICE OF LAW 7 (Luz Herrera ed., 2014) [hereinafter REINVENTING THE PRACTICE OF LAW] (on file with the Court); see also Comm. on Prof’l Responsibility & Conduct, St. Bar of Cal., *An Ethics Primer on Limited Scope Representation*, ETHICS HOTLINER, Fall 2004, at 2, <http://ethics.calbar.ca.gov/LinkClick.aspx?fileticket=gb8teBEN0s%3D&tabid=834> (on file with the Court).

⁵³ Phillip C. Friday, *Limited Scope Representation: One Answer to Pro Se Litigation*, IN CHAMBERS, Fall 2013, at 9.

⁵⁴ See *id.* at 10; see also REINVENTING THE PRACTICE OF LAW, *supra* note 52.

⁵⁵ See LIMITED SCOPE REPRESENTATION SUBCOMMITTEE REPORT, *supra* note 50, at 3.

⁵⁶ *Limited Scope Representation*, TEX. ACCESS TO JUST. COMM., <http://www.texasatj.org/limited-scope-representation> (last visited Nov. 30, 2016).

The Texas Commission recommends that the Court (1) solicit input from the bar on the use of limited-scope representation to provide some affordable legal assistance to modest-means clients who otherwise would proceed unrepresented, and (2) commission a review of Texas court rules to determine whether amendments should be made to promote the use of limited-scope representation in Texas.

b. Court and Ethics Rules

Approximately twenty states and one Texas county (Travis) have adopted procedural rules to govern limited-scope representation in civil court proceedings.⁵⁷ Topics often addressed by these rules include:

- disclosure of “ghostwriting”—whether a lawyer who prepares legal papers to be filed with the court must disclose in those papers that the lawyer prepared them for the client;
- how a lawyer gives notice to the court and third parties that she is making a limited appearance;
- serving court papers and notices while a limited appearance is in effect; and
- how a lawyer withdraws from a pending court case after completing limited-scope representation.⁵⁸

The jurisdictions with limited-scope-representation rules do not approach these topics uniformly. The Report of the Limited Scope Representation Subcommittee highlights alternative approaches to each topic and includes a chart summarizing each state’s rules.⁵⁹ Because the study and drafting work needed to promulgate statewide procedural rules on limited-scope representation could take time, the Texas Commission encourages the Court to develop a local-rule template that counties can adopt in the interim and to enlist the help of the Office of Court Administration and the district and county clerks in measuring the rule’s effectiveness.⁶⁰

Finally, the Court should also consider whether the Texas Disciplinary Rules of Professional Conduct should be amended to align more closely with the ABA Model Rules of Professional Conduct on limited-scope representation. There are two key differences between the applicable Texas and ABA rules.

⁵⁷ See LIMITED SCOPE REPRESENTATION SUBCOMMITTEE REPORT, *supra* note 50, at 8.

⁵⁸ See *id.* at 8–9.

⁵⁹ See *id.* at Exhibit 1.

⁶⁰ The Court has previously approved local-rule templates for widespread adoption on topics like electronic filing that were later incorporated into the statewide procedural rules. See, e.g., Misc. Docket No. 11-9118 (June 28, 2011) (Final Approval of Amendments to the Texas Rules of Appellate Procedure and Templates for Local Rules Governing Electronic Copies and Electronic Filings in the Courts of Appeals).

First, while Rule of Professional Conduct 1.02(b), consistent with its Model Rule counterpart, permits limited-scope representation, the wording of the rules differs in two ways that may be important.

ABA Model Rule 1.2(c)	Texas Disciplinary Rule of Professional Conduct 1.02(b)
“A lawyer may limit the scope of the representation if the limitation is <i>reasonable under the circumstances</i> and the client gives <i>informed</i> consent.” (Emphasis added)	“A lawyer may limit the scope, objectives and general methods of representation if the client consents after consultation.”

The first is that Model Rule 1.2(c) only permits a lawyer to limit the scope of representation “if the limitation is reasonable under the circumstances,” whereas Rule 1.02(b) does not contain that limitation.⁶¹ The second is that Model Rule 1.2(c) requires that a client give “informed consent,” but under Rule 1.02(b), consent after consultation suffices.⁶² Amending Rule 1.02(b) to align more closely with the language of its Model Rule counterpart may allay some of the concerns that have been expressed about limited-scope representation.

Second, Model Rule 6.5 (“Nonprofit And Court-Annexed Limited Legal Services Programs”) relaxes the conflict-of-interest standards for lawyers that provide short-term, limited legal services under a program sponsored by a nonprofit organization or a court.⁶³ The comments to the rule recognize that the programs contemplated by the rule normally operate under circumstances that make it infeasible for a lawyer to screen for conflicts of interest, which a lawyer generally must do before undertaking legal representation. Forty-six states have adopted Model Rule 6.5 or a substantially similar rule.⁶⁴ Texas has not. Incorporating Model Rule 6.5 into the Texas Disciplinary Rules of Professional Conduct may help to reduce lawyers’ concerns about engaging in limited-scope representation and promote the practice in Texas.

Recommendation 8. *A primary objective of future rulemaking projects should be to make the civil justice system more accessible to modest-means clients.*

The Texas Commission’s final recommendation is that, where appropriate, a primary objective of future projects to make or amend the rules that govern the civil justice system in Texas should be to make the system more accessible to modest-means clients.

⁶¹ Compare MODEL RULES OF PROF’L CONDUCT r. 1.2(c), with TEX. DISCIPLINARY RULES PROF’L CONDUCT R. 1.02(b).

⁶² See MODEL RULES OF PROF’L CONDUCT r. 1.2(c); TEX. DISCIPLINARY RULES PROF’L CONDUCT R. 1.02(b).

⁶³ See MODEL RULES OF PROF’L CONDUCT r. 6.5 & cmts.

⁶⁴ See LIMITED SCOPE REPRESENTATION SUBCOMMITTEE REPORT, *supra* note 50, at 7.

For example, projects involving rules of civil or appellate procedure should focus on streamlining court procedures to make litigation less costly and easier for self-represented litigants to navigate. The Court has already begun this effort by asking the Supreme Court Advisory Committee to review all of the discovery rules and recommend changes to increase efficiency and decrease the cost of litigation.⁶⁵

The Court should also consider whether changes to the Rules and Regulations Governing the Participation of Qualified Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas could improve modest-means clients' access to legal representation. Rule I recognizes the profession's "responsibility to provide competent legal services for all persons" and states that the rules are promulgated in furtherance of that responsibility. But Texas's rules are more restrictive than those of many other states. For example, Rule II(B) requires that a student have completed at least two years of law school or, if the student is participating in a clinic for academic credit, be in the second semester of the second year of law school. But other states' rules permit a first or second-year student to obtain a student bar card under certain circumstances.⁶⁶

Changes to generally applicable court rules may only have an indirect, incremental effect on the justice gap. But in order to close the gap, Texas must attack it from every angle. The Court should take every opportunity to make a change—however modest—that could increase access to the civil justice system.

⁶⁵ Letter from Nathan L. Hecht, Chief Justice, Supreme Court of Tex., to Charles L. "Chip" Babcock, Chair, Supreme Court Advisory Comm. 2 (Apr. 18, 2016) (on file with the Court).

⁶⁶ See generally TEX. TECH UNIV., FIFTY-STATE SURVEY: STUDENT BAR CARDS (2016) (on file with the Court).

Report of the State Bar of Texas & Other Referral Services Subcommittee of the Texas Commission to Expand Civil Legal Services

**Members: Frank E. Stevenson, II (Chair), Faye M. Bracey,
Angelica Maria Hernandez, William O. Whitehurst, Jr.**

October 2, 2016

In support of the Commission's goal of increasing access to legal services by persons with modest means, the State Bar will evaluate adding a feature to the TexasBar.com Find a Lawyer directory that allows attorneys to indicate whether they accept payment for legal services on a sliding scale or flat fee basis.

This option might be added to the "Services Provided" portion of the attorney profiles, where attorneys currently list whether they provide translation services or ADA-accessible client services. Other options can be considered.

To encourage participation, the State Bar would notify all Texas attorneys when they are asked to review their profiles that they have the option of indicating their acceptance of sliding scale or flat fee basis engagements.

The directory would be searchable based on fee options specified, in combination with practice areas and other profile information. So, a member of the public could, for example, search for family lawyers in Austin who accept flat fees.

Issues for discussion would be how the State Bar would define sliding scale fees and flat fees; whether suggested fee schedules could or would be published, and if so, whether attorneys should agree to accept certain fees; and how the State Bar would present and market the feature in a way that encourages attorneys and the public to use alternative fee approaches to serve people of modest means.

If this idea is endorsed or adopted by the Commission, the SBOT Board will be promptly notified and any approvals sought. Once approved, the details of its implementation would be directed by the State Bar with direct input from and regular updates to the Commission.

Chart Summarizing Limited Scope Representation (LSR) Provisions on a State-by-State Basis
(Prepared with Information Collected in July 2016)

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
AL ¹	RUC + IC + WR ² (with exceptions)	Yes	Ala. R. Civ. P. 87.	May rely on client unless reason to believe otherwise.	Must receive written notice of LSR.	Must indicate lawyer assistance but not name of lawyer.
AK	RUC + CAC	Yes	Ark. R. Civ. P. 64(b).		Must receive written notice of LSR.	
AZ	RUC + IC	Yes	Ariz. R. Civ. P. 5.1, 5.2, Ariz. R. Fam. Law P. 9.	Reasonable inquiry required.	Must have knowledge of LSR and identity of lawyer providing LSR.	No
AR	RUC + IC	Yes				
CA	N/A	Yes*	Cal. Rules of Court, 3.35–3.37.			No
CO	RUC + IC	Yes	Colo. R. Civ. P. 121, Colo. App. R. 5.	Reasonable inquiry of the client required, plus independent reasonable inquiry if reason to believe false or materially insufficient.	Must have knowledge of LSR.	Yes
CT	RUC + IC	Yes	Conn. Rule of Professional Conduct 1.16.		No requirement; treat as unrepresented re anything other than the subject matter of LSR.	
DC	IC	Yes	Administrative Order 14-10, Sup. Ct. of D.C. (June 16, 2014).			
DE	RUC + IC	Yes				
FL	RUC + IC + WR	No	Fla. Fam. L.R.P. Rule 12.040.		Must have knowledge or notice of LSR with time	

¹ The state abbreviations in this chart follow the USPS official mailing abbreviations for the states.

² For ease of reference, the following abbreviations are used in this chart: (a) “RUC” = LSR allowed when reasonable under the circumstances; (b) “IC” = LSR allowed with the client’s informed consent; (c) “CAC” = LSR allowed with the client’s consent after consultation; and (d) “WR” = a written agreement regarding LSR is required.

*This state has adopted a version of the ABA Model Rule 6.5 but adapted it to fit the state’s numbering system or specific ethical-rule scheme.

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
					period and subject matter, limited to subject matter of LSR.	
GA	RUC + IC	No				
HI	CAC	Yes				
ID	RUC + IC	Yes	Idaho R. Civ. P. 11(b)(5).			
IL	RUC + IC	Yes	Ill. Sup. Ct. R. 11, 13.	May rely on client's representation of facts without further investigation unless knowledge that representations are false.		No
IN	RUC + IC	Yes	Ind. Trial Rule 3.1(I).			
IA	RUC + IC + WR (with exceptions)	Yes	I.C.A. Rule 1.404, 1.423(3), 1.442(2).	May rely on client's representation of facts unless reason to believe representation is false or materially insufficient, in which case reasonable inquiry required.	Must have knowledge or be provided with notice of time period and subject matter within LSR.	Yes
KS	RUC + IC + WR	No	Kan. Sup. Ct. R. 115A.			Must indicate lawyer assistance but not name of lawyer.
KY	RUC + IC	Yes				
LA	RUC + IC	Yes	La. Dist. Ct. R. 9.12, 9.13.			
ME	RUC + IC + CAC	Yes	Me. R. Civ. P. 11(b), 89(a).	May reasonably rely on information provided by the client.	Must receive written notice of a time period within which only the LSR attorney should be contacted.	
MD	RUC + IC	Yes				
MA	CAC (Ethical rules), RUC + IC (Supreme	Yes*	In flux. But see: Massachusetts Standing			Must indicate lawyer assistance but not name of

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
	Judicial Court Order)		Orders of the Supreme Judicial Court, <i>In Re: Limited Assistance Representation</i> (2016).			lawyer.
MI	CAC	Yes				
MN	RUC + IC	Yes				
MS	RUC + IC	Yes				
MO	IC + WR (with exceptions)	Yes	V.A.M.R. 55.03(c), (e).		Must receive written notice of time period of LSR.	No
MT	RUC + IC + WR (with exceptions)	Yes	Mont. R. Civ. P. 4.2.	May rely on client's representations unless reason to believe representations are false or materially insufficient, in which case independent reasonable inquiry required.	Must receive written notice of time period and subject matter of LSR.	No
NE	RUC + IC	Yes	Neb. Ct. R. of Prof. Cond. § 3-501.2(e).		No requirement; treat as unrepresented re anything other than the subject matter of LSR.	Yes
NV	RUC + IC	Yes	Nev. St. 8 Dist. Ct. R. 5.28 (Local rule for 8 th Judicial District).			
NH	RUC + IC	Yes	N.H. Sup. Ct. Civ. R. 3, 17.		Must receive written notice of the time period in which opposing counsel shall communicate only with LSR lawyer.	No
NJ	RUC + IC	Yes				
NM	RUC + IC	Yes*	N.M. Dist. Ct. R. Civ. P. 1-089, N.M. Mag. Ct. R. Civ. P. 2-107, 2-108.			
NY	RUC + IC + Notice	Yes*				

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
	to tribunal and/or opposing counsel where necessary					
NC	RUC	Yes				
ND	CAC	Yes	N.D.R. Civ. P. 11(e), N.D.R. Ct. 11.2(d).			
OH	RUC + communicated to client, "preferably" in writing	Yes				
OK	RUC + IC	Yes				
OR	RUC + IC	Yes				
PA	RUC + IC	Yes				
RI	RUC + IC	Yes				
SC	RUC + IC	Yes				
SD	RUC + IC	Yes				
TN	RUC + IC, "preferably" in writing	Yes	Tenn. R. Civ. P. 5.02, 11.01.			
TX	CAC	No				
UT	RUC + IC	Yes	Utah R. Civ. P. 74, 75.		Must receive written notice of the time and subject limitations of representation.	
VT	RUC + IC	Yes	Vt. R. Civ. P. 79.1(h), Vt. R. Fam. P. 15(h).			
VA	CAC	Yes				
WA	RUC + IC	Yes	Wa. Super. Ct. Civ. R. 4.2, 11, 70.1.	Attorney may rely on self-represented person's facts (after reasonable inquiry) unless reason to believe representations are false or materially	Must have knowledge or written notice of time and subject matter limitation of LSR.	

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
				insufficient, in which case attorney must make independent reasonable inquiry.		
WV	CAC	No				
WI	RUC + IC + WR (with exceptions)	Yes*	Wis. Stat. § 802.045.	May rely on client's representations unless reason to believe representations are false or materially insufficient, in which case attorney must make independent reasonable inquiry.	Must receive notification from LSR lawyer.	Must indicate lawyer assistance but not name of lawyer.
WY	RUC + IC (or Rule 6.5) + WR (unless phone consultation only)	Yes	Wyo. Unif. R. Dist. Cts. 102.			

**Supreme Court of Texas Commission to Expand Civil Legal Services
Committee Report—Limited Scope Representation
September 29, 2016**

The Supreme Court of Texas created the Texas Commission to Expand Civil Legal Services in November 2015 to examine ways to reduce the widening justice gap in Texas—a gap that reflects Texans’ unmet needs for civil legal services.¹ The justice gap is not unique to Texas. The cost of legal services has become prohibitive for most Americans. For example, in a 2013 study conducted in a Midwestern city typical of many US communities, researchers found that, of the people surveyed with a civil-justice need, 46% relied on self-help, 16% relied on help from family and friends, and 16% did nothing; only 22% engaged a lawyer to address that need.²

Although Texas has not gathered similar data to determine the level of self-representation in Texas’ state and federal courts, the available data suggest that the number of self-represented litigants in Texas is rising dramatically. This rising number of self-represented litigants strongly suggests that many Texans have unmet needs for civil legal services. In many instances, it is because they cannot afford a lawyer.

One way to address the unmet legal needs that define the justice gap is through limited scope representation. Limited scope representation allows lawyers to assist clients with discrete legal tasks—like writing a letter, filling out forms, drafting court documents, or making a single court appearance—rather than providing representation in all aspects a legal matter and without creating the full range of duties for a matter. The Commission has studied state practices and has heard from experts about how to frame limited-scope-representation rules for wider availability. It has studied the ways that other states have implemented these kinds of rules. This report summarizes the findings and recommendations of the Commission’s Limited Scope Representation Committee.

¹ See Sup. Ct. of Tex., Misc. Docket No. 15-9233, *Order Creating the Texas Commission to Expand Civil Legal Services* (Nov. 23, 2015) (attached hereto as **Appendix Item 1**).

² Additional information about the Community Needs and Services Study, which was funded by the National Science Foundation and American Bar Foundation, is available in a 2014 report, [Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study](#), authored by Rebecca L. Sandefur. For additional information relating to unmet needs in the realm of access to legal services in the United States, see pages 11–14 of the [ABA Report on the Future of Legal Services in the United States](#), issued in August 2016.

Limited Scope Representation Committee's Goals

The Commission's and Limited Scope Representation Committee's discussions regarding limited scope representation yielded the following goals for the committee:

- Define limited scope representation.
- Identify how limited scope representation might reduce the justice gap.
- Identify risks associated with the use of limited scope representation.
- Identify current rules and statutes addressing limited scope representation, and identify potential statutory or rule revisions that warrant further consideration.
- Compile a list of resources and reference materials for rule-makers and other interested parties.
- Follow up as directed by the Commission.

1. Limited Scope Representation Defined

Limited scope representation happens when a lawyer provides discrete, agreed-upon legal services to a client, rather than handling all aspects of a legal problem.³ In court proceedings, the lawyer and client agree to limit the scope of the lawyer's involvement in the legal action to agreed-upon tasks. For example, a lawyer may advise a client about procedures for filing a claim, appear at a single hearing, or prepare or "ghostwrite" a letter or court document, but that lawyer will not make a general appearance as counsel of record in the case. Other kinds of tasks include preparing or responding to a demand letter or negotiating a settlement. A lawyer who provides limited scope representation may charge an hourly rate or a flat fee for specific services by task. Like any other rates a lawyer charges, limited-scope-representation rates are subject to the requirements set by law and the Texas Disciplinary Rules of Professional Conduct.

³ The American Bar Association's (ABA's) 2011 Unbundling Fact Sheet (attached hereto as **Appendix Item 2**) and the Texas Access to Justice Commission's 2011 Limited Scope Representation Fact Sheet (attached hereto as **Appendix Item 3**) contain definitions of, and other information about, limited scope representation. As indicated in the ABA's Unbundling Fact Sheet, limited scope representation is also referred to as "unbundling."

2. Using Limited Scope Representation to Address Needs within the Justice Gap

The committee discussed needs in the justice gap and the ways in which limited scope representation might help to address them. These needs include the following:

- *Matching Consumers with Affordable Civil Legal Services:* Law cannot be set apart from the world surrounding it. Technology and the communication age have resulted in a global shift in the relationship between consumers and providers of services. Legal services are no exception. Only two categories of legal consumer existed in the past—the self-represented and the lawyer-represented. In recent years, however, many non-legal service providers have conceived models that provide resources to the legal consumer who chooses not to engage a lawyer. Some of these consumers, particularly those with limited income and tight budgets, present an unmet need for affordable legal representation. In contrast to self-help options and the risks they can present, a lawyer can provide valuable advice beyond forms and databases and effectively assist with or perform discrete legal tasks for a client. This targeted legal representation helps people navigate the legal system better than they would without representation, on an affordable basis, and it presents a business opportunity for underemployed lawyers.
- *Developing Cost Efficient Legal Services Models:* A limited-scope provider may develop expertise in providing specialized service in areas widely needed by large numbers of consumers. This expertise could extend to adopting specialized technology allowing for the quick preparation and review of court and other legal documents most in demand. Mobile outreach and alternative settings to traditional law offices for specific legal tasks are possibilities. In this sense, technology can facilitate legal innovation to simplify the legal process.
- *Promoting Attorney Involvement:* Lawyers want limited-scope-representation opportunities to provide civil legal services to underserved communities. But lawyers are reluctant to represent clients who have no or limited ability to pay for legal representation without an option to limit the scope of the work to specific tasks. A limited-scope agreement provides greater certainty that both the client and the lawyer know the representation will be task-specific and often short-lived. This certainty, and the discrete nature of the representation, can facilitate both affordable limited scope representation and greater lawyer volunteerism.

3. Risks Relating to Limited Scope Representation

The committee has noted concerns that could arise with broader use of limited scope representation. Chief among these concerns are the following:

- *Client Satisfaction at the Conclusion of the Representation:* With piecemeal representation, a client may not know how to proceed at the conclusion of the representation. This can lead to requests for additional legal services, which can lead to requests for additional funds from a client who cannot afford to pay more money to a lawyer. The remaining legal problem also might swallow any forward progress made by the lawyer who handled part of the matter. Some lawyers and judges question whether a lawyer will have an incentive to be judicious in allocating time and resources unless the lawyer makes a general appearance in a case or otherwise assumes the full responsibilities of legal representation in a matter. In other words, in their view, a lawyer will better represent a client knowing that the representation ends when the case or matter has concluded. Critics of limited scope representation believe the risk of malpractice claims is higher when a lawyer is involved with only discrete aspects of a case or matter. They caution that a lawyer may have insufficient understanding of the broader context to provide sound legal advice for discrete aspects of the case or matter.
- *Undue Burden on the Courts and Third Parties:* A lawyer who appears on a limited basis in an adversarial proceeding can place an additional burden on courts and on parties, who must determine who should receive court papers, notice of hearings, and other documents, and who must contend with a self-represented party who undertakes the tasks the lawyer did not agree to provide.
- *Mission Creep:* Lawyers may be hesitant to engage clients for limited-scope work in litigation matters, for fear that a court will require them to continue representation even after they complete agreed-upon tasks. Conversely, broader availability of limited scope representation could encourage more clients to choose limited scope representation over the full-service representation that they need.

Supporters of limited scope representation respond to these concerns by observing that a lawyer who represents a client on a limited basis must meet the same obligations of professionalism required for any other lawyer. The scope of the work is limited, but the lawyer's ethical obligations are not. A lawyer-client relationship, and all that it entails, exists for the tasks at hand. Existing data suggests that the malpractice risk for limited scope representation is no higher than the malpractice risk in full-service representation.

Supporters also point out that legal advice and help in connection with specific tasks is better than no legal advice at all, and that most limited-service clients are converting from self-representation rather than full-service representation. All levels and types of Texas state and federal courts are seeing exponential increases in self-represented litigants. An unbundling of legal services can meet some needs that will otherwise go unmet because full-service representation is beyond the financial reach of many Texas consumers. Finally, limited-scope-representation supporters note that the American Bar Association (ABA) and other states have crafted rules to address the requirements and risks associated with limited scope representation.⁴

Limited scope representation is not for every case or client. One commentator has noted that “[l]imited scope representation is likely to be used more in uncontested and modestly-contested family law cases than in any other field of litigation.”⁵ Limited scope representation may also be suitable for certain cases involving, for example, consumer-law issues, probate issues, insurance-coverage issues, and landlord-tenant issues, as well as for small-claims cases in which the amount in controversy does not justify the cost of full-service representation.⁶ Outside the litigation context, certain transactions involving small businesses or real-estate matters may be well-suited for limited scope representation. But limited scope representation is not well-suited for any matter or case that cannot be unbundled into discrete legal tasks due to its complexity, the existence of highly technical issues, or any other reason.⁷ Moreover, regardless of the subject matter of a particular matter or case, limited scope representation is not well-suited for certain types of clients—e.g., clients who either need or expect help with each legal task at hand.

⁴ Many publications address benefits and risks relating to limited scope representation. Examples include: (1) ABA Section of Litigation, *Handbook on Limited Scope Assistance* 10–13 (2016); (2) ABA Standing Committee on the Delivery of Legal Services, *Reinventing the Practice of Law* 3–8 (Luz Herrera ed., 2014); (3) Colorado Bar Association, *Practical and Ethical Considerations to Integrating Unbundled Legal Services—A Toolkit for Court Leadership* 34–36 (2015); (4) Institute for the Advancement of the American Legal System, *Unbundling Legal Services: Options for Clients, Courts & Counsel* 2–4 (2015); and (5) State Bar of California Committee on Professional Responsibility and Conduct, *An Ethics Primer on Limited Scope Representation* 2 (2004).

⁵ Phillip C. Friday, *Limited Scope Representation: One Answer to Pro Se Litigation*, In Chambers, Fall 2013, at 9.

⁶ See ABA Standing Committee on the Delivery of Legal Services, *Reinventing the Practice of Law* 7 (Luz Herrera ed., 2014); Phillip C. Friday, *Limited Scope Representation: One Answer to Pro Se Litigation*, In Chambers, Fall 2013, at 10; State Bar of California Committee on Professional Responsibility and Conduct, *An Ethics Primer on Limited Scope Representation* 2 (2004).

⁷ See ABA Standing Committee on the Delivery of Legal Services, *Reinventing the Practice of Law* 7 (Luz Herrera ed., 2014); State Bar of California Committee on Professional Responsibility and Conduct, *An Ethics Primer on Limited Scope Representation* 2 (2004).

4. Legislation and Rules Relating to Limited Scope Representation

a. Legislation

As indicated above, family law is one area in which the numbers of self-represented litigants is dramatically increasing. In 2011, the Texas Legislature adopted the Texas Collaborative Family Law Act, which incorporates limited scope representation into family law cases in connection with pretrial resolution of family law disputes. The State Bar of Texas has a Collaborative Law Section that devotes its efforts to educating the legal and client communities in the area of collaborative law.

At this time, the committee does not anticipate that any legislative proposals in the area of limited scope representation are needed for the upcoming legislative session. The majority of states that have developed limited scope representation processes have done so through their ethics rules and their courts' procedural rulemaking powers.

b. Rules

Like the ABA's Model Rules of Professional Conduct and the ethics rules in almost every other state in the United States,⁸ the Texas Disciplinary Rules of Professional Conduct allow clients and lawyers to agree to limited scope representation. Texas Rule 1.02(b) states: "A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation." ABA Model Rule 1.2(c) states: "A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent." As indicated, Model Rule 1.2(c)—unlike Texas Rule 1.02(b)—requires any limitation on the scope of the representation to be "reasonable under the circumstances" and requires further that the client provide "informed consent," as opposed to mere consent after consultation.⁹

⁸ According to the ABA, as of 2011, 41 states had adopted Model Rule 1.2(c) or a substantially similar rule. See **Appendix Item 2** (the ABA's Unbundling Fact Sheet). Independent research and a [2014 Chart Summarizing Adoption of ABA Model Rule of Professional Conduct 1.2\(c\)](#), however, reveal that the states which have not adopted Model Rule 1.2(c) or a substantially similar rule nonetheless have ethics or procedural rules that allow limited scope representation to occur in civil proceedings. California appears to be the lone state that does not have an ethics rule addressing limited scope representation; however, California addresses limited scope representation through rules of procedure instead, and those rules explicitly allow limited scope representation to occur. See 2014 ABA Chart: Adoption of ABA Model Rule of Professional Conduct 1.2(c) (attached hereto as **Appendix Item 4**).

⁹ The complete text of and comments to Texas Rule 1.02(b) and ABA Model Rule 1.2(c) are attached as **Appendix Item 5** and **Appendix Item 6** respectively. The Texas rule was adopted in 1989 and took effect in 1990. It has not been amended since it took effect.

Model Rule 1.2(c) was amended as part of "Ethics 2000, the ABA endeavor to review and amend the ABA Model Rules of Professional Conduct, which began in 1997 and concluded with adopted revisions to the Model

Unlike the Texas Disciplinary Rules of Professional Conduct, the ABA Model Rules of Professional Conduct also contain provisions (in Model Rule 6.5) that relax conflict-of-interest standards for lawyers providing short-term limited legal services under a program sponsored by a nonprofit organization or court. Comments to Model Rule 6.5 recognize that the programs contemplated by the rule normally operate under circumstances that make it infeasible for a lawyer to screen for conflicts of interest as is ordinarily required before a lawyer undertakes legal representation.¹⁰ Model Rule 6.5 would likely facilitate limited scope representation by Texas lawyers if it were adopted as a provision of the Texas Disciplinary Rules of Professional Conduct. As of the date of this report, 46 states have adopted Model Rule 6.5 or a substantively similar rule.

While Texas Rule 1.02(b) authorizes limited scope representation, it does not address the obligations that a lawyer who engages a client on a limited basis might have, including: (1) the kind of notice, if any, to give to the court and to adversarial parties of the representation; (2) the kind of disclosures, if any, to make to the client, the court, or adversarial parties when the representation ends or the lawyer otherwise withdraws from the representation; and (3) how to handle amendments to the scope of the representation.

The Supreme Court of Texas has not adopted statewide procedural rules that define a lawyer's obligations any differently for limited scope work. Statewide procedural rules govern a lawyer's withdrawal of representation in civil court proceedings, regardless of the degree of representation the lawyer has been providing. Rule 10 of the Texas Rules of Civil Procedure and Rule 6.5 of the Rules of Appellate Procedure provide that a lawyer must obtain the permission of the court to withdraw from representing a party in a pending case, after notifying the client and all parties to the case in writing, and the client may object to the motion. A court is not required to grant the

Rules in 2002.” ABA Standing Committee on the Delivery of Legal Services, *An Analysis of Rules that Enable Lawyers to Serve Self-Represented Litigants* (hereinafter referred to as the “[ABA White Paper on Unbundling](#)”) 3 (2014). Prior to the Ethics 2000 amendment, ABA Model Rule 1.2(c) read as follows: “A lawyer may limit the objective of the representation if the client consents after consultation.”

The ABA Reporter's Explanation of Changes provides as follows:

The [Ethics 2000] Commission recommends that paragraph (c) be modified to more clearly permit, but also more specifically regulate, agreements by which a lawyer limits the scope of the representation to be provided a client. Although lawyers enter into such agreements in a variety of practice settings, this proposal in part is intended to provide a framework within which lawyers may expand access to legal services by providing limited but nonetheless valuable legal services to low or moderate-income persons who otherwise would be unable to obtain counsel.

ABA White Paper on Unbundling 4 (2014).

¹⁰ The complete text and comments to Model Rule 6.5 are attached hereto as **Appendix Item 7**.

motion to withdraw, and may impose further conditions upon granting leave to withdraw. Does the Texas ethics rule that allows limited scope representation, coupled with the procedural rules governing withdrawal, sufficiently address a lawyer's obligations when the lawyer is engaged on a limited basis in a case?

The Supreme Court of Texas has approved local rules for cases pending in Travis County that formally address limited scope representation. Under these rules, a lawyer may file a Notice of Limited Appearance that defines the scope of the representation. A lawyer who has filed the notice has no responsibility for matters outside the scope of the notice. The local rules also provide a procedure for withdrawing from a case. The rules require the lawyer to certify that the limited scope tasks have been completed and obtain written consent to the withdrawal from the client and all other parties. A trial court retains discretion to deny withdrawal, but it is limited to a determination of whether the lawyer has completed the responsibilities set forth in the notice of limited appearance.¹¹

While Texas' statewide procedural rules do not contemplate task-based legal services in civil court proceedings, approximately 20 of the other states with ethics rules similar to Texas Rule 1.02(b) have adopted procedural rules relating to limited scope representation in civil court proceedings. One state—California—addresses limited scope representation in procedural rules alone.

States that have adopted procedural rules relating to limited scope representation employ different approaches to various aspects of the representation. Here are significant differences in key areas that could be addressed in Texas' procedural rules:

- *Disclosure:* In court proceedings, one question that arises is whether a lawyer who prepares legal papers to be filed with the court must disclose in those papers that the lawyer prepared (or “ghostwrote”) them for the client. Some states, like California, do not require disclosure of legal assistance in preparation of documents when the lawyer has not appeared in the case. Other states, like Alabama, require a statement that a lawyer prepared a document filed with the court, but the lawyer need not sign the document or make a formal appearance representing the client. Still other states, like Colorado, provide that a lawyer must disclose the lawyer's name and contact information in connection with assistance with a filing, but the rules make clear that this disclosure does not constitute an appearance on behalf of the client in the case.

¹¹ The Travis County Local Rule is attached hereto as **Appendix Item 8**.

- *Notice to Third Parties:* Several states allow a lawyer to make a limited appearance in court and receive copies of all court filings by opposing parties. California, for example, requires a lawyer to file a Notice of Limited Scope Representation and serve the notice on opposing counsel. While that notice is on file, opposing parties must serve all court papers on the lawyer until the lawyer is permitted to withdraw. Many state rules specify that opposing counsel must communicate with the lawyer about matters within the scope of the appearance and may communicate directly with the party only about matters outside scope of the appearance.
- *Concluding the Representation:* Most states with limited-scope-representation rules expressly address the lawyer's obligations at the conclusion of the representation, including withdrawal in a pending court case when the lawyer has actively participated in the case. Those states further define the circumstances under which a court may allow for the withdrawal of a lawyer engaged for limited tasks.¹²

5. Recommendations

Based on the collective experiences of its members and the information provided to it, the Commission engaged in robust discussions about the risks and benefits of broader availability of limited scope representation. Although many states have adopted rules in recent years, there is little empirical data to test whether these rules help to address unmet legal needs or to validate perceived problems with limited scope representation. As part of any rule-making process in Texas, it will be critical to solicit input from Texas judges, lawyers, and clients about their experiences with limited scope representation. The committee does not take a position as to which rules better address the risks associated with limited scope representation while fostering its use in appropriate cases. Because more flexible representation arrangements could help to meet what are currently unmet needs, however, the committee recommends the following:

- *Pilot Projects:* To determine the efficiency, effectiveness, and workability of more widespread availability of limited scope representation, the committee

¹² A chart summarizing the various approaches to limited scope representation among the states is attached hereto as **Appendix Item 9**. The committee extends gratitude to Josiah Clarke, a third-year law student at the University of Texas School of Law, for his assistance with creating this chart.

recommends that interested counties pilot local rules, approved by the Supreme Court of Texas, to facilitate limited scope legal services in their jurisdictions. This allows for tailored approaches to develop in counties where the local judiciary has determined that limited scope representation could be a valuable tool in addressing the needs of local residents for civil legal services. It would also serve as a stopgap measure and an incubator of these kinds of services during the interim period of development of statewide rules.

- *Disclosure and Notice Rules:* The committee recommends that the Supreme Court of Texas examine the current rules of civil procedure to determine whether guidance is lacking for practitioners engaged in limited scope work in pending civil cases, including rules regarding disclosure of attorney assistance with legal pleadings and filings with the court, rules governing notice to the court and to third parties, and rules governing appropriate service of court papers by opposing parties and the court. That examination should encompass rules for cases in which the scope of the representation expands beyond the initial limited scope engagement.
- *Withdrawal Rules:* The committee recommends that the Supreme Court of Texas examine the current procedural rules that govern the appearance and withdrawal of counsel to determine whether the current rules adequately account for appearances for limited purposes, particularly upon conclusion of a limited scope representation. Because of the frequency with which limited scope representation appears to occur in family law matters, the committee also recommends consideration of whether there should be guidance tailored to family law judges, particularly those sitting in multi-county districts in Texas.

The Texas Access to Justice Commission's Rules and Legislation Committee and the Texas State Bar's Court Rules Committee are two entities that could assist the Supreme Court of Texas with any rule-related efforts. The Supreme Court Advisory Committee's input will also be critical in deciding whether—and, if so, how—to amend procedural rules to address issues relating to limited scope representation in Texas cases.

6. Resources

The attached appendix items are intended to assist the Commission in connection with its analysis and recommendations relating to limited scope representation. The list below represents examples of additional resources for limited scope representation. The items are hyperlinked to the extent possible, to facilitate access by readers of this report.

- [ABA Unbundling Resources Center](#) – This Center provides an extensive, free set of materials relating to limited scope representation, including links to the 2014 ABA White Paper on Unbundling that is referenced in footnote 9, the ABA Fact Sheet attached as Appendix Item 2, the chapter on limited scope representation from the book entitled *Reinventing the Practice of Law* that is referenced in footnotes 4 and 6–8, the ABA Handbook on Limited Scope Legal Assistance that is referenced in footnote 4, the ABA chart that is attached as Appendix Item 4, toolkits for limited scope representation (from the Institute for the Advancement of the American Legal System and Chicago Bar Foundation), a national database for professionals assisting self-represented litigants, and various reports, cases, ethics opinions, rules, and webinars relating to limited scope representation.
- [ABA Model Rules of Professional Conduct](#) – The ABA provides links to each Model Rule and all of the comments associated with each Model Rule.
- [Texas Access to Justice Commission Materials](#)
 - [Limited Scope Representation Webpage](#) – This webpage includes some basic information about limited scope representation, information about a webcast and other Continuing Legal Education presentations relating to limited scope representation, and information toolkits the Texas Access to Justice Commission prepared regarding limited scope representation.
 - [Family Law Toolkit](#) – available upon request (see webpage).
 - [General Civil Law Toolkit](#) – available upon request (see webpage).
- [California State Court Resources](#) – The Judicial Branch of California’s webpage contains detailed information relating to limited scope representation, including definitions, tips for assessing the propriety of limited scope representation in various cases, guidance for working with a limited-scope lawyer, court forms and contracts for cases involving limited scope representation, and guidance to potential clients on finding a lawyer who provides limited scope representation.

- [Colorado Bar Association Limited Scope Representation Toolkit](#) – This toolkit is now in its second edition and is available upon request submitted to the committee or the Colorado Bar Association. Entitled *Unbundling and Limited Scope Representation: Practical and Ethical Considerations to Integrating Unbundled Legal Services*, this toolkit contains presentations, handouts, forms, client tools, additional information, and resources relating to limited scope representation.
- [Practising Law Institute \(PLI\) Seminar on Limited Scope Representation](#) – PLI provides links to M. Sue Talia’s lectures and presentation materials for a program about the rapidly changing practice of limited scope representation in the family law context. The program was released on February 13, 2015.
- [Article Regarding Randomized Experiment in Massachusetts Housing Court](#) – This article describes the results of a randomized trial in which tenant clients received either limited scope representation or full-service representation in handling eviction disputes. The authors analyzed the effect of the two different types of representation and found no statistically significant evidence that the providers’ offer of full (as opposed to limited) representation had a large (or any) effect on the likelihood that the occupant would retain possession, on the financial consequences of the case, on judicial involvement in or attention to cases, or on any other litigation-related outcome of substantive import.

7. Conclusion

The Limited Scope Representation Committee submits this report to the Texas Commission to Expand Civil Legal Services for its consideration. Based on further direction from the Commission, the committee stands ready to consider additional issues, refine its recommendations, and prepare further reports as needed. The committee members appreciate the opportunity to be of service to the Commission and the Court.¹³

¹³ The Limited Scope Representation Committee members are Kennon L. Wooten, Chair; Hon. Jane Bland; Hon. Ann Crawford McClure; F. Scott McCown; Chris Nickelson; and Hon. Lee H. Rosenthal.

APPENDIX 1

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 15-9233

ORDER CREATING THE TEXAS COMMISSION TO EXPAND CIVIL LEGAL SERVICES

Judge Learned Hand famously observed: “If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice.” But without access to quality legal representation, Justice Antonin Scalia has noted, there is no justice.

Federal and state law provide a right to legal representation in cases where a person’s liberty or other constitutional interests are at stake, such as felony criminal cases and government-initiated actions to terminate the parent-child relationship. But a person has no right to legal representation in other matters, including divorce and child custody, protection from domestic violence, eviction and foreclosure, landlord-tenant disputes, entitlements, contract disputes, probate, and elder assistance. Legal aid lawyers work tirelessly to help as many of the poor as their limited resources allow, and lawyers in the private sector donate their services to help *pro bono publico*—for the *public* good. A University of North Texas study has shown that Texas lawyers provide more than two million hours of pro bono legal services to the poor annually. Despite all these efforts, the demand for civil legal services remains overwhelming. Texas legal aid providers help more than 100,000 families each year, yet they estimate that three out of four qualified applicants are turned away for lack of resources. Studies conducted nationally or in other states project that 80-90% of low- and moderate-income Americans with civil legal problems are unable to obtain representation.

The unmet need for legal services is not limited to the very poor. The middle class, who earn too much to qualify for legal aid but not enough to afford an attorney, sometimes feel forced to try to represent themselves or forgo their rights altogether. The cost of legal services has become prohibitive for most Americans. An important factor in the cost of legal services is the rising cost of a legal education. Law students are graduating with six-figure student debt. At the same time, many new lawyers are facing limited job opportunities. In short: more than ever, people need lawyers, and lawyers need work, but the cost of legal services keeps them apart. This gulf has been called the “justice gap”, and it is widening. The integrity of the justice system depends on our ability to close it. Justice for only those who can afford it is neither justice *for* all nor justice *at* all.

States, bar associations, and commentators have proposed various reforms, which the American Bar Association Commission on the Future of Legal Services has been studying. A Texas Commission to Expand Civil Legal Services is needed to study and recommend ways to close the justice gap in Texas.

It is therefore ORDERED:

The Commission to Expand Civil Legal Services is created.

The mission of the Commission is to gather information on initiatives and proposals to expand the availability of civil legal services to low- and middle-income Texans, to evaluate that information, and to recommend to the Supreme Court of Texas ways to accomplish that expansion.

The following are appointed members of the Commission:

S. Jack Balagia Jr.	Dallas	Hon. Ann Crawford McClure	El Paso
Hon. Jane Bland	Houston	F. Scott McCown	Austin
Faye M. Bracey	San Antonio	Chris Nickelson	Fort Worth
Darby Dickerson	Lubbock	Harry M. Reasoner	Houston
William Royal Furgeson Jr.	Dallas	Hon. Lee H. Rosenthal	Houston
Eden Harrington	Austin	Charles W. Schwartz	Houston
Angelica Maria Hernandez	Houston	Frank E. Stevenson II	Dallas
Wallace B. Jefferson	Austin	William O. Whitehurst Jr.	Austin
Joseph C. Matta	Houston	Kennon L. Wooten	Austin

Wallace B. Jefferson is appointed Chair of the Commission.

The Court's liaison to the Commission is Chief Justice Nathan L. Hecht. The Court's staff representatives are Nina Hess Hsu, general counsel; Martha Newton, rules attorney; and Osler McCarthy, staff attorney for public information. The Office of Court Administration will provide administrative assistance.

The Commission will submit its first report to the Court by November 1, 2016.

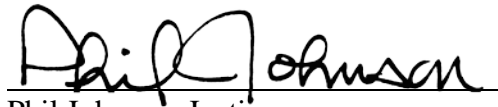
Dated: November 23, 2015



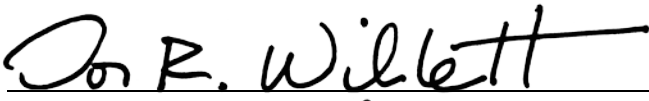
Nathan L. Hecht, Chief Justice



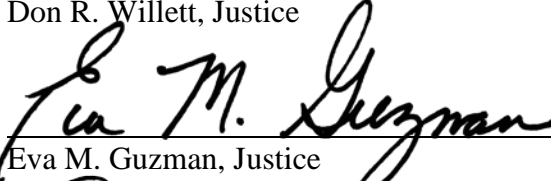
Paul W. Green, Justice



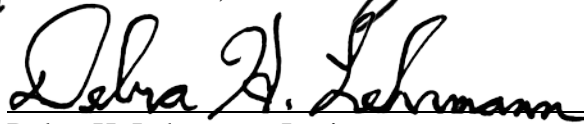
Phil Johnson, Justice



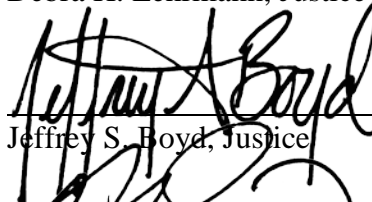
Don R. Willett, Justice



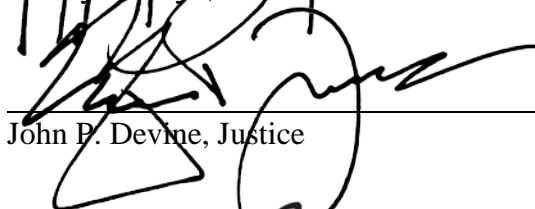
Eva M. Guzman, Justice



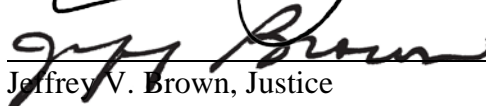
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

APPENDIX 2

Unbundling Fact Sheet



What is unbundling?

Unbundling refers to the practice of breaking legal representation into separate and distinct tasks. Think of unbundling as an a la carte option for legal services, where, instead of handling an entire case from start to finish, a lawyer may handle only certain parts. For instance, a lawyer may provide legal advice and prepare pleadings, while a client handles all other tasks in the case, including filing court documents and appearing at hearings.

Unbundling is also known as “limited scope representation,” “limited scope legal assistance,” “limited assistance representation” and “discrete task representation.” The terms are often used interchangeably, but all refer to the same practice. It is sometimes called “limited representation,” but this term misses the point: it is the scope of the representation that is limited, not the legal assistance.

Who benefits from unbundling?

Unbundling has the potential to benefit lawyers, their clients and the courts. Through unbundling, lawyers have the opportunity to obtain clients who would otherwise represent themselves; lawyers reach an untapped market and generate additional income. Unbundled legal services increase collectibles and reduce the risk of malpractice. Clients benefit from the legal expertise of lawyers, while paying only for those services that they most need. Courts also stand to benefit from unbundling: unbundling clients are often better prepared for court, saving staff time and resources compared to those who self-represent with no assistance from a lawyer.

Is unbundling ethical?

[ABA Model Rule 1.2\(c\)](#) governs unbundling. It states, “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.”

To date, 41 states have adopted the Model Rule or a substantively similar rule. Nearly twenty states have adopted rules that provide additional guidance on unbundling, addressing issues related to ghostwriting, communications with opposing parties and their counsel, limited appearances and service. To see which states have adopted Model Rule 1.2(c), or have rules that provide additional guidance, [click here](#).

Unbundled services are not a short-cut or second-class services. Lawyers who unbundle must provide competent representation, and must follow all other ethical and procedural rules in their jurisdiction.

When is unbundling appropriate?

Unbundling is not appropriate for every case or every client. The lawyer must determine if the representation is reasonable under the circumstances, and must ensure that the client fully understands the limits of the representation.

To find out more about unbundling, check out the following ABA resources:

[Pro Se/Unbundling Resource Center](#)
[Handbook on Limited Scope Legal Assistance](#)
[Unbundling Training Video and Risk Management Materials](#)

APPENDIX 3



Limited Scope Representation

What is Limited Scope Representation?

Limited Scope Representation (LSR) is the concept of providing only specified legal services to a client, rather than handling all aspects of a client's case. This form of legal practice is also referred to as "unbundled legal services" or "unbundling." For example, in a divorce case, an attorney might agree only to draft documents, or to act only as a consultant, leaving the client responsible for all other aspects of the case.

LSR is practiced by attorneys across the country and used in a variety of practice areas. It is one solution to the growing number of pro se litigants. Clients who cannot afford full representation may be able to afford specific services.

Why is it a good thing?

The cost of legal services has risen significantly over the last several decades. Many potential clients simply believe they can no longer afford to hire a lawyer. As a result, more and more litigants are seeking to represent themselves.

- **For Lawyers.** Lawyers stand to gain from an expanded market of persons who would be able to afford some legal assistance – to tap into an untapped market – and allows attorneys to focus their practice on the aspects they enjoy.
 - ✓ Example: An attorney builds a LSR practice drafting legal documents and responding to discovery, but declines court appearances.
- **For Judges.** LSR increases judicial efficiency in various ways:
 - ✓ By lowering the number of *pro se* appearances.
 - ✓ By equipping pro se litigants with better drafted documents, thus decreasing time demands on judges and staff, and increasing the enforceability of orders.
- **For Clients.** LSR reduces the cost of legal assistance, making legal services affordable for more middle- and low-income clients
 - ✓ Clients who might otherwise act *pro se* may hire counsel for specific services.
 - ✓ Provides a payment structure that allows clients to purchase legal services in small increments as opposed to a higher retainer fee
 - ✓ Example: Client cannot pay a \$5,000 retainer fee, but can afford to purchase 1-2 attorney hours at a time for specific services.

Is Limited Scope Representation ethical in Texas?

Yes. LSR is specifically authorized by Texas Disciplinary Rule of Professional Conduct 1.02(b), which states, "A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation." As with full-scope representation, LSR must be reasonable under the circumstances, and is subject to all other ethical rules in the Texas Disciplinary Rules of Professional Conduct.

Limited Scope Representation

Is it covered by malpractice insurance?

Yes. The Texas Lawyers' Insurance Exchange has advised that there should be no problem obtaining insurance coverage for LSR. However, lawyers should verify this with their carrier. LSR does not increase the risk of malpractice claims. Across the nation, the rate of malpractice claims for LSR is statistically lower than those for full-scope representation.

What practice tips help avoid common pitfalls?

- **Client-Attorney Miscommunication.** As with full-scope representation, problems can arise when clients and attorneys have a different understanding about the representation.
 - ✓ **TIP:** Avoid this pitfall by consistently using a written service agreement signed by the client. Always amend the Agreement in writing when the client expands the scope of representation by requesting additional services.
- **Unrealistic client expectations.** Clients do not typically understand all aspects of their case, which leads to unrealistic expectations in the degree of difficulty of apportioned tasks, complexity of legal issues, or overall case strength.
 - ✓ **TIP:** Avoid this pitfall by discussing all aspects of the client's case, not just those included in the agreed scope of representation. Be realistic in deciding how to apportion tasks. Identify which aspects of the case should be completed by the attorney, as opposed to by the client.
 - ✓ **TIP:** Avoid this pitfall by clearly specifying the lawyer's tasks in the written service agreement. A carefully prepared Agreement minimizes the risk of liability associated with unrealistic client expectations.
- **Withdrawing as counsel.** If the limited scope representation constitutes a formal appearance (e.g., by signing a pleading or appearing in court), a court order may be necessary to withdraw as counsel, otherwise the scope of representation may be inadvertently expanded by the court.
 - ✓ **TIP:** Avoid this pitfall by filing a Motion to Withdraw when services are completed.
 - ✓ **TIP:** Avoid this pitfall by knowing the court's attitude toward withdrawal of counsel prior to conclusion of the entire matter. If the court is not likely to permit withdrawal, then do not accept the LSR.

What resources are available to help lawyers begin offering LSR?

- ✓ "Expanding Your Practice Using Limited Scope Representation" training session: www.pli.edu/Content.aspx?dsNav=Rpp:1,N:4294964525-167&ID=54234
- ✓ ABA Unbundling Resources website: www.americanbar.org/groups/delivery_legal_services.html
- ✓ The Lawyer Referral Service of Central Texas has a Family Law LSR panel and a variety of resources. More information available at: www.austinlrs.com/

APPENDIX 4

Adoption of ABA Model Rule of Professional Conduct 1.2(c)

STATE	RULE	ABA MODEL RULE 1.2(c)	COMMENTS
Alabama	RPC 1.2 (c)	Similar	Additional language regarding when informed consent must be confirmed in writing Additional language and requirements (written fee agreements for representation over \$500 and also addresses communication between opposing attorney and otherwise unrepresented client)
Alaska	RPC 1.2 (c)	Similar	
Arizona	Ethics Rule 1.2	Yes	
Arkansas	RPC 1.2 (c)	Yes	Proposed adoption of Model Rule - see proposal (Currently no counterpart in California Rules - See Civil Rules 3.35-3.37 and Family & Juvenile Rules 5.70-5.71 for rules that permit limited scope representation)
California	n/a	No	
Colorado	RPC 1.2 (c)	Similar	
Connecticut	RPC 1.2 (c)	Similar	Additional language referring to rules of civil procedure - explicitly permits limited representation Additional language referring to consent when attorney retained by third party; comment addresses limited appearances
Delaware	RPC 1.2 (c)	Yes	
District of Columbia	RPC 1.2 (c)	Similar	
Florida	RPC 4-1.2 (c)	Similar	Omits "reasonable under the circumstances"; encourages consent in writing Additional language and requirements referring to written consent (required) and communication; comment addresses document preparation
Georgia	RPC 1.2 (c)	Yes	
Hawaii	RPC 1.2 (c)	Similar	
Idaho	RPC 1.2 (c)	Yes	Omits "reasonable under the circumstances"; adds consultation Comment [8] encourages consent in writing
Illinois	RPC 1.2 (c)	Yes	
Indiana	RPC 1.2 (c)	Yes	
Iowa	RPC 32:1.2	Similar	Additional language and requirements - outlines requirements for consent and clarifies limitation of lawyer's service
Kansas	RPC 1.2 (c)	Yes	
Kentucky	RPC 1.2 (c)	Yes	
Louisiana	RPC 1.2 (c)	Yes	Additional language and requirements referring to limited appearances; also includes sample consent form - Change from Bar Rules to RPC 08/09
Maine	RPC 1.2(c)	Similar	
Maryland	RPC 1.2 (c)	Yes	
Massachusetts	RPC 1.2 (c)	Similar	Omits "reasonable under the circumstances"; adds consultation Omits "reasonable under the circumstances"; adds consultation
Michigan	RPC 1.2(c)	Similar	
Minnesota	RPC 1.2 (c)	Yes	
Mississippi	RPC 1.2 (c)	Yes	Adds "objectives or" Additional language and requirements (consent must be in writing); also includes sample agreement form - omits "reasonable under the circumstances"
Missouri	RPC 4-1.2	Similar	
Montana	RPC 1.2 (c)	Similar	
Nebraska	RPC 501.2(b)	Similar	Additional language referring to lawyer's judgment; additional requirements in 1.2(c) -(e) related to document prep, limited appearances
Nevada	RPC 1.2 (c)	Yes	
New Hampshire	RPC 1.2 (c)	Similar	
New Jersey	RPC 1.2 (c)	Yes	Additional language and requirements referring to lawyer's responsibility to client, court, etc ;
New Mexico	RPC 16-102(C)	Yes	
New York	RPC 1.2 (c)	Similar	
North Carolina	RPC 1.2 (c)	Similar	Additional language and requirements (notification of tribunal and opposing counsel when required) Omits "and the client gives informed consent"; comment [8] encourages written consent
North Dakota	RPC 1.2 (c)	Similar	
Ohio	RPC 1.2 (c)	Similar	
Oklahoma	RPC 1.2 (c)	Yes	Omits "reasonable under the circumstances"; adds consultation Additional language (preference for written consent); see comment [7a] - omits "and the client gives informed consent"
Oregon	RPC 1.2 (b)	Yes	
Pennsylvania	RPC 1.2 (c)	Yes	
Rhode Island	RPC 1.2 (c)	Yes	Adds "preferably in writing"
South Carolina	RPC 1.2 (c)	Yes	
South Dakota	RPC 1.2 (c)	Yes	
Tennessee	RPC 1.2 (c)	Yes	Omits "reasonable under the circumstances"; adds consultation
Texas	RPC 1.02 (b)	Similar	
Utah	RPC 1.2 (c)	Yes	
Vermont	RPC 1.2 (c)	Yes	Omits "reasonable under the circumstances"; adds consultation
Virginia	RPC 1.2 (b)	Similar	
Washington	RPC 1.2 (c)	Yes	
West Virginia	RPC 1.2 (c)	Yes	Omits "reasonable under the circumstances"; adds consultation
Wisconsin	RPC 1.2 (c)	Yes	
Wyoming	RPC 1.2 (c)	Similar	

APPENDIX 5

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

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Rule 1.02. Scope and Objectives of Representation

(a) Subject to paragraphs (b), (c), (d), and (e), (f), and (g), a lawyer shall abide by a client's decisions:

(1) concerning the objectives and general methods of representation;

(2) whether to accept an offer of settlement of a matter, except as otherwise authorized by law;

(3) In a criminal case, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

(b) A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation.

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

(d) When a lawyer has confidential information clearly establishing that a client is likely to commit a criminal or fraudulent act that is likely to result in substantial injury to the financial interests or property of another, the lawyer shall promptly make reasonable efforts under the

circumstances to dissuade the client from committing the crime or fraud.

(e) When a lawyer has confidential information clearly establishing that the lawyer's client has committed a criminal or fraudulent act in the commission of which the lawyer's services have been used, the lawyer shall make reasonable efforts under the circumstances to persuade the client to take corrective action.

(f) When a lawyer knows that a client expects representation not permitted by the rules of professional conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

(g) A lawyer shall take reasonable action to secure the appointment of a guardian or other legal representative for, or seek other protective orders with respect to, a client whenever the lawyer reasonably believes that the client lacks legal competence and that such action should be taken to protect the client.

Comment:

Scope of Representation

1. Both lawyer and client have authority and responsibility in the objectives and means of representation. The client has ultimate authority to determine the objectives to be served by legal representation, within the limits imposed by law, the lawyer's professional obligations, and the agreed scope of representation. Within those limits, a client also has a right to consult with the lawyer about the general methods to be used in pursuing those objectives. The lawyer should assume responsibility for the means by which the client's objectives are best achieved. Thus, a lawyer has very broad discretion to determine technical and legal tactics, subject to the client's wishes regarding such matters as the expense to be incurred and concern for third persons who might be adversely affected.

2. Except where prior communications have made it clear that a particular proposal would be unacceptable to the client, a lawyer is obligated to communicate any settlement offer to the client in a civil case; and a lawyer has a comparable responsibility with respect to a proposed plea bargain in a criminal case.

3. A lawyer should consult with the client concerning any such proposal, and generally it is for the client to decide whether or not to accept it. This principle is subject to several exceptions or qualifications. First, in class actions a lawyer may recommend a settlement of the matter to the court over the objections of named plaintiffs in the case. Second, in insurance defense cases a lawyer's ability to implement an insured client's wishes with respect to settlement may be qualified by the contractual rights of the insurer under its policy. Finally, a lawyer's normal deference to a client's wishes concerning settlement may be abrogated if the client has validly relinquished to a third party any rights to pass upon settlement offers. Whether any such waiver is enforceable is a question largely beyond the scope of these rules. But see comment 5 below. A lawyer reasonably relying on any of these exceptions in not implementing a client's desires concerning settlement is, however, not subject to discipline under this Rule.

Limited Scope of Representation

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

5. An agreement concerning the scope of representation must accord with the Disciplinary Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.01, or to surrender the right to terminate the lawyer's services or the right to settle or continue litigation that the lawyer might wish to handle differently.

6. Unless the representation is terminated as provided in Rule 1.15, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's representation is limited to a specific matter or matters, the relationship terminates when the matter has been resolved. If a lawyer has represented a client over a substantial period in a variety of matters, the client may sometimes assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice to the contrary. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client but has not been specifically instructed concerning pursuit of an appeal, the lawyer should advise the client of the possibility of appeal before relinquishing responsibility for the matter.

Criminal, Fraudulent and Prohibited Transactions

7. A lawyer is required to give an honest opinion about the actual consequences that appear likely to result from a client's conduct. The fact that a client uses advice in a course of action that is criminal or fraudulent does not, of itself, make a lawyer a party to the course of action. However, a lawyer may not knowingly assist a client in criminal or fraudulent conduct. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

8. When a client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer may not reveal the client's wrongdoing, except as permitted or required by Rule 1.05. However, the lawyer also must avoid furthering the client's unlawful purpose, for example, by suggesting how it might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposes is legally proper but then discovers is criminal or fraudulent. Withdrawal from the representation, therefore, may be required. See Rule 1.15(a)(1).

9. Paragraph (c) is violated when a lawyer accepts a general retainer for legal services to an enterprise known to be unlawful. Paragraph (c) does not, however, preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise.

10. The last clause of paragraph (c) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

11. Paragraph (d) requires a lawyer in certain instances to use reasonable efforts to dissuade a client from committing a crime or fraud. If the services of the lawyer were used by the client in committing a crime or fraud, paragraph (e) requires the lawyer to use reasonable efforts to persuade the client to take corrective action.

Client Under a Disability

12. Paragraph (a) assumes that the lawyer is legally authorized to represent the client. The usual attorney-client relationship is established and maintained by consenting adults who possess the legal capacity to agree to the relationship. Sometimes the relationship can be established only by a legally effective appointment of the lawyer to represent a person. Unless the lawyer is legally authorized to act for a person under a disability, an attorney-client relationship does not exist for the purpose of this rule.

13. If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. If a legal representative has not been appointed, paragraph (g) requires a lawyer in some situations to take protective steps, such as initiating the appointment of a guardian. The lawyer should see to such appointment or take other protective steps when it reasonably appears advisable to do so in order to serve the client's best interests. See Rule 1.05(c)(4), d(1) and (d)(2)(i) in regard to the lawyer's right to reveal to the court the facts reasonably necessary to secure the guardianship or other protective order.

APPENDIX 6

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Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer

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.



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Comment on Rule 1.2

Client-Lawyer Relationship

Rule 1.2 Scope Of Representation And Allocation Of Authority Between Client And Lawyer - Comment

Allocation of Authority between Client and Lawyer

[1] Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See Rule 1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by Rule 1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation.

[2] On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal and tactical matters. Conversely, lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this Rule does not prescribe how such disagreements are to be resolved. Other law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. See Rule 1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. See Rule 1.16(a)(3).

[3] At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to Rule 1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

[4] In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

Independence from Client's Views or Activities

[5] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

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.

Criminal, Fraudulent and Prohibited Transactions

[9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is criminal or fraudulent of itself make a

lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

[10] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. See Rule 1.16(a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation or the like. See Rule 4.1.

[11] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[12] Paragraph (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of paragraph (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

[13] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. See Rule 1.4(a) (5).

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APPENDIX 7

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Rule 6.5: Nonprofit & Court-Annexed Limited Legal Services Programs

Public Service

Rule 6.5 Nonprofit And Court-Annexed Limited Legal Services Programs

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

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

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

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

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Comment on Rule 6.5

Public Service

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

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

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

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

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a).

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

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

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APPENDIX 8

LOCAL RULES
OF
CIVIL PROCEDURE
AND
RULES OF DECORUM

The District Courts of Travis County, Texas

Effective June 2, 2014

FILE NUMBER D-1-GN-61-121012

IN THE SUPREME COURT OF TEXAS

Filed In The District Court
of Travis County, Texas

Misc. Docket No. 14-9081

APR 22 2014

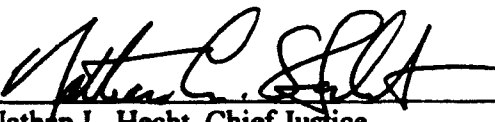
At 2:57 P.M.
Amalia Rodriguez-Mendoza, Clerk

**APPROVAL OF AMENDED LOCAL RULES FOR
DISTRICT COURTS OF TRAVIS COUNTY**


ORDERED that:


Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following amendments to the local rules for the District Courts of Travis County.

Dated: April 14th 2014.

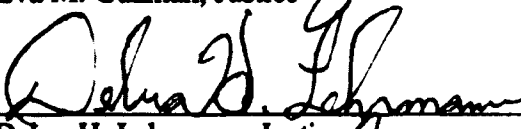

Nathan L. Hecht, Chief Justice

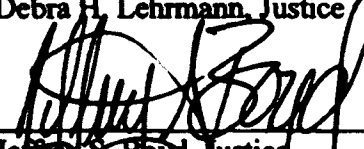

Paul W. Green, Justice

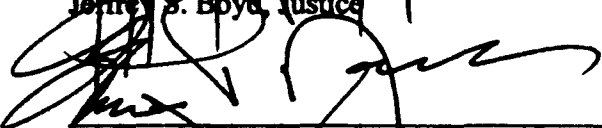

Phil Johnson, Justice


Don R. Willett, Justice


Eva M. Guzman, Justice


Debra H. Lehrmann, Justice


Jeffrey S. Boyd, Justice


John P. Devine, Justice


Jeffrey V. Brown, Justice

CHAPTER 20
LIMITED APPEARANCE, WITHDRAWAL, & SUBSTITUTION

Consistent with Texas Disciplinary Rule of Professional Conduct 1.02(b), an attorney may limit the scope, objectives and general methods of representation if the client consents after consultation. This rule addresses the responsibilities to the court of an attorney who wishes to make a limited appearance in court. It also addresses the responsibilities of opposing counsel regarding service.

20.1 Scope of Limitation

An attorney who files a Notice of Limited Appearance has no responsibility to the Court for any matter outside the scope of the Notice except as provided in this rule.

20.2 Notice of Limited Appearance

An Attorney making a limited appearance shall file a Notice of Limited Appearance. The Notice shall state the hearing to which the limited appearance pertains, and, if the appearance does not extend to all issues to be considered at the hearing, the Notice shall identify the discrete issues covered by the appearance. An Attorney may file a Notice of Limited Appearance for more than one hearing in a case.

20.3 Ruling and Order

If, pursuant to a Notice of Limited Appearance, an attorney appears at a hearing, the attorney's obligation to the court continues on the matters within the scope of the Notice of Limited Appearance until an order is filed that rules on those matters, except as follows. If the hearing was on a preliminary or temporary issue and the Court defers its ruling until final hearing, the attorney's obligation to the court ends with the hearing at which the attorney appeared.

The fact that an order is subject to review by the trial court at a later date does not extend the attorney's obligation to the court.

20.4 Responsibilities of Opposing Counsel regarding service

Whenever service is required or permitted to be made upon a party represented by an attorney who has filed a Notice of Limited Appearance, service regarding matters outside the scope of the Notice of Limited Appearance must be made on the party. Any notice upon an attorney regarding matters outside the scope of the Notice of Limited Appearance is not effective notice on that party. Service upon a party shall be at the address listed for the party in the Notice of Limited Appearance.

20.5 Withdrawal & Substitution

A motion to withdraw from representation or from a limited appearance must be presented at a hearing after notice to the client and to all other parties *unless* the moving attorney:

- (a) files written consent to the withdrawal signed by all other parties;
- (b) files a written consent to the withdrawal signed by the client;
- (d) files a certificate stating the last known mailing address of the client;
- and
- (e) files a certificate stating that he or she has completed all the tasks required by a Notice of Limited Appearance, if any, including obtaining a ruling and filing an order on any matter presented.

If a motion to withdraw and to substitute another attorney includes an appearance by another attorney pursuant to the Texas Rules of Civil Procedure, that appearance will satisfy the requirements of subparagraphs (b) and (c) above but will not satisfy the requirement of subparagraph (a).

If an attorney is substituting in a limited appearance, the certificate required by paragraph (d) must state that the substituting attorney has assumed responsibility for all uncompleted matters within the scope of the Notice of Limited Appearance, and it must be signed by both the withdrawing and the substituting attorney.

Even if all parties and counsel agree to a motion to withdraw, the Court retains discretion to determine, but only to determine, whether the attorney has fulfilled the attorney's responsibilities to the Court pursuant to the Notice of Limited Appearance and this rule and whether any substituting attorney has assumed any remaining responsibilities.

APPENDIX 9

Chart Summarizing Limited Scope Representation (LSR) Provisions on a State-by-State Basis
(Prepared with Information Collected in July 2016)

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
AL ¹	RUC + IC + WR ² (with exceptions)	Yes	Ala. R. Civ. P. 87.	May rely on client unless reason to believe otherwise.	Must receive written notice of LSR.	Must indicate lawyer assistance but not name of lawyer.
AK	RUC + CAC	Yes	Ark. R. Civ. P. 64(b).		Must receive written notice of LSR.	
AZ	RUC + IC	Yes	Ariz. R. Civ. P. 5.1, 5.2, Ariz. R. Fam. Law P. 9.	Reasonable inquiry required.	Must have knowledge of LSR and identity of lawyer providing LSR.	No
AR	RUC + IC	Yes				
CA	N/A	Yes*	Cal. Rules of Court, 3.35–3.37.			No
CO	RUC + IC	Yes	Colo. R. Civ. P. 121, Colo. App. R. 5.	Reasonable inquiry of the client required, plus independent reasonable inquiry if reason to believe false or materially insufficient.	Must have knowledge of LSR.	Yes
CT	RUC + IC	Yes	Conn. Rule of Professional Conduct 1.16.		No requirement; treat as unrepresented re anything other than the subject matter of LSR.	
DC	IC	Yes	Administrative Order 14-10, Sup. Ct. of D.C. (June 16, 2014).			
DE	RUC + IC	Yes				
FL	RUC + IC + WR	No	Fla. Fam. L.R.P. Rule 12.040.		Must have knowledge or notice of LSR with time	

¹ The state abbreviations in this chart follow the USPS official mailing abbreviations for the states.

² For ease of reference, the following abbreviations are used in this chart: (a) “RUC” = LSR allowed when reasonable under the circumstances; (b) “IC” = LSR allowed with the client’s informed consent; (c) “CAC” = LSR allowed with the client’s consent after consultation; and (d) “WR” = a written agreement regarding LSR is required.

*This state has adopted a version of the ABA Model Rule 6.5 but adapted it to fit the state’s numbering system or specific ethical-rule scheme.

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
					period and subject matter, limited to subject matter of LSR.	
GA	RUC + IC	No				
HI	CAC	Yes				
ID	RUC + IC	Yes	Idaho R. Civ. P. 11(b)(5).			
IL	RUC + IC	Yes	Ill. Sup. Ct. R. 11, 13.	May rely on client's representation of facts without further investigation unless knowledge that representations are false.		No
IN	RUC + IC	Yes	Ind. Trial Rule 3.1(I).			
IA	RUC + IC + WR (with exceptions)	Yes	I.C.A. Rule 1.404, 1.423(3), 1.442(2).	May rely on client's representation of facts unless reason to believe representation is false or materially insufficient, in which case reasonable inquiry required.	Must have knowledge or be provided with notice of time period and subject matter within LSR.	Yes
KS	RUC + IC + WR	No	Kan. Sup. Ct. R. 115A.			Must indicate lawyer assistance but not name of lawyer.
KY	RUC + IC	Yes				
LA	RUC + IC	Yes	La. Dist. Ct. R. 9.12, 9.13.			
ME	RUC + IC + CAC	Yes	Me. R. Civ. P. 11(b), 89(a).	May reasonably rely on information provided by the client.	Must receive written notice of a time period within which only the LSR attorney should be contacted.	
MD	RUC + IC	Yes				
MA	CAC (Ethical rules), RUC + IC (Supreme	Yes*	In flux. But see: Massachusetts Standing			Must indicate lawyer assistance but not name of

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
	Judicial Court Order)		Orders of the Supreme Judicial Court, <i>In Re: Limited Assistance Representation</i> (2016).			lawyer.
MI	CAC	Yes				
MN	RUC + IC	Yes				
MS	RUC + IC	Yes				
MO	IC + WR (with exceptions)	Yes	V.A.M.R. 55.03(c), (e).		Must receive written notice of time period of LSR.	No
MT	RUC + IC + WR (with exceptions)	Yes	Mont. R. Civ. P. 4.2.	May rely on client's representations unless reason to believe representations are false or materially insufficient, in which case independent reasonable inquiry required.	Must receive written notice of time period and subject matter of LSR.	No
NE	RUC + IC	Yes	Neb. Ct. R. of Prof. Cond. § 3-501.2(e).		No requirement; treat as unrepresented re anything other than the subject matter of LSR.	Yes
NV	RUC + IC	Yes	Nev. St. 8 Dist. Ct. R. 5.28 (Local rule for 8 th Judicial District).			
NH	RUC + IC	Yes	N.H. Sup. Ct. Civ. R. 3, 17.		Must receive written notice of the time period in which opposing counsel shall communicate only with LSR lawyer.	No
NJ	RUC + IC	Yes				
NM	RUC + IC	Yes*	N.M. Dist. Ct. R. Civ. P. 1-089, N.M. Mag. Ct. R. Civ. P. 2-107, 2-108.			
NY	RUC + IC + Notice	Yes*				

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
	to tribunal and/or opposing counsel where necessary					
NC	RUC	Yes				
ND	CAC	Yes	N.D.R. Civ. P. 11(e), N.D.R. Ct. 11.2(d).			
OH	RUC + communicated to client, "preferably" in writing	Yes				
OK	RUC + IC	Yes				
OR	RUC + IC	Yes				
PA	RUC + IC	Yes				
RI	RUC + IC	Yes				
SC	RUC + IC	Yes				
SD	RUC + IC	Yes				
TN	RUC + IC, "preferably" in writing	Yes	Tenn. R. Civ. P. 5.02, 11.01.			
TX	CAC	No				
UT	RUC + IC	Yes	Utah R. Civ. P. 74, 75.		Must receive written notice of the time and subject limitations of representation.	
VT	RUC + IC	Yes	Vt. R. Civ. P. 79.1(h), Vt. R. Fam. P. 15(h).			
VA	CAC	Yes				
WA	RUC + IC	Yes	Wa. Super. Ct. Civ. R. 4.2, 11, 70.1.	Attorney may rely on self-represented person's facts (after reasonable inquiry) unless reason to believe representations are false or materially	Must have knowledge or written notice of time and subject matter limitation of LSR.	

State	What is required by the ethics rule that is comparable to ABA Model Rule 1.2(c)?	Has the state adopted ABA Model Rule 6.5 in some form?	Which additional state rules or statutes address LSR requirements (e.g., notice, disclosure, withdrawal, etc.)?	What is the burden for fact checking pleadings when providing LSR?	When must an opposing lawyer seek consent from the LSR lawyer to communicate with the client?	Must a lawyer providing LSR disclose the lawyer's drafting assistance on court documents?
				insufficient, in which case attorney must make independent reasonable inquiry.		
WV	CAC	No				
WI	RUC + IC + WR (with exceptions)	Yes*	Wis. Stat. § 802.045.	May rely on client's representations unless reason to believe representations are false or materially insufficient, in which case attorney must make independent reasonable inquiry.	Must receive notification from LSR lawyer.	Must indicate lawyer assistance but not name of lawyer.
WY	RUC + IC (or Rule 6.5) + WR (unless phone consultation only)	Yes	Wyo. Unif. R. Dist. Cts. 102.			

Limited Scope Representation Attorney Tool Kit

The purpose of this Limited Scope Representation Attorney Tool Kit is to assist attorneys in integrating Limited Scope Representation into their practice. The following forms are included:

- Sample Limited Scope Representation Agreement – Family Law,
- Sample Limited Scope Representation Task Assignment Checklist – Family Law
- Sample Issue Checklist – Family Law,
- Sample Notice of Limited Appearance, and
- Sample Motion to Withdraw.

These forms are presented as adaptable Word documents so that attorneys can modify each document to best fit their needs. They are intended to be templates from which a Limited Scope Representation practice can be established.

The Agreement, Task Assignment Checklist, and Issue Checklist should be used together to form a cohesive and comprehensive understanding between the attorney and client as to what issues will be covered during the representation and who will perform the necessary tasks. The attorney and client should sign and date all the documents to show their understanding as to the issues and tasks the representation entails.

The **Representation Agreement** is geared towards either family or general civil law. It consolidates the Issue Checklist with the Task Assignment Checklist into a contract for services. The Task Assignment Checklist should be attached as a binding component of the agreement.

The **Task Assignment Checklist** is geared towards either family or general civil law. It serves as an outline and agreement for which portions of the case will be handled by the attorney and which will be handled by the client. It is a necessary component of the Representation Agreement and is referenced several times in that document.

The **Issue Checklist** is geared towards either family or general civil law. It outlines several general issue areas that should be covered during an initial interview with a client. It serves as a reminder to both the attorney and client to what was discussed during the meeting and what issues will be covered in the representation. It includes a section on “coaching” options – areas in which the attorney advises the client on how to represent him/herself.

The **Notice of Limited Appearance** is a general document that should be used if the attorney and client agree in the Task Assignment Checklist and Representation Agreement that the attorney will become “of record” for some portion of the case.

The **Motion to Withdraw** is a general document that should be used when the portion of the case the attorney became “of record” has concluded.

LIMITED SCOPE REPRESENTATION AGREEMENT

FAMILY LAW

Identification of Parties: This agreement is made between Attorney, _____ and Client, _____. Both parties signed two original versions and each party received a signed original.

1. Nature of Case. Client requests services from Attorney in the type of case listed below:

☐ DIVORCE

☐ CONSERVATORSHIP, POSSESSION AND/OR SUPPORT (W/O DIVORCE)

☐ MODIFICATION

☐ ENFORCEMENT

☐ PARENTAGE

☐ TERMINATION

☐ ADOPTION

2. Client Responsibilities and Control. Client will handle all parts of the case except those that are assigned to Attorney. Client will be in control of the case and will be responsible for all decisions made during the case.

Client agrees to:

- a. Cooperate with Attorney and Attorney's staff by giving them all information they reasonably request about the case.
- b. Tell Attorney anything s/he knows about the case, including any concerns s/he has about the case, and to update Attorney as new information or concerns occur.
- c. Provide Attorney with copies of all court documents and other written materials that the Client receives or sends out about the case.
- d. Immediately provide Attorney with any new court documents, including pleadings or motions, received from the other party.
- e. Keep all documents related to the case together and organized in a file for Attorney to review as needed.

3. Attorney Responsibilities.

- a. **Assigned Services.** Client and Attorney have completed the Task Assignment Checklist attached to this document. Attorney is responsible for completing the services marked "Yes" in the "Attorney To Do" column. Client is responsible for completing the services marked "Yes" in the "Client To Do" column. If someone other than Attorney or Client is responsible for completing a

service, "Other" will be written to the right of the "Client To Do" column. Client is also responsible for any service not assigned specifically to Attorney or "Other".

Limitation of Issues. Attorney is responsible for **only** the following issues:

b. Unassigned Services and Limited Issues.

- **ATTORNEY IS RESPONSIBLE FOR ONLY THE SERVICES UNDER THE "ATTORNEY TO DO" COLUMN OF THE ATTACHED TASK ASSIGNMENT CHECKLIST AND THE ISSUES LISTED IN THE "LIMITATION OF ISSUES" PARAGRAPH ABOVE.**
- Client is responsible for any service not assigned specifically to Attorney or "Other".

c. Additional Services. Client may request that Attorney provide additional services. If Attorney and Client agree that Attorney will perform other services or work on other issues, those changes must be dated and initialed by both Attorney and Client on the attached Task Assignment Checklist. Attorney will be responsible for the additional services on the date that both Attorney and Client initial the change. If Client decides to retain Attorney to handle Client's entire case, Client and Attorney will sign a new written Agreement that outlines Attorney's additional responsibilities in Client's case. Client will pay additional fees for additional services.

d. Right to Seek Advice of Other Counsel: Client has the right to ask another attorney for advice and professional services at any time during or following this Agreement.

e. No Guarantees. Client states Attorney has not made any promises or guarantees that his/her involvement in the case will cause a certain outcome or result.

Attorney cannot guarantee the case will be successful. Client states that 1) Attorney has not promised or guaranteed an outcome, 2) Attorney has not promised or guaranteed how long the case will take to resolve, and 3) Attorney may give his/her opinion about how the case may end, but those statements are just opinion, not a promise or guarantee.

f. No Settlement without Client's Consent. Attorney will not settle Client's case without Client's consent.

4. Attorney of Record. Attorney and Client intend that Attorney will only perform the services assigned to Attorney. If the service requires Attorney to become attorney of record or make a Court appearance, Attorney is only responsible for the assigned services. If the Court requires Attorney to be responsible for other services or issues that Attorney and Client did not agree to, Attorney may withdraw as Client's attorney. If Attorney withdraws as Client's attorney, Client will file any Substitution of Attorney forms Attorney reasonably requests. If Attorney accepts the additional services the Court orders, Client shall pay Attorney additional fees for those services. The hourly pay rate is listed below in paragraph 5.

5. **Method of Payment for Services:**

a. **Hourly Fee**

Attorney charges the following hourly fee:

- 1) Attorney \$_____
- 2) Associate \$_____
- 3) Paralegal \$_____
- 4) Law Clerk \$_____

The hourly fee is payable at the time of the service unless agreed to by Attorney and Client in paragraph 5b below. Attorney's charges will be based on one-tenth of an hour (six minutes) with rounding to the nearest one-tenth.

- b. **Payment from Deposit.** Client will pay to Attorney a deposit of \$_____, which must be paid to Attorney on or before _____. Attorney will deposit this money in his/her trust account. Attorney will perform services based on the hourly rate listed above in paragraph 5a. Client authorizes Attorney to deduct payment from this deposit when services are performed.

Interest earned by the deposit will be paid to the Texas Access to Justice Foundation, as required by law, to fund legal services for low income individuals. When Attorney completes all the assigned tasks, if there is money left from the deposit, Client will receive a refund.

- c. **Costs.** Client will pay Attorney's out-of-pocket costs. These include long distance fees, copying, and postage. Client will directly pay costs to third parties. These include filing fees, investigation fees, deposition fees, etc. Attorney will not advance costs to third parties on Client's behalf.
- d. No Guarantees as to Fees and Costs. **Client states that Attorney has not promised how much the total costs and fees would be for Client's case. At this time, Attorney is unable to estimate the cost of legal fees. As the case develops, Attorney will discuss with Client how much he/she estimates the legal fees will be if Client wishes.**

6. **Discharge of Attorney:** Client may fire Attorney at any time. Client must give Attorney written notice. The termination is effective when Attorney receives the written notice. Unless Attorney and Client agree, Attorney will provide no further services after he/she receives the termination notice. Client must pay Attorney for all services provided and must reimburse Attorney for all out-of-pocket costs incurred prior to the termination.

7. **Withdrawal of Attorney:** Attorney's obligation to Client is over once he/she completes all the services listed on the attached Task Assignment Checklist. If Attorney became Attorney of Record, he/she shall withdraw from the case.

In addition, Attorney may withdraw at any time as permitted under the Texas Disciplinary Rules of Professional Conduct. The Rules allow an attorney to withdraw for several reasons, including: a) Client consents, b) Client's conduct makes it unreasonably difficult for Attorney to effectively work, or c) Client fails to pay Attorney's fees or costs as required by this Agreement.

Even if Attorney withdraws, Client must pay Attorney for all services provided and must reimburse Attorney for all out-of-pocket costs incurred prior to the withdrawal.

Release of Client's Papers and Property. Once all of Attorney's services are performed, if Client requests Client's papers and property be returned, Attorney will release all of Client's papers and property to Client within a reasonable period of time. If Client does not make this request, then Attorney may dispose of the papers and property after three years following completion of services.

8. Resolving Disputes between Client and Attorney

- a. Notice and Negotiation.** If Attorney or Client has any disputes, they will inform the other in writing. Both Attorney and Client agree to meet within ten (10) days of the written notice to negotiate a solution.
- b. Mediation.** If Attorney and Client cannot reach an agreement during negotiation, Attorney and Client shall attempt to agree on a neutral mediator within fifteen (15) days of the failed negotiation. If Attorney and Client cannot agree on a neutral mediator, they shall request that _____ select a mediator. The mediation shall occur within fifteen (15) days after the mediator is selected. Attorney and Client shall share the costs of the mediation, but paying costs and attorney's fees may be part of the mediation. Client does not waive his/her rights to a trial *de novo* (a new trial) by agreeing to this mediation.

9. Amendments and Additional Services. This written Agreement and attached Task Assignment Checklist outline all the rights and responsibilities of Attorney and Client. All amendments shall be in writing and made part of this Agreement.

10. Severability in Event of Partial Invalidity: Even if part of this Agreement is found to be unenforceable for any reason, the rest of the Agreement will remain in effect.

11. Applicable Law and Forum. This Agreement shall be understood under the laws of the State of Texas and the parties shall complete their assignments in _____ County, Texas. The Agreement shall bind the parties and their legal representatives, including heirs, executors, administrators, successors, and assigns.

12. Attorney has informed Client that the case may involve tax issues. Attorney is not a tax expert and cannot give tax advice. Client may ask a tax expert for advice on any tax issue.

13. Any agreement Attorney and Client had before this Agreement is cancelled. All changes to this Agreement must be in writing, dated, and signed or initialed by both Attorney and Client. Even if Attorney or Client do not enforce this Agreement or do not require the other to fulfill his/her obligation, the Agreement is not invalid or waived.

14. I have carefully read this Agreement and understand all of its provisions. I show I agree with the following statements by initialing each one:

- a. ☐ I have accurately described the nature of my case in Paragraph 1.

- b. ☐ I am responsible for 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 the "Attorney To Do" column of the attached Task Assignment Checklist. I take responsibility for all other aspects of my case, both those services assigned to me under the "Client To Do" column of the "Attorney/Client Assignment Attachment for General Civil Law Service Agreement" and those not assigned to anyone.
- 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 8.
- g. ☐ I understand that any amendments to this Agreement will 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.

NOTICE TO CLIENTS

The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with an attorney involves professional misconduct, the State Bar Office of the General Counsel will provide you with information about how to file a complaint.

For more information, please call 1-800-932-1900. This is a toll-free call.

CLIENT SIGNATURE _____ DATED: ____/____/____

ATTORNEY SIGNATURE _____ DATED: ____/____/____

Task Assignment Checklist for
Family Law Service Agreement

SERVICES TO BE PERFORMED:	ATTORNEY TO DO	DATE	CLIENT TO DO N/A
Initial consultation and review of documents provided by Client (list documents):		__/__/__	N/A
Advice about legal rights, responsibilities, procedures and strategy relevant to issues identified by Client (list issues)		__/__/__	N/A
Draft initial court documents (describe):		__/__/__	
Review and edit Court documents prepared by Client (describe):			N/A
File and serve papers (list):		__/__/__	
Advice about fact-gathering and discovery		__/__/__	N/A
Factual investigation: contacting witnesses and/or expert witnesses, obtaining documents, public record searches (describe):		__/__/__	
*Draft discovery requests or responses (describe): **"Discovery" is a legal term that describes tools used to uncover information from other parties.		__/__/__	
Review and edit discovery requests or responses prepared by Client (describe):		__/__/__	N/A
**Take or defend depositions (specify): **A "deposition" is a witness's out-of-court testimony.		__/__/__	
Review and analyze depositions and documents (specify):		__/__/__	

Task Assignment Checklist for
Family Law Service Agreement

Preparation of child support-guideline calculations		__/__/__	
Draft correspondence		__/__/__	
Review and edit correspondence prepared by Client		__/__/__	N/A
Legal research (list issues):		__/__/__	
Advice about settlement proposals		__/__/__	N/A
Draft settlement proposal		__/__/__	
Review and edit settlement proposal prepared by Client		__/__/__	N/A
Review of settlement proposal submitted by opposing party, and advice regarding same			N/A
Advice about negotiation and alternative dispute resolution		__/__/__	N/A
Negotiation of specified issues (list):		__/__/__	
Mediation of specified issues (list):		__/__/__	
Advice about conducting a hearing and presenting evidence			N/A
Prepare subpoenas		__/__/__	
Review and edit subpoenas prepared by Client		__/__/__	N/A
Outline witness testimony and/or argument (specify)		__/__/__	
Trial of specified issues (list):			
Advice about orders and judgments		__/__/__	N/A
Draft orders and judgments (describe):		__/__/__	
Review and edit orders and judgments prepared by Client and/or opposing party		__/__/__	N/A
Advice about other documents (QDRO, W/W Order, etc.) (describe):		__/__/__	N/A
Draft other documents (describe):		__/__/__	
Review and edit other documents prepared by Client and/or opposing party (describe):		__/__/__	N/A

Task Assignment Checklist for
Family Law Service Agreement

Other (describe):		___/___/___	
Other (describe):		___/___/___	
Other (describe):		___/___/___	
Advice about appeal		___/___/___	N/A

CLIENT SIGNATURE _____ DATED: ___/___/___

ATTORNEY SIGNATURE _____ DATED: ___/___/___

Initial Interview Checklist of Issues – Family Law

I met with _____ on _____, 20____

regarding _____

I performed a conflicts check on: _____

We discussed the following issues:

PROTECTIVE ORDERS: _____

PARENT-CHILD ISSUES:

Custody _____

Specific Parental Right and Duties _____

Visitation _____

Child Support _____

Medical Child Support _____

Temporary Orders _____

Wage Withholding _____

Life Insurance to Cover Child Support _____

Collection of past due support _____

Move Away _____

PROPERTY AND RELATED ISSUES:

Spousal Support (Amount/Duration) _____

Medical Insurance—COBRA Rights _____

Separate Property Claims—Client _____

Separate Property Claims—Spouse _____

Vehicles _____

Bank Accounts _____

Retirement Benefits--Employer _____

Retirement Benefits--Private _____

Personal Property _____

Real property—Valuation and Division _____

Life Insurance _____

Stocks and bonds _____

Business Interests _____

Stock options _____

Other: _____

Liabilities _____

Name change _____

We discussed the pros and cons of Limited Scope Representation: _____

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

We discussed the following coaching options: _____

Client's initials: _____ Date: _____

Attorney's initials: _____ Date: _____

[CAPTION]

Notice of Limited Appearance

The undersigned Attorney and Party have executed a written agreement whereby the Attorney will provide limited representation to the Party.

The Attorney's appearance in this matter is limited to the following hearing(s) on the following issue(s):

Date of Hearing(s) (if known): _____

Issue(s) to be Heard: _____

Upon termination of representation indicated above, the Attorney will file a Motion for Withdrawal of Limited Appearance in this Court, and serve a copy upon the party and opposing counsel and/or party.

The Attorney named above is "Attorney of Record" and available for service of documents only for the hearing(s) and issue(s) as described above. For all other matters, the party must be served directly at the address shown below.

Signature of Party

Type or print Name of Party

Address (for the purpose of service)

Party's Telephone Number

Date

I certify that I have this day served the foregoing Notice of Limited Appearance on all counsel and all parties not represented by counsel.

Signature of Attorney

Type or Print Name of Attorney

Attorney's Address

Attorney's Telephone Number

Date

State Bar No.

[CAPTION]

Motion for Withdrawal of Limited Appearance

The undersigned Attorney hereby moves the Court to permit Withdrawal of Limited Appearance as Attorney for [name and designation of party] _____
_____ in the above action.

The undersigned attorney hereby certifies that s/he has performed all tasks required under the Limited Representation Agreement with the Client and under all applicable rules of Court.

Said Attorney has knowledge of the following settings and deadlines in this case:

I certify that I have this day served a copy of this Notice of Withdrawal on the aforesaid party and upon all counsel and all parties not represented by counsel.

Date _____

Signature of Attorney

Type or Print Name

Address

Attorney's Telephone Number

State Bar No.

The undersigned party acknowledges that Attorney has completed all tasks required under the Limited Representation Agreement.

I acknowledge receipt of the foregoing Notice of Withdrawal.

Signature of Party

Type or Print Name of Party

Address (for the purpose of service):

Party's Telephone Number

Date

Limited Scope Representation Attorney Tool Kit

The purpose of this Limited Scope Representation Attorney Tool Kit is to assist attorneys in integrating Limited Scope Representation into their practice. The following forms are included:

- Sample Limited Scope Representation Agreement –General Civil Law,
- Sample Limited Scope Representation Task Assignment Checklist –General Civil Law
- Sample Issue Checklist – General Civil Law,
- Sample Notice of Limited Appearance, and
- Sample Motion to Withdraw.

These forms are presented as adaptable Word documents so that attorneys can modify each document to best fit their needs. They are intended to be templates from which a Limited Scope Representation practice can be established.

The Agreement, Task Assignment Checklist, and Issue Checklist should be used together to form a cohesive and comprehensive understanding between the attorney and client as to what issues will be covered during the representation and who will perform the necessary tasks. The attorney and client should sign and date all the documents to show their understanding as to the issues and tasks the representation entails.

The **Representation Agreement** is geared towards either family or general civil law. It consolidates the Issue Checklist with the Task Assignment Checklist into a contract for services. The Task Assignment Checklist should be attached as a binding component of the agreement.

The **Task Assignment Checklist** is geared towards either family or general civil law. It serves as an outline and agreement for which portions of the case will be handled by the attorney and which will be handled by the client. It is a necessary component of the Representation Agreement and is referenced several times in that document.

The **Issue Checklist** is geared towards either family or general civil law. It outlines several general issue areas that should be covered during an initial interview with a client. It serves as a reminder to both the attorney and client to what was discussed during the meeting and what issues will be covered in the representation. It includes a section on “coaching” options – areas in which the attorney advises the client on how to represent him/herself.

The **Notice of Limited Appearance** is a general document that should be used if the attorney and client agree in the Task Assignment Checklist and Representation Agreement that the attorney will become “of record” for some portion of the case.

The **Motion to Withdraw** is a general document that should be used when the portion of the case the attorney became “of record” has concluded.

LIMITED SCOPE REPRESENTATION AGREEMENT

GENERAL CIVIL LAW

Identification of Parties: This agreement is made between Attorney, _____ and Client, _____ . Both parties signed two original versions and each party received a signed original.

1. Nature of Case. Client requests services from Attorney in the type of case listed below:

☐ BANKRUPTCY

☐ CONTRACT

☐ LANDLORD/TENANT

☐ PROBATE/WILLS

☐ REAL ESTATE

☐ OTHER: _____

2. Client Responsibilities and Control. Client will handle all parts of the case except those that are assigned to Attorney. Client will be in control of the case and will be responsible for all decisions made during the case.

Client agrees to:

- a. Cooperate with Attorney and Attorney's staff by giving them all information they reasonably request about the case.
- b. Tell Attorney anything s/he knows about the case, including any concerns s/he has about the case, and to update Attorney as new information or concerns occur.
- c. Provide Attorney with copies of all court documents and other written materials that the Client receives or sends out about the case.
- d. Immediately provide Attorney with any new court documents, including pleadings or motions, received from the other party.
- e. Keep all documents related to the case together and organized in a file for Attorney to review as needed.

3. Attorney Responsibilities.

- a. **Assigned Services.** Client and Attorney have completed the Task Assignment Checklist attached to this document. Attorney is responsible for completing the services marked "Yes" in the "Attorney To Do" column. Client is responsible for completing the services marked "Yes" in the "Client To Do" column. If someone other than Attorney or Client is responsible for completing a

service, "Other" will be written to the right of the "Client To Do" column. Client is also responsible for any service not assigned specifically to Attorney or "Other".

Limitation of Issues. Attorney is responsible for **only** the following issues:

b. Unassigned Services and Limited Issues.

- **ATTORNEY IS RESPONSIBLE FOR ONLY THE SERVICES UNDER THE "ATTORNEY TO DO" COLUMN OF THE ATTACHED TASK ASSIGNMENT CHECKLIST AND THE ISSUES LISTED IN THE "LIMITATION OF ISSUES" PARAGRAPH ABOVE.**
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5. **Method of Payment for Services:**

a. **Hourly Fee**

Attorney charges the following hourly fee:

- 1) Attorney \$_____
- 2) Associate \$_____
- 3) Paralegal \$_____
- 4) Law Clerk \$_____

The hourly fee is payable at the time of the service unless agreed to by Attorney and Client in paragraph 5b below. Attorney's charges will be based on one-tenth of an hour (six minutes) with rounding to the nearest one-tenth.

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Interest earned by the deposit will be paid to the Texas Access to Justice Foundation, as required by law, to fund legal services for low income individuals. When Attorney completes all the assigned tasks, if there is money left from the deposit, Client will receive a refund.

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Release of Client's Papers and Property. Once all of Attorney's services are performed, if Client requests Client's papers and property be returned, Attorney will release all of Client's papers and property to Client within a reasonable period of time. If Client does not make this request, then Attorney may dispose of the papers and property after three years following completion of services.

8. Resolving Disputes between Client and Attorney

- a. Notice and Negotiation.** If Attorney or Client has any disputes, they will inform the other in writing. Both Attorney and Client agree to meet within ten (10) days of the written notice to negotiate a solution.
- b. Mediation.** If Attorney and Client cannot reach an agreement during negotiation, Attorney and Client shall attempt to agree on a neutral mediator within fifteen (15) days of the failed negotiation. If Attorney and Client cannot agree on a neutral mediator, they shall request that _____ select a mediator. The mediation shall occur within fifteen (15) days after the mediator is selected. Attorney and Client shall share the costs of the mediation, but paying costs and attorney's fees may be part of the mediation. Client does not waive his/her rights to a trial de novo (a new trial) by agreeing to this mediation.

9. Amendments and Additional Services. This written Agreement and attached Task Assignment Checklist outline all the rights and responsibilities of Attorney and Client. All amendments shall be in writing and made part of this Agreement.

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12. Attorney has informed Client that the case may involve tax issues. Attorney is not a tax expert and cannot give tax advice. Client may ask a tax expert for advice on any tax issue.

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14. I have carefully read this Agreement and understand all of its provisions. I show I agree with the following statements by initialing each one:

- a. ☐ I have accurately described the nature of my case in Paragraph 1.

- b. ☐ I am responsible for 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 the "Attorney To Do" column of the "Attorney/Client Assignment Attachment for General Civil Law Service Agreement". I take responsibility for all other aspects of my case, both those services assigned to me under the "Client To Do" column of the attached Task Assignment Checklist and those not assigned to anyone.
- 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.
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For more information, please call 1-800-932-1900. This is a toll-free call.

CLIENT SIGNATURE _____ DATED: ____/____/____

ATTORNEY SIGNATURE _____ DATED: ____/____/____

Task Assignment Checklist for
General Civil Law Service Agreement

SERVICES TO BE PERFORMED:	ATTORNEY TO DO	DATE	CLIENT TO DO N/A
Initial consultation and review of documents provided by Client (list documents):		___/___/___	N/A
Advice about legal rights, responsibilities, procedures and strategy relevant to issues identified by Client (list issues)		___/___/___	N/A
Draft initial court documents (describe):		___/___/___	
Review and edit Court documents prepared by Client (describe):			N/A
File and serve papers (list):		___/___/___	
Advice about fact-gathering and discovery		___/___/___	N/A
Factual investigation: contacting witnesses and/or expert witnesses, obtaining documents, public record searches (describe):		___/___/___	
*Draft discovery requests or responses (describe): **"Discovery" is a legal term that describes tools used to uncover information from other parties.		___/___/___	
Review and edit discovery requests or responses prepared by Client (describe):		___/___/___	N/A
**Take or defend depositions (specify): **A "deposition" is a witness's out-of-court testimony.		___/___/___	
Review and analyze depositions and documents (specify):		___/___/___	

Task Assignment Checklist for
General Civil Law Service Agreement

Draft correspondence		__/__/__	
Review and edit correspondence prepared by Client		__/__/__	N/A
Legal research (list issues):		__/__/__	
Advice about settlement proposals		__/__/__	N/A
Draft settlement proposal		__/__/__	
Review and edit settlement proposal prepared by Client		__/__/__	N/A
Review of settlement proposal submitted by opposing party, and advice regarding same			N/A
Advice about negotiation and alternative dispute resolution		__/__/__	N/A
Negotiation of specified issues (list):		__/__/__	
Mediation of specified issues (list):		__/__/__	
Advice about conducting a hearing and presenting evidence			N/A
Prepare subpoenas		__/__/__	
Review and edit subpoenas prepared by Client		__/__/__	N/A
Outline witness testimony and/or argument (specify)		__/__/__	
Trial of specified issues (list):			
Advice about orders and judgments		__/__/__	N/A
Draft orders and judgments (describe):		__/__/__	
Review and edit orders and judgments prepared by Client and/or opposing party		__/__/__	N/A
Advice about other documents (describe):		__/__/__	N/A
Draft other documents (describe):		__/__/__	
Review and edit other documents prepared by Client and/or opposing party(describe):		__/__/__	N/A

Task Assignment Checklist for
General Civil Law Service Agreement

Other (describe):		___/___/___	
Other (describe):		___/___/___	
Other (describe):		___/___/___	
Advice about appeal		___/___/___	N/A

CLIENT SIGNATURE _____ DATED: ___/___/___

ATTORNEY SIGNATURE _____ DATED: ___/___/___

Initial Interview Checklist of Issues - General Civil

I met with _____ on _____, 20____

regarding _____

I performed a conflicts check on: _____

We discussed the following issues:

Date of Incident/Occurrence_____

Legal Theories/Causes of Action/Elements of Claim or Defense_____

Statute of Limitations_____

Underlying Goals_____

Likely Response from Other Side_____

Possible Settlement_____

Costs of Litigation_____

Alternatives to Litigation_____

Challenges of Case_____

Ability to Collect Judgment_____

Possible Insurance Coverage_____

Possible Bankruptcy (either debtor or creditor)_____

Duration of Case_____

Jurisdictional Issues_____

Venue _____

Possible Service of Process Challenges _____

Defenses _____

Motions Attacking the Pleadings _____

Discovery _____

Burdens of Proof _____

Evidence _____

Witnesses _____

Other related matters (i.e. relationship of parties) _____

Ability to Self-Represent _____

We discussed the pros and cons of Limited Scope Representation: _____

Advised of right to seek counsel on issues outside of the scope _____

Other: _____

We discussed the following coaching options: _____

Client's initials: _____ Date: _____

Attorney's initials: _____ Date: _____

[CAPTION]

Notice of Limited Appearance

The undersigned Attorney and Party have executed a written agreement whereby the Attorney will provide limited representation to the Party.

The Attorney's appearance in this matter is limited to the following hearing(s) on the following issue(s):

Date of Hearing(s) (if known): _____

Issue(s) to be Heard: _____

Upon termination of representation indicated above, the Attorney will file a Motion for Withdrawal of Limited Appearance in this Court, and serve a copy upon the party and opposing counsel and/or party.

The Attorney named above is "Attorney of Record" and available for service of documents only for the hearing(s) and issue(s) as described above. For all other matters, the party must be served directly at the address shown below.

Signature of Party

Type or print Name of Party

Address (for the purpose of service)

Party's Telephone Number

Date

I certify that I have this day served the foregoing Notice of Limited Appearance on all counsel and all parties not represented by counsel.

Signature of Attorney

Type or Print Name of Attorney

Attorney's Address

Attorney's Telephone Number

Date

State Bar No.

[CAPTION]

Motion for Withdrawal of Limited Appearance

The undersigned Attorney hereby moves the Court to permit Withdrawal of Limited Appearance as Attorney for [name and designation of party] _____
_____ in the above action.

The undersigned attorney hereby certifies that s/he has performed all tasks required under the Limited Representation Agreement with the Client and under all applicable rules of Court.

Said Attorney has knowledge of the following settings and deadlines in this case:

I certify that I have this day served a copy of this Notice of Withdrawal on the aforesaid party and upon all counsel and all parties not represented by counsel.

Date _____

Signature of Attorney

Type or Print Name

Address

Attorney's Telephone Number

State Bar No.

The undersigned party acknowledges that Attorney has completed all tasks required under the Limited Representation Agreement.

I acknowledge receipt of the foregoing Notice of Withdrawal.

Signature of Party

Type or Print Name of Party

Address (for the purpose of service):

Party's Telephone Number

Date

	LSR Rule	Conflicts	Communication	Writing	Fees	Ghostwriting	Withdraw	Advertise	Service	Other
Alabama	1.1*	6.5	4.2, 4.3	1.2			11			Rule of Civil Procedure 87
Alaska	1.2(c)*	6.5	1.2(c)							Rule of Civil Procedure 81
Arizona	1.2**	6.5	4.2, 4.3		1.5(b)	11(a)	5.1(c)			Rule of Civil Procedure 5.2, Rule of Family Law Procedure 9(B), 97
Arkansas	1.2*	6.5	4.2, 4.3							Order
California	3.35, 3.36****	1-650*				Family and Juvenile Rule 5.70, 3.37			Family and Juvenile Rule 5.71	PL-950, Rule of Court: Judicial Administration Rule 10.960
Colorado	1.2*, Appellate Ru	6.5	4.2, 4.3			11(b), Rule of County Court Civil Procedure 311(b)				Rule to Civil Procedure 121
Connecticut	1.2(c)*	6.5	4.2, 4.3		1.5(b)		1.16			Family Court Rules of Civil Procedure 5(b)(2)
Delaware	1.2(c)*	6.5								
District of Columbia	1.2(c)*	6.5								Superior Court of DC Admin Order
Florida	4-1.2(c)*		4-4.2(b), 4-4.3(b)			4-1.2				Family Law Rules of Procedure
Georgia	1.2(c)*									
Hawaii	1.2(c)*	6.5								Comment [4] Revised Code of Judicial Conduct Rule 2.2
Idaho	1.2(c)*	6.5								Rule of Civil Procedure 11(b)(5), Court Administrative Rule 53
Illinois	1.2(c)*, Supreme C	6.5	4.2, Supreme Court Rule 11			Supreme Court Rule 137			Supreme Court Rule 13	
Indiana	1.2(c)*	6.5							Rule of Trial Procedure 3.1	
Iowa	32.1.2(c)*, 1.404	32.6.5	32.4.2, 1.442(2)			1.423(1)-(3)	1.404(b)	32-7.2		
Kansas	1.2(c)*									US District Court, District of Kansas Local Rules
Kentucky	1.2(c)*	6.5								
Louisiana	1.2(c)*	6.5								Rule for Louisiana District Court 9.12
Maine	1.2(c)*	6.5	4.2(b)			11(b)***	1.16(c), 89(a)	5(b)		
Maryland	1.2(c)*	6.5					2-132, 3-132	1-321	1-324, 2-131, 3-131	
Massachusetts	1.2(c)*	6.5								Supreme Judicial Court Order
Michigan	1.2(c)*	6.6	4.2, 4.3				Court Rule 2.117		Court Rule 2.107	
Minnesota	1.2(c)*	6.5								General Rule of Practice for the District Courts
Mississippi	1.2(c)*	6.5								
Missouri	1.2(c)*	6.5				55.03(a), (c)	1.16(C), 55.03(b)	43.01(b)		
Montana	1.2(c)*, 4.1(a)***	6.5	4.2, 4.3				11	4.2(b)	4.1(b), (c)	4.2(a)
Nebraska	501.2(b)*, 6-1109	506.5	504.2(10)			501.2(c), 6-1111(b)***	501.2(e), 6-1109(i)***			501.2(d)
Nevada	1.2(c)*	6.5								Rules of Practice of the 8th Judicial District
New Hampshire	1.2(c)*	6.5		4.2		17(a)	17(f)	3***		17(c)
New Jersey	1.2(c)*	6.5								
New Mexico	16-102(c)*									
New York	1.2(c)*	6.5								
North Carolina	1.2(c)*	6.5								
North Dakota	1.2(c)*	6.5					Rule of Court 11.2	5(b)	11(e)	
Ohio	1.2(c)*	6.5								
Oklahoma	1.2(c)*	6.5								
Oregon	1.2(c)*	6.5				Trial Court Rule 2.010(7)				
Pennsylvania	1.2(c)*	6.5								
Rhode Island	1.2(c)*	6.5								Provisional rules
South Carolina	1.2(c)*	6.5								
South Dakota	1.2(c)*	6.5								
Tennessee	1.2(c)*	6.5							5.02	11.01
Texas	1.02(b)									
Utah	1.2(c)*	6.5	4.2, 4.3				74(b)	5(b)(1)		75
Vermont	1.2(c)*	6.5					79.1(3)	79.1(4)	79.1. Rules of Family Proceedings 15(h)	
Virginia	1.2(b)*	6.5								
Washington	1.2(c)*	6.5	4.2, 4.3		1.5(f)(2)		11		4.2, 70****, Civil Rule of Limited Jurisdiction 11, 70.1	
West Virginia	1.2(c)*									
Wisconsin	1.2(c)	6.5	4.2(b), 4.3(b)		1.5(b)	1.2(cm)				statutes, Milwaukee County Family Division
Wyoming	1.1 [4], 1.2(c)*	6.5								1.2(7), Uniform Rule fo District Court 102(a)

* Rules of Professional Conduct

** Ethics Rules

*** Rules of Civil Procedure

****Civil Rule

* Rules of Professional Conduct

** Ethics Rules

*** Rules of Civil Procedure

****Civil Rule

^ Supreme Court Rule

^^ Rules of Procedure

^^^Rules of Pleading in Civil Cases

Professional Responsibility

	LSR Rule	Conflicts	Communication	Writing	Fees	Ghostwriti	Withdraw	Advertise	Service
<u>Alabama</u>	x	x	x	x		x			
Alaska	x	x	x						
Arizona	x	x	x		x	x	x		
Arkansas	x	x	x						
California	x	x				x	x		
Colorado	x	x	x			x			
Connecticut	x	x	x		x		x		
Delaware	x	x							
District of Columbia	x	x							
Florida	x		x			x			
Georgia	x								
Hawaii	x	x							
Idaho	x	x							
Illinois	x	x	x			x	x		
Indiana	x	x					x		
Iowa	x	x	x			x	x	x	
Kansas	x								
Kentucky	x	x							
Louisiana	x	x							
Maine	x	x	x			x	x		x
Maryland	x	x					x		x
Massachusetts	x	x							
Michigan	x	x	x				x		x
Minnesota	x	x							
Mississippi	x	x							
Missouri	x	x				x	x		x
Montana	x	x	x			x	x		x
Nebraska	x	x	x			x	x		
<u>Nevada</u>	x	x							
<u>New Hampshire</u>	x	x	x			x	x		x
New Jersey	x	x							

	LSR Rule	Conflicts	Communication	Writing	Fees	Ghostwriti	Withdraw	Advertise	Service
<u>New Mexico</u>	x								
New York	x	x							
North Carolina	x	x							
North Dakota	x	x					x		x
Ohio	x	x							
Oklahoma	x	x							
Oregon	x	x				x			
Pennsylvania	x	x							
Rhode Island	x	x							
South Carolina	x	x							
South Dakota	x	x							
Tennessee	x	x							x
Texas	x								
Utah	x	x	x				x		x
Vermont	x	x					x		x
Virginia	x	x							
Washington	x	x	x		x	x			
West Virginia	x								
Wisconsin	x	x	x		x	x			
Wyoming	x	x							

PR

* Rules of Professional Conduct/Responsibility

** Ethics Rules

*** Rules of Civil Procedure

****Civil Rule

^ Supreme Court Rule

^^ Rules of Procedure

^^^Rules of Pealding in Civil Cases

Appellate Rules

	LSE Rule	Conflict	Communication	Fees	Disbursement	Withdraw	Service	Other		
Alabama	1.1	6.5	4.3		Rule of Civil Procedure 4.3			Rule of Civil Procedure 4.3		
Alaska	1.201*	6.5	1.201					Rule of Civil Procedure 4.3		
Arizona	1.2*	6.5	4.3	1.500	Rule of Civil Procedure 1.01	Rule of Civ Pro 5.01		Rule of Civil Procedure 5.2	Rule of Family Law Procedure 900.07	
Arkansas	1.1*	6.5	4.3					Rule		
California	Rules of Court 3.05, 3.38	4.002*			Rules of Court 3.37			4.002		
Colorado	1.1*	6.5	4.3		Rule of Civil Procedure 1.00			Rule of Civil Procedure 3.01	Appellate Rule 1	LOCAL RULE D.C. CIVIL (Amend 2003) AND Local Sup. Rls
Connecticut	1.201*	6.5	4.3	1.500			1.10			
Delaware	1.201*	6.5						General Local Rule of Civil Procedure 100.01		
District of Columbia	1.201*	6.5						General Code of Civil Procedure		
Florida	4.1.201*	4.4.201, 4.4.301		4.1.2				Family Law Rules of Procedure 1.2.040		
Georgia	1.201*	6.5						Comment 40, Revised Code of Judicial Conduct Rule 2.2		
Iowa	1.201*	6.5						Rule of Civil Procedure 1.0(2)(5)	Court Administration Rule 10	
Kansas	1.201*	6.5	4.3, Supreme Court Rule 11		Supreme Court Rule 117	Supreme Court Rule 13		Supreme Court Rule 13		
Kentucky	1.201*	6.5				Rule of Civil Procedure 4.4				
Louisiana	Revised Civil Procedure 1.400-1.400.01	32.0.5, 32.4.2			Rule of Civ Pro 1.400.01	Rule of Civ Pro 1.400.01				
Maine	1.201*				Rule of Civ Pro 1.400.01			Appellate Court Rule 100.0	10 District Court, District of Superior Court Rules	
Maryland	1.201*	6.5								
Massachusetts	1.201*	6.5			Rule of Civil Procedure 4.00	Rule of Prof. Cond. 1.100(c), Rule of Civ Pro 800a	Rule of Civ Pro 500	Rule for Unsupervised District Court 9.01		
Michigan	1.201*	6.5			Rules of Procedure 2.240, 2.240	Rule of Procedure 1.301	Rule of Procedure 1.301	Rule of Procedure 1.304, 2.231, 3.231		
Minnesota	1.201*	6.5			Court Rule 2.117	Court Rule 2.107	Court Rule 2.107	Minnesota Judicial Code Chapter		
Mississippi	1.201*	6.5	4.3					General Rule of Practice for the District Courts		
Missouri	1.201*	6.5								
Montana	4.1.201*	4.4.5			Rule of Civil Procedure 10.0101, 10.1	4.1.100(1)	Rule of Civ Pro 4.1.0101	Rule of Civil Procedure 10.0101, 10.09		
Nebraska	1.201*, Rule of Civil Procedure 4.00	6.5*, 4.2, 4.3*			Rule of Civil Procedure 11	Rule of Civ Pro 4.200	Rule of Civ Pro 4.100, 1.0	Rule of Civil Procedure 4.200	Attorney LSR Resources	
Nevada	901.200*	900.1, 100.1(10)		901.200	Rules of Practice 6.113(10)	Rule of Practice 6.113(10)	Rule of Superior Ct. 1	Rule of Superior Court 100.0		
New Brunswick	Rules of Practice in Civil Cases 6.100(10)				Rules of Practice 6.113(10)	Rules of Practice 6.113(10)	Rule of Practice of the 8th Judicial District			
New Hampshire	1.201*	6.5			Rules of the Superior Court 1.00	Rules of Superior Ct. 1.00	Rule of Superior Ct. 1	Rule of Superior Court 100.0		
New Jersey	1.201*	6.5	4.2		Rules of the Superior Court 1.00	Rules of Superior Ct. 1.00	Rule of Superior Ct. 1	Rule of Superior Court 100.0		
New Mexico	46.1001*	10.001			Rules of Civil Procedure 1.000(c), 2.100(c), 1.100(c)	Rules of Civil Procedure 1.000(c), 2.100(c), 1.100(c)	Rules of Civil Procedure 1.000(c), 2.100(c), 1.100(c)	Rules of Civil Procedure 1.000(c), 2.100(c), 1.100(c)		
New York	1.201*	6.5						General Local Rule 100.0		
North Carolina	1.201*	6.5				Rule of Court 10.1	Rule of Civil Procedure 100	Rule of Civil Procedure 100		
North Dakota	1.201*	6.5								
Ohio	1.201*	6.5								
Oklahoma	1.201*	6.5			Local Court Rule 1.200(2)					
Oregon	1.201*	6.5								
Pennsylvania	1.201*	6.5						Pennsylvania Rules		
Rhode Island	1.201*	6.5								
South Carolina	1.201*	6.5								
South Dakota	1.201*	6.5					Rule of Civil Procedure 5.01	11.01		
Tennessee	1.201*	6.5								
Texas	1.0100									
Vermont	1.201*	6.5	4.3		Rules of Civil Procedure 1.00	Rule of Civ Pro 100.01	Rule of Civ Pro 70			
Virginia	1.201*	6.5			Rules of Civil Procedure 70.01	Rule of Civ Pro 70.10	Rule of Civ Pro 70.1			
Washington	1.201*	6.5	4.3	1.000(1)		11		Civil Rule 4.3, 20	Civil Rule of Limited Jurisdiction 10, 70.4	
West Virginia	1.201*	6.5	4.300, 4.300	1.500	1.500					
Wisconsin	1.1, 101, 1.200*	6.5					1.201			

* Rules of Professional Conduct or Responsibility

** Rules of Civil Procedure

Unattributed citations are from the state's Rules of Professional Conduct or Responsibility

SUBCOMMITTEE ON RULES 1-14C
Limited Scope Representation
Discussion Issues

Texas Disciplinary Rule of Professional Conduct 1.02(b) specifically permits a lawyer to limit the scope, objectives, and general methods of representation if the client consents after consultation. While limited-scope representation is authorized, existing procedural rules are not tailored for it. Travis County District Courts have adopted a local rule that more specifically addresses the mechanics and issues arising from limited-scope representation in a litigated matter.

The Texas Supreme Court has asked the subcommittee to draft procedural rules that are more tailored to limited-scope representation. The subcommittee has identified a number of issues that must be addressed and resolved in the drafting process. The subcommittee is thus seeking preliminary input and guidance on the following issues:

1. Disclosure. When a lawyer prepares legal papers or offers coaching to a client but neither signs the papers nor appears in court, must the representation be disclosed? Different states have taken three different approaches: (a) no disclosure is required; (b) disclosure to the court of the lawyer's involvement is required; and (c) disclosure is required but disclosure expressly does not constitute entry of an appearance in the case. Which is preferable?
2. Notice. Currently, a lawyer who appears in court makes a general appearance in a case. Should Texas permit filing of a notice of limited-scope representation that limits the appearance of counsel to specific matters?
3. Service. If a notice of limited-scope representation is filed, what are the obligations of opposing counsel and the court on service and notice? Which of these three options is preferable: (a) service/notice only on counsel until withdrawal; (b) service on both client and counsel until withdrawal; or (3) service/notice on limited-scope attorney only for those matters within the notice and service/notice on limited-scope client on all other matters until withdrawal?
4. Communication by opposing counsel with limited-scope client. May opposing counsel communicate directly with the limited-scope client on matters not within the limitation?
5. Conclusion/withdrawal. Once the lawyer has completed all matters within the limited scope, what steps must be taken to withdraw: (a) notice of withdrawal and hearing; (b) notice of withdrawal but no hearing if notice states that all matters within

scope of limited representation have been completed and notice is signed by client; or (c) notice of withdrawal but no hearing if notice states that all matters within scope of limited representation have been completed, notice is signed by client, and all parties consent to the withdrawal.

6. Court discretion to deny withdrawal. Should the court have discretion to deny withdrawal if the required steps to withdraw are done: (a) yes; (b) no; or (c) only if there the court determines that tasks within the scope of the limited representation remain uncompleted. Should the trial court retain the general discretion to deny withdrawal under Texas Disciplinary Rule of Professional Conduct 1.15(c) to prevent undue delay or expense to the opposing party or to see that justice is done?

7. Scope of limited representation. Rule 1.02(b) does not place any restriction on the ability of a lawyer and client to limit the scope of representation. Should that ability be limited to what is reasonable under the circumstances? Are there matters that cannot reasonably be undertaken by limited-scope representation?

8. Consent to limited representation. Rule 1.02(b) requires client consent after consultation. Should the standard be informed consent?

9. Disputes about scope. If the lawyer and client dispute whether particular tasks are within the scope of limited representation, how should that dispute be resolved, by the court or through the grievance process? Should the trial court have discretion to review and alter the scope of representation on grounds it is too narrow?

10. Conflicts. ABA Model Rule 6.5 provides that in certain circumstances, such as walk-in clinics sponsored by nonprofits, where a lawyer is providing short-term, non-continuing advice and where full conflict checks are not feasible, the lawyer is not subject to rules governing conflicts of interest except when the lawyer has actual knowledge of a conflict. Should Texas adopt some similar provision?

11. State-wide vs. local rules. Should any procedural changes to accommodate limited-scope representation be made state-wide or should a template be drafted to permit adoption as local rules by courts across the state?



STATE BAR OF TEXAS

Family Law Section

2018 FAMILY LAW SECTION SURVEY

The 2018 Family Law Section Survey was conducted electronically from February 5 to April 1.

Below is the purpose and scope of this survey:

The Family Law Section has been requested to send out the attached survey to help inform the Texas Supreme Court about issues related to limited scope representation. Texas Disciplinary Rule of Professional Conduct 1.02(b) specifically permits a lawyer to limit the scope, objectives, and general methods of representation if the client consents after consultation. To better allow litigants who would otherwise be self-represented to receive some assistance of counsel, the Texas Commission to Expand Legal Services, in its December 2016 report, recommended that the Texas Supreme Court consider amending procedural and ethics rules to address limited scope representation. The Supreme Court has asked its advisory committee to draft rules for the Court's consideration. Your participation in this survey about your experience with Rule 20 of the Travis County District Courts Local Rules will greatly inform that process.

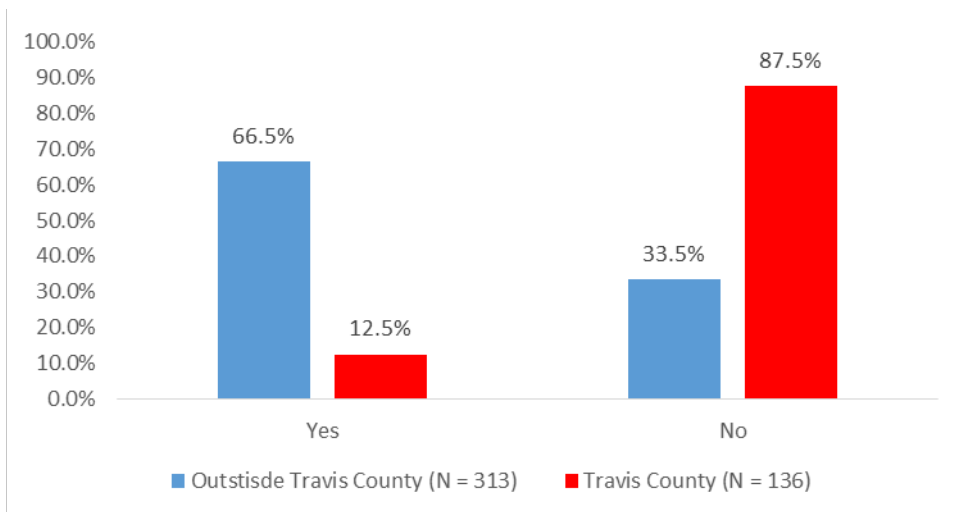
Population and sampling:

The population for the survey was sent to 13,623 Texas family law attorneys - a total of 5271 practicing in Travis County and a total of 8352 practicing outside of Travis County. Excluded from the survey were members who have opted out of participating in surveys and those who had not reported the Texas County they practice in.

There were a total of 136 Travis County attorneys and 315 attorneys outside of Travis County who participated in the survey.

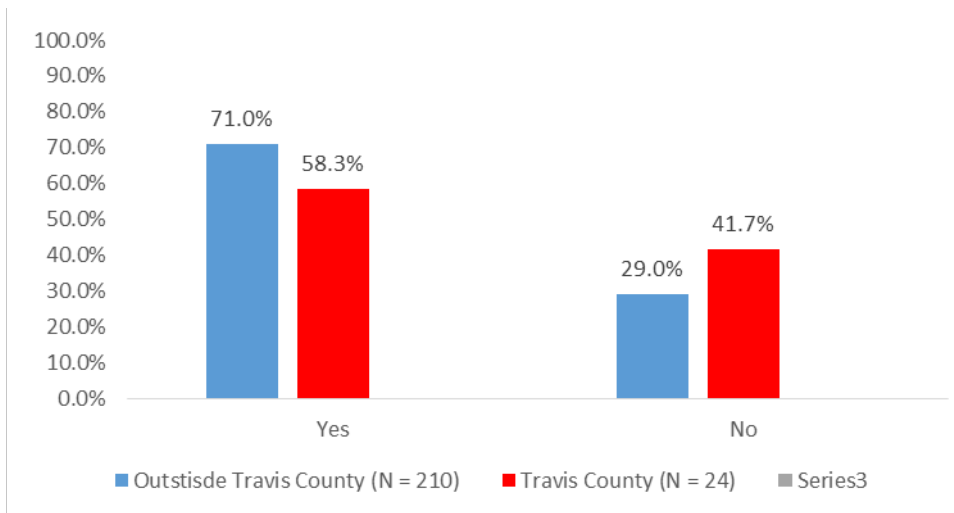
2018 FAMILY LAW SECTION SURVEY

1. Have you been involved in a case where you or another attorney provided limited scope representation to a litigant?



2. If yes, did the limited scope representation go smoothly?

2018 FAMILY LAW SECTION SURVEY



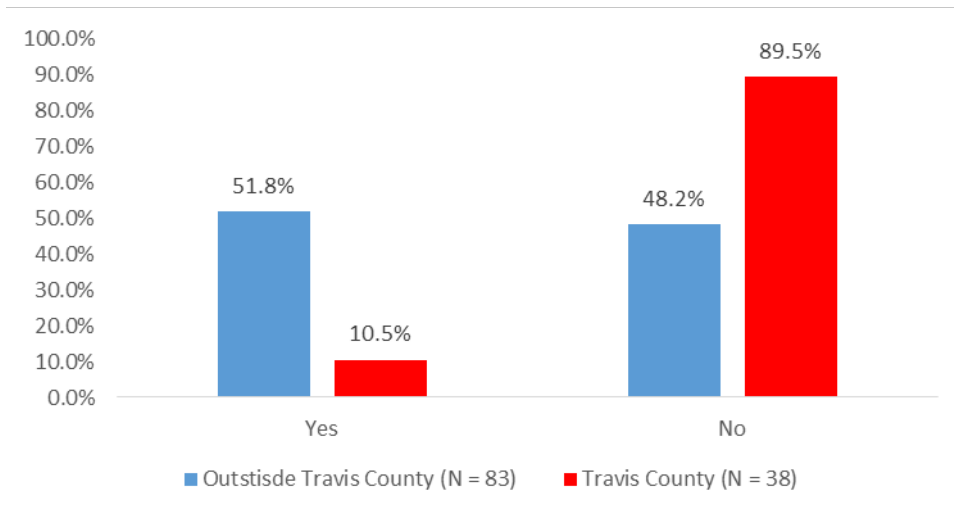
2018 FAMILY LAW SECTION SURVEY CONTINUED

3. If no...

Outside Travis County: Did the problems with the limited scope representation arise because there are no procedural rules specifically governing limited scope representation? *Note: Comments on pages 7-10*

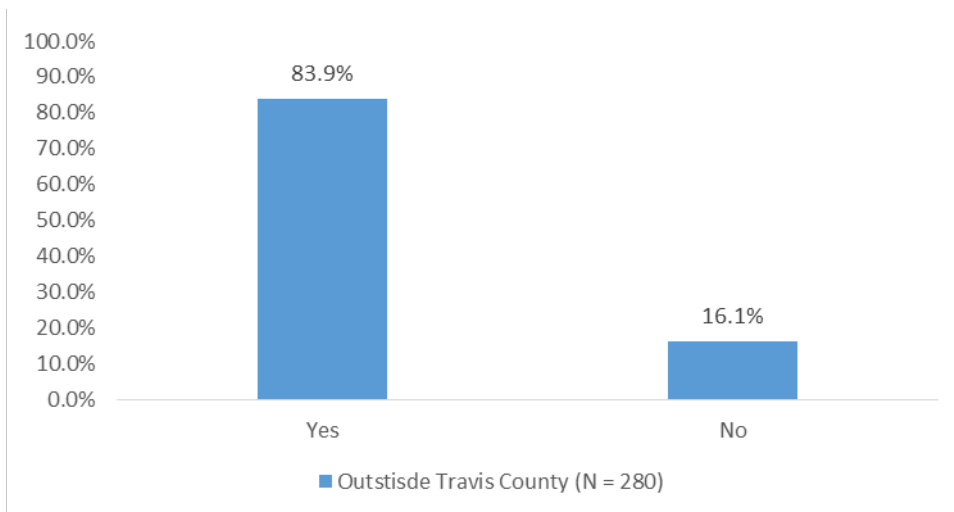
Travis County: Were any problems with the limited scope representation or its conclusion related to the language of Rule 20? *Note: Comments on page 11*

2018 FAMILY LAW SECTION SURVEY



4. Would it help to have procedural rules specifically addressing limited scope representation, including appearance, service, and withdrawal?

Note: Only asked to those outside of Travis County.



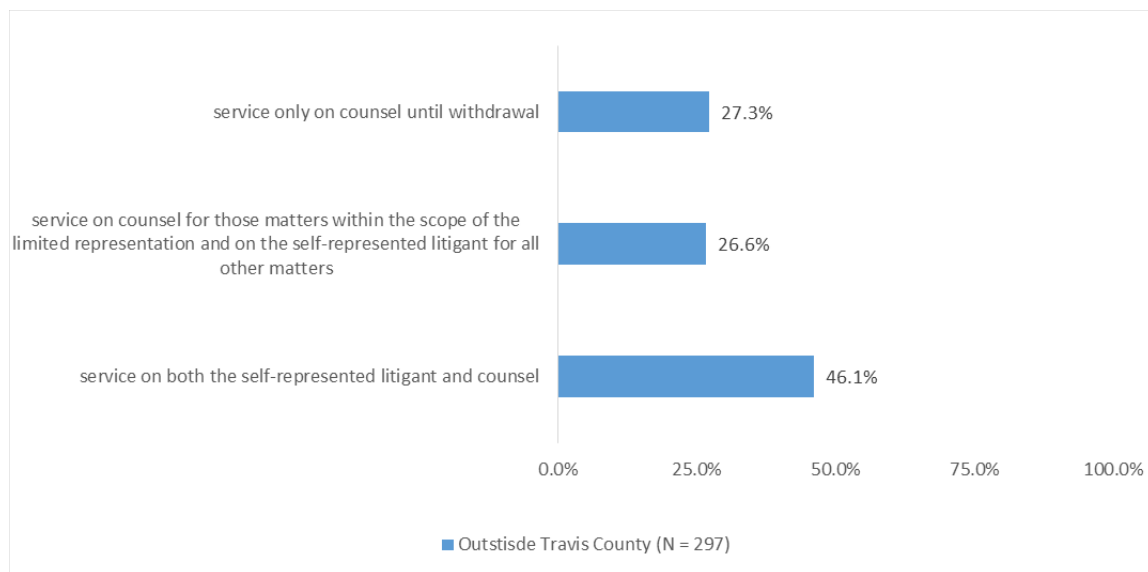
2018 FAMILY LAW SECTION SURVEY CONTINUED

5. Attorneys currently have the right to limit the scope of their representation with client consent after consultation. If you believe that further restrictions should be imposed upon an attorney's ability to limit the scope of their representation of a client, then please describe specifically what limits should be imposed.

Note: Comments on pages 12-17

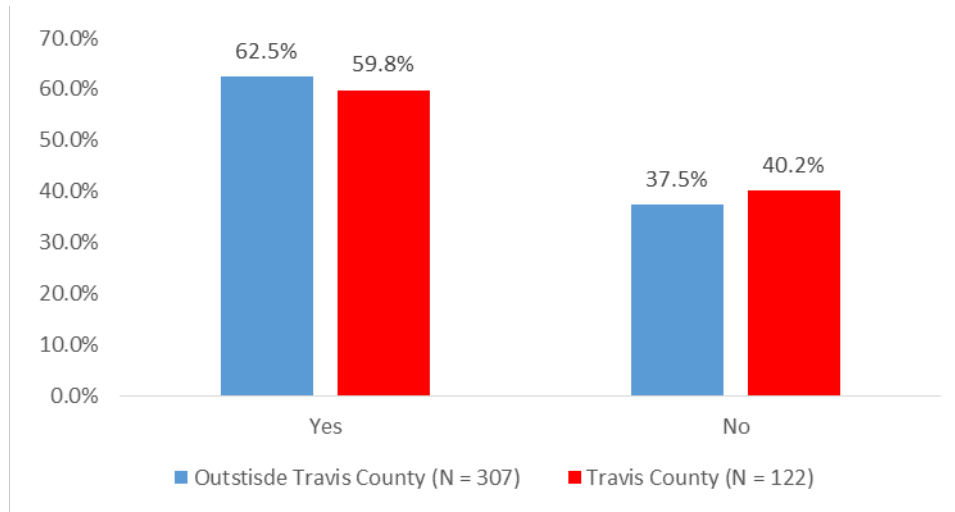
6. If an attorney files a notice of limited appearance in a case, how should service be accomplished?

Note: Only asked to those outside of Travis County.



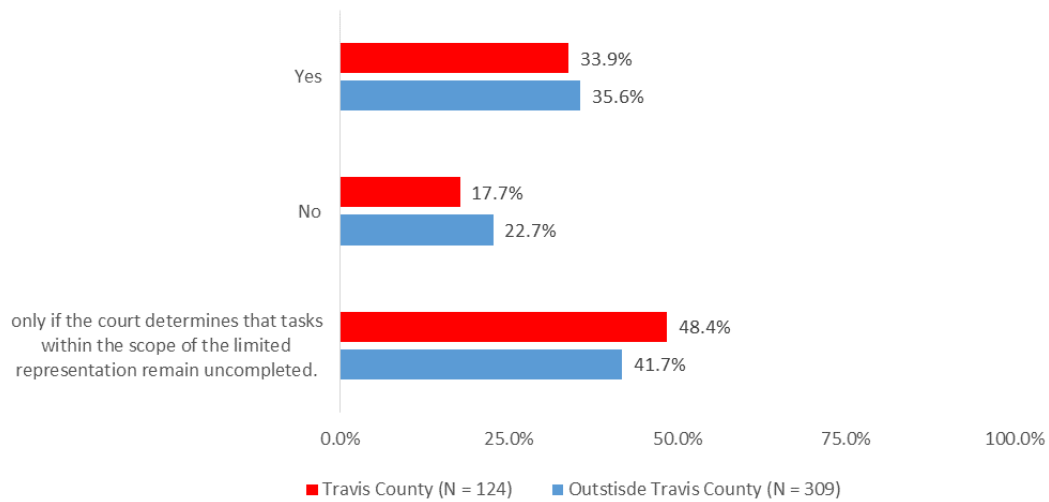
2018 FAMILY LAW SECTION SURVEY CONTINUED

7. If any attorney provides services on a limited scope basis but does not appear in court, should the representation nonetheless be disclosed to the court?



8. A trial court currently has the discretion to deny an attorney's motion to withdraw, despite the existence of good cause, when justice requires the representation to continue. Should the trial court's discretion be eliminated in order to promote limited scope representation?

2018 FAMILY LAW SECTION SURVEY



2018 FAMILY LAW SECTION SURVEY CONTINUED

9. If you believe limits should be imposed upon a trial court's ability to deny withdrawal, in order to promote limited scope representation, then please describe what limits should be imposed.

Note: Comments on pages 18-19

COMMENTS

3. If no, please briefly describe any problems that arose involving the limited scope representation.

2018 FAMILY LAW SECTION SURVEY

At times you have to deal with the pro se and then the attorney. The attorney did not have the authority to resolve all issues so it make negotiating difficult.

Attorney simply kind of disappeared from case without having withdrawal granted.

boundaries are not observed.

Causes extreme delays in the litigation process

Challenges with being able to get off the case once the limited scope issue, such as Temporary Orders hearing, is completed.

Client agreed to limited scope. Then, client wanted to go to trial when arbitration did not go his way.

Client does not understand the written agreement, gets mad when attorney stops services as agreed.

Client feels cheated and the public perception of the profession is tarnished. The client's who most need such services are also the ones least likely to read and understand the retention agreement.

Client expectations, regardless of how clear the limitation is, tend to be you are their lawyer forever and for everything.

Client fired 1st lawyer and wanted 2nd lawyer to forfeit fees of 1st lawyer.

Client ignored Judge's instructions in regard to the LIMITED SCOPE

Clients always need more help than they realize. When they bump into the edges of the limited scope, the attorney stops and they are left floundering. This is especially so if the attorney helps with "paperwork" but will not negotiate or attend mediation.

Clients never really understand the concept.

Client's often do not really understand what "limited scope representation" really means; thus their consent may not really be "informed" consent

Clients want to make excessive calls for the same exact question.

clients with limited employment always need additional assistance and a refusal becomes very damaging to the confidence in the relationship

cost to client if the "agreed" case turns into litigation

Counsel's limited scope was only representation in mediation. Counsel had no authority over pending pleadings, litigation, etc.

Difficult to limit scope in course of family law case. Limit to habeas corpus, but not modification or enforcement? Difficult to draw lines of representation when the issues overlap.

Difficulty in communicating with litigant who was sometimes represented and sometimes not-difficulty I'm noticing of hearings etc

Even though client acknowledged in writing prior to limited scope representation, they have problems understanding WHY you will not assist them with other issues that arise.

COMMENTS CONTINUED

2018 FAMILY LAW SECTION SURVEY

Former client kept referring to me as his lawyer even months after the one-time appearance. I kept being served with pleadings and notices despite not having been counsel of records for months.

I advised opposing counsel and the court that I was appearing for the limited purpose. I had a letter signed by my client indicating that she wished me to act on that particular aspect of the litigation and no other and that she understand that she was either to appear and defend pro se or that she could retain other counsel on all other aspects of the litigation. The court permitted me to act as instructed and then granted a withdrawal.

I guess I would say my experience was only with an attorney who was a "silent" limited scope attorney and that is always frustrating. But your next question would addresses the problems I have seen and it is frustrating on the issue of notice and service.

I had a judge refuse to accept my limited representation and demanded that I appear on a matter for which I had not been retained.

I have done it more than once. Sometimes it goes very well. I believe that some of the judges dislike limited scope and reject orders that they would have no problem with if the attorney were standing there.

I have done multiple where I provided the limited scope representation. I had one case where it did not go smoothly for multiple reasons, including that the court required me to have a hearing on what my scope in the case was and at the hearing the court required me to be fully in the case anyway.

I never knew whether to contact the party or the attorney regarding an issue in the case

I really cannot yet tell because the case will proceed to trial next month.

If it's beyond the scope of the agreement then the party needs to handle their matter in a customary manner.

If the answer was no. Could you not draw the conclusion that I had not had any limited scope representations because the case did not involve those issues. It read your own questions you morons.

In Federal Court Initial Appearance it is a standard option.

In most instances, they go smoothly. I have entered into many limited scope representation fee agreements. In one instance, however, it did not go smoothly because it turned out the Client did not have the ability to follow my directions in representing herself, despite convincing me she did.

In the middle of a hearing the attorney noted she did not represent the client on certain issues

In the two matters I am thinking of, the attorney was in late and out early and used as a weapon rather than to assist in resolving the matters.

It is difficult to be involved in a case, even on a limited basis, when 2 lawyers have different styles and skill sets.

It was difficult to determine when the representation ended, and to what extent a motion and order to withdraw was necessary.

Judge can deny Motion to Withdraw

Just confusion as to the matter of representation. Hard to separate out issues in family law

Limited scope always exceeds the initial scope and the attorney is stuck on the case

COMMENTS CONTINUED

2018 FAMILY LAW SECTION SURVEY

Limited scope usually means lawyer doesn't come to court

No contact with the attorney assisting by limited scope.

Office of the Attorney General does not get involved in conservatorship and possession/access issues in SAPCR cases. This is a problem with pro se litigants or where only one side is represented by an attorney.

Often there will be issues that bleed over and billing can be problematic in this case. Also, if you are required to talk to an attorney for certain issues and directly to the party on other issues, it can be problematic.

Only the ones that are truly uncontested go smoothly. Most recently, I had been assisting a client with requesting and getting discovery. The client essentially got punished by the judge at the Motion to Compel because she had not hired an attorney full scope. Essentially, the judge just wasted several months of her time and a couple thousand dollars of money she spent on me advising her, and said that the parties should just start over on discovery. I have found that the clients are being punished even though they have an attorney assisting them. They also are very difficult clients, because they do not want to pay for anything, including for example, doing a final review and selection of discovery requests, or researching an issue that needs to be researched.

Other counsel could not make representations for their client and I ended up having to deal with both parties

overlap in evidence and attorney subjectively decided what was within scope at hearing and what wasn't, judge not happy

Parties disagreed on terms

party had trouble getting orders done and ended up not paying the mediator

Party wanted to continue to seek additional assistance

She refused to file into case as attorney of record and so I refused to discuss the case with her. Another attorney took over and entered the case as attorney of record.

The attorneys of the OAG Child Support Division represent the interests of the state, but must work closely with a parent whose interests are very similar (support), but can be very dissimilar (contested custody). In spite of attempts to clearly communicate the scope of representation with non-attorney individuals, misunderstandings can occur.

The boundary's became too "Convenient" for the limited scope attorney to hide behind, such as late discovery responses; or violations of the Temporary orders. Representation is like pregnancy: you are or your'e not.

The duration of the scope was not defined. Then do you send notice to the attorney or is that Respondent pro se. The attorney did not do a formal withdrawal.

COMMENTS CONTINUED

2018 FAMILY LAW SECTION SURVEY

The Judge and client expect the "limited scope" attorney to know everything about the case and opposing counsel gets shoehorned into professionally accommodating the "limited scope" attorney and also representing their client. Limited scope attorney is an end run around securing local counsel.

The limited representation was a farce. The people still did not know how to ask and answer questions for a prove up divorce

the limited scope representation was fine. However, after the end of the scope of representation, the formal motion to withdraw as counsel and then requisite hearing to withdraw was time consuming and tedious.

The opposing party had limited scope representation in a matter which involved contempt and modification. My client was the moving party. My client's expenses were significantly higher as a result of the court, the parties and the other attorney trying to figure out exactly what assistance the attorney would and would not offer. There was significant discovery due, which initially went unanswered, the limited scope attorney failed to show up for some hearings without notice. This is just a few of the facts which created delays to the court and cost my client time and emotional and financial expense.

The opposing party thought "file an answer" meant the attorney was supposed to "answer the suit" essentially providing a full defense at the hearing. This lead to a fight between them, and delays in the court case.

The other attorney was unaware of the procedural problems once he filed an appearance. He thought sending me notice he wasn't her attorney was sufficient. I had to force him to withdraw.

The pro se litigant picked what he wanted to do and so opposing counsel never knew who was responsible for what. The court ordered that the attorney was to receive all correspondence as lead counsel but he refused.

There was already an attorney of record and a second attorney was retained only for the purpose of a hearing for a motion to continue, but there were other issues that were being dealt with on the same date for the same matter; it was unclear to the judge and to the other parties what the second attorney could or could not represent on behalf of her client;

When you get to court, there are so many reasons why the case can get reset. You signed on for a one day appearance that now ends up being three court appearances. As an attorney, your contract needs to be specific about what you are going to do for the client and how long the representation will last. This is a great idea, but it is still in its infancy. In the long run it will benefit our courts as well as the public.

Why did I steal money from her, etc.

Yes

You're in or you're out, it's sort of like being a pregnant in a limited fashion.

COMMENTS CONTINUED

3. If there were problems with the limited scope representation or its conclusion that do not relate to the language of Rule 20, then please describe them.

As an attorney for Legal Aid, I often provide what we call "pro se assistance." I often draft pleadings for a person to file pro se. I also give very detailed, written instructions for the person to follow. On a few occasions, a person has either purposefully or accidentally misrepresented what I told them to the Court. Luckily, the local judges know better - or know me better - than that. One person told a judge that she had paid me over \$2,000 to represent her on a Habeas Corpus suit. The judge knew that couldn't be true, since I work for Legal Aid, and called me to confirm. Another person took a Legal Aid certificate that I signed, saying that she qualifies for Legal Aid, to a clerk and said that I would be filing a petition in her case. The clerk called me, and I was able to sort out that situation.

I had a client several years ago who insisted that he would handle his own hearing in an L/T matter before a JP. He ended up being held in contempt and having judgment entered against him for actual and punitive damages. Not a formal Limited Scope representation but is an example of how things can go wrong very badly.

The client said he had some other lawyer working on drafting discovery requests. I terminated the relationship and refunded the fee because it was no longer clear just what the scope of my representation WAS.

Too many to recount

COMMENTS CONTINUED

5. Attorneys currently have the right to limit the scope of their representation with client consent after consultation. If you believe that further restrictions should be imposed upon an attorney's ability to limit the scope of their representation of a client, then please describe specifically what limits should be imposed.

Attorneys should have a timely and ascertainable limitation that does not work to impede the case. If limited, then, they should not be able to change the scope afterwards.

I believe that all limited scope fee agreements must be in writing and should, with painful clarity, explain what the attorney will do or will not do so that the last sophisticated client is on notice of what they are getting for their money and what they are still on their own for.

I believe that the rule should be very clear and that the attorney needs to be very specific in his or her contract.

I disagree with limited scope. This permits an attorney to "muddy the water" and then climb out without further involvement.

I do not believe that there should be further restrictions.

I think clients should be able to select the limitation of their services as their desires and resources warrant. If you want access to justice be reasonable about what you expect.

I think the representation, even limited, needs to be taken to conclusion. Meaning, if representation is only for temporary orders, the attorney should ensure the orders are filed.

If an attorney is going to represent a person at a mediation that results in a settlement, they should also have to sign off on any court order generated from that agreement.

I'm fine with limited scope but there needs to be notice to opposing party and also the court. The attorney accepting limited scope needs to let us know what exactly they're going to do on the case (see problems I noted above).

It is my opinion that there should be no further restrictions on an attorney's ability to limit the scope of representation, provided that any forum in which such a motion or request is made is notified of the request and retains the ability to make reasonable orders regarding the scope of representation.

COMMENTS CONTINUED

no further restrictions

No restrictions should be imposed on an attorney's ability to limit the scope of their representation.

No the limited scope should be clearly set out in writing, agreed to by the client, and the attorney should be allowed to withdraw following completion of that role.

Not necessarily more limitations, but having a rule clarifying the practice could be useful.

Perhaps, examinations should be sectioned into what is covered in the limited scope and then or before matters outside the scope.

The repression should be restricted to the terms and case contained in the contractual agreement

There should probably be something in writing which clearly limits the scope of the representation, rather than just relying on some statement that the scope of the representation was limited.

There shouldn't be limited scope in any contested case.

This creates a burden on opposing counsel, that is unexpected and often unreasonable. If OC represents their client for a period of time, and then disappears, counsel is at a loss and disadvantage when dealing with a recalcitrant opposing party. At a minimum, the limited scope has to be revealed to counsel and the court. The Court should then, if an objection is filed, be able to rule on the reasonableness of OC representation.

You shouldn't be able to act as counsel for only certain issues when the litigation will touch on multiple issues that are interrelated. For example, counsel only for property division when divorce deals with children.

COMMENTS CONTINUED

**It is dangerous to put any limits on an attorney's ability to limit the scope of their representation, especially in family law, where many ancillary issues may arise.

All limitations should be very specific and in writing with understanding they will be given to the court upon request by the court or opposing counsel.

An appearance in Court should be for all matters in Court in that particular suit.

Any attorney employed by a public entity should formally withdraw on behalf of the agency at the completion of any matter that is settled. No continuing representation on a limited basis should be allowed

Any fee associated with the consultation, even non-refundable, should be reasonable and the agreement should not allow for "ghostwriting" through the entire litigation but instead but truly limited and targeted.

Attorneys should not be able to appear in court for one hearing and then not have to withdraw. It makes determining who to service and how to serve impossible.

Client should be limited on actions against counsel

Client should be required to sign document stating that he/she understands that they have counsel for limited scope and that counsel is not responsible for anything outside of that limited scope.

clients need to sign a waiver containing an acknowledgement that they understand what the attorney is, and is not responsible for.

Do away with it It encourages inept and lazy lawyers

Do not believe in "limited scope representation"; if one signs on to a case, they are on the case. "Pro Se" litigants don't know the rules and cannot adequately represent themselves. Do not believe this idea is "just".

EVEN ATTORNEYS FILING notice of limited representation should, in my opinion, be compelled to appear in court in cases involving division of real property, corporate stock, and bonds whether municipal or corporate. m, TO

Generally, it is difficult to limit scope in a family litigation matter. More specifically, a client's understanding of legal concepts, much less difficult legal concepts, can affect any litigation; by adding limited scope into the mix, it can hopelessly complicate the issue for the client, and thus also for the attorney.

I believe attorneys should have the right to limit the scope of their representation with client consent after consultation

I believe that either an attorney is a party's attorney of record in the strictest sense or they are not. It is crazy to have one foot in the case and one foot out of the case

I believe that the attorney who chooses to take on this representation needs to do so based upon the current rules of ethics. The solution is not creating the role for an attorney in this situation. The solution is recognition that the court has made a mess in family law by degrading the practice to one where people in family law cases think they can represent themselves. Access to Justice does not require the direction we are headed with pro se representation.

I do not believe that further restrictions are necessary.

I do think reasonable limits should be imposed. Certainly, allowing an attorney to designate themselves as non-litigation in the type of case where litigation is often a result does not make sense.

I don't believe the rules should be changed. I believe the current version of the rule adequately addresses the situation.

I don't believe we should permit limited scope in family law cases.

COMMENTS CONTINUED

I don't think additional restrictions are required.

I have been court-appointed in IV-D cases where my initial appointment was not general but stated that it was for a limited purpose.

I think that the limits need to be set by rules and not by the client after consultation. That would mean each case will be unique. We shouldn't have to wonder who is responsible for what in each limited scope representation situation.

If they appear & court makes a ruling, then they should stay in until the order is signed by the court. They may or may not have to draft the order, depending on the court's wish/order.

In family law, limited representation is very difficult because of the inseparability of many issues: divorce/conservatorship; custody/rights & duties/child support; etc. So, I think that trying to draft general restrictions which would apply to every area of practice would be ineffective at best and a quagmire at worst. Better to have general guides which suit every area of practice and then rely upon the TRE's, TRCP and CRPC

inapplicable; I do not believe further restrictions should be imposed but rather that the attorney be able to point to clear rules and procedures for keeping it limited.

Judge and opposing counsel should be able to inquire

Just needs to be a clear agreement on what the limited scope is - similar to collaborative law - lawyer agrees to do everything a lawyer does except go to court.

Limit all, either in or out

Limit the court's ability to not let you withdraw

Limited scope representation should be reduced to writing and disclosed to the court and placed on the record.

Limited scope should not be binding on opposing parties in court proceedings; rather, appearances in court proceedings by counsel should be general until withdrawal.

My limited scope representation specifies the types of tasks that the client and I agree that I will and will NOT perform.

n/a

No additional restrictions. It is a contract matter between attorney and client.

No further restrictions required. That would lead to interference by the courts to force an attorney to appear even though the attorney has a contract for limited scope representation.

No further restrictions would be beneficial.

No limits should be imposed beyond those expressly agreed to by the client and the attorney in a written agreement signed by them both.

No limits should be imposed.

No limits.

COMMENTS CONTINUED

No!

No, it needs to be clarified that clearly that limited representation is limited representation.

No, there should be no more restrictions.

No.

No. if a client wants only limited scope of representation, that is the client's right. Of course, it is recommended that the attorney draw up a written limited scope representation agreement to protect himself and be clear with the client as to what they have agreed to.

None

none

None

none

none whatsoever

None.

none.

None. So long as it is written down.

Other than disclosure, there should be no other rules necessary. If you have a competent judge on the bench, which is truly doubtful these days in Texas, There should be no problem at all.

provide notice to opposing counsel, opposing pro se party, and interested third party such as a mediator

Require courts to allow prove up via court call, and much of this can be avoided.

Rules should make it clear that notice must be given to all parties or counsel for parties of the limited scope representation.

Should be in writing in the engagement agreement for that matter.

stages, not individual procedures (ie, initial hearings, first rulings...etc

Supreme Court should mandate that each attorney use a specific contract that designates exactly what the limited service will be and signed by attorney and client. In Family Law this is ultimately going to be a bad trap for the inexperienced young attorney and result in possible grievances.

COMMENTS CONTINUED

The current rules are adequate.

The emphasis should be on not leaving the client unrepresented. Each case and representation is different. The only limited representation is the hiring of specialized counsel to do a certain part of a case, like hiring outside counsel to do a special appearance.

The first disclosure should identify community and separate property issues

The limitation needs to be specific and in writing

The limits should be in writing both for the benefit of the client and those dealing with the attorney. There should be rules to clarify representation of "mediators" working with both parties in a divorce.

the opposing party or counsel should be made aware of the limited representation.

The problem arises in that clients do not seem to understand the term "Limited" Once you consult with a client and a limited fee is paid for specific assistance, it is very difficult to untangle the expected continued relationship.

There should be a written agreement that clearly describes what the lawyer is to do in basic terms the average person can understand.

There should be notice to the opposing party and counsel concerning the scope of the representation. It is very difficult to handle a case with a "pro se" who is not in fact pro se.

There should not be limited representation. It is asking for trouble for the attorney and the principals

To be known that clients can hire an atty (like expert W's) as a consulting attorney and not as a expert testimony, i.e., expecting the atty to appear at any and all proceedings.

warning should be given about commonly arising issues that will not be included.

Written agreement defining the scope of the representation. Make the rules clear that disclosure of representation, and therefore requirement to provide service to/on the limited rep attorney is optional but if the existence and scope of the limited scope representation is not disclosed there is no duty to serve the limited rep attorney. If you only rep in trial, you do not get any advantage for the client's violation of discovery...what the client did falls on counsel in trial.

You either represent someone or you don't-it is one thing to do a document review-but actual limited representation creates huge problems

you're either in or you're out. you either represent the client or you don't.

COMMENTS CONTINUED

9. If you believe limits should be imposed upon a trial court's ability to deny withdrawal, in order to promote limited scope representation, then please describe what limits should be imposed.

1. Attorney should be permitted to withdraw absent what would constitute reversible error. An attorney forced to continue in the representation when the client does not want him there and/or communication between the attorney and client is an actual hindrance does no one any good.

After court objection to withdrawal, if the lawyer shows good reason for withdrawal justice should allow the withdrawal

An attorney should be able to withdraw at any time. This is America and slavery is unconstitutional

An attorney should not be forced into representation beyond the scope of the attorney-client contract.

Automatic withdrawal on limited scope agreements. Allow client to object and set hearing after withdrawal.

Maybe require language informing client of that right in limited scope agreements.

client does not abide by terms of contract

Court should determine whether the tasks agreed to are complete.

Court should not trap a lawyer into additional representation where notice of limited scope had been given.

GRANTING WITHDRAWAL SHOULD BE MINISTERIAL

I despise the idea of being told that I have to continue representing a client who hasn't paid me or who is so difficult to work with that I am compelled to withdraw. The clients who pay the least often expect the most and are the quickest to grieve their lawyers.

I don't yet see how they are connected, but if you think it would encourage this representation then try it.

I generally do not take limited scope rep cases because I may be in the case for the duration if the Court does not allow me to withdraw.

I think that many judges will not agree with the idea of limited scope representation, and I think they will be likely to NOT allow withdrawal. So I think it will be necessary for courts to have to accept the terms of the limited scope representation. I think without such limits, the court is unlikely to let attorneys out of the case----courts don't want to have to deal with pro se litigants. If courts routinely refuse to allow limited scope representation, as a practical matter there will be none, contract or no.

If an attorney requests withdrawal, Court should not have the right to force an attorney to remain on the case and definitely should not be allowed to know why. This can cause future prejudice against the client if the reason reflects negatively on the client.

If the client is at risk of family violence without representation

COMMENTS CONTINUED

If the denial of the motion to withdraw is based upon the Court requiring the attorney to perform work that is outside the limited scope engagement agreement signed by the client, then the Court's ability to deny the withdrawal based on that should be limited.

If there is a final trial date, then I need to know if an attorney is going to represent the client at trial, in limited scope. I can envision a scenario where a limited scope attorney files their motion to withdraw a week before trial date and then the unrepresented client seeks a continuance to secure counsel; more often than not, the Judge will allow more time to retain a new attorney. The other party, if not wanting to go to trial, can "game" the system by doing this. Trial dates are hard to get in some courts because the dockets are so full (fyi).

It is not my opinion that the trial court's discretion to make orders denying a motion to withdraw as attorney should be limited beyond any limitation imposed at the present time.

Legal Aid gets dozens of applications every day from people who truly need representation, but we simply don't have the resources to take every case. If a judge were able to call me in and tell me that, because I provided some assistance, I would now have to take on that case as full representation, then I would have to stop offering pro se assistance. So, instead of drafting paperwork when no forms are available on texaslawhelp.org, instead of providing in-depth, personal instructions on filing and presenting a person's case, I would be limited to giving the 3-line, basic information on a divorce or custody case, and both the courts and the clients would suffer.

Limited scope involvement should be discouraged and never permitted. We should not promote limited scope representation.

Limited scope representation should be disclosed immediately upon first filing. If counsel for other party has an objection, then the Court should be able to hold a hearing to determine the reasonableness of that limited scope representation. Without some sense of the purpose of an appearance in litigation, it is impossible to properly represent a client. Attorneys and clients in traditional representations are bound by rules of Court. Limited Scope Representation Agreements place the attorney and his/her client outside the Rules.

Motions to Withdraw in limited scope representation should be filed within 3 days of the lawyer's receipt of a notice of trial or hearing so that the MWD is not heard at a time that necessarily requires continuance of the case settings.

No one should be forced to work for free or with someone that is difficult to work with. Trial court discretion usually means screwing the attorney.

Only if the matters within the scope of limited representation have not been completed.

The court should not have the discretion to deny a motion to withdraw that was properly served on a client and which is filed with the court at least 30 days prior to trial.

The Court should not have the right to continue the relationship of the attorney and the client once they have defined it contractually.

The trial court's ability to deny withdrawal should be limited to the specific hearing or matter within the limited scope notice. When the specific hearing and orders based on decisions rendered in the specific hearing are entered, then the limited scope attorney should be permitted to withdraw and/or service notice that his/her limited scope services have been completed.

they can only be limited to what the agreement was. If it had to do with appearing in court they should still appear.

This would be stupid.

Withdrawal in limited scope representation should be automatic unless the Court finds specific and stated good cause, limited to unfair prejudice to the other party and that it would cause delay where the matter is time critical.
