

# Considerations for Unbundling Legal Services



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## UNBUNDLING LEGAL SERVICES

### Resources

Unbundling of legal services, also known as limited-scope representation, is a method of providing legal services for only a clearly defined, discrete portion of a client's legal needs. Unbundling can provide significant public benefit by increasing access to justice for individuals, such as crime victims, who are not able to afford comprehensive legal representation.

A legal network wishing to provide limited-scope representation must pay attention to state rules and regulations and should follow recommended best practices surrounding limited-scope representation. A state's rules often address practical matters, such as: whether an attorney who prepares legal papers on behalf of a client-victim must disclose that the lawyer prepared them for the client-victim and how a lawyer withdraws from a pending court case after completing limited-scope representation. The American Bar Association website houses the Unbundling Resource Center (URC) that contains links to articles, laws, ethics opinions, books, and more on limited-scope representation (unbundling legal services). The URC is located here:

[https://www.americanbar.org/groups/delivery\\_legal\\_services/resources.html](https://www.americanbar.org/groups/delivery_legal_services/resources.html)

### **Example of Applicable Ethics Rules for Limited Scope Representation\***

(\*taken from the American Bar Association Unbundling Resource Center)

#### **Alaska**

[Alaska Rule of Professional Conduct 1.2\(c\)](#) expressly permits limited representation and governs communication between opposing counsel and self-represented client.

[Alaska Rule of Professional Conduct 6.5](#) governs the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

[Alaska Rule of Civil Procedure 81](#) governs limited appearances and includes:

- *Rule 81(d)* expressly permitting limited appearances in non-criminal cases as long as the attorney files and serves an entry of appearance with the court and all parties of record before or during the initial proceeding and the entry of appearance clearly identifies the limitation; and
- *Rule 81(e)(D)* allowing an attorney to withdraw from a limited appearance, without court action or approval, by filing a notice with the court, served on all parties of record, indicating that the representation has ended.

## California

[California Family and Juvenile Rule 5.70](#) allows a lawyer to draft documents in family law proceedings without disclosing the assistance, as long as the attorney is not making an appearance in the case.

[California Family and Juvenile Rule 5.71](#) allows an attorney to be relieved as counsel by filing an Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation, and outlines the procedure to withdraw both with no objection and with objection from the client.

[FL-950](#) provides a court approved Notice of Limited Scope Representation for family law matters.

[California Civil Rule 3.35](#) defines limited scope representation and application of rules in civil cases.

[California Civil Rule 3.36](#) governs limited scope representation and includes:

- *Rule 3.36(a)* allowing a party and attorney to provide notice of their agreement by serving and filing a Notice of Limited Scope Representation;
- *Rule 3.36(b)* requiring papers in the case to be served on both the attorney providing the limited scope representation and the client, until there is a substitution of attorney or an order to be relieved as attorney is filed and served;
- *Rule 3.36(c)* outlining the procedure to be relieved as counsel on completion of representation, when the attorney has acted appeared before the court as attorney of record and the client has not signed a Substitution of Attorney-Civil form;
- *Rule 3.36(d)* requiring an application to be relieved as attorney;
- *Rule 3.36(e)* requiring an application to be relieved as attorney to be filed with the court and served on all parties in the case, and also requiring the client to be served with a blank Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation form;
- *Rule 3.36(f)* outlining the procedure to be relieved as counsel when there is no objection;
- *Rule 3.36(g)* outlining the procedure to be relieved when there is an objection, requiring a hearing to be schedule no later than 25 days from the date the objection is filed, and requiring the clerk to send notice of the hearing to the parties and attorney; and
- *Rule 3.36(h)* requiring the attorney to serve a copy of the signed Application to Be Relieved as Attorney on Completion of Limited Scope Representation form on the client and all parties and attorneys who have appeared in the case, when no objection is filed.

[California Civil Rule 3.37](#) allows a lawyer to draft documents in civil proceedings without disclosing the assistance, as long as the attorney is not making an appearance in the case.

[MC-950](#) provides a court approved Notice of Limited Scope Representation for civil matters.

[California Rule of Professional Conduct 1-650](#) governs the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

[California Rule of Court: Judicial Administration Rule 10.960](#) governs the operation of court self-help centers.

## Colorado

[Colorado Rule of Professional Conduct 1.2](#) clarifies that a lawyer may ethically provide limited services.

[Colorado Rule of Professional Conduct 4.2](#) creates a presumption that a party receiving limited services is unrepresented for purposes of communication.

[Colorado Rule of Professional Conduct 4.3](#) creates a presumption that a party receiving limited services is unrepresented for purposes of communication.

[Colorado Rule of Professional Conduct 6.5](#) governs the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

[Colorado Rule of Civil Procedure 11\(b\)](#) requires attorneys to include their name, address, telephone and registration number on prepared documents, but clarifies that doing so does not create an entry of appearance or authorize service on the attorney. It allows the attorney to rely upon the self-represented party's representation of the facts.

[Colorado Rule of Civil Procedure 121](#) explicitly permits limited appearances, as long as the attorney files and serves a notice of limited appearance with the court and all other parties prior to or simultaneous with the proceeding(s) for which the attorney appears. It allows an appearance to terminate without leave of court as long as the attorney files a notice of completion of limited appearance, and finds that service on the attorney is only valid in connection with the specific proceedings(s) for which the attorney appears.

[Colorado Rule of County Court Civil Procedure 311\(b\)](#) requires attorneys to include their name, address, telephone and registration number on prepared documents, but clarifies that doing so does not create an entry of appearance or authorize service on the attorney. It allows the attorney to rely upon the self-represented party's representation of the facts.

[Colorado Appellate Rule 5](#) allows and clarifies the procedures for limited scope representation in civil appellate proceedings.

## **District of Columbia**

[District of Columbia Rules of Professional Conduct 1.2\(c\) and 6.5](#) govern limited scope representation and the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

[Superior Court of the District of Columbia Administrative Order 14-10](#) permits limited scope representation in the Civil, Probate and Tax Divisions, the Family Court, and the Domestic Violence Unit and provides additional guidelines.

## **Georgia**

[Georgia Code of Professional Conduct Rule 1.2\(c\)](#) governs limited scope representation.

## **Illinois**

[Illinois Rule of Professional Conduct 1.2\(c\)](#) governs limited scope representation.

[Illinois Rule of Professional Conduct 6.5](#) governs the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

[Comment 8A to Illinois Rule of Professional Conduct 4.2](#) provides guidance on notice requirements to opposing attorneys in limited scope representation contexts.

[Illinois Supreme Court Rule 11](#) requires the service of all documents be made on both the party and the attorney while the limited representation is in effect.

[Illinois Supreme Court Rule 13](#) governs limited scope representation and outlines the procedures for disclosing the nature of the representation, filing notice with the court, and withdrawing.

[Illinois Supreme Court Rule 137](#) makes it clear that an attorney may assist a person who is representing him or herself in drafting or reviewing a pleading or other paper without making a general or limited scope appearance and without the attorney signing the pleading or other paper, as otherwise would be required.

## **Minnesota**

[Minnesota Rules of Professional Conduct 1.2\(c\) and 6.5](#) govern limited scope representation and the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

[Minnesota General Rule of Practice for the District Courts 110](#) governs the operation of self-help programs.

## **Montana**

[Montana Rule of Professional Conduct 1.2\(c\)](#) governs limited scope representation and outlines requirements for obtaining informed consent.

[Montana Rule of Professional Conduct 4.2](#) establishes the presumption that a self-represented party is unrepresented unless notified to the contrary in writing.

[Montana Rule of Professional Conduct 4.3](#) establishes the presumption that a self-represented party is unrepresented unless notified to the contrary in writing.

[Montana Rule of Professional Conduct 6.5](#) governs the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

[Montana Rules of Civil Procedure](#) enabling limited scope representation include:

- *Rule 4.1(a)* expressly permitting an attorney to provide limited scope representation to a person involved in a court proceeding;
- *Rule 4.1(b)* clarifying that providing limited scope representation does not constitute an entry of appearance and does not authorize or require service on the attorney;
- *Rule 4.1(c)* permitting limited appearances as long as a notice of limited appearance is filed and served prior to or simultaneous with the actual appearance and indicating that service on an attorney who has made a limited appearance shall be considered valid only when the service is in connection with the specific proceedings for which the attorney appeared;
- *Rule 4.2(a)* permitting limited appearances as long as a notice of limited appearance that specifically states the limitation is filed and served prior to or simultaneous with the actual appearance;
- *Rule 4.2(b)* allowing an attorney to withdraw, without leave of court, by filing a notice of completion of limited appearance; and
- *Rule 11* permitting an attorney to draft a document without signing it and allowing the attorney who assists with drafting to rely on the self-represented party's representation of facts.

## **New York**

[AO/285/16: Administrative Order of the Chief Administrative Judge of the Courts, with the Consent of the Administrative Board of the Courts \(December 16, 2016\)](#) making it the policy of the Unified Court System to support and encourage limited scope representation and encourage judges and justices to permit limited scope appearances (under certain conditions - see full Order).

[Local Rules of the United States District Court for Southern and Eastern Districts of New York, Civil Rule 7.2](#) requires counsel to provide pro se litigants with printed copies of decisions cited when unreported or reported only on computerized databases.

[New York Rules of Professional Conduct 1.2\(c\) and 6.5](#) govern limited scope representation and the responsibility to determine conflicts in non-profit and court-annexed limited service programs.

## **Texas**

[Texas Rule of Professional Conduct 1.02\(b\)](#) governs limited scope representation

The following additional resources provide guidance and address issues that may arise in setting up a limited-scope practice:

1. Ill. Sup. Ct. Comm'n on Access to Justice et al., *Limited Scope Representation Tool Kit* (Oct, 2017), <http://chicagobarfoundation.org/pdf/resources/limited-scope-representation/toolkit.pdf>.
2. Susan Humiston, *Ethically Unbundling Legal Services*, Bench & Bar of Minnesota, Oct. 1, 2017, <http://mnbenchbar.com/2017/10/ethically-unbundling-legal-services>.