

**FAMILY LAW
LIMITED SCOPE
REPRESENTATION**

**RISK MANAGEMENT
MATERIALS**

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

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

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

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Preamble

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

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Rule 5.425. Limited scope representation; application of rules

(a) Definition

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

(b) Application

This rule applies to limited scope representation in family law cases. Rules 3.35 through 3.37 apply to limited scope representation in civil cases.

(c) Types of limited scope representation

These rules recognize two types of limited scope representation:

(1) Noticed representation

This type occurs when an attorney and a party notify the court and other parties of the limited scope representation. The procedures in (d) and (e) apply only to cases involving noticed limited scope representation.

(2) Undisclosed representation

In this type of limited scope representation, a party contracts with an attorney to draft or assist in drafting legal documents, but the attorney does not make an appearance in the case. The procedures in (f) apply to undisclosed representation.

(d) Noticed limited scope representation

- (1) A party and an attorney must provide the required notice of their agreement for limited scope representation by serving other parties and filing with the court a *Notice of Limited Scope Representation* (form FL-950).
- (2) After the notice in (1) is received and until either a substitution of attorney or an order to be relieved as attorney is filed and served:
 - (A) The attorney must be served with documents that relate only to the issues identified in the *Notice of Limited Scope Representation* (form FL-950); and
 - (B) The party must be served directly with documents that relate to all other issues outside the scope of the attorney's representation.

(e) Procedures to be relieved as counsel on completion of limited scope representation

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

(1) *Application*

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

(2) *Filing and service of application*

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

(3) *No objection*

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

(4) *Objection*

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

(5) *Service of the order*

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

with the court.

(f) Nondisclosure of attorney assistance in preparation of court documents

(1) *Nondisclosure*

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

(2) *Attorney's fees*

If a litigant seeks a court order for attorney's fees incurred as a result of document preparation, the litigant must disclose to the court information required for a proper determination of attorney's fees, including the name of the attorney who assisted in the preparation of the documents, the time involved or other basis for billing, the tasks performed, and the amount billed.

(3) *Applicability*

This rule does not apply to an attorney who has made a general appearance or has contracted with his or her client to make an appearance on any issue that is the subject of the pleadings.

Rule 5.425 adopted effective January 1, 2013.

INSTRUCTIONS FOR USING THIS SET OF DRAFT RISK MANAGEMENT MATERIALS

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

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

1. **Limited Scope Representation Description (Client Handout).** This form was designed to educate the client about the options available for limited scope representation. Modify it to reflect your practice. Many clients will initially be unfamiliar with the many ways in which they can participate in their own representation. This form, or a variation, will help you educate them on the ways you can assist them in a limited scope context. Use it as a basis for discussion as you do your intake and evaluate their legal needs. Give them a copy and note on the tickler checklist the date on which you did so.
2. **Best Practices Tips.** These are designed to assist you in flagging the areas of special concern in limited scope representation. Read them carefully and add to them as new issues arise in your practice. Check for updates at http://www.americanbar.org/groups/delivery_legal_services/resources.html
3. **Flow Charts.** There are two flow charts designed to visually set forth the steps from both the client's and the attorney's perspective. Use the client flow chart as a handout as part of educating your client on the options for limited scope. Use the attorney one as a tool to document your own file.
4. **Sample Intake Sheet.** Tailor this form for use as an intake tool for every new limited scope family law client. Note the topics discussed, included related topics about which you advised them, and use it to document your discussions about the nature and scope of your representation. Before the client leaves, you should each initial it, and then give the client a copy. Do a new one each time a new issue comes up.
5. **Sample Tasks to be Apportioned/Issues to be Apportioned Checklists.** Use these forms to document the issues you discussed with the client, the apportionment of responsibility, and to identify the areas where the client agrees you are not to assume responsibility. You should each initial it and the client should take a copy. *Do a new one each time the scope changes*, initial and date it, give a copy to the client and note on the Tickler Checklist the date on which you did this. If you're defining the limited scope in an attachment to your fee agreement rather than in the body, use these as attachments and modify them as needed. Attach these forms as the exhibits to Fee Agreement #4 at page 39, or any other fee agreement where the limitation on scope is in an attachment rather than the body of the agreement.
6. **Sample Fee Agreements.** Four sample fee agreements are contained in Section 6, each tailored to a different form of limited scope representation, from a single appointment/single task to coaching, ongoing consulting, document preparation, and making court appearances.

Do not perform services until you have a signed agreement limiting the scope of your involvement. If the scope changes, do a new agreement. If the form of agreement you use includes a checklist to define the scope, do a new checklist to document the changed scope, sign and date (both attorney and client). Don't just send a confirming letter to the client. If the scope changes, attach the tasks/issues checklists. Check for others at the following web site: http://www.americanbar.org/groups/delivery_legal_services/resources.html .

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

Limited Scope Representation Description

What is limited scope representation?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Deciding on whether to take the case

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

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

are likely to be unhappy with the limited results that the legal system provides and even unhappier with limited scope services. Clients who require a lot of hand holding are also unsuited to limited scope representation.

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

After you take the case

13. **Use checklists.** This documents who is going to do what before the next meeting. Give a copy to the client. Sample checklists have been included in these materials. Tailor

them to your specific practice, fill them out while the client is present, and make sure that you and your client each have an initialed copy.

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

outcomes.

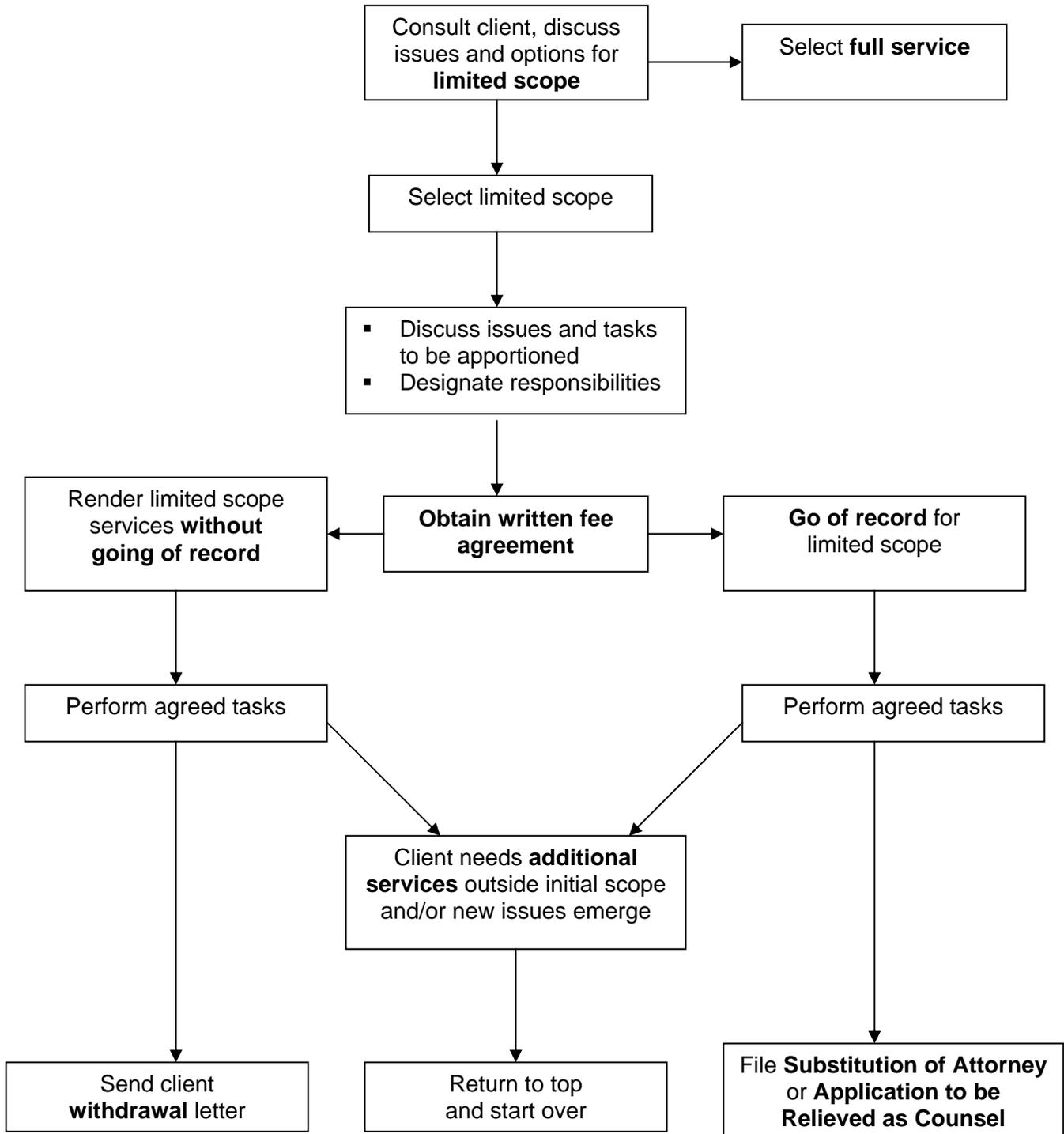
- 20. Making non-client laypersons part of your team is hazardous.** Limited scope representation may create an informal feeling to the attorney-client relationship. Remember that, despite the apparent informality, this is an attorney-client relationship. It is between you and your client, not you, your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

Ending the relationship

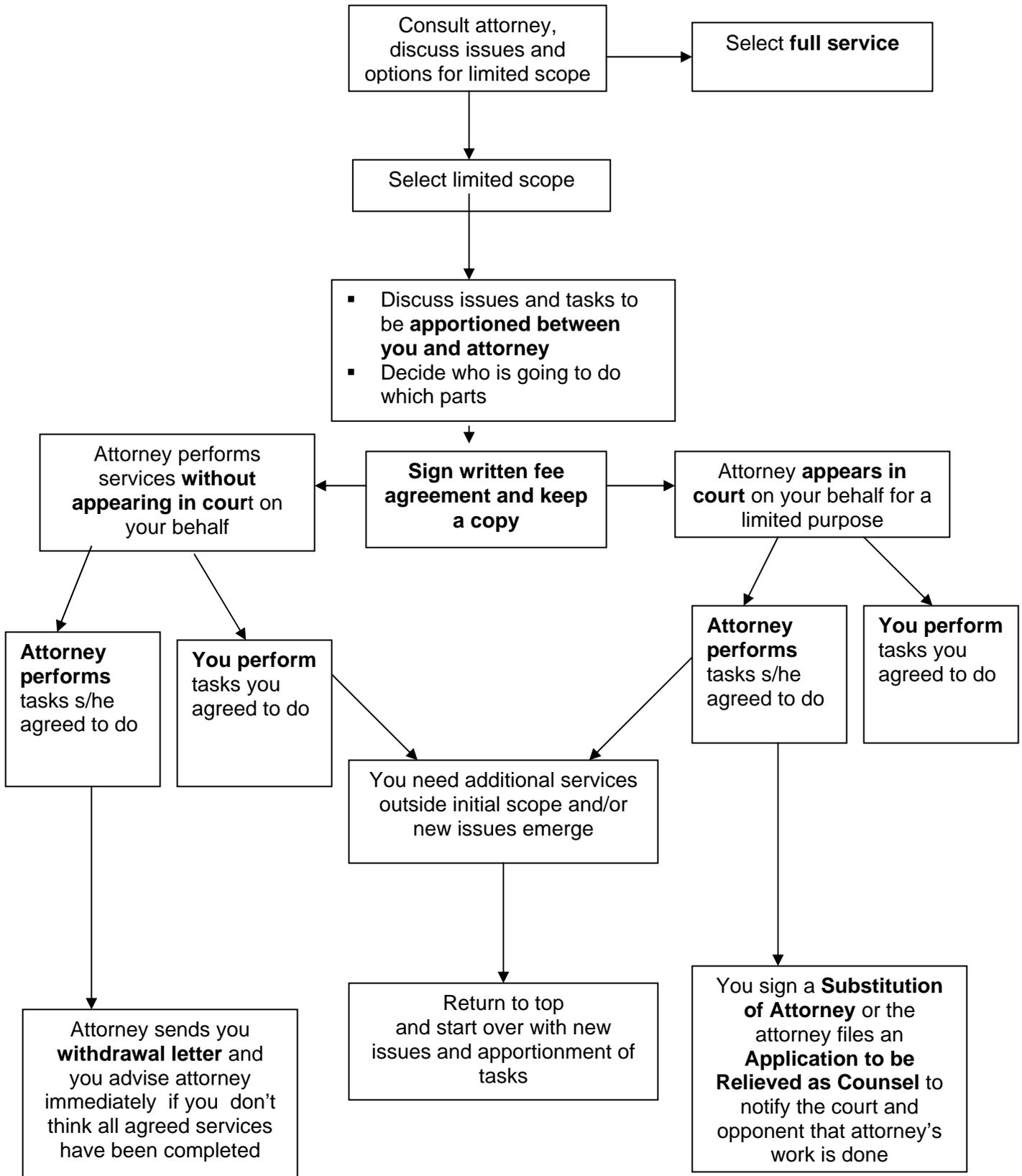
- 24. Let the client know when your involvement has ended.** There should be no surprises either to you or the client about when your involvement in the matter has ended, and no unstated expectations of continued participation on your part. Send out a notice at the end of your involvement in a matter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

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

Limited Scope Representation Flow Chart for Attorneys



Limited Scope Representation Flow Chart for Clients



Initial Interview Checklist

I met with _____ on _____, 200__ regarding _____ I performed a conflicts check on:		
We discussed the following issues:		
Date of Separation		
Custody	Visitation	Move Away
Child Support	I did / did not run Dissomasters	
Spousal Support	Amount	Duration
Restraining orders re		
Division of real property		Valuation of real property
Characterization of real property		
Business Interests	Bank Accounts	Personal Property
Employee Benefits		Medical Insurance
Collection of past due support		Wage Assignment
Stock Options		Stocks and bonds
Advised client of right to seek counsel on issues outside the scope:		
Other:		
We discussed the following coaching options:		
I gave the client the following materials:		
Issues checklist	Tasks checklist	Fee agreement #
Description of limited scope legal services		
Handout re restraining orders		Handout re personal property division
Blank court forms:		
Other:		

Attorney initials:	Client initials:
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Issues to be Apportioned

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

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

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

Tasks to Be Apportioned May Look Like This:

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

Issues to Be Apportioned May Look Like This:

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

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

Attachment to Limited Scope Fee Agreement

Tasks to be Apportioned

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

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

Attorney Initials _____

Client Initials _____

TASKS TO BE APPORTIONED, cont'd

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

Attachment to Limited Scope Fee Agreement
Issues to be Apportioned

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

Attorney Initials _____ **Client Initials** _____

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

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

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

ISSUES TO BE APPORTIONED, cont'd

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

Fee Agreement #1

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

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

Fee Agreement #2
Consulting Services Agreement

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

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

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

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

(Indicate *Yes* or *No* in box)

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

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

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

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

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

4. Method of Payment for Services:

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

- b. Payment from Deposit:** For a continuing consulting role, Client will pay to Attorney a deposit of \$_____, to be received by Attorney on or before _____, and to be applied against Attorney's fees and costs incurred by Client. This amount will be deposited by Attorney in Attorney's trust account. Client authorizes Attorney to withdraw the principal from the trust account to pay Attorney's fees and costs as they are incurred by Client. Any interest earned will be paid, as required by law, to the State Bar of California to fund legal services for indigent persons. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by Client for Attorney's fees and costs is less than the amount of the deposit, the difference will be refunded to Client.
- c. Costs:** All costs payable to third parties in connection with Client's case including filing fees, investigation fees, deposition fees and the like shall be paid directly by Client. Attorney will not advance costs to third parties on Client's behalf.

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

- 5. Discharge of Attorney:** Client may discharge Attorney at any time by written notice effective when received by Attorney. Unless specifically agreed by Attorney and Client, Attorney will provide no further services after receipt of the notice. Notwithstanding the discharge, Client will remain obligated to pay Attorney at the agreed rate for all services provided prior to such discharge.
- 6. Withdrawal of Attorney:** Attorney may withdraw at any time as permitted under the Rules of Professional Conduct of the State Bar of California. The circumstances under which the Rules permit such withdrawal include, but are not limited to, the following:
- The Client consents,
 - The Client's conduct renders it unreasonably difficult for the Attorney to carry out the employment effectively, and
 - The Client fails to pay Attorney's fees or costs as required by his or her agreement with the Attorney.
- Notwithstanding Attorney's withdrawal, Client will remain obligated to pay Attorney at the agreed rate for all services provided. At the termination of services under this agreement, Attorney will release promptly to Client on request all of Client's papers and property.
- 7. Disclaimer of Guarantee:** Although Attorney may offer an opinion about possible results regarding the subject matter of this agreement, Attorney cannot guarantee any particular result. Client acknowledges that Attorney has made no promises about the outcome and that any opinion offered by Attorney in the future will not constitute a guarantee.
- 8. Arbitration of Fee Dispute:** If a dispute arises between Attorney and Client regarding Attorney's fees or costs under this agreement and Attorney files suit in any court other than small claims court, Client will have the right to stay that suit by timely electing to arbitrate the dispute under Business and Professions Code sections 6200-6206, in which event Attorney must submit the matter for such arbitration.

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

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

The foregoing is agreed to by:

(Client)

(Attorney)

(Date)

(Date)

Fee Agreement #3
Ongoing Consulting Agreement

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

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

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

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

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

- a. _____ Legal advice: office visits, telephone calls, fax, mail, email;
- b. _____ Advice about availability of alternative means to resolving the dispute, including mediation and arbitration;
- c. _____ Evaluation of Client's self-diagnosis of the case and advising Client about legal rights and responsibilities;
- d. _____ Guidance and procedural information for filing or serving documents;
- e. _____ Review pleadings and other documents prepared by Client;

- f. _____ Suggest documents to be prepared;
 - g. _____ Draft pleadings, motions and other documents;
 - h. _____ Factual investigation: contacting witnesses, public record searches, in-depth interview of Client;
 - i. _____ Assistance with computer support programs;
 - j. _____ Legal research and analysis;
 - k. _____ Evaluate settlement options;
 - l. _____ Discovery: interrogatories, depositions, requests for document production;
 - m. _____ Planning for negotiations, including simulated role-playing with Client;
 - n. _____ Planning for court appearances, including simulated role-playing with Client;
 - o. _____ Standby telephone assistance during negotiations or settlement conferences;
 - p. _____ Backup and troubleshooting during the hearing or trial;
 - q. _____ Referring Client to expert witnesses, special masters or other counsel;
 - r. _____ Counseling Client about an appeal;
 - s. _____ Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;
 - t. _____ Provide preventive planning and/or schedule legal check-ups;
 - u. _____ Other: _____
-

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

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

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

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

5. Method of Payment for Services:

a. Hourly Fee:

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

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

b. Payment from Deposit:

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

Costs: Client will pay Attorney's out of pocket costs incurred in connection with this agreement, including long distance telephone and fax costs, photocopy expense and postage. All costs payable to third parties in connection with Client's case including filing fees, investigation fees, deposition fees and the like will be paid directly by Client. Attorney will not advance costs to third parties on Client's behalf.

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

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

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

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

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

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

8. Resolving Disputes between Client and Attorney

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

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

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

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

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

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

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

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

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

(Client)

(Attorney)

(Date)

(Date)

Fee Agreement #4⁴
Limited Representation Agreement including Court Appearance

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

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

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

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

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

3. Services to be performed by Attorney

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

⁴ Use in conjunction with the Tasks/Issues checklists at pages 17 - 19.

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

5. Method of Payment for Services:

a. Hourly Fee

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

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

Unless a different fee arrangement is established in clause b) of this paragraph, the hourly fee shall be payable at the time of the service. Attorney will charge in increments of one tenth of an hour, rounded off for each particular activity to the nearest one tenth of an hour.

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

- b. Payment from Deposit.** For a continuing consulting role, Client will pay to Attorney a deposit of \$_____, to be received by Attorney on or before _____, and to be applied against Attorney's fees and costs incurred by Client. This amount will be deposited by Attorney in Attorney's trust account. Client authorizes Attorney to withdraw the principal from the trust account to pay Attorney's fees and costs as they are incurred by Client.

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

Costs: Client will pay Attorney's out of pocket costs incurred in connection with this agreement, including long distance telephone and fax costs, photocopy expense and postage. All costs payable to third parties in connection with Client's case including filing fees, investigation fees, deposition fees and the like will be paid directly by Client. Attorney will not advance costs to third parties on Client's behalf.

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

6. Resolving Disputes between Client and Attorney

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

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

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

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

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

(Client)

(Attorney)

Sample Change in Scope Letter

Re: Limited Scope Representation

Dear _____:

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

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

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

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

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

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

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

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

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

Very truly yours,

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

Follow Up Checklist

Client:	
Attorney and Client consulted on	
By	(fill in date) Client will:
Obtain the following documents:	
Contact the following witnesses:	
Complete the following forms:	
Prepare the following information for coach:	
By	(fill in date) Attorney will:
Draft the following documents:	
Prepare the following forms:	
Contact the following witnesses:	
Research the law/procedure on:	
Review the following documents:	
Other:	
Other assignments:	
Attorney initials:	Client initials:

*****Tickler Checklist*** (Keep on Top of File)**

Client:				Case opened:		
Initial Intake Checklist completed and copy given to client on						
Revised dated:						
Materials given to Client					Date	
Unbundling Description						
Brochure						
Referral information						
Directions to court						
Family Court Services						
Facilitator						
DCSS						
Other						
Worksheet re scope of services and services NOT performed _____						
Modified and signed by attorney and client (new form for each change in scope)						
Dated:						
Notice of Limited Scope Representation served and filed (if going of record)						
Documents in hand signed by Client				Date	Modified on	
Intake Checklist						
Issues to be Apportioned						
Tasks to be Apportioned						
Retainer Agreement No.						
Other:						
Other:						
Other:						
Case Conclusion						
Closing letter sent:						
Substitution of attorney sent to client _____ (date), signed by client _____ (date) filed _____.						
Application to be Relieved as Counsel served and filed _____. Order granting application filed _____.						
Case Closed:						
Other Comments:						

Suggested Client Handouts

LIMITED SCOPE FAMILY LAW REPRESENTATION

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

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

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

Sample Closing Letter

Re: Limited Scope Representation

Dear _____:

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

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

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

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

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

- 1.
- 2.

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

- 1.
- 2.

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

Very truly yours,

Enclosures

Unbundling Web Links

ABA Unbundling Resource Center

http://www.americanbar.org/groups/delivery_legal_services/resources.html This is the ABA's resource center maintained by the Standing Committee on the Delivery of Legal Services. This is the clearing house for links to a wide variety of materials on unbundling, including documents separately listed here. As each state enacts new rules, and issues new reports, links are added. Note there is a matrix that gathers the resources for the individual states. The latest compilation of state's rules on unbundling is on their site at

http://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/court_rules.html

A comprehensive list of relevant reports can be found at

http://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/books_reports.html

National Center for State Courts

<http://www.ncsconline.org/wc/CourTopics/statelinks.asp?id=67&topic=ProSe> The National Center for State courts has posted links to limited scope rules in 40 states here. Check here to get an overview of state rules. Of course, be sure to check your own state's rules for the latest version.

New York Times Op-Ed Piece On January 2, 2010, the New York Times published an Op-Ed piece in favor of unbundling written by Chief Justice Broderick of New Hampshire and Chief Justice George of California. It can be found here:

<http://www.nytimes.com/2010/01/02/opinion/02broderick.html?ref=opinion>

California Rules of Court California adopted rules of court encouraging limited scope representation in family law cases in July 2003. (Rules 5.70 and 5.71). Similar rules were adopted for civil litigation in January 2007. (Rule 3.35 et. seq) Mandatory court forms were also adopted to accompany the rules. All may be located at <http://www.courts.ca.gov/rules.htm>

Risk Management Materials The California Commission on Access to Justice has developed a complete set of risk management materials for use in family law limited scope representation, including checklists, best practices, four variations on fee agreements, and the official California court forms. A pdf version can be located on the California State Bar website http://calbar.ca.gov/calbar/pdfs/accessjustice/Risk-Management-Packet_2004-01-12.pdf . For a Word version, email Chris.Zupanovich@calbar.ca.gov and she will get it to you. This is an essential resource for anyone contemplating representing family law clients on a limited scope basis. A companion set of civil risk management materials is available for free download at http://www.courtinfo.ca.gov/programs/equalaccess/documents/Risk_Management_Materials_Civil.pdf

California Judicial Council Website

<http://www.courts.ca.gov/partners/52.htm#limited>

This is the link to a wealth of unbundling materials on the California Judicial Council website. It has direct links to both the family law and civil risk management materials,, the Ethics Primer listed below, limited scope court forms, as well as the **Report of the Limited Representation Committee of the California Commission on Access to Justice (2001)** many more resources.

Ethics Primer The California State Bar's Committee on Professional Responsibility and Conduct has posted an Ethics Primer on Limited Scope Representation at

http://ethics.calbar.ca.gov/LinkClick.aspx?fileticket=_gb8teBEN0s%3D&tabid=834

Stephanie Kimbro “Unbundling and the Future of Delivery of Legal Services” This lecture at Stanford Law School on May 2, 2012 provides provocative insights into the confluence of limited scope representation and the larger picture of the evolution of legal services delivery. <http://www.youtube.com/watch?v=tyhYXO-c5HE>

California Law Review Article This 2010 article details California’s response to the crisis of self-represented litigants in California. <http://www.californialawreview.org/articles/self-represented-litigants-in-family-law-the-response-of-california-s-courts>

Practising Law Institute Free Webcast Trainings As a public service, Practising Law Institute (PLI) has sponsored a series of free trainings on limited scope representation. The currently active webcast training, Expanding Your Practice Using Limited Scope Representation is available free on demand at http://www.pli.edu/Content/OnDemand/Expanding_Your_Practice_Using_Limited_Scope/_N-4nZ1z12uzg?fromsearch=false&ID=153434 CLE credit is available for most states, including one hour ethics.

Colorado Ethics Opinion <http://www.cobar.org> This is the Colorado Bar Association web site. Look for **Ethics Opinion 101** for a comprehensive discussion of the ethical issues, and citations to opinions in other states. (Note that this is a 1998 opinion encouraging limited scope).

Los Angeles County Ethics Opinion <http://www.lacba.org> This is the Los Angeles County Bar web site. Look for **Ethics opinion 502**. It is the only California opinion, and was very thoughtfully written by some ethics and malpractice experts.

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

Best Practices for the Administration of Court Sponsored Lawyer For A Day Programs (Limited Scope/Unbundled Legal Service Programs) The New York City Courts established a highly successful limited scope volunteer lawyer for the day program in their high-volume housing courts. They took that experience and created a replicable model which has been expanded to other courts, and prepared a set of Best Practices which are an invaluable resource to anyone who is contemplating setting up a court sponsored lawyer for the day program. http://www.nycourts.gov/ip/nya2j/pdfs/NYSA2J_BestPracticesVLFD.pdf

New York Housing Court Pilot Project Report – This successful pilot project provided trained, supervised lawyers for a day to pro se housing court litigants who would otherwise be without access to representation. The report can be found at <http://www.nycourts.gov/courts/nyc/housing/videos.shtml#publications>

Unbundledlaw.org <http://www.unbundledlaw.org> This was the original unbundled website set up by the Maryland Legal Assistance Network (MLAN). It has not been updated for some time, but was recently taken over by M. Sue Talia, who plans to update it for easy reference to the status of rules and ethics opinions around the country. Keep checking in.

ABA Model Rule 1.2 specifically authorizes limited scope representation. It can be found at http://www.abanet.org/cpr/mrpc/rule_1_2.html

ABA Model Rule 6.5 encourages nonprofit and court based programs to offer limited scope representation by relaxing the rules on conflicts. It can be found at http://www.abanet.org/cpr/mrpc/rule_6_5.html

Massachusetts report

<http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/limitedreppilotprojectstandingorder.pdf>

http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/faq_courtandlawyer.pdf

http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/faq_litigants.pdf

Lawyer's Mutual of North Carolina Risk Management Materials

http://www.lawyersmutualnc.com/documents/risk-management/Unbundling_Legal_Services.pdf Lawyer's Mutual of NC speaks approvingly of limited scope and the benefits to clients when done correctly. Note that many of these risk management materials were lifted directly from those approved by the CA Commission on Access to Justice in 2004.

Massachusetts Limited Assistance Online Resources

<http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/lar.html>