



NEW YORK STATE  
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS  
CHIEF ADMINISTRATIVE JUDGE

JOHN W. McCONNELL  
COUNSEL

June 22, 2018

To: All Interested Persons

From: John W. McConnell

Re: Request for Public Comment on Proposed Guidelines for Attorneys Providing Limited Scope Legal Assistance to Clients in Civil Matters

=====

The Administrative Board of the Courts is seeking public comment on proposed guidelines for providing limited scope legal assistance to clients in civil matters. In brief, these proposed guidelines (Exh. A), prepared by the Unified Court System's Office for Justice Initiatives in collaboration with the Subcommittee on Limited Scope Representation of the New York State Bar Association President's Committee on Access to Justice, are designed to instruct practitioners generally about the rules, ethical opinions and court orders addressing limited scope representation, and to facilitate such representation through the use of several proposed model forms. These objectives, which are in accord with a policy statement adopted by the Unified Court System in late 2016 supporting limited scope representation as a means to provide civil legal assistance to unrepresented litigants (Exh. B), are described in greater detail in a supporting memorandum prepared by the Subcommittee on Limited Scope Representation (Exh. C).

=====

Persons wishing to comment on these proposed guidelines should e-mail their submissions to [rulecomments@nycourts.gov](mailto:rulecomments@nycourts.gov) or write to: John W. McConnell, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11<sup>th</sup> Fl., New York, New York 10004.  
**Comments must be received no later than August 20, 2018.**

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

## **EXHIBIT A**

# DRAFT

## **PART \_\_\_\_ Guidelines for Attorneys Providing Limited Scope Legal Assistance to Clients (“Limited Scope Representation”)**

For purposes of these Guidelines, limited scope representation means representation by an attorney limited to one or more discrete tasks or portions of a civil legal matter. It does not include full representation of a matter, with limitations on responsibility for any other legal matters. These Guidelines do not apply to criminal matters.

### **A. Guidelines for Limited Scope Representation Under Rule 1.2 of the New York Rules of Professional Conduct**

RULE 1.2. (c) states, “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances, the client gives informed consent and where necessary notice is provided to the tribunal and/or opposing counsel.”

**I: Whether proposed limited scope representation is reasonable must be determined by analysis on a case-by-case basis with a thorough assessment of the legal matter and circumstances.**

Reasonable conduct is defined as action of a prudent and competent lawyer. Rule 1.1(q). When assessing the reasonableness of limiting the scope of representation, the first consideration should be whether the client has limited objectives (such as securing general information about the law). The lawyer should assess the specific facts of the client’s case and the relevant laws to determine whether representation can reasonably be limited to in scope in terms of the time required, methods pursued, objectives sought, etc. The determination of reasonableness depends on the particular facts involved and the extent of a lawyer’s participation on behalf of a client. Opinion 613 at paragraph 10.

**II: Informed client consent must be obtained before an attorney may engage in limited scope representation.**

Informed consent is defined as “the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.” NY Rules of Professional Conduct 1.1(j).

Generally speaking, in matters where the limited scope representation does not include appearances before a court, such informed consent need not be in writing. . However, even in such cases it is strongly recommended that the attorney and client jointly execute a written agreement outlining the scope of representation or, at a minimum, that the attorney memorialize the agreement in writing.. See NY Rules of Professional

# DRAFT

Conduct 1.5(b); 22 NYCRR 1215; and ABA Formal Opinion 472. A lawyer providing limited representation should include in the consultation with the client an explanation of the risks and benefits of such representation, including the potential costs and time associated with retaining separate counsel should the case continue beyond the scope of limited representation.

When an attorney will appear in court under a limited scope representation arrangement, the attorney and client must execute a retainer agreement which clearly articulates the scope of representation and the client's informed consent to the arrangement, and the court must deem the limited appearance appropriate under the circumstances. See Administrative Order/285/16.

A general form of such an agreement is attached(Appendix 1).

### **III: An agreement for limited representation does not alter the duty of a lawyer to provide competent representation.**

Pursuant to Rule 1.1 a lawyer is required to provide competent representation to clients at all times. Under an arrangement of limited scope representation, the limitation in scope is merely one factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. Rule 1.2(c) commentary.

Limited scope representation often arises in the context of the provision of pro bono services by volunteer attorneys. In such cases, competency for pro bono attorneys can be built through training at a legal services agency, co-counseling with Attorney Emeritus mentors or receiving mentoring from private attorneys experienced in the substantive area of law. Competence includes cultural competence and competent representation of working with pro bono clients.

### **IV: Completion of a certified training course is a prerequisite for limited scope representation for court appearances.**

Before making an appearance in court and seeking judicial approval of a limited scope representation agreement, the appearing attorney must complete a certified training course in limited scope representation administered by the Office of Court Administration. [NOTE: Once the training is recorded and available, a link will be added here]

### **V: The provision of limited scope representation must accord with the other rules of ethics and professional responsibility.**

# DRAFT

In providing limited scope representation, an attorney remains bound by the New York Rules of Professional Conduct, including the duty to provide competent representation (Rule 1.1), to act with reasonable diligence (Rule 1.3), to communicate with the client (Rule 1.4), to maintain confidentiality of information (Rule 1.6), and to act responsibly with a client with diminished capacity (Rule 1.14).

A special rule addressing conflicts of interest applies in cases of limited scope representation which are performed through certain pro bono programs. (Rule 6.5; Guidelines section B.)

## **VI: Necessary notice must be provided to the tribunal in limited scope court appearances.**

Judicial consent is required for all in court limited scope representation. In making a limited appearance for a client, an attorney must inform the court that the representation will be limited and the scope of such representation. See Administrative Order/285/16 (it is "the policy of the Unified Court System to support and encourage the practice of limited scope legal assistance in appropriate cases, and to encourage judges and justices to permit attorneys to appear for limited purposes in civil cases"). Such disclosure should be made prior to the filing of a notice of appearance when practicable and set forth either in writing or on the record of the Court proceedings. The notice should specify what the limitations are. If the terms of the limitation or other circumstances would not make it obvious when the limited representation will end, the attorney should notify the court when their limited representation has concluded. See Appendix 2 for a sample form Notice of Limited Scope Appearance. [NB: Do we have a form Notice of Withdrawal from LSR?]

See Appendix 3 for a sample form Notice of Conclusion of Limited Scope Representation.

## **VII: Limited Scope Representation by preparing pleadings for pro se litigants ("ghost writing") is ethically permissible if the attorney's name is disclosed.**

Limited scope representation may include the preparation by an attorney of legal papers for a client. However, preparation of a pleading, even a simple one, for a pro se litigant constitutes "active and substantial" aid requiring disclosure of the lawyer's participation. NYSBA Committee on Professional Ethics, Opinion 613 (hereinafter cited as Opinion 613) at paragraph 15. Preparing pleadings for pro se litigants is ethically permissible if the attorney, law firm, or legal services agency is identified by name in the pleading. *Id.* Disclosure of attorney's name on prepared pro se pleadings does not constitute an appearance as an attorney of record. For sample disclosure options, see Appendix 4.

# DRAFT

**B. Guidelines for Programs Operated Under Rule 6.5 of the Rules of Professional Conduct (Participation in Limited Pro Bono Legal Services Programs) I:** The general guidelines for attorneys providing limited scope representation are likewise applicable to participants in limited pro bono legal services programs under Rule 6.5.

I.1.: Rule 6.5 of the Rules of Professional Conduct provides for participation by attorneys in limited scope pro bono legal services programs, and sets forth exceptions to attorney conflict of interest rules for participants in such programs. Generally speaking, all of the Guidelines described in PART \_\_, A. above are applicable to representation provided under Rule 6.5 as described in PART \_\_\_\_, B.

**II. Participating attorneys are responsible for determining that the program meets all requirements under Rule 6.5.**

The special attorney conflict of interest considerations that stem from Rule 6.5 of the Rules of Professional Conduct are only applicable if the requirements listed below in II.1, II.2, and II.3 are all met. For the full text of Rule 6.5, see Appendix 5.

II.1: Type of sponsor - A lawyer must be working "under the auspices of a program sponsored by a court, government agency, bar association or not-for-profit legal services organization". Rule 6.5(a). It is the responsibility of the participating attorney to make reasonable inquiries to ensure that this requirement is met.

II.2: Short term limited legal services - Only "short term limited legal services" are covered. Short term limited legal services are defined as "services providing legal advice or representation free of charge as part of a program described in paragraph (a) [II.1 above] with no expectation that the assistance will continue beyond what is necessary to complete an initial consultation, representation or court appearance." Rule 6.5(c)

a. Without charge to client - Rule 6.5(c). Neither the participating attorney nor the sponsoring program may charge the client any fee for services. The client may be required to pay any costs which are not waived, if applicable.

b. Without expectation that representation will continue - Rule 6.5(a) and (c). The representation must be limited in scope and not on-going representation.

II.3: The participating attorney "must secure the client's informed consent to the limited scope of the representation". Rule 6.5(e). This may be done by the program

# DRAFT

staff. However, it should be clearly communicated to the client in plain language so that the client is truly giving informed consent. When practical, the informed consent should be in writing and signed by the client. For a sample see Appendix 6. However, in instances when this is not practical (for instance, if the interaction is occurring over the telephone), the program's client file should contain a clear statement of what the client was told about the nature of the representation and whether or not the client gave their consent to limiting the representation. In any case where the client is unwilling to provide informed consent to the limitations on representation, the program and/or attorney should inform the client that they are unable to provide services to the client and attempt to provide the client with an appropriate referral, if possible.

### **III: Participants should be familiar with the special conflict of interest rules which are applicable to limited pro bono legal services programs**

III.1: If the requirements under GUIDELINE B II are met, the normal conflict of interest rules (Rules 1.7, 1.8, and 1.9) do not apply to the participating lawyer unless:

- a. The participating lawyer has actual knowledge of a conflict - Rule 6.5(a)(1) and (2); or
- b. The participating lawyer gains actual knowledge of a conflict during the limited scope representation – Rule 6.5(e); or
- c. The Court determines that there is a conflict - Rule 6.5 (e).

If the requirements under GUIDELINE II are met, then there is no requirement that the participating lawyer consult a law firm conflict checking system with regard to the proposed representation. NYSBA Committee on Professional Ethics, Opinion 1012 (7/30/2014) (hereinafter cited as Opinion 1012) at paragraph 9. However, if III.1. a, b, or c occur, then the participating lawyer should apply the applicable conflict of interest rule(s) as in any other representation.

If the participating lawyer has already agreed to provide limited scope representation and later either: (1) gains knowledge of a conflict which makes it improper for the representation to continue; or (2) a Court determines that there is a conflict which makes it improper for the representation to continue, then the participating attorney must promptly notify the client, the program, the Court (if applicable), and the opposing side (if applicable). For a sample Notice of Withdrawal from Limited Scope

# DRAFT

## **IV: Participants should be aware of the special rules concerning imputation of conflicts of interest which are applicable to limited pro bono legal services programs.**

IV.1: If the requirements under GUIDELINE II are met, then the normal rule imputing a conflict of interest from another attorney in the participating lawyer's firm (Rule 1.10) does not apply unless:

- a. The participating lawyer has actual knowledge of a conflict that could be imputed to him/her- Rule 6.5(a)(1) and (2); or
- b. The participating lawyer gains actual knowledge during the limited scope representation of a conflict that could be imputed to him/her- Rule 6.5(e); or
- c. The Court determines that there is a conflict that will be imputed to the participating lawyer -- Rule 6.5 (e)

If a, b, or c occur, then the participating lawyer should apply Rule 1.10 as in any other representation.

If the participating lawyer has already agreed to provide limited scope representation and later either: (1) gains knowledge of an imputed conflict which makes it improper for the representation to continue; or a Court determines that there is an imputed conflict which makes it improper for the representation to continue, then the participating attorney must promptly notify the client, the program, the Court (if applicable), and the opposing side (if applicable). For a sample Notice of Withdrawal from Limited Scope Representation Due to a Conflict of Interest, see Appendix 7. If the participating attorney has appeared as a Limited Scope Attorney of Record in a Court Proceeding, then the permission of the Court is required for the attorney to withdraw.



# DRAFT

## **V: Participants should be familiar with recordkeeping and future conflict check requirements arising from participation in pro bono legal services programs.**

V.1: While the program should maintain appropriate records of each representation, there is no requirement that the participating attorney maintain any written records of the limited scope representation which occurs under Rule 6.5.

V.2: Participation by an attorney in a limited pro bono legal services program under Rule 6.5 “does not require the Participating Lawyer or that Lawyer’s firm to enter the limited-services relationship into the firm’s conflict-checking system.” Opinion 1012 at paragraph 9.

V.3: After the participating lawyer concludes a matter under a limited pro bono legal services program, that representation is not considered relevant for determining future conflicts of interest under the normal conflict of interest rules (Rules 1.7, 1.8, and 1.9) unless:

- a. The participating lawyer has actual knowledge of a conflict - Rule 6.5(a)(1) and (2); Opinion 1012 at paragraph 12; or
- b. The participating lawyer gains actual knowledge of a conflict – Rule 6.5(e); Opinion 1012 at paragraph 13; or
- c. The Court determines that there is a conflict Rule 6.5 (e); Rule 6.5(a)(1).

If a, b, or c occur, then the participating lawyer should apply the applicable conflict of interest rule(s) as in any other representation.

## **VI: Participants should be familiar with the circumstances under which prior participation in a pro bono legal services program give rise to the imputation of a conflict of interest .**

VI.1: After the participating lawyer completes a limited scope representation, that limited scope representation is never imputed to other members of the participating lawyer’s firm. Opinion 1012 at paragraphs 15 & 16.

Even if the participating lawyer is disqualified from some future representation as a result of a limited scope representation that met the requirements of Rule 6.5, that

# DRAFT

conflict is not imputed to other members of the participating lawyer's firm. Opinion 1012 at paragraph 16.

## VII: Client Confidentiality

VII.1: Confidential information from all clients including former limited scope clients must be protected under the normal confidentiality rules. Rule 1.6; Opinion 1012 at paragraph 17.

## APPENDICES

### APPENDIX 1:

#### MODEL LIMITED REPRESENTATION AGREEMENT

(Used in conjunction with Rule 1.2 the following form shall be sufficient to satisfy the rule. The authorization of this form shall not prevent the use of other forms consistent with this rule.)

To Be Executed in Duplicate

Date: \_\_\_\_\_, 20\_\_

1. The client, \_\_\_\_\_, retains the attorney, \_\_\_\_\_, to perform limited legal services in the following matter:   v  .
2. The client seeks the following services from the attorney (indicate by writing "yes" or "no"):
  - a. \_\_\_\_\_ Legal advice: office visits, telephone calls, fax, mail, e-mail;
  - b. \_\_\_\_\_ Advice about availability of alternative means to resolving the dispute, including mediation and arbitration;
  - c. \_\_\_\_\_ Evaluation of client 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, indepth interview of client;

# DRAFT

- 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;
- n. \_\_\_ Planning for court appearances;
- o. \_\_\_ standby telephone assistance during negotiations or settlement conferences;
- p. \_\_\_ Referring client to expert witnesses, special masters, or other counsel;
- q. \_\_\_ Counseling client about an appeal;
- r. \_\_\_ Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;
- s. \_\_\_ Provide preventive planning and/or schedule legal check-ups;
- t. \_\_\_ Other:

3. The client shall pay the attorney for those limited services as follows:

a. Hourly Fee: The current hourly fee charged by the attorney or the attorney's law firm for services under this agreement are as follows:

- i. Attorney:
- ii. Associate:
- iii. Paralegal:
- iv. Law Clerk:

b. Fees NOTE INSERT YOUR WRITTEN FEE ARRANGEMENTS HEREc. Costs: Client shall pay attorney 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 case, including filing fees, investigation fees, deposition fees, and the like shall be paid directly by client. Attorney shall not advance costs to third parties on client behalf.

4. The client understands that the attorney will exercise his or her best judgment while performing the limited legal services set out above, but also recognizes:

- a. the attorney is not promising any particular outcome.
- b. the attorney has not made any independent investigation of the facts and is relying entirely on the client limited disclosure of the facts given the duration of the limited services provided, and

# DRAFT

c. the attorney has no further obligation to the client after completing the above described limited legal services unless and until both attorney and client enter into another written representation agreement.

5. If any dispute between client and attorney arises under this agreement concerning the payment of fees, the client and attorney shall submit the dispute for fee arbitration. This arbitration shall be binding upon both parties to this agreement.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

Signature of client

Signature of attorney

## **APPENDIX 2:**

### **NOTICE OF LIMITED SCOPE APPEARANCE**

[NOTE: FORM TO BE DEVELOPED]

## APPENDIX 3:

### NOTICE OF CONCLUSION OF LIMITED SCOPE REPRESENTATION

[NOTE: FORM TO BE DEVELOPED]

## **APPENDIX 4:**

**DISCLOSURE OPTIONS for Preparation of Pleadings for Pro Se Litigants (“Ghost Writing”). Notice should be clearly set forth on the pleading.**

### **OPTION #1:**

{Name and address of attorney or law firm} assisted the litigant with the preparation of this document, but DOES NOT APPEAR on his or her behalf.

### **OPTION #2:**

“An attorney licensed to practice in New York State, affiliated with \_\_\_\_\_ assisted in the preparation of this document. Neither [ law firm / nonprofit / legal services agency] nor the attorney is entering an appearance on behalf of this party.”

### **OPTION #3:**

“I, \_\_\_\_\_, an attorney duly licensed to practice in New York State, assisted in the preparation of this document but am not entering an appearance on behalf of this party.”

[NB: Where should this notice appear?]

# DRAFT

## APPENDIX 5:

### **RULE 6.5 OF THE RULES OF PROFESSIONAL CONDUCT**

#### **RULE 6.5: PARTICIPATION IN LIMITED PRO BONO LEGAL SERVICES PROGRAMS**

(a) A lawyer who, under the auspices of a program sponsored by a court, government agency, bar association or not-for-profit legal services organization, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) shall comply with Rules 1.7, 1.8 and 1.9, concerning restrictions on representations where there are or may be conflicts of interest as that term is defined in these Rules, only if the lawyer has actual knowledge at the time of commencement of representation that the representation of the client involves a conflict of interest; and

(2) shall comply with Rule 1.10 only if the lawyer has actual knowledge at the time of commencement of representation that another lawyer associated with the lawyer in a law firm is affected by Rules 1.7, 1.8 and 1.9.

(b) Except as provided in paragraph (a)(2), Rule 1.7 and Rule 1.9 are inapplicable to a representation governed by this Rule.

(c) Short-term limited legal services are services providing legal advice or representation free of charge as part of a program described in paragraph (a) with no expectation that the assistance will continue beyond what is necessary to complete an initial consultation, representation or court appearance.

(d) The lawyer providing short-term limited legal services must secure the client's informed consent to the limited scope of the representation, and such representation shall be subject to the provisions of Rule 1.6.

(e) This Rule shall not apply where the court before which the matter is pending determines that a conflict of interest exists or, if during the course of the representation, the lawyer providing the services becomes aware of the existence of a conflict of interest precluding continued representation.

## APPENDIX 6:

# DRAFT

## INFORMED CONSENT FOR A PROGRAM UNDER RULE 6.5:

### I understand and agree to the following:

I understand that I am meeting with a attorney participating with the [NAME OF PROGRAM], and that legal services provided to me will be limited to the consultation and assistance at today's clinic and will terminate upon the completion of this clinic. Neither the [NAME OF PROGRAM] nor the attorney is agreeing to represent me as my attorney after today, and I will be provided only with information and advice based upon the information that I provide today during my meeting with the volunteer attorney. Everything I discuss today with the [NAME OF PROGRAM] will be kept confidential to the full extent permitted by the law and required by lawyers' ethical rules.

---

I also understand that these legal services today will be provided to me for free.

Client

### APPENDIX 7:

sample Notice of Withdrawal from Limited Scope Representation Due to a Conflict of Interest

[NOTE: FORM TO BE DEVELOPED]

## **EXHIBIT B**

ADMINISTRATIVE ORDER OF THE  
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS  
WITH THE CONSENT OF THE  
ADMINISTRATIVE BOARD OF THE COURTS

Whereas, the due administration of justice is the firmest pillar of good government and a just society; and

Whereas, a crucial component of due administration of justice is the availability of qualified legal counsel to all who come before the courts, in matters civil and criminal, without regard to economic station; and

Whereas, it has been estimated that 1.8 million people attempt to navigate New York State's civil justice system without benefit of counsel each year; and

Whereas, the legal issues presented in the civil matters of these unrepresented litigants – including domestic violence, veterans' rights, consumer credit, foreclosure, eviction, divorce – address the most fundamental matters of health, security and well-being of the participants; and

Whereas, this large number of unrepresented litigants in civil matters before the New York State courts imposes upon the administrative leadership of the Unified Court System a responsibility to exercise its discretion to take all appropriate steps to increase legal assistance to low- and moderate- income individuals in civil cases; and

Whereas, limited scope legal assistance (also called unbundled legal services or discrete task legal assistance) constitutes an attorney-client relationship in which, by advance agreement of the parties, the legal services provided by attorney to client are limited in scope and duration to a degree less than full service representation; and

Whereas, the provision of limited scope legal assistance by attorneys is ethically permitted pursuant to the Rules of Professional Conduct (22 NYCRR Part 1200, Rule 1.2[c]); and

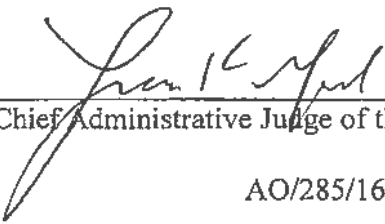
Whereas, in the opinion of the Administrative Board of the Courts, the expanded use of limited scope legal assistance by properly trained attorneys constitutes an appropriate method to broaden access to civil legal assistance to unrepresented litigants;

Now therefore, by the powers vested in me, and with the advice and consent of the Administrative Board of the Courts, I declare it the policy of the Unified Court System to support and encourage the practice of limited scope legal assistance in appropriate cases, and to encourage judges and justices to permit attorneys to appear for limited purposes in civil cases under the following circumstances:

1. the appearing attorney has completed a certified training course in limited scope representation administered by the Office of Court Administration; and
2. the attorney and client have executed a retainer agreement which clearly articulates the scope of limited representation, and the client has given informed consent to the arrangement; and



3. the court deems the limited appearance otherwise appropriate under the circumstances.

  
\_\_\_\_\_  
Chief Administrative Judge of the Courts

Dated: December 16, 2016

AO/285/16

## **EXHIBIT C**

TO: Hon. Edwina G. Mendelson; Michelle Smith, Esq.; and John McConnell, Esq.

FROM: The NYSBA President's Committee on Access to Justice Subcommittee on Limited Scope Representation

RE: Proposed Guidelines for Limited Scope Legal Assistance

Date: May 31, 2018

## BACKGROUND

In November 2016 the House of Delegates of the New York State Bar Association approved a report of the Association's President's Committee on Access to Justice ("PCAJ") encouraging the support and utilization of limited scope representation for low and moderate income persons in civil matters.

Subsequent to this vote, the PCAJ formed a subcommittee to work implementation of the report. Amongst other things, the subcommittee has worked collaboratively on the attached proposed Guidelines for Attorneys Providing Limited Scope Legal Assistance (Guidelines).

These Guidelines are an attempt to bring together the existing rules, ethical opinions, and Court Orders concerning limited scope civil representation into a single document that attorneys considering limited scope representation can consult. The goal was to make an easy to understand set of guidelines with a set of attachments that could be utilized for implementing limited scope representation.<sup>1</sup>

## BRIEF OVERVIEW

For purposes of these proposed Guidelines, limited scope representation means representation by an attorney limited to one or more discrete tasks or portions of a civil legal matter. It does not include full representation of a matter, with limitations on responsibility for any other legal matters.

These Guidelines do not apply to criminal matters.

The proposed Guidelines are broken down into two main sections, 'A' and 'B'. Section A is broad and applies to any civil representation which can be characterized as limited scope. The primary authority permitting limited scope representation in New York is Rule 1.2 of the New York Rules of Professional Conduct.

Section B is narrower in focus and only applies to limited scope representation being performed "under the auspices of a program sponsored by a court, government agency, bar association or not-for-profit legal services organization". Rule 6.5(a) of the New York Rules of Professional Conduct. If limited scope representation being performed under such a program also meets certain other requirements, then Rule 6.5 of the New York Rules of Professional Conduct creates special relaxed conflict of interest rules related to the limited scope work. These relaxed conflict of interest rules also apply when the participating attorney returns to her/his private practice and potential conflicts arise between representation of private clients and clients represented through the program covered by Rule 6.5.

---

<sup>1</sup> These Guidelines would not create any new obligations or requirements.