

Limited Scope Representation

By Damon Goldstein

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LIMITED APPEARANCE

JD-CL-121 Rev. 2-16
R.P.C. 4.2
P.B. 3-3(b), 3-8(a)(b), 10-13

STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.ct.gov

(Note: **Self-represented parties (pro se parties):** Do not use this form. Use form JD-CL-12.)

Instructions to Attorneys:

1. Fill out the form, including the certification section at the end of the form. File the original paper version of this form with the clerk. Mail or deliver a copy to all attorneys and self-represented parties of record.
2. If this limited appearance is not being filed in place of another limited appearance, check each event or proceeding for which the limited appearance is being filed. Do not complete the "In place of" or the "In addition to" boxes.
3. If you are filing a limited appearance in place of another attorney with a limited appearance, the event(s) or proceeding(s) on your in place of limited appearance must exactly match the event(s) or proceeding(s) on the limited appearance being replaced. Indicate these events by completing the "In place of" box that corresponds with the event(s) or proceeding(s).

Return date _____
Docket number _____ - S

Name of Case (Full name of Plaintiff v. Full name of Defendant) _____
Address of Court (Number, state, town and zip code) _____

Judicial District Small Claims Housing

1. Enter the Limited Appearance of: _____ (Juris number)

Attorney	State	Zip
Firm	City	
Address		
Phone	Email address	

For the following party or parties:

Party	City	Zip	Phone
Address			
Party	City	State	Phone
Address			

2. The attorney's appearance in this matter is limited to the following event(s) and/or proceeding(s). If necessary, provide a description of the event and/or proceeding for which the limited appearance is being filed.

Event or Proceeding	Appearance in place of (if applicable)

appearance in addition to, if applicable (name and Juris number)



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Nearly every article written about the aspirational quest for equal access to justice for all, at some point or another, cites the rising number of self-represented parties in our courts as one of the primary barriers to achieving justice. The rising number of self-represented parties directly correlates to an increasing level of unmet legal needs among Connecticut individuals and families. People need attorneys to help and advocate for them. Attorneys need access to a viable revenue stream and clients who have unmet legal needs. With the ever-increasing demand for legal services, limited scope representation (LSR) can span the divide between the need for legal help and the growing demand for legal services. LSR can provide stability and sustenance for both attorneys and clients, while providing much-needed relief to resource strapped courts.

Limited scope representation (LSR) means that an attorney represents or assists a party with part, but not all, of his or her legal matter. As of January 1, 2016, an attorney may file a limited appearance in any civil, housing, small claims, family, or family support magistrate matter in any judicial district pursuant to Practice Book § 3-8 (b). The attorney and party enter into a retainer agreement defining the scope of the legal assistance, including which tasks the attorney will be responsible for and which tasks the party will be responsible for. When the representation is concluded, the attorney must file a certificate of completion with the court to inform the court that the attorney's obligation to represent the client has terminated. Not every type of practice is conducive to limited scope representation, but in an area of practice such as family law and civil matters such as foreclosures, it can be very effective and useful for both the attorney and the individual. Any Connecticut attorney may choose to provide LSR services. The decision re-

garding whether to limit the scope of legal services, and when, is entirely between the attorney and the client. Under Rules of Professional Conduct Section 1.2 (c), attorneys may limit the scope of their representation if the representation is reasonable under the circumstances and the client gives informed consent.

Other states that allow LSR have reported that the discrete representation or the limited nature of the representation enables lawyers to potentially expand their client base and broaden their practices. There are many areas of court representation where parties cannot easily afford counsel for the full duration of the matter. With LSR, lawyers elsewhere have successfully expanded their practices to handle matters for clients who could not previously afford them. It has also reduced uncollectible accounts receivable for lawyers who were previously required to continue representation beyond the expected duration of the matter. In other jurisdictions, LSR has caused no increase in grievance filings against lawyers. It requires a careful discussion in advance of the representation about what the client can expect from the lawyer and what parts of the case the lawyer will not handle at all. This clarity about the lawyer's role has tended to reduce misunderstandings and frustrations on the part of both clients and lawyers. Malpractice insurance carriers and agents report no concerns or issues with coverage for lawyers engaged in limited scope representation practices.¹

There are many factors that should be considered when deciding whether to provide LSR. The ultimate decision about whether and how to provide limited legal services depends upon the capabilities of the party, the nature and importance of the legal problem, and the availability (or not) to the party of other self-help resources. These are individualized decisions that lawyers and parties make jointly. The attorney should consider if it is "reasonable" for the

client and the attorney to divide up tasks in the matter. The general test of whether LSR is appropriate, proposed by the ABA, is whether the legal assistance is "reasonable under the circumstances." If the issues are inseparable between the limited scope and other parts of the case, the attorney will likely conclude that the limitation is not workable. The attorney should also be careful to work within his or her expertise and to not be pressured by emergency situations or clients who may have unrealistic expectations.

An attorney must follow all ethical rules and standards of professional responsibility whether providing full or limited representation to a client. The requirements of zealous advocacy, confidentiality, avoiding conflicts of interest, etc. apply. Limited scope does not mean limited liability or limited responsibility. Clients must be advised on related issues even if they don't ask. In addition, any changes in the scope of the representation must be documented using the forms that have been created for this purpose. The client must understand the scope of the representation so that there are no questions about when it ends.

There are many different types of LSR. One example would be providing legal advice to an individual about a case or a legal problem he or she is involved in. Another example would be drafting documents or pleadings for the individual. This is commonly referred to as "ghost-writing." In this instance, pursuant to Practice Book Rule 4-2 (c), the attorney is required to disclose on the pleading or document that it was "prepared with assistance of counsel," but the attorney is not required to disclose his or her name or juris number. A third example would be legal coaching. That is, for example, providing legal guidance about the legal or court process such as how to introduce evidence, how to cross examine a witness, general courtroom decorum, and procedure. A final example would be filing

a limited appearance where the attorney represents the party in court for a particular event or proceeding in his or her case.

If an attorney represents a party in Connecticut courts for an event or proceeding, a limited appearance (Form JD-CL-121) must be filed. This form is available in every clerk's office, Court Service Center, and law library locations and on the Judicial Branch website. A Limited Appearance may only be filed in connection with a court event or proceeding in a civil, housing, small claims, family or family support magistrate matter. A limited appearance may not be filed for a particular length of time, the exhaustion of a fee or to address a specific issue. For example, an attorney may not file a limited appearance in a family matter stating that it is for purposes of "all issues regarding alimony or child support," because that is not a specific event or proceeding. Possible court events for which a limited appearance can be filed include a hearing on an order for relief from abuse, pre/post judgment motions/hearings, pretrials, status conferences, mediation, and trial. More specific examples where an attorney may file a limited appearance to represent a party in court include representing a party for a post judgment motion to modify custody in a divorce case, representing a party at a foreclosure mediation session, appearing with a party at the foreclosure short calendar, or representing a party at a hearing on a motion for stay of execution in a summary process case.

If the case in which the limited appearance is being filed is an electronic case, all e-filing rules and procedures apply once the form has been filed. Currently, the form itself cannot be filed electronically and must be filed on paper with the clerk in person, by fax, or by mail. Whenever a limited appearance is filed for a party, it shall be filed in addition to any self-represented party appearance already on file. A limited appearance shall not be filed for a party when filing a new case or during the pendency of the action if there is no appearance on file for that party, unless the party for whom the limited appearance is being filed files an appearance in addition to the attorney's limited appearance at the same time. This is

done to assure that an appearance remains on file for a party even after the conclusion of an attorney's limited representation.

In addition, any changes in the scope of the representation must be documented using the limited appearance form. If the client and the attorney agree that the attorney will provide additional legal help, they will enter into a new agreement and the attorney must file another limited appearance form identifying the additional events or proceedings. If the new agreement with the client is to represent the client for the entire case, the attorney must file a general appearance form (JD-CL-12).

Once a limited appearance has been filed, opposing counsel may directly communicate with the opposing party only about matters outside the scope of the limited appearance, without consulting with the party's limited appearance lawyer. Whenever service is required or permitted to be made upon a party represented by an attorney with a limited appearance, for all matters within the scope of the limited appearance, the service shall be made upon the attorney and on the party for whom the limited appearance was filed. Service upon an attorney with a limited appearance shall not be required for matters outside its scope.

When an attorney completes his or her limited representation of a party in accordance with the limited appearance, which clearly defined the scope of the representation in court, the attorney must file a Certificate of Completion of Limited Appearance (Form JD-CL-122). This form is available in every clerk's office, Court Service Center, and law library locations and on the Judicial Branch website. The Certificate of Completion of Limited Appearance form must be filed with the court and copies must be provided to the client and opposing counsel or opposing party if self-represented. Currently, the form cannot be filed electronically and it must be filed on paper with the clerk in person, by fax, or by mail. After the Certificate of Completion of Limited Appearance form is filed, the attorney's obligation to continue to represent the client for the matters indicated on the form is terminated. The attorney does not have to file a motion for permission to withdraw his or her ap-

pearance or obtain the court's permission to withdraw. The client will have no right to object.

Limited scope representation has tangible benefits for both attorneys and parties and may help bridge the gap for so many who need critical help for their civil legal matter. It gives attorneys an additional way to generate revenue and it gives parties greater access to justice because of the reduced cost of individual legal services that they may otherwise not be able to benefit from. While limited scope representation would not provide an attorney for every single person embroiled in an adversarial proceeding, if utilized properly, it could increase the number of parties who are represented by attorneys at critical junctures in their court case.

Expanded use of limited scope representation by attorneys can provide stability and sustenance for both attorneys and clients, while providing much-needed relief to resource strapped courts. **CL**



Damon Goldstein is a caseflow management specialist with the Connecticut Judicial Branch. He works in the family unit of court operations where he assists in the implementation and monitoring of caseflow management, policies and procedures, and recommends solutions to problems in caseflow management and related areas for family and support matters. He also administers the Family Volunteer Attorney Program.

Notes

1. LIMITED SCOPE REPRESENTATION IN MARYLAND, A White Paper of the Maryland Access to Justice Commission (2009), <http://mdcourts.gov/mdatjc/pdfs/08climitedscopewhitepaper.pdf>.