



BOSTON MUNICIPAL COURT DEPARTMENT
TRIAL COURT OF THE COMMONWEALTH OF MASSACHUSETTS
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**LIMITED ASSISTANCE REPRESENTATION (LAR)
FREQUENTLY ASKED QUESTIONS FOR
JUDGES, COURT PERSONNEL AND ATTORNEYS**

Q. What is Limited Assistance Representation (LAR)?

A. Limited Assistance Representation (LAR) (also known as “unbundling”) is when an attorney represents or assists a litigant with part, but not all, of his or her legal matter. In all divisions of the Boston Municipal Court Department, LAR is available in civil cases only, such as supplementary process or small claims or civil motor vehicle appeals, but NOT in any criminal case. The attorney and litigant enter into a detailed written agreement defining what specific tasks the attorney will be responsible for and what specific tasks the litigant will be responsible for in the case. The attorney and litigant also negotiate and agree on whether and how much the attorney should be paid for the tasks the attorney is responsible for.

Q. Who can use LAR? When can LAR be used?

A. Any party who has a civil case pending or to be filed in court may use LAR. LAR can be used at any stage of a civil case when a party does not wish to represent himself or herself throughout the entire case, but also does not wish to hire an attorney to represent him/her throughout the entire case. The litigant and attorney together agree on who is responsible for completing which specific tasks in the case.

Q. Why is Limited Assistance Representation allowed in court?

A. Parties will benefit by having some legal assistance in presenting their cases. Courts will benefit by having documents prepared properly and issues presented more clearly. Attorneys will benefit by being able to help a party for a limited time or purpose without being required to remain in the case until completed, and often will be paid in a timely fashion as part of the specific agreement between the party and attorney.

Q. Should the Judge review an attorney-client limited representation agreement?

A. No. The limited representation agreement between an attorney and client is private and confidential as is any other fee agreement.

Q. What duties does an attorney owe a client when there is limited assistance representation?

A. 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. all apply.

Q. How does a party find a lawyer who will represent him/her on a limited basis?

A. A list of qualified attorneys will be maintained by the Administrative Office of the Boston Municipal Court Department, and will be available in the Clerk's Office in each division as well as posted on the Boston Municipal Court Department's website found at www.mass.gov/courts. In the future, this list also may be available through local bar associations.

Q. How does a lawyer become qualified to assist someone on a limited basis?

A. All lawyers wishing to provide limited representation must first attend an approved mandatory information session as described in Standing Order 1-10, and then submit a Statement of Qualification to the Administrative Office of the Boston Municipal Court Department. An attorney who previously completed one of the approved LAR information sessions does not have to complete another information session, but must submit a new Statement of Qualification to the Administrative Office of the Boston Municipal Court Department.

Q. What are some of the ways an attorney can help a litigant using LAR?

A. An attorney can coach a litigant outside of court on what the law is and what the rules of civil procedure are without ever filing an appearance or appearing in court on behalf of the litigant. An attorney can also draft documents for a litigant to file with the court without filing an appearance or going into court with the litigant, but the attorney must write on the document that it was prepared with the assistance of counsel. (This is called "ghostwriting" and is discussed below.) An attorney can also appear in court with a litigant for part of the entire case, for example attending only a pretrial conference. In this instance, the attorney must file a Notice of Limited Appearance with the court describing the specific issue or event in which the attorney is representing the litigant. After the completion or conclusion of that issue or event, the attorney must file a Notice of Withdrawal of Limited Appearance. Notice of Limited Appearance and Notice of Withdrawal of Limited Appearance forms will be available in courtrooms and Clerk's Offices in all divisions of the Boston Municipal Court Department, and also are available on the Boston Municipal Court Department website found at www.mass.gov/courts.

Q. If an attorney wants to file a Notice of Withdrawal of Limited Appearance and the client claims withdrawal is premature or contrary to the attorney/client agreement, what is the role of the Judge in this case?

A. The Judge cannot intercede. It is incumbent on an attorney to draft and execute a clear and unambiguous limited representation agreement with a client which specifically defines when the attorney will appear and withdraw. If the client and attorney disagree concerning their limited representation agreement, they should resolve the matter pursuant to the terms of that agreement.

Q. What if the attorney and client agree that the attorney will extend representation beyond the scope of the limited appearance?

A. If the extension of representation is limited to an additional event or issue, the attorney must file another Notice of Limited Appearance describing the items within the extended representation, and then file a Notice of Withdrawal of Limited Appearance upon completion of the extended representation. If the extension of representation is to represent the client for the remainder of the case, the attorney will then enter a general appearance.

Q. Who gets served notice of any pleadings once a Notice of Limited Appearance has been filed?

A. The litigant and his/her limited assistance attorney must be served with notice of any pleading relating to the limited appearance issue or event only. Any pleading regarding issues or events outside the scope of the limited appearance should be served only on the litigant. The litigant remains responsible for all aspects of his/her case except in those instances when an attorney has agreed to represent the litigant with a specific event or issue in his/her case.

Q. What is ghostwriting?

A. Ghostwriting is a term used to describe the drafting of documents by an attorney for a client without filing an appearance in the client's case. The attorney does not sign his/her name on the document but instead writes, "This document was prepared with the assistance of counsel." This discloses to the court and to the opposing party that an attorney assisted in the drafting of the document but will not appear in court. This disclosure does not constitute an appearance by the attorney and the attorney will not be required to identify himself or herself or to sign the pleading. The usual ethical and practice rules apply. The attorney drafting the pleading must make reasonable inquiry about the facts and issues raised in the pleading. If there is something patently false, outrageous, etc. on the face of the pleading that is of concern to the Judge, the Judge can require the filing party to divulge the identity of the drafting attorney.