



The Commonwealth of Massachusetts
Administrative Office of the Housing Court
Edward W. Brooke Courthouse
24 New Chardon Street, 6th Floor
Boston, Massachusetts 02114

LIMITED ASSISTANCE REPRESENTATION (LAR)
FREQUENTLY ASKED QUESTIONS FOR JUDGES, COURT PERSONNEL, AND
ATTORNEYS

Q. What is Limited Assistance Representation (LAR)?

- A. LAR is when an attorney represents or assists a litigant with part, but not all, of a legal matter. The attorney and litigant enter into a detailed limited assistance agreement that sets out what specific tasks the attorney will be responsible for and what specific tasks the litigant will be responsible for in the case. Parties benefit from LAR by having some legal assistance in presenting their cases. The courts benefit by having documents prepared properly and issues presented more clearly. Attorneys 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 having a new way to build their practices.

Q. When can LAR be used in the Housing Court?

- A. As of November 1, 2010, an attorney may represent a litigant on a limited basis in connection with any civil case pending or to be filed in the Housing Court. LAR cannot be used in criminal cases. LAR can be used at any stage in a civil case when a party does not wish to represent himself/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 agree together on who is responsible for completing which specific tasks in the case.

Q. What are some ways an attorney can use LAR to assist a litigant?

- A. An attorney can coach a litigant outside of court on what the law is and what the rules of civil procedure and evidence 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 (e.g., 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.

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/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.

Q. What duties does an attorney owe to a client who is being represented on a limited basis?

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 an attorney become qualified to represent someone on a limited basis in the Housing Court?

A. All lawyers wishing to provide limited representation must first attend an approved mandatory information session as described in Housing Court Department Standing Order 1-10. By filing a Notice of Limited Appearance in a case, an attorney is certifying that he/she is in compliance with Standing Order 1-10 and qualified to represent clients on a limited basis in the Housing Court. An attorney who previously completed an LAR information session approved by the Boston Municipal Court or Probate and Family Court does not have to complete another information session.

Q. Does an attorney participating in the Lawyer for a Day Program have to be LAR qualified to assist or represent someone in mediation?

A. No. An attorney participating in the Lawyer for a Day Program pursuant to Housing Court Department Standing Order 1-01 need not be qualified to represent someone on a limited basis solely for the purpose of assisting or representing a self-represented litigant in mediation.

Q. Where can an attorney find copies of the Notice of Limited Appearance and Notice of Withdrawal of Limited Appearance?

A. The Notice of Limited Appearance and Notice of Withdrawal of Limited Appearance are posted on the Housing Court's website and will be available in the Clerk's Office of each Housing Court division.

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

A. The litigant and his/her limited assistance attorney must be served with notice of every pleading and motion relating to the limited appearance issue or event. Any pleading or motion 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 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. 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 that 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. 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.