



Commonwealth of Massachusetts

THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT
ADMINISTRATIVE OFFICE
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CHIEF JUSTICE

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MEMORANDUM

To: All Judges, Registers, Chief Probation Officers, Judicial Case Managers, and Family Law Facilitators of the Probate and Family Court

From: Paula M. Carey, Chief Justice

Date: May 8, 2009

Re: Limited Assistance Representation

On April 10, 2009, the Supreme Judicial Court issued an order, effective May 1, 2009, "In Re: Limited Assistance Representation." A copy of the Order is attached to this memorandum. The Order provides that each Trial Court Department Chief Justice, may, with the approval of the Chief Justice for Administration and Management, make Limited Assistance Representation available in the Divisions of his/her Trial Court Department. I have requested and received the approval to make Limited Assistance Representation available in all Divisions of the Probate and Family Court. Qualified Limited Assistance Representation attorneys may begin appearing on a limited basis in your courts immediately.

Limited Assistance Representation (LAR) is when an attorney represents or assists a litigant with part, but not all, of his or her legal matter. The attorney and litigant enter into a detailed agreement defining what tasks the attorney will be responsible for and what tasks the litigant will be responsible for.

Limited Assistance Representation has been available on a pilot basis in the Hampden, Norfolk, and Suffolk Divisions of the Probate and Family Court. As stated by the Supreme Judicial Court in their Order, it has been useful in expanding access to justice, by providing an opportunity for lawyers to assist litigants on a limited basis, without undertaking full representation. In addition to private counsel utilizing LAR, legal services and pro bono organizations have been able to increase the number of low-income litigants they assist by using LAR. I anticipate that the expansion of LAR will provide an alternative for the many litigants who represent themselves in the Probate and Family Court to seek some legal assistance, without incurring the expense of full legal representation for their entire case.

Attorneys can practice LAR by coaching the litigant outside of court on what the law is and what the rules of procedure are without ever filing an appearance or appearing in court to represent the litigant. An attorney can also draft documents for the litigant to file 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.”) An attorney can also appear in court with the litigant for part of the entire case, for example only a pretrial conference. In this case, the attorney must file a Notice of Limited Appearance in court describing the issue or event the attorney is representing the litigant on. After the completion of that issue or event, the attorney must file a Notice of Withdrawal of Limited Appearance. The notices are attached to this memorandum. The Court does not have to approve the withdrawal of a limited appearance.

All lawyers who want to provide Limited Assistance Representation must be “qualified” LAR attorneys. There are several hundred lawyers currently qualified to provide LAR. An attorney is “qualified” if he or she completes an information (training) session on LAR approved by the Chief Justice of the Trial Court Department in which the attorney seeks to represent a client on a limited basis. Approved self-training materials are available for attorneys who wish to become certified in the Probate and Family Court. These can be obtained from the following link to the website of the Senior Partners for Justice, <http://spjf.org/LAR.htm>. Planning is underway to offer in person Limited Assistance Representation Certification training, with the assistance of Senior Partners for Justice and in conjunction with MCLE, in the fall. It is the attorney’s obligation to complete the training prior to undertaking any Limited Assistance Representation. The Court is not required to verify the “qualified” status of an attorney filing a Notice of Limited Appearance.

Forms have been developed for the Notice of Limited Appearance and Notice of Withdrawal of Limited Appearance. Also, Frequently Asked Questions for the Court and for Litigants have been developed. These are all included with this Memorandum. The Notices and SJC Order will be posted on our website. I will be in contact with you about future information and training sessions on LAR.

Please feel free to call or email Ilene Mitchell, Esq. in the Administrative Office of the Probate and Family Court, ilene.mitchell@jud.state.ma.us, or Lori Landers-Carvahlllo, Esq, Family Law Facilitator in the Hampden Division, lori.landern@jud.state.ma.us, if you have any questions.

cc: Hon. Robert A. Mulligan, Chief Justice for Administration and Management
Sandra Lundy, Esq., Senior Administrative Attorney, Supreme Judicial Court