Understanding the New P.O.W.E.R. Act

June 10, 2019
2:15 p.m. – 3:15 p.m.

Connecticut Convention Center
Hartford, CT

CT Bar Institute Inc.
CT: 1.0 CLE Credits (General)
NY: 1.0 CLE Credits (AOP)

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Lawyers’ Principles of Professionalism

As a lawyer I must strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, not only will I comply with the letter and spirit of the disciplinary standards applicable to all lawyers, but I will also conduct myself in accordance with the following Principles of Professionalism when dealing with my client, opposing parties, their counsel, the courts and the general public.

Civility and courtesy are the hallmarks of professionalism and should not be equated with weakness;

I will endeavor to be courteous and civil, both in oral and in written communications;

I will not knowingly make statements of fact or of law that are untrue;

I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;

I will refrain from causing unreasonable delays;

I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

When scheduled hearings or depositions have to be canceled, I will notify opposing counsel, and if appropriate, the court (or other tribunal) as early as possible;

Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

I will refrain from utilizing litigation or any other course of conduct to harass the opposing party;

I will refrain from engaging in excessive and abusive discovery, and I will comply with all reasonable discovery requests;

In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and refrain from engaging I acts of rudeness or disrespect;

I will not serve motions and pleadings on the other party or counsel at such time or in such manner as will unfairly limit the other party’s opportunity to respond;

In business transactions I will not quarrel over matters of form or style, but will concentrate on matters of substance and content;

I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the court, that excessive zeal may be detrimental to my client’s interests as well as to the proper functioning of our system of justice;

While I must consider my client’s decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation;

Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

I will withdraw voluntarily claims or defense when it becomes apparent that they do not have merit or are superfluous;

I will not file frivolous motions;

I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

In civil matters, I will stipulate to facts as to which there is no genuine dispute;

I will endeavor to be punctual in attending court hearings, conferences, meetings and depositions;

I will at all times be candid with the court and its personnel;

I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

I will endeavor to keep myself current in the areas in which I practice and when necessary, will associate with, or refer my client to, counsel knowledgeable in another field of practice;

I will be mindful of the fact that, as a member of a self-regulating profession, it is incumbent on me to report violations by fellow lawyers as required by the Rules of Professional Conduct;

I will be mindful of the need to protect the image of the legal profession in the eyes of the public and will be so guided when considering methods and content of advertising;

I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance;

I will endeavor to ensure that all persons, regardless of race, age, gender, disability, national origin, religion, sexual orientation, color, or creed receive fair and equal treatment under the law, and will always conduct myself in such a way as to promote equality and justice for all.

It is understood that nothing in these Principles shall be deemed to supersede, supplement or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which lawyer conduct might be judged or become a basis for the imposition of civil liability of any kind.

--Adopted by the Connecticut Bar Association House of Delegates on June 6, 1994
Justice Maria Araujo Kahn was born in Angola, Africa. She emigrated to the United States at ten years of age and is fluent in Portuguese and Spanish. She graduated from New York University cum laude with a B.A. in politics in 1986 and earned her Juris Doctor from Fordham University School of Law in 1989. Justice Kahn was the first recipient of the Noreen E. McNamara Scholarship at Fordham University School of Law. Following law school, she served as law clerk to the Honorable Peter C. Dorsey, U.S. District Court Judge for the District of Connecticut. She is a member of the United States Supreme Court, United States Federal District Court for the District of Connecticut, United States Court of Appeals Second Circuit, and the Connecticut and New York State Bars.

Governor Dannel P. Malloy nominated Justice Kahn to the Supreme Court on October 4, 2017 and she was sworn in on November 1, 2017. Prior to this appointment, Justice Kahn served as a judge of the Appellate Court and as a judge of the Superior Court, where she primarily heard criminal matters.

Before becoming a judge, Justice Kahn was an Assistant U.S. Attorney in New Haven. As a federal prosecutor, Justice Kahn was responsible for complex white collar investigations and prosecutions, both civil and criminal, in the areas of health care fraud, bank fraud, bankruptcy fraud and trade secrets.

Justice Kahn has been honored on several occasions with awards including: the Department of Justice Special Achievement Awards in 1998 to 2006, and the Department of Health and Human Services, OIG, Integrity Awards. On November 3, 2017, the Portuguese Bar Association presented Justice Kahn with the “Americo Ventura Lifetime Achievement Award.”

Justice Kahn is co-chair of the Judicial Branch’s Access to Justice Commission and the Limited English Proficiency Committee. She was also a member of the Judges’ Education Committee and has taught several courses at the Connecticut Judges’ Institute. Justice Kahn is a James W. Cooper Fellow with the Connecticut Bar Foundation.
Biography - District Judge Kari A. Dooley

Prior to her appointment as a United States District Judge, from 2004 until her appointment, Judge Dooley was a judge of the Superior Court for the State of Connecticut. Prior to her appointment to the state court bench by Governor M. Jodi Rell, between 1992 and 2004, Judge Dooley was an Assistant United States Attorney in the District of Connecticut. While at the U.S. Attorney’s Office, she held various supervisory positions, to include, Counsel to the United States Attorney. Judge Dooley began her legal career at Whitman and Ransom, in Greenwich, Connecticut.

Judge Dooley graduated from Cornell University with a B.A. in psychology in 1985. She graduated from the University of Connecticut, School of Law, cum laude, in 1988.
Biography

Edward Heath is the chair of the firm's Business Litigation Group and leads its Government Enforcement and Corporate Compliance Teams.

Resolution of Business Disputes

For the last 20 years, Ed has helped businesses across the globe resolve their disputes. An experienced trial lawyer, he has pursued or defended numerous nine- and eight-figure cases, which includes obtaining a full defense jury verdict following a multi-month trial for an institutional client facing $100 million in contract and business tort claims. He has been effectively defending companies against class action claims for over a decade and recently secured the dismissal of a proposed nationwide class action brought against an manufacturing company without the need for any payment to the plaintiff, potential class members, or plaintiff's counsel.

Government Enforcement and Corporate Compliance

Ed routinely advises institutional clients in connection with civil and criminal government investigations and enforcement activities, including with respect to issues involving the Foreign Corrupt Practices Act and the False Claims Act. This work has involved federal agencies such as the United States Attorney's Office, the Office of Special Counsel, the Federal Bureau of Investigation, the Securities and Exchange Commission, the Department of Homeland Security, Internal Revenue Service, the Department of Health and Human Services, the Environmental Protection Agency, as well as various state attorneys general and other administrative agencies.

As a result of this experience, Ed is often called upon to conduct internal investigations for companies and organizations, domestically and in Europe and Asia, and to provide guidance on matters of corporate compliance and litigation risk.

His clients have included technology companies; manufacturers; financial institutions and financial services firms; health care entities; educational, charitable, and religious organizations; professional associations, such as law and accounting firms; municipalities; judges; and media personalities.

Pro Bono Service

Ed has a strong commitment to pro bono work. He is the president and a board member of Greater Hartford Legal Aid, and a board member of the Connecticut Bar Foundation. For seven years, he served as chair of Robinson & Cole's Pro Bono Committee, during which time the firm as well as individual lawyers, including Ed, received more than a dozen awards or other forms of recognition for pro bono work. For example, Ed was recognized for co-developing a firm program that for the last several years has provided free legal assistance to victims of domestic violence and harassment seeking restraining orders for protection. Ed also served for several years as a member of the Connecticut Judicial Branch's Pro Bono Committee, and was a founding member of the Hartford Advisory Board of the Pro Bono Partnership, an organization that provides legal service to nonprofit organizations in Connecticut, New Jersey, and New York.
Instructor Bio

Karen M. Jarmoc, Chief Executive Officer
Connecticut Coalition Against Domestic Violence
912 Silas Deane Highway, Wethersfield, Connecticut 06109
860-282-7899
kjarmoc@ctcadv.org

Intro:
Karen Jarmoc is a results-driven leader experienced in transformative change and policy impact, as a non-profit CEO and as elected state representative. She has a track record of leading organizational change that dramatically improved service delivery, increased funding and strengthened messaging at CCADV. At CCADV she is responsible for $17 million budget in FY 20 and partnership with 18 dv organizations to include 400 advocates statewide and help to nearly 40,000 annually.

Previous Assignments and Experience:
Karen Jarmoc has worked as the executive director for the Network Against Domestic Abuse, Inc. in Enfield, Connecticut where she oversaw services to victims of domestic violence in the region. As a member of the House of Representatives (2007-2011) in Connecticut, Karen helped spearhead legislation to improve the state’s response to victims of domestic violence and worked with others to successfully secure funding for 24/7 coverage for domestic violence shelters. While in the legislature, Karen also served as vice-chair of the Select Committee on Children where she led the passage of legislation to protect children and families in a recession. Since, 2011, Karen is a member of the National Lethality Assessment Advisory Committee and in Connecticut sits on the state’s Criminal Justice Policy Advisory Commission (CJPAC). She is Co-Director of the Children’s Center on Family Violence offered through the Office for Community Child Health at Connecticut Children’s Medical Center. She currently co-chairs the State of Connecticut Family Violence Model Policy Governing Council and co-chairs the Batterer Intervention Programming Advisory Council. In 2016, Jarmoc served as co-chair of the General Assembly’s Task Force to Study the State’s Response to Children Exposed to Family Violence and in 2014, Karen served as co-chair of the General Assembly’s Task Force on the Service of Restraining Orders. Karen has served on the policy committee for the National Network to End Domestic Violence and the IPV Prevention Council administered by the National Resource Center on Domestic Violence. Most recently, Karen served on Governor Ned Lamont’s Transition Steering Committee and co-chaired the Women’s Policy Committee for the Lamont/Bysiewicz Transition.

Formal Education:
Karen has a Bachelor’s Degree in Communications and Political Science from Simmons College as well as a Master’s Degree in Public Policy from Trinity College.

Personal
Karen is married with three children. She serves is Chair of the CT Commission on Women, Children and Seniors, as board chair for the Aurora Women and Girls Foundation and serves on the board of Grace Academy in Hartford, Connecticut. She also sits on the board of the Connecticut Airport Authority.
Alina Marquez Reynolds, Assistant United States Attorney, District of Connecticut

AUSA Reynolds is currently assigned to the office’s Violent Crime and Narcotics Unit. She specializes in violent crime and gang cases including murder, racketeering, narcotics trafficking, human trafficking, and money laundering. She has prosecuted over 25 federal criminal trials to verdict. AUSA Reynolds is the office’s Violence Against Women Act (“VAWA”) coordinator, and prosecuted the office’s first VAWA case. Prior to joining the United States Attorney’s Office, AUSA Reynolds was an Assistant District Attorney at the King’s County District Attorney’s Office in Brooklyn, New York for five years where she spent part of her tenure investigating and prosecuting felony cases in a specialized domestic violence unit.

AUSA Reynolds was born in Barranquilla, Colombia. She grew up in Puerto Rico and Venezuela, and graduated high school from the Colegio Internacional de Caracas. She is a graduate of Georgetown University and Boston College Law School.
Angela Schlingheyde, J.D., Director of Civil Legal & Court Advocacy Services, oversees and coordinates all client requests for civil legal services, including, but not limited to, family law, immigration law, housing law, and ensuring that privacy and constitutional rights are protected. Additionally, she oversees the management of the Criminal and Civil Court programs, as well as all public policy and legislative advocacy efforts. In her efforts to address the significant justice gap in Connecticut, Angela spearheaded the Justice Legal Center, CT’s first legal incubator program to assist attorneys in building sustainable law practices dedicated to representing low to moderate income clients. The Justice Legal Center became operational on January 17, 2017. Currently, through her work at The Center for Family Justice, Angela is working on developing a Pro Bono Legal program to assist victims of abuse in family court. Angela began her career 21 years ago as an Assistant State Attorney in Miami-Dade County, Florida, specifically handling cases involving Domestic Violence, Sexual Violence, and Child Abuse.

Angela graduated from Hofstra University School of Law with a Juris Doctor in 1998. She completed her undergraduate work at Boston College with a B.A. in English and Women Studies in 1995.
# AGENDA

2:15 - 2:30 pm  Welcome and Opening Remarks  
Maria Araujo Kahn  
Associate Justice of the Connecticut Supreme Court

2:30 - 3:00 pm  The P.O.W.E.R. Act, A Conversation, A Partnership, A Call to Action  
Moderator:  
Kari A. Dooley  
United States District Judge
Karen Jarmoc  
Chief Executive Officer  
Connecticut Coalition Against Domestic Violence
Edward J. Heath  
Partner, Robinson & Cole  
Director of “Pro Bono” Domestic Violence Restraining Order Project
Alina M. Reynolds  
Assistant United States Attorney  
Violence Against Women Act Coordinator
Angela Schlingheyde  
Director of Civil Legal & Court Advocacy Services  
The Center for Family Justice

3:00 - 3:15 pm  Closing Remarks and Questions
THE POWER ACT
The Pro bono Work to Empower and Represent Act of 2018

An act to promote pro bono legal services as a critical way in which to empower survivors of domestic violence and sexual assault.
MISSION

The POWER Act seeks to inform victims of domestic violence, dating violence, sexual assault, and stalking that legal assistance is available to them through pro bono legal services, and that this assistance can empower them to move forward with their lives.

THE POWER ACT

The POWER Act requires the chief judge for each judicial district or their designees to conduct public events promoting pro bono legal services to survivors of domestic violence, dating violence, sexual assault, and stalking.

Public events will bring together lawyers and service providers to shine a spotlight on the critical need for pro bono legal representations of survivors of intimate partner violence. The goals of these events include:

- Encouraging lawyers to provide pro bono resources in an effort to assist survivors as they navigate the legal system
- Educating the legal community about the importance of pro bono services and the issues unique to the representation of domestic violence survivors
- Discussing legal resources and programs already assisting survivors and developing “best practices” in this area

The POWER Act Timeline
March 2017 to September 2018

IMPACT

“This country witnesses more than a million acts of domestic violence, and hundreds of deaths from domestic violence, each year.”

Justice Sotomayor, United States v. Castleman
Decided March 24, 2014

Over 1 in 3 women (36.4%) and about 1 in 3 men (33.6%) experienced contact sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime. (National Intimate Partner and Sexual Violence Survey, 2015, CDC)

According to the National Institute for Justice, 83% of domestic violence victims represented by an attorney were able to obtain a protective order against their offenders, whereas only 32% of victims without an attorney were able to do so.

The pro bono work inspired by the POWER Act can protect victims from future harm and provide them with the security necessary to move forward.
Thank you CBA- AUSA Reynolds and Judge Dooley for hosting this program.

Along with Judge Moll, I co-chair of CT's ATJC, I am excited to participate in today's Program and to encourage you to participate in the various programs that you will hear about from our distinguished panel members.

(Introduce Panel Members if requested by AUSA Reynolds or Judge Dooley)

The mission of the State's ATJC is: is to develop recommendations to help ensure equal access for all people, including low- and moderate-income individuals, people with different physical or developmental abilities, the elderly, limited English proficient and ethnic, cultural and racial minorities.

Consistent with that mission, the ATJC has created or promoted some initiatives to assist victims of Domestic Violence and litigants who are indigent or of modest means.

1) The Rules of Practice were amended to allow limited scope representation in Civil, Family, and Housing matters. For those who are not familiar with LSR- also referred to unbundled legal services- it allows a litigant to hire and a lawyer to represent a client in a distinct matter- a hearing- assist with preparing a motion- arguing a motion- provide advice- A Limited Scope Representation and Modest Means symposium was conducted at the University Of Connecticut School Of Law on May 4, 2018. The program covered all aspects of Limited Scope Representation (LSR) which unbundles legal services making representation potentially more affordable. Additional topics covered included the positive impact LSR can have on expanding client base and increasing revenue streams. You will hear from some of our panelists that limited scope representation has allowed many victims of domestic violence to afford representation that they otherwise might not have received. Copies of all the materials you will need to engage in LSR are in the back of the room (explain Binder prepared by Krista Hess – also hand-outs).

2) In July 2018- the Commission implemented the Civil Gideon Pilot Program which provides free legal representation to indigent applicants and respondents in Temporary Restraining Order cases. Utilizing grant funding, Connecticut Legal Services, Inc. was secured to establish a pilot program to provide legal counsel to qualified applicants who have filed an application for relief from abuse. Legal counsel for qualified respondents is provided by the Division of Public Defender Services.

3) The Commission’s Modest and Moderate Means Workgroup collaborated with organizations who manage legal incubator programs. These entities provide support for attorneys who provide legal representation to people with modest and moderate means. The Connecticut Communities Law Center, which is a joint initiative of the University of Connecticut School of Law and Hartford County Bar Association, provides new attorneys with office space and support services to establish law practices that serve the intended demographic. The new attorneys are partnered with mentors from the law school and Hartford County Bar Association. Another
incubator program in Bridgeport is the Justice Legal Center at the Center for Family Justice which provides affordable legal representation to victims of domestic and sexual violence. The organization’s two year program offers attorneys business development assistance. There is also a program underway in New Haven. Information about the incubator programs are posted in the courthouses where the programs are located.

You will hear more about other programs and ways in which you can volunteer either through pro bono or reduced fees to represent victims of Domestic Violence. I guarantee you that assisting individuals who are indigent or of modest means will be incredibly rewarding and enhance your skills as attorneys and advocates.

Turn program over to Judge Dooley.
Recent studies suggest that many potential clients are not able to afford the retainer and/or fees typically charged by lawyers for full representation.

Limited scope representation (LSR) or unbundled legal services can make legal representation an affordable alternative for individuals who might otherwise represent themselves. Offering LSR, or unbundled legal services, for individuals of modest means can create an expanded revenue stream for attorneys.

**Judicial Branch Resources**

*Compliments of the Connecticut Judicial Branch and M. Sue Talia of the Limited Representation Committee of the California Commission on Access to Justice.*

- Limited Scope Representation Web Links
- Free Webinar on Expanding Your Practice Using Limited Scope Representation
- Unbundled Legal Services and Modest Means Symposium (May 4, 2018) Materials

**CBA Resources**

- Connecticut Lawyer Article: Limited Scope Representation by Damon Goldstein
- Practice Tips Video: Limited Scope Representation with the Honorable Kimberly A. Knox
Access to Justice Commission

Justice Maria A. Kahn, Co-Chair, Associate Justice, Connecticut Supreme Court
Hon. Ingrid L. Moll, Co-Chair, Superior Court Judge
Hon. William H. Bright, Jr., Connecticut Appellate Court
Deputy Dean Muneer I. Ahmad, Yale Law School
Dean Jennifer Gerarda Brown, Quinnipiac University School of Law
Attorney Janice J. Chiaretto, Executive Director, Statewide Legal Services of Connecticut
Ms. Heather Nann Collins, Court Operations
Attorney Edwin Colon, Director of Immigrant Children’s Justice Project, Center for Children’s Advocacy
Attorney Joseph D. D’Alesio, Acting Executive Director, Superior Court Operations
Assistant Dean Karen DeMeola, Assistant Dean, University of Connecticut School of Law
Attorney Tais Ericsen, Executive Director, Court Operations
Dean Timothy Fisher, University of Connecticut School of Law
Attorney Patricia Cruz Fragoso
Ms. Krista Hess, Director, Court Operations
Ms. Dawn LaValle, Connecticut State Library
Attorney Chris R. Nelson
Attorney Moy N. Ogilvie
Attorney James “Jay” P. Sexton

Connecticut Bar Association Staff
CBA Staff

Connecticut Bar Foundation Staff
Don Philips
Liz Drummond
Kathryn Carling
Anne Goico
Preamble

These materials are suggested forms, guidelines and handouts which have been developed to use in limited scope representation matters. They offer a variety of suggestions that you should tailor to your particular practice. Each case, each client, and each opportunity for limited scope representation presents its own unique professional and ethical issues and nothing in these materials is intended to be a substitute for your own professional judgment and opinion.

These materials were created by M. Sue Talia and the Limited Scope Representation Committee and the California Commission on Access to Justice and are for general guidance only. While the materials have been modified to include references to Connecticut rules and practice, they have not been adopted or endorsed by the Connecticut Judicial Branch, the Connecticut Bar Association, or the Connecticut Bar Foundation. The draft forms and sample text for rules in Section 8 are for discussion purposes only.
PARTICIPANT BIOGRAPHIES
Honorable Maria Araujo Kahn

Justice Maria Araujo Kahn was born in Angola, Africa. She emigrated to the United States at ten years of age and is fluent in Portuguese and Spanish. She graduated from New York University cum laude with a B.A. in politics in 1986 and earned her Juris Doctor from Fordham University School of Law in 1989. Justice Kahn was the first recipient of the Noreen E. McNamara Scholarship at Fordham University School of Law. Following law school, she served as law clerk to the Honorable Peter C. Dorsey, U.S. District Court Judge for the District of Connecticut. She is a member of the United States Supreme Court, United States Federal District Court for the District of Connecticut, United States Court of Appeals Second Circuit, and the Connecticut and New York State Bars.

Governor Dannel P. Malloy nominated Justice Kahn to the Supreme Court on October 4, 2017 and she was sworn in on November 1, 2017. Prior to this appointment, Justice Kahn served as a judge of the Appellate Court and as a judge of the Superior Court, where she primarily heard criminal matters.

Before becoming a judge, Justice Kahn was an Assistant U.S. Attorney in New Haven. As a federal prosecutor, Justice Kahn was responsible for complex white collar investigations and prosecutions, both civil and criminal, in the areas of health care fraud, bank fraud, bankruptcy fraud and trade secrets.

Justice Kahn has been honored on several occasions with awards including: the Department of Justice Special Achievement Awards in 1998 to 2006, and the Department of Health and Human Services, OIG, Integrity Awards. On November 3, 2017, the Portuguese Bar Association presented Justice Kahn with the “Americo Ventura Lifetime Achievement Award.”

Justice Kahn is co-chair of the Judicial Branch’s Access to Justice Commission and the Limited English Proficiency Committee. She was also a member of the Judges’ Education Committee and has taught several courses at the Connecticut Judges’ Institute. Justice Kahn is a James W. Cooper Fellow with the Connecticut Bar Foundation.

November 17,
Honorable William H. Bright, Jr.

Governor Dannel P. Malloy nominated Judge William H. Bright, Jr. to the Appellate Court on October 4, 2017, and he was sworn in on November 1, 2017.

Prior to this appointment, Judge Bright served as a judge of the Superior Court, having been nominated by Governor M. Jodi Rell in January 2008. While a Superior Court Judge, Judge Bright served as the Chief Administrative Judge for the Civil Division and as the Administrative and Presiding Judge for the Tolland/Rockville Judicial District, where he heard civil, criminal and habeas corpus matters.

Judge Bright has served on a number of Judicial Branch committees, including the Civil Commission, the Clients Security Fund Committee, the Civil Jury Instruction Committee, the Rules Committee, the Access to Justice Commission, and the Pro Bono Committee, which he chaired. He is also a member of the Board of Directors of the Connecticut Bar Foundation.

Prior to his appointment to the bench, Judge Bright had a distinguished career as a trial lawyer. The Columbia resident was the managing partner of McCarter & English’s Hartford law office and co-chair of the firm’s Business Litigation practice group. He also was a shareholder in Cummings & Lockwood, a member of the firm’s Board of Directors, and chair of the firm’s Litigation practice group. Judge Bright was selected as one of the Best Lawyers in the United States by Chambers USA, and was twice named one of the top 50 lawyers in the State by Connecticut Magazine. His practice focused on complex commercial litigation matters, including business torts, fraud, intellectual property, franchise disputes and environmental law.

Judge Bright is a graduate of Dickinson College in Carlisle, Pennsylvania, and received his Juris Doctor from the University of Chicago Law School in 1987.
Honorable Ingrid L. Moll
Judge Moll graduated from Wheaton College with a B.A. in 1995, and earned her Juris Doctor from the University of Connecticut School of Law in 1999. She was admitted to the Connecticut Bar in 1999, the U.S. District Court, District of Connecticut, in 2000, and the Fourth, Tenth and Second Circuit Court of appeals in 2004, 2009 and 2010, respectively.

Judge Moll was appointed a Superior Court Judge in April 2014 by Gov. Dannel P. Malloy and currently is assigned to hear criminal matters in Waterbury. Prior to Judge Moll’s appointment, she worked as an attorney at Motley Rice LLC, McCarter & English, LLP and Cummings & Lockwood LLC, all in Hartford. After graduating law school, Judge Moll worked as a law clerk for Connecticut Supreme Court Justice David M. Borden.

Judge Moll was a member of the American, Connecticut and Hartford County Bar Associations. She was director of the Connecticut Bar Foundation and a member of the Connecticut Client Security Fund Committee.

In 2009, she was named the Super Lawyers’ “New England Rising Star” in environmental litigation. In 2005, she was named one of the Hartford Business Journal’s “Forty Under 40” and was given the Connecticut Law Tribune’s New Leaders of the Law Impact Award.
Honorable James Abrams
Judge Abrams currently serves as Chief Administrative Judge for the Civil Division statewide and as Presiding Civil Judge for the New Haven Judicial District. He is an honors graduate of UConn School of Law and received his undergraduate degree from Trinity College.

Prior to his appointment to the bench in 2007, he was an attorney in private practice, served as a member of the Connecticut General Assembly, and as Corporation Counsel for the City of Meriden.

Since 2006, he’s been an Adjunct Professor at Quinnipiac University and is currently a member of the Board of Trustees of the New England Association of Schools and Colleges (NEASC).
The Honorable Elizabeth A. Bozzuto is a Superior Court judge who was first appointed by Governor John G. Rowland in 2000. She is currently serving as Chief Administrative Judge for the Family Division. Previously, Judge Bozzuto was the Assistant Administrative Judge for the Waterbury Judicial District and Presiding Judge of the Family Division in Waterbury, the Presiding Judge at the Regional Family Trial docket and the Presiding Judge of the Family Division in Danbury. She was the Assistant Administrative Judge in Litchfield and also served in Bridgeport and Bristol.

Judge Bozzuto serves on the Executive Committee of the Superior Court, the Judicial Review Council and is chair of the Standing Committee on Guardians ad litem and Attorney’s for Minor Children. Additionally, Judge Bozzuto is a member of the Parent Education Program Advisory Committee, the Judges Advisory Committee on E-Filing and the Commission on Minimum Continuing Legal Education. She previously served as chair of the Public Service and Trust Commission’s Self Represented Parties Committee and the Family Commission and as a member of the State Marshal Commission.

Judge Bozzuto received a B.A. from Manhattanville College in 1985. She was awarded her juris doctor from Western New England College School of Law in 1988. In 1991, she received a certificate from the National Institute of Trial Advocacy at Hofstra University in Hempstead, New York.

She was admitted to the State of Connecticut Bar in 1988; the U.S. District Court, District of Connecticut in 1989; and the U.S. Court of Appeals, Second Circuit in 1992.

Prior to her appointment to the Superior Court, Judge Bozzuto was a partner at the law firm of Secor, Cassidy and McPartland, P.C. As a practicing attorney, Judge Bozzuto specialized in civil litigation, with an emphasis on insurance defense and family law. She led the firm’s pro bono efforts as a member of Law Works for People.

Judge Bozzuto served as the Chairman of the Board of Directors of the Child Guidance Clinic of Greater Waterbury, as a member of the Executive Committee of the State of Connecticut Commission of Children and member of the State of Connecticut Commission on Child Support Guidelines, in addition to serving on a number of local boards and non-profit organization.
Honorable Leslie I. Olear
Judge Leslie I. Olear graduated from Central Connecticut State University with a B.A. in English in 1977 and earned her Juris Doctor, cum laude, from Western New England College School of Law in 1981. She earned her LL.M. in taxation from Boston University in 1984 and was admitted to the Connecticut bar in 1981.

Judge Olear was appointed a Superior Court judge in 2006 and has been assigned to criminal courthouses in Hartford and Manchester, the Regional Child Protection Session in Middletown, the Hartford Juvenile Matters courthouse and the Middletown Judicial District courthouse. She is currently the Presiding Judge for the Family Division at the Hartford Judicial District courthouse.

Prior to Judge Olear’s appointment, she was an attorney for Cohn Birnbaum & Shea, P.C., in Hartford from 1981 to 2006. She represented lenders and developers on matters related to acquisition, financing and development of commercial buildings, and industrial facilities.

Before becoming a judge, Judge Olear was the chair of the Connecticut Housing Authority. She also served as the director for the State of Connecticut Risk Management and Insurance Purchasing Board; as a trustee and corporator for the Hartford Seminary; as the director for The Real Estate Exchange; as director for the Real Estate Finance Association (Hartford chapter); and as a member of the Martin Luther King Housing Board.

Judge Olear served as a member of the Superior Court Rules Committee from July 1, 2008 to June 30, 2011, as a member of the Client Security Fund Committee until December 2016 and is a member of the Judicial Performance Evaluation Program Advisory Panel.
Honorable Mark H. Taylor
The Honorable Mark H. Taylor is the Administrative Judge and Presiding Judge for the Civil Division at the Waterbury Judicial District. He was first appointed by Governor John H. Rowland in 2003, and has previously served as the Presiding Judge at the Hartford Judicial District for Family Matters, Assistant Administrative Judge and Presiding Judge for Civil and Family Matters at the New Haven Judicial District in Meriden. Prior assignments also include the Middletown Judicial District, New Britain Judicial District, G.A. 17 in Bristol and G.A. 2 in Bridgeport.

Judge Taylor graduated from Drew University with a Bachelor of Arts in English Literature in 1977 and from the University Connecticut School of with a Juris Doctor degree in 1983, with honors. He was admitted to both the Connecticut and District Court bars.

Judge Taylor has served as an Adjunct Professor at the University of Connecticut School of Law, as Chief Legal Counsel to Connecticut Senate Democrats and as Assistant Attorney General for the State of Connecticut Department of Labor and the State Treasurer. While in private practice, he focused on the areas of litigation and real estate.

Since becoming a judge, Judge Taylor has served on the Civil Commission, the Bench-Bar Foreclosure Committee and as an alternate on the Interception of Wire Communications Panel. He served as an instructor at the Connecticut Judicial Institute in 2006, 2008, 2010 and will do so again in 2018. He has also served as an instructor for the Fall Civil Division seminars in 2008 and 2012, as well as the fall Family Division Seminar in 2011.
**Timothy S. Fisher**

Timothy Fisher became the 17th dean of the UConn School of Law on July 1, 2013 following thirty-five years in private practice. Prior to becoming dean he was a partner at a major regional law firm with a long history of public service. During his career prior to becoming dean, he taught at UConn Law School as an adjunct instructor and participated in the life of the School through moot court judging, a faculty workshop presentation, and numerous activities with students and faculty.

Dean Fisher’s practice and publications have focused on the fields of ethics, alternate dispute resolution, commercial transactions, construction law, family wealth disputes, and municipal law. He also has led pro bono engagements in such fields as marriage equality, prison conditions, speedy criminal appeal rights, and strategic relationships of non-profit organizations. In private practice, he served on the executive and compensation committees of his firm, held the position of office managing partner, and co-led its strategic planning process.

A graduate of Yale University and Columbia Law School, Dean Fisher has served in numerous public service and private sector leadership roles. He recently chaired the State’s Commission on Judicial Compensation and co-chaired the Task Force on Access to Counsel in Civil Matters. He previously served on the Governor’s Commission on Judicial Reform, as well as various commissions of the Connecticut Judicial Branch, and was recently president of the Connecticut Bar Foundation. He served as president of a social service agency and has held leadership positions in Greater Hartford Legal Aid and the Connecticut Bar Association. Dean Fisher conceived and undertook the organizational and fundraising effort to create the Connecticut Innocence Fund, a first-in-the-nation program to assist exonerees to re-enter society when released from prison after proof of their innocence. He brings a deep belief in public service to his role as dean of the UConn Law School.

**Karen Demeola**

Karen currently serves as Assistant Dean for Enrollment and Students at UConn School of law and is the current president of the Connecticut Bar Association. She received her undergraduate degree in psychology from UConn and her J.D. from UConn Law. After graduation from law school, Karen was a civil rights litigator whose practice focused primarily on employment discrimination, police brutality and housing discrimination. While at UConn Law, she has been an adjunct professor teaching Critical Identity Theory and has presented on numerous panels, symposia and conferences on diversifying law school populations, implicit bias, intersectionality, leadership, and diversity and inclusion. Karen has also created numerous pipeline projects, including the CBA Pathways to Legal Careers Pipeline. Karen is a Fellow of the Connecticut Bar Foundation.

Karen was the recipient of the Lawyers Collaborative for Diversity Edwin Archer Randolph Diversity Award; the CWEALF Maria Miller Stewart Award; the Connecticut Commission on Human Rights and Opportunities Constance Baker Motley Award for Business and Law; and the University of Connecticut Spirit Award.
Andrea Barton Reeves

Andrea Barton Reeves is President and CEO of HARC, Inc., a not-for-profit provider of services for people with intellectual and related disabilities and their families. In 2018, Andrea became the second woman and first African American to be elected President of the Connecticut Bar Foundation Board of Directors. An active member of her community, she serves on the boards of the American School for the Deaf, Leadership Greater Hartford and the YWCA of Greater Hartford. She has been named one of the Hartford Business Journal's 40 under Forty, and Five New Leaders to Watch (2013). Andrea previously served as Secretary of the Connecticut Bar Association and as co-chair of the CBA Women in the Law Committee. Andrea spent the early part of her career as a litigator in two large law firms before devoting her practice to representing children almost exclusively in child protection, delinquency, high-conflict custody and probate court matter. She is a graduate of Rutgers University and New York Law School.

Campbell D. Barrett

Campbell D. Barrett chairs the Family Law practice which in 2017 was named the Connecticut LawTribune's "Family Law Department of the Year." Campbell focuses primarily on matrimonial and appellate matters. He has been named a Top 50 Connecticut Super Lawyer and a Top 100 New England Super Lawyer multiple times. He has also been recognized multiple times by Best Lawyers in America in the area of family law. In 2017, he was named Best Lawyers' "Family Law Lawyer of the Year for Hartford County." Campbell has participated in hundreds of contested proceedings across the state in complex, high income/high net worth cases. In addition, he has been lead counsel on more than 50 appeals to the Connecticut Supreme and Appellate Courts. Campbell is a fellow of the American Academy of Matrimonial Lawyers. He has served as an adjunct instructor at the University of Connecticut School of Law, has lectured and written frequently on appellate practice and family law, and has been a guest family law expert on National Public Radio. He is the co-author of the book, Same Sex Marriage: the Legal and Psychological Evolution in America, which in 2006 was awarded the American Psychological Association's "Most Distinguished Book in Lesbian, Gay, and Bisexual Psychology." He has also authored chapters in family law treatises on the definition of property and prenuptial agreements. Campbell was also the 2005 winner of the Hartford County Bar Association's Judge Maxwell Heiman Memorial Award.

Stephen J. Conover

Steve Conover helps lawyers and law firms practice law without unnecessary ethical risks. He regularly represents lawyers, law firms and legal departments throughout Connecticut in grievance defense matters. He actively advises local and national law firms on malpractice prevention and risk management, and counsels clients on sensitive ethics, professional responsibility, and business matters.

In 2007, Mr Conover completed 11 years of service as Court-appointed Grievance Counsel involved with the State's lawyer discipline process in administrative and judicial proceedings. He now regularly defends lawyers facing sanctions from formal Grievance Complaints filed with Connecticut’s Statewide Grievance Committee. In addition, Mr. Conover provides guidance to lawyers and law firms in their management of partnership
agreements, lateral hires & departures, dissolutions, licensing, and ethics compliance. Additionally, CNA Insurance Company's Professional Liability claims managers regularly engage Steve Conover to speak to CNA insured law firms on ethics and loss prevention topics.

Mr. Conover is an experienced neutral arbitrator trained by the American Arbitration Association and regularly selected to decide complex commercial & construction disputes. Mr. Conover is also a neutral mediator, trained (40 hours) at the University of Connecticut and Quinnipiac University Law School Center for Dispute Resolution. Since 1996, he has served by appointment as a Special Master mediating civil cases each month in the Superior Court in Stamford.

In 2017 Mr. Conover completed a four-year term on the Connecticut Judicial Compensation Commission which is responsible for evaluating the adequacy and determining the sufficiency of compensation paid to State Court judges. In 2016 he completed a three-year term on the Connecticut Judicial Selection Commission which is responsible for recommending lawyers for appointment as judges and evaluating incumbent judges for reappointment.

Mr. Conover was admitted to practice in Connecticut in 1982, and since his admission has maintained an active trial practice representing clients in commercial & construction disputes in Connecticut’s State and Federal Courts and in arbitration, mediation, and administrative hearings before Boards, Committees, and Commissions throughout the State.

Jeff Gentes
Jeff Gentes manages the Connecticut Fair Housing Center’s work on fair lending and foreclosure prevention and co-supervises the Housing Clinic at Yale Law School. His practice focuses on defending foreclosures, in part through the Center and Clinic’s “Attorney for Short Calendar Program,” and litigating against mortgage companies on behalf of homeowners in state and federal court. He regularly engages in appellate work, as both homeowner counsel and amicus curiae, and has trained foreclosure mediators in four different states. He is a member of Connecticut’s Bench-Bar Foreclosure Committee and a registered state lobbyist. Mr. Gentes began his work in this field in 2008 when he joined the Homeowner Defense Project at Staten Island Legal Services following stints at Proskauer Rose LLP and Pfizer Inc. Mr. Gentes received his B.A. from the University of Connecticut and his J.D. from New York University School of Law.

Jocelyn B. Hurwitz
Jocelyn is a principal and chair of Cohen and Wolf's Family Law Group. Dividing her time between the firm's Bridgeport, Orange and Westport offices, Ms. Hurwitz practices in the areas of family law litigation and divorce mediation.

She is admitted to practice in Connecticut, and the U.S. District Court, District of Connecticut. Ms. Hurwitz is a member of the American, Connecticut and Greater
Bridgeport Bar Associations. She is a member of the Family Law Sections of the Connecticut and Greater Bridgeport Bar Associations.

Ms. Hurwitz serves as a special master, appointed by the Superior Court, to mediate divorce and custody disputes in the judicial districts of Milford, New Haven, Stamford and Bridgeport, and in the Regional Family Trial Docket in Middletown. She has been a contributor at seminars hosted by the Bridgeport Bar Association and other organizations.

Ms. Hurwitz is recognized in the area of Family Law by Connecticut Super Lawyers (2007-2017), and was ranked among the "Top 25 Women Connecticut Super Lawyers for 2014". She is also listed in Best Lawyers® (2013-2018) for her work in Family Law.

Ms. Hurwitz received her B.S. in 1989 from Cornell University and her J.D. in 1992 from Cornell Law School.

**Chris R. Nelson**

Chris practices in New Haven at the law firm of Nelson | Votto where he represents individuals and small businesses in litigation and transactional matters. Chris attended the University of Connecticut where he earned his degree in Political Science and Sociology. After college, he took evening classes at Quinnipiac University School of Law while working in the Bridgeport Superior Court’s Clerks Office. Chris worked as an associate at the law firm of Parrett, Porto, Parese & Colwell until 2012 when he opened up his own firm. In order to expand his growing business, in January 2014 Chris joined with Attorney Stacy Votto to form the firm where he practices today.

Chris is very involved with state and local bar associations. Currently he is a member of the New Haven County Bar Association’s Executive Committee and also serves as co-chair of its Technology Committee. Previously he has served on the CBA House of Delegates and has also served as Chair of the Connecticut Bar Association Young Lawyers Section and President of the New Haven Young Lawyers. Additionally, Chris is a member of the Connecticut Trial Lawyers Association and a member of the New Haven Inn of Court.

Chris was named a Connecticut “Rising Star” by Super Lawyers® for 2011-2012, 2013 and 2014. In 2015, Chris Received the New Haven County Bar Association’s President’s Award. In 2017, Chris was selected to become a James W. Cooper fellow by the Connecticut Bar Foundation.

**Frederic S. Ury**

Frederic S. Ury is a founding partner of the law firm of Ury & Moskow, LLC in Fairfield, Connecticut. Ury & Moskow is a small boutique trial firm handling major civil and criminal cases throughout the State of Connecticut. The firm also has a national pharmaceutical mass tort practice throughout the United States.
Mr. Ury earned his JD degree from Suffolk University Law School in Boston, Massachusetts in 1977 and his B.S. degree with highest distinction from Babson College in Wellesley, Massachusetts in 1974.

He has been a member of the Connecticut Bar since 1977 and the New York Bar since 1989. He is admitted in the Federal District Court in Connecticut and New York, the 2"d Circuit Couti of Appeals and the United States Supreme Court.

He is a Board Certified Civil Trial Lawyer who for 40 years has concentrated his practice in criminal and civil trial practice. He also sits as an arbitrator and mediator for the private bar. He is presently a hearing officer for the Connecticut State Board of Education and the Department of Developmental Services.

He is a member of the American Board of Trial Advocates and is an AV rated attorney. He is listed in Mmiindale Hubbell's Bar Register of Preeminent Lawyers. He has been listed for 11 years in Super Lawyers in Connecticut and New England in the area of general litigation and in Best Lawyers for commercial and personal injury litigation.

Mr. Ury was the Chairman of the Litigation Section of the Connecticut Bar Association from 1993-1996. During the year 2004-2005 he was President of the Connecticut Bar Association.

In 2008-2009 he served on the Chief Justice's Public Trust and Confidence Task Force. He was Co-Chair of the Attorney Trust Account Defalcation Task Force during the years 2005-2010. From 2007-2016 he was on the Board of Directors of the Connecticut Bar Foundation. He has been a member of the James Cooper Fellows since 2005. In 2010 he was appointed to the Connecticut Bar Examining Committee. Since January 2017 he is Co-Chair of the MCLE Commission.

Mr. Ury has been active for the past 14 years in the National Conference of Bar Presidents. He served three years on the Executive Council and was President of NCBP from 2011-2012.

Mr. Ury has been a member of the ABA for 40 years. He was a member of the American Bar Association's House of Delegates from 2004-2009 and was appointed by ABA President Carolyn Lamm to the Ethics 20/20 Commission which he served on from 2009-2012. He was chair of the ABA Standing Committee on Professionalism from 2012 to 2015. In August of 2014 he was appointed by ABA President William Hubbard to the Commission on the Future of Legal Services which he was on until it finished its work in August 2016. He is presently a member of the ABA Standing Committee on Discipline.

He is a frequent lecturer to various bar associations and lawyer groups around the country on the Future of the Legal Profession and ethics and professionalism. He has lectured about civil procedure to Connecticut attorneys for over 17 years. Mr. Ury has authored a number of articles on the Future of the Legal Profession and ethics which have been published in publications around the country.

Mr. Ury is an avid bicyclist and marathon runner. He is a founding member of Charity Treks, Inc., a non-profit organization that raises money to find a vaccine for Aids.
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Instructions for Using this Set of Practice Management Materials

Attached is a package of risk management materials for civil and family practitioners designed to help you document your file and ensure that you and the client are in agreement on the limitations on the scope of your representation, which tasks you are going to perform and, more importantly, which ones you are NOT going to perform. They are designed as templates which should be tailored to your needs. Since limited scope arrangements can be fluid, it is essential that you document not only the limitations in scope, but ALL changes to the scope and the representation’s ultimate conclusion. They include a number of checklists to document the limitations, and note any changes, which are designed to allow you and your staff to easily track these issues so nothing is overlooked.

Use your judgment in tailoring the forms. You may use some or all of them, modify others, and select which ones best suit a given limited scope arrangement. A brief overview of the materials and their intended use follows:

1. **Best Practices Tips.** These are designed to assist you in flagging the areas of special concern in limited scope representation. Read them carefully and add to them as new issues arise in your practice. Check for updates at: [http://www.unbundledlaw.org/](http://www.unbundledlaw.org/)

2. **Flow Charts.** There are two flow charts designed to visually set forth the steps from both the client’s and the attorney’s perspective. Use the client flow chart as a handout as part of educating your client on the options for limited scope. Use the attorney one as a tool to document your own file.

3. **Sample Intake Sheet.** Tailor this form for use as an intake tool for every new limited scope family law client. Note the topics discussed, included related topics about which you advised them, and use it to document your discussions about the nature and scope of your representation. Before the client leaves, you should each initial it, and then give the client a copy. Do a new one each time a new issue comes up.

4. **Sample Tasks to be Apportioned/Issues to be Apportioned Checklists.** Use these forms to document the issues you discussed with the client, the apportionment of responsibility, and to identify the areas where the client agrees you are not to assume responsibility. You should each initial it and the client should take a copy. Do a new one each time the scope changes, initial and date it, give a copy to the client and note on the Tickler Checklist the date on which you did this. If you’re defining the limited scope in an attachment to your fee agreement rather than in the body, use these as attachments and modify them as needed. Attach these forms as the exhibits to Fee Agreement #4, or any other fee agreement where the limitation on scope is in an attachment rather than the body of the agreement.

5. **Sample Fee Agreements.** Four sample fee agreements are contained in this packet, each tailored to a different form of limited scope representation, from a single appointment/single task to coaching, ongoing consulting, document preparation, and making court appearances. Do not perform services until you have a signed agreement limiting the scope of your involvement. If the scope changes, do a new agreement. If the form of agreement you use includes a checklist to define the scope, do a new checklist to document the changed scope, sign and date (both attorney and client). Don’t just send a confirming letter to the client. If the scope changes, attach the tasks/issues checklists. Check for others at the following web site: [http://www.unbundledlaw.org/](http://www.unbundledlaw.org/)

6. **Sample Change of Scope Letter.** This is a sample letter to send the client when the scope changes. The change in scope usually occurs either when a new issue arises which was unanticipated in the initial allocation of tasks, or the client finds s/he is unable to competently perform the tasks s/he has undertaken and asks the attorney to handle them.
7. **Sample Follow Up Checklist.** This form is designed to keep track of who is responsible for performing which tasks in an ongoing limited scope representation. Fill it out as you talk to your client about responsibilities, give a copy to the client and retain one for your records. Use it as often as necessary.

8. **Sample Tickler Checklist.** This is the key to keeping track of all of the above. Tailor it to your specific needs, photocopy it on brightly colored paper and keep it on top of your file. Note the dates on which you obtained each of the checklists, retainer letters, documentation of changes in scope, and file closing. Add other tasks and forms which you find recur in your practice and train your staff to keep the checklist current.

9. **Sample Closing Letter.** It is equally important to document your exit from the case as it is your entry into the case. When you have performed all the tasks for which you were engaged, tailor the Sample Closing Letter to clearly communicate that fact to the client. Invite the client to advise you immediately if s/he disagrees that all tasks for which you were engaged are completed. If you have made an appearance as part of your representation, file a Certificate of Completion of Limited Appearance with the court and send copies to all attorneys and self-represented parties of record as per the certification on the Certificate of Completion of Limited Appearance form.
SECTION 1

LOOKING AT ISSUES OF LIABILITY AND GOOD PRACTICE
Best Practices for Limited Scope Representations:
Looking at issues of liability and good practice

Limited Scope Representation (sometimes called “unbundling”) refers to matters in which a client hires an attorney to assist with specific elements of a matter such as legal advice, document preparation or document review, and/or limited appearances. The client and attorney agree on the specific discrete tasks to be performed by the client and the attorney. Depending on the nature of the attorney's involvement, the attorney may or may not enter an appearance with the court. The client represents him/herself in all other aspects of the case.

The special issues governing limited scope representation fall into four general categories:

1. The limitations on scope must be informed and in writing;
2. Limitations in scope must be reasonable under the circumstances;
3. Changes in scope must be documented;
4. An attorney may have an affirmative duty to advise the client on related matters, even if not asked.

The following guidelines are designed to assist attorneys in addressing and avoiding ethics violations and/or malpractice liability in a limited scope representation. Limited scope representation does not differ substantially from the rest of your practice, and most of the suggestions which follow are equally applicable to full scope service. However, there are some specialized issues which require consideration.

It is important to note that limiting the scope of your representation does not limit your ethical obligations to the client, including the duty to maintain confidentiality, the duty to act competently, the duty not to communicate with another person known by you to be represented by legal counsel in the matter (absent written permission from counsel to do so), and the duty to avoid conflicts of interest. It is also important to note that limiting the scope of your representation does not limit your exposure to liability for work you have agreed to perform, nor is such a limitation permissible.

**Deciding on whether to take the case**

1. Work within your expertise. As with full scope service, strongly consider rejecting a limited scope matter in areas of law in which you or your firm have little or no experience. Taking a case for the “learning experience” is unwise in limited representation, or any representation. It takes significant expertise in family law to be able to anticipate what issues will arise in a matter, and it is necessary to give good counsel and avoid liability. Even where your representation is limited to particular tasks, you may still owe a duty to alert the client to legal problems outside the scope of your representation that are reasonably apparent and that may require legal assistance. Therefore, you should inform the client not only of the limitation of your representation, but of the possible need for other counsel regarding issues you have not agreed to handle.
2. **Don't be pressured by emergencies.** Pay particular attention to prospective clients who have last-minute emergencies and seek limited scope representation. Limited scope representation does not mean that you do not have to provide competent assistance or zealous advocacy. Being pressured to conduct a “quick document review” because of an upcoming deadline is much riskier if you will only be involved in that brief transaction. Consider advice on ways to move the deadline, if possible, to allow adequate time for review or representation.

3. **Be aware that some clients have unrealistic expectations.** A prospective client may be unrealistic about what she or he can achieve alone or about the nature of your limited scope representation. Part of your obligation in offering limited scope services is to teach the client about the legal system and the available remedies. Few non-attorneys will arrive on your doorstep with totally realistic expectations. You bring your knowledge and experience with the legal system to the relationship. It is important that the self-represented party “hear” your advice in order to partner successfully with you in the representation and carry out a plan with your guidance. If you believe that you will not be successful at reining in a client’s unrealistic expectations, you should decline the representation. Not every client is temperamentally suited to representing him/herself.

4. **Make sure the limited scope of your services is reasonable.** Although you and your client have substantial latitude in limiting the scope of your representation, the limitation must be reasonable under the circumstances and the client must give informed consent. If you conclude that a short-term limited representation would not be reasonable under the circumstances, you may offer advice to the client but must also advise the client of the need for further assistance of legal counsel.

5. **Clearly address the fee structure and its relation to services.** If during your initial interview you find that the prospective client is reluctant to discuss or agree on fees, be cautious. It is critical that the client understands that limited scope services not only limit your fees but also limit the services that you will perform for them. If anything, your fee arrangement must be clearer in limited scope representation than in full service. You must ensure that there is no misunderstanding about what limited services you have agreed to perform. In limited scope representation, it is crucial to be on a “pay as you go” basis, as you may never see the client again.

6. **A good diagnostic interview is critical.** It is critical to perform a good diagnostic interview to pick up all the issues in the case. Both experienced and inexperienced attorneys will find a checklist of issues in the relevant practice area to be extremely helpful in conducting a good diagnostic interview.

7. **Develop and use an intake form.** A good form should list the key issues and allow room to insert unusual ones. Give a completed copy to the client. It is a contemporaneous record which documents your file, reminds you to ask about related issues, memorializes the limitations on scope, and educates the client. Use and tailor the forms which appear in these materials to make them work for you.
8. Advise the client of their right to seek advice on issues outside the scope of the limited assignment. It is probably a good idea to include in your intake sheet or handouts a statement that the client has been advised of the right to seek counsel on other issues.

*After you take the case*

9. **Use checklists.** This documents who is going to do what before the next meeting. Give a copy to the client. Sample checklists have been included in these materials. Tailor them to your specific practice, fill them out while the client is present, and make sure that you and your client each have an initialed copy.

10. **Use a clear fee agreement detailing the scope of representation.** A good limited services fee agreement will spell out exactly what you are doing for the client, and even more importantly, what you are not doing, and will detail what responsibilities the client will assume. There should be no confusion about the scope of the representation. Four sample fee agreements are included in these materials, for situations in which you consult on a single occasion, offer ongoing consulting services, provide document drafting and assistance with strategy and paperwork, and entering an appearance for part of the case. Tailor them to each case and to your individual practice. A fee agreement which puts the limitations and checklist in an attachment is probably better suited to a case where you anticipate a change in scope.

11. If you are going to appear in court on behalf of the client, you must complete and file a Limited Appearance (form JD-CL-121). Limited Appearance forms will be available in all Clerk’s Office, Court Service Center and Law Library locations and on the Judicial Branch website at [www.jud.ct.gov](http://www.jud.ct.gov).

12. **Memorialize any changes in the scope of your limited representation as they occur.** *Never* do work outside the scope of the original retention without a new limitation signed by the client. Checklists that attach to the fee agreement are a simple and reliable way to do this. A confirming letter that the client doesn’t sign is insufficient to effectively document the new limit in scope because it doesn’t document informed consent. Be sure that you and the client both sign off on any changes in scope. If you have filed a Limited Appearance form with the court, any changes to the scope of representation require that you file a new Limited Appearance reflecting the change(s). If the new agreement with the client is to represent the client for the entire case, the attorney will file a general Appearance (form JD-CL-12). In addition, any change in the scope of the representation requires the client’s informed consent, shall be confirmed to the client in writing, and shall require the lawyer to file a new limited appearance with the court reflecting the change(s)

13. **Explain the “why.”** Limited scope matters are pursued in partnership with the client. A client who understands the “big picture” and the tradeoffs will not only be more successful in self-representation but also less likely to blame you for unwanted outcomes.
14. Refrain from providing blank court forms to the client without providing assistance in completing or reviewing the final product. Some forms are simply too complicated for a self-represented party to complete without assistance. Your expert assistance in the completion of these forms is not only a best practice, but it will also reduce any potential liability. Where available, you may also send the client to the Court Service Center for assistance in completing forms.

15. Do not encourage a self-represented party to handle a matter that is too technical or difficult. A prime example of this problem is preparation or a QDRO (Qualified Domestic Relations Order). Part of your responsibility as an attorney is to counsel a person against handling such a matter themselves and to help them understand the cost/benefit analysis of using their litigation budget wisely to acquire the expert assistance in the areas where they most need it. This is an individualized assessment.

**Ending the relationship**

16. Let the client know when your involvement has ended. There should be no surprises either to you or the client about when your involvement in the matter has ended, and no unstated expectations of continued participation on your part. Send out a notice at the end of your involvement in a matter that involves a series of steps. A sample “closing letter” is included in the materials. Notify the client that you believe you have completed your part and advise him/her to get in touch with you immediately if s/he disagrees.

17. If you have entered an appearance, let the court know about ending the relationship as well. A Certificate of Completion of Limited Representation form must be filed with the court to inform the court that the limited representation has ended. Don’t file your limited scope representation agreement with your Certificate of Completion of Limited Representation form, JD-CL-122, since that is a confidential communication.

Use good judgment. Many of these suggestions apply equally to full service representation. Your limited scope clients are likely to be more satisfied than your full service clients if you follow these simple practices. They don’t take much effort and will document your file and educate your clients in ways which substantially increase the likelihood of a satisfactory relationship for each of you.
Limited Scope Representation Flow Chart for Attorneys

Consult client, discuss issues and options for **limited scope**

Select limited scope

- Discuss issues and tasks to be apportioned
- Designate responsibilities

Render limited scope services **without making an appearance**

Obtain written fee agreement

File and serve a limited appearance

Perform agreed tasks

Client needs **additional services** outside initial scope and/or new issues emerge

Send client **withdrawal** letter

Return to top and start over

File **Certificate of Completion of Limited Representation**

Limited Scope Representation Flow Chart for Clients

Consult attorney, discuss issues and options for limited scope

Select full service
Select limited scope

- Discuss issues and tasks to be **apportioned between you and attorney**
- Decide who is going to do which parts

**Attorney performs services without appearing in court on your behalf**

- **Attorney performs** tasks s/he agreed to do
- **You perform** tasks you agreed to do

**Sign written fee agreement and keep a copy**

**Attorney appears in court on your behalf for a limited purpose**

- **Attorney performs** tasks s/he agreed to do
- **You perform** tasks you agreed to do

**You need additional services outside initial scope and/or new issues emerge**

- The attorney files a **Certificate of Completion of Limited Representation** and you are responsible for all aspects of your case after that
- **Return to top and start over with new issues and apportionment of tasks**
- **Attorney sends you withdrawal letter** and you advise attorney immediately if you don't think all agreed services have been completed
Section 3

Initial Interview Checklist
# Initial Interview Checklist

I met with ______________________________ on _____________________, 200___ regarding________________________________________________________________

I performed a conflicts check on:

---

## We discussed the following issues:

<table>
<thead>
<tr>
<th>Date of Separation</th>
<th>Custody</th>
<th>Visitation</th>
<th>Move Away</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Support</td>
<td>I did / did not run child support calculations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alimony</td>
<td>Amount</td>
<td>Duration</td>
<td></td>
</tr>
<tr>
<td>Restraining orders re</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Division of real property</td>
<td>Valuation of real property</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Characterization of real property</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Business Interests

<table>
<thead>
<tr>
<th>Business Interests</th>
<th>Bank Accounts</th>
<th>Personal Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Benefits</td>
<td>Medical Insurance</td>
<td></td>
</tr>
<tr>
<td>Collection of past due support</td>
<td>Wage Assignment</td>
<td></td>
</tr>
<tr>
<td>Stock Options</td>
<td>Stocks and bonds</td>
<td></td>
</tr>
</tbody>
</table>

Advised client of right to seek counsel on issues outside the scope:

Other:

---

## We discussed the following coaching options:

---
Two checklists follow. They address the two ways in which limited scope representation arrangements break down. In the first, the client and attorney agree which tasks are to be performed by each of them. This is by far the most common arrangement. In the other model, the attorney handles one or more discrete issues from start to finish, with the client assuming responsibility for the other issues.

The checklists should be tailored to your practice and to each case and may be used in two ways:

1. Use them as part of your intake to memorialize your discussions with the client regarding the limitations on scope, and do a new one each time the scope changes (as it frequently does).
2. Use them as exhibits to the fee agreement of your choice, and replace them each time the scope changes.
Section 4

Tasks/Issues to be Apportioned
Tasks to Be Apportioned May Look Like This:

Client instructs attorney not to do discovery, and undertakes the information gathering role;
Client asks attorney to draft moving or responsive pleadings for a hearing where the client attends and represents themselves;
Client consults with attorney on strategy and tactics;
Client appears at the hearing and asks the attorney to draft the order;
Client asks attorney to review correspondence or pleadings which the client has drafted;
Client asks attorney to prepare subpoenas;
Client asks attorney to write a brief to be filed by the client as a self-represented party;
Client asks attorney to run computer support programs on her, or review and analyze computer support calculations proposed by the opposing party;

Issues to Be Apportioned May Look Like This:

Attorney represents client in connection with custody and visitation issues (maybe including support); client is self-represented on property issues.
Attorney collects past due child support which client enforces the order to sell the house;
Attorney obtains supervised visitation and drug testing orders, and client is self-represented on support issues;
Attorney prepares QDRO dividing pension or order apportioning stock options, while client self-represents on other issues;
Attorney represents client in connection with matters raised in a cross-complaint, client handles defense of underlying lawsuit;
Attorney represents client in connection with emergency injunctive orders, client handles the rest of the case;
Attorney prepares and organizes the exhibits and scripts the presentation and questions for the opposing party’s witnesses, but does not appear in court;
Attorney drafts pleadings and provides instructions on service and filing, while the client is responsible for court appearances;
Attorney advises client on possible settlement alternatives and coaches on negotiation strategy. Client attends the settlement conference as a self-represented party and the attorney is on standby in the event of questions regarding acceptability of settlement offers.

*Note: Each limited scope arrangement is different, and must be tailored to the client, case and issues presented. These checklists are designed to be flexible and should be tailored to each case.*
Use this form to allocate tasks between attorney and client. Attach this form to Fee Agreement #4 or to any other fee agreement if the scope of representation changes.

<table>
<thead>
<tr>
<th>TASK</th>
<th>ATTORNEY TO DO</th>
<th>DATE COMPLETED</th>
<th>CLIENT TO DO</th>
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</thead>
<tbody>
<tr>
<td>Draft papers to start divorce</td>
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<tr>
<td>File and serve papers</td>
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<tr>
<td>Draft Motions</td>
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<tr>
<td>Draft affidavits and declarations</td>
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<tr>
<td>Analyze case and advise of legal rights</td>
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<tr>
<td>Procedural advice</td>
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<tr>
<td>Formulating strategy and tactics</td>
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<tr>
<td>Investigate facts; which issues?</td>
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<tr>
<td>Obtain documents; which ones?</td>
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<tr>
<td>Draft correspondence</td>
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<tr>
<td>Review correspondence and pleadings</td>
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<tr>
<td>Appear in court</td>
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<tr>
<td>Run computer support programs</td>
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<tr>
<td>Prepare subpoenas for documents</td>
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<tr>
<td>Take depositions</td>
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<td></td>
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<tr>
<td>Review depositions and documents obtained from others</td>
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</tbody>
</table>

Attorney Initials __________          Client Initials __________
<table>
<thead>
<tr>
<th>TASK</th>
<th>ATTORNEY TO DO:</th>
<th>DATE COMPLETED</th>
<th>CLIENT TO DO:</th>
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</thead>
<tbody>
<tr>
<td>Legal research and analysis</td>
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<tr>
<td>Contact witnesses</td>
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<tr>
<td>Draft or analyze settlement proposals</td>
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<tr>
<td>Contact expert witnesses</td>
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<tr>
<td>Draft orders and judgments</td>
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<tr>
<td>Outline testimony</td>
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<tr>
<td>Trial or negotiation preparation</td>
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<tr>
<td>Review orders and judgments that client drafts</td>
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<tr>
<td>Draft orders</td>
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<tr>
<td>Draft disclosure documents</td>
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<tr>
<td>Advise regarding appeal</td>
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<tr>
<td>Enforce orders</td>
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<tr>
<td>Draft other papers as necessary</td>
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<td>Other:</td>
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Dated:  

Attorney signature  

Client signature
<table>
<thead>
<tr>
<th><strong>ISSUE</strong></th>
<th><strong>ATTORNEY TO DO:</strong></th>
<th><strong>DATE COMPLETED:</strong></th>
<th><strong>CLIENT TO DO:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Custody/Visitation dispute</td>
<td></td>
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<tr>
<td>Set or modify child support</td>
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<tr>
<td>Collect past due child support</td>
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<tr>
<td>Obtain or enforce alimony order</td>
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<tr>
<td>Real property valuation and division</td>
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<tr>
<td>Personal property division</td>
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<tr>
<td>Business interests</td>
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<tr>
<td>Bank accounts</td>
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<tr>
<td>Investments</td>
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<tr>
<td>Pension rights</td>
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<tr>
<td>Stocks and bonds</td>
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<td>Stock options</td>
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<tr>
<td>Value and divide employee benefits</td>
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<td>Health insurance</td>
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<tr>
<td>Life insurance</td>
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<tr>
<td>Value or divide other assets/debts</td>
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</tbody>
</table>

Attorney Initials __________  Client Initials __________
ISSUES TO BE APPORTIONED, cont’d

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>ATTORNEY TO DO:</th>
<th>DATE COMPLETED</th>
<th>CLIENT TO DO:</th>
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</thead>
<tbody>
<tr>
<td>Enforce orders (describe)</td>
<td></td>
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<tr>
<td>Pursue an appeal</td>
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<td>Other issues:</td>
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<td>Other issues:</td>
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<td>Other Issues:</td>
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</tbody>
</table>

Dated:                                     Dated:

Attorney signature                          Client signature
Attachment to Limited Scope Fee Agreement
Tasks to be Apportioned - CIVIL

Use this form to allocate tasks between attorney and client. Attach this form to your revised fee agreement if the scope of representation changes.

<table>
<thead>
<tr>
<th>TASK</th>
<th>ATTORNEY TO DO</th>
<th>DATE COMPLETED</th>
<th>CLIENT TO DO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft initial demand prior to filing suit</td>
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<tr>
<td>Draft papers to start/respond to suit</td>
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<tr>
<td>File and serve papers</td>
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<tr>
<td>Draft Motions / Respond to Motions</td>
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<tr>
<td>Draft Written Discovery</td>
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<tr>
<td>Respond to Written Discovery</td>
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<tr>
<td>Analyze case and advise of legal rights</td>
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<tr>
<td>Procedural advice</td>
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<tr>
<td>Formulating strategy and tactics</td>
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<tr>
<td>Investigate facts; which issues?</td>
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<td>Obtain documents; which ones?</td>
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<tr>
<td>Draft correspondence</td>
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<tr>
<td>Review correspondence and pleadings</td>
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<tr>
<td>Appear in court</td>
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<tr>
<td>Prepare Case Management Statement</td>
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<tr>
<td>Prepare subpoenas for documents</td>
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<tr>
<td>Take depositions</td>
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<tr>
<td>Review depositions and documents obtained from others</td>
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</table>

Attorney Initials __________          Client Initials __________
## Tasks to be Apportioned, cont’d

<table>
<thead>
<tr>
<th>Task</th>
<th>Attorney To Do:</th>
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<th>Client To Do:</th>
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</thead>
<tbody>
<tr>
<td>Legal research and analysis</td>
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<tr>
<td>Contact witnesses</td>
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<tr>
<td>Draft or analyze settlement proposals</td>
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<tr>
<td>Contact expert witnesses</td>
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<tr>
<td>Draft orders and judgments</td>
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<tr>
<td>Outline testimony</td>
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<tr>
<td>Trial or negotiation preparation</td>
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<tr>
<td>Prepare for Judicial Arbitration, Mediation or Voluntary Settlement</td>
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<tr>
<td>Conference</td>
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<tr>
<td>Appear at Judicial Arbitration, Mediation or Voluntary Settlement</td>
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<tr>
<td>Conference</td>
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<tr>
<td>Review orders and judgments that client drafts</td>
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<tr>
<td>Draft orders</td>
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<tr>
<td>Draft disclosure documents, including witness and evidence lists</td>
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<tr>
<td>Issue subpoenas for witnesses to appear at trial</td>
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<tr>
<td>Conduct trial</td>
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<tr>
<td>Advise regarding appeal</td>
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<tr>
<td>Enforce orders</td>
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<tr>
<td>Draft other papers as necessary</td>
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<td>Other:</td>
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**Dated:**

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<th>Dated:</th>
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<tbody>
<tr>
<td>Attorney signature</td>
<td>Client signature</td>
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</table>
## Attachment to Limited Scope Fee Agreement
### Issues to be Apportioned - CIVIL

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>ATTORNEY TO DO:</th>
<th>DATE COMPLETED</th>
<th>CLIENT TO DO:</th>
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</thead>
<tbody>
<tr>
<td>Prosecuting complaint</td>
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<tr>
<td>Answering/defending complaint</td>
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<tr>
<td>Prosecuting Cross-Complaint</td>
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<tr>
<td>Answering/defending Cross-Complaint</td>
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<tr>
<td>Seeking injunctive orders</td>
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<tr>
<td>Opposing request for injunctive orders</td>
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<tr>
<td>Compelling arbitration or ADR</td>
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<tr>
<td>Opposing petition to compel arbitration or ADR</td>
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<tr>
<td>Enforce judgments or orders (describe)</td>
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<tr>
<td>Pursue an appeal or writ</td>
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<td>Other issues:</td>
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<td>Other Issues:</td>
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<table>
<thead>
<tr>
<th>Attorney signature</th>
<th>Client signature</th>
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**Attorney Initials __________**  **Client Initials __________**
# Fee Agreement #1

On ________________, 200__, ____________________________ (Client) consulted with  
________________________ (Attorney), who performed a conflicts check on __ for 

<table>
<thead>
<tr>
<th>Review of court documents (describe)</th>
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</thead>
<tbody>
<tr>
<td>Information about document preparation:</td>
</tr>
<tr>
<td>Assistance with document preparation:</td>
</tr>
<tr>
<td>Advice regarding client’s rights and responsibilities</td>
</tr>
<tr>
<td>Advice about the law and strategy relevant to issues as identified by Client</td>
</tr>
<tr>
<td>Preparing computer support guideline calculations</td>
</tr>
<tr>
<td>Information about fact gathering and discovery</td>
</tr>
<tr>
<td>Guidance about procedural information, filing and service of documents</td>
</tr>
<tr>
<td>Advice about negotiation and the preparation and presentation of evidence</td>
</tr>
<tr>
<td>Advice about law and strategy related to an ongoing mediation/negotiation or litigation</td>
</tr>
<tr>
<td>Legal Research</td>
</tr>
<tr>
<td>Advising on trial or negotiating techniques</td>
</tr>
<tr>
<td>Advising regarding property rights</td>
</tr>
<tr>
<td>Review and analysis of Client’s case or trial strategy</td>
</tr>
<tr>
<td>Other (specify):</td>
</tr>
</tbody>
</table>

Client has paid Attorney for her/his time. All tasks which Client requested of Attorney have been completed and no further services are requested or expected from Attorney. Neither Client nor Attorney contemplates or expects a further professional relationship. Client acknowledges that he/she has been advised of the Client’s right to seek separate legal advice from other counsel of the client’s choice with regard to all legal matters that are outside the scope of the specific limited services provided by Attorney under this agreement.

Dated:

Attorney signature
Fee Agreement #2
Consulting Services Agreement

Identification of Parties: This agreement, executed in duplicate with each party receiving an executed original, is made between ____________________________, hereafter referred to as “Attorney,” and ____________________________, hereafter referred to as “Client.”

Nature of Case: Client consulted Attorney in the following matter:

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

1. Client Responsibilities and Control: Client will remain responsible for and in control of his/her own case at all times. This means that Client will be responsible for understanding the issues, resolution options and potential consequences of those resolution options. In addition, Client agrees to:
   a. Cooperate with Attorney or his/her office by complying with all reasonable requests for information in connection with the matter for which Client is requesting services.
   b. Inform Attorney of the specific parts of the case that Client requests Attorney’s assistance with.
   c. Review and evaluate all information provided by Attorney.
   d. Keep Attorney or his/her office advised of Client’s concerns and any information pertinent to Client’s case.
   e. Provide Attorney with copies of all correspondence to and from Client relevant to the case.
   f. Notify Attorney of any pending negotiations, hearings, contractual deadlines or litigation.
   g. Keep all documents related to the case in a file for review by Attorney.
   h. Sign all relevant papers, agreements or findings relative to the case.
   i. Immediately notify Attorney of any changes of work or home addresses or telephone numbers of the Client.
   j. Immediately notify Attorney if the Client receives any new pleading, motion, letter, or other documents from the other party, the other party’s lawyer, any expert, appraiser, or evaluator hired by either party or appointed by the Court, or any documents from the Court, and provide the Attorney with a copy of the item received, as well as the date it was received by the Client.

2. Scope of Services: Client requests Attorney to perform the following services related to the family law issues identified here or on the following page or attachment hereto: 

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

25
(Indicate Yes or No in box)

<p>| | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>a.</td>
<td>Advice about law and strategy related to an ongoing mediation, negotiation or litigation</td>
</tr>
<tr>
<td>b.</td>
<td>Information about document preparation</td>
</tr>
<tr>
<td>c.</td>
<td>Assistance with document preparation</td>
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<tr>
<td>d.</td>
<td>Information about fact gathering and discovery</td>
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<td>e.</td>
<td>Assistance with drafting discovery requests</td>
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<td>f.</td>
<td>Assistance with computer support programs</td>
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<td>g.</td>
<td>Guidance and procedural information regarding filing and serving documents</td>
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<td>h.</td>
<td>Advice about negotiations and the preparation and presentation of evidence</td>
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<tr>
<td>i.</td>
<td>Legal research</td>
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<td>j.</td>
<td>Coaching on trial or negotiating techniques</td>
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<tr>
<td>k.</td>
<td>Review and analysis of Client’s trial strategy</td>
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<td>l.</td>
<td>Advice about an appeal</td>
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<td>m.</td>
<td>Procedural assistance with an appeal</td>
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<td>n.</td>
<td>Assistance with substantive legal argument</td>
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<td>o.</td>
<td>Other:</td>
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</table>

3. **Limitation of Attorney’s Responsibilities:** Attorney will perform the specific legal tasks identified by the word “Yes” in paragraph 2 above consistent with Attorney’s ethical and professional responsibilities, including observing strict confidentiality, and based on the information available to Attorney. In providing those services, Attorney will not:

   a. Represent, speak for, appear for, or sign papers on Client’s behalf.
   b. Provide services in paragraph 2 which are identified with the word “No.”
   c. Make decisions for Client about any aspect of the case.
   d. Determine the assets and obligations of Client’s marriage, their character, or their value.
   e. Determine an appropriate division of the assets and obligations of Client’s marriage
   f. Litigate Client’s case on Client’s behalf
   g. Protect Client’s property by means of restraining orders while discovery and/or negotiations are in progress.

   Attorney will NOT perform any services identified by the word “NO” in paragraph 2 above. The Client may request that Attorney provide additional services. If Attorney agrees to provide additional services, those additional services will be specifically listed in an amendment to this Agreement, and initiated and dated by both parties. The date that both the Attorney and the Client initial any such list of additional services to be provided will be the date on which the Attorney becomes responsible for providing those additional services. If the Client decides to retain the Attorney as the Client’s
Attorney of record for handling the entire case on the Client’s behalf, the Client and the Attorney will enter into a new written Agreement setting forth that fact, and the Attorney’s additional responsibilities in the Client’s case.

**Right to Seek Advice of Other Counsel:** Client is advised of the right to seek the advice and professional services of other counsel with respect to those services in paragraph 2 which are identified with the word “no” at any time during or following this limited consulting services agreement.

4. **Method of Payment for Services:**

   a. **Hourly Fee:** The current hourly or flat fee charged by Attorney for services under this agreement is $__________. Unless a different fee arrangement is established in clause 4b of this Paragraph, the hourly fee will be payable at the time of service. Attorney will charge in increments of one tenth of an hour, rounded off for each particular activity to the nearest tenth of an hour. The hourly fee will be payable at the time of the service.

   b. **Payment from Deposit:** For a continuing consulting role, Client will pay to Attorney a deposit of $__________, to be received by Attorney on or before ________________, and to be applied against Attorney’s fees and costs incurred by Client. This amount will be deposited by Attorney in Attorney’s trust account. Client authorizes Attorney to withdraw the principal from the trust account to pay Attorney’s fees and costs as they are incurred by Client. Any interest earned will be paid, as required by law, to fund legal services for indigent persons. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by Client for Attorney’s fees and costs is less than the amount of the deposit, the difference will be refunded to Client.

   c. **Costs:** All costs payable to third parties in connection with Client’s case including filing fees, investigation fees, deposition fees and the like shall be paid directly by Client. Attorney will not advance costs to third parties on Client’s behalf.

   **Client acknowledges that Attorney has made no promises about the total amount of Attorney’s fees to be incurred by Client under this agreement.**

5. **Discharge of Attorney:** Client may discharge Attorney at any time by written notice effective when received by Attorney. Unless specifically agreed by Attorney and Client, Attorney will provide no further services after receipt of the notice. Notwithstanding the discharge, Client will remain obligated to pay Attorney at the agreed rate for all services provided prior to such discharge.

6. **Withdrawal of Attorney:** 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 services, per the Limited Appearance form, the attorney must file a Certificate of Completion of Limited Representation form. Certificates of Completion of Limited Representation will be available in all Clerk’s Office, Court Service Center and Law Library locations and on the Judicial Branch website at [www.jud.ct.gov](http://www.jud.ct.gov). The Certificate of Completion of Limited Representation must be filed with the court after completion, and copies must be provided to the client, opposing
counsel, and opposing party if unrepresented. After the Certificate of Completion form is filed, the attorney’s obligation to continue to represent the client is terminated. The attorney does not have to file a Motion to Withdraw or obtain the court’s permission to no longer participate in the proceeding. A Certificate of Completion of Limited Representation form must be filed in every circumstance, even if there is an in lieu of appearance filed by other counsel. If, however, the attorney does not fulfill his or her obligation as set forth in the Limited Appearance, the attorney must move to withdraw in accordance with the provisions set forth in P.B. Sec. 3-10.

7. **Disclaimer:** Although Attorney may offer an opinion about possible results regarding the subject matter of this agreement, Attorney cannot guarantee any particular result. Client acknowledges that Attorney has made no promises about the outcome and that any opinion offered by Attorney in the future will not constitute a guarantee.

8. **Entire Agreement:** This Agreement is the complete Agreement between the Client and the Attorney. If the Client and the Attorney decide to change or amend this Agreement in any way, the change must be in writing and attached to this Agreement.

9. **Effective Date of Agreement:** The effective date of this agreement will be the date when, having been executed by Client, one copy of the agreement is received by Attorney and Attorney receives the deposit required by Paragraph 4b. Once effective, this agreement will, however, apply to services provided by Attorney on this matter before its effective date.

The foregoing is agreed to by:

__________________________  __________________________
(Client)  

__________________________  __________________________
(Attorney) 

__________________________  __________________________
(Date)  

__________________________  __________________________
(Date) 

28
Identification of Parties: This agreement, executed in duplicate with each party receiving an executed original, is made between __________________________, hereafter referred to as "Attorney," and _________________________, hereafter referred to as “Client.”

1. Nature of Case: The Client is requesting ongoing consulting services from Attorney in the following matter:

________________________________________________________________________
________________________________________________________________________

2. Client Responsibilities and Control. Client shall remain responsible for the conduct of the case and understands that he/she will remain in control of and be responsible for all decisions made in the course of the case. Client agrees to:

   a. Cooperate with Attorney or office by complying with all reasonable requests for information in connection with the matter for which Client is requesting services;
   b. Keep attorney or office advised of Client’s concerns and any information that is pertinent to Client’s case;
   c. Provide Attorney with copies of all pleadings and correspondence to and from Client regarding the case;
   d. Immediately provide Attorney with any new pleadings or motions received from the other party;
   e. Keep all documents related to the case in a file for review by Attorney.

3. Services to be performed by Attorney. Client and Attorney have agreed that Attorney will provide the following services, indicated by writing YES or NO (Attorney will not perform any services indicated by the word NO):

   a. _______ Legal advice: office visits, telephone calls, fax, mail, email;
   b. _______ Advice about availability of alternative means to resolving the dispute, including mediation and arbitration;
   c. _______ Evaluation of Client’s 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, in-depth interview of Client;
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, including simulated role-playing with Client;
n. _______ Planning for court appearances, including simulated role-playing with Client;
o. _______ Standby telephone assistance during negotiations or settlement conferences;
p. _______ Backup and troubleshooting during the hearing or trial;
q. _______ Referring Client to expert witnesses, special masters or other counsel;
r. _______ Counseling Client about an appeal;
s. _______ Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;
t. _______ Provide preventive planning and/or schedule legal check-ups;
u. _______ Other: ____________________________________________________________

4. **Attorney’s Responsibilities:** Attorney will exercise due professional care and observe strict confidentiality in providing the services identified by the word “YES” in Paragraph 4 above. In providing those services, Attorney **WILL NOT:**

a. Represent, speak for, appear for, or sign papers on the Client’s behalf;
b. Become attorney of record on any court papers or litigate on Client’s behalf;
c. Provide services which are not identified by the word “YES” in Paragraph 4;
d. Make decisions for Client about any aspect of the case;
e. Protect Client’s property by means of restraining orders while discovery and/or negotiations are in progress.
f. The Client may request that Attorney provide additional services. If Attorney agrees to provide additional services, those additional services will be specifically listed in an amendment to this Agreement, and initialed and dated by both parties. The date that both the Attorney and the Client initial any such list of additional services to be provided will be the date on which the Attorney becomes responsible for providing those additional services. If the Client decides to retain the Attorney
as the Client's Attorney of record for handling the entire case on the Client's behalf, the Client and the Attorney will enter into a new written Agreement setting forth that fact, and the Attorney's additional responsibilities in the Client's case.

g. **Right to Seek Advice of Other Counsel:** Client is advised of the right to seek the advice and professional services of other counsel with respect to those services in paragraph 3 which are identified with the word “no” at any time during or following this Ongoing Consulting Agreement.

5. **Method of Payment for Services:**
   
a. **Hourly Fee:**
   
The current hourly fee charged by Attorney for services under this agreement is $__________. Unless a different fee arrangement is established in clause b) of this Paragraph, the hourly fee shall be payable at the time of the service.

   If, while this agreement is in effect, Attorney increases the hourly rate(s) being charged to clients generally for Attorney's fees, that increase may be applied to fees incurred under this agreement, but only with respect to services provided thirty days or more after written notice of the increase is mailed to Client. If Client chooses not to consent to the increased rate(s), Client may terminate Attorney's services under this agreement by written notice effective when received by Attorney.

   **Costs:** Client will pay Attorney’s 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’s case including filing fees, investigation fees, deposition fees and the like will be paid directly by Client. Attorney will not advance costs to third parties on Client’s behalf.

   **Client acknowledges that Attorney has made no promises about the total amount of Attorney's fees to be incurred by Client under this agreement.**

   b. Should it be necessary to institute any legal action for the enforcement of this agreement, the prevailing party shall be entitled to receive all court costs and reasonable attorney fees incurred in such action from the other party.

6. **Discharge of Attorney:** Client may discharge Attorney at any time by written notice effective when received by Attorney. Unless specifically agreed by Attorney and Client, Attorney will provide no further services and advance no further costs on Client's behalf after receipt of the notice. Notwithstanding the discharge, Client will remain obligated to pay Attorney at the agreed rate for all services provided and to reimburse Attorney for all costs incurred prior to such discharge.

7. **Withdrawal of Attorney:** When an attorney completes his or her limited representation of a party in accordance with the Limited Appearance form which clearly defined the scope of the services, per the Limited Appearance, the attorney must file a Certificate of Completion of Limited Representation form. Certificates of Completion of Limited Representation will be available in all Clerk’s Office, Court Service Center and Law Library locations and on the Judicial Branch website at www.jud.ct.gov. The Certificate of Completion of Limited Representation form must
be filed with the court within 10 days after completion, and copies must be provided to the client, opposing counsel, and opposing party if unrepresented. After the Certificate of Completion form is filed, the attorney’s obligation to continue to represent the client is terminated. The attorney does not have to file a Motion to Withdraw or obtain the court’s permission to no longer participate in the proceeding. A Certificate of Completion of Limited Representation form must be filed in every circumstance, even if there is an in lieu of appearance filed by other counsel. If, however, the attorney does not fulfill his or her obligation as set forth in the Limited Appearance, the attorney must move to withdraw in accordance with the provisions set forth in P.B. Sec. 3-10.

8. Amendments and Additional Services. This written Agreement governs the entire relationship between Client and Attorney. All amendments shall be in writing and attached to this agreement. If Client wishes to obtain additional services from Attorney as defined in Paragraph 4, a photocopy of Paragraph 4 which clearly denotes which extra services are to be provided, signed and dated by both Attorney and Client and attached to this Agreement, shall qualify as an amendment.

9. Severability in Event of Partial Invalidity. If any provision of this agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire agreement will be severable and remain in effect.

10. Statement of Client’s Understanding. I have carefully read this Agreement and believe that I understand all of its provisions. I signify my agreement with the following statements by initialing each one:

a. _______ I have accurately described the nature of my case in Paragraph 1.

b. _______ I will be responsible for the conduct of my case and will be in control of my case at all times as described in Paragraph 2.

c. _______ The services Attorney has agreed to perform in my case are identified by the word “YES” in Paragraph 3. I take responsibility for all other aspects of my case.

d. _______ I understand and agree to the limitations on the scope of Attorney’s responsibilities identified in Paragraph 4 and understand Attorney will not be responsible for my conduct in handling my case.

e. _______ I will pay Attorney for services as described in Paragraph 5.

f. _______ I will resolve any disputes I may have with Attorney under this Agreement in the manner described in Paragraph 8.

g. _______ I understand that any amendments to this Agreement shall be in
writing, as described in Paragraph 9.

h. _______ I acknowledge that I have been advised by Attorney that I have the right to consult with another independent attorney to review this Agreement and to advise me on my rights as a client before I sign this Agreement.

__________________________________________  ______________________________________
(Client)                                                                                   (Attorney)

__________________________________________  ______________________________________
(Date)                                                                                     (Date)
Fee Agreement #4
Limited Representation Agreement including Court Appearance

Identification of Parties: This agreement, executed in duplicate with each party receiving an executed original, is made between ___________________________, hereafter referred to as "Attorney," and ___________________________, hereafter referred to as "Client."

1. Nature of Case: The Client is requesting ongoing consulting services from Attorney in the following matter:

________________________________________________________________________
________________________________________________________________________

These services are likely to require Attorney to enter an appearance for a limited issue.

2. Client Responsibilities and Control. Client intends to retain control over all aspects of the case except those specifically assigned to Attorney, and understands that he/she will remain in control of the case and be responsible for all decisions made in the course of the case. Client agrees to:

   a. Cooperate with Attorney or office by complying with all reasonable requests for information in connection with the matter for which Client is requesting services;

   b. Keep attorney or office advised of Client’s concerns and any information that is pertinent to Client’s case;

   c. Provide Attorney with copies of all pleadings and correspondence to and from Client regarding the case;

   d. Immediately provide Attorney with any new pleadings or motions received from the other party;

   e. Keep all documents related to the case in a file for review by Attorney.

3. Services to be performed by Attorney

   a. Client seeks the services from Attorney as set forth in the Tasks and Issues to be Apportioned checklist (see attached). Client and Attorney shall designate the services to be rendered by Attorney by writing the word “Yes” in the column labeled “Attorney Shall Do” next to the services they agree Attorney will do, and shall designate the services Client shall undertake by writing the word “Yes” under the column labeled “Client to Do” next to those services. If a service is to be rendered by another attorney or some other third person, the word “Other Attorney” or other similar designation shall be written in the blank opposite the service. Attorney and Client shall each retain an original of this agreement and the designation of services (see attached).

   b. Additional Services: Client may request that Attorney provide additional services.

1 Use in conjunction with the Tasks/Issues checklists.
If Attorney agrees to provide additional services, those additional services will be specifically listed in an amendment to this Agreement, and initialed and dated by both parties. The date that both the Attorney and the Client initial any such list of additional services to be provided will be the date on which the Attorney becomes responsible for providing those additional services. If the Client decides to retain the Attorney as the Client’s Attorney of record for handling the entire case on the Client’s behalf, the Client and the Attorney will enter into a new written Agreement setting forth that fact, and the Attorney’s additional responsibilities in the Client’s case.

4. **Attorney of Record.** It is the intention of Attorney and Client that Attorney shall only perform those services specifically requested of Attorney. Some of those services may require Attorney to file an appearance in Client’s case in order to perform the service requested. Attorney and Client specifically agree that Attorney’s filing an appearance for limited representation shall not authorize or require Attorney to expand the scope of representation beyond the specific services designated.

5. **Method of Payment**

1. **Hourly Fee**

   The current hourly fee charged by Attorney for services under this agreement is as follows:

   1) Attorney __________
   2) Associate __________
   3) Paralegal __________
   4) Law Clerk __________

   Unless a different fee arrangement is established in clause b) of this paragraph, the hourly fee shall be payable at the time of the service. Attorney will charge in increments of one tenth of an hour, rounded off for each particular activity to the nearest one tenth of an hour.

   If, while this agreement is in effect, Attorney increases the hourly rate(s) being charged to clients generally for Attorney’s fees, that increase may be applied to fees incurred under this agreement, but only with respect to services provided thirty days or more after written notice of the increase is mailed to Client. If Client chooses not to consent to the increased rate(s), Client may terminate Attorney’s services under this agreement by written notice effective when received by Attorney.

2. **Payment from Deposit.** For a continuing consulting role, Client will pay to Attorney a deposit of $____________, to be received by Attorney on or before ______________, and to be applied against Attorney's fees and costs incurred by Client. This amount will deposited by Attorney in Attorney's trust account. Client authorizes Attorney to withdraw the principal from the trust account to pay Attorney's fees and costs as they are incurred by Client.

   Any interest earned will be paid, as required by law, to fund legal services for
indigent persons. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by Client for Attorney's fees and costs is less than the amount of the deposit, the difference will be refunded to Client.

**Costs:** Client will pay Attorney’s 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’s case including filing fees, investigation fees, deposition fees and the like will be paid directly by Client. Attorney will not advance costs to third parties on Client’s behalf.

Client acknowledges that Attorney has made no promises about the total amount of Attorney's fees to be incurred by Client under this agreement.

6. **Amendments and Additional Services.** This written Agreement governs the entire relationship between Client and Attorney. All amendments shall be in writing and attached to this agreement. If Client wishes to obtain additional services from Attorney as defined in Paragraph 3b, a photocopy of Paragraph 3b which clearly denotes which extra services are to be provided, signed and dated by both Attorney and Client and attached to this Agreement, shall qualify as an amendment.

7. **Severability in Event of Partial Invalidity:** If any provision of this agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire agreement will be severable and remain in effect.

8. I have carefully read this Agreement and believe that I understand all of its provisions. I signify my agreement with the following statements by initialing each one:

   a. ________ I have accurately described the nature of my case in Paragraph 1.
   b. ________ I will be responsible for the conduct of my case and will be in control of my case at all times as described in Paragraph 2.
   c. ________ The services that I want Attorney to perform in my case are identified by the word “YES” in Paragraph 3. I take responsibility for all other aspects of my case.
   d. ________ I understand and accept the limitations on the scope of Attorney’s responsibilities identified in Paragraph 4 and understand that Attorney will not be responsible for my conduct in handling my own case.
   e. ________ I will pay Attorney for services as described in Paragraph 5.
   f. ________ I will resolve any disputes I may have with Attorney under this Agreement in the manner described in Paragraph 6.
   g. ________ I understand that any amendments to this Agreement will be in writing, as described in Paragraph 7.
   h. ________ I acknowledge that I have been advised by Attorney that I have the right to consult with another independent attorney to review this Agreement and to advise me on my rights as a client before I sign this Agreement.

(Client) (Attorney)
SECTION 6

SAMPLE CHANGE IN SCOPE/CLOSING LETTERS
Sample Change in Scope Letter

Re: Limited Scope Representation

Dear ________:

Per our [telephone] conversation of ____________, 20__, you have asked me to perform additional tasks for you that are not included in our original Agreement for Limited Scope Representation dated ______________________ [and modified ____________________] (copies enclosed). There will be an additional flat or hourly fee in the amount of $____ per hour for these tasks since they were not included in our original agreement.

You have requested and I have agreed to do the following:

[Enumerate the specific tasks/issues that you have agreed to undertake for the client.]

(e.g. to prepare __________________________ in response to the motion recently filed.)

I understand that you wish to continue handling all other matters yourself as set forth in our original Agreement.

It is essential that we both have the same understanding of our respective responsibilities in connection with your case. I am unable to begin to work on the new task[s] until one copy of the signed revised checklist has been returned to me. [If applicable] Some of the tasks you want me to undertake have significant time constraints which could seriously impact your legal rights. It is therefore extremely important that you complete and initial a new Tasks/Issues checklist to memorialize the new scope of my involvement in your case. I’ve prepared and enclosed two copies of a new checklist, which I believe covers the changes to the prior Agreement for Limited Scope Representation. If time is of the essence in taking the necessary steps to protect your rights in this new area, you should consider either coming to my office to sign the checklist, or fax me a signed copy so I can start.

Please review it carefully and, if you agree, initial BOTH copies, and return one to me in the envelope provided. The other copy is for your records and should be attached to your copy of our Agreement for Limited Scope Representation.

I encourage you to seek the advice of other counsel in connection with tasks which I have not undertaken. Also, please feel free to consult with another attorney of your choice regarding this revised Agreement before signing and returning it to me.

I look forward to working with you on this new matter.

Very truly yours,

Enclosures: Two copies of Revised Task/Issues Checklist; Return envelope for your convenience
Sample Closing Letter

Re: Limited Scope Representation

Dear __________:

I have now completed all of the tasks which we agreed I would do in our agreement dated __________ [and modified on __________]. I know of no other matters on which you have requested my assistance. If you believe that I am incorrect, and you are relying on my assistance for some additional task, please contact me immediately. Otherwise, the Certificate of Completion form will be filed with the court.

[Use only if attorney has appeared of record with the court]. [Option 1] I have completed all of the tasks as set for in the Limited Appearance and I will file the enclosed Certificate of Completion form with the court notifying the court that my representation of you is concluded.

[If applicable.] Don’t forget that there is still a hearing on ________ at which time you will be representing yourself. Your opposition paperwork must be served and filed on __________.

You also agreed to contact ________ at (   )___-____ to prepare the order transferring your pension benefits.

The following issues, on which you have declined my assistance, are still pending:

1. 
2. 

I am enclosing the following original documents. Please be sure to keep them in a safe place in the event you need to refer to them in the future.

1. 
2. 

I would like to take this opportunity to thank you for allowing me to assist you in this matter. If you need further assistance in the future, I hope you will not hesitate to contact me.

Very truly yours,

Enclosures
Section 7

Checklists
## Follow Up Checklist

### Client:

#### Attorney and Client consulted on

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<th>By</th>
<th>(fill in date) Client will:</th>
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<tr>
<td></td>
<td>Obtain the following documents:</td>
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<td>Contact the following witnesses:</td>
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<td></td>
<td>Complete the following forms:</td>
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<td></td>
<td>Prepare the following information for coach:</td>
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<table>
<thead>
<tr>
<th>By</th>
<th>(fill in date) Attorney will:</th>
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<tr>
<td></td>
<td>Draft the following documents:</td>
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<td></td>
<td>Prepare the following forms:</td>
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<td>Contact the following witnesses:</td>
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<td>Research the law/procedure on:</td>
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<td></td>
<td>Review the following documents:</td>
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<td>Other:</td>
</tr>
</tbody>
</table>

| Other assignments: |

| Attorney initials: | Client initials: |
SECTION 8

APPENDICES

Forms
Practice Book Rules
Frequently Asked Questions
Notes
LIMITED APPEARANCE

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

(Limited Appearance: 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 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

Firm

Address

City

State

Zip

Phone

Email address

For the following party or parties:

Party

Address

City

State

Zip

Phone

Party

Address

City

State

Zip

Phone

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

Event or Proceeding

Event or Proceeding Date, if applicable

Appearance in place of, if applicable (Name and Juris number)

Appearance in addition to, if applicable (Name and Juris number)

☐ Family - Hearing on Order for Relief from Abuse

☐ Civil Protection Order

(Additional description, if necessary)

(Event or Proceeding information continued on Page 2)

ADA NOTICE
The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact a court clerk or an ADA contact person listed at www.jud.ct.gov/ADA.

For Court Use Only
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<th>Event or Proceeding</th>
<th>Event or Proceeding Date, if applicable</th>
<th>Appearance in place of, if applicable (Name and Juris number)</th>
<th>Appearance in addition to, if applicable (Name and Juris number)</th>
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3. I certify that in addition to this limited appearance, the party/parties I am representing (*x* one):

☐ already has a self-represented appearance on file.

☐ is filing a self-represented appearance at the same time as the filing of this limited appearance.

4. The Attorney named below is "Attorney of Record" and is available for service of documents ONLY for those court events described above. All pleadings, motions or other documents served on the limited appearance attorney shall also be served in the same manner on the party/parties for whom the limited appearance was filed. For all other matters, the party/parties must be served directly, unless otherwise ordered by the Court. Service of process on this attorney for any issue not named above shall not be deemed service on the party/parties. The name and address of the party/parties where service will be accepted and phone number are provided in section one of this form for that purpose.

5. I agree to accept papers (service) electronically in this case under Practice Book Section 10-13.

☐ Yes ☐ No

6. Other parties and their attorneys may directly communicate with the party/parties represented by the undersigned attorney regarding matters outside the scope of this limited representation without first consulting the undersigned attorney.

7. Upon completion of the representation as defined in this Limited Appearance, the attorney will file a Certificate of Completion of Limited Appearance form, JD-CL-122. Copies of the Certificate must be served in accordance with Sections 10-12 through 10-17 on the party/parties, and all attorneys and self-represented parties of record.

<table>
<thead>
<tr>
<th>Signed (Individual attorney)</th>
<th>Name of person signing at left (Print or type)</th>
<th>Date signed</th>
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</table>

**Certification**

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (date) ____________ to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was mailed or delivered to:

*If necessary, attach additional sheet or sheets with name and address which the copy was mailed or delivered to.

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<tr>
<th>Signed (Signature of filer)</th>
<th>Print or type name of person signing</th>
<th>Date signed</th>
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</table>

Mailing address (Number, street, town, state and zip code)

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<thead>
<tr>
<th>Mailing address</th>
<th>Telephone number</th>
</tr>
</thead>
</table>

JD-CL-121 Rev. 2-16

Print Form (Page 3 of 3) Reset Form
CERTIFICATE OF COMPLETION  
OF LIMITED APPEARANCE  

STATE OF CONNECTICUT  
SUPERIOR COURT  

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. Event(s) or Proceeding(s) for which this Certificate of Completion is being filed  
must exactly match the event(s) or proceeding(s) on the Limited Appearance form  
JD-CL-121.  

Name of Case (Full name of Plaintiff v. Full name of Defendant)  

[ ] Judicial District  [ ] Small Claims  [ ] Housing  

Address of Court (Number, state, town and zip code)  

I have completed my representation for  

(Name of parties/clients)  

for the following event(s) and/or proceeding(s) as defined on the Limited Appearance (form JD-CL-121) filed with the court on  

(Date filed)  

<table>
<thead>
<tr>
<th>Name of Proceeding or Event</th>
<th>Proceeding or Event Date</th>
<th>Name of Proceeding or Event</th>
<th>Proceeding or Event Date</th>
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<tbody>
<tr>
<td>Family - Hearing on Order for Relief from Abuse</td>
<td></td>
<td>Family - Conciliation Session</td>
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<tr>
<td>Civil Protection Order</td>
<td></td>
<td>Civil - Case Evaluation Conference</td>
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<tr>
<td>Pretrial Conference</td>
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<td>Mediation</td>
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<tr>
<td>Status Conference</td>
<td></td>
<td>Other ADR Process Session</td>
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<tr>
<td>Civil - Discovery/Scheduling Order Conference</td>
<td></td>
<td>Foreclosure Mediation Program - Premediation</td>
<td></td>
</tr>
<tr>
<td>Trial Management Conference</td>
<td></td>
<td>Foreclosure Mediation Program - Mediation</td>
<td></td>
</tr>
<tr>
<td>Family - Special Masters Conference</td>
<td></td>
<td>Trial</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Civil - Jury Selection</td>
<td></td>
</tr>
</tbody>
</table>

☐ Pre-Judgment Motion(s) / Hearing(s)  

(Provide additional description, if necessary)  

☐ Post-Judgment Motion(s) / Hearing(s)  

(Provide additional description, if necessary)  

☐ Other (Specify)  

(Provide additional description, if necessary. Be as specific as possible, for example: entry number(s), file date(s), title(s) of motion(s).)  

Signed (Individual attorney)  

Name of person signing at left (Print or type)  

Juris number  

Date signed  

Certification  

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on  
(date)  

to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.  

Name and address of each party and attorney that copy was mailed or delivered to”  

For Court Use Only  

*If necessary, attach additional sheet or sheets with name and address which the copy was mailed or delivered to.  

Signed (Signature of filer)  

Print or type name of person signing  

Date signed  

Mailing address (Number, street, town, state and zip code)  

Telephone number  

Print Form  

Reset Form
Limited Scope Representation (LSR)

Revisions to the Practice Book and the Rules of Professional Conduct

Rules of Professional Conduct

Rule 1.2, Scope of Representation and Allocation of Authority between Client and Lawyer

Eliminate relevant portion of Commentary to 1.2 – “Nothing in Rule 1.2 shall be construed to authorize limited appearances before any tribunal unless otherwise authorized by law or rule.”

Rule 1.5 - Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following: (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) The likelihood, if made known to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) The fee customarily charged in the locality for similar legal services; (4) The amount involved and the results obtained; (5) The time limitations imposed by the client or by the circumstances; (6) The nature and length of the professional relationship with the client; (7) The experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) Whether the fee is fixed or contingent. (b) The scope of the representation, the basis or rate of the fee and expenses for which the client will be responsible, shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client in writing before the fees or expenses to be billed at higher rates are actually incurred. In any representation in which the lawyer and the client agree that the lawyer will file a limited appearance, the limited appearance engagement agreement shall also include the following: identification of the proceeding in which the lawyer will file the limited appearance; identification of the court events for
which the lawyer will appear on behalf of the client; and notification to the client that after
the limited appearance services have been completed, the lawyer will file a certificate of
completion of limited appearance with the court, which will serve to terminate the lawyer's
obligation to the client in the matter, and as to which the client will have no right to object.
Any change in the scope of the representation requires the client's informed consent, shall
be confirmed to the client in writing, and shall require the lawyer to file a new limited
appearance with the court reflecting the change(s) in the scope of representation. This
subsection shall not apply to public defenders or in situations where the lawyer will be paid
by the court or a state agency. (c) A fee may be contingent on the outcome of the matter for
which the service is rendered, except in a matter in which a contingent fee is prohibited by
subsection (d) or other law. A contingent fee agreement shall be in a writing signed by the
client and shall state the method by which the fee is to be determined, including the
percentage or percentages of the recovery that shall accrue to the lawyer as a fee in the
event of settlement, trial or appeal, whether and to what extent the client will be
responsible for any court costs and expenses of litigation, and whether such expenses are to
be deducted before or after the contingent fee is calculated. The agreement must clearly
notify the client of any expenses for which the client will be liable whether or not the client
is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall
provide the client with a written statement stating the outcome of the matter and, if there is
a recovery, showing the remittance to the client and the method of its determination. (d) A
lawyer shall not enter into an arrangement for, charge, or collect: (1) Any fee in a domestic
relations matter, the payment or amount of which is contingent upon the securing of a
dissolution of marriage or civil union or upon the amount of alimony or support, or
property settlement in lieu thereof; or (2) A contingent fee for representing a defendant in a
criminal case. (e) A division of fee between lawyers who are not in the same firm may be
made only if: (1) The client is advised in writing of the compensation sharing agreement
and of the participation of all the lawyers involved, and does not object; and (2) The total
fee is reasonable.

Rule 4.2 – Communication with Person Represented by Counsel
In representing a client, a lawyer shall not communicate about the subject of the
representation with a party the lawyer knows to be represented by another lawyer in the
matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do
so. An otherwise unrepresented party for whom a limited appearance has been filed
pursuant to Practice Book Section 3-8 (b) is considered to be unrepresented for purposes of this Rule as to anything other than the subject matter of the limited appearance. When a limited appearance has been filed for the party, and served on the other lawyer, or the other lawyer is otherwise notified that a limited appearance has been filed or will be filed, that lawyer may directly communicate with the party only about matters outside the scope of the limited appearance without consulting with the party's limited appearance lawyer.

Rule 4.3 – Dealing with Unrepresented Person

In dealing on behalf of a client with a person who is not represented by counsel, in whole or in part, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

Practice Book Rules

P.B. Sec. 3-3 - Form and Signing of Appearance

(a) Except as otherwise provided in subsection (b), each appearance shall: (1) be filed on judicial branch form JD-CL-12, (2) include the name and number of the case, the name of the court location to which it is returnable and the date, (3) be legibly signed by the individual preparing the appearance with the individual's own name and (4) state the party or parties for whom the appearance is being entered and the official (with position or department, if desired), firm, professional corporation or individual whose appearance is being entered, together with the juris number assigned thereto, if any, the mailing address and the telephone number.

(b) Each limited appearance pursuant to Section 3-8 (b) shall: (1) be filed on judicial branch form JD-CL-121; (2) include the name and number of the case, the name of the court location to which it is returnable and the date; (3) be legibly signed by the individual preparing the appearance with the individual's own name; and (4) state the party or parties for whom the appearance is being entered and the official (with position or department, if desired), firm, professional corporation or individual whose appearance is being entered, together with the juris number assigned thereto if any, the mailing address and the
telephone number; (5) define the proceeding or event for which the lawyer is appearing; and (6) state that the attorney named on the limited appearance is available for service of process only for those matters described on the limited appearance. All pleadings, motions, or other documents served on the limited appearance attorney shall also be served in the same manner on the party for whom the limited appearance was filed. For all other matters, service must be made on the party instead of the attorney who filed the limited appearance, unless otherwise ordered by court.

(c) This section does not apply to appearances entered pursuant to Section 3-1.

P.B. Sec. 3-8 – Appearance for Represented Party

(a) Whenever an attorney files an appearance for a party, or the party files an appearance for himself or herself, and there is already an appearance of an attorney or party on file for that party, the attorney or party filing the new appearance shall state thereon whether such appearance is in place of or in addition to the appearance or appearances already on file.

(b) An attorney is permitted to file an appearance limited to a specific event or proceeding in any family or civil case. If an event or proceeding in a matter in which a limited appearance has been filed has been continued to a later date, for any reason, it is not deemed completed unless otherwise ordered by the court. Except with leave of court, a limited appearance may not be filed to address a specific issue or to represent the client at or for a portion of a hearing. A limited appearance may not be limited to a particular length of time or the exhaustion of a fee. Whenever an attorney files a limited appearance for a party, the limited appearance shall be filed in addition to any self-represented appearance that the party may have already filed with the court. Upon the filing of the limited appearance, the client may not file or serve pleadings, discovery requests or otherwise represent himself or herself in connection with the proceeding or event that is the subject of the limited appearance. An attorney shall not file a limited appearance for a party when filing a new action or during the pendency of an 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. A limited appearance may not be filed on behalf of a firm or corporation. A limited appearance may not be filed in criminal or juvenile cases.

(c) The provisions of this section regarding parties filing appearances for themselves do not apply to criminal cases.
P.B. Sec. 3-9 – *Withdrawal of Appearance; Duration of Appearance*

(a) An attorney or party whose appearance has been filed shall be deemed to have withdrawn such appearance upon the filing of a new appearance that is stated to be in place of the appearance on file in accordance with Section 3-8. Appropriate entries shall be made in the court file. An attorney or party whose appearance is deemed to have been withdrawn may file an appearance for the limited purpose of filing an objection to the in place of appearance at any time.

(b) An attorney may withdraw his or her appearance for a party or parties in any action after the appearance of other counsel representing the same party or parties has been entered. An application for withdrawal in accordance with this subsection shall state that such an appearance has been entered and that such party or parties are being represented by such other counsel at the time of the application. Such an application may be granted by the clerk as of course, if such an appearance by other counsel has been entered.

(c) In addition to the grounds set forth in subsections (a), (b), and (d), a lawyer who represents a party or parties on a limited basis in accordance with Section 3-8 (b) and has completed his or her representation as defined in the limited appearance, shall file a certificate of completion of limited appearance on judicial branch form JD-CL-122. The certificate shall constitute a full withdrawal of a limited appearance. Copies of the certificate must be served in accordance with Sections 10-12 through 10-17 on the client, and all attorneys and self-represented parties of record.

(d) All appearances of counsel shall be deemed to have been withdrawn 180 days after the entry of judgment in any action seeking a dissolution of marriage or civil union, annulment, or legal separation, provided no appeal shall have been taken. In the event of an appeal or the filing of a motion to open a judgment within such 180 days, all appearances of counsel shall be deemed to have been withdrawn after final judgment on such appeal or motion or within 180 days after the entry of the original judgment, whichever is later. Nothing herein shall preclude or prevent any attorney from filing a motion to withdraw with leave of the court during that period subsequent to the entry of judgment. In the absence of a specific withdrawal, counsel will continue of record for all post-judgment purposes until 180 days have elapsed from the entry of judgment or, in the event an appeal or a motion to open a judgment is filed within such 180 day period, until final judgment on that appeal or determination of that motion, whichever is later.
(e) Except as provided in subsections (a), (b), (c) and (d), no attorney shall withdraw his or her appearance after it has been entered upon the record of the court without the leave of the court.

(f) All appearances in juvenile matters shall be deemed to continue during the period of delinquency probation, family with service needs supervision, or any commitment to the commissioner of the department of children and families or protective supervision. An attorney appointed by the chief public defender to represent a parent in a pending neglect or uncared for proceeding shall continue to represent the parent for any subsequent petition to terminate parental rights if the attorney remains under contract to the office of the chief public defender to represent parties in child protection matters, the parent appears at the first hearing on the termination petition and qualifies for appointed counsel, unless the attorney files a motion to withdraw pursuant to Section 3-10 that is granted by the judicial authority or the parent requests a new attorney. The attorney shall represent the client in connection with appeals, subject to Section 35a-20, and with motions for review of permanency plans, revocations or post-judgment motions and shall have access to any documents filed in court. The attorney for the child shall continue to represent the child in all proceedings relating to the child, including termination of parental rights and during the period until final adoption following termination of parental rights.
State of Connecticut
Judicial Branch

Limited Scope Representation

Frequently Asked Questions for Attorneys

1. **What is Limited Scope Representation?**
   Limited Scope Representation is when an attorney represents or assists a party with part, but not all, of his or her legal matter. The attorney and party enter into a detailed written 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. Not every type of practice is conducive to limited scope representation. It is wise to avoid Limited Scope Representation in very sophisticated and/or complicated litigation.

2. **What is an example of Limited Scope Representation?**
   There are many different types of Limited Scope Representation. 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, 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 part of his or her case. The *Limited Appearance* (form JD-CL-121), would be filed by the attorney and specify the event or proceeding for which the attorney is providing representation.

   The retainer letter and fee agreement between the attorney and the client must explicitly articulate and itemize the scope of the legal assistance, and the *Limited Appearance* (form JD-CL-121), specifically defines the event or proceeding covered by the limited appearance.

3. **Do the Connecticut Rules of Practice currently allow attorneys to limit the scope of their services?**
   Yes. Under Connecticut’s rules of practice and rules of professional conduct, an attorney may limit the scope of their representation if the representation is reasonable under the circumstances and the client gives informed consent. Originally, the pilot program established by the Chief Court Administrator permitted the filing of limited appearances only in family or family support magistrate matters. As of January 1, 2016, however, 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).
4. **Who can use Limited Scope Representation?**
   Any Connecticut attorney may choose to provide limited scope representation services. The decision regarding whether to limit the scope of legal services and when is entirely between the attorney and the client. However, not all cases and clients lend themselves to limited scope representation. Rather, significant numbers of legal matters are better served if the lawyer represents the client throughout the entire process, and some clients with limited capacity may not be good candidates for Limited Scope Representation. If, however, a party to a case wishes to consult with and hire an attorney for Limited Scope Representation, the attorney will decide if the case is appropriate for limited representation and the attorney and the client will decide what type of Limited Scope Representation works best for the situation.

5. **What criteria should an attorney use to determine whether Limited Scope Representation might be appropriate?**
   There are many factors that should be considered when deciding whether to provide limited scope representation. 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. As stated in Section 1.2 (c) of Connecticut’s Rules of Professional Conduct, "a lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent."

6. **How does a lawyer file a Limited Appearance?**
   A Limited Appearance (form JD-CL-121), is available in all 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. Whenever a limited appearance is filed for a party, the limited appearance 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.

7. **What happens after the attorney completes his or her limited representation?**
   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 appearance, the attorney must file a Certificate of Completion of Limited Appearance (form JD-CL-122). Certificate of Completion of Limited Appearance forms are available in all Clerk’s Offices, Court Service Centers and Law Libraries 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 unrepresented. After the Certificate of Completion of Limited Appearance form is filed, the attorney’s
obligation to continue to represent the client is terminated. The attorney does not
have to file a Motion for Permission to Withdraw his or her appearance or obtain
the court’s permission to no longer participate in the proceeding. The client will
have no right to object.

8. **What impact might filing a limited appearance have on opposing counsel’s scope of communication with the limited client and attorney?**
   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.

9. **Can the attorney and client agree that the attorney will extend representation beyond the scope of the limited appearance?**
   If the client and the attorney agree that the attorney will provide additional legal help, the attorney and the client 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 will file a general Appearance (form JD-CL-12).

10. **Who gets served notice of any pleadings once a Limited Appearance has been filed?**
    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 the scope of the limited appearance.

11. **What duties does the attorney owe the client when providing limited scope representation?**
    An attorney must follow all ethical rules and standards of professional responsibility whether providing full or limited representation to the client. Limited scope does not mean limited liability or limited responsibility. In addition, any changes in the scope of the representation must be documented using the Limited Appearance form that has been created for this purpose.
How do I find an attorney who will provide me with limited scope representation?

Word of mouth is often a helpful way to find an attorney. Talk to your friends or relatives about a lawyer they may have used and who they can recommend.

You may also visit the Judicial Branch law library Find Help page at [https://www.jud.ct.gov/lawlib/referral.htm](https://www.jud.ct.gov/lawlib/referral.htm) for a complete list of Connecticut lawyers, advocacy groups, lawyer associations, and legal aid, or use the following lawyer referral programs. Note, these programs may refer you to their members and charge a fee for referral.

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<tr>
<th>LAWYER REFERRALS</th>
<th>TELEPHONE &amp; WEBSITE</th>
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<tbody>
<tr>
<td>Connecticut Bar Association</td>
<td>(860) 223-4400 <a href="http://www.ctbar.org">http://www.ctbar.org</a></td>
</tr>
<tr>
<td>Fairfield County and Greater Bridgeport Bar Associations:</td>
<td>(203) 335-4116 <a href="http://www.bridgeportbar.org">http://www.bridgeportbar.org</a></td>
</tr>
<tr>
<td>Hartford, Litchfield, Middlesex, Tolland and Windham County Bar Associations:</td>
<td>(860) 525-6052 <a href="http://hartfordbar.org">http://hartfordbar.org</a></td>
</tr>
<tr>
<td>New Haven County Bar Association</td>
<td>(203) 562-5750 <a href="http://www.newhavenbar.org">http://www.newhavenbar.org</a></td>
</tr>
<tr>
<td>New London County Bar Association</td>
<td>(203) 889-9384 <a href="http://nlcba.org">http://nlcba.org</a></td>
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The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact a court clerk or an ADA contact person listed at [www.jud.ct.gov/ADA](https://www.jud.ct.gov/ADA).
What is a “limited appearance”?
You and the attorney may agree that the attorney will file what is known as a “limited appearance” to represent you in court for a specific event or proceeding in a civil, foreclosure, housing, small claims, family or family support magistrate case.

It is important to understand that if you are going to have an attorney represent you in court for a specific event or proceeding, you must also file your own Appearance, form JD-CL-12, with the court if you have not already filed that form.

Only an attorney can file a Limited Appearance form JD-CL-121. Self-represented parties must use the general Appearance form JD-CL-12.

What if I need more services from the attorney at a later date?
You may need help with new or unexpected legal issues at any time. You may also find that you need or want more help than you thought with your case or with another legal issue. If these things happen, you and the attorney can enter into a new agreement for the additional services.

What if I decide I want the attorney to handle my whole case?
After going to court on your own, even with good advice from an attorney, you may decide that you would rather have the attorney represent you for the whole case. Even if you have agreed that the attorney would only represent you for a specific event or proceeding, you may agree at any time that the attorney will handle the whole case. That is between you and the attorney to decide.
Judiciary Committee
Connecticut General Assembly

Report of the Task Force to Improve Access to Legal Counsel in Civil Matters

Submitted pursuant to Subsection (f) of Section 1 of Special Act No. 16-19
An Act Creating a Task Force to Improve Access to Legal Counsel in Civil Matters
December 15, 2016

Co-Chairs:
William H. Clendenen, Jr. / Timothy Fisher
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EXECUTIVE SUMMARY

The Task Force To Improve Access To Legal Counsel In Civil Matters was charged under Special Act No. 16-19 to identify the consequences of unmet civil legal needs of Connecticut residents, and make recommendations regarding steps to help the people of our State meet essential human needs.

For many Connecticut residents, effective legal assistance can have a profound impact upon their ability to secure or protect essential human needs. Those include safety from domestic violence, stabilizing family life, remaining in one’s home, securing adequate health care, obtaining subsistence income or other essential government services, securing an education and securing protection in consumer transactions. Connecticut owes a duty to all of its people to address the human suffering that follows from injustice in civil matters. The fair administration of justice is a fundamental obligation of the State.

Yet many Connecticut residents cannot afford the legal assistance they need to protect essential human needs or face other barriers to accessing available legal services. The State’s four flagship civil legal services offices turn away thousands of income-eligible residents seeking representation in the areas in which those offices provide services, such as housing and family law, and are unable to provide representation in other areas of essential human needs, such as removal defense and veterans’ rights. These offices are also constrained by funding restrictions to refuse representation to persons whose household incomes exceed the threshold for legal aid but who nevertheless cannot afford counsel. Other specialized legal aid offices, law school clinics, bar associations and pro bono programs provide important supplemental representation, but do not alter the longstanding reality that too many residents cannot afford counsel when they seek it. Many other residents do not even attempt to secure counsel as a result of barriers of language, culture, disability, or otherwise.

It costs the State and its people millions of taxpayer dollars to address the injustices that follow from lack of access to civil legal assistance. That cost, which we pay in fiscal burdens as well as diminished social health, outweighs the cost of providing legal help needed to meet essential human needs.

The right to speedy and meaningful access to justice is one of the cornerstones of the American justice system. In 2016 the General Assembly significantly cut the Judicial Branch’s budget which forced the Branch to cut costs by closing courthouses and significantly reducing court personnel. These cuts have tremendous consequences for individuals and families. Accordingly, the Task Force recommends against any further cuts to the Branch's budget as it will result in reducing access to justice, which runs directly counter to the very purpose for this Task Force.

Prior studies and reports, within the State and without, have proposed numerous thoughtful and nuanced recommendations, but they have not resulted in sufficient change. Acknowledging that the State confronts significant short-term resource constraints and that there is no single solution for the lack of sufficient counsel for poor and middle-income residents, we have attempted to identify bold, structural reforms, no matter how aspirational, as well as incremental systems modifications that we believe are achievable as early as the 2017 legislative session. Those that we believe the General Assembly needs to address are listed below. In addition, the Task Force recommends various other vehicles to address non-legislative reforms to the existing legal aid network that will also improve the system.
LEGISLATIVE RECOMMENDATIONS

We have identified a series of recommendations to the General Assembly that will enable our State and its residents to improve our fiscal and social well-being consistent with the financial burden these recommendations would entail. They are:

1. Establish a statutory right to civil counsel in three crucial areas where the fiscal and social cost of likely injustice significantly outweighs the fiscal cost of civil counsel:
   a. Restraining orders under General Statutes § 46b-15;
   b. Child custody and detained removal (deportation) proceedings;
   c. Defense of residential evictions;
2. Increase State funding appropriations for civil legal services through the organization designated by the Judicial Branch pursuant to General Statutes § 51-81c.
3. Enact fee-shifting statutes in foreclosure, eviction, and debt collection actions, regardless of whether the underlying consumer contract or lease contains an attorney’s fee provision.
4. Enact a statute to authorize the Office of the Attorney General to redirect a portion of funds recovered in penalties and fines by the Office of the Attorney General to legal services providers in accordance with General Statutes § 51-81c.
6. Enact a statute directing State agencies to provide state-owned computers at locations accessible to the public so they have access to on-line self-help resources for the protection of legal rights.
7. Enact a statute directing State agencies to make surplus State office space available for low-cost legal services providers.
8. Enact a statute directing State agencies to reduce the impact of bureaucracies and administrative systems on the people of the State, by:
   a. utilizing technology, including mobile technology, to make their processes easier, more efficient and more convenient for individuals;
   b. evaluating the readability of their communications, and to use plain language on websites, guides, and other public notices; and
   c. utilizing virtual systems to improve customer service and address questions more efficiently.
9. Enact a statute requiring an independent “user impact” analysis for new legislation that may influence the way a bureaucracy delivers services to individuals, thus allowing lawmakers to recognize the burden of any change to State bureaucracies when considering proposed legislation.
10. Enact a statute directing State regulatory agencies to require regulated industries to report on the impact on users of their systems.
11. Enact a statute establishing an accredited representative pilot program allowing trained non-lawyers to assist in matters ancillary to eviction defense proceedings and consumer debt cases in accordance with General Statutes § 51-81c.
12. Appropriate funding for legal assistance providers to establish pilot “Legal Check-Up” programs.
13. Enact a statute commissioning studies of the fiscal impact of all legislative enactments intended to enhance access to justice in civil matters.
15. Funding for New Initiatives.
The fiscal and social health of our State depends on supporting and protecting those who suffer from life’s dislocations. Too many people in our State are unable to function as employees, consumers and taxpayers because civil problems weaken them and their families. To its credit, Connecticut is blessed to have many programs and organizations devoted to this important issue. It is a testament to the conviction of so few to the plight of so many. But we are barely scratching the surface in terms of satisfying the need to secure meaningful access to justice for all.

Last session the Connecticut legislature passed Special Act No. 16-19, AN ACT CREATING A TASK FORCE TO IMPROVE ACCESS TO LEGAL COUNSEL IN CIVIL MATTERS, which reads in part:
Section 1. (Effective from passage) (a) There is established a task force to study the nature, extent and consequences of unmet legal needs of State residents in civil matters. The task force shall examine, on a state-wide basis, the impact that the lack of access to legal counsel in civil matters is having on the ability of State residents to secure essential human needs.

The statute charges us to submit a Report with findings and recommendations that:
(f) … include suggested mechanisms to: (1) Secure access to justice and legal representation in civil matters by increasing the availability of legal assistance with civil matters throughout the State; and (2) encourage increased pro bono service by the State's legal community.

This report presents the Task Force's findings and recommendations, each summarized in this report and supported in greater depth in our appendix:

Legal services come at a cost. But the lack of meaningful access costs more. This report addresses the great need for civil legal assistance to the people of this State, the fiscal and other gains to be achieved by helping to avoid unjust outcomes in civil matters, and the path forward to reaching those goals.
OUR DELIBERATIVE PROCESS

Our Task Force was appointed over the course of the summer of 2016. With our legislative charge to report by December 15, we faced a challenge to assemble, study, evaluate and make findings and recommendations. Our members, and our supporting team of Deborah Blanchard from the Judiciary Committee and students from the UConn, Quinnipiac and Yale Law Schools, worked mightily: Pauleen Consebido, Jami DeSantis, Jeffrey Dorman, Noah Kolbi-Molinas, Caitlyn Malcynsky, and Melissa Marichal.

We assembled in late summer and proceeded with a series of meetings through the Fall. The detailed work was done by four “Working Groups” that examined in depth several core areas of our charge: Goals and Principles, led by Dean Jennifer Brown of Quinnipiac Law School; Dismantling Barriers, led by Professor Michael Wishnie of Yale Law School; Dealing with Demand, led by Judge Gerald Fox; and Existing Programs, led by Attorney James T. Shearin. In addition, the Task Force chairs worked with the support of Caitlyn Malcynsky to prepare the section on Empirical Measures of Success. Each Working Group conducted extensive investigations and research, deliberated over their conclusions, and generated a report, included in the appendix to this Final Report, and recommendations, which are set out below.

The full Task Force then reviewed the recommendations of each Working Group and reached consensus on those that are presented in this report.

The Task Force and all Working Groups were subject to the Freedom of Information Act under General Statutes § 1-200. All documents related to this Task Force are public records, including the Working Groups full reports, available on the General Assembly’s website dedicated to this Task Force to Improve Access to Legal Counsel in Civil Matters: https://www.cga.ct.gov/jud/taskforce.asp?TF=20160729_Task%20Force%20to%20Improve%20Access%20to%20Legal%20Counsel%20in%20Civil%20Matters, as well as the website of the Secretary of State. All meetings of the Task Force and the Working Groups were open to the public, and all agendas and minutes associated with such meetings posted online for public viewing. All meetings were properly noticed for public hearing and, in some instances, filmed and broadcast by CT-N.
WHY ACCESS TO LEGAL SERVICES MATTERS

This Task Force was charged “to study the nature, extent, and consequences of unmet legal needs of State residents in civil matters” and to identify the impact that the lack of access to legal counsel in civil matters is having on the ability of State residents to secure essential human needs. In other words, our first task was to identify why providing legal services to the poor matters.

To satisfy that charge we identified and explored three key issues:

1. The human consequences of unmet legal needs in civil matters

When parties in civil matters lack counsel, profound human needs can be put at risk: safety and bodily integrity for survivors of domestic violence; parent/child relationships in family matters; shelter and security in eviction and foreclosure cases; a decent and safe livelihood in employment and labor matters; health and wellness in cases seeking access to healthcare; the ability to learn and grow when access to education is implicated; access to subsistence income and related governmental benefits, and so on. For individuals facing deportation in immigration matters, all of these fundamental human needs may be jeopardized without a lawyer.

2. The social impact of unmet legal needs in civil matters

The consequences that flow from our attempt to administer civil justice without sufficient involvement of lawyers are felt both in the short and the long term. Short-term consequences will often be limited to the immediate parties or to persons and entities directly associated with the parties (e.g., employers, landlords, or neighbors). The long-term consequences of leaving parties without counsel can be catastrophic. The public trust in our court system will be undermined as hard-working judges struggle to balance equity with efficiency, to protect the rights of unrepresented litigants while also maintaining their own impartiality, and to render decisions that are consistent with law in the absence of lawyers who can identify and argue for that precedent. Indeed, the very notion of an adversarial system – an even playing field in which the truth emerges from hard fought, well-argued legal disputation – is put at risk when only one or neither party has a lawyer.

Access to justice and trust and confidence in the courts go hand-in-hand. As a Maryland Task Force on Access to Civil Counsel noted:

A healthy justice system depends upon the public’s trust and confidence in the courts. The public’s trust and confidence grows from the experience individuals have in dealing with the courts and the justice system – the extent to which they understand how to proceed, the extent to which they feel they were heard, the extent to which they feel they had a fair chance to present their case, the extent to which others did not have an unfair advantage over them in the proceedings. In short, the public’s trust and confidence in the courts depends on whether individuals perceive they had meaningful access to justice.

Our society’s trust in the rule of law is at risk when civil matters proceed and are resolved – whether by courts or administrative bodies – without counsel to assist both the parties and the decision-makers.

At the same time, we must recognize that the social cost of injustice does not fall equally, and traditionally has had a disproportionate impact on ethnic minorities. Progress will be required in many areas to cure that illness in our society, but one of the most important is maintaining our efforts to promote diversity in the opportunities for social progress. The Connecticut Bar Association, with local and affinity bars, Lawyers Collaborative for Diversity, the Judicial Branch, law firms and corporate legal departments, needs to continue their efforts to create a more diversified and inclusive bar to serve all of Connecticut’s communities. The Connecticut Bar Association and the New Haven County Bar Association have and are in
the process of creating pipeline programs to reach diverse inner city middle school and high school students to encourage their entry into the legal profession in Connecticut. These initiatives should be supported by the legal community.

3. The fiscal consequences of unmet legal needs in civil matters

We know that vast numbers of people face important legal problems without the representation of counsel. This burdens both public entities (courts, schools, law enforcement, prisons, public health, and State agencies such as the Department of Children and Family Services) and private entities (employers, hospitals, shelters, landlords, opposing lawyers in pro se matters, and attorneys performing pro bono work). These public and private entities incur added costs when legal problems that might have been handled swiftly and cleanly with the involvement of counsel spiral out of control to cause collateral legal and non-legal problems, due to the absence of counsel.

Historically, arguments over social interventions have not been subject to the level of empirical measurement that has, for many decades, been an integral part of scientific research. But in recent years it has become a more commonplace point of reference in the social sciences as well. At a certain level, measuring the “hard” value of providing legal services presents a challenge, because at their most basic legal services for civil needs serve an immeasurable goal: the nation’s interest in justice. How much should a society spend in order to be a just place for its people to live? But fortunately, it is also possible to assign measurable indicators to the outcomes and impact of legal services. Intuition suggests, and early studies certainly confirm, that spending on civil legal services is a money-saver. Most immediately, it reduces public spending on the social safety net that must spend significant amounts of taxpayer funds to deal with the results of civil losses that can come from unjust outcomes: homelessness, family disintegration, educational failure and unemployment. And in the longer run, it should be provable that people and families who are helped past catastrophic civil outcomes become contributing members of society: consumers, workers, and taxpayers.
THE MOST PRESSING NEEDS

Recognizing the importance that providing legal services to the poor has on society, both from a quality of life and an economic standpoint, we turned next to examine how the challenge is currently being met.

We surveyed the field of existing programs that address the legal needs of the poverty population (typically defined as those below 125% of the federal poverty level ("FPL")), to identify approaches that are working here and elsewhere, the relative success of each, and the corresponding costs. Additionally, we considered how to make the process more efficient and effective to determine and handle all the relevant legal needs of the poor, perhaps on a more holistic basis.

We collected information on the existing programs that service the poverty population, both private and public. We conducted website searches, polled task force members, contacted members of the Judicial Branch, the Connecticut Bar Foundation ("CBF"), the Connecticut Bar Association ("CBA"), legal service providers, and law schools, all to make sure we covered the landscape to get as much information as we could on existing Connecticut programs. We also surveyed the Connecticut General Statutes to capture the existing government efforts already in place to provide legal services in one form or the other to the poor, be it through the Probate Court, Superior Court or the Executive Branch. We investigated organizations outside of the State of Connecticut to determine what other avenues exist for the provision of legal services to the poor. In addition, we reviewed published studies on access to justice issues and programs.

A list of the Connecticut statutes governing the civil legal services provided to the poor is attached as Exhibit A. The list of programs we have identified, within and without Connecticut, is included in the appendix to this Report, available on the Task Force website.

We recognized at the outset of our work that as a result of the lack of an institutionalized, unified approach to providing access to justice, Connecticut’s landscape currently consists of a patchwork of well-meaning and, for the most part, well-run organizations that tackle various aspects of the access-to-justice problem in various ways, but none on a system-wide basis. As such, the legal needs of the poor are often determined anecdotally and unreliably, and the manner in which these needs are met is fragmented and often unfocused.

One important observation we made was that there is no single defined way to determine what priorities must be set to help the greatest number of people. Priorities are either defined by the mission of the organization, by the level of funding that might exist at any given point in time, by the charitable purpose that a funding source might require, by what a particular client situation might present, or by a cause a particular group or individual might want to champion. Determining which of the many human basic needs we ought to be addressing and in what order, does not exist. Connecticut’s last Legal Needs Study, funded by the Connecticut Bar Foundation and its legal service providers, was commissioned in 2008 and should be updated.

Accordingly, the Goals and Principles working group sought to identify the “essential human needs” most at risk when State residents cannot secure legal counsel, and then prioritized those needs so that the most pressing areas of concern will guide this report and, we hope, the work of the General Assembly that follows. They are:

Physical Safety and Freedom from Domestic Violence

For some people, the specter of domestic violence haunts them even within their own homes. Domestic violence is a serious public health problem. In addition to the substantial costs to the victims, society bears a notable burden in the form of, among other effects, criminal and civil justice, healthcare, and children’s risks.
Nationally, the cost of domestic violence annually exceeds $5.8 billion, including $4 billion in direct health care expenses. Domestic violence is not an isolated, individual event. Rather, one episode of violence builds upon past episodes and sets the stage for future episodes. Domestic violence is a national epidemic affecting individuals in every community, regardless of age, economic status, sexual orientation, gender, race, religion or nationality -- and Connecticut is no exception. According to the Connecticut Coalition Against Domestic Violence, Connecticut has averaged fourteen (14) domestic violence deaths annually between 2000 and 2015. The number of family violence incidents annually in Connecticut average approximately 19,000-21,000 over the past two decades. The Connecticut Judicial Branch has experienced an average of nearly 9,000 restraining order applications annually from 2010 through 2013. Of that number, approximately 5,000 orders are granted through an ex parte status each year.

Restraining orders are an important recourse for victims seeking judicial intervention in abusive relationships. (For purposes of this discussion, the term “restraining order” refers only to an order issued under General Statutes § 46b-15 upon application of a family or household member, as opposed to civil orders of protection issued under General Statutes § 46b-16a or protective orders issued in criminal matters.) Survivors of domestic violence rate the filing of an application for a restraining order as one of their most effective tools to stopping domestic violence, second only to leaving the abuser. Studies confirm that access to counsel in restraining order proceedings can make a substantial difference in the outcome. According to one study, 83% of victims represented by an attorney successfully obtained a restraining order, as compared to just 32% of victims without an attorney. Increasing a victim’s chance for obtaining a restraining order is one of the most straightforward ways in which legal assistance can reduce domestic violence. Cases involving domestic violence are often difficult and complex, and survivors without proper legal representation are frequently further victimized by unfavorable outcomes, including a loss of economic self-sufficiency. Survivors often must face their abuser in court to obtain a restraining order, receive child support, or testify in criminal proceedings. This can be financially and emotionally difficult for many survivors, particularly without the assistance of counsel.

Data from the National Network to End Domestic Violence 2015 Point in Time Study reports that domestic violence providers experienced a critical shortage of funds and staff to assist victims in need. Connecticut programs reported that in addition to housing and emergency shelter, legal advocacy was the service most in demand that they could not meet, with 87% of service providers reporting victims seeking this service. In July 2016, Connecticut’s legal services providers joined with other nonprofits in a new statewide direct services project that uses a network of attorneys and advocates to provide coordinated civil legal representation and advocacy for victims affected by sexual and/or domestic violence. This collaborative system offers a full spectrum of advocacy. While effective, this project is limited in scope as the demand for legal assistance continues to outstrip the availability of representation.

Direct costs of domestic violence on both public and private entities include medical and mental health costs, costs to the State when children are placed in foster care because of domestic violence in the home, and employer costs from absenteeism and reduced productivity. As the Massachusetts Task Force found regarding fiscal incentives to prevent domestic violence, “[g]ood employees are key to good employers, which in turn are critical to a healthy local economy. Therefore, it is in the best interests of employers to urge the Commonwealth to support the speedy resolution of these social issues through more and better civil aid.” An independent analysis focusing on the State of New York found that providing legal assistance to female domestic violence survivors would save the State $85 million annually. In Maryland, a Task Force estimated that the State’s legal aid organizations, even at current funding levels, “saved the State at least $1.3 million by preventing domestic violence, thereby averting medical costs and increasing productivity.” In Massachusetts, a study found that the marginal cost of investing in legal services for low-income population would be offset by the savings of short-run direct and indirect domestic violence costs. Massachusetts found that “each $1 of
investment in civil legal services saves at least the same amount in medical costs borne by the State based on
the current Medicare reimbursement rates.”

**Family Integrity and Relationships**

Family stability is clearly an essential human need and when jeopardized, collateral consequences are
severe. According to the Connecticut Judicial Branch, in 2016 the areas of advice most commonly sought
through the Branch's family Volunteer Attorney Programs included divorce, child support, custody,
modification, and visitation. Children receive court-appointed attorneys and guardians ad litem in custody and
visitation proceedings, but parents do not have a corresponding right to counsel. Foster and adopting parents
can seek advice, but not legal representation from the Connecticut Association for Foster and Adoptive Parents.
When parties appeal from Department of Children and Families (DCF) administrative decisions, such as
substantiations of neglect, they have no statutory right to court-appointed counsel, even though the
administrative decision can result in placement of the parent or custodian’s name on a child abuse registry.

Connecticut’s neighbor, New York, established a right to counsel in family law matters in the landmark
imbalance of experience and expertise between the unrepresented parents and the State. "It is fundamentally
unfair, and a denial of due process of law, for the State to seek removal of the child from an indigent parent
without according that parent the right to the assistance of court-appointed and compensated counsel.” New
York codified the right to assigned counsel in a range of family law proceedings in New York Family Court Act
§ 261. Under New York Family Court Act § 262, indigent persons have a right to counsel in cases involving:
child custody and visitation; abuse and neglect; foster care placement and review; termination of parental rights;
destitute children; adoption; paternity; domestic violence; and contempt of court for violating a prior court
order.

In Connecticut, legal services are not so readily available. In limited types of cases, such as the
establishment of paternity, termination of parental rights, or removal of guardianship, indigent parents are
eligible for counsel at State expense. But in most cases there is no right to court-appointed counsel, and
unrepresented litigants are common in family matters. The absence of counsel to help parties reach reasonable
and complete settlements and to assure adequate representation in litigated matters endangers them.
Connecticut’s efforts to afford advice and counsel in family matters, while extensive, leave many parties
unrepresented in cases of critical and fundamental importance.

Immigrants, especially those who are undocumented, must often face these challenges with the
additional overlay of uncertain immigration status. However, there is no right to counsel in immigration matters
and the capacity of existing programs is extremely limited. Some limited representation is available to indigent
immigrants from Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance
Association, Apostle Immigrant Services, and law school clinics at Quinnipiac, University of Connecticut, and
Yale, but the vast majority of these programs do not offer representation in removal proceedings.

Like cases arising in Superior or Probate Court, the outcomes of removal proceedings have a direct
impact on the stability of families and the development of Connecticut’s children; deportation proceedings can
result in the long-term and even permanent separation of immigrants from their families. In addition to the
devastating impact of physical separation and loss of parental care, detained immigrants and their families may
also lose vital income, employment, and housing.

New York City has recently established a right to counsel program in detained removal proceedings
through the city’s New York Immigrant Family Unity Project. By funding immigrant defenders in these cases,
and placing those defenders as staff attorneys in existing public defender and civil legal aid offices, this
program has successfully reunited more than half of its clients with their families and increased the chances of
detained immigrants winning their cases by as much as 1,000 percent. The program is also estimated to save
the State and local businesses a significant amount each year by (1) reducing reliance on the foster care and
public health insurance systems and (2) preventing losses in tax revenue and unnecessary employee turnover.

**Housing Stability**

Few would dispute that housing is an essential human need. Yet, these evictions often lead to
homelessness, leave a scar on the tenant’s credit record, and fail to address underlying health and safety
conditions that will be inherited by the next tenant in that unit. Spencer Wells, Baltimore Eviction Rate among
Highest in Country: A Study of Rent Court, Nonprofit Quarterly, December 10, 2015,
https://nonprofitquarterly.org/2015/12/10/baltimore-eviction-rate-among-highest-in-country-a-study-of-rent-
court/ Without counsel, tenants face tremendous obstacles to defend their rights in eviction proceedings, such
as the power imbalance between the parties, tenants' lack of information about their rights, and barriers such as
low literacy, mental illness, and limited English proficiency. As a result, tenants without counsel do not fare
well in the Court process, too often entering one-sided agreements that inevitably and unnecessarily result in
eviction. Eric Angel, D.C. Bar Foundation Funds New Project to Provide Counsel to Tenants in Subsidized
Housing, Legal Aid Society: Making Justice Real (March 19, 2015), http://www.makingjusticereal.org/d-c-bar-
foundation-funds-new-project-to-provide-counsel-to-tenants-in-subsidized-housing

The impact of even short-term homelessness and housing insecurity can be devastating. Children who
experience homelessness are less likely to graduate from high school or attain the same level of education as
other children, “leading to long-term losses in productivity and earning potential.” Child development experts
have noted the important role of government programs – along with healthy and secure relationships with
parents – in supporting children’s wellbeing. Financial assistance to families in the form of cash payments or
subsidized housing, childcare, or food, all help to alleviate the immediate effects of instability. But not all
families are eligible for this public safety net, and not all families entitled to public housing can secure and
maintain it without the help of lawyers. This can lead to serious worsening of living conditions or even
homelessness. Living without a home or in unhealthy or unsafe conditions “can lead to stress, loss of
productivity or work altogether, negative impacts on children and their education, and so on.” As Spencer
Wells argued, “[e]viction is both a literal loss of a home and a metaphorical separation of families from the
economic mainstream of the U.S., a form of secular ostracism.” The social costs of substandard housing, rental
instability, and homelessness outlined by Matthew Desmond in his recent book, *Evicted*, are multiple:

1. Health care costs to treat stress-related diseases such as depression, suicide, and interpersonal violence;
2. Health care costs to treat environmental diseases such as asthma, lead poisoning, and mold-related
   infections;
3. Low school achievement and employment opportunity;
4. Neighborhood deterioration and the cost of code enforcement and blight removal;
5. Social service expenses associated with the provision of short term housing, home search services, and
   relocation;
6. Remedial schooling; and
7. Criminal justice enforcement.

Governmental spending to support housing stability actually saves money in the long run. Rent
subsidies, for example, reduce the cost of local government by reducing the number of non-payment evictions
and homeless services. Keeping families out of housing court and children out of homeless shelters improves
school attendance and performance. Robust school attendance rates often benefit local schools as State funding
formulas reward truancy prevention. Complementing public support for housing with legal counsel to represent
residents in housing and foreclosure matters would further enhance the benefits society and families derive from homelessness prevention.

New York City has achieved substantial fiscal savings from providing counsel in housing matters. The first annual impact report from New York’s Office of Civil Justice (OCJ) found that “27 percent of tenants facing an eviction case in court were represented by a lawyer in the past year, compared to only 1 percent in 2013.” The lawyers’ work is having a positive impact, as “[r]esidential evictions by city marshals declined 24 percent in 2015 compared to 2013, even though the number of eviction cases filed remained relatively stable.” Citing a study by the Right to Counsel Coalition, Oscar Perry Abello argues that although “the city might pay $3,000 for representation that keeps a family in their existing apartment, if instead they’re evicted and end up cycling in and out of homeless shelters, that same family might cost the city more than $43,000 per year.” This disparity in costs means that a New York City program providing counsel in housing court would not only pay for itself (saving the city homeless shelter, healthcare, and other costs), it could save an additional $320 million in city spending. In Maryland, a State commission estimated that the State’s legal aid organizations saved the State $3.6 million in shelter costs by helping clients avoid homelessness. In Massachusetts, research found that the monetary benefits of representing eligible beneficiaries in eviction and foreclosure proceedings far outweigh the costs of providing these services. This means that for every dollar spent on counsel in eviction and foreclosure cases, the Commonwealth saves more than two dollars on the costs associated with providing other services such as shelter, healthcare, and law enforcement.

**Consumer Protection and Fair Proceedings in Small Claims and Superior Court**

Every year, tens of thousands of people in Connecticut receive court papers alleging that they owe money to a financial institution – most often a credit card company, a hospital, or an institution that has purchased debt. The cases are usually filed in small claims court, which makes it inexpensive and informal for the collecting entity to pursue the case. The collecting entities virtually always are represented by counsel. Additional causes of action are also filed in small claims including but not limited to security deposit disputes, landlord tenant disputes regarding payment of rent, and general civil cases (excluding libel and slander) that fall within the small claims jurisdictional limit.

According to Judicial Branch statistical data, 75,871 small claims cases were filed between January 2015 and September 2016, many of which are consumer debt collection claims. 45,772 or 60% resulted in default judgments for the plaintiff. Those defendants, for reasons we do not know, did not respond to the complaint. Pro se defendants typically end up required to pay whatever the represented company wants. On the rare occasion that a defendant points to a lack of evidence to prove the debt, or argues that the plaintiff (if a secondary collection agency) may not even own the debt, the defense is unsuccessful, often despite a lack of proof that the debt is really owed to the plaintiff.

Similarly, thousands of consumer debt collection cases are also filed in Superior Court each year because the amount in demand exceeds the $5,000 jurisdictional limit for filing in small claims. From 7/1/2015 to 6/30/2016, there were 10,424 debt collection cases added to Connecticut’s Superior Court civil docket. As of August 2015, Judicial Branch statistical data reports that 51% of these consumer collection cases contained at least one non-appearing defendant. This means that many of these cases were adjudicated as default judgments because the defendant did not participate in the court process (by failing to file an appearance with the court or by failing to file a responsive pleading).

Lack of representation in such cases is common nationally. Studies conducted in Texas, Indiana, Maryland, and New York show a rate of only 0 to 6.8 % of defendants in debt collection cases had a lawyer. In Connecticut, researchers recently observed a small claims trial in which the defendant denied owing the debt, and noted the lack of documentary proof. The small claims magistrate requested written briefs from the pro se
defendant and the plaintiff’s lawyer regarding the quality and quantity of proof required. The pro se defendant was left at an obvious disadvantage, with no experience or training in how to draft a legal brief.

At present there is almost no affordable legal help available to defendants in such matters. In an effort to help mitigate this deficit, the Judicial Branch, in cooperation with the Connecticut Bar Association (CBA), secured the services of pro bono attorneys and established volunteer attorney programs for pro se parties in small claims. Additional programs have been established by the Judicial Branch for Superior Court contract collection cases. Because these programs are available to any pro se party with a legal question in the area of small claims, and because many defendants simply default in these actions, the programs have mostly been utilized by plaintiffs and landlords. Clearly, debt collection actions can destabilize low-income families and prevent families, already in trouble, from climbing out of a financial hole. For example, many landlords run credit checks on prospective tenants, and judgments against defendants in debt collection cases can prevent low-income tenants from qualifying for affordable rental units.
THE BARRIERS TO JUSTICE

Connecticut citizens face four principal barriers to access to counsel: (1) inadequate funding of legal services for the poor; (2) lack of affordable attorneys for individuals who are ineligible for legal aid, but unable to afford market rate representation; (3) geographical, cultural, institutional, informational and other impediments facing those in need of legal help; (4) bureaucratic impediments that cause routine needs to devolve into legal problems.

First, most individuals who are income-eligible for legal aid are unable to secure representation in cases addressing basic human needs. A 2008 survey found that more than 70% of the low-income households in Connecticut had experienced a legal problem during the previous year, yet only 1 in 4 successfully obtained outside help because demand far exceeded the availability of services.¹ Lack of funding for legal services has worsened since the 2008 financial crisis. Historically, nearly two-thirds of the funds that support lawyers for indigent persons in civil cases came from the revenue generated by Interest On Lawyers’ Trust Accounts (IOLTA), but that amount has declined substantially in recent years.²

One hundred percent of the federal poverty level (FPL) for a family of four is $24,300. Eligibility for most legal services is set at 125% of the FPL. According to census data, between 2007 and 2015, Connecticut’s poverty population (incomes under the FPL) grew from 7.9% to 10.8% (approximately 375,000 people), with much higher rates of poverty among the Black and Latino populations and with the greatest concentration in Connecticut’s cities. Connecticut's child poverty level grew during that same period from 11.1% to 14.5% (over 110,000 children living in poverty; an estimated increase of 25,000 children over eight years). Connecticut providers who service the economically disadvantaged report unanimously that these needs continue to increase. There are a number of reasons for these significant increases. First, those living just above the FPL have increased in number and their demand upon available legal services, for instance for the private bar, have reduced the amount of services available for those at or below the FPL. Second, fiscal restraints on Connecticut and its larger cities have limited available benefits and, at a minimum, made them harder to obtain.

There are no other funding sources that can make up for the shortfall. Other funding sources are sporadic, diffuse, unreliable, and insufficient. Private foundation dollars, one of the principal sources of funding for many private organizations, has declined over the last several years, from level of funding which already inadequate to meet the existing needs. Funding sources like the Interest on Lawyers’ Trust Accounts (“IOLTA”) have also decreased dramatically. Over the last eight years, IOLTA receipts went from a high in 2007 of almost $21 million to a low in 2015 of approximately $2 million. The Judicial Branch, with the support of the Governor and General Assembly, stepped up to replace some of that funding through the allocation of certain court fees and direct grants, but the total in 2015 amounted to only $14.7 million. As a result, the CBF, which is a significant funding arm for ten legal service providers, is only operating at 68% of 2007 revenue.

There is no system-wide data as to how many potential clients cannot be serviced. The 2008 Legal Needs Study, referenced above, estimated 307,000 legal needs by low-income people annually. Given the increase in the poverty population, and the increase in the range and number of legal issues discussed above, the 307,000 number has likely grown exponentially. At best, Connecticut’s current network of providers tackles

approximately 30,000 legal issues each year based upon data provided to the CBF and by extrapolation to the other providers. That means greater than 92% of the legal needs of Connecticut’s poorest and most vulnerable citizens go unanswered. According to the justice index compiled by the National Center for Access to Justice at Cardozo Law School, Connecticut has 1.45 civil legal aid attorneys for every 10,000 people living in poverty.

As a result, the number of applications for legal assistance dwarfs the supply of available help of services and, as confirmed to us by the organizations we interviewed, the current network of programs is turning away or underserving tremendous numbers of people who need their services. This conclusion is borne out by statistics from the Judicial Branch, which estimates that 80-85% of family court cases and 75% of housing court cases involve at least one pro se party. This conclusion is also consistent with what is occurring in other States. For example, one of New York City’s largest legal service providers, the New York Legal Assistance Group, confirmed that it, and the other providers in New York City, are not close to meeting the needs of their poverty population.

To address this urgent and overwhelming need, many of the public and private agencies enlist the services of the Connecticut Bar Association and others to assist with the delivery of legal services. For example, the Probate Court, through the CTLawHelp.org Pro Bono portal, has created a panel of 150 attorneys to help fulfill its growing needs. The Department of Children and Families (“DCF”) has created a panel of pro bono private attorneys to handle education deprivation claims for impoverished children under DCF’s care. The Connecticut Veterans Legal Center (CVLC) uses its in-depth knowledge of veterans’ issues to teach members of the private bar how to handle cases. In 2015, CVLC’s pro bono panel consisted of 650 volunteers who devoted an estimated $900,000 in time. Statewide Legal Services of Connecticut, Inc. (“SLS”), which processes 15,000 matters a year, refers many other cases to a large panel of pro bono attorneys. In 2015, it matched 700 clients with volunteer attorneys. Several law firms have also formed relationships with one or more legal service programs to handle issue-specific pro bono cases, such as Robinson & Cole’s relationship with CLS, GHLA, and the Connecticut Coalition Against Domestic Violence.

The private organizations also leverage their services by working with law school clinics. Quinnipiac University School of Law offers a civil justice clinic and tax clinic. Its Civil Justice Clinic operates within the law school’s Legal Clinic, an on-campus law office that provide no-cost legal services to low-income people in New Haven, Hartford and Bridgeport. And the Tax Clinics at Quinnipiac and UConn Law Schools serve low-income taxpayers throughout Connecticut. One of the other clinics at the University of Connecticut School of Law is the Asylum and Human Rights Clinic, serving individuals living in Connecticut who fled from fear of persecution in their home country, and are seeking asylum in the United States. UConn Law School also collaborates with GHLA to support three fellows who devote time to expand GHLA’s services to Community Health Services, a community health clinic, as well as its Center for Children’s Advocacy Clinic, which works in conjunction with the CCA legal staff in representing individual children in cases involving abuse/neglect, families with service needs, special education, juvenile justice, and access to medical/mental health care. Yale Law School also offers a myriad of clinics that provide service to the poor ranging from a Mortgage Foreclosure Clinic, Landlord Tenant Clinic, Worker and Immigrant Rights Advocacy Clinic, and Veterans Legal Services Clinic to name a few. Much of the Yale Law School’s clinic program is operated in conjunction with area legal services. These law school clinics provide a practical learning experience to future members of the bar while servicing the legal needs of the area’s poorest citizens.

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3 Connecticut Rule of Professional Conduct 6.1 provides that lawyers “should” render public interest legal services, but it does not actually require it. It also provides that this goal may be met by working with charitable groups or organizations or by financially supporting organizations that provide legal services to persons of limited means. The estimated pro bono hours, while substantial, are hard to calculate because there is no mandatory reporting requirement in place.
But, these measures do not begin to address the desperate need of tens of thousands of people. More, much more, is necessary.

Second, approximately 330,000 households in Connecticut have incomes above the federal poverty level but below the basic cost of living. (Connecticut United Way, report on Asset Limited, Income Constrained, Employed persons, or “ALICE,” ALICE Study of Financial Hardship: Connecticut, 1, Nov. 2014. http://alice.ctunitedway.org/files/2014/11/14UW-ALICE-Report_CT.pdf ) The majority of these households—which comprise nearly 25% of Connecticut’s population—do not qualify for free legal services, nor are they able to afford market rate legal representation. Consequently, when members of these households encounter legal problems, they are forced to navigate a complicated legal system on their own or forego participation in the judicial process altogether. The result is that many of these individuals, who often face well-resourced opposing parties such as banks, landlords, or government attorneys, are unable to vindicate their legal rights and obtain meaningful access to justice.

Third, many low-income individuals who are eligible for free legal services are unaware of or unable to obtain available legal services. Forty-three percent of low-income households with a legal problem in Connecticut did not seek assistance because the households did not know about legal aid options. In addition, many low-income households may not recognize the legal nature of the problems they face. Only 27% of low-income households surveyed in the 2008 study felt they had a serious legal problem in the previous year, yet when asked about 41 specific civil legal problems, 77% indicated they had experienced at least one legal problem. Individuals may also be discouraged from seeking legal help because the legal profession fails to reflect or include members of their community. As the American Bar Association's Commission on the Future of Legal Services has observed, the percentage of minorities and persons with disabilities in the total population of the U.S. is far greater than the percentage of minorities and persons with disabilities in the legal profession. Judy Perry Martinez & Andrew Perlman, Report on the Future of Legal Services in the United States 32 (American Bar Association 2016). Furthermore, Connecticut’s main legal services offices do not offer representation in some categories of cases for which there is significant demand among low-income households, such as removal defense and veterans’ cases. In addition, physical and mental disabilities and limited financial resources also inhibit the effort of some low-income individuals to secure representation. Of course, even if these families were aware of their legal problems and understood their legal aid options, the fiscal constraints noted above make it unlikely that their needs could be met through any legal aid entity anyway.

Fourth, as a country founded on law, America is more reliant on rules than other countries. While ideally rules and regulations would offer streamlined, standardized practices that are easily understood, in many instances this is not the case. Rather, those with legal issues often find themselves facing a maze of bureaucracy that is often difficult to navigate. Individuals often face complicated forms, "legalese" difficult to understand, websites that do not include necessary forms or information, difficulty reaching a an actual live person or the correct person and hours of operation that are not convenient, among other bureaucratic challenges.

Individuals trying to navigate the bureaucratic process consume a significant amount of legal resources. While there are many reasons for this, some of which may be necessary, often many of these resources could best be used elsewhere. This places further burdens on an already burdened system, especially in regard to cost and time. The challenge is then to determine how the bureaucratic process can be made more user-friendly, so that individuals are not seeking legal resources unless absolutely necessary.

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4 CSRA CIVIL NEEDS, supra, note 1 at 27 and 28.
Another factor complicating access to legal services is bureaucratic language. People cannot successfully navigate bureaucracies if they do not understand what is required of them. Although 43% of the U.S. population is at or below basic literacy levels, many government agency websites, notices and instructions are written at a high reading level and include specialized jargon.

Given the amount of legal resources consumed and the danger of disenfranchising individuals who are merely trying to have their basic needs met, bureaucracies must become more user friendly.
WHAT SHOULD THE GENERAL ASSEMBLY DO

To dismantle these barriers and provide meaningful access to justice for a greater number of people, while also taking account of cost, efficacy, political feasibility, and the seriousness and prevalence of the issues, we recommend the following measures the State should implement:

Recommendation 1. Establish a statutory right to civil counsel in three crucial areas where the fiscal and social cost of likely injustice significantly outweighs the fiscal cost of civil counsel.

The General Assembly should establish a civil right to counsel, as an initial step, in the following areas:

a. Restraining orders under General Statutes § 46b-15;
b. Child custody and detained removal proceedings (deportation); and
 c. Defense of residential evictions;

The General Assembly should begin by establishing a right to counsel pilot program for at least one or more of three areas of critical need: restraining order, family unity (child custody and detained removal proceedings), and residential eviction cases. For each of these areas, Connecticut could fund staff attorneys located in existing public defender and legal aid offices, as New York City has done through its program to represent low-income detained immigrants, and as both New York and Washington, D.C. have done through their programs to represent indigent individuals facing eviction; or Connecticut could replicate the models of providing a roster of private counsel in the manner of the child protective unit currently through the Office of the Public Defender. A hybrid of these two approaches may also be appropriate.

Similar pilot programs have proven successful in other states. In Massachusetts and Texas, state bodies tasked with expanding the right to civil counsel approved funding for pilot programs for eviction and foreclosure matters. In California, the Sargent Shriver Civil Counsel Act established three-year pilot programs for the right to counsel in cases including domestic violence, deprivation of child custody, housing, and elder abuse matters. In New York City, a program guaranteeing the right to counsel for detained immigrants has been extremely successful and recently extended to western New York.

Our reasoning for focusing on these three areas is explained below.


Every day, indigent pro se parties enter our family courts seeking relief from abuse. Often these parties are unable to advocate effectively for themselves or articulate a sufficient basis to support the relief they are seeking from the court. Similarly, other indigent parties must defend themselves against allegations of domestic abuse. In both instances, these indigent litigants are ill-equipped to articulate the merits of their positions to the court because of a language barrier, lack of understanding of the statutory standard, or some other reason.

Indigent domestic violence victims who are represented during the hearing are more likely to prevail in obtaining an order for relief from abuse from the court, and protecting their children and themselves from further harm.5 Further, indigent respondents also benefit from representation during the court hearing on the applicant’s application. Respondents may face very serious consequences as the result of restraining order

5 TASK FORCE TO STUDY IMPLEMENTING A CIVIL RIGHT TO COUNSEL IN MARYLAND, REPORT OF THE TASK FORCE TO STUDY IMPLEMENTING A CIVIL RIGHT TO COUNSEL IN MARYLAND 20 (2014), http://www.mdcourts.gov/mdatjc/taskforcecivilcounsel/pdfs/finalreport201410.pdf [hereinafter Maryland Task Force Report].
proceedings including the potential loss of a residence if shared with the applicant, and the ability to have contact with their children. A similar right to counsel program already exists in New York pursuant to New York Family Court Act § 262 and was recommended by the Maryland Access to Justice Commission in 2014.

Child Custody and Detained Removal Proceedings.

The absence of guaranteed counsel in child custody proceedings has a significant impact not only on parents’ rights, but also on the stability of families and the growth and development of Connecticut’s children. Just as in abuse proceedings, pro se parties in custody matters are often unable to advocate effectively for themselves. In cases where both parties are pro se, this often leads to a lack of resolution and future litigation, resulting in prolonged instability in the lives of the children at issue. In cases where only one party is represented by an attorney, that party—who almost always has significantly more resources at their disposal—will often prevail and obtain their desired outcome, regardless of whether it is in the best interest of the child(ren). A right to counsel for all indigent parties with legitimate interests in custody matters will minimize these undesirable outcomes, and ensure that each side in a custody dispute is able to articulate effectively why the resolution they seek is in the best interest of the child(ren).

A group that is especially vulnerable to family disruption through involvement with the legal system are immigrants. Connecticut residents who are immigrants and face the possibility of deportation (now called “removal”) risk losing what the United States Supreme Court has called “all that makes life worth living,” including their livelihood, their family, their freedom, and even their lives. To keep families together and limit the collateral consequences of removal proceedings, the State should fund a pilot right to counsel program for detained immigrants.

In 2013, New York City launched the nation’s first such program for detained immigrants in removal proceedings, the New York Immigrant Family Unity Project (NYIFUP). Initially established as a one-year pilot program, New York City’s program now serves all income-eligible detained immigrants in New York City Immigration Court as well as all detained New York City residents with removal cases in Newark and Elizabeth, New Jersey, and has recently expanded to western New York as well. As of August 2015, 52% of clients from the pilot phase of the project had been reunited with their families, with NYIFUP attorneys winning 71% of their trials. Representation has increased a detained client’s chance of success by as much as 1,000%, compared with success rates for unrepresented detained immigrants prior to the launch of NYIFUP.

Although removal proceedings are conducted by a federal agency, a resident’s detention and deportation have the potential to impose significant social and economic costs on Connecticut for years after deportation. Financial costs include spending on foster care, public health insurance, and lost tax revenue. Local business costs include those associated with unnecessary employee turnover and re-training. Indeed, a 2014 study estimated that if NYIFUP were expanded to cover all New York State residents in detained removal proceedings, the program could result in $1.9 million in annual savings for New York and $4 million in annual savings for employers. Establishment of a right to counsel program in Connecticut’s detained removal proceeding, can both save money and help protect vulnerable families.

Eviction Proceedings.

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Given the prevalence of housing-related legal issues among low-income Connecticut residents, the high percentage of cases in which landlords are represented, but tenants are not, the huge difference having a lawyer can make for a tenant being sued for eviction, and the devastating effects of eviction, homelessness, and prolonged housing instability, it is imperative that access to counsel for low-income tenants in eviction proceedings be improved dramatically. While significantly expanding access to counsel for tenants in eviction proceedings will require considerable initial funding, there is ample evidence that doing so will eventually save Connecticut far more than it will cost. To demonstrate the efficacy of such a resource-intensive initiative, we recommend establishing a smaller-scale pilot program similar to those that have recently been undertaken in New York City, Massachusetts, and Washington, D.C. Specifically, we recommend establishing a program where legal services providers would (1) use court records to identify pending eviction cases where need is greatest and legal assistance could make a significant difference, (2) contact the tenants in those cases and offer full representation, and then (3) track the outcomes in those cases where representation is provided and compare them to similar cases where representation was not provided.

Recommendation 2. Increase State funding appropriations for civil legal services through the organization designated by the Judicial Branch pursuant to General Statutes § 51-81c.

The population of income-eligible residents in need of free legal services far exceeds the current supply. The major sources of current funds, IOLTA revenue and court fees, are vulnerable to market fluctuations. The temporary increase in public funding after the 2008 financial crisis helped to offset losses from other funding sources, but it failed to raise legal service funding to pre-recession levels or address the inherent vulnerabilities of the current funding system. Given this reality, the General Assembly must appropriate additional funds for legal services. The simplest and most established way to do so is through added appropriations to the Judicial Branch for it to distribute through the organization it chooses pursuant to General Statutes § 51-81c (the IOLTA statute).

Recommendation 3. Enact fee-shifting statutes in foreclosure, eviction, and debt collection actions, regardless of whether the underlying consumer contract or lease contains an attorney’s fee provision.

Connecticut has some statutes with fee-shifting provisions, including laws governing minimum wage and overtime enforcement and civil rights violations; current statutes permit “reverse fee-shifting” in foreclosure, eviction and debt collection actions in which the consumer contract or lease at issue already has an attorney’s fees provision. We recommend that the General Assembly amend or adopt new fee-shifting statutes in areas of significant unmet legal needs, such as allowing an award of reasonable attorney's fees to prevailing defendants in foreclosure, eviction, and debt collection actions, regardless of whether the underlying consumer contract or lease contains an attorney’s fees provision. There would be no direct cost to Connecticut taxpayers in creating fee-shifting statutes, and they would help close the justice gap by encouraging private attorneys to represent tenants, homeowners, or consumers who would not otherwise be able to afford an attorney, and by discouraging landlords, mortgagors, and debt collectors from bringing non-meritorious suits. By reducing the overall number of case filings, and reducing the number of unrepresented parties in the judiciary system, such statutes would also increase judicial economy.

Recommendation 4. Enact a statute to authorize the Office of the Attorney General to redirect a portion of funds recovered in penalties and fines by the Office of the Attorney General to legal services providers in

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acordance with General Statutes § 51-81c.

The Office of the Attorney General contributes substantial sums each year to the State's general fund through settlements and judgments in litigation. In FY 2015, for example, the Attorney General's Office generated $201.8 million for the general fund. These monies are generally unrestricted upon deposit in the general fund and available to be allocated at the discretion of the General Assembly through the exercise of its appropriation authority. (Some funds recovered by the Attorney General, such as restitution for consumers or recoveries for Medicaid and other government programs, are not deposited in the general fund or are restricted and unavailable for general discretionary appropriation.) The Task Force recommends that the General Assembly authorize the Attorney General to direct a portion of funds that he would otherwise deposit in the general fund to the support of legal services, for example by directing such funds to the Connecticut Bar Foundation for distribution through its legal services grant program. Should it wish to provide such authority, the General Assembly should do so by statute establishing a maximum dollar amount that may be so directed in each fiscal year, as well as such other limitations and restrictions as it deems appropriate.


Many states, including Alaska, Iowa, Illinois, Missouri, Oregon, Texas, and Utah, provide that a portion of any punitive damage award go directly to the state. The Texas Chief Justice Pope Act (2013) is an example of how this funding model would work. The Connecticut Bar Foundation, Connecticut Bar Association, and other relevant actors should work with the General Assembly to enact a similar statute, in this instance to direct the state’s portion of any award (or at least part of the state’s portion) to legal services providers.

1. **Recommendation 6.** Enact a statute directing State agencies to provide state-owned computers at locations accessible to the public so they have access to on-line self-help resources for the protection of legal rights.

A robust state-supported and state-hosted online access to justice database and interactive website combining the best of the models adopted to date would be very effective. Connecticut has the technology infrastructure in place to meet this goal. The statistics are impressive that people who can access information about certain less-complicated problems can often resolve them themselves. However, they need access to the tools to accomplish it. Computers and internet service are not available to all individuals, nor are they necessarily capable of working through an on-line tool. Assistance by the State in providing ready access to on-line services and replicating the Judicial Branch's Service Centers with dedicated personnel would undoubtedly solve many legal needs of the poverty population and most assuredly reduce more costly efforts by legal service providers and the court system. This effort could be undertaken at minimum expense since the existing legal service providers have already created CTLawHelp.org. This web site, funded by the Connecticut Bar Foundation and the Legal Services Corporation, seeks to further the goal of equal access to justice by providing information and self-help materials on legal issues affecting people with low income. Local libraries should be able to help in this endeavor.

**Recommendation 7.** Enact a statute directing State agencies to make surplus State office space available for low-cost legal services providers.

Other than personnel, the largest cost for every legal service provider is office space. Substantial money can be saved and redirected to service delivery if Connecticut were willing to provide vacant office space to existing providers.

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Recommendation 8. Enact a statute directing State agencies to reduce the impact of bureaucracies and administrative systems on the people of the State.

The General Assembly should require all Government agencies to reduce red tape and simplify and streamline their customer service processes in order to improve efficiency and the overall citizen service experience. Connecticut can learn from the private sector, especially those industries that have obtained market advantage by improving customer service. Among the measures the state should consider are:

- focusing on customer service in call centers
- offering an inviting “customer front door”
- getting customers off the phone and onto the web
- handling calls more intelligently
- Making More Effective Use of Customer Data and Segmentation

Agencies should use web analytics to study users’ traffic on agency services websites. Web analytics is the study of the patterns of users’ travel through a website. It measures what webpages people visit; how long they stay; where they move from and to; and where they are when they quit the site. This information gives powerful insights into the parts of the website that are successful in reaching the user (more often visited; more time spent on the page); which webpages successfully move users forward toward a goal (pages from which the users follow the appropriate link to a successful outcome, such as a purchase); and webpages that fail, because they are the page the user is looking at when the user departs. Anywhere that web-based systems are used to guide people toward important civil outcomes, web analytics can be used to improve the user’s experience.

Agencies can also use skills-based routing, “virtual hold” (scheduled call-back) and business priority routing in order to be more efficient. Virtual systems have been praised for being able to identify the reasons why callers are calling, which then allows the system to route the individual to the most appropriate person to handle the issue. Virtual systems also allow individuals to receive call backs at times that are more appropriate and when there is less call volume/shorter wait time. Furthermore, it has been acknowledged that in order to be effective, representatives from different areas need to work together. An effective system can include the following:

- Break down the journey using customer perspective as a central focus.
- Map the journey against current internal operations.
- Identify the “wow moments” and pain points, such as unnecessary wait times or delays in communication.
- Prioritize pain points based on what matters most to customers.
- Radically redesign the journey to address the pain points and focus on customer needs.

Recommendation 9. Enact a statute requiring an independent “user impact” analysis for new legislation that may influence the way a bureaucracy delivers services to individuals, thus allowing lawmakers to recognize the burden of any change to State bureaucracies when considering proposed legislation.

Connecticut can further help its citizens avoid bureaucratic costs and frustrations by considering the impact of new legislation. The General Assembly should enact a statute that requires the legislature to request an independent user impact analysis prior to voting on new legislation that may have influence on the way a bureaucracy delivers services to individuals. This will help lawmakers to be cognizant of the importance of user when considering proposed legislation. Currently, bills are required to have a fiscal analysis to address financial impact and a racial impact statement to analyze whether proposed legislation would have an impact on racial disparities. Often proposed legislation can have an unintended consequence that non-partisan staff analysis would recognize when studying a bill. A user impact statement should analyze whether proposed
legislation would facilitate or make it more difficult for individuals to obtain those services to which they are entitled, and this impact would need to be considered when voting on legislation.

**Recommendation 10.** Enact a statute directing State regulatory agencies to require regulated industries to report on the impact on users of their systems.

Connecticut regulates industries that are natural monopolies, as well as industries whose impact on customers and society hold strong public welfare implications. As much as those industries are accountable for their price structures and terms of service, they should be accountable for the burdens they place on citizens and users who must deal with their systems.

Connecticut’s regulatory agencies should require reporting on user experience by all regulated industries, including in all the measures mentioned above in Recommendation 8.

**Recommendation 11.** Enact a statute establishing an accredited representative pilot program allowing trained non-lawyers to assist in matters ancillary to eviction defense proceedings and consumer debt cases in accordance with General Statutes § 51-81c.

At this time, the Task Force does not recommend adoption of a broad program for non-lawyer representatives in Connecticut, such as the Limited License Legal Technician program in Washington State. We recommend the exploration of alternative pilot programs. Non-lawyer accredited representatives are already authorized to handle many matters before federal and State administrative agencies in Connecticut. Federal agencies that allow non-lawyer accredited representatives include the U.S. Department of Justice, Executive Office of Immigration Review; U.S. Department of Homeland Security (DHS), Citizenship and Immigration Services; U.S. Department of Veterans’ Affairs (VA); and the Social Security Administration. Non-attorney accredited representatives can also appear on behalf of a client in many State administrative hearings, including before the Departments of Social Services and of Labor. As to immigration and veterans’ benefits cases, there are already over 50 VA-accredited representatives and 43 DHS-accredited representatives authorized to practice in Connecticut, including eight Veterans’ Service Officers employed by the Connecticut Department of Veterans Affairs.

The General Assembly should establish an accredited representative pilot program for matters ancillary to eviction defense and consumer debt cases, modeled after the regulatory frameworks established in the above agency and court proceedings. Unpaid rent collection, tenants’ security deposit claims, and other small claims related to the landlord-tenant relationship frequently arise in small claims court. The issues of fact and law are relatively simple, the amounts in question are small, and persons could benefit from non-lawyer assistance. Consumer debt collection practices involve similar imbalances in power due to the lack of legal representation.

The General Assembly should also explore permitting accredited representatives to charge reasonable or at least nominal fees, as has long been permitted in immigration court proceedings. We recommend allowing qualified lay experts, working in association with an attorney in specified practice areas of high need, to assist litigants in exchange for reasonable fees. If a pilot were successful, the General Assembly could consider expanding the accredited representative program to other cases.

**Recommendation 12.** Appropriate funding for legal assistance providers to establish pilot “Legal Check-Up” programs.

The General Assembly should provide funding, at least on a pilot basis, to legal services providers for a
legal health checkup program that will enable limited-income residents to determine what benefits and services they are eligible to receive. The checkup should contain questions about income, housing, education, employment, health, family and community support, and demographics. The answers will allow the reviewing attorney, paralegal, or social worker to determine whether a resident has any pending legal issues or is at risk for encountering any issues in the near future, and whether the resident is eligible to receive any services or assistance that may help them with their issues, legal or otherwise. The checkup serves the functions of (1) reaching eligible individuals in need of legal assistance who would not otherwise seek out such assistance, (2) preventing problems from developing into crises where legal assistance is required, and (3) helping citizens obtain resources and benefits that will better enable them to satisfy basic human needs.

**Recommendation 13.** Enact a statute commissioning studies of the fiscal impact of all legislative enactments intended to enhance access to justice in civil matters.

Nearly every recommendation in this report turns, at least in part, on our assessment of its likely contribution to improving society. Implementing empirical studies and analyzing the data created – at both a qualitative and quantitative level – has many benefits. Such data can assist to identify existing problems and their current impacts, suggest possible avenues for solutions and change, and – over time with longitudinal study – assess the success of institutional changes.

If decision-makers can rely on demonstrable proof that a dollar spent on civil legal services will translate into multiples of that dollar in savings and increased economic activity, civil legal services can become the best bet among many fiscal priorities. There have been many reports of the outcomes of legal aid, mostly focusing on cases resolved with success as defined by their stated goal at opening of clients reporting satisfaction with their service. These studies generally support the proposition that legal services expenditures are a good investment for a funding agent seeking to save social costs and achieve justice.

But they stop short of two key findings. The first is that they nearly always stop measuring at the result of the case, and do not establish whether the immediate results have any lasting impact of value to the clients and to society. The second is proof of the difference in outcome of the same case with and without legal representation, so that it can be established that it was the legal services alone, rather than some other trait of the “winning” cases, that led to their more positive results. That can be achieved only with Randomized Control Trials (RCTs). For any step that we recommend dedication of resources, we also recommend that a plan be established to measure the success of that step. Especially, the people of Connecticut should learn what the “return on investment” is for every dollar spent on access to justice. In particular, we believe that any agency or provider undertaking a new program should consider instituting with it a Randomized Control Trial wherever ethically allowed, and that the State of Connecticut, along with the network of legal service providers seek to institute Randomized Control Trials for existing programs where it is feasible and ethical to do so.

We expect that those studies will prove that when individuals and families facing challenges to their basic human needs are able to receive legal assistance, it not only saves them far more in harm than the cost of those services, but also saves society far more than it costs.

**Recommendation 14.** Address the Needs of Connecticut's Low Income Veterans.

We collectively bear a special responsibility to serve the unmet legal needs of low-income veterans in Connecticut. To this end, we recommend that the Connecticut General Assembly adopt a resolution favoring amendments to the statutory authority and mission of the U.S. Department of Veterans Affairs to allow for funding for legal services to veterans, or for entities that provide legal services to veterans, such as the Connecticut Veterans Legal Center, as the VA has begun to do in a modest way in its Supportive Services for
Veteran Families program. In addition, we acknowledge the leadership of Sen. Richard Blumenthal, Ranking Member, Senate Veterans Affairs Committee, in pursuing such amendments, and recommend the General Assembly urge Sen. Blumenthal and other members of the state’s congressional delegation to continue this effort. Further, we recognize the vital services provided to the state’s veterans by the Connecticut Veterans Legal Center, and recommend the General Assembly consider encouraging the state’s other civil legal aid agencies to offer representation to income-eligible clients in VA benefits cases, discharge upgrade matters, and other such veteran-specific matters. Finally, the General Assembly currently funds approximately eight full-time employees in the CT Department of Veterans Affairs who are VA accredited representatives and who provide free representation to CT veterans in VA benefits matters. The legislature should consider funding staff attorneys and additional accredited representatives located within CVLC or other civil legal aid offices, where the latter may be supervised by an attorney as well.

**Recommendation 15. Funding for New Initiatives.**

The second set of recommendations in this report are addressed not to the General Assembly but to the Judicial Branch, the legal services community, and the legal profession. But many of these recommendations require funding, and in several instances could not be undertaken without diverting existing resources away from the crucial need to serve vulnerable populations.

We therefore ask that the General Assembly provide funding for the following initiatives:

- a) Legal assistance to persons with disabilities;
- b) Raising the financial ceiling for non-LSC funded legal services providers;
- c) Incubators to support solo practitioners serving the poor and moderate income communities;
- d) Tri-annual State-wide priority setting studies;
- e) Medical-legal partnerships; and
- f) Studies of new methods of legal services delivery.
WHAT MORE CAN WE DO

Our work has led us to other observations and recommendations we intend to pursue collectively and individually with the various constituencies who devote their time, talent and treasure to ensuring that all persons have meaningful access to justice regardless of economic means.

Recommendation 1. Further Expand the Efforts of the ATJC.

The Access to Justice Commission (ATJC) was created by the Chief Justice and made a series of recommendations in 2013 that have resulted in improving the situation for many litigants. For example, as a result of the ATJC’s work, the Judicial Branch adopted Practice Book § 3-8 to facilitate some provision of legal services to those who might not otherwise be able to afford a full time lawyer, permitting limited scope representation (“LSR”), i.e., representation for a particular phase or project in a litigation. As of December 2016, the Judicial Branch reports there have been 1,767 limited scope appearances filed in superior court civil, family and family support magistrate cases. Over 19 other states have adopted court rules that facilitate limited scope representation in contested litigation with a form of limited appearance. The success of limited appearances for family matters became the impetus for the Judicial Branch’s second proposal, this time to the Judicial Branch’s Civil Commission and Rules Committee of the Superior Court to further amend Connecticut Practice Book § 3-8 to include all civil cases. The amended rules permitting an attorney to file a limited appearance in all civil matters (including housing and small claims) became effective on January 1, 2016. Despite the increasing interest in unbundled services, the efficacy of these reforms is still unclear and more research is required; some studies show perceived benefits but others suggest that unbundling may not enhance actual fairness as measured by case results. Moreover, more should be done to promote LSR, including working with the state and local bar associations to promote LSR. The ATJC should carefully study the implementation of limited scope representation programs to determine whether they should be modified.

A significant part of the Judicial Branch’s efforts towards providing equal access to justice for all of Connecticut’s citizens has been the movement to increase awareness regarding the importance of pro bono service. These pro bono efforts have, in part, focused on the number and diversity of attorneys who perform pro bono work. An important component has been enacting changes in the Rules of Professional Conduct to permit retired attorneys and in-house attorneys to perform pro bono service under the supervision of an organized legal aid society, a State or local bar association project, or a court-affiliated pro bono program. To that end, Practice Book § 2-55 was amended on June 14, 2013, and took effect on January 1, 2014, to include the following language, under newly created subsection (e): “An attorney who has retired pursuant to this section may engage in uncompensated services to clients under the supervision of an organized legal aid society, a state or local bar association project, or a court-affiliated pro bono program.” Likewise, Practice Book § 2-15A (c) was amended on June 15, 2012, and took effect on January 1, 2013, to include the following language, under newly created subdivision (5): “Notwithstanding anything to the contrary in this section, an authorized house counsel may participate in the provision of any and all legal services pro bono public in Connecticut offered under the supervision of an organized legal aid society or state/local bar association project, or of a member of the Connecticut bar who is also working on the pro bono representation.” This initiative should be promoted.

In addition to the LSR and pro bono program discussed above, the Judicial Branch has Court Service Centers and public information desks which, in 2015, provided assistance and services to 354,673 court patrons, 265,375 of whom were pro se parties. The Connecticut Judicial Branch has also established eighteen court-based advice-only Volunteer Attorney Programs (VAPs) in the areas of family law (Hartford, Stamford, and Waterbury), foreclosure law (Hartford, New Haven, Bridgeport, New Britain, New London, Stamford, and Waterbury), contract collections law (Bridgeport, Hartford, New Haven, New London and Waterbury) and small claims in conjunction with the CBA in (Hartford, Middletown, and New Haven). The program should be expanded by establishing VAPs in the areas of housing law, immigration law, employment law, and public
benefits law. The undertaking has helped well in excess of 12,000 litigants since it began. Additional outposts should be created.  

The ATJC report was a significant undertaking and made a series of noteworthy recommendations, many of which are still pending, each of which would, if adopted, have a significant impact on addressing access to justice issues. Those recommendations should be reviewed and adopted if still appropriate. These include:

a. Instituting a review of Connecticut's Unauthorized Practice of Law rule and the Student Practice rules with the purpose of identifying revisions that expand the ability of law students to provide pro bono assistance to persons of limited means;

b. Exploring with the Connecticut Bar Association, local bar associations, and law schools' legal clinics the feasibility of establishing modest means programs to assist low income individuals who need legal assistance but who do not qualify for, or cannot obtain, free legal services; and

c. Working with Connecticut law schools to identify additional ways in which to engage law students in providing legal assistance to persons of limited means through clinics, externships and other training programs;

To these we would add:

d. Study additional ways in which it might be able to facilitate providing legal services to the poor. This might entail quicker resolution time, reducing the amount of time spent at court appearances, and promoting limited appearances and information.

e. We encourage the ATJC's ongoing efforts to increase access to justice at the appellate level. In the last several years, the percentage of appeals at the Connecticut Appellate Court, in which at least one party was pro se, has remained around 35%.

Recommendation 2. Continue to enhance Judicial Branch systems to facilitate access.

The Judicial Branch has taken many steps in the last decade to make the courts and their systems accessible to both represented and unrepresented parties. There is more that can be done, especially in those dockets with significant numbers of pro se parties.

One of the areas of significant progress by the Judicial Branch is in the field of Online Dispute Resolution (ODR), an idea that has recently gained traction in several other jurisdictions. JJ Prescott of the University of Michigan was the leader of an online court project at the University of Michigan. (see https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2777059). While not appropriate for all legal matters, ODR has much promise and many positive attributes. The ODR process developed for the University of Michigan's project is a fairly simple one, provided one has access to the internet and is comfortable using technology. In short, an individual looking to resolve a minor dispute will go to the online system and submit a request to the court, offering detail regarding the matter and answering questions from the court. The online system will then route the case information to the appropriate people (law enforcement, clerk, prosecutor, judge). The individual receives text messages and is emailed updates as the process progresses and is ultimately

10 Under the ATJC, the Judicial Branch has also collaborated with Connecticut’s public libraries to conduct outreach to public librarians and academic librarians with a goal of developing an ongoing program of training, information sharing, and, when possible, resource exchange.
closed. (See ODR overview at http://getmatterhorn.com/how-it-works/) In short, ODR offers many advantages, including:

- informal, flexible and not bound by strict rules of procedure and evidence;
- low or no cost of participation; any costs shared by parties;
- well suited to low-dollar and high-volume transactions;
- well suited to geographically disparate parties;
- well suited to disputes where parties may not emotionally be able to be in the same room;
- well suited to accommodating physical disabilities;
- process is confidential; and
- lawyers are often not required.

**Recommendation 3. Improve Access to Counsel for Persons with Disabilities.**

The Justice Index, which evaluates and ranks all 50 states along a number of access to justice measures, currently ranks Connecticut sixth on its “disability access index.” The rankings are determined by Connecticut’s performance on 13 practices tied to assuring access to the justice system for indigent persons with physical disabilities, mental health issues, or cognitive limitations. Connecticut’s relatively high ranking is a function of its adoption of 11 of 13 practices described by the Index.

Nevertheless, and despite the admirable work of existing legal services organizations dedicated to assisting persons with disabilities in Connecticut, this group faces significant barriers to access to counsel. We recommend adopting the two practices described in the disability access index that Connecticut has not yet adopted: (1) requiring courts to give preference to sign language interpreters who have been trained in a legal setting, as 28 other States have already done; and (2) providing counsel to litigants with disabilities as a form of “reasonable accommodation”. Three States provide for appointment of counsel as a form of accommodation. In Maryland, court rules provide that in a suit brought against a person with a disability, if there is no guardian or other fiduciary, the court is obligated to appoint an attorney to defend the individual. In Oregon, the State Department of Justice advised that where a “mentally impaired party does not understand the judicial proceedings,” appointment of counsel at no cost to the party qualifies as an appropriate accommodation. In Washington, representation by counsel must be available “to make each court service, program, or activity, when viewed in its entirety, readily accessible to and usable by an applicant who is a qualified person with a disability.” We recommend promulgation of a similar rule that would ensure that qualified disabled persons who are not able to afford an attorney and who do not otherwise have a guardian or fiduciary are provided an attorney at no cost in suits brought against them.

We also recommend funding improved outreach to disabled persons. In addition to funding community partnerships, Connecticut should consider funding mobile, wheel chair accessible legal help centers that could travel directly to rural communities and to immobile individuals that would otherwise be unable to reach community-based legal assistance programs.

**Recommendation 4. Encourage Lawyers Employed by the State to Perform Pro Bono Services.**

We note that several hundred attorneys employed by the State of Connecticut currently do little or no pro bono work. This is not for lack of desire or commitment to service to the bar and public. However, these lawyers – Assistant Public Defenders, Assistant States Attorneys, Assistant Attorneys General and counsel employed within Executive Branch agencies and others - lack malpractice insurance coverage for claims that might arise from pro bono activities, unless they accept a referral from a legal service program that provides referral coverage. (Statutory immunities protect State government attorneys from claims arising out of conduct that is within the scope of their employment and not wanting, reckless or malicious. The Office of the Attorney
General provides for the defense of such claims.) In addition, these attorneys’ compensation is funded by the taxpayers and their job duties defined and limited by statutes and/or employment agreements, including in some instances collective bargaining agreements. Their current terms of employment do not encompass pro bono activities. Consideration by the Executive Branch should be given to appropriate means to facilitate pro bono work by these attorneys.

**Recommendation 5.** Raise the Financial Eligibility Ceiling for Non-LSC Legal Services Organizations to 200% of the Federal Poverty Level.

Connecticut Legal Services, Greater Hartford Legal Aid, and New Haven Legal Assistance Association do not receive Legal Services Corporation funding and therefore are not obligated to refuse assistance to residents whose household incomes are more than 125% of the federal poverty level. These organizations nonetheless adhere to this restriction. Instead, they should follow the lead of legal services organizations in other areas where the cost of living is higher than average and increase their financial eligibility limits to 200% of the federal poverty level. This would ensure that, at least in some instances, these organizations would not be forced to turn away low-income residents with otherwise meritorious claims or defenses in cases where basic human needs are at stake. To the extent permitted by law, we further recommend that the Connecticut Bar Foundation permit its non-Legal Services Corporation grantees to serve persons with incomes up to 200% of the federal poverty level.

**Recommendation 6.** Work with Bar Associations, Law Schools, and Non-profits to Establish Subject-Matter Specific Lawyer Incubators.

Since the first Lawyer Incubator was established at the City University of New York in 2007, Lawyer Incubators have emerged as a popular model to help newly-admitted lawyers kick-start their careers and acquire the skills necessary to launch a practice that services low and moderate-income individuals. This model is especially compelling because it can both help address the immediate crisis of lack of representation and an oversupply of lawyers. It will also foster a community of lawyers with sustainable practices that serve underserved populations. The UConn Law School plans to open an incubator early in 2017 with the support of the Hartford County Bar Association, and the Justice Legal Center at the Center for Family Justice in Bridgeport is expected to open in January 2017 and will house 4-6 lawyers for 2 years. The General Assembly should join with other stakeholders concerned with current rates of legal unemployment and the access to counsel crisis to support these and other incubators, including in subject-matter specific areas.

**Recommendation 7.** Commission a Study of the Potential Rule Changes to Support Funding.

Further study should be undertaken to determine how Connecticut might use its leverage to help the organizations find and secure available public grants and private foundation dollars. Two years ago, for example, the Superior Court changed Practice Book § 9.9 to permit a court, in the absence of another designation, to direct class action residual funds to be disbursed for the purpose of funding legal aid. The United States District Court did the same with its adoption of Local Civil Rule 23. As a result, the CBF has received over $142,000 in additional funding for the legal service programs.

**Recommendation 8.** Pursue Available Private Funding for Legal Services.

There are a number of fellowships, grants, and other funding available for legal services that are not used by Connecticut legal services providers. For instance, the Immigrant Justice Corps, established under the leadership of Chief Judge Robert Katzmann of the U.S. Court of Appeals for the Second Circuit, provides dozens of two-year fellowships every year for recent law school graduates to work in existing legal services offices in the tri-state area. To date, no IJC fellows have been assigned in Connecticut. Similarly, Equal Justice
Works has recently dedicated significant resources to providing post-graduate fellowship to represent veterans. We recommend that legal services providers and other advocates engage in a concerted effort to seek additional federal and private funding for legal services.

**Recommendation 9.** Consider Consolidation in the Legal Aid Network.

While the amount of collaboration between legal service providers is impressive, it is also clear that the overlap of organizations presents some duplication of efforts and certainly replication of overhead and administrative charges. Further, organizations compete for public and private dollars to no one's benefit. And, no one program has the right answer to measuring cost effectiveness leaving the various delivery models untested. As such, we recommend that further study be undertaken to determine whether consolidation or more formalized collaboration might reduce expense and free up time and effort to devote more resources to providing services, whether more private money can be raised through joint efforts, and how we might better measure cost effectiveness to improve efficiency where we can. The CBF, working with existing programs, is in the best position to undertake this task if it received the funds to do so.


Given that the need is overwhelming, presumably critical dollars have to be spent where the need is the most severe. Studies funded by Connecticut should be undertaken every three years to help the CBF and civil legal aid providers determine priorities to help shape what services are provided. And we must devise a system to address those priorities as they change.

**Recommendation 11.** Fund Medical-Legal Partnerships or Other Community-based Legal Partnerships.

Connecticut should fund medical-legal partnerships or other similar legal partnerships with organizations located in low-income communities, focusing on areas with especially limited access to reliable transportation, large non-English speaking populations, and infrequent contact with legal service providers. Scholarly work, such as that of Rebecca Sandefur of the American Bar Foundation and the University of Illinois at Urbana-Champaign has shown the success of medical-legal partnerships and other similar partnerships with organizations such as libraries and places of worship. Whether located at a medical clinic or other community-based organization, the basic idea driving such programs is to connect legal aid with people through a local organization they already trust and where they may even already go to seek help with a legal problem. Through this approach, these programs reach more individuals, while also building trust between the community and legal service providers.

Such programs have already been implemented in Connecticut. In Hartford, UConn School of Law and Greater Hartford Legal Aid (GHLA) recently established the Justice in Our Community Fellowship to fund three law-student fellows supervised by GHLA attorneys in operating a legal information and outreach table at Community Health Services, a federally-qualified health center located in Hartford’s North End. Similarly, in New Haven, the Yale Health Law and Policy Society (YHeLPS) and New Haven Legal Assistance Association (NHLAA) have also recently established medical-legal partnerships at the HAVEN Free Clinic and the Yale-New Haven Hospital. Through these two programs, law student volunteers supervised by Yale and NHLAA attorneys receive referrals from the clinical staff and pursue remedies through direct service and policy reform. Both initiatives have received positive feedback from clients and community partners. By providing additional funding, these partnerships should be expanded and established in new locations.

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**Recommendation 12.** Study of New Legal Services Delivery Methods.

Many new lawyers have difficulty finding jobs practicing law, while many Americans cannot afford a lawyer. We must find ways to bridge this gap. Many changes are underway in the methods by which entities are delivering legal information and legal services, especially through the internet. Some of these are disruptive to traditional law firm business models. They also challenge traditional regulatory regimes. At the same time they promise savings to clients who might be satisfied by the level of information or service obtainable by such systems. Rocket Lawyer, Shake, and LegalZoom offer online legal document creation services and “education centers” for individuals and small businesses searching for help with their legal needs. The Judicial Branch and the Connecticut Bar Association should study the impact of these new service delivery models and provide guidance on how the State should respond to them.
Respectfully submitted:

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William H. Clendenen, Jr. & Timothy Fisher

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We also acknowledge the tremendous support from Deborah Blanchard, Committee Administrator for the Judiciary Committee, without whose guidance and hard work we would not have been able to discharge our obligations and generate this report.
EXHIBIT A

CONNECTICUT STATUTES ESTABLISHING A
RIGHT TO COUNSEL IN CIVIL MATTERS

Social and Human Services:

Conn. Gen. Stat. §17a-274(d): Right to counsel for ward in involuntary placements with the Department of Developmental Services.

Conn. Gen. Stat. §17a-275: Provides that if placement is with Department, state pays attorney fees; otherwise, petitioner pays.

Conn. Gen. Stat. §17a-498: Right to counsel for mental health commitment, and "[t]he reasonable compensation of appointed counsel shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund." 12

Public Health:

Conn. Gen. Stat. §19a-685(c): Right to counsel for commitment for drug/alcohol treatment. "If funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund."

Conn. Gen. Stat. §19a-131b(g): Right to counsel for quarantine matters. "The reasonable compensation of appointed counsel shall be established by, and paid from funds appropriated to, the Judicial Department, but, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund."


Probate Courts:


Conn. Gen. Stat. §45a-620: Discretionary appointment of counsel for child in guardianship proceeding, but right to counsel for child where abuse/neglect alleged or suspected by court. Right to counsel for respondent.

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"The cost of such counsel shall be paid by the person whom he or she represents, except that if such person is unable to pay for such counsel and files an affidavit with the court demonstrating his or her inability to pay, the reasonable compensation of appointed counsel shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund. In the case of a minor, such affidavit may be filed by a suitable person having knowledge of the financial status of such minor."

Conn. Gen. Stat. §45a-649a(a): Right to counsel for respondents in conservatorship cases. If the respondent or conserved person is indigent, an attorney appointed under this section shall be paid a reasonable rate of compensation. Rates of compensation for such appointed attorneys shall be established by the Office of the Probate Court Administrator. Such compensation shall be paid from funds appropriated to the Judicial Department. If funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be paid from the Probate Court Administration Fund."

Conn. Gen. Stat. §45a-673: Right to counsel for respondent in guardianship cases involving adults with intellectual disabilities. "If the respondent is indigent or otherwise unable to pay for counsel, the cost for such counsel shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund." Conn. Gen. Stat. §45a-681 extends RTC to review proceedings and has same provision about payment.


Conn. Gen. Stat. §45a-694: Right to counsel for respondent re consent to sterilization. Paid by court, however, if unable to pay, compensation from Probate Administrator.


Family Law:

Conn. Gen. Stat. §46b-12: Orders re appointment of counsel or guardian ad litem for minor child in a family relations matter. See 46b-54.

Conn. Gen. Stat. §46b-54: Discretionary appointment of counsel for child in dissolution cases or any case where the "custody, care, education, visitation or support of a minor child is in actual controversy."


Conn. Gen. Stat. §§46b-129(c)(2), 46b-129a(2): Right to counsel for children in neglect cases. Conn. Gen. Stat. §46b-129a(2) specifies that the office of Chief Public Defender must assign an attorney knowledgeable about representing children, or court can assign if there is "immediate need for the appointment of counsel during a court proceeding." Counsel fees paid by PD's office unless parents or estate of child are able to pay, "in which case the court shall assess the rate the parent or guardian is able to pay and the office of Chief
Public Defender may seek reimbursement for the costs of representation from the parents, guardian or estate of the child."

**Conn. Gen. Stat. §46b-136:** Right to counsel for children in all juvenile matters. Also authorizes discretionary appointment of counsel for children, parents, or any person having control of the child or youth in any juvenile proceeding "if such judge determines that the interests of justice so require."

**Conn. Gen. Stat. §§46b-160(e)(2), 51-296(c)(l)(A):** Right to counsel for respondent in paternity cases


**Courts:**

**Conn. Gen. Stat. §51-296(a):** Right to counsel in habeas hearings and appeals.

**Conn. Gen. Stat. §51-296(c)(l)(A):** Governs "Legal services and guardians ad litem to children, youths and indigent respondents in family relations matters in which the state has been ordered to pay the cost of such legal services ...”

**Conn. Gen. Stat. §51-297:** Determination of indigence; definition, investigation, reimbursement for services, appeal
Hi Angela,

We’re very happy to have you circulate the report as long as it includes proper author/institute attribution (the info on the cover and title page should be fine). Hopefully it will be a useful resource! Feel free to reach out if there’s anything else we can do to help.

Best,
Derek

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From: Angela Schlingheyde [mailto:aschlingheyde@centerforfamilyjustice.org]
Sent: Tuesday, May 28, 2019 9:35 AM
To: Sylvan, Derek <sylvand@mercury.law.nyu.edu>
Subject: Permission to share report

Good morning, Derek,

My name is Angela Schlingheyde and I am the Director of Civil Legal & Court Advocacy Services at The Center for Family Justice in Bridgeport, CT. We provide comprehensive services to victims and survivors of domestic violence, sexual violence and child abuse. I will be a part of a panel at the CT Bar Association Conference on June 10th which will be highlighting the importance of pro bono legal services for victims and survivors of domestic violence. I will be providing the organizers of the event with some materials to share with the conference participants and would love the opportunity to share the Institute for Policy Integrity report from July 2015: “Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Domestic Violence Survivors” by Jennifer S. Rosenberg and Denise A. Grab. I feel this article contains invaluable information about this topic and would love to get it into the hands of as many attorneys in CT as possible. Could you please let me know if it is possible to get permission to share the article with the participants and what documentation I would need?

Thank you and I look forward to hearing from you soon.
Angela

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Angela Schlingheyde, J.D.
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Supporting Survivors

The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence

Jennifer S. Rosenberg
Denise A. Grab
July 2015
Jennifer S. Rosenberg serves as Senior Program Officer for Gender-Based Violence at the Women’s Refugee Commission and served as a Legal Fellow at the Institute for Policy Integrity from 2010 to 2012. Denise A. Grab serves as Senior Attorney at the Institute for Policy Integrity. The authors would like to thank Helaine Barnett, Rebecca Henry, Nancy Lemon, Michael Livermore, Krista Niemczyk, Richard Revesz, Roberta Rieck, and Jennafer Wagner for their helpful insights and comments, and the MacArthur Foundation for its generous support. Any errors are the authors’. 
Domestic violence is a significant public health problem in the United States. It takes many forms, including rape, physical assault, emotional assault, and stalking, and its reach knows no social, religious, racial, or ethnic bounds.¹

Evidence indicates that the social costs of domestic violence² extend far beyond the private costs borne by the immediate families. Such costs, known in economic parlance as externalities, are borne by society generally, with the burdens falling especially heavily on some groups. For example, children whose parents are victims of domestic violence experience long-lasting emotional and psychological effects, which can also harm their current schoolmates, as well as their future relationships and families. Larger health care, law enforcement, and social services costs may fall on taxpayers in states and municipalities with higher levels of domestic violence.

The gravity of this issue warrants using all policymaking tools available, including economic reasoning and cost-benefit analysis. In no way does this report suggest that other moral and rights-based grounds lack importance—or should even fall second to economic considerations—in determining public policy on this issue. Indeed, international courts have found that freedom from domestic violence is a fundamental human right.³

This report, however, will focus on assessing the economic benefits of providing civil legal assistance to domestic violence victims by examining the underlying transaction between an attorney and her client. What are the social costs when a victim of domestic abuse cannot afford legal assistance and lacks access to free or subsidized assistance? Might greater subsidies for civil legal assistance be cost-benefit justified?

The evidence suggests that civil legal assistance might indeed be cost-benefit justified. Civil legal services improve the likelihood that women will be able to obtain protective orders from courts, which is a significant factor in reducing rates of domestic violence. In fact, studies have shown that the availability of civil legal aid can be effective in reducing rates of violence, and even more effective than alternative interventions such as the provision of shelters or counseling services.⁴ Increased funding to enhance the availability of civil legal services to low-income families can lower the societal costs of domestic violence, generating substantial economic benefits.
This report discusses significant categories of benefits that will be generated by reducing the incidence of domestic violence through the provision of legal services. These categories of benefits include savings in the following areas: medical and mental health care costs, criminal justice system costs, and the tangible and intangible benefits associated with lessening children’s exposure to violence. This last category is especially salient, since the externalities imposed upon children whose parents are in abusive relationships affect not only those children, but many others, as well, and these effects have traditionally been ignored by policymakers. Where possible, we provide rough estimates of the magnitude of these costs and cost-savings, noting where additional research is needed to provide better monetized analysis.

The report examines the economic benefits of reducing domestic violence through legal services. Evidence suggests that there are quantifiable, evidence-based economic benefits associated with providing legal services to domestic violence survivors, and that the benefits to be gained by subsidizing more legal services can often justify their costs. How large these subsidies should be, and how they should best be dispersed, are separate public policy questions that will not be directly addressed here. The report closes with a brief discussion of critical factors policymakers and analysts should consider in deriving those answers.

This report proceeds in five parts:

- Part I compiles information about the prevalence of domestic violence against women.
- Part II explains how access to legal services has been shown to reduce the incidence of domestic violence through assistance in obtaining civil orders of protection, as well as help in other legal areas, such as immigration and housing.
- Part III discusses the societal costs of domestic violence in order to illustrate the economic benefits that can be realized through the reductions in violence that would come from providing more legal assistance to survivors. Some of these costs are obvious, such as medical care or criminal justice system costs, but others are less readily apparent, such as the costs society incurs whenever a child is exposed to domestic violence.
- Part IV discusses the inefficiencies in the market for legal services; these inefficiencies further justify government intervention.
- Part V addresses the public policy implications of all of the above.
Part I: The Prevalence of Domestic Violence

Since there is no national or state-wide system for collecting data about domestic violence, prevalence estimates are extrapolated from survey data. Police and hospital records are also sometimes used, however these records often lack complete information about a woman's previous domestic violence history and her relationship to the abuser. Relying on such documentation is also problematic due to a severe underreporting problem: the Bureau of Justice Statistics in the U.S. Department of Justice estimates that nearly half of all domestic violence incidents go unreported.5

Another challenge to measuring the full extent of domestic violence is a lack of consensus about terminology and how different types of violence are categorized. Researchers who include stalking in their definition of domestic violence will necessarily find larger incidence rates than those who limit their analysis to physical and sexual assaults. In addition, different surveys may look at numbers of victims rather than numbers of victimizations.

Until recently, the best available information on the prevalence of domestic violence in the United States came from a survey conducted in 1995-1996 at the express request of Congress. The survey, known as the National Violence Against Women Survey, was funded jointly by the National Institute of Justice—the research arm of the Department of Justice—and the Centers for Disease Control and Prevention. It generated unprecedented information about the occurrence, characteristics, and effects of nonfatal intimate partner violence (IPV), which was defined as an incident of physical assault, rape, or stalking. Survey data was extrapolated to generate national estimates, showing that:

- Each year, 5.3 million IPV victimizations occur among American women 18 years of age and older.
- This violence results in 2.0 million injuries. 550,000 of these injuries require medical attention and more than 145,000 are serious enough to warrant hospitalization for one or more nights.
- IPV results in more than 18.5 million mental health care visits each year.
- Women subjected to violence by an intimate partner lose nearly 13.6 million days of productivity each year. This includes 8.0 million days of paid work—roughly equal to 32,000 full-time jobs—and 5.6 million days of childcare and other household work.6
- In 1995, the same year that incidents were reported to the National Violence Against Women Survey, 1,252 women ages 18 and older in the United States were killed by an intimate partner.7
Recently, the Centers for Disease Control and Prevention initiated an ongoing, national survey effort dedicated to describing and monitoring domestic violence, sexual violence, and stalking. This new research effort, entitled the National Intimate Partner and Sexual Violence Survey, began with a 2010 survey, whose results were published in two installments in 2011 and 2014. The 2010 Survey included different questions, focused more on lifetime (rather than annual) prevalence of particular forms of IPV, and did not extrapolate from the sample to numbers in the general population. Of note, it found that, over their lifetimes: 9.4% of women have been raped by an intimate partner, 24.3% of women have experienced severe physical violence from an intimate partner, 48.8% of women have experienced at least one instance of psychologically aggressive behavior from an intimate partner, and 10.7% of women have experienced stalking by an intimate partner.

**Economic Status as a Determining Factor**

The economic status of an individual woman affects her likelihood of being in an abusive relationship. Being poor dramatically increases a woman’s chances of being abused. One analysis of data collected by the Department of Justice’s Bureau of Justice Statistics showed that women in the lowest income households experience seven times the rate of abuse suffered by women in the highest income households. (These measures of income include both wage and nonwage income, the latter consisting mostly of child support and public assistance.) Likewise, women who experience food and housing insecurity experience a significantly higher incidence of rape, physical violence, or stalking by an intimate partner.
The legal services provided by an attorney can range from simply advising survivors about their legal options to providing full representation through the complaint process. In between, lawyers may help clients file court papers, seek protective orders, or prepare for hearings and other court appearances. Whether a survivor has legal counsel can have a significant effect on the outcome of a domestic violence case, including whether a restraining order is successfully obtained. Several studies have explored the role of legal assistance in reducing the incidence of domestic violence and various ways it does so.

**Provision of Legal Services Significantly Lowers Rates of Domestic Violence Against Women**

A number of studies demonstrate that access to social services, including legal assistance, reduces the probability of future domestic violence. These findings are consistent with now well-established economic models of domestic violence. The models are discussed below, followed by a brief survey of the recent empirical literature.

Economic models of domestic violence predict an inverse relationship between rates of domestic violence and the scope of women’s alternatives outside of their relationships. That is, as battered women’s economic opportunities improve, they are better able to exit violent relationships.12

This is why social service programs directed at battered women are predicted to have long-term impacts on rates of violence against women: they enhance the availability of outside options.13 Some services inherently provide women with only short-term alternatives, such as the immediate refuge of a shelter or an emergency hotline. Other services seek to enhance women’s economic status, such as by providing them with direct payments or job training, placement, and educational programs. These programs help women become more economically self-sufficient over time and less tied to, or even dependent upon, their partners for financial stability. Evidence shows that as the prospect of being able to support themselves starts to become a reality, battered women are more likely to leave their relationships. Alternatively, those who stay with their partner do so with greater economic independence and an ability to assert more credible threats that they will leave their relationship if the abuse continues; this shifting of power forces abusers to curb the violence or risk losing their partners.14

Over the past quarter century, a growing body of literature has lent empirical weight to these economic models, demonstrating that women’s access to alternative options affects the levels of violence they experience. Studies conducted
in the 1970s and 1980s show that women with access to fewer economic resources are less likely to leave their abusive partners. Other evidence strongly suggests that women who are highly economically dependent on a marriage experience more severe abuse. Women in marriages where men dominate the finances and decisionmaking suffer even higher levels of violence.

There is less empirical work, however, examining the effect of social service provision on the rate of violence against women. One study published in 1999 analyzed the effect of service provision on the likelihood that a woman who is suffering violence at the hands of her husband will kill him. Results demonstrated that the existence of services for battered women, such as shelters, counseling centers, and advocacy groups, coupled with women's overall economic power, reduced the rate at which they killed their husbands. The authors posited that women with access to better outside options—especially those providing avenues toward economic self-sufficiency—are less likely to resort to killing their husbands in order to protect themselves.

In 2003, economists Amy Farmer and Jill Tiefenthaler took an unprecedented look at the impact of social service provision on the incidence of domestic violence. They sought to answer whether the national uptick in social services for battered women that took place during the 1990s could be linked to a decline in rates of domestic violence. According to the Department of Justice, domestic violence against women in the United States fell by 21 percent between 1993 and 1998, down from 1.1 million violent incidents to 876,340 incidents. Beginning in the mid-1980s, federal, state, and local governments increased the range of services available for battered women. Sometimes governments administered these services directly; in many cases the governments funded their provision by nonprofit organizations. Importantly, among these programs, the number of those providing legal services to women increased especially dramatically in the 1990s. In 1986, only 336 legal services programs served victims of domestic violence nationwide. In 1994 that number had increased 254 percent, to 1190 programs, and by 2000 it had increased to 1441 programs. Much of this expansion occurred not because new legal services agencies opened their doors, but because existing victim services organizations began adding legal counseling to their menu of social services offered. In some cases, the impetus for these additions – what made them feasible financially – was the creation of new federal grant programs established under the 1994 Violence Against Women Act. Although criminal justice initiatives were the primary focus of these grants, community-based agencies that delivered services to victims also benefited from an influx of VAWA-authorized spending.

Farmer and Tiefenthaler queried whether the increase in social services provided more women with better alternatives to their abusive relationships and could therefore be considered a causal factor in the decline of domestic violence. To conduct their analysis, the authors compiled county-level information across several variables, including ethnographic and income-level data. They also tallied up the existence of various programs for battered women by county. These programs ranged from shelters (sub-grouped by their number of beds), safe homes, counseling, hotlines, rape counseling, and emergency transportation, to legal service programs, programs for victims' children and anger management programs for batterers. Farmer and Tiefenthaler then merged this information with individual-level data that included wage earnings and reported incidents of abuse. Overlaying these two levels of data allowed the economists to observe statistical relationships between rates of violence and the degree of women's access to alternative options—i.e., social service programs—outside of their relationships.
The study’s findings are revealing. Among the myriad social service programs Farmer and Tiefenthaler observed, only the availability of legal services in a woman’s county of residence was found to reduce her likelihood of abuse. The provision of legal services, according to the authors, “significantly lowers the incidence of domestic violence.”

Extrapolating from their results, Farmer and Tiefenlauer write that “[b]ecause legal services help women with practical matters (such as protective orders, custody, and child support) they appear to actually present women with real, long-term alternatives to their relationships.” By contrast, the existence of hotlines, shelters, and counseling programs were found to have no significant impact on the likelihood of a woman being abused by her partner.

Given the dramatic increase in the number of programs providing legal services for battered women in the 1990s, Farmer and Tiefenlauer concluded that the expansion of access to legal assistance was likely one of the significant factors that drove down incidence rates. Noting, however, that women’s income levels and levels of educational attainment are also significant determinants of their likelihood of suffering domestic violence, Farmer and Tiefenlauer examined statistical relationships for these variables, as well. They found that together with the more widespread provision of legal services, positive trends in these two factors likely also played a substantial part in diminishing rates of domestic violence in the 1990s.

Access to Legal Assistance Can Reduce Domestic Violence By Increasing the Likelihood That Women Will Seek and Obtain Protective Orders

Civil court orders of protection are an important recourse for women seeking judicial intervention in abusive relationships. Survivors of domestic violence have rated the filing of a protective order as one of two their most effective tools for stopping domestic violence, second only to leaving the abuser.

The term “protective order” encompasses a class of civil remedies that have different names depending on jurisdiction, from “restraining order” to “peace bond.” They are available in all fifty states, usually first as a temporary means of relief that petitioners can later request to be extended in a final order lasting as long as five years. Within this rubric, the possible contours of a protective order vary by state. In addition to requiring an abuser/respondent to cease perpetrating violence, an order may instruct him to have limited contact with the petitioner or no contact whatsoever (neither physical nor telephonic nor electronic), or to seek counseling, or to share childcare responsibilities in a prescribed fashion. Other state-by-state differentials are eligibility criteria, durational parameters, and the procedural requirements for obtaining an order. Orders of protection are civil remedies separate from criminal justice interventions, but they can supplement or run concurrently with a criminal case. They can also serve as an alternative legal option for women where no criminal action has been filed or for women who are reluctant to participate in a criminal proceeding against their abuser. Since protective orders have a lower evidentiary threshold than criminal charges—only a “preponderance of the evidence” test must be met, rather than “beyond a reasonable doubt”—they are also easier to obtain than criminal convictions.

Access to legal services increases the likelihood that a victim will successfully be able to obtain a protective order against her assailant. According to one study, 83 percent of victims represented by an attorney successfully obtained a protective order, as compared to just 32 percent of victims without an attorney. Another study in Wisconsin found
that the likelihood of receiving a protective order against an abuser jumped from 55 percent to 69 percent when the victim was represented by counsel.32

Research on civil protective orders provides a complicated picture of how, exactly, they help prevent further abuse. Researchers currently have only a “limited understanding of which factors are most associated with violations [of protective orders].”33 Among the compounding variables that complicate this research are: (a) whether a petitioner drops the protective order; (b) whether the petitioner reports violations of an order to the police; and (c) the degree to which orders are enforced by police and courts. Yet the results of numerous studies support the proposition that protective orders are generally useful in reducing incidence of abuse; they also help reduce the severity of abuse and make women less fearful of future harm.

The effectiveness of protective orders can be assessed along two major dimensions: (i) whether abuse persists after an order is obtained and (ii) whether petitioners perceive orders as being effective.34 With respect to the first metric, a number of studies report that significant numbers of women—between 23 and 70 percent—experience violations of protective orders in the form of stalking or physical abuse.35 One meta-analysis of the literature calculated that across 32 separate studies, restraining orders were violated 40 percent of the time on average.36 This wide disparity in estimated violation rates probably results from methodological differences in how violations were counted—e.g., whether they relied on official records like arrest records, which traditionally suffer from underreporting, versus relying on victim self-reports of reabuse.

The second dimension for the evaluation of protective orders centers on the subjective experiences of the women who obtained them. Whereas analyses of protective order violations hinge on a narrow set of variables—e.g., the occurrence or nonoccurrence of discrete acts of abuse after a particular date (when the judge signed the order)—analyses of women’s perceptions of their own safety implicitly account for a much broader range of variables. In answering survey questions about whether they feel their protective order was effective, a woman can draw from any number of developments: changes in the frequency or severity of abuse, changes in her partner’s outward behavior or demeanor, and her own increased knowledge of legal options available to her, among others. Therefore, this second dimension of evaluation is arguably more telling than the first, since it is grounded in a woman’s own sense of control and safety in her daily life. This factor has, therefore, been weighted heavily in many intimate partner victimization studies.38

Most women who obtain protective orders believe that their orders have an effect. A study funded by the National Center for State Courts interviewed survivors one month after they obtained a protective order, and again six months afterward. The women reported favorable attitudes toward the effectiveness of the orders, noting a positive impact on their well-being that increased over time. Respondents reported low re-abuse rates, and 95 percent said they would seek a protective order again.39 Another study based on survey responses found that 98 percent of women who obtained protective orders felt more in control of their lives as a result of the order, and 89 percent felt more in control of their relationships.40

Additional studies find that women who obtain protective orders report feeling safer and more empowered, better about themselves, and a sense of overall life improvement.41 In one sample of women who obtained orders, 70 percent reported that the order was helpful in communicating to her partner that his actions were wrong.42 Another
study found that 91 percent of women who obtained temporary orders of protection felt good about their decision to obtain one; and 87 percent of respondents to another survey believed that their reporting of the violence to a court “helped stop the physical abuse.”

Protective orders are not a guaranteed solution, and overall, the evidence on their ability to end violence definitively is inconclusive. But the effectiveness of protective orders should be evaluated using multiple dimensions, including whether the women obtaining them believe they have positive impacts. Indeed, a high percentage of women credit them with helping end or lessen the severity of abuse. Protective orders also indirectly empower women in various ways, allowing them to gain the resources to leave their relationship or to assert more power within it. Notably, access to legal services is a determining factor in whether a woman chooses to exercise her right to petition for a protective order—and whether her petition is successful.

**Legal Services Programs Help Women Obtain Additional Legal Remedies That Can Lead to Reductions in Violence**

Increasing a woman’s chances for obtaining a protective order is one of the most straightforward ways in which legal assistance can help reduce domestic violence. As we have seen, however, economic dependency often constrains a woman’s ability to leave an abusive relationship even after a protective order is granted. This is especially true in situations where a woman’s access to financial resources is controlled by her batterer.

This common thread gives rise to an additional way in which the provision of legal assistance in a domestic violence matter can lead to reductions in violence: by serving as an access point for women to get legal assistance on related matters.

Since the majority of domestic violence victims are low-income, it is not surprising that domestic violence cases are often interwoven with child support, housing and eviction, consumer debt, and immigration-related issues. Moreover, there may be causal links between the domestic violence and these other issues. For example, a tenuous immigration status can increase a woman’s risks of domestic violence because she may be afraid to take advantage of social service programs or her abuser may use threats of deportation to keep her in the relationship. Conversely, domestic violence may increase risks of eviction and homelessness due to landlord reactions to violence at the tenant’s home.

In general, having an attorney’s assistance with ancillary legal matters further helps women achieve greater economic self-sufficiency (and perceptions of self-sufficiency), which in turn makes leaving their relationships a more realistic option. Even where the outcome is unfavorable for the client, for instance where a court fails to order support payments or allows an eviction to proceed, having greater resolution or certainty on these issues may enhance a woman’s resolve to leave an abusive relationship.
A Necessary Theoretical Framework

The costs of providing legal services for domestic violence survivors are fairly straightforward, encompassing primarily the value of the attorneys’ time required to pursue the cases. Measuring the benefits of a reduction in domestic violence due to increased availability of legal services is more complex.

The benefits of a reduction in domestic violence include both direct benefits to the survivor and externalities that help benefit society more broadly. Traditionally, externalities refer to costs or benefits that accrue to parties other than those involved in a particular transaction. Because domestic violence is not a voluntary transaction, the term “externalities” does not apply in the traditional sense, but we use it in this part to refer to effects that accrue to parties other than the assailant and the victim.

Many of these benefits are difficult to measure, but researchers have made strides in assessing their impacts. As research continues to improve on these issues, the analysis will become even more robust. This part goes on to discuss the major categories of benefits from reducing domestic violence, both those accruing to the survivor and the externalities accruing to society more broadly. Where quantitative data exists, the report discusses the benefits quantitatively. Where quantitative data is weaker, the report discusses the benefits qualitatively and recommends avenues for future research.

Direct Benefits to the Survivor

A reduction in domestic violence resulting from increased provision of legal assistance will result in many direct economic benefits to the survivors. As stated in the introduction, there are important moral and rights-based reasons why society should take steps to end domestic violence, but for purposes of analysis, this report will focus on the economic impacts accruing to survivors. Some of these direct economic benefits are more easily monetized than others, such as decreased health care costs and increased productivity. The benefits that are trickier to value include increased quality of life and improved psychosocial effects. Many of these benefits can be measured by looking at the costs of domestic violence that could be avoided by a reduction in violence, so we begin the analysis by reviewing studies of domestic violence’s costs.
When Congress commissioned the *National Violence Against Women Survey*, it did so in order to generate not only better measurements of the magnitude of domestic violence in America, but also better information about its costs, especially the costs of treating IPV-related injuries. In 2003, the CDC released a follow-up report entitled Costs of Intimate Partner Violence in the United States, in which data from the National Violence Against Women Survey is used to calculate partial estimates of the economic costs of IPV.

The costs estimated by the CDC fall into three large categories: (1) medical care for physical injuries and mental health care; (2) lost productivity; and (3) lost lifetime earnings. Naturally, the size of the costs varies according to the type of violence—while physical assaults may incur higher hospitalization costs than stalking, for example, the drawn-out psychological trauma caused by stalking may incur more expensive mental health care treatment over a protracted period. With regard to these three categories of costs, the CDC estimated that:

- Each year, violence perpetrated by intimate partners generates costs in excess of $9.05 billion.

This $9.05 billion figure includes:

- **Medical and mental health care services.** These costs totaled nearly $6.4 billion, including the costs of emergency room visits and visits to psychiatrists or psychologists.

  The costs of medical care are in fact likely higher, since the CDC did not take into account certain medical care costs, such as treatment for sexually transmitted diseases, due to incomplete data. This is acknowledged by the report’s authors.

- **Lost productivity.** As a result of physical injuries and psychological problems, victims of IPV lose time from their regular activities. The estimated total value of days lost from employment is $1.34 billion (8.0 million days). The estimated total value of days lost from household work, including childcare, is $204.2 million.

- **Lost lifetime earnings.** This category of costs account for the lost lifetime earnings that women who are killed by an intimate partner each year would have contributed to society. Based on the ages of the 1,252 victims and other factors, CDC analysts estimated the present value of their lost lifetime to be $1.39 billion, or an average of $1.11 million per woman.

  It is important to note that lost lifetime earnings is not an economically rational approach to valuing mortality risks because it focuses only on the value of the victim’s employment. Using estimates from the Environmental Protection Agency (EPA) of the value of mortality risk reduction, the costs of the mortalities identified by the CDC is over $10 billion.

Most of the costs estimated in the CDC report arose from physical assaults. A substantial amount of the total costs—$6.4 billion—were direct expenditures for medical and mental health care treatments.

These health care costs are not solely borne by the victim and her family. On average, victims pay more than one-quarter of all medical care costs, such as hospital visits. Private or group insurance plans pay for nearly half of those
costs, while the remaining quarter of the costs are either paid for by others or incurred as unpaid liabilities by the health providers themselves.\textsuperscript{59} For mental health care costs, victims end up paying roughly one-third of those costs, with insurance or unpaid liabilities accounting for the remainder of the costs.\textsuperscript{60}

By the CDC’s own admission, its report vastly underestimates the full costs of domestic violence, since it excludes altogether large categories of costs for which the CDC lacked sufficient data. For instance, the CDC report does not include any intangible costs, such as the pain and suffering of survivors and their families. Nor does the report take into account criminal justice system costs, such as the cost of prosecuting abusers, or the costs of social services such as women’s shelters or counseling offices, or any of the impacts on children. As discussed below in sections C and D, these excluded costs are likely enormously economically significant. Thus, to the extent that the CDC’s figures can be considered useful for the purpose of evaluating the economic costs and benefits of a domestic violence intervention, they must be regarded as a conservative lower bound and supplemented with additional data as it becomes available.

**Externalities that Affect Society More Broadly**

Although there are challenges to monetizing the positive externalities associated with expanding legal services for domestic violence survivors, evidence strongly suggests that these benefits would be substantial.

Tangible benefits would accrue to the private sector, including insurance companies and hospitals, as well as the public sector. Reducing domestic violence would save large amounts of public money that would otherwise be spent on responding to domestic violence through law enforcement, health care, and homeless services, among other services. An independent analysis focusing on the state of New York found that providing legal assistance to female domestic violence survivors could save the state $85 million annually in expenses resulting from domestic violence.\textsuperscript{61} A similar study focusing on the state of Massachusetts found that providing legal assistance to low-income female domestic violence survivors could save $16 million in medical care costs alone annually, half of which would otherwise be borne by the federal government and half by the state.\textsuperscript{62} Since the authors of these studies excluded large categories of costs from their analysis, including criminal justice system costs and the negative effects of domestic violence on children, this figure significantly underestimates the states’ potential cost savings. Other states stand to reap similar returns.

A robust economic analysis of civil legal services for survivors of domestic violence must account for all significant cost-savings arising from reductions in the incidence of abuse. At least three major types of positive externalities result from a reduction in domestic violence. The first involves a reduction in costs of criminal justice system interventions including law enforcement responses to 911 calls and criminal prosecutions. The second consists of savings in social service program outlays; as incidence of violence drop, so does demand for various publicly funded services related to domestic violence, such as shelters and counseling programs. The third comprises the benefits of reducing the variety of negative effects that domestic violence imposes on children. As discussed below, domestic violence inflicts harm on all children, both those who live in abusive home environments and those who do not.

In accordance with best practices, wherever quantification of a particular cost is not possible or practical, qualitative descriptions are provided for consideration alongside a monetized analysis.\textsuperscript{63}
1. Cost Savings From Fewer Criminal Justice Interventions

Reductions in domestic violence save on all of the direct costs associated with processing related criminal justice cases—expenses that are all incurred by taxpayers. An economic analysis of a legal services program for domestic violence victims must account for the full range of costs associated with processing these cases, and determine how many future cases will likely be avoided if more legal services are made available to women.

Over 1.5 million domestic violence police reports are filed each year in the United States. Over 79,000 of these cases ultimately result in jail time or a prison sentence; an even higher number of them result in arrests. These cases generate numerous related costs, including the costs of responding to 911 calls, the administrative and personnel costs of criminal investigations, of prosecuting abusers, of feeding, clothing, and housing offenders who are incarcerated, and the costs of parole and probation.

Increasing the provision of civil legal services is likely to help drive down the incidence of domestic violence overall. As a result, police will have to respond to fewer domestic violence calls, and prosecutors will have to investigate and press fewer criminal charges.

It is surprisingly difficult to find reliable data on the law enforcement-related costs of domestic violence. The major national data source is the Uniform Crime Report, released by the Department of Justice, but a pervasive lack of continuity in recordkeeping practices by police departments around the country renders official estimates suspect. Calls are frequently tagged with ambiguous labels and, even within a department, how a 911 operator classifies a call may conflict with the classification ultimately reported by the officer on the scene. Though studies on the topic are scarce, publicly available data allows for a rough estimate of the average cost of a domestic violence-related 911 call. New York City, for instance, has estimated that its total cost of domestic violence-related 911 calls per year is $2.7 million, with an average cost of about $9.50 per call.

Various factors affect how police respond to incidents of domestic violence. Decisions to make an arrest often turn on situational characteristics such as whether the victim has sustained serious physical injury, whether a weapon was involved, the assailant’s attitude toward the investigating officers, and whether the police perceive a likelihood of continued violence. Studies on the costs of police responding to domestic violence incidents are limited, but some data exists. New York City reported that it spent about $44 million “responding to reports of domestic violence, and arresting, prosecuting, and supervising batterers” in 2005.

Civil responses to domestic violence, including court-ordered protective orders, can also be cheaper than criminal justice system interventions. Criminal domestic violence cases are costly to the criminal justice system: they require more personnel and more evidentiary proof; they also involve a great deal more bureaucracy and, depending on the jurisdiction, can take a longer time to reach resolution. Criminal hearings often incur procedural delays; even in a proactive court setting it can take between 6 to 8 months for an average domestic violence criminal case to go from intake to disposition.
2. Costs of Social Services Programs Related to Domestic Violence

By contributing to a decrease in the incidence of domestic violence, civil legal assistance also saves on the costs of various social services that are part of society’s domestic violence response. These services include transitional housing, homeless and battered women’s shelters, and counseling services. Some data exists as to the costs associated with these programs, but additional study is warranted.

Domestic Violence Programs

An extensive network of local programs helps bridge the divide between the criminal justice system’s response to domestic violence and the health care system’s response. These programs provide a wide array of services. Some of them are safety-based, operating crisis hotlines, emergency shelters, or transitional housing. Others focus more on long-term treatment and provide psychological counseling, job-training, housing support, or legal services. Most are holistic in some way, either providing a combination of services or maintaining working referral-based relationships with other programs.

Most of these community-based programs rely upon federal and/or state funding. Some programs receive grants from federal agencies, mostly from the Department of Justice and Department of Health and Human Services. Within the Department of Justice, the Office of Violence Against Women administers a range of grant programs, such as the Transitional Housing Assistance Program, the Grants for Outreach and Services to Underserved Populations, and the Legal Assistance for Victims Program discussed above.

Little research has been done on these programs—how they cross-serve their communities, the impacts of their services, ways in which they can be improved, and how much they cost. Part of this is due to technological difficulty: many programs have different ways of collecting client information; programs often use different definitions when collecting data; and privacy and safety concerns arise from the personal nature of the data and the ubiquity of insecure databases.

A 2008 study funded by the Bureau of Economic Research was an important breakthrough in this regard. Using information from the National Census of Domestic Violence Services, a small team of economists designed a survey instrument that took a “snapshot” of the number of people served in a 24-hour period by any organization whose primary focus is to serve survivors of intimate partner violence and their families. Based on survey results, researchers were able to estimate that in a single day, around 50,000 individuals around the United States are served, in person, by community-based domestic violence programs. Around 96 percent of these individuals are women, nearly half seek some type of housing (emergency or transitional) and, on average, they are accompanied by at least one child. In addition, local programs respond to over 16,000 crisis calls each day, at a rate of more than 11 calls each minute.

Homelessness

There is a strong link between domestic violence and homelessness. Evidence supporting this relationship is overwhelming and also indicates that domestic violence can be a direct cause of homelessness. Studies indicate that half of all homeless women and children are fleeing domestic violence, and nearly 38 percent of all victims of domestic
violence become homeless at some point in their lives. Given this link between domestic violence and homelessness, any reductions in domestic violence resulting from greater access to legal services is likely to have the positive ancillary effect of reducing homelessness—both the size of the homeless population and the duration of homelessness. Society as a whole bears a range of economic costs resulting from homelessness, including shelter costs, emergency room costs, and justice system enforcement costs. Estimates of these costs vary, but have been found to be in the tens of thousands of dollars per individual per year.

The cost-savings resulting from reduced homelessness are likely to be economically significant and should be considered alongside proposals to increase or decrease funding for civil legal assistance programs that serve domestic violence victims. The likely size of these savings merits further evidence-based analysis that can be used to generate rough estimates.

As the Bureau of Economic Research findings suggest, increased funding for housing programs can also help reduce incidence of domestic violence. Emergency shelters are imperative for women and children who face immediate threats to their safety. Transitional shelter is, by contrast, much harder for women to come by: the Bureau of Economic Research study found that 22 percent of domestic violence programs offer emergency but no transitional housing. And those who visit emergency shelters most often return to their abusers for a lack of alternative living options. Shelters that offer transitional housing experience much lower rates of return visits, and a majority of women in transitional housing programs have reported they would have returned to their batterers but for the program.

3. Externalities Imposed on Children

Ample research demonstrates the range of effects that domestic violence has on children, as well as the magnitude of those effects. It is estimated that between ten and twenty percent of all children (ages 3 to 17) in the U.S. are exposed to domestic violence each year. Children often bear witness to the violence, in that they observe it visually or overhear it transpire. Beyond being a witness, children may experience domestic violence in a variety of ways: they may become a target of the violence or be forced to watch the conflict; they may become a participant by attempting to intervene, or be used as a shield against assault. Domestic violence can also be traumatic for a child who never sees or hears it directly, but who experiences its aftermath. Willingly or unwillingly, children often have no choice but to engage with one or both parents, to notice physical injuries sustained, to speak with police who are called upon to intervene, or to take refuge with their mother at a shelter or someone else’s home.

Exposure to domestic violence can have a wide range of negative effects on a child, all of which come with associated costs. First, there are direct costs, such as immediate medical and mental health care costs. Many children are also temporarily relocated as a result of the violence, spending periods of time either in shelters with their mother or, in more extreme cases, they are shepherded by courts or children’s services agencies into foster care. In both scenarios, the government assumes many of the administrative costs associated with these placements, whether it is providing the basic necessities of food and lodging, or employing social workers to monitor a child’s well-being in foster care. Children’s school attendance might also be disrupted due to these relocations.
Second, indirect costs arise from the psychological and psychosocial effects of a child’s exposure to domestic violence. A substantial body of literature demonstrates that children who are exposed to domestic violence suffer, as a result, a multitude of emotional, cognitive, and social problems.88 These problems range from outward behaviors, such as aggression; to internal behaviors, such as anxiety and depression; to impaired intellectual and cognitive functioning, as evinced by an inability to concentrate; to diminished social competence. Children exposed to domestic violence also score significantly lower on measures of verbal and motor skills than children from nonviolent homes; they also display prominent somatic symptoms including headaches, peptic ulcers, insomnia, stuttering, and asthma.89 It comes as little surprise then, that children exposed to domestic violence demonstrate lower academic performance, suicidality, and trouble relating to both peers and adults.90

The negative effects of childhood exposure to domestic violence likely carry forward through adulthood. Unfortunately, there is a dearth of longitudinal studies on the topic, but existing research does show that childhood exposure to domestic violence has negative long-term effects on psychosocial well-being and possibly even long-term earning potential as adults.91

Research also establishes the intergenerational pattern of domestic violence, meaning that children who are exposed to domestic violence are more likely to perpetuate the cycle of abuse in their own families. The American Psychological Association has concluded that a child’s exposure to the father abusing the mother is the strongest risk factor for transmitting violent behavior from one generation to the next.92 This phenomenon amplifies the positive impact of policies that successfully reduce the rate of domestic violence today; these policies are likely to reduce domestic violence even further in the long run, generating additional benefits.93

The effects also extend beyond the individual child who is exposed to domestic violence, to her schoolmates, in the form of lower educational outcomes. Numerous studies document this phenomenon, which is known as “negative peer effects” or “negative classroom spillovers.” Children from violent homes tend to exhibit disruptive behavior in the classroom, whether in the form of anger, aggression, outward defiance of a teacher’s authority, or otherwise. This behavior negatively affects other students’ learning in statistically meaningful ways.

One recent study found that children exposed to domestic violence significantly decreased their fellow students’ reading and math test scores and significantly increased misbehavior in the classroom overall.94 Using a unique data set linking student outcomes to domestic violence court cases, the researchers were able to estimate that adding one more troubled child to a classroom of twenty peers would lower students’ test scores by 0.69 percentile points and raise by nearly 17 percent the number of disciplinary infractions committed by students.95 The researchers also found that of children exposed to domestic violence, two sub-groups primarily drove these negative spillovers: boys and children from low-income families. While boys exposed to domestic violence commit nearly three times as many disciplinary infractions as girls, children from low-income families who are exposed to domestic violence commit almost six times as many infractions as similarly exposed children from high-income families.96

Importantly, the data also suggests that negative classroom spillovers are reduced once domestic violence is reported to a court. In the study described above, the researchers found that the peer effects they had identified—lower test scores and higher disciplinary infractions—were “almost entirely driven by children whose abused parents had not yet reported the domestic violence [to a court] but would do so at some point in the future.”97 Whereas exposure to
children from families with as-yet-unreported domestic violence lowered academic performance significantly, those negative peer effects “disappeared” once a parent (typically the mother) filed a civil claim for temporary protection.98 By going back through school records predating the court case, the researchers found evidence of children causing negative spillovers as far back as four years before the parent finally sought a restraining order. (This four-year time-frame accords with survey research estimating that domestic violence persists, on average, for more than four years before it is officially reported.99) Negative peer effects increased over time and were largest in the year in which the court case was filed; this result “likely reflects that the home situation gets worse” before it ultimately prompts the abused parent to seek relief from the legal system.100

Policies and interventions that help reduce children’s exposure to domestic violence may therefore generate significant benefits that extend to a very broad group of children who come from nonviolent households. When violence is reported, victims and their families are able to enlist police protection and get access to supportive services, such as counseling centers or shelters that may improve a child’s immediate home life. In addition, especially if a protective order includes custody arrangements, a child’s school may be notified about the existence of the restraining order and that legal steps are being taken to improve a child’s family environment. Where notice is made, teachers and school counselors will be better equipped to address the needs of the troubled student, as well as her impact in the classroom.

To be sure, existing research on classroom spillovers does not by itself demonstrate a conclusive causal link between the filing of a court case and the elimination of negative peer effects. Several other factors or a combination of factors may also explain why the initiation of a court proceeding is correlated with striking reductions in peer effects. For instance, it is possible that around the same time the mother filed her case, she ended the relationship or moved herself and the children out of the house, or took some other additional steps that are themselves responsible for the drop-off in negative spillovers. In any case, the policy implications are very similar: there is a substantial social benefit to programs that assist victims of domestic violence in taking action to reduce the violence. And the earlier the intervention is, the greater that benefit will be.

Moreover, while classroom-based studies can shed light on how children exposed to domestic violence can have a negative effect on the educational achievement of other students, they almost certainly undercapture the full dimensions of the negative spillovers imposed on other children. Children from violent homes interact regularly with a range of children outside of their classrooms, including other children at school and from around their neighborhood. Estimates of classroom effects should therefore be viewed as a lower bound when assessing how domestic violence negatively affects non-family members and the resulting social costs borne by us all.
With all of the tremendous benefits to be gained by increasing the provision of legal services to survivors of domestic violence, the question arises why most survivors do not retain their own counsel. Part of the story may be that some benefits associated with a reduction in domestic violence are externalities that do not accrue to survivors directly, as discussed in Part III. Yet there is also reason to believe that survivors do not retain attorneys at a level commensurate with the benefits of doing so because of failures in the legal services market. Some of these market failures include limits on the availability of legal services, asymmetries between survivors and batterers in the legal services market, steep transaction costs combined with limited availability of credit, and information asymmetries between survivors and attorneys concerning the benefits of legal services.

**Restrictions on the Supply of Legal Assistance**

One set of market failures for legal services stems from the limitations on supply—namely the limitation imposed by bar licensing requirements. Bar licensing requirements are strict and sweeping, with strong punishments possible for anyone who practices law without a license. These licensing requirements both reduce supply and increase prices of the services of licensed lawyers.

The market failures associated with this restriction in supply disproportionately affect low-income individuals. In the case of domestic violence survivors, those with limited income and those whose partners control their finances may be unable to pay for representation at the time it is needed; they may also have difficulty accessing credit markets that would enable them to obtain the funds on short notice.

Moreover, attorneys may decline to take on low-income clients out of concern that they might not ever be able to recover their fee in full, or they may need to hire a collection agent to do so.

Many legal market observers argue that bans on non-lawyers providing legal services have artificially restricted the supply of those who are able to offer such services, reducing their availability and increasing their price. The result is a legal market that some go so far as to describe as an economically inefficient cartel. On the other hand, some commentators believe that bar admission requirements effectuate necessary quality control and that inexperienced legal representatives can sometimes do more harm than good. (This report does not take a position on whether the legal market is inefficiently exclusionary, except to say that to the extent the bar requirements do serve to perpetuate an inefficient restriction on supply of legal services, states should take steps to reform that inefficiency.)
Various reforms have been proposed. Pro bono requirements, for instance, would go some distance toward increasing the availability of legal services, but this approach does not address the underlying monopoly problem. Instead, it would effectuate a redistribution of wealth by transferring free services to the poor.110

One interesting proposal that deserves greater scrutiny would be to allow non-lawyers who specialize in particular legal matters—including domestic violence—to do more substantive work. Deborah Rhode, for instance, calls for a regulatory framework that would allow certain non-lawyers to provide a distinct set of services.111 Pointing to experiences both in the United States and abroad, she asserts that a regulatory framework—as opposed to an outright prohibition on nonlawyers—could lead to lower prices in the legal market, increased accessibility and efficiency, and increased consumer satisfaction.112

Asymmetries in the Market for Domestic Violence Legal Services

Another source of market failures in the domestic violence context arises from the fact that perpetrators of violence may already have mandated representation from a related criminal proceeding.113 In contrast, survivors are not represented by anyone in a criminal case, including the prosecutor.114 At best, victim advocates may assist survivors in accessing certain social services. This imbalance may systematically disadvantage survivors in a concurrent civil restraining order proceeding.115

Although an appointed criminal attorney technically represents someone accused of violence only at the criminal proceeding, the advice provided there may well carry over into the civil restraining order proceeding. Additionally, where a court appoints private counsel (rather than a public defender) to represent someone accused of domestic violence, that private counsel may offer to represent the defendant in a related civil proceeding for a fee. This lowers the transaction costs of finding an attorney and streamlines the civil legal process for assailants, while leaving survivors in the dark. Moreover, abusers may control access to the family’s resources, allowing them to more easily obtain counsel than survivors.

Given the fact that the protective order process is an adversarial proceeding, having only one side represented by an attorney presents not only fairness concerns but also efficiency concerns for judges.116 In particular, presiding judges may have to spend more time to understand self-represented survivors’ claims than might be necessary if counsel were present, and the socially optimal resolution of the case might not be reached.117

Steep Transaction Expenses

Another potential market failure for legal services arises from the high transaction costs associated with obtaining a lawyer. For some survivors who might otherwise be interested in obtaining representation, the process of finding a lawyer might seem too complicated, time-consuming, and expensive. In surveys questioning people in low- and moderate-income households about their reasons for not seeking legal help when presented with a legal problem, a number of respondents indicated that they did not know how to find a lawyer, while others responded that they “never got to it.”118 While public awareness campaigns could help facilitate connections between lawyers and potential clients, some individuals will still likely be dissuaded by the transaction costs associated with hiring an attorney.
Legal Services as a Credence Good

Goods for which it is difficult for consumers to judge their quality are called credence goods. Market failures can occur with credence goods due to the information asymmetries between suppliers and purchasers. Whereas suppliers of legal services—lawyers—have regular interactions with the legal services market, typical potential clients have little experience with the market. Where domestic violence survivors come from disadvantaged backgrounds, they may have a particular distrust of the legal system and lawyers, as well as skepticism about the benefits of spending scarce resources on legal assistance.

When surveyed about their reasons for not seeking legal help when presented with a legal problem, twenty percent of people in low-income households indicated that they believed it “wouldn’t help,” and another nearly five percent indicated that it was “not a legal problem.” This is despite the fact that in the domestic violence context, survivors who are represented by an attorney can be 2.5 times as likely to successfully obtain a protective order than those who do not have a lawyer.

While providing additional information to survivors about the benefits of retaining counsel could help ameliorate some of the distortions in the market due to the imbalance of information, it still might not fully impose the right incentives, and subsidies for legal services—or potentially even a right to counsel—might be warranted.

Externalities Associated with Inadequate Provision of Legal Services

The links between market failures and inadequate provision of legal services run in both directions. In addition to the market failures described above that diminish the availability of legal services, a shortage of legal services can cause externalities in the legal system, as well. For example, assume a self-represented survivor wins a protective order against an attorney-represented batterer in relatively pro-se friendly family court. The batterer’s attorney might then appeal the protective order, moving the case up to a more formalistic appellate court, where the self-represented survivor would be at a larger disadvantage. Moreover, in contrast to family court, where the decisions are not binding on other proceedings, the appellate court decision would create precedent that will affect how future courts must approach their analysis of cases. So having batterers but not survivors represented by counsel in appellate proceedings could create a ripple effect that may negatively impact future petitioners and family courts.
Domestic violence is a serious problem with far-reaching consequences. Some of these consequences are monetizable, but many are not. Though domestic violence raises serious moral and ethical issues regardless of what the numbers say, an analysis that looks at the economic dimensions of the problem can help inform how best to spend societal resources in addressing the issue. This report has focused primarily on one potential policy tool—the increased provision of legal services—but other alternative or complementary tools exist that could also help reduce the incidence of domestic violence. Additional research and analysis will help inform the best use of resources toward this end.

Based on the preceding analysis, we make the following three policy recommendations:

**Recommendation #1: More research on domestic violence issues.** In order to determine the optimal level of public support for legal services, additional research is needed, as well as analysis quantifying the benefits likely to accrue from enhancing the availability of legal services. Specific areas deserving a closer look include:

- Data on the costs and benefits of criminal versus civil responses to domestic violence;
- Better information on the efficacy of attorneys in helping clients reduce exposure to domestic violence (both through obtaining protective orders and through increasing access to related social services); and
- A more sophisticated understanding of the most effective social programs for reducing the incidence and severity of domestic violence.

**Recommendation #2: Comparative analysis of funding mechanisms.** In order to determine how best to target available resources toward improved legal services, we need additional analysis of alternative allocation scenarios. Questions that need to be addressed include:

- *Amount of the support.* States should analyze how much funding is appropriate to allocate to supporting legal services. One possible approach could be to assess how much social benefit is gained for each additional hour of legal services provided and then provide that amount as a subsidy to support legal services—either at an hourly rate for private attorneys or on an aggregate, annualized basis for legal aid attorneys. Subsidizing
private attorneys at an hourly rate could increase access to paid legal services, while providing free legal aid attorneys could increase availability of free legal aid to those who qualify.

- **How the support should be distributed.** There are two main possible approaches to distributing support for legal services—a direct approach and an indirect approach—each with their own potential advantages and disadvantages.

  - **Direct Approach.** A direct approach would involve providing the funding necessary for legal aid directly to either the lawyers or clients. A direct approach may have certain advantages from the perspective of economic efficiency, but it may lack some public policy advantages of an indirect approach, as described below. The funding under a direct approach could be given either as a basic in-kind redistribution, like vouchers for housing or charter schools, or as cash. If given to survivors as cash, there would be an option for them to use it for purposes other than legal aid (which could be an advantage based on economic theory, but might fail to support legal aid or account for the externalities in the market, as described above).

  - **Indirect Approach.** An indirect approach would involve distributing the support through groups like Legal Aid. This approach could have certain advantages over a direct approach. For example, with this approach, the funding will look less like a subsidy—because it won’t be distributed on a case-by-case basis—and more like a free-of-charge service that is being provided by government employees or sub-contractors. This approach would also allow the support to be combined with other initiatives aimed at reducing domestic violence, such as targeted educational, counseling, or shelter services programs. Moreover, existing studies of local domestic violence programs suggest that integrating the support for legal services into holistic programming will increase the likelihood that more women will learn about the availability of subsidized legal assistance and be able to take advantage of it.

**Recommendation #3: Additional study as to whether other social programs might effectively address domestic violence, either alone or in combination with enhanced legal services.** Improved access to legal services has proven effective at reducing domestic violence. Evidence suggests that increasing access to legal services will help to decrease domestic violence and empower survivors. However, the evidence is not conclusive that funding for legal aid is the only effective use of resources. As programs to increase the availability of legal aid are created, researchers should continue to study their effectiveness, as well as the effectiveness of other approaches. Moreover, researchers should assess whether the provision of legal aid is most effective in combination with other particular policy approaches, such as housing assistance or job training. If the evidence suggests that other policy combinations may be more effective than legal services standing alone, decision makers should consider reallocating resources toward the most effective combinations of programs.
Domestic violence is a serious public health problem, with effects reaching far beyond just the victims themselves. In addition to the substantial costs to the victims, society is forced to bear a significant burden in the form of, among other effects, criminal justice costs, social services costs, and externalities on children. These substantial costs provide additional support for society’s interest in reducing the incidence of domestic violence through whatever policy tools are most cost-effective. Studies have shown that access to counsel in protective order proceedings can make a substantial difference in reducing the incidence of domestic violence. Moreover, there are reasons to believe that the legal services market is providing inefficiently low levels of access to counsel for domestic violence victims. Additional study may further support a right to counsel as an effective policy instrument to reduce domestic violence. States and municipalities should assess the evidence and consider adopting a policy granting domestic violence victims free or reduced-cost counsel in civil protective order proceedings.
Domestic violence is not limited to opposite-sex couples, nor are men the only perpetrators. Approximately 43.8 percent of lesbian women and 61.1 percent of bisexual women have experienced rape, physical violence, or stalking by an intimate partner at some point in their lives. National Center for Injury Prevention and Control, Centers for Disease Control, Intimate Partner Violence in the United States—2010, at 30 (2014) [hereinafter National Intimate Partner and Sexual Violence Survey (NISVS)]. With respect to men, 26.0 percent of gay men, 37.3 percent of bisexual men, and 29.0 percent of heterosexual men have experienced rape, physical violence, or stalking by an intimate partner during their lifetimes. Id. at 31. However, since many of the empirical studies relied upon for this report were gender-specific, focusing on violence against women and legal services provided to women, this report follows suit. More work must be done to assess the prevalence of intimate partner violence committed by women against men and the prevalence of IPV within LGBTI communities. Additional research and outreach will help bring the occurrence of such violence into public view and help ensure that public resources (health, criminal justice, civil legal assistance, etc.) are directed appropriately. That said, there is no reason to believe that the same economic rationales that justify increasing legal assistance to women domestic violence survivors would not apply with equal force to male or LGBTI survivors.

Domestic violence is also often referred to as “intimate partner violence” or IPV. This report uses the term “domestic violence” and defines it to include violence occurring between romantic partners, regardless of whether they cohabit or whether the violence occurs in the home.

As in many areas of social policy, the evidence base concerning domestic violence interventions is limited and research continues. The findings and recommendations developed here are subject to revision with new information.


This number may be an underestimate of the number of women who have been sexually abused by intimate partners, due to potential reluctance by survey respondents to classify sexual abuse as “rape.”

NISVS, supra note 8, at 1-2.

NISVS, supra note 8, at 2.

Community factors may also affect levels of violence in a relationship by shaping both how women view their outside options and how their abusers view those options. For instance, if a woman lives in an area where a large percentage of women are employed at high wages, her threat to leave her abuser is more credible in both of their eyes.

Farmer & Tiefenthaler, supra note 12, at 339.

See, e.g., EVAN STARK & EVE BUZAWA, VIOLENCE AGAINST WOMEN IN FAMILIES (2009); MILDRED D. PAGELow, WOMAN BATTERING: VICTIMS AND THEIR EXPERIENCES (1981); Richard J. Gelles, Abused Wives: Why Do They Stay?, 38 J. OF MARRIAGE & THE FAMILY 659 (1976)


See, e.g., Diane H. Coleman & Murray A. Straus, Marital Power, Conflict and Violence in a Nationally Representative Sample of American Couples, 1 VIOLENCE & VICTIMS 141 (1986).

See Laura Dugan et al., Explaining the Decline in Intimate Partner Homicide: The Effects of Changing Domesticity, Women’s Status, and Domestic Violence Resources, 3 HOMICIDE STUD. 187, 208-09 (1999).

See id.

Id.


Since the primary focus of the original VAWA was to improve the criminal justice system’s response to domestic violence, it contained no explicit recognition of the challenges victims encountered in accessing civil legal remedies, including protective orders. Nonetheless, many community-based service organizations sought and obtained VAWA-authorized grant money. In 1998, in light of the growing increase in demand for VAWA funding by civil legal services providers, Congress appropriated $11 million for a Domestic Violence Victims’ Civil Legal Assistance Program. Pub. L. 105-277, 112 Stat. 2681-62. That program, which was subsequently renamed the Legal Assistance for Victims Program (LAV), is administered today by the Department of Justice’s Office of Violence Against Women. Between 2009 and 2011, LAV provided grants to over 200 community-based organizations, with most grant money put toward salaries for staff attorneys. See U.S. DEP’T OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN, 2012 BIENNIAL REPORT TO CONGRESS ON THE EFFECTIVENESS OF GRANT PROGRAMS UNDER THE VIOLENCE AGAINST WOMEN ACT 220 (2012), available at http://www.justice.gov/sites/default/files/ovw/legacy/2014/03/13/2012-biennial-report-to-congress.pdf.

Farmer & Tiefenthaler, supra note 21, at 159.

To obtain this county-level data the authors were granted access to an Area-Identified version of the NCVS report, which is not available to the public.

They used NCVS statistics.

Farmer & Tiefenthaler, supra note 21, at 167.

Farmer & Tiefenthaler, supra note 21, at 164.

Farmer & Tiefenthaler, supra note 21, at 159. The authors also find that several more general demographic trends, such as the aging of the population and an increase in racial diversity, also likely played a significant role in contributing to the decline in intimate partner abuse against women in the 1990s. Id. at 169.

conducted in Quincy, Massachusetts where the mere issuance of a restraining order failed to prevent future abuse against victims in nearly 50 percent of cases, but noting that the results shed no light on whether the order lessened the severity of the continued abuse or the number of abusive episodes.)


33 TK Logan & Robert Walker, Civil Protective Order Outcomes: Violations and Perceptions of Effectiveness, 24 J. of INTERPERSONAL VIOLENCE 675 (2009) (finding that two factors best predict whether a protective order will be violated: stalking and staying in the relationship). Other research indicates that the abuser’s criminal justice history can predict their likelihood of violating a protective order; so can non-compliance with court-ordered domestic violence programs. See Carol E. Jordan et al., Criminal Offending Among Respondents to Protective Orders: Crime Types and Patterns That Predict Victim Risk, 16 VIOLENCE AGAINST WOMEN 1396 (2010); Alan Kindness et al., Court Compliance as a Predictor of Post-Adjudication Recidivism for Domestic Violence Offenders, 24 J. of INTERPERSONAL VIOLENCE 1222 (2009); Susan L. Keilitz et al., Civil Protection Orders: The Benefits and Limitations for Victims of Domestic Violence (1997), available at https://www.ncjrs.gov/pdffiles1/pr/172223.pdf; Andrew R. Klein, supra note 29.

34 Logan & Walker, supra note 33, at 677. See also Carolyn N. Ko, supra note 30 (reviewing literature on data of restraining order effectiveness).

35 It is important to note that women tend to take out restraining orders disproportionately on assailants who already have criminal histories of violent behavior. For this reason, much of the research that suggests protective orders are ineffective based on re-offense rates likely suffers from endogeneity or selection bias, problems and their results therefore “may be misleading,” Eve S. Buzawa & Carl G. Buzawa, DOMESTIC VIOLENCE: THE CRIMINAL JUSTICE RESPONSE 242-45 (3d ed. 2003).

36 See Logan & Walker, supra note 33, at 677 (citing seven studies pulling data from sources that included police reports and individual surveys).


39 Keilitz et al., supra note 33.


41 See, e.g. Keilitz et al., supra note 33; Fischer & Rose, supra note 40; Adele V. Harrell et al., Court Processing and the Effects of Restraining Orders for Domestic Violence Victims (1993); Kaci, supra note 29.

42 Harrell et al., supra note 41.

43 Fischer & Rose, supra note 40.
Kaci, supra note 29. In Spitzberg’s meta-analysis of 32 studies, supra note 37, he found that restraining orders were “perceived as followed by worse events” only 21 percent of the time.

Access to legal services for obtaining a protective order does not guarantee a survivor access to legal services on related legal issues. Pro bono representation of domestic violence victims may be limited in scope to cover just the protective order hearing. However, even if the representation is so limited, the attorney may be able to provide informal guidance, resources, and referrals to assist the victim in resolving other legal matters.


There are additional costs to the victim associated with leaving an abuser, the largest one being the petitioner’s loss of access to financial resources, including access to the abuser’s income, loss of a shared vehicle, and loss of shared insurance. However, these costs are offset by the costs avoided by a reduction in violence. See Elwart et al., supra note 32.

Of course, as mentioned in the introduction, there are non-economic reasons for making efforts to reduce domestic violence, as well. Most importantly, freedom from domestic violence is broadly accepted as a human right. See, e.g., Lenahan (Gonzales) v. United States, Case 12.626, Inter-Am. C.H.R., Report No. 80/11 (2011) (finding that the United States’ failure to properly ensure the enforcement of protective orders violated international human rights standards).

Externalities are one of four main kinds of market failures. The others are information asymmetries, where one party to a transaction has information that the other side does not; market power, where a monopoly or cartel is able to control supply and price; and public goods problems, where a good is non-rival and non-excludable and the market does not provide it in a sufficient quantity as a result. Market failures can be a strong economic justification for regulation or providing economic incentives (like subsidies or taxes) to encourage certain behavior.

Though a domestic violence incident does not constitute a market transaction, there are market transactions associated with domestic violence. Of particular importance to this report, a domestic violence victim hiring counsel to represent her in a protective order proceeding is a market transaction. There can be externalities and other market failures associated with this legal services market. These externalities are discussed separately in Part IV below.

Note that some of these costs may accrue to society, as well, for example through paid sick days. This report focuses on the direct economic impacts on survivors, but future analyses could expand to include broader productivity and cost impacts.

The amounts in the CDC study were originally calculated in 1995 dollars. All amounts have been adjusted for inflation here to 2014 dollars.

Breaking this figure down by type of violence, the CDC found that, on average, the total medical and mental health care cost per victimization was $1,308 per rape, $1,274 per physical assault, and $459 per stalking. See DEPARTMENT OF HEALTH AND HUMAN SERVICES, supra note 6, at 30.

By estimating the present value of these lost lifetime earnings, the analysts have adjusted the future costs to account for the time value of money. Present value simply means discounting the value of future costs to reflect the fact that a dollar today is considered by most people to be “worth more” than a dollar acquired or spent far into the future, say twenty years from now. When translating costs (or benefits) into present value measures, the effects of inflation must also be considered; these effects can be accounted for by using a price index and an inflation-adjusted discount rate (often between three and seven percent annually in the United States).

See DEPARTMENT OF HEALTH AND HUMAN SERVICES, supra note 6, at 31


59 Department of Health and Human Services, supra note 6, at 29-30.

60 Department of Health and Human Services, supra note 6, at 29-30.

61 This figure was derived by the Task Force to Expand Access to Civil Legal Services in New York, and extrapolated from nationwide National Violence Against Women Survey data. As such, it takes into account the health care costs of domestic violence (medical and mental care), productivity losses, and lost lifetime earnings, while excluding all other categories of costs. The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York 23 (2011), available at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT_web.pdf. The study assumed a 60 percent prevention rate resulting from an increase in the attainment of protective orders. Id. at 24.


63 Failing to acknowledge costs or benefits simply because they are unquantifiable would distort the cost-benefit analysis. See Exec. Order No. 12,866, 58 Fed. Reg. 51,735 (Oct. 4, 1993) (noting that properly understood, costs and benefits “include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures...that are difficult to quantify, but nevertheless essential to consider”); Ctr. for Biological Diversity v. Nat’l Highway Transp. Safety Admin., 508 F.3d 508, 531-35 (9th Cir. 2007) (holding that notwithstanding the difficulty of monetizing the benefits of reductions in greenhouse gas emissions, the agency is obligated to analyze those benefits in either quantitative or qualitative form).

64 Since the process of responding to 911 abuse calls is similar to the process of responding to protective order violation calls, one of the effects of an increase in the number of protective orders granted will be a simple shifting of police resources from the former to the latter. Overall, however, the number of abuse incidents—including those occurring in violation of a court order—is expected to decline over time, such that the net effect on police and other law enforcement resources is positive.

65 See Buzawa & Buzawa, supra note 35, at 17-23.

66 Id. Researchers have also documented a phenomenon of officers “downgrading” domestic violence problems in their official reports.


68 See Buzawa & Buzawa, supra note 35, at 143-174.

69 New York City Independent Budget Office, City Spending on Domestic Violence: A Review (2007), available at http://www.ibo.nyc.nyus.iboreports/DomesticViolenceSpending.pdf (note that the city was unable to estimate incarceration costs, so the actual cost is higher).


71 Increased availability of legal services might also initially increase survivors’ awareness of the availability of these social services and might temporarily increase costs. However, if, as the evidence suggests, legal services decrease the incidence of domestic violence, the need for these social services will decrease over time.
Most local domestic violence programs are members of their state domestic violence coalition networks.


Iyengar, supra note 74, at 9-10.

Iyengar, supra note 74, at 13.


Zorza, supra note 77.

Baker et al., supra note 77.

In addition to the economic costs of homelessness, there are myriad other harms from homelessness, from moral, ethical, and rights-based perspectives.


Iyengar, supra note 74, at 11.

Id.

See Iyengar, supra note 74, at 11; Melbin et al., supra note 77.


Bonnie E. Carlson, Children Exposed to Intimate Partner Violence: Research Findings and Implications for Intervention, 1 TRAUMA, VIOLENCE, & ABUSE 321, 323 (2000).

In addition to the economic impacts of observing violence, children also have a right to be free from both physical and mental violence from a moral and ethical standpoint. See, e.g., Convention on the Rights of the Child, art. 19, Sept. 2, 1990, 1577 U.N.T.S. 3, 50 (signed but not ratified by the United States).

These studies compare children exposed to domestic violence with children from nonviolent households.

See also Elaine Hilberman & Kit Munson, Sixty Battered Women, 2 VICTIMOLOGY 460, 463 (1978).

See studies cited supra note 85. Although the negative effects of child exposure to domestic violence are, by now, well-established, most researchers note in their studies the methodological challenges attendant to collecting and analyzing data on the topic. For instance, there is a gap in the literature owing to a dearth of longitudinal studies. For a discussion of this and other challenges, see Wolfe et al., supra note 85.

105. A number of studies indicate that low-income individuals are unable to obtain the legal services that they need or desire. See, e.g., **Legal Services Corp., Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans** (2009), available at http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf; **Am. Bar Ass’n, Legal Needs and Civil Justice: A Survey of Americans, Major Findings from the Com-
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Prescott, supra note 101, at 336. As discussed above, domestic violence victims are also unable to pay the full value of the legal services due to the incidence of many of the benefits falling on other individuals and society more broadly, which further contributes to under-supply.


In addition, domestic violence advocates note that not all attorneys are created equal, and that mere representation by an advocate untrained in the intricacies of domestic violence can be insufficient. See, e.g., Testimony of Debbie Segal, Immediate Past Chair of and Special Advisor to the ABA Commission on Domestic & Sexual Violence 3 (2015), available at http://www.americanbar.org/content/dam/aba/images/office_president/debbie_segal.pdf. Likewise, advocates explain that limited scope representation that ends once a restraining order is obtained and does not extend to other related issues like housing, child support, and social services may be insufficient. Id.

See Hadfield, supra note 103, at 1001.


The prosecutor represents the state’s interest, not those of the survivor.

Cf., e.g., Ronald M. George, Challenges Facing an Independent Judiciary, 80 NYU L. Rev. 1345, 1354 (2005) (noting that the “increasing number of self-represented litigants” place “unprecedented demands upon the courts”).


Am. Bar Ass’n, supra note 104, at 21.

See, e.g., Uwe Dulleck & Rudolf Kerschbamer, On Doctors, Mechanics, and Computer Specialists: The Economics of Credence Goods, 44 J. Econ. Lit. 5, 5-6 (2006). Other examples of credence goods include automobile repair and medical services.

Am. Bar Ass’n, supra note 104, at 20-21. The types of legal problems faced by the survey respondents varied, but family and domestic problems were the most common. Id. at 19.

See Murphy, supra note 31, at 511-12.
