



Best Practices for the Administration of Court-Sponsored Volunteer Lawyer For The Day Programs

(Limited Scope/Unbundled Legal Service Programs)

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FORWARD

One of the most controversial challenges in the judicial system is the crisis of unrepresented litigants handling their civil cases. “[C]ivil cases involving at least one unrepresented litigant are far more common than cases in which both sides are represented by counsel.”¹ This phenomenon is troubling as litigants without attorneys often forfeit their rights and experience significant disadvantages in court. As the American Bar Association noted years ago:

“ . . . when litigants cannot effectively navigate the legal system, they are denied access to fair and impartial dispute resolution, the adversarial process itself breaks down and the courts cannot properly perform their role of delivering a just result. Absent a systemic response, access to the courts will continue to be denied to many solely because they are unable to afford counsel.”²

To avoid such denial of access to justice, the New York State Unified Court System has developed limited scope representation programs. Generally in these programs, also known as unbundled legal service programs, a volunteering lawyer and client agree that the lawyer will perform a portion of the legal tasks involved in the client’s case and that the client will be responsible for the remaining tasks. The first court-sponsored limited scope representation program in New York City is the Volunteer Lawyer For The Day (V.L.F.D.) Program, which is focused on nonpayment proceedings in the Housing Court, Resolution Part. Housing Court matters, however, are only one of the types of proceedings in which limited scope representation is useful. The court has launched limited scope representation programs in other areas, including areas of consumer debt, foreclosure and family matters.

Given that unbundled legal services is a fairly new practice, discovering what works can be a path of trial and error. However, as concerned members of the judicial community and the community-at-large, we can all learn from each other. This best practices manual provides tips on establishing a volunteer-lawyer-for-the-day program in your court. If we bundle our expertise to unbundle legal services, we can make the promise of justice for all a meaningful reality.

My thanks to Rochelle Klempner and Marcelle Brandes for launching the first V.L.F.D. Program and to Emily Morales for her work on the V.L.F.D. Program and this manual.

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1 Engler, *And Justice For All - Including The Unrepresented Poor: Revisiting The Roles Of The Judges, Mediators, and Clerks*, 67 Fordham L. Rev. 1987, 1987 (April, 1999) (citation omitted).

2 American Bar Association, *ABA Resolution on Civil Right to Counsel*, 15 Temp. Pol. & Civ. Rts. L. Rev. 507, 519 (Summer, 2006).

THE MISSION OF THE NEW YORK STATE UNIFIED COURT SYSTEM

The mission of the New York State Unified Court System is to promote the rule of law and to serve the public by providing just and timely resolution of all matters before the courts. The following goals have been established to accomplish this mission:

- Every person before the court must be treated with fairness and courtesy;
- The court must be administered in a manner that promotes both respect for the law and public confidence in the fairness and integrity of the judicial process;
- Cases must be resolved with finality and reasonable dispatch;
- Case management must be efficient and cost-effective; and
- The public understanding of the courts and access to the courts must be promoted.

NEW YORK STATE COURTS ACCESS TO JUSTICE PROGRAM GOALS

- Finding long term solutions to chronic lack of civil legal assistance for people of low-income and modest means in New York including finding a permanent public funding stream for civil legal services;
- Improving and increasing the availability of criminal defense representation to people facing criminal charges;
- Gathering and reviewing statewide data on legal services delivery and needs towards increasing and improving civil and criminal legal assistance;
- Coordinating efforts between courts, legal aid organizations and other legal and non-legal organizations, administrative agencies and lawmaking bodies to expand access to justice;
- Analyzing, recommending and promoting proposed legislation, court rules, codes of conduct, policies and systemic changes that will open greater access to the courts;
- Analyzing and addressing the collateral consequences of criminal convictions;
- Fostering the development of new low income and modest means income pro bono programs and supporting and improving the quality of existing pro bono programs both court-based and outside the court, using lawyers, law students and other professionals;
- Testing and developing delivery of legal assistance models both court-based and non-court based, including but not limited to, limited scope representation delivery systems to improve and increase availability of assistance;
- Expanding access to justice for unrepresented litigants by increasing the availability of self-help tools using a variety of methods including, but not limited to, technology, plain language forms and signs, and informational materials;
- Providing culturally competent access to justice for litigants of diverse backgrounds and languages;
- Addressing access to justice for individuals with special needs or social services needs by expanding social work and social services in the court system; and
- Providing more opportunities for justice via community empowerment using outreach, education and training of government officials and offices, neighborhood agencies and community members;
- Fostering awareness of the needs of unrepresented litigants and litigants of diverse backgrounds and special needs and insuring high quality service by both judicial and non-judicial personnel via education, training and literature.

INTRODUCTION

The purpose of this handbook is to provide court administrators with an understanding of volunteer lawyer for the day programs and to guide administrators in establishing such programs within their courts. This handbook is organized into four parts. The first is an introduction to the concept of limited scope representation. The second part provides two examples of existing volunteer lawyer for the day programs, and the third part provides guidelines for setting up a volunteer lawyer for the day program in your court. The fourth part consists of advice on preparing the program for volunteers, and the final part is an appendix with sample forms and documents.

PART I. OVERVIEW OF LIMITED SCOPE REPRESENTATION

A. What is limited scope representation?

Limited scope representation, also known as unbundled or discrete legal services, refers to an attorney taking responsibility for only a portion of a client's case. In this arrangement, an attorney does not represent the litigant in a traditional sense or handle an entire matter. The attorney performs specific legal services. These services can take the form of making a single appearance at a hearing, preparing a legal brief or negotiating a settlement. Forrest S. Mosten, the "father of unbundling," explains the concept of unbundled legal services with an analogy to a menu where services are available ala carte.³ As he explains, limited scope representation is "based on [a] sharing [of] responsibility between customers and service products" similar to when one prepares their taxes with an online program and has an accountant give the papers a final look.⁴ In unbundling legal services, the lawyer and the client agree that the lawyer will perform some of the work involved in the client's case and the client will be responsible for the remaining work.⁵

Mosten points out that limited scope representation is really not a new concept: "[l]awyers have long provided client consultation, second opinions, answered phone questions, and provided other discrete services. What is really new . . . is the mind-set of lawyers to proactively make such limited services available" Limited scope representation has been embraced throughout the United States as a method of increasing access to justice for unrepresented litigants. Many lawyers advocate for these types of services as especially helpful to those who cannot afford the costs of full representation or prefer not to engage an attorney full-time.

³ Mosten, *Unbundling Legal Services: A Guide to Delivering Legal Services a la Carte*, 1 (2000).

⁴ Mosten, *Papers From The National Conference On Unbundling: Unbundling: Current Developments and Future Trends*, 40 *Fam. Ct. Rev.* 15, 16 (Jan. 2002).

⁵ *id.*

Along with the legal community's growing recognition of the benefits of limited scope representation, recent developments in rules of ethics have made its provision easier. In recent years, the American Bar Association adopted amendments to the Model Rules of Professional Conduct which explicitly permit and regulate limited scope representation. Specifically, changes have been made to Model Rules 1.2, 1.4 and 1.14.⁶ According to Rule 1.2 (c), "[a] lawyer may limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent." In addition to the ABA, as many as sixteen states have amended rules of ethics or procedure to address limited scope representation.⁷

In our state, the New York Code of Professional Responsibility was amended to ease concerns with conflicts of interest that may prevent lawyers from volunteering with short-term limited legal service programs. For our purposes here, Rule 6.5 provides that lawyers, who provide limited legal services for free as part of a court-sponsored program, must comply with the conflicts of interest rules set forth in Rule 1.7, 1.8 and 1.9 under specific circumstances. Those conflict of interests rules apply "only if the lawyer has actual knowledge at the time of commencement of representation that the representation of the client involves a conflict of interest." Similarly, Rule 1.10, which governs the imputation of conflicts of interest, applies "only if the lawyer has actual knowledge at the time of commencement of representation that another lawyer associated with the lawyer in a law firm is affected by Rules 1.7, 1.8 and 1.9."⁸

Given the recent developments in professional ethics and court procedure, there is no doubt that the reach of limited scope representation will continue to grow. Courts and collaborators will discover more circumstances in which limited services provide a benefit to unrepresented litigants. M. Sue Talia, author of the book *Unbundling Your Divorce: How to Find a Lawyer to Help You Help Yourself*, suggests that unbundled legal services can work well in housing law cases, family law cases, lemon law cases, homeowners' association disputes and small claims matters.⁹ However, with regard to family law cases, the New York State Access to Justice Office considers domestic violence matters inappropriate for unbundling.

Determining whether limited scope representation would be helpful requires case-by-case considerations. Among those considerations are lessons from models in other jurisdictions and assessments of actual unmet legal needs within a court's locality. One must also consider

6 See Appendix for a reproduction of Model Rules 1.2, 1.4 and 1.14.

7 In Massachusetts, the Justices of the Supreme Judicial Court have issued a Standing Order permitting the expansion of limited assistance representation for use in all Trial Court Departments (See www.mass.gov/courts/sjc/limited-rep.html (Last visited on Oct. 26, 2009); see also ABA Standing Committee on the Delivery of Legal Services, *An Analysis of Rules That Enable Lawyers To Serve Pro Se Litigants: A White Paper*, 7 (June, 2009) www.abanet.org/legalservices/delivery/downloads/prose_white_paper_june_2009.pdf (Last visited on Oct. 26, 2009); Unbundledlaw.org, *A Look At What Is Happening Around the Country*, www.unbundledlaw.org/states/states.htm (Last visited on Oct. 26, 2009).

8 Code of Professional Responsibility Rule 6.5.

9 Stephenson, *Unbundled Legal Services Increasingly Popular*, www.lawyersusaonline.com/blog/2009/05/29/unbundled-legal-services-increasingly-popular (Last visited on Oct. 27, 2009). M. Sue Talia's training on limited scope representation is available at the Practising Law Institute site at http://www.pli.edu/product/clenow_detail.asp?id=54720 (Last visited on Oct. 27, 2009).

whether the unmet needs arise in the context of a case that can be successfully unbundled. In other words, as set forth in Model Rule 1.2 (c), one must be sure that the scope of the proposed limited representation would be reasonable under the circumstances. Unbundled legal services must not introduce additional confusion, inefficiency or barriers to justice.

B. Barriers to Limited Scope Representation & New York State Law

Limited scope representation is not without barriers. Ethical and malpractice issues exist that one must be conscious of when establishing a limited legal service program. These issues include concerns about “the existence and adequacy of client autonomy, confidentiality, competence, continuity of representation, communication with represented parties, and candor to the court.”¹⁰ However, there are many ways lawyers can address these concerns, especially when they volunteer in New York State court-sponsored legal service programs.

A major barrier to limited scope representation is the fear of malpractice and disciplinary trouble. While these apprehensions cannot be completely eliminated, several options exist for minimizing them. First, lawyers engaged in limited scope representation should use a written limited-scope retainer agreement without exception. The lawyer and client should explicitly delineate the lawyer’s tasks and the client’s task with regard to the subject matter. Where the lawyer and client have the same expectations from the lawyer’s services, quarrels about the relationship’s scope are curtailed. Attached to this manual is a sample of the Volunteer Lawyer For The Day, Housing Part, limited-scope retainer agreement which provides an example of a clearly written agreement.

Another manner in which to curtail malpractice risk involves the lawyer screening the case specifically to determine whether providing limited legal services is reasonable under the client’s specific circumstances. Lawyers should be sure to get all pertinent facts and not miss key issues. Prior to going forward, the lawyer must “reasonably [believe] that the client can adequately represent himself or herself in the balance of the matter”¹¹ Further, as hurried and incomplete advice may lead to malpractice, lawyers must be sure to give clients adequate attention and complete advice. In other words, along with performing the particular legal task for which they were hired or volunteered to perform, attorneys must not “fail to give needed advice in areas ancillary to the client’s presenting problem.”¹²

“Ghostwriting” is an additional barrier to limited scope representation. This term is used to describe when attorneys draft court documents for clients who represent themselves in court without disclosing that they assisted in preparing the documents. Ghostwriting is criticized as violating several rules of professional conduct, which most obviously include fairness to the adversary and candor to the court. Nevertheless, “ethical concerns surrounding the ghostwriting

10 Fisher-Brandvee and Klempner, *Unbundled Services: Untying the Bundle in New York State*, 29 Fordham Urb. L. J. 1107, 1115 (Feb. 2002).

11 *Id.* at 1116 (citations omitted).

12 *Id.* at 1115 (citation and quotations omitted).

of litigation papers should not preclude unbundled representation.”¹³ Criticism can be addressed through disclosure to the court and adversary of the attorney’s part in preparing the subject materials. “Once ghostwriting assistance is revealed. . . the court can moderate any possible lenient reading of the pro se’s documents to avoid unfairness” and candor to the court is established.¹⁴

Obtaining insurance coverage for performing limited legal services is another barrier for attorneys interested in the practice. Negotiating a rider to cover limited scope representation may be difficult and add expenses to an attorney’s general practice. However, attorneys who volunteer in court-sponsored limited scope representation programs, need not be a deterred from performing discrete tasks. In 2001, the Attorney General interpreted Public Officers Law § 17 as providing for the state defense and indemnification of any volunteer “expressly authorized to participate in a state-sponsored volunteer program . . .”¹⁵ The criteria for a program that is classified as state-sponsored under section 17 are (1) that the Unified Court System formally established the program, (2) that an attorney employed by the court supervises the volunteering attorneys and (3) that the court sponsors a training for qualifying volunteers to prepare them for their volunteer service.¹⁶ All current New York State court-sponsored V.L.F.D. programs comply with these criteria.

Attorneys also avoid limited scope representation because of conflicts of interest that may arise when they provide short-term limited legal services. Such concern is eased in New York State where the attorney is participating in a court-sponsored volunteer program. As discussed in more detail in Part I (A), Rule 6.5 provides that lawyers, who volunteer to perform limited legal services through a court-sponsored program, do not need to comply with the conflicts of interest rules set forth Rule 1.7, 1.8, 1.9 and 1.10 in all circumstances. Unless the volunteering attorney has actual knowledge that the participating client presents a conflict of interest or that an attorney within the volunteer’s law firm has a conflict of interest, the attorney may take on the case without concern for a conflict.

The need to acquire permission from the court to withdraw from a case when making a limited appearance also hinders the practice of limited scope representation. An attorney of record may only withdraw or be discharged in the manner prescribed in CPLR § 321. That statute provides an attorney may be removed as attorney of record “by order of the court in which the action is pending, upon motion” on notice or by the filing of a consent between the retiring attorney and his/her client to a change of attorneys.¹⁷ Given the need for an order or filing, some attorneys may be reluctant to volunteer on a limited basis. To address this concern, V.L.F.D. program directors must be sure to discuss attorney withdrawal with the judge designated to host V.L.F.D. Only judges who will permit attorneys to make limited appearances

13 Id. at 1122.

14 id. (citation omitted).

15 Formal Opinion No. 2000-F1, 2000 NY Op Att’y Gen. 1 (Feb. 3, 2000).

16 id.

17 CPLR 321 (b)

should be selected to host the program.

C. Court-Sponsored Limited Scope Representation Programs

In New York City, there are many court-sponsored programs that involve volunteers providing unrepresented litigants with limited scope representation. The names and a brief description of these programs are listed below.

- ***VOLUNTEER LAWYER FOR THE DAY PROGRAM (Housing)***

Attorneys volunteer to provide limited representation for otherwise unrepresented litigants in summary nonpayment proceedings, during their appearance in the Housing Court, Resolution Part. This program is conducted in partnership with the New York City Bar Association.

- ***VOLUNTEER LAWYER FOR THE DAY PROGRAM (Civil)***

Attorneys volunteer to provide limited representation for otherwise unrepresented consumer debtors in Civil Court. These volunteers represent litigants in efforts to vacate default judgments and negotiate settlements. This program is conducted in partnership with Applesed, a Network of Public Interest Justice Centers and the New York County Lawyers Association.

- ***VOLUNTEER LAWYERS PROGRAM (Civil and Housing)***

Attorneys volunteer to provide advice to unrepresented litigants in the New York City Civil Court's Help Center. The volunteer's advice is focused on Housing Court and Civil Court consumer debt matters.

- ***FAMILY COURT VOLUNTEER LAWYER PROGRAM***

Volunteer lawyers provide legal advice to unrepresented litigants in State Family Court. Their advice covers areas of support, paternity, custody, visitation, family offense and guardianship matters.

- ***UNCONTESTED DIVORCE PROGRAM***

Attorneys volunteer to assist unrepresented litigants in the preparation of uncontested divorce papers for filing in the State Supreme Court. Volunteers do not represent the litigants in court or file papers on their behalf.

- ***FORECLOSURE VOLUNTEER LAWYER PROGRAM***

Lawyers volunteer to provide legal advice on foreclosure issues in the State Supreme Court Help Centers.

- ***FORECLOSURE VOLUNTEER LAWYER FOR THE DAY (VLFD)***

Lawyers volunteer to provide limited scope representation in foreclosure conferences. The lawyer represents the client in all aspects of the conference, including negotiating settlement of the action. New volunteers or newly admitted lawyers have the option to serve only as a guide during the conference (i.e., explaining the process) and to not actually participate in the negotiation of the settlement.

PART II. EXAMPLES OF THE V.L.F.D. PROGRAM, CIVIL COURT, HOUSING PART & CIVIL COURT, CONSUMER DEBT

A. Background

In 2006, 256,747 summary nonpayment petitions were filed in New York City seeking the eviction of tenants for their alleged failure to pay rent.¹⁸ More concerning than this number is that most of the litigants did not have attorneys to represent their interests. Generally, 90% of the tenants and 15% of the small-building landlords are unrepresented in nonpayment proceedings.¹⁹ The majority of unrepresented litigants, among other things, have lower income and education levels than New York City residents as a whole.²⁰ They most often feel that they cannot afford an attorney and are unaware that the courts have public-access law libraries and help centers.²¹

With this burden on their shoulders, unrepresented tenants in nonpayment proceedings typically negotiate stipulations of settlement with their landlord's attorney. These stipulations are most often negotiated out of the presence of court personnel and are written by the landlord's attorney. In the event court attorneys are present for settlement negotiations, they are not permitted to provide any legal assistance. Considering this circumstance, the benefits of having an attorney represent tenants in the Resolution Part are clear. In a more limited number of cases, unrepresented owners face similar issues when negotiating with a tenant's attorney. Representation during the settlement process levels the negotiating positions of the parties.

With this underlying belief, the New York City Bar Association's Committee on Legal Services to Persons of Moderate Means, Subcommittee on Unbundling Legal Services, partnered with the New York City Civil Court, the Office of the Deputy Chief Administrative Judge for Justice Initiatives and the Fordham Law School Feerick Center for Social Justice and Dispute Resolution to test limited scope representation services in Housing Court. The pilot project was modeled after a program in San Francisco, California. The Volunteer Legal Services Program, a nonprofit program founded by the San Francisco Bar Association, is a limited scope

18 The Office of The Deputy Chief Administrative Judge For Justice Initiatives and New York City Bar, *Volunteer Lawyer For The Day Project Report: A Test of Unbundled Legal Services In The New York City Housing Court* (Feb. 2008) (www.courts.state.ny.us/courts/nyc/housing/pdfs/vlfdreport_0208.pdf).

19 id.

20 The Office of The Deputy Chief Administrative Judge For Justice Initiatives, *Self-Represented Litigants: Characteristics, Needs, Services: The Results of Two Surveys*, (Dec. 2005) (www.nycourts.gov/reports/AJJI_SelfRep06.pdf).

21 id.

representation program that serves otherwise unrepresented litigants during mandatory unlawful detainer settlement conferences in San Francisco Superior Court. These conferences are similar to the settlement conferences in the Housing Court, Resolution Part.

To facilitate the pilot project, the program was limited to both legally and factually simple cases. In order to qualify for services, parties had to be:

- (1) tenants of rent stabilized apartments or
- (2) landlords of only one building with up to three units, and no other buildings, who
- (3) are parties to a nonpayment proceeding and
- (4) are scheduled to make an appearance in the Resolution Part.

In addition, there was a general policy that the rent of the subject apartments did not exceed \$1,000 a month.

Other limitations on the pilot project included a four-month duration period, a total of fifty participants and a confinement of the cases to a single Housing Court Part and judge. The project partners recruited volunteers for the pilot from the Housing Court Volunteer Lawyers Project. As part of the pilot, over 30 volunteers received training on the ethics of limited scope representation, negotiating techniques, interviewing skills and public assistance issues.²²

At the conclusion of the pilot, the project collaborators found that a Volunteer Lawyer For The Day Program in Housing Court:

- Improves access to justice for unrepresented litigants;
- Increases the perception of fairness and accessibility to justice;
- Improves courthouse efficiency;
- Creates an attractive Pro Bono opportunity for attorneys; and
- Offers a feasible and useful approach to alleviate the unmet legal needs of unrepresented litigants in Housing Court.²³

In addition, the collaborators found that the Housing Court, Resolution Part is an ideal arena for limited scope representation where the case involved is factually and legally simple.

B. Volunteer Lawyer For The Day Program, Housing Court

Given the success of the pilot, the New York City Bar Association and the New York City Civil Court committed to establishing a permanent limited scope representation program in Housing Court. That program, which mirrored the pilot project with some exceptions, is known as the V.L.F.D. Program, Housing Part. The legal services provided in the V.L.F.D. Program are

22 To learn more specifics about the pilot project, please refer to the Volunteer Lawyer For The Day Project Report, visit www.courts.state.ny.us/courts/nyc/housing/pdfs/vlfdreport_0208.pdf.

23 The Office of The Deputy Chief Administrative Judge For Justice Initiatives and New York City Bar, *Volunteer Lawyer For The Day Project Report: A Test of Unbundled Legal Services In The New York City Housing Court* (Feb. 2008) (www.courts.state.ny.us/courts/nyc/housing/pdfs/vlfdreport_0208.pdf).

limited in scope to assisting unrepresented litigants in summary nonpayment proceedings, during their appearance in the Resolution Part of Housing Court.

To participate in the program, a person must be:

- (1) a tenant of a rent stabilized apartment with a monthly rent of up to \$2,000 or
- (2) a landlord of only one building with up to three units, and no other buildings, who
- (3) is a named party to a nonpayment proceeding,
- (4) scheduled to make an initial appearance in the Resolution Part.

The rent requirement of up to \$2,000 a month was set to ensure that the program will reach litigants most likely to be unable to afford an attorney. During the first year of the V.L.F.D. Program, Housing Part, the rent requirement was up to \$1,500. Over time, it became apparent that there were less apartments available at that rent in Manhattan and the program was not attracting a sufficient number of eligible litigants. To address this problem, the program adjusted the rent prerequisite.

The primary role of the volunteer-lawyer-for-the-day is to assist the unrepresented litigant in negotiating a settlement agreement and drafting a stipulation. The lawyer's engagement does not extend to trial work, even where a settlement cannot be reached between the parties. The case disposition has no effect on the limited nature of the participating lawyer's representation. To be sure that the boundaries of the representation are clear, the V.L.F.D. Program provides the lawyer and client with a limited scope retainer agreement that must be executed prior to any representation. The agreement explicitly provides that the representation is only for one day in the Resolution Part. In the event of an adjournment, the volunteering lawyer has the option of representing the litigant on the adjourned date. However, the lawyer is required to execute a second limited scope retainer agreement. The attorney cannot represent the client under the auspices of the V.L.F.D. Program without the retainer agreement. Each retainer agreement automatically expires at the end of the day on which it was executed.

The retainer agreement used in the V.L.F.D. Program is written in plain-English, making it understandable to both lawyers and non-lawyers. Prior to using the retainer agreement, the court consulted a readability specialist who reviewed its terms for purposes of ensuring its accessibility to persons with low literacy levels. The retainer agreement is available in Spanish. In addition to the retainer agreement, the volunteering lawyer executes a limited notice of appearance form. Both it and the retainer agreement are attached to the appendix of this manual. In the event a client does not speak either English or Spanish, translators are on hand to ensure an understanding of the representation's limited nature.

C. Necessary Components of a Volunteer Lawyer For the Day Program

Volunteer Screening & Criteria

Volunteers must be attorneys in good standing who are admitted to practice in New York State. They must apply and receive approval for an attorney secure pass to the courts, which requires them to undergo a background check. In the New York State Supreme Court, First and

Second Departments, volunteers may also be law school students or graduates; both departments issued practice orders granting them permission to volunteer in court-sponsored, volunteer programs. You may review these practice orders attached in the appendices. However, where a program wishes to use law students or graduates as volunteers, the program must do so through the New York State Courts Access to Justice Program.

Continuing Legal Education (C.L.E.) Requirements

Volunteers must attend a court-sponsored C.L.E. program. The New York State Courts must be the provider of training for volunteers for purposes of fulfilling the State defense and indemnification requisites discussed in Part I (B) and Part III (E). The C.L.E. program topics must be specific to the area of law that the volunteer services cover and must include a session on the ethics of limited scope representation. The ethics component is available in D.V.D. format from the New York State Courts Access to Justice Program. In jurisdictions with a diverse population, volunteers should also receive information on cultural competency. The New York State Courts Access to Justice Program is developing cultural competency materials and will make them available upon request.

All C.L.E. programs should be cost-free. Participants, however, must commit to donating a specified amount of legal services in exchange for the credits. The required amount of volunteer service is best left to the judgment of the program director in consultation with the New York State Courts Access to Justice Program. In New York City, the V.L.F.D. Program requires volunteers to donate two days of their services.

Scope of Lawyers' Services

The scope of services must be limited to what is reasonable under the circumstances given the area of law involved. However, as we are dealing with the volunteer lawyer for the day program, the program must be specifically limited to the time-span of a day. For example, if the lawyer is scheduled to volunteer on December 24, 2009, the lawyer's representation of the litigant begins and ends on December 24, 2009. The lawyer must execute a limited scope retainer agreement, specifying the limited nature of the representation. The attorney can not continuously represent or assist the litigant through the program, even where a matter is adjourned or otherwise continues past the day of the lawyer's volunteer service. Where a case is adjourned, the attorney has the option of appearing on behalf of the litigant on the adjourned date only after executing a second limited scope retainer agreement. Volunteer lawyers cannot provide services that go beyond the Resolution Part under the auspices of the program. For example, if a case does not settle, the lawyer cannot take on the trial as a volunteer-lawyer-for-the-day. The lawyer may continue to trial, but only after the client is clearly informed that the representation through the V.L.F.D. Program is over and the lawyer or lawyer's law firm has assumed sole responsibility for the case. In this scenario, the court is no longer responsible for ensuring that the lawyer has malpractice insurance. As the lawyer is no longer volunteering in a court-sponsored program, state indemnification provisions are no longer applicable. The Pro Bono Agreement of New Representation Form to be executed where a lawyer or lawyer's firm takes on a case is attached to the appendix.

Limited-Scope Retainer Agreement

Volunteers are required to execute a limited scope retainer agreement. The attorney cannot represent the client under the auspices of the V.L.F.D. Program without the retainer agreement. In drafting a retainer agreement, program directors should consult with the New York State Courts Access to Justice Program. All retainer agreements must be written in plain-English, making them understandable to both lawyers and non-lawyers. A readability specialist should be asked to review the agreement's terms to ensure its accessibility to persons with low literacy levels. In addition to the retainer agreement, the volunteering lawyer must execute a limited notice of appearance form, an example of which is attached in the appendix.

Client Eligibility Criteria

The program must have criteria to establish who may participate in it. The criteria must be relevant to the scope of the limited representation. In New York City courts strict income limitations are not followed, but rather an inability to afford counsel is used as a litmus test. Where a person seeking assistance does not meet the criteria for the program, effort should be made to direct the person to other court or outside programs that may be of help.

Intake

(a) *Location*

Intake for the program should take place in an optimal location for reaching the most unrepresented litigants eligible to participate in the program. For example, in the V.L.F.D. Program, Housing Part, intake takes place in the Landlord-Tenant Clerk's Office. That site is most appropriate because all individuals submitting answers in nonpayment proceedings appear in that office and the clerk automatically schedules them for an initial appearance in the Resolution Part.

(b) *Intake Form*

To facilitate the intake procedure, the program administrators should develop an intake sheet with questions relevant to the scope of limited representation and an answer worksheet that covers the defenses to the proceeding at hand. In the appendix is an example of the intake sheet and answer worksheet used in the V.L.F.D. Program, Housing Part.

Attorney-Client Meeting & Interview

The volunteering attorney and the client should meet on the date of the court appearance at the program office. There, the attorney should review the client's answers to the questions in the answer worksheet and perform an independent intake of the client's case. The answer worksheet used in the V.L.F.D. Program, Housing Part is extensive. It provides pertinent questions to establish each defense to a nonpayment proceeding. Further, the worksheet includes a repairs-list section that allows the volunteering attorney and client to cover the apartment room-by-room and make a written log of needed repairs. The answer worksheet also includes a form setting forth the materials that should be available to prove defenses including, but not limited to, proof of rent payments, records of problems in the apartment and building with dates,

pictures of such problems and copies of documents sent to the landlord, superintendent or government agencies regarding the problems. The answer worksheet functions as a tool for the volunteering attorneys, reminding them of the prongs for all defenses and of the proof needed when raising them. In addition to the independent interview, the attorney and the client must execute the Limited Scope Retainer Agreement and Notice of Limited Appearance. The attorney should be sure that the client is aware of what to expect from the attorney and that the client has an opportunity to express his/her goals for the day. A copy of the Limited Scope Retainer Agreement and the Notice of Limited Appearance is available in the appendix.

- The program director should supervise the attorney client meeting and interview to meet the State defense and indemnification requirements discussed in Part I (B) and Part III (E).

Court Appearance

The attorney supervisor must oversee all volunteer attorneys throughout their representation of the client, including their court appearance. The supervisor serves as a back-up in situations where an attorney fails to appear as scheduled.

Stipulations

Where parties enter a stipulation, the volunteer lawyer must discuss its terms thoroughly with the client prior to any signature. The attorney supervisor must review the stipulation and provide relevant comments and/or suggestions. Once executed, the stipulation is presented to the judge, who should perform an allocution to ensure the client's understanding of both the agreement and its binding nature. The judge should also go over the volunteering attorney's limited engagement in the case with the litigant and relieve the attorney as counsel at the end of the appearance.

- The program director should regularly review stipulations to ensure quality, spot problems and meet state defense and indemnification requirements.

Exit Interview & Satisfaction Survey

At the end of the limited scope representation, the attorney and client should have an exit interview where the lawyer informs the client of any further steps to take or to expect in the proceeding. The two should discuss future options and procedure for relevant motions. The lawyer should provide the client with a checklist of what to do next. For an example of a checklist form, please review the form used in the V..L.F.D. Program, Housing Part, attached in the appendix.

The program director should develop a client satisfaction survey and provide the survey to participants at the conclusion of the representation. A sample survey is attached to the appendices.

PART III. HOW TO SET UP A VOLUNTEER LAWYER FOR THE DAY PROGRAM

A. Partnerships and Collaborations

In setting up a volunteer lawyer for the day program, the court should reach out to Bar Associations, other professional groups, and legal service providers. The New York State Bar Association, county bar associations and minority bar associations would all make great collaborators. In addition, local law schools are great sources for partnerships. In New York City, both the New York City Bar Association's Committee on Legal Services to Persons of Moderate Means, Subcommittee on Unbundled Legal Services and the Fordham Law School Feerick Center for Social Justice and Dispute Resolution were instrumental in the development of the V.L.F.D. Program. The City University of New York (C.U.N.Y.) Law School has also partnered with the court to co-sponsor limited scope representation programs.

B. Research Funding Sources

Funding is a necessary component of establishing a volunteer lawyer for the day program. Sources of funding include court budgets, professional organizations, bar associations, law schools, law firms and foundations. The C.U.N.Y. Law School via legislative funding and its institutional budget has been a source of funding for the V.L.F.D. Program, Housing. In addition, consider applying for foundation grants in partnership with not-for-profit organizations. The New York City Civil Court partnered with Appleseed, a network of public interest justice centers, to establish a consumer debt volunteer lawyer project. The Ace Group Foundation in turn awarded Appleseed a grant that matched the court's contribution to the project.

C. Decide What Legal Services Are Needed in Your Locality

Conduct a needs assessment. A successful program is grounded in community problem solving, involving the input and participation of the judicial system and relevant social and professional associations. The court should collaborate with others to determine what are the unmet legal needs in its locality. In addition, the court should review court statistics to discover what types of cases have the highest rate of unrepresented litigants. The court should also evaluate what types of services would be most beneficial to those unrepresented litigants. Finally, consideration should be given to whether such services can be separated from full representation and completed within the time-span of one court appearance.

Questions To Ask When Determining The Scope of Your Program

- What courts have the greatest number of unrepresented litigants?
- What types of cases or proceedings have the greatest number of litigants appearing without counsel?
- Does the Court or other entity provide services to assist unrepresented litigants in those cases or proceedings? If yes, what are those services and are they sufficient to meaningfully assist the unrepresented litigants during their appearance? In other words, are there unmet legal needs that prevent the unrepresented litigant from a fair navigation of the court system?

- Are any other legal services available to assist the unrepresented litigant in the case or proceeding under review? For example, there may be a public library or legal services program focused on helping the unrepresented litigant in that type of case or proceeding.
- What are the benefits and risks of utilizing limited scope representation services under the circumstances?
- Does the case or proceeding involve a type of legal need that can be reasonably addressed apart from the whole case or proceeding?

D. Set Up A Pilot Project & Evaluate Its Success

Once the legal needs and possible benefits of a V.L.F.D. program are clear, the court should test the provision of the subject lawyering tasks through a pilot project. In organizing a pilot project, it is best to include collaborators for purposes of funding and establishing its scope. State and/or City Bar Associations and law schools are a great place to start when looking for a partnership. These associations can help in both the design and volunteer stage of the program. Bar associations provide a recruiting ground for volunteers.

In evaluating a pilot project for its success, the court should make use of exit surveys and focus groups. Consideration should be given to whether the limited scope legal services improved access to justice. A project’s success should also be measured by whether it improved the unrepresented litigant’s perception of fairness and accessibility to justice and whether it improved courthouse efficiency. Assuming the findings at the conclusion of the pilot project are positive, the Court should seek to implement the program.

E. Implement the Volunteer Lawyer For The Day Program

Partnerships and Collaborations with the Bar

In setting up a V.L.F.D. program, the court should once again actively involve local bar associations, including the county bar association, women’s bar association and minority bar associations. Law schools are great sources of collaboration, especially at this time when pursuing justice initiatives is a contemporary issue in the legal profession.

State Defense and Indemnification and Requisites

Volunteers “expressly authorized to participate in a state-sponsored volunteer program” are considered employees for purposes of state defense and indemnification, pursuant to Public Officers Law § 17. According to the formal opinion of the Attorney General, state sponsorship exists where a program is:

- (1) formally established by the court;
- (2) the court sponsors a training for qualifying volunteers; and
- (3) the court employs a court staff attorney to supervise the volunteering attorneys.

To ensure that volunteer-lawyers-for-the-day receive the protection of Public Officer’s Law § 17, it is necessary that the program explicitly meet each of these requisites without fail.

Staff Composition & Qualifications

Staffing for a volunteer lawyer for the day program involves several considerations, including the number of unrepresented litigants in the locality, the type of legal service the program will provide and the number of filings in the particular court. Generally, however, the administrative structure of the program should involve a director of the volunteer services. This person would be charged with the management of the program and would serve as the program's visible leader. The director would also be responsible for creating program forms and developing education and training materials for volunteers. The director must be an experienced attorney in good standing, who is licensed to practice in New York State. In addition, for purposes of the state indemnification and defense of volunteers, the director must be a court employee.

Secretarial support for the director would likely be necessary as the paperwork involved in managing a volunteer program requires specific attention. This person can be charged with, among other things, maintaining record-keeping systems. These systems can track and maintain log records regarding the volunteers, case assignments and program evaluations. This list is not meant to be exhaustive.

At least one attorney should be on staff, who can serve as a supervisor and mentor of the volunteer attorneys. The supervisor reviews the volunteer's legal work product, provides advice on legal strategy and consults on the litigant's options. In an advice-only volunteer program, when attorneys volunteer in the Help Center, the supervising attorney monitors the advice being given and provides any necessary guidance to the volunteer. In a litigation model, the supervising attorney monitors the volunteer's trial skills and function as co-counsel where necessary. The supervisor accompanies the volunteers in court. In addition, the supervisor reviews the terms of the stipulations of settlement that the volunteers negotiate with the option of modifying the stipulations to better serve the client.

In models where volunteer lawyers attempt to settle matters or try cases in a courtroom, it is ideal for a program partner to employ the supervisor. For example, the New York City Civil Court and the New York City Bar Association are partners in the V.L.F.D. Program, Housing Part. The in-court supervisor is an employee of the Bar, not the court. This set up fully engages the partner organization in program operations. In addition, an attorney from a partner organization, who is in active practice, brings practical expertise to the supervision of volunteers. Further, a supervisor from a program partner provides a layer of supervision which aids the court in insuring a clear understanding of the process and the lawyers' roles and responsibilities. Where the in-court supervisor is from a partner organization, there still must be a court-employed attorney supervising the entire program. The court employed attorney's supervision includes the overall oversight of volunteers to insure that the program meets the indemnification requisites discussed in Part I (B) and Part III (E).

While involving a supervisor from a partner organization is ideal, a supervising attorney employed by the New York State Courts Access to Justice Program or a court administrator is an acceptable in-court supervisor. In no circumstances, however, should an attorney, who serves as

a judge's law secretary, or a court attorney performing chamber's work, supervise volunteers.

In developing the role of the supervising attorney, the court should reach out to their partners in the program. Along with considering professional qualifications, the court should evaluate staff for their ability to interact with unrepresented litigants in a positive and productive manner. Key qualities include patience, professionalism, dedication to quality-service and strong communication skills. Staff should be sensitive to cultural differences and language barriers. Consideration should be given to having a multilingual staff, especially if the program runs in an area where there is a diverse population. Where possible interpreters should be accessible to assist the multilingual population.

Staff Training

All staff should receive an orientation, introducing them to the overall mission of the program and operating rules governing both staff and volunteers. The orientation should also include ethical training focused on the issues that limited scope representation has raised for lawyers, judges and judicial staff. Topics and materials should also include instruction on the specific duties of staff and volunteers. Staff should be clear on the standards of performance, including the showing of proper respect and courtesy to unrepresented litigants. They should understand the importance of not showing cultural or other biases in their interactions with unrepresented litigants. Staff should also be trained on resources for unrepresented litigants both inside and outside the courtroom. The New York State Courts Access to Justice Program is available to assist in the planning and the execution of staff training.

There should be a consistent review of the needs of staff and volunteers. As the program evolves, new training topics may become necessary to improve performance and public service.

General Court & Judge Education Effort

Information and/or training should be provided to court personnel outside of the program to ensure that the program is understood and taken seriously. All employees should be made aware of the court's desire to make the program successful and its expectation that all employees work directly or indirectly towards the program's success. They should be aware of the program's scope and target group, as they can spread the word about the program and refer qualifying unrepresented litigants to the program. General court staff should also be encouraged to report problems or concerns with the program.

Judges, in whose courtroom the program will be active, should have a more detailed training. They should have guidelines on meaningful access to justice and litigant friendly judicial practices. As all program staff, judges should have clear instruction on their role and ethical responsibilities. Materials should be clear and contain illustrative examples of appropriate and inappropriate judicial involvement in cases involving unrepresented litigants. Judges should also be introduced to a point person who will be available to answer their questions or concerns throughout the life of the program.

Assignment of Judge and Part

It is best to pick a specific judge or judges who will exclusively host the program in his/her Part. Where a separate and single calendar is designated for program cases, intake procedures and case assignments are easier to manage and more efficient. In addition, volunteering attorneys and clients can avoid confusion where a specific courtroom(s) is designated for the program. Finally, with a specific designation, the supervising attorney will be able to oversee all attorneys during their volunteer service and not have to leave the program site to assist volunteers in another courtroom. Where more than one judge hosts the program, their courtrooms should be in close proximity.

In determining which judge is best suited for the program, consideration should be given to the judge's (1) support of access to justice initiatives, (2) awareness of limited-scope representation and (3) openness to complying with program rules. Judges hosting the lawyer for the day programs should be willing to allow attorneys to make limited appearances on cases and to remove them as attorneys of record at the conclusion of their volunteer service. They should also be willing to perform allocutions in program cases, despite the presence of two attorneys in those matters. Any judge that is unwilling to perform these acts is not a good choice as a program host.

Obtaining & Routing Cases

If possible, the court should create a separate calendar for purposes of the volunteer lawyer for the day program. For example, a new calendar can be designated Part "J" and all program cases can be routed to that Part. How to obtain cases for intake will be program specific. As an example of a system that has been effective, you may look to the V.L.F.D. Program, Housing Part. In that program, the supervising attorney has a desk in the Landlord-Tenant Clerk's Office. Both the supervisor and the landlord-tenant clerks inform persons standing on the answer line in the office about the program. They ask anyone, who meets the program criteria, whether they would like a lawyer for the day. Once a person understands and accepts the assistance of the program, the supervising attorney or designated assistant performs an intake and helps complete and file the person's answer. After completing the answer, the supervising attorney or designee returns the case file to the landlord-tenant clerk who routes the case to the program Part.

Interpreters

To meet the needs of all members of the target group, it is best to have interpreters available to assist staff, volunteers and unrepresented litigants in communicating with each other. Interpreters must be sensitive to both language and cultural barriers. Interpreters should be given access to multilingual program handouts and forms that can be used to explain the program and relevant topics to participants. Interpreters should also be trained in the limited scope of the program and ethical obligations of court personnel.

Location & Space

There should be a program office within the courthouse with a waiting area. This office should have a place where cases may be discussed in private as attorney client privilege must be

protected. Clients should not have to discuss their matters in front of persons not part of their representation. The office size, furniture and equipment will largely depend on the services provided and how the program will obtain cases. Generally, however, the office should have workstations for each staff member that include a desk, computer and telephone. There should be adequate space for file cabinets for the maintenance of a record-keeping system.

Other equipment and supplies to consider include:

- Chairs and display racks for the waiting area;
- Bookcases for storing other resources;
- A fax machine;
- A photocopy machine;
- A digital scanner;
- A set of McKinney's (or on-line access); and
- A local government resource guide

Public Information & Outreach

The local community must be aware of the program to ensure that the program reaches its intended group. There are several ways to get the word out. Some of which are listed below.

(a) *Signage*

Signage should be placed in the courthouse to help users easily navigate to the program office. Helpful signage is:

- current: signs should include current hours of operation and room numbers;
- visible: signs should be placed near courthouse entryways and other public points of entry within the court, in clerks' offices and outside of courtrooms; and
- multilingual: signs should be displayed in languages commonly spoken in the court locality.

(b) *Posters, Flyers, Pamphlets & Brochures*

Posters, flyers, pamphlets and brochures are important tools of marketing as they can be produced in-house and updated easily. They are also easy to distribute. Effective posters, flyers, pamphlets & brochures are:

- current: all materials must be up-to-date to be useful.
- well designed: materials should contain necessary and organized information to maximize understanding. They should be divided into separate areas of small text with clear headings;
- in plain English: materials must be accessible to users of all literacy levels and should be reviewed by plain English experts who can test readability;
- multilingual: materials should be displayed in languages commonly spoken in the court locality;
- respectful in tone: materials should not be condescending. The materials should

- give the impression that the person writing the materials is approachable;
- tested: materials must be user tested to ensure comprehension; and
- approved: materials should be sent to the Office of Access to Justice for approval prior to distribution.

(c) *Written Materials & Forms, Explaining The Substance of The Program*

Written materials and forms must be available for participants in the program to explain the program, its limited scope and obligations. Effective written materials and forms explaining the substance of the program are:

- in plain English: materials must be accessible to users of all literacy levels and should be reviewed by plain English experts who can test readability;
- multilingual: materials must be available in the languages relevant to the community being served;
- clear and concise: materials explaining the substance of the program must clearly explain limited scope representation. They must offer simple explanations of the concept, and all parties should be clear on the nature of the relationship, when it begins and ends and what substantive areas of law it covers. Emphasis must be put on the exact level of assistance being provided. The obligations of the staff, volunteers and unrepresented participants must be clear; and
- reviewed: materials should be sent to the New York State Courts Access to Justice Program for review prior to distribution.

(d) *Website Materials*

The internet is a great way to advertise the program and provide relevant information regarding its services. Effective websites are well-designed and comprehensive. CourtHelp is the Court System's primary website for unrepresented litigants. However, if your court hosts its own website, there are several considerations to keep in mind. Effective local court websites are:

- linked to CourtHelp: website content should provide access to the court system content targeting unrepresented users;
- in plain English: website content must be organized in a straightforward manner and written in lay terms. They must be accessible to all levels of literacy, which means that they should be written in the language of lower-level literacy;
- multilingual: website content should include multiple language support;
- in compliance with national accessibility standards: website content must be usable, useful and accessible to a population with diverse needs;
- informative on a basic level: website content must include relevant contact information, including addresses and telephone numbers, directions to the court house and hours of operation;
- user and field tested: website content should be tested to ensure ease of use and accessibility;
- up-to-date and accurate: website content must be reviewed regularly to ensure accuracy; and

- designed in collaboration with other groups: website content should be developed in collaboration with the local Bar, Legal Aid Services Office and other providers of relevant legal information.

(e) *Limited Scope Retainer Agreement & Other Forms*

The Office of Access to Justice has created a limited scope retainer agreement that is to be executed between the volunteer lawyer and unrepresented litigant participating in the volunteer lawyer for the day program. The agreement form is attached in the appendix for your review. In the event it needs to be modified for a particular program, such modification should be done in collaboration with the Office of Access to Justice. Also attached in the appendix is a Notice of Limited Appearance Form, the Materials to Bring to Court Form, the Answer Sheet Form and the Intake Form. All of these forms are used in the Housing Court Volunteer Lawyer For The Day Program. Whether they are to be used as part of your program will depend on your program's scope and specific setup. The New York State Courts Access to Justice Program is available to assist in drafting all program forms.

Part IV. PREPARING THE PROGRAM FOR VOLUNTEERS

A. Set forth explicit expectations and task descriptions

As the program is limited to one day of services and to a certain portion of the unrepresented litigant's case, it is necessary to provide volunteers with a clear understanding of what their involvement entails. The program must set forth the purpose of the volunteer position, qualifications of the position and job responsibilities and activities. Be careful to draw clear boundaries around your program's scope of representation and to ensure that the scope of services are reasonable under the circumstances.

B. Application Process

A volunteer application should be developed to identify appropriate volunteers. The application should request the volunteer's name, address, contact information, professional license and state of licensing. It should also request the days and hours when the lawyer prefers to volunteer. The director and/or designated staff member should review the applications and confirm that the applicant is in good standing and licensed to practice law in the state. Prior to volunteering, the applicants must also apply for a secure pass, which involves a background check. When accepting applications, contact the New York State Courts Access to Justice Program for instruction on how to obtain secure passes.

C. Education And Training System(s) for Volunteers

Volunteers should receive an orientation introducing them to the program. The orientation should address the program's mission, operating rules, procedures and staff roles.

The orientation should include a training, which focuses on the area of law in which the volunteers will provide limited legal services. It should also include a review of the relevant court forms and program paperwork. In addition, the training should include an overview of the ethics of limited scope representation and a discussion of malpractice indemnification. The appendix attached includes the governing opinion of the Attorney General on the issue of indemnification. Volunteers should be given a manual that contains pertinent information and resources.

Materials in the manual should include:

- a clear explanation and analysis of governing ethical rules and their application in the context of limited scope representation;
- a comprehensive list of the legal services that the volunteers may and may not provide;
- relevant forms, including the retainer, limited appearance and intake forms; and
- resources to allow volunteers to make appropriate referrals to litigants for assistance beyond what the volunteer may provide.

The Court should offer C.L.E. credit for its training programs. If the local court is not an accredited C.L.E. provider, the New York State Courts Access to Justice Program can arrange for the issuance of C.L.E. credits as it is an accredited C.L.E. provider.

D. Record-Keeping

The program must have a record-keeping system for volunteers. This system should log volunteer information, including personal background, training, case assignments, performance evaluations and feedback. The record-keeping system should also keep track of all of the case files, including copies of the limited scope retainer agreement, limited notice of appearance, intake sheet, stipulations of settlement and other case history. Exit interview forms and case logs should also be maintained in an orderly and deliberate manner.

E. Time-Keeping

The New York State Courts Access to Justice Program is working with the Office of Court Administration to establish a Kronos time-keeping system for volunteers. The plan is for volunteers to have a Kronos log-in that is connected to their attorney secure pass. The volunteers would swipe their pass at the beginning and the end of their service. This process would make time-keeping easier and enable the court to produce reports more efficiently. As this system is currently not available, program staff will have to manually record volunteer hours/attendance.

F. Recruitment

In developing recruitment materials, consider the volunteer requirements and the motivation of potential volunteers. Persons may be motivated to volunteer in the program for various reasons, including professional development, networking, helping others, confidence

building, free C.L.E. and resume building. All of these motivations can be targeted in recruitment efforts. A recruitment video is available through the New York State Courts Access to Justice Program, a portion of which is available online.

To recruit volunteers, use posters, newsletters and press releases. Other efforts may include:

- distributing flyers and brochures to pro bono coordinators at law firms and to local bar associations, including the diversity and specialty bar associations;
- placing announcements in law journals;
- involving existing pro bono programs to aid in recruitment of volunteers;
- soliciting help from current volunteers, who can speak to their colleagues and friends about volunteering; and
- holding annual Pro Bono Expo.

G. Retention & Recognition Systems

Recognition is a key component to establishing a successful volunteer program. Praising individual volunteers, as well as the group, should be at the heart of any retention strategy. It is through recognition that the court can let volunteers know that their efforts are important. Expressing thanks for the donation of time and related tasks makes volunteers feel valued and appreciated. Recognition also builds a bond between the program and the volunteers, stimulating loyalty and repeat service.

There are many reasons why attorneys may choose to volunteer in the program, including helping people in need, making new contacts, boosting their resume, developing expertise and increasing their confidence. When creating a recognition system, the court should be conscious of the motivations behind the volunteer service. For example, someone who volunteers for the purpose of helping those in need may best be recognized with a letter of thanks describing specific situations where their volunteer service made a difference. Someone who volunteers to develop expertise and/or increase confidence may be rewarded with greater responsibility. For example, the attorney can be given more cases to handle on the volunteer day as opposed to the standard amount. The more seasoned attorney may also be welcomed to mentor other attorneys in the program, providing them in-court guidance.

The most popular type of recognition, which should be part of every recognition system, is a formal display of gratitude. This appreciation can take the form of a social event, press release or personal expression of gratitude from the program director or the New York State Courts Access to Justice Program. The Office has created pins and certificates of recognition, copies of which are in the Appendix of this manual. These awards are formally given out during national pro bono week.

In addition to awards, the program director should make letters of recommendation readily available to volunteers worthy of positive appraisal. To summarize, the list below provides ideas for volunteer recognition.

Ideas for Volunteer Recognition

- Plan an annual recognition event during national pro bono week where pins and certificates are awarded to volunteers;
- Send newsworthy events to the media;
- Ask elected officials for citations for outstanding service (i.e., Mayor or Council member);
- Offer to write recommendation letters;
- Plan an event around food where there are no awards given, but the group of volunteers as a whole is made to feel valued and appreciated;
- Create a volunteer newsletter with a recognition section or edition;
- Include volunteers in recruitment videos and other informational materials;
- Enlist accomplished volunteers to mentor other volunteers; and
- Send a birthday and/or holiday card.

Remember, recognition can be meaningful without being time consuming or expensive. Retention of volunteers is also enhanced by offering free C.L.E. courses apart from the training for the program. C.L.E. credits are expensive and many lawyers seek for ways to avoid the cost. The court can offer free courses advertised as for only V.L.F.D. program attorneys.

H. Evaluation Systems

The program should regularly evaluate volunteer performance to ascertain the degree to which the program is meeting its goals. Feedback can help the court determine whether the program should be modified, continued or expanded. Evaluations should also focus on determining whether the needs and expectations of the volunteers are being met. In addition, evaluations can be used for recognition purposes.

I. Program Evaluation

The court should perform periodic reviews of the program to determine its effectiveness. There are many sources of information in making this assessment, including staff, judges, volunteers and participating litigants. Effective surveys are:

- simple: surveys should be in plain English and include space for commentary. The survey can take the form of a questionnaire or checklist;
- organized: surveys should be divided into subjects that may include questions regarding supervision, training, the actual volunteer experience, the way the program is perceived, etc.; and
- anonymous: surveys should seek to elicit the most honest feedback. In this vein, surveys should offer the option of anonymity.

In addition to surveys, the court can evaluate the program through a review of case files and a comparison of the case files to the case files of similar cases where an unrepresented litigant does not have a lawyer for the day.

J. Data Collection and Record Keeping

The court must track the amount of cases the volunteer lawyer for the day assigns and the amount of unrepresented litigants served. This analysis is necessary to ensure that the program is appropriately staffed and meeting the needs of its target group.

Proper data collection includes:

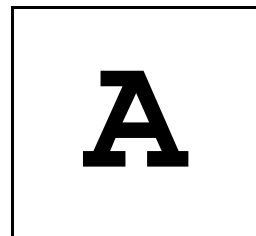
- information on volunteers: records should be maintained that include information on how many volunteers are awaiting training, have been trained and have volunteered;
- information on unrepresented litigants: records should be maintained of the litigants who received limited representation (i.e., was the litigant satisfied); and
- information on cases: records should include the results of the limited representation and related information.

K. Program Reports

It is best for the program director to issue quarterly reports on the program. At a minimum, the report should be issued annually.

PART IV. APPENDIX

- A. List of Resources and Contacts in the Office of Access to Justice
- B. Ethical Rules Governing Limited Scope Representation
- C. Public Officers Law, State Indemnification of Volunteers
- D. Limited Scope Retainer Agreement
- E. Limited Notice of Appearance Form
- F. Intake Sheet
- G. Answer Sheet Form
- H. Materials to Bring to Court Form
- I. What To Do After Court Form
- J. Copies of Awards: Volunteer Pin and Certificate of Recognition
- K. Pro Bono Agreement of New Representation Form
- L. Client Satisfaction Survey Form



Office of the New York State Courts Access to Justice Programs

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B

ABA MODEL RULES OF PROFESSIONAL CONDUCT

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

- (a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.
- (b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.
- (c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.
- (d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Rule 1.4. Communication

- (a) A lawyer shall:
 - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules,
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter;
 - (4) promptly comply with reasonable requests for information; and
 - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 1.14. Client with Diminished Capacity

- (a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.
- (b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.
- (c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

NEW YORK CODE OF PROFESSIONAL RESPONSIBILITY

Rule 6.5: Participation in limited pro bono legal service programs.

- (a) A lawyer who, under the auspices of a program sponsored by a court, government agency, bar association or not-for-profit legal services organization, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
 - (1) shall comply with Rules 1.7, 1.8 and 1.9, concerning restrictions on representations where there are or may be conflicts of interest as that term is defined in these Rules, only if the lawyer has actual knowledge at the time of commencement of representation that the representation of the client involves a conflict of interest; and
 - (2) shall comply with Rule 1.10 only if the lawyer has actual knowledge at the time of commencement of representation that another lawyer associated with the lawyer in a law firm is affected by Rules 1.7, 1.8 and 1.9.
- (b) Except as provided in paragraph (a)(2), Rule 1.7 and Rule 1.9 are inapplicable to a representation governed by this Rule.
- (c) Short-term limited legal services are services providing legal advice or representation free of charge as part of a program described in paragraph (a) with no expectation that the assistance will continue beyond what is necessary to complete an initial consultation, representation or court appearance.
- (d) The lawyer providing short-term limited legal services must secure the client's informed consent to the limited scope of the representation, and such representation shall be subject to the provisions of Rule 1.6.
- (e) This Rule shall not apply where the court before which the matter is pending determines that a conflict of interest exists or, if during the course of the representation, the lawyer providing the services becomes aware of the existence of a conflict of interest precluding continued representation.

Rule 1.7: Conflict of interest: current clients.

- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if a reasonable lawyer would conclude that either:
 - (1) the representation will involve the lawyer in representing differing interests; or
 - (2) there is a significant risk that the lawyer's professional judgment on behalf of a client will be adversely affected by the lawyer's own financial, business, property or other personal interests.

- (b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:
- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
 - (2) the representation is not prohibited by law;
 - (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
 - (4) each affected client gives informed consent, confirmed in writing.

Rule 1.8: Current clients: specific conflict of interest rules.

- (a) A lawyer shall not enter into a business transaction with a client if they have differing interests therein and if the client expects the lawyer to exercise professional judgment therein for the protection of the client, unless:
- (1) the transaction is fair and reasonable to the client and the terms of the transaction are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;
 - (2) the client is advised in writing of the desirability of seeking, and is given a reasonable opportunity to seek, the advice of independent legal counsel on the transaction; and
 - (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.
- (b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.
- (c) A lawyer shall not:
- (1) solicit any gift from a client, including a testamentary gift, for the benefit of the lawyer or a person related to the lawyer; or
 - (2) prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any gift, unless the lawyer or other recipient of the gift is related to the client and a reasonable lawyer would conclude that the transaction is fair and reasonable.

For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

- (d) Prior to conclusion of all aspects of the matter giving rise to the representation or proposed representation of the client or prospective client, a lawyer shall not negotiate or enter into any arrangement or understanding with:
 - (1) a client or a prospective client by which the lawyer acquires an interest in literary or media rights with respect to the subject matter of the representation or proposed representation; or
 - (2) any person by which the lawyer transfers or assigns any interest in literary or media rights with respect to the subject matter of the representation of a client or prospective client.
- (e) While representing a client in connection with contemplated or pending litigation, a lawyer shall not advance or guarantee financial assistance to the client, except that:
 - (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter;
 - (2) a lawyer representing an indigent or pro bono client may pay court costs and expenses of litigation on behalf of the client; and
 - (3) a lawyer, in an action in which an attorney's fee is payable in whole or in part as a percentage of the recovery in the action, may pay on the lawyer's own account court costs and expenses of litigation. In such case, the fee paid to the lawyer from the proceeds of the action may include an amount equal to such costs and expenses incurred.
- (f) A lawyer shall not accept compensation for representing a client, or anything of value related to the lawyer's representation of the client, from one other than the client unless:
 - (1) the client gives informed consent;
 - (2) there is no interference with the lawyer's independent professional judgment or with the client-lawyer relationship; and
 - (3) the client's confidential information is protected as required by Rule 1.6.
- (g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, absent court approval, unless each client gives informed consent in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims involved and of the participation of each person in the settlement.
- (h) A lawyer shall not:
 - (1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice; or

- (2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking, and is given a reasonable opportunity to seek, the advice of independent legal counsel in connection therewith.
- (i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:
- (1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and
 - (2) contract with a client for a reasonable contingent fee in a civil matter subject to Rule 1.5(d) or other law or court rule.
- (j) (1) A lawyer shall not
- (i) as a condition of entering into or continuing any professional representation by the lawyer or the lawyer's firm, require or demand sexual relations with any person;
 - (ii) employ coercion, intimidation or undue influence in entering into sexual relations incident to any professional representation by the lawyer or the lawyer's firm; or
 - (iii) in domestic relations matters, enter into sexual relations with a client during the course of the lawyer's representation of the client.
- (2) Rule 1.8(j)(1) shall not apply to sexual relations between lawyers and their spouses or to ongoing consensual sexual relationships that predate the initiation of the client-lawyer relationship.
- (k) Where a lawyer in a firm has sexual relations with a client but does not participate in the representation of that client, the lawyers in the firm shall not be subject to discipline under this Rule solely because of the occurrence of such sexual relations.

Rule 1.9: Duties to former clients.

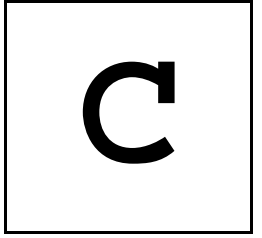
- (a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.
- (b) Unless the former client gives informed consent, confirmed in writing, a lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client:
- (1) whose interests are materially adverse to that person; and
 - (2) about whom the lawyer had acquired information protected by Rules 1.6 or paragraph (c) of this Rule that is material to the matter.

- (c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:
 - (1) use confidential information of the former client protected by Rule 1.6 to the disadvantage of the former client, except as these Rules would permit or require with respect to a current client or when the information has become generally known; or
 - (2) reveal confidential information of the former client protected by Rule 1.6 except as these Rules would permit or require with respect to a current client.

Rule 1.10: Imputation of conflicts of interest.

- (a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rule 1.7, 1.8 or 1.9, except as otherwise provided therein.
- (b) When a lawyer has terminated an association with a firm, the firm is prohibited from thereafter representing a person with interests that the firm knows or reasonably should know are materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm if the firm or any lawyer remaining in the firm has information protected by Rule 1.6 or Rule 1.9(c) that is material to the matter.
- (c) When a lawyer becomes associated with a firm, the firm may not knowingly represent a client in a matter that is the same as or substantially related to a matter in which the newly associated lawyer, or a firm with which that lawyer was associated, formerly represented a client whose interests are materially adverse to the prospective or current client unless the newly associated lawyer did not acquire any information protected by Rule 1.6 or Rule 1.9(c) that is material to the current matter.
- (d) A disqualification prescribed by this Rule may be waived by the affected client or former client under the conditions stated in Rule 1.7.
- (e) A law firm shall make a written record of its engagements, at or near the time of each new engagement, and shall implement and maintain a system by which proposed engagements are checked against current and previous engagements when:
 - (1) the firm agrees to represent a new client;
 - (2) the firm agrees to represent an existing client in a new matter;
 - (3) the firm hires or associates with another lawyer; or
 - (4) an additional party is named or appears in a pending matter.

- (f) Substantial failure to keep records or to implement or maintain a conflict-checking system that complies with paragraph (e) shall be a violation thereof regardless of whether there is another violation of these Rules.
- (g) Where a violation of paragraph (e) by a law firm is a substantial factor in causing a violation of paragraph (a) by a lawyer, the law firm, as well as the individual lawyer, shall be responsible for the violation of paragraph (a).
- (h) A lawyer related to another lawyer as parent, child, sibling or spouse shall not represent in any matter a client whose interests differ from those of another party to the matter who the lawyer knows is represented by the other lawyer unless the client consents to the representation after full disclosure and the lawyer concludes that the lawyer can adequately represent the interests of the client.



Public Officers Law § 17. Defense and indemnification of state officers and employees

1. (a) As used in this section, unless the context otherwise requires the term “employee” shall mean any person holding a position by election, appointment or employment in the service of the state, including clinical practice pursuant to subdivision fourteen of section two hundred six of the public health law, whether or not compensated, or a volunteer expressly authorized to participate in a state-sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative and persons who assist the education department or the department of health as consultants or expert witnesses in the investigation or prosecution of alleged professional misconduct, licensure matters, restoration proceedings, or criminal prosecutions for unauthorized practice pursuant to title eight of the education law or title II-A of the public health law.
- (b) For the purposes of this section, the term “employee” shall include members, officers and other persons in the employment of the New York state energy research and development authority, members of the board of directors, officers and other persons in the employment of the New York state science and technology foundation, and members of the board of directors, officers and other persons in the employment of the New York state olympic accommodations control corporation or serving on its board of directors on or before June thirtieth, nineteen hundred eighty.
- (c) For the purposes of this section, the term “employee” shall include members of the state patient qualification review board appointed by the commissioner of health pursuant to article thirty-three-A of the public health law.
- (d) For the purposes of this section, the term “employee” shall include directors, officers and employees of the facilities development corporation.
- (e) For the purposes of this section, the term “employee” shall include directors, officers and employees of the environmental facilities corporation.
- (f) For the purposes of this section, the term “employee” shall include ombudsmen designated under section five hundred forty-four and section five hundred forty-five of the executive law, and shall include such ombudsmen without regard to whether they are volunteers or paid staff of the office for the aging or of designated substate ombudsman programs under the direction of the office.
- (g) For the purposes of this section, the term “employee” shall include the members of the board, officers and employees of the greenway heritage conservancy for the Hudson river valley or the greenway council.
- (h) For the purposes of this section, the term “employee” shall include members of the board, officers and employees of the New York local government assistance corporation.

- (i) For purposes of this section, the term “employee” shall include the officers and employees of the Central Pine Barrens joint planning and policy commission.
- (j) For purposes of this section, the term “employee” shall include directors, officers and employees of the dormitory authority.
- (k) For the purposes of this section only, the term “employee” shall include any member, director, officer or employee of a soil and water conservation district created pursuant to section five of the soil and water conservation districts law who is working on a project which receives funding from the state and has received approval by the state soil and water conservation committee or who is carrying out the powers and duties pursuant to article two of the soil and water conservation districts law by working with any agency of the state as defined by subdivision five of section three of the soil and water conservation districts law.
- (l) For the purposes of this section and consistent with the provisions of section 13 of a chapter of the laws of 1997, amending the public authorities law, the public health law, the public officers law, chapter 41 of the laws of 1997 relating to providing a retirement incentive for certain public employees, and the civil service law, relating to the creation of the Roswell Park Cancer Institute corporation and providing for the rights, powers, duties and jurisdiction of such corporation, the term “employee” shall include directors, officers and employees of the Roswell Park Cancer Institute corporation.
- (m) For the purposes of this section, the term “employee” shall include the members of the spinal cord injury research board within the department of health.
- (n) For the purposes of this section, the term “employee” shall include directors, officers, and employees of the Governor Nelson A. Rockefeller empire state plaza performing arts center corporation.
- (o) For the purposes of this section, the term “employee” shall include the directors, officers and employees of the state of New York mortgage agency.
- (p) For the purposes of this section, the term “employee” shall include the members, officers and employees of the upstate New York tourism council and members of the downstate New York tourism council.
- (q) For the purposes of this section, the term “employee” shall include the members, officers and employees of the tobacco settlement financing corporation.
- (r) For the purposes of this section, the term “employee” shall include the directors, officers, and employees of the state of New York municipal bond bank agency and the directors, officers, employees, trustees and other managers (however denominated), of any tax lien entity (as defined in subdivision sixteen of section

twenty-four hundred thirty-two of the public authorities law) of the state of New York municipal bond bank agency.

- (s) For the purposes of this section, the term “employee” shall include the members of the board, officers and employees of the Niagara river greenway commission.
 - (t) For the purposes of this section, the term “employee” shall include the members of the board, officers and employees of the dormitory authority for purposes of section sixteen hundred eighty-1 of the public authorities law.
 - (u) For the purposes of this section, the term “employee” shall include the members of the empire state stem cell board within the department of health.
 - (v) For the purposes of this section, the term “employee” shall include the members of the board, and officers and employees of the New York city off-track betting corporation.
- 2.
- (a) Upon compliance by the employee with the provisions of subdivision four of this section, the state shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties; or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code and the act or omission underlying the action occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the state.
 - (b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by the attorney general, provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the attorney general determines based upon his investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The attorney general shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to

representation under the terms and conditions of this section by the head of the department, commission, division, office or agency in which such employee is employed and upon the audit and warrant of the comptroller. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

- (c) Where the employee delivers process and a request for a defense to the attorney general as required by subdivision four of this section, the attorney general shall take the necessary steps including the retention of private counsel under the terms and conditions provided in paragraph (b) of subdivision two of this section on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.
- 3.
- (a) The state shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, or shall pay such judgment or settlement; provided, that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless or pay prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing on the part of the employee.
 - (b) An employee represented by the attorney general or by private counsel pursuant to this section shall cause to be submitted to the head of the department, commission, division, office or agency in which he is employed any proposed settlement which may be subject to indemnification or payment by the state and if not inconsistent with the provisions of this section such head of the department, commission, division, office or agency in which he is employed shall certify such settlement, and submit such settlement and certification to the attorney general. The attorney general shall review such proposed settlement as to form and amount, and shall give his approval if in his judgment the settlement is in the best interest of the state. Nothing in this subdivision shall be construed to authorize the state to indemnify and save harmless or pay an employee with respect to a settlement not so reviewed and approved by the attorney general.
 - (c) Nothing in this subdivision shall authorize the state to indemnify or save harmless an employee with respect to fines or penalties, or money recovered from an employee pursuant to article seven-a of the state finance law; provided, however, that the state shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States. The attorney general shall promulgate such rules and regulations as are necessary to effectuate the purposes of this subdivision.

- (d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the head of the department, commission, division, office or agency in which he is employed; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such head of the department, commission, division, office or agency. If the attorney general concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the comptroller. On or before January fifteenth the comptroller, in consultation with the department of law and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of judgments, settlements, fees, and litigation expenses paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year.
4. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon (i) delivery to the attorney general or an assistant attorney general at an office of the department of law in the state by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the state based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the state provide for his defense pursuant to this section.
 5. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.
 6. This section shall not in any way affect the obligation of any claimant to give notice to the state under section ten of the court of claims act or any other provision of law.
 7. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.
 8. The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.
 9. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the state or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

10. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.
11. The provisions of this section shall not apply to physicians who are subject to the provisions of the plan for the management of clinical practice income as set forth in the policies of the board of trustees, title 8, New York codes rules and regulations, regarding any civil action or proceeding alleging some professional malpractice in any state or federal court arising out of the physician's involvement in clinical practice as defined in that plan.



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
THE CAPITOL
ALBANY, NY 12224

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ADMINISTRATIVE JUDGE
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ELIOT SPITZER
Attorney General

(518) 474-7330

February 3, 2000

Hon. Jonathan Lippman
Chief Administrative Judge
Office of Court Administration
111 Centre Street, Rm. 1240
New York, NY 10013

Formal Opinion
No. 2000-F1

Dear Chief Administrative Judge Lippman:

Your Special Assistant has asked whether participants in the Volunteer Lawyers Project established by the Office of Court Administration ("OCA") to assist litigants in Housing Court are eligible for defense and indemnification by the State pursuant to Public Officers Law § 17. We conclude that the volunteers are eligible to receive defense and indemnification by the State under section 17.

Your assistant has explained that most litigants in Housing Court are not represented by lawyers and many need extensive advice about court procedures. In 1997, the Chief Judge announced a Housing Court Initiative intended to address that need and to make the Housing Court more accessible to the public.

To implement the Housing Court Initiative, OCA established a Resource Center staffed by two attorneys who are employees of OCA and advise pro se litigants at all stages of Housing Court proceedings. Within the Resource Center, OCA also established the Volunteer Lawyers Project. Under the supervision of the two staff attorneys, volunteer attorneys provide legal advice to pro se litigants. Attorneys selected as volunteers must attend a 12-hour training session sponsored by OCA before they can participate in the Volunteer Lawyers Project.

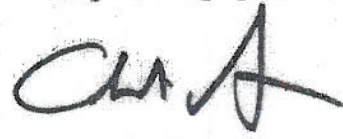
Public Officers Law § 17 provides for defense and indemnification by the State of an employee, which the statute defines to include

any person holding a position . . . in the service of the state, whether or not compensated, or a volunteer expressly authorized to participate in a state-sponsored volunteer program

In our view, the Volunteer Lawyers Project is a "state-sponsored volunteer program" within the meaning of section 17. The characteristics of the Project clearly establish State sponsorship. The Housing Court Initiative, which includes the Volunteer Lawyers Project, was formally established by the Chief Judge; attorneys must attend a training program sponsored by OCA to qualify as volunteers; and the volunteering attorneys are supervised by two OCA staff attorneys. Thus, the volunteer project has been formally established by the State and operates within a regulated State program. The Volunteer Lawyers Project is a "state-sponsored volunteer program." See Op Atty Gen No. 97-F3.

For these reasons, we conclude that participants in the Volunteer Lawyers Project are employees within the meaning of Public Officers Law § 17 and therefore are eligible to receive defense and indemnification by the State, subject to the procedural terms and conditions of the statute.

Very truly yours,



ELIOT SPITZER
Attorney General

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**VOLUNTEER LAWYER FOR THE DAY
LIMITED SCOPE RETAINER AGREEMENT**

This is a Limited Scope Retainer Agreement between _____ and _____
(Name of Lawyer) (Name of Client)

Case Name: _____ Index No.: _____

1. Obligations of Lawyer:

(A) Lawyer agrees to represent Client in the **Resolution Part** ONLY for today, _____. Lawyer’s services may include an assessment of the strengths and weaknesses of the case, legal advice and negotiation of a settlement. Lawyer’s representation of Client ends after Lawyer’s appearance in the **Resolution Part** on this day. Lawyer will not represent or assist Client in the future, even if the case is adjourned or settlement efforts continue past today.

(B) Lawyer does not agree to represent Client beyond this date. If the case is adjourned for another court appearance in the **Resolution Part**, Client may still participate in the **Volunteer Lawyer For The Day (VLFD)** Project. To obtain the representation of a VLFD- Lawyer for a future appearance in the **Resolution Part**, Client will have to enter a new retainer agreement.

2. Effective Date of Agreement: _____

3. Automatic Termination of Agreement: Lawyer’s representation of Client ends automatically after today’s appearance in the **Resolution Part** without any further act or communication by Lawyer or Client.

4. Lawyer’s Fee: Lawyer’s services under this agreement are free.

5. Obligations of Client:

- (A) Client agrees to read the Client Intake Sheet and to make sure it is correct.
- (B) Client agrees to cooperate with Lawyer in this case.
- (C) Client agrees to permit Lawyer to discuss this case with the VLFD Project Coordinator.
- (D) Client is responsible for handling this case after today by himself or herself.

6. Client’s Informed Consent:

Client has carefully read the **Client Intake Sheet** and **this Agreement**. Client has discussed both with Lawyer. Client understands that this is an Agreement for limited-service representation that automatically stops at the end of Lawyer’s appearance in the Resolution Part on today’s date. Client further understands the possible risks and benefits of limited-service representation described in this agreement. Client understands those possible risks and benefits, and still wants to make this agreement with Lawyer.

Dated: _____

(Name of Client)

(Name of Lawyer)

(Signature of Client)

(Signature of Lawyer)

**ABOGADO VOLUNTARIO DEL DIA
ACUERDO DE CONTRATO LIMITADO**

El siguiente es un acuerdo de contrato limitado entre _____ y _____ y
_____. (Nombre del cliente)
(Nombre del abogado)

Nombre del caso: _____ Expediente No.: _____

1. Obligaciones del abogado:

(A) El abogado acuerda representar al cliente en la sala de resoluciones EXCLUSIVAMENTE por el día de hoy, _____. Los servicios del abogado pueden incluir una evaluación de los pro y de los contra del caso, así como asistencia legal y la negociación de un acuerdo. La representación del cliente por parte del abogado termina luego de la comparecencia del abogado, este día, en la **sala de resoluciones**. El abogado no ha de representar ni ha de asistir al cliente en el futuro, aunque el caso sea pospuesto, o si los esfuerzos por llegar a un acuerdo continúan después del día de hoy.

(B) El abogado acuerda no representar al cliente después de la fecha de hoy. Si el caso es pospuesto para una comparecencia adicional en la **sala de resoluciones**, el cliente puede participar en el **Proyecto de Abogados Voluntarios por Un Día** (VLFD, por sus siglas en inglés) Para obtener representación de uno de los abogados del proyecto, para que dicho abogado comparezca en la **sala de resoluciones**, el cliente tendrá que firmar un nuevo contrato.

2. Fecha efectiva del acuerdo: _____

3. Finalización automática del acuerdo: Los servicios del abogado terminan automáticamente hoy, luego de la comparecencia del abogado ante la **sala de resoluciones**, sin ningún tipo de actuación ni de comunicación adicionales por parte del abogado ni del cliente.

4. Honorarios legales: Los servicios del abogado, bajo este acuerdo, son gratuitos.

5. Obligaciones del cliente:

(A) El cliente acuerda leer el **Formulario de Aceptación del Cliente**, para asegurarse que el mismo está correcto

(B) El cliente acuerda cooperar con el abogado en este caso.

(C) El cliente acuerda permitirle al abogado hablar de su caso con el coordinador del proyecto VLFD.

(D) El cliente es responsable del manejo de su caso a partir de hoy.

6. Consentimiento del cliente:

El Cliente ha leído cuidadosamente el **Formulario de Aceptación del Cliente**, conjuntamente con este **Acuerdo**. El cliente ha analizado ambos con el abogado. El cliente entiende que este es un acuerdo de servicios de representación limitada y que finaliza automáticamente al final de la comparecencia, por parte del abogado, ante la sala de resoluciones, en el día de hoy. El cliente entiende, además, los posibles riesgos y beneficios de la representación de servicios limitados descrita en este acuerdo. El cliente entiende dichos posibles riesgos y beneficios y, aún así, desea firmar este acuerdo con el abogado.

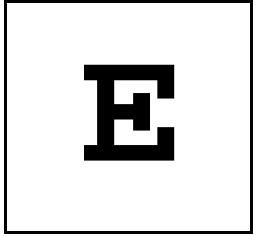
Fecha de hoy: _____

(Nombre del cliente)

(Nombre del abogado)

(Firma del cliente)

(Firma del abogado)



Civil Court of the City of New York

County of _____ Part _____

Index Number _____

_____ Petitioner(s)
against

**LAWYER FOR THE DAY
LIMITED NOTICE
OF APPEARANCE**

_____ Respondent(s)

I am an attorney admitted to practice in the State of New York. You are hereby notified that in the above-entitled action I represent:

Petitioner _____ Respondent _____

On this _____ day of _____ in the Resolution Part.

My representation automatically terminates after today’s appearance in the Resolution Part without any further act or communication by any party. My client has specifically agreed to this limited-service representation, and understands that my representation begins and ends today with my appearance in the Resolution Part and that s/he is participating in a special project.

BY: _____

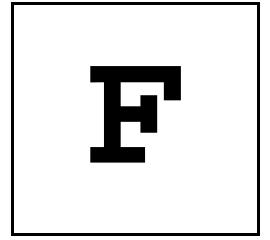
(Print Name)

ADDRESS:

TELEPHONE # : _____

(Date)

(Signature)



LITIGANT IN-TAKE SHEET

TENANT

Litigant's Name: _____

Date: _____

Index No.: _____

Household Composition

Address: _____

How many rooms are in the apartment? _____ How many apartments are in the building? _____

Length of time that litigant has lived at address: _____ Days _____ Months _____ Years

Does litigant have a lease? ___ Yes ___ No Does litigant have a renewal lease? ___ Yes ___ No

Is anyone else named in the lease? ___ Yes ___ No (If yes, please state name(s): _____)

Is the litigant the primary tenant? ___ Yes ___ No (If no, name the primary tenant: _____)

Does the primary tenant live in the apartment? ___ Yes ___ No

How many people live in the apartment, including litigant? _____

Are any household members under 18-years-old? ___ Yes ___ No (If yes, how many? _____)

Is any household member, including litigant, in the military? ___ Yes ___ No (If yes, how many? _____)

Is any household member, including litigant, disabled? ___ Yes ___ No (If yes, how many? _____)

Is any household member, including litigant, over 62-years-old? ___ Yes ___ No (If yes, how many? _____)

Monthly rent amount: _____ Amount of rental arrears, if any: _____

If rent is in arrears, state reason: ___ Excess Rent ___ Loss of Income ___ Family Death ___ Illness

___ Public Assistance Sanction ___ Loss of Contributor ___ Other, please specify: _____

Income Information

Litigant

___ Employed If employed, what is litigant's income? _____

___ Supplemental Security Income (SSI/SSD) If receiving SSI/SSD, what is the amount? _____

___ Social Security Benefits If receiving SS, what is the amount? _____

___ Veteran Income If receiving VI, what is the amount? _____

Public Assistance Status: (If litigant is not on Public Assistance, skip this section.)

___ Active ___ Closed ___ Sanctioned ___ Applicant ___ "One-shot deal" ___ Charities Funds

If active, state monthly public assistance amount: _____

If sanctioned, by how much was your public assistance reduced? _____

Sanction date(s): _____ Reason(s): _____

Other Household Members (If no one else resides in the apartment, skip this section)

Is any household member, other than litigant, employed? ___ Yes ___ No

Does any household member, other than litigant, contribute to the rent? ___ Yes ___ No

Does any household member, other than litigant, receive SSI/SSD, SS Benefits or Veterans Income? ___ Yes ___ No

Does any household member, other than litigant, receive public assistance? ___ Yes ___ No

If the answer is yes to any of the questions above, please provide details: _____

Housing Court History

Has litigant ever been a party to other nonpayment proceedings involving the subject apartment? ___ Yes ___ No

If yes, list each time and state outcome of each proceeding?

<i>Date</i>	<i>Outcome</i>
_____	_____
_____	_____
_____	_____

Notes

Litigant Affirmation

I have read and agree with the contents of this in-take sheet. I understand that I have to return to court on _____ at 9:00 a.m. to meet with the Volunteer Lawyer For The Day assigned to my case.

Litigant's Name & Signature

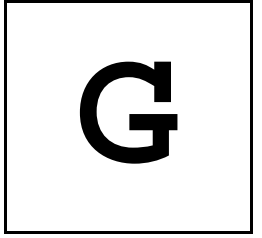
Date

Interviewer for the Volunteer Lawyer For The Day (VLFD) Project

I, _____, have conducted this interview as part of the VLFD in-take procedure.

Name & Signature

Date



Case Name: _____

Index No. _____

Answer Worksheet

SERVICE

Did litigant receive the Petition and Notice of Petition?

yes no
 don't know

How? ___ Personal (in-hand) Service ___ Substitute Service ___ Nail & Mail

** Go to the corresponding section below.*

Personal In-hand service

Was the petition and notice of petition delivered in person to litigant?

yes no
 don't know

If yes, did someone other than the landlord **and** over 18-years-old give litigant the papers?

yes no
 don't know

If yes, this defense is not available.

If no, this defense may be used.

Substituted Service

If papers were given to someone other than petitioner, (a) were the papers given to someone, who (1) lives **or** works in litigant's home **and** (2) is not a small child?

yes no
 don't know

If yes, were two other copies of the petition and notice of petition mailed to litigant through both certified mail and regular mail?

yes no
 don't know

** If the answer to all of the questions above is yes, this defense is not available.*

** If the answer is no to any question above, this defense may be used.*

Nail & Mail

Did a person come to litigant's apartment **two** times at **different** times of the day to deliver the papers?

yes no
 don't know

If yes, after twice coming to the apartment, did the person tape the papers to the door or put the papers under the apartment door?

yes no
 don't know

If yes, were two other copies of the papers mailed to litigant through regular **and** registered or certified mail?

yes no
 don't know

** If the answer was yes to all of the above questions, this defense was not available.*

** If the answer was no to any question above, litigant may assert this defense.*

PARTIES

Improper Respondent

Does litigant's name appear correctly on the Petition and Notice of Petition?

yes no
 don't know

If yes, defense for being indicated improperly is not available.
If no, defense for being indicated improperly exists.

Improper Petitioner

Is the Petitioner the owner or landlord of the apartment?

yes no
 don't know

If yes, this defense is not available.
If no, defense exists as petitioner is not a proper party.

RENT

A) Improper Rent Demand (Check: 1. Form, 2. Signature, and 3. Service)

Does litigant's lease say anything about how the owner must demand payment of rent?

yes no
 don't know

- * If no, owner/landlord may make a rent demand orally or in writing.
- * If yes, make sure that demand complies with specifics in the lease.
Lease may not waive litigant's right to a rent demand.

Proceed to one of the sections below, depending on whether the demand was made orally or in writing.

Questions as to Form

ORAL DEMAND

Prior to bringing this action, did owner/landlord/agent demand rent due and warn litigant in person that he/she can be taken to court if he/she does not pay?

yes no
 don't know

If yes, demand was appropriate.
If no, demand was inappropriate.

WRITTEN DEMAND

Did the owner/landlord or someone working with the owner/landlord, tell litigant in writing:

yes no
 don't know

- (1) that litigant must pay the rent due,
- (2) that litigant can be taken to court for failure to pay,
- (3) what months rent was not paid and how much rent is due,
- (4) that litigant must pay the rent owed within 3 days or leave the apartment?

If yes, the demand appears proper as to form. However, more questions need to be asked relating to the signature on the demand and service of the demand.

Question As To Signature

Who signed the demand? __Landlord __Owner __Owner/Landlord's lawyer

* Check lease to see who is permitted to sign notice. If someone other than the person listed on the lease signs the notice, the demand should be challenged.

If the name of the landlord/owner typed, but not signed?

yes no
 don't know

If yes, the demand may be incorrect. It requires a signature.

* After checking that the form of the written demand is appropriate, check if service was proper.

Questions As To Service of Demand

Ask what type of service landlord/owner used and go to appropriate section.

Personal Service

Did someone (1) who is 18-years-old or older **and** (2) not the landlord/owner give a copy of the written rent demand to the litigant in person?

yes no
 don't know

If yes, service was proper.

If no, personal service was improper.

Substitute Service

If no, did someone (1) who is 18-years-old or older **and** (2) not the landlord/owner give a copy of the written rent demand to someone who (1) is not a child **and** (2) lives or works in the litigant's apartment?

yes no
 don't know

By the next weekday, were two other copies of the written demand mailed to the litigant, one by certified mail or registered mail and the other through regular mail?

yes no
 don't know

If litigant answered yes to all of the above, service was appropriate.

If litigant answered no to any question above, substitute service was not properly executed.

Nail & Mail

Did the person serving the written demand, come to litigants apartment at least two times to try and give the papers to litigant or someone who lives or works in litigant's apartment? yes no don't know

Where those two attempts made at different times of the day? yes no don't know

After those two attempts, did the person serving the demand tape one copy to the litigant's door or put one under the door? yes no don't know

Where two other copies of the demand mailed to litigant, one through regular mail and one through registered or certified mail? yes no don't know

If litigant answered no to any of the questions above, litigant did not receive proper nail & mail service. If litigant answered yes to all of the questions above, litigant received proper nail & mail service.

B) Tender & Refusal

Did litigant try to pay all of the rent, but petitioner refused to accept it? yes no don't know

If yes, this defense is available.
If no, skip this defense.

C) Improper Rent Amount

Is litigant being charged more than the legal rent? yes no don't know
* If litigant is unsure, have him/her call 212-961-8930 for a rent history.

If yes, this defense exists.
If no, defense not available.

Is litigant being charged the amount of rent on the lease? yes no don't know

If yes, defense is not available.
If no, this defense exists.

PAYMENT

Has litigant paid the rent due? yes no don't know

If yes, assert this defense.
If no, this defense does not apply.

WARRANTY OF HABITABILITY

Please Use Separate Sheet For Warranty of Habitability

SPIEGEL LAW

Is litigant on public assistance?

yes no
 don't know

If yes, go to next question.

If no, skip to next section.

Do Housing Code violations exist in the apartment?

yes no
 don't know

If yes, this defense may be raised.

If not, this defense does not apply.

Has the Department of Housing Preservation & Development notified the Department of Social Services about the hazardous conditions in the apartment?

yes no
 don't know

Has the Department of Social Services stopped rent payments to landlord/owner because of the violations?

yes no
 don't know

If litigant answered yes to all of these questions, the defense may be asserted.

If litigant answered no to any of the questions, the defense may not be asserted.

ILLEGAL APARTMENT

Is litigant's apartment legal?

yes no
 don't know

If yes, this defense does not apply.

If no, this defense is applicable.

LACHES

How long did owner/landlord wait to bring litigant to court? _____

If more than three months, raise this defense.

WARRANTY OF HABITABILITY WORKSHEET

(Check all that apply to the apartment now and during the time that the litigant did not pay rent)

(Check all that apply to the apartment now and during the time that litigant did not pay rent)

- | | |
|---|--|
| <input type="checkbox"/> You can't live in all or part of it | <input type="checkbox"/> Carbon monoxide detector broken/no good |
| <input type="checkbox"/> No water or hot water | <input type="checkbox"/> Garbage not collected |
| <input type="checkbox"/> Water leaks/Floods | <input type="checkbox"/> Smells/Fumes |
| <input type="checkbox"/> No heat | <input type="checkbox"/> Landlord/Other tenants harass you |
| <input type="checkbox"/> Pipe problems | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Radiator problems
(broken/too hot/noisy) | <input type="checkbox"/> Door locks broken |
| <input type="checkbox"/> Electric problems
(broken outlets/fixtures/exposed wires) | <input type="checkbox"/> Broken Intercom/doorbell |
| <input type="checkbox"/> No electricity/extension cords only | <input type="checkbox"/> Fire/smoke damage |
| <input type="checkbox"/> Mice/Rats/Vermon | <input type="checkbox"/> Asbestos |
| <input type="checkbox"/> Roaches/Insects/Bugs | <input type="checkbox"/> Crime or illegal activity |
| <input type="checkbox"/> Mold | <input type="checkbox"/> Dirty Hallways |
| <input type="checkbox"/> Kitchen Problems | <input type="checkbox"/> Bad lights |
| <input type="checkbox"/> Gas (none/leaks) | <input type="checkbox"/> Dangerous stairs or railing |
| <input type="checkbox"/> Damaged Floor | <input type="checkbox"/> Broken elevator |
| <input type="checkbox"/> Walls/ceiling cracks/peeling paint | <input type="checkbox"/> Mailbox problems |
| <input type="checkbox"/> Lead paint (child under 7 assumption) | <input type="checkbox"/> Broken Fire Escape |
| <input type="checkbox"/> Window problems | <input type="checkbox"/> Boiler is no good |
| <input type="checkbox"/> No window guards | <input type="checkbox"/> Roof is no good |
| <input type="checkbox"/> No smoke detector/broken one | <input type="checkbox"/> Any other dangerous condition: _____ |
-

If any of these apply, a defense for warranty of habitability may be asserted.
To be sure, check notice.

Notice

Did litigant call or write landlord/owner or an employee of the landlord to tell him/her that the condition(s) existed in the apartment? yes no
 don't know

Did the Department of Housing Preservation and Development list the building as having violations? yes no
 don't know

Should or could have landlord known about the conditions?
(i.e., could the conditions be discovered through routine maintenance?) yes no
 don't know

If litigant answered yes to any of these questions, this defense applies.
If litigant answered no to all of these questions, this defense does not apply.

REPAIRS LIST

Number of rooms in apartment? _____

List the repairs needed in litigants apartment room by room.

Kitchen _____

Bathroom _____

Living Room _____

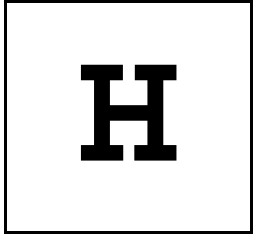
Dining Room _____

Bedroom 1 _____

Bedroom 2 _____

Bedroom 3 _____

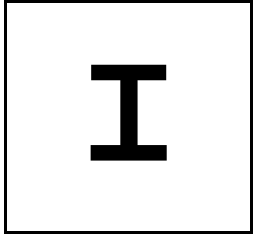
Other _____



MATERIALS TO BRING TO COURT

Return to Court at 9:00 a.m. on _____ to meet with your Volunteer Lawyer For The Day. **Go to Room _____.**

- All papers that you received from your landlord, the court and elsewhere relating to your case.
- Your lease and renewal lease.
- Bring proof of your rent payments (rent receipts, canceled checks, copies of money orders, etc.).
- **Records** of all of the **problems** in your apartment and building with dates.
- **Pictures** of all of **problems** in your apartment or building. Write an explanation and the date the picture was taken on the back of the picture.
- Copies of **letters** or other documents sent to the landlord, superintendent or government agencies regarding problems with your apartment or building (and, proof, if any, that the letters were mailed and received, like a return receipt).
- **Lists** of the dates on which you talked with the landlord, superintendent or other building staff about problems in your apartment or building and what you said.
- **Receipts** for labor and materials for any repairs that you made.



Index No.: _____

Date: _____

Volunteer Lawyer: _____

WHAT TO DO NEXT CHECKLIST

WHAT YOU MUST DO NEXT:

- PAY** \$_____ **BY** _____
- PROVIDE ACCESS FOR REPAIRS ON**_____
- If you cannot pay the rent owed on time or the repairs to your apartment are not started/finished or you receive a Marshall’s eviction notice or** _____, **go to the Housing Court Clerk’s Office in Room 225 and file an Order to Show Cause.** Bring supporting papers with you (e.g., documents from DSS, proof of payment, HPD report)
- COME BACK TO COURT ON** _____ **AT** _____
- BRING TO COURT:**
 - ✓ All of the papers that you received from your landlord.
 - ✓ Lease and/or renewal lease.
 - ✓ Proof of rental payments (receipts, canceled checks or copies of money orders).
 - ✓ Repairs List and pictures of all the problems in apartment and/or building with dates.
 - ✓ Printout from DHCR.
 - ✓ DSS approval letter, if any.
 - ✓ OTHER _____

WHERE TO GO FOR HELP OR INFORMATION

Rent Help	Legal Help
NYS Div. of Housing and Community Renewal (DHCR): (866) ASK-DHCR	HELP CENTER:
Citywide Task Force Housing Court, Inc.: (212) 962-4795	Legal Services of New York: Upper Manhattan: (212) 348-7449 Lower Manhattan: (212) 442-3100 _____:
Depart. of Social Services (DSS)/ Human Resources Administration (HRA): 111 Centre St., Room 521	Legal Aid Society:
Senior Rent Increase Exemption (SCRIE): 311 Disability Rent Increase Exemption (DRIE): (212) 788-2830 or 311	NYC Bar Association Legal Referral Service: (212) 626-7373 or (212) 626-7374 (Spanish)

J



The New York State Courts
Access to Justice Program thanks

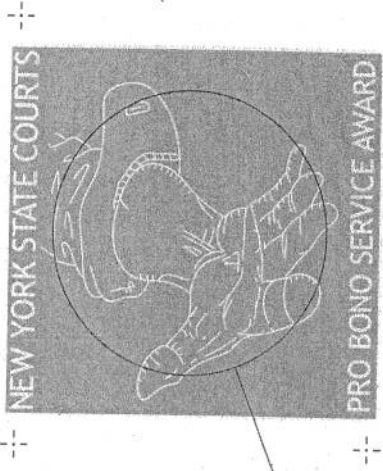
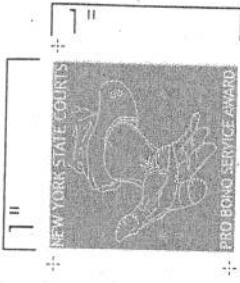
for providing pro bono legal services to unrepresented
New Yorkers through the Family Court Program.



Rosina Taffuri, Esq.
Deputy Chief Court Counsel
New York County Family Court

Hon. Fern A. Fisher
Deputy Chief Administrative Judge
for New York City Courts, and
Director, Access to Justice Program

RAISED METAL
RECESSED METAL
+ Sandblasting



K

PRO BONO AGREEMENT OF NEW REPRESENTATION

This is an Agreement between _____ (Name of Client), _____
(Name of Lawyer), and _____ (Name of Supervising Attorney).

Case Name: _____ Index No.: _____

Client and Lawyer understand that the Volunteer Lawyer for the Day (VLFD) Project representation has stopped, and that Lawyer is no longer representing or assisting Client under the VLFD Project.

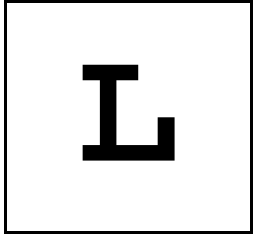
Before accepting a case, Lawyer must first check for conflicts with firm clients. Acceptance of this matter by Lawyer on a pro bono basis establishes an attorney-client relationship between Lawyer and Client. The scope of services which Lawyer agrees to provide to Client will be described in a new retainer agreement. Client further understands and consents that future representation and communications will be with Lawyer who is taking on sole responsibility for this case.

Client and Lawyer understand that the VLFD Project is no longer responsible for handling this case, including with regards to professional liability insurance. Lawyer further represents that s/he, or the law firm s/he is associated with, has professional liability insurance coverage.

Dated: _____

(Name of Client) (Name of Lawyer) (Name of Supervising Attorney)

(Signature of Client) (Signature of Lawyer) (Signature of Supervising Attorney)



**VOLUNTEER LAWYER FOR THE DAY
CLIENT SATISFACTION SURVEY**

The Civil Court System wants to provide equal access to justice for all court users. To help us improve services we provide to litigants, we have prepared this short survey. It will only take a few minutes to complete. This survey is completely anonymous.

Date: __/__/__

Please circle the number/answer that best describes your rating of each question.

County where your case was heard	New York (Manhattan), Kings (Brooklyn) Queens, Bronx, or Richmond (Staten Island)		
Intake	Excellent	Satisfactory	Unsatisfactory
What is your level of satisfaction with the explanation provided during intake about what to do before appearing in court?	1	2	3
Representation	Excellent	Satisfactory	Unsatisfactory
Are you satisfied with how the Volunteer Lawyer or Law Graduate listened to your question or problem?	1	2	3
Are you satisfied with how the Volunteer Lawyer or Law Graduate understood your question or problem?	1	2	3
Are you satisfied with how the Volunteer Lawyer or Law Graduate explained the progress of your case and kept you informed?	1	2	3
What is your level of satisfaction with the Volunteer Lawyer's or Law Graduate's courtesy and professionalism?	1	2	3
What is your level of satisfaction with the overall quality of services provided by the Volunteer Lawyer or Law Graduate?	1	2	3
What is your level of satisfaction with the way your case turned out?	1	2	3
General Questions			
Do you believe you are better off than you were with the help you were provided by the Volunteer Lawyer for the Day Project?	Yes	No	
What could the Volunteer Lawyer for the Day Project could have done to be more helpful?			