

Limited Scope Representation

The South Carolina Rules of Professional Conduct Rule 1.2(c) allows lawyers and clients to agree to limit the scope of representation.

Background

An attorney's ability to offer limited scope representation in South Carolina is a long-standing controversy and debate. Many lawyers are hesitant to engage in limited scope representation because they are unsure of their ethical obligations when limiting the scope of representation, and some judges will not let a lawyer off a case once the lawyer has entered a notice of appearance. According to the South Carolina Statewide Legal Needs Assessment, "people have differing views as to the meaning of the rule as written," which clearly resonates with lawyers and judges alike. Center for Housing and Community Studies, *South Carolina Statewide Civil Legal Needs Assessment*, p. 73, (2023). "The controversy, while it continues, seems to be a contributing factor to the shortfall of pro bono services in South Carolina" and access to affordable legal services at certain stages of legal matters for many South Carolinians. *Id.*

SCRPC Rule 1.2. Scope of Representation:

Limited scope representation of legal services is when a client hires a lawyer to complete a specific task (or service) for their case. The case is divided into separate tasks or proceedings, and after proper explanation and consultation, the lawyer and client agree that the lawyer will only handle certain aspects or parts of the case. It is a step-by-step approach to hiring a lawyer that allows for clients to receive *at least some* counsel and assistance at certain moments in their case when they may otherwise have to forgo representation entirely. See Ethics Advisory Opinion 22-06. For example, a lawyer and client may agree for the lawyer to draft the Final Settlement Agreement and Order of Divorce for the client, but the lawyer will not attend the Final Hearing. It is akin to an a la carte menu for legal services.

The objectives or scope of legal services may be limited BY AGREEMENT. The lawyer must:

- Fully and completely explain the limits of the lawyer's representation to the client.
- Have the limited representation agreement in writing, signed by the lawyer and the client, so there is no question about the scope of representation and the basis or rate of the fee and expenses the client is responsible for.
- Make sure the limited scope of services is reasonable under the circumstances.
- Advise the client of the right to seek counsel on issues outside the scope of the limited representation.
- Communicate that limited representation may exclude specific means that might otherwise be used to accomplish the client's objectives, and the potential alternatives to such limited representation.

All ethical obligations attach: Confidentiality, Conflict, Competent Representation, etc.

A lawyer is not required to make an affirmative disclosure of any sort regarding lawyer's limited assistance, including adding his/her name to the pleadings or entering an appearance in the case. However, the lawyer may voluntarily do so, and reserves the right to require such disclosure as a condition of providing limited services to the client. See Ethics Advisory Opinion 22-06.

Who Benefits from Limited Scope Representation?

- More South Carolina citizens gain access to legal services despite limited financial resources.
- Parties benefit from attorney expertise and skill that can be supported by a limited budget.
- Clients receive the benefit of lawyer expertise for the services they need most.
- Courts benefit from better-prepared litigants, fewer delays, and a more efficient docket.
- Lawyers benefit from gaining access to a previously untapped market of self-represented clients, increasing revenues and growing their practices.

South Carolina Rules & Resources on Limited Scope Representation

- SCRPC Rule 1.2(c). Scope of Representation and Allocation of Authority Between Client and Lawyer
- SCRPC Rule 1.4. Communication
- SCRPC Rule 1.6. Confidentiality of Information
- Ethics Opinion No. 22-06 of the South Carolina Bar, Rendered June 22, 2022
- Center for Housing & Community Studies, South Carolina Statewide Civil Legal Needs Assessment, February 21, 2023



Remember:

Clients agreeing to limited scope representation must provide informed consent

All ethical obligations apply

The limited representation must be reasonable under the circumstances

Offering limited scope services does not mean inadequate or second-class legal services