



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on November 16–17, 2017

Title	Agenda Item Type
Family Law: Technical Changes to Limited Scope Representation Rule and Form	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend rule 5.425; revise form FL-958	January 1, 2018
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	October 23, 2017
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Gabrielle D. Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends technical revisions to a rule of court and an order form used in limited scope representation cases. The technical changes will respond to the concerns recently raised by court clerks about the change in procedure needed because the order form, as amended effective September 1, 2017, includes a proof of service, requiring clerks to process the order twice. The revisions will ensure that court clerks need process the order only once.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend subdivision (e)(3)(G) of rule 5.425 of the California Rules of Court to specify that, if the court finds that the attorney has completed the agreed-upon work, his or her representation is concluded on the date determined by the court upon service of the signed *Order on Completion of Limited Scope Representation* (form FL-958); and
2. Revise *Order on Completion of Limited Scope Representation* (form FL-958) by:

- a. Deleting the proof of service on page 2; and
- b. Revising item 3e to reflect that the attorney must serve the parties in the case and file the proof of service unless otherwise directed by the court.

The amended rule and revised form follow on pages 5–6.

Previous Council Action

Effective September 1, 2017, the Judicial Council amended rule 5.425, approved two new forms, and revised four existing forms to simplify the procedures for an attorney to withdraw from limited scope representation upon completion of the work agreed on with the client in a family law matter. The simplified withdrawal process was intended to promote more limited scope representation in family law matters, reduce the number of hearings regarding withdrawal of counsel, and reduce the impact on case management systems in family courts.

Rationale for Recommendation

After reviewing the report to the Judicial Council¹ relating to the simplified limited scope representation rule and forms adopted by the council in May 2017 and effective September 1, in mid-August a court clerk contacted staff of the Family and Juvenile Law Advisory Committee. She stated that the clerks in her court did not understand how to implement subdivision (e)(3)(G) of rule 5.425² and mandatory *Order on Completion of Limited Scope Representation* (form FL-958)³ because the form includes a proof of service on page 2. This change to the form seemed to require the order be filed twice before it is fully processed and the limited scope attorney relieved as counsel.

The general procedure for processing court orders is as follows:

1. The judicial officer signs the order after hearing;
2. Courtroom staff stamps the original order to be placed in the court file;
3. Copies of the file-stamped orders are served on the parties in the case;
4. A separate proof of service form is completed; and
5. The separate, completed proof of service is filed with the court to reflect that the filed order was served.

¹ Judicial Council of Cal., Advisory Com. Rep., *Family Law: Simplifying Limited Scope Representation Forms and Procedures* (Apr. 10, 2017), <https://jcc.legistar.com/View.ashx?M=F&ID=5107922&GUID=D470C9CC-1B64-4149-993E-D3BE2A2F5F20>.

² Subdivision (e)(3)(G) provides: “If the court finds that the attorney has completed the agreed-upon work, the representation is concluded upon service of the signed *Order on Completion of Limited Scope Representation* (form FL-958).”

³ Item 3e on form FL-958 provides: “The attorney must serve copies of this order on the parties and their attorneys and file the proof of service with the court.”

Effective September 1, 2017, rule 5.425 and form FL-958 require the court clerk to process the order after hearing twice, before the attorney can be relieved as the limited scope attorney of record, as follows:

1. The judicial officer signs the order after hearing;
2. Courtroom staff stamps the original order to be placed in the court file (page 2 is blank);
3. The attorney serves copies of the file-stamped orders on the parties in the case;
4. The proof of service on page 2 of the already-filed order is completed; and
5. The order (with page 2 completed) is refiled with the court. It receives a second file-stamp date on page 1.

The revisions to the rule and form were intended to simplify the procedure for serving the order, make it more convenient for the attorney to comply with the rule, and assure the timely service of the order on all parties. Instead, the procedures (specifically those relating to cases requiring court intervention to resolve the conflict between the attorney and his or her client) have confused court clerks trying to reconcile the requirements of the rule with procedures for the efficient processing of court orders. This was an unintended consequence of adding a proof of service to the order after hearing.

Change to rule 5.425

In light of the above, the committee recommends amending the text of subdivision (e)(3)(G) of the rule as follows:

If the court finds that the attorney has completed the agreed-upon work, the representation is concluded on the date determined by the court ~~upon service of the signed~~ in the *Order on Completion of Limited Scope Representation* (form FL-958).

This change will also make the rule consistent with the language in item 3b(1) through (3) of form FL-958, which allows the judicial officer the discretion to terminate the limited scope attorney's representation effective (1) immediately, (2) upon the filing of the proof of service of the signed order on the client, or (3) on a specified date.

Changes to form FL-958

The committee recommends that *Order on Completion of Limited Scope Representation* (form FL-958) be made a one-page form by deleting the proof of service. The committee also recommends revising item 3e on the form to be consistent with subdivision (e)(3)(F) of the rule.⁴ To this end, item 3e will be revised to state:

⁴Subdivision (e)(3)(F) provides, "The attorney is responsible for filing and serving the *Order* on the client and other parties after the hearing, unless the court directs otherwise."

Unless otherwise directed by the court, the attorney must serve copies of this order on the parties and their attorneys of record and file the proof of service with the court.

Comments, Alternatives Considered, and Policy Implications

The recommended adjustments to the rule and form are technical changes that are unlikely to create controversy and thus do not require circulation for comment under rule 10.22(d)(2) of the California Rules of Court. No alternatives were considered due to the need to implement the changes as soon as possible for the efficient processing of the order.

Although implementation of the revisions will require courts to incur standard reproduction costs for the forms, the changes will reduce the impact on case management systems in family courts by providing an order that can be processed following standard court procedures.

Attachments and Links

1. Cal. Rules of Court, rule 5.425, at page 5
2. Form FL-958, at page 6

Rule 5.425 of the California Rules of Court is amended, effective January 1, 2018, to read:

1 **Rule 5.425. Limited scope representation; application of rules**

2
3 **(a)–(d) * * ***

4
5 **(e) Procedures to be relieved as counsel on completion of limited scope**
6 **representation if client has not signed a substitution of attorney**

7
8 (1)–(2) * * *

9
10 (3) *Objection*

11
12 (A)–(D)

13
14 (E) Unless otherwise directed by the court, the attorney must prepare the
15 *Order on Completion of Limited Scope Representation* (form FL-958)
16 and obtain the judge’s signature.

17
18 (F) The attorney is responsible for filing and serving the ~~Order~~ order on the
19 client and other parties after the hearing, unless the court directs
20 otherwise.

21
22 (G) If the court finds that the attorney has completed the agreed-upon work,
23 the representation is concluded on the date determined by the court
24 ~~upon service of the signed in the~~ *Order on Completion of Limited*
25 *Scope Representation* (form FL-958).

26
27 **(f) * * ***

ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	
ORDER ON COMPLETION OF LIMITED SCOPE REPRESENTATION	CASE NUMBER:

1. The proceeding on the party's (name): _____ objection to the attorney's (name): _____ proposed *Notice of Completion of Limited Scope Representation* (form FL-955) was heard

a. on (date): _____ at (time): _____ in Dept.: _____ Room: _____
 by Judge (name): _____ Temporary Judge

b. The following persons were present at the hearing:
 Petitioner Attorney (name): _____
 Respondent Attorney (name): _____
 Other Parent/Claimant Attorney (name): _____

2. THE COURT FINDS

- a. The attorney demonstrated that he or she has completed the services that the party and attorney agreed that the attorney would perform in the *Notice of Limited Scope Representation* (form FL-950).
- b. The party demonstrated that the attorney has not completed the services that the party and the attorney agreed would be performed in the *Notice of Limited Scope Representation* (form FL-950).
- c. Other (specify): _____

3. THE COURT ORDERS

- a. The request of the attorney to be relieved of limited scope representation is denied.
- b. The attorney is relieved as the limited scope attorney of record for the party/client.
 - (1) effective immediately.
 - (2) effective upon the filing of the proof of service of this signed order on the client.
 - (3) effective on (specify date): _____
- c. The court further orders (specify): _____
- d. All legal documents and notices must be served directly on the party using the following address or contact information:
 Mailing address: _____
 Telephone number: _____ E-mail address: _____
- e. **Unless otherwise directed by the court**, the attorney must serve copies of this order on the parties and their attorneys of record and file the proof of service with the court.

Date: _____ JUDGE OF THE SUPERIOR COURT

NOTICE TO PARTY/CLIENT: If the court relieved the limited scope attorney as your attorney of record, **you now represent yourself in the case**. You may wish to seek other legal counsel to represent you. You must keep the court and the other parties in your case informed of your current mailing address and contact information. You may use *Notice of Change of Address or Other Contact Information* (form [MC-040](#)) for this purpose.