



The Commonwealth of Massachusetts

Administrative Office of the Land Court

Courthouse

Three Pemberton Square, 11th Floor

Boston, Massachusetts 02108

LIMITED ASSISTANCE REPRESENTATION (LAR) **INFORMATION SHEET**

NOTICE TO LITIGANTS: As of January 2, 2013, the Land Court permits a party to engage a lawyer for only part of the litigant's case if he or she so chooses. Limited Assistance Representation (LAR) is available to any party who feels he or she cannot afford or does not want a lawyer for the entire case. LAR is an option for *any* party in *any* case filed in the Land Court. This information sheet answers many frequently asked questions, and more information is available at www.mass.gov/courts/landcourt.

What is Limited Assistance Representation (LAR)?

LAR is when an attorney represents or assists a litigant (you) with part, but not all, of a legal matter. The attorney and litigant enter into a detailed limited assistance agreement that sets out what specific tasks the attorney will be responsible for and what specific tasks the litigant will be responsible for in the case.

When can LAR be used in the Land Court?

As of January 2, 2013, an attorney may represent you on a limited basis in connection with *any* case (e.g., miscellaneous case, tax case, servicemembers action, partition case, or land registration case) pending or to be filed in the Land Court. LAR can be used at any stage in a case. LAR is available when a party does not wish to represent himself/herself throughout the entire case but does not wish to hire an attorney to represent him/her throughout the entire case. Together, you and your attorney will agree on who is responsible for completing which specific tasks in the case.

How do I find an attorney who will represent me on a limited basis?

Attorneys must take a mandatory training before they may provide LAR. The Real Estate Bar Association for Massachusetts, Massachusetts Bar Association, Boston Bar Association, and local bar associations may be able to provide you with a list of attorneys who represent clients on a limited basis. The court and its employees cannot refer you to any particular attorney.

Will I have to pay for LAR?

As with all legal services, you and your attorney will negotiate and agree on whether and how much you will pay him/her. Some attorneys do provide legal services without a fee or for a reduced fee for litigants who meet certain criteria.

If I choose to represent myself in a case, will the court give me legal advice or special consideration because I am not an attorney?

No. The judge must remain impartial in hearing your case, and neither the judge nor any court employees can give you legal advice. If you choose to represent yourself, you are responsible for all aspects of the case and are expected to learn the relevant law, rules, and procedures, which are applied equally to all parties appearing before the court whether or not they are represented by attorneys. If you are not confident in your ability to represent yourself, you should hire an attorney.

If an attorney represents me on a limited basis, what duties am I owed?

An attorney must follow all ethical rules and standards of professional responsibility whether providing full or limited representation to a client. The requirements of zealous advocacy, confidentiality, avoiding conflicts of interest, etc. all apply.

What are some ways an attorney can use LAR to assist me?

An attorney can provide you with assistance in one or more of three main ways. First, an attorney can advise you outside of court on what the law is and what the rules of civil procedure and evidence are without ever filing an appearance or appearing in court on your behalf. Second, an attorney can draft documents for you to file with the court without filing an appearance or going into court, but the attorney must write on the document that it was prepared with the assistance of counsel. This is called “ghostwriting.” Third, an attorney can appear in court with you for any part of the case (e.g., attending only a case management conference or arguing a motion at a hearing). In this instance, the attorney must file a Notice of Limited Appearance with the court describing the specific event in which the attorney is representing you. After the completion or conclusion of that event, the attorney must file a Notice of Withdrawal of Limited Appearance.

What if my attorney and I agree that the attorney will extend representation beyond the scope of the limited appearance?

If the extension of representation is limited to an additional event, the attorney must file another Notice of Limited Appearance describing the items within the extended representation and then file a Notice of Withdrawal of Limited Appearance upon completion of the extended representation. If the extension of representation is to represent you for the remainder of the case, the attorney must then enter a general appearance, not a limited one.

What is “ghostwriting?”

Ghostwriting is a term used to describe the drafting of documents by an attorney for a client without filing an appearance in the client’s case. The attorney does not sign his/her name on the document but instead writes, “This document was prepared with the assistance of counsel.” This discloses to the court and to the opposing party that an attorney assisted in the drafting of the document but will not appear in court. This disclosure does not constitute an appearance by the attorney, and the attorney will not be required to identify himself/herself or to sign the pleading. The usual ethical and practice rules apply. The attorney drafting the pleading must make reasonable inquiry about the facts and issues raised in the pleading. If there is something patently false, outrageous, etc. on the face of the pleading that is of concern to the judge, the judge can require you to divulge the identity of the drafting attorney. You remain fully responsible to the court and all other parties for the document you sign, even if the document is ghostwritten by an attorney.

Where can my attorney find copies of the Notice of Limited Appearance and Notice of Withdrawal of Limited Appearance?

The Notice of Limited Appearance and Notice of Withdrawal of Limited Appearance are posted on the Land Court’s website and are available in the Recorder’s Office of the Land Court on the 5th floor of the Courthouse at Three Pemberton Square, Boston.

Who gets served notice of pleadings and motions once a Notice of Limited Appearance has been filed?

Both you and your limited assistance attorney must be served with notice and full copies of every pleading and motion relating to the event for which your attorney is appearing. Any pleading or motion regarding issues or events outside the scope of the limited appearance should be served only on you. You remain responsible for all aspects of your case except in those instances when an attorney has agreed to represent you in a specific event in your case.

How does an attorney become qualified to represent me on a limited basis in the Land Court?

All lawyers wishing to provide limited representation must first attend an approved mandatory information session as described in Land Court Department Standing Order 1-12. By filing a Notice of Limited Appearance in a case, an attorney is certifying that he/she is in compliance with Standing Order 1-12 and qualified to represent clients on a limited basis in the Land Court.

Should the Judge review my attorney-client limited representation agreement?

No. The limited representation agreement between an attorney and client is private and confidential as is any other fee agreement.

If my attorney wants to file a Notice of Withdrawal of Limited Appearance and I feel the withdrawal is premature or contrary to the attorney-client agreement, what is the role of the judge in this case?

The judge cannot intercede. It is incumbent on you and the attorney to draft and execute a clear and unambiguous limited representation agreement that specifically defines when the attorney will appear and withdraw. If you and your attorney disagree concerning your limited representation agreement, you should resolve the matter pursuant to the terms of that agreement. The method for resolving such disputes should be discussed with your attorney and understood by you before you enter into an LAR agreement.