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# Limited Legal Assistance

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# REPORT OF THE WORKING GROUP ON LIMITED LEGAL ASSISTANCE

## INTRODUCTION

THE Group[1] participants brought diverse perspectives to our discussion of limited legal assistance. Participants included legal-services program directors, clinical teachers, former legal-services attorneys, representatives of the ABA, Legal Services Corporation, NLADA, and the American Judicature Society, and representatives of the Open Society and the Ford Foundation. Many of these participants are engaged in providing limited legal assistance. Some are developing programs that rely upon rapidly advancing technologies. Throughout the conference, this diverse group worked to define the ethical and professional concerns raised by limited legal assistance methodologies and to achieve as much consensus as possible on how to address these issues.

We readily acknowledged that this is complex and uncharted ground. Although many bar and legal-services programs provide various types of limited legal assistance, the ethical and professional issues these methodologies present have not been fully debated. To the extent there has been discussion within the legal community, there is little consensus. Given this undeveloped landscape, we recognized that what we could offer was an attempt to define the parameters of providing limited legal assistance. There is much work to be done in this area, and we hope we have furthered the discussion.

## I. PROCESS

The Group began by brainstorming. We generated lists of overarching concerns, limited task assistance methodologies, and ethical concerns presented by these methodologies. From the list of preliminary considerations, we developed a set of principles, which were further defined throughout our discussions. The principles evolved into the Recommendations.[2] We anticipated applying these principles to methods of limited assistance, such as websites, hotlines, and pro se clinics, but had insufficient time. We readily agreed that all of these methodologies need further assessment and evaluation, and that

1. Group Leader: Lynn M. Kelley. Author: Mary Helen McNeal. Participants: Jonathan Asher, John C. Eidleman, William E. Hornsby, Gabi Kupfer, Patrick McIntyre, Michael A. Millemann, Kathleen M. Sampson, Don Saunders, and Richard Zorza. The Group thanks John Rothermich for helping to record the Group's discussions.

2. *Recommendations of the Conference on the Delivery of Legal Services to Low-Income People*, 67 Fordham L. Rev. 1751, Recommendations 47–64, at 1774–78 (1999) [hereinafter *Recommendations*].

through the evaluation process, their efficacy will be further illuminated.

## II. Shared Underlying Principles

The issues addressed below surfaced early in our discussions. We quickly determined that these principles should apply to any recommendations concerning limited legal assistance.

### A. *Parity*

We were reluctant to endorse principles that create a dual system of justice and access to justice, establishing lower standards of representation for low-income clients.[3] This underlying concern influenced the recommendations that we ultimately endorsed.

### B. *Allocation Decisions*

One component of addressing the professional and ethical aspects of limited representation we casually called "who gets what and who decides." Although this issue permeates all discussions about legal-services practice, it is particularly critical to address when expanding the range of services available. Much of our discussion centered around this issue.

### C. *Informed Consent and Client Choice and Autonomy*

We were uniformly concerned about the issue of client autonomy, and sought to preserve as much client choice as possible when providing limited legal assistance. We discussed the concept of informed consent, but were cognizant of its limitations given the absence of meaningful, alternative choices for clients. Some members of the group were concerned with preserving client narratives, and the impact of advancing technology on client voice. We struggled to balance providing services to more clients with maintaining client choice.

### D. *Impact on the Attorney-Client Relationship*

One issue that arises in the context of limited legal assistance is the existence of the attorney-client relationship. One challenge the group faced was determining whether or not an attorney-client relationship exists in the limited legal assistance context, and if so, when it begins

3. The only dissension on this issue concerned the fear that to propose revisions to the Model Rules was not politically feasible and that any suggestions we might make would receive greater support if applied to low-income clients only. We ultimately concluded that we would propose what we believed the standards ought to be. We also had some discussion about whether or not limited representation currently exists, and is deemed ethical, in a variety of other contexts on behalf of clients across the economic spectrum.

and ends. This issue is especially problematic given that the ethical provisions contemplate traditional representation only.

### E. *Assessment and Evaluation*

At the outset we agreed that regardless of the content of the recommendations, limited legal assistance methodologies should be assessed and evaluated. We left the details of the evaluation process to the Working Group on Assessment of Systems for Delivering Legal Services,[4] but did note the need for client input in the evaluation process. Our Group acknowledged that there is no baseline data on the success of traditional representational models or limited legal assistance models, and no shared vision of how one might measure success. Nevertheless, we believed that outcomes and competency should be measured in an assessment, and that assessment should be mandatory with new program models.

## III. SHARED OBJECTIVES

The Group had a shared understanding that providers of legal services and clients should participate in rapidly expanding developments in technology. We engaged in substantial discussion about the use of webpages and hotlines, and the ethical implications of these expanding methodologies. We also tried to create recommendations that would be flexible enough to accommodate evolving technologies which do not exist today.

We recognized that the provision of legal services exists on a spectrum, with traditional representation on one end and general advice on the other end. As our discussions progressed, we developed a shared sense that our primary goal was to "define the space" between concepts of traditional, "full-service" representation and general advice. We did not discuss the representational models that exist "beyond" traditional representation, such as class actions and group representation. Our efforts focused on the middle ground and what guidelines should define these services.

With respect to changes to the ethical rules, we discussed the extent to which the rules might need to be modified to permit the use of limited legal assistance. Many in the group believed that the rules themselves were not problematic, but that the comments needed to be revised to reflect the changing nature of legal practice. The Group suggested that a new "gloss" should be applied to the rules, particularly given that the rules contemplate traditional representation and do not imagine the range of options explored here. We agreed that

4. For the results of the Working Group on Assessment of Systems for Delivering Legal Services, see *Recommendations*, *supra* note 2, Recommendations 119–40, at 1796-1800, and *Report of the Working Group on Assessment of Systems for Delivering Legal Services*, 67 Fordham L. Rev. 1869 (1999).

the ethical provisions should not be an impediment to innovation, but should be interpreted to maximize access.

We also discussed the goal of providing low-income persons with "100% access" to legal services. Most in the Group believed that although expanded use of alternative delivery methods could provide increased access, 100% access was not realistic. We were cautious about endorsing a system of justice that provides universal but limited assistance, and sought to maintain an aspirational goal of equal justice. One member suggested that it was important to consider the potential advantages of limited legal assistance models, and not simply consider them a poor, but necessary, substitute for the full-service model.

Finally, the Group acknowledged that changes in delivery models are only part of a solution to increased access to justice. We agreed that in order to expand access, other institutions must also evolve. For example, we believe that court clerks need to be more consumer friendly, and less oriented to the judges and lawyers. Governmental agencies should utilize technology to make legal information available to prospective recipients. Laws should be simplified to enable consumers to obtain services without engaging in an expensive, time-consuming, and complicated process.

## IV. Methodologies for Providing Limited Legal Assistance

The Group generated a list of limited legal assistance methodologies, or means of providing limited legal assistance. Examples we discussed throughout the conference included hotlines, websites (informational only, unintelligent form fill, intelligent form fill, "question and answer" inquiries to attorneys, and online videoconferencing),[5] ghostwriting, pro se clinics, unbundled services generally, advice provided by court employees, and form pleadings. All of these are examples of the larger class of unbundled legal services.

## V. Summary of Ethical Issues Raised by Limited Legal Assistance

As part of the initial brainstorming process, the Group identified a range of ethical issues implicated by limited legal assistance. The discussion centered on the following concepts: competence, conflicts of interest, confidentiality, scope of representation, disclosure, waiver of liability,[6] and unauthorized practice of law. We also wanted to ad-

5. Thanks to Richard Zorza for distinguishing among these advanced technology models.

6. The notion of a waiver of liability for the providers of limited legal assistance was mentioned, but received little attention in the Group. Although not addressed explicitly, there seemed to be a shared concern that even if no attorney-client rela-

dress the courts' and the profession's obligations to advance the administration of justice.

## VI. TERMINOLOGY

In the midst of our discussions, we attempted to develop a common language with which to discuss these issues. We developed the following categories: (1) Ethical compliance, concerned strictly with compliance with the ethical standards. Those who fail to comply with these standards are sanctioned; (2) Standards of Professionalism, as defined in the Preamble to the Model Rules, in civility codes, and in other similar documents. These standards are merely aspirational, and failure to comply does not result in sanctions; and (3) Ethical norms, which include standards such as Rule 11.[7]

## VII. DISCUSSION OF RECOMMENDATIONS

**58. A lawyer or legal services program that offers individuals the option of one or more types of legal assistance, including limited legal assistance, has a professional obligation to respect client autonomy and choice. A lawyer or legal services program may limit the range of options due to resource limitations.**

In the process of developing the above recommendation, the following issues arose for discussion:

1. Offering a full range of options,
2. To whom does this recommendation apply, and
3. Maintaining client autonomy while maximizing resources.

### A. *Full Range of Options*

The Group readily agreed that clients should be provided with a range of choices. We further agreed that there will always be some clients who will need full representation.[8] Generally, there was concern that the traditional model places inappropriate limitations on the range of choices and in some circumstances, fails to provide the necessary protection for clients. Optimally, clients should be able to choose from a list of delivery models.

It was in this context that we had a lengthy discussion of websites. Concerns were raised about whether or not websites operated by

tionship was established, clients ought to have a mechanism to obtain relief from poor or incompetent limited legal assistance. Even in those settings where we debated the existence of an attorney-client relationship, the Group wanted to assure that clients have a mechanism to sue for negligence, at a minimum. The implication was that the Group did not support a waiver of attorney liability in any context.

7. Thanks to Will Hornsby for suggesting these distinctions.

8. During the final conference session, the specific language of the recommendations was amended to make explicit that only traditional representation will suffice in certain situations. We did not undertake the challenge of defining when full-service representation is mandated.

nonlawyers constituted the unauthorized practice of law. There was discussion of encouraging the development of websites by nonprofits that provide legal information that is national in scope and provided for low-income people, and recommending that operating a website does not constitute the practice of law, although this did not appear in the final recommendations. It was also suggested that the operator of the website should be required to identify problems and people for whom the computer program is inappropriate.[9]

A final concern was that websites create complicated problems with respect to conflicts of interest and confidentiality. In the context of this discussion, the Group agreed that it would be helpful to state explicitly that the profession should utilize changes in technology to advance access to legal services, and that the current rules do not accommodate this emerging reality. We concluded that an amended Preamble to the Rules of Professional Conduct could address this concern. It was suggested that the rules should be interpreted flexibly, provided that the general spirit of the rules is met.

An example of Recommendation Fifty-eight is a legal-services office providing services to a survivor of domestic violence. The program offers the survivor the choice of a daily pro se clinic to learn how to obtain her own order of protection, access to a website to learn how to proceed pro se, a hard copy of pro se materials and a "how-to" video, or limited representation solely for the purpose of obtaining the protective order. We debated whether or not this example should include "full-service" representation after a lengthy wait. We also discussed how to assess which alternatives will not work for a given client, for example, the client who cannot read or whose abuser is a court officer. We concluded that the diagnostic interview should help the provider determine the range of appropriate choices and when a the full-service model may be required.

### B. *To Whom this Recommendation Applies*

In drafting Recommendation Fifty-eight, there was substantial discussion about to whom it should be directed. The Group discussed whether we were addressing legal-services programs only, not-for-profit providers of legal services only, private attorneys generally, or private attorneys in the provision of legal services to the poor. We wanted the recommendation to cover legal-services programs and wanted to encourage programs to provide a range of options, but did not want to mandate the type of services provided. We concluded that we would address those providing services to low-income people, but did not rule out that these provisions and recommendations could be

9. The example frequently mentioned was a website for survivors of domestic violence that explicitly states at the beginning categories of persons for whom it either will not be helpful or is insufficient legal assistance.

applicable in a private practice setting as well. We also wanted the recommendation to be broad enough to cover advancing technologies.[10]

### C. *Maintaining Client Autonomy While Maximizing Resources*

The Group readily agreed that client choice and autonomy should be maximized to the extent possible. We implicitly agreed that a balancing test is necessary, to weigh client autonomy with the goal of maximizing resources. Originally, we recommended "optimizing client autonomy and choice consistent with resource limitations." There was some debate within the Group regarding how to balance these two considerations. In fact, the last sentence of Recommendation Fifty-eight was added to clarify that lawyers or programs could limit the range of choices available to clients based on resources. In the final session of the conference, this obvious tension was highlighted. Recommendation Fifty-eight was amended, with the support of the Group, to state that methodologies should be offered that *respect* (not optimize) client autonomy and choice.

It was in the course of this discussion that we considered the importance of the diagnostic interview, as will be discussed below. We also discussed the definition of the attorney-client relationship, and when it attaches.

**59. There are three general categories of assistance that a lawyer or legal services program may offer. These categories are: (1) traditional, "full-service" representation; (2) limited legal assistance; and (3) general advice. These recommendations further define category two, limited legal assistance.**

**60. Within the Limited Legal Assistance category, there are two subdivisions: (a) brief, specific advice, and (b) assistance requiring a diagnostic interview.**

**(a) *Brief, specific advice:* An individual may interact with a lawyer or legal services organization for the limited purpose of obtaining brief, specific advice. "Brief, specific advice" shall be defined as answering a specific question or limited set of related questions without follow up or exploration by the legal services provider. In such circumstances, the client must be advised that the service is limited to brief advice only.**

**The lawyer or legal services provider offering brief advice is bound by obligations of confidentiality, competence, and the duty to avoid conflicts of interest appropriate to the context.**

10. There was a concern raised that if lawyers were given the option of providing limited representation when serving low-income clients, they would avoid handling "messier" cases such as contested family matters. There was a fear this language would then operate as a disincentive to assist low-income clients.

**The lawyer or legal services program has no duty to provide complete assistance with respect to the individual's legal problem. Under the ethical rules governing conflicts of interest which apply to potential as well as actual conflicts, the lawyer or legal services program should not be restricted to the same degree as the lawyer who renders more extensive representation. A lawyer or legal services organization that provides brief advice must develop systems that prevent disclosure of client confidences and must avoid the risk of divided loyalty by terminating the communication as soon as it appears that there may be a conflict with a previous recipient of brief advice services. A provider of a brief service that also operates a full-service or diagnostic system must have in place a mechanism to avoid actual conflicts of interest between recipients of brief advice and those who receive assistance under the full-services or diagnostic models.**

**Examples of brief, specific advice:**

**(i) Potential client calls legal services office and states, "My boyfriend registered his car in my name because he had so many parking tickets. Now, he has more parking tickets under my name. Do I have to pay them?" The answer is "yes."**

**(ii) Consumer calls legal services office and states that she was turned down for credit and that her credit report is incorrect, and asks what should she do. Legal worker advises her how to get a copy of her credit report, that the report is free, and the steps she should take to get the credit reporting agency to revise the information.**

**(b) *Assistance requiring a diagnostic interview:* In all other circumstances, the lawyer or legal services provider shall conduct a diagnostic interview before providing legal assistance. That diagnostic process shall elicit sufficient facts to enable an appropriate decision as to the limited service(s) to offer the client and for the client to make an informed decision about how to proceed. An informed decision includes knowledge of the circumstances under which the recommended course of action might change and when additional services might be necessary. Information obtained in this process is protected as confidential regardless of whether an attorney-client relationship results from the process. When the limited services identified through an appropriate diagnostic process have been competently provided, the lawyer or legal services program has no further obligation with respect to this client.**

**Example:**

**Following a diagnostic interview, a legal services program offers a survivor of domestic violence the following legal assistance choices:**

**(i) Daily pro se clinic on how to get your own order of protection;**
**(ii) Website on how to get an order of protection;**
**(iii) Hard copy of pro se materials and a how-to video;**
**(iv) Limited representation for the sole purpose of obtaining a temporary restraining order; and**
**(v) Being placed on a waiting list for traditional, full-service representation.**

**The diagnostic interview should elicit a variety of factors that would assist the provider in determining the most appropriate choices for this client. Depending on the facts, some options may be excluded. For example, the provider should determine the caller's ability to use pro se materials. If the provider learns the client is unable to read and write, the provider should eliminate option number three. Once the inappropriate choices have been eliminated, the client can choose from the remaining options.**

### A. *Background Discussions to Recommendations Fifty-nine and Sixty*

In a continuing effort to balance the needs of individual clients and the objective of providing enhanced access to legal services, the Group discussed the need for a full diagnostic interview.[11] We agreed that the provider of legal services must engage in some assessment before offering a range of limited but appropriate choices. It was suggested that this "screening responsibility" is grounded in "reasonable diligence" to evaluate the range of choices appropriate for this client and that it permits the provider to exclude some choices as inappropriate.

With respect to the diagnostic interview, some members of the Group expressed concern that the consumer realize the limited nature of the services provided. One member suggested that because the legal service is brief, the provider has a heightened duty to flesh out collateral issues, given that there is less opportunity to "patch it up" later.

This discussion naturally led to a discussion of the principle of informed consent. One member of the Group suggested that for the paying client, informed consent requires a full disclosure of the benefits and risks of purchasing less than traditional representation. Another member of the Group commented that informed consent is

11. For a discussion of the diagnostic interview in a limited service context, see Michael Millemann et al., *Rethinking the Full-Service Legal Representation Model: A Maryland Experiment*, 30 Clearinghouse Rev. 1178 (1997).

about "do no harm and let the lawyer off the hook if harms occurs." It was agreed that if the program provides a limited service only, it has a duty to explain the limitations, and potential risks, of that service.[12] One member commented on low attendance at bar-sponsored, information-only clinics, suggesting that consumers are frustrated by the attorneys' unwillingness to give case-specific advice. He suggested that he would prefer to run the risk of "less than full advice" rather than for the profession to remain inaccessible. Another member suggested that in certain circumstances a client could fare better going pro se than she might with limited legal assistance, depending on the forum. Although group member asked if the client could self-define a limited issue, there was little consensus on this point. Some suggested a principle of "do no harm," requiring a reasonable judgment by the provider that the information will not be misleading or damaging. Ultimately, the Group concluded that the diagnostic process needs to elicit sufficient facts for the provider to make informed decisions about the range of appropriate services for this particular client, and that the duty of the screener is one of reasonable diligence.

We then discussed the provider's duties if the consumer's circumstances changed, recognizing the dilemma of whether or not an attorney-client relationship exists. Although there was debate about this issue, we concluded that the provider should have a duty to explain to the consumer that the advice given, and the appropriate range of choices identified, could change if the client's circumstances changed. The consumer should be informed that she can call again and seek a greater level of assistance, although there is no guarantee that greater assistance can be provided.

We also discussed the issue of client control of information. For example, a client seeking asylum may want to limit the amount of information that she provides to an attorney. Or, some consumers prefer to seek information and advice from hotlines anonymously. The group recognized the public's desire to have "lawyers on call," but some group members were uncomfortable with providing information, and potentially advice, in such a setting. Many group members view websites as the solution for the anonymous advice-seeker.

On a related note, we discussed whether or not the lawyer should be permitted to address a "simple, direct non-anonymous question." One member suggested that this should be permissible on a "do-no-harm" standard. If you can answer the question without further diagnostic standards, you should be allowed to do so.

We then engaged in a lengthy discussion about whether or not this diagnostic process creates an attorney-client relationship. Cognizant of the traditional rule that the existence of the attorney-client rela-

12. The implicit comparison was to the medical model of informed consent and the balancing of potential risks.

tionship turns on the client's perception, regardless of what the lawyer says or does, we ultimately agreed that consumers participating in the diagnostic interview should receive some of the protections that attach with the formation of the attorney-client relationship. Our approach was to define the underlying objectives of the applicable ethical rules, and then seek to accomplish those objectives. We agreed that the competency requirement attaches regardless of whether an attorney-client relationship has been formed. We also readily agreed that the information obtained during this process should be kept confidential.

Although there was some debate about whether or not an attorney-client relationship existed during this diagnostic process, we all agreed that the lawyer should be held accountable for the discrete task that she provides and that it must be performed competently. There was some discussion about whether or not tort law provided sufficient protection for the consumer in this context, and several participants argued that there was sufficient "client protection."

### B. *Creating Categories of Limited Legal Assistance*

It was during the course of this conversation that we created the categories ultimately resulting in Recommendation Sixty. We agreed that general advice represents one extreme on a continuum of services, and that the diagnostic process governs the limited services offered in the middle of this continuum. Discussions about the existence of the attorney-client relationship led to a discussion of Model Rule 1.1[13] and the competency requirement. We agreed that Rule 1.1 contemplates only traditional representation, and is difficult to apply to the "advice only" context and to the provision of limited services.

The Group struggled to define brief advice, and whether there are certain circumstances in which a provider could offer brief, case-specific advice without creating an attorney-client relationship. There was general consensus that "one-way" information could be provided, such as with a website or printed material, that did not create an attorney-client relationship. For more client-specific advice, we asked what indicia of an attorney-client relationship would either the lawyer or client want to retain. Although we generally agreed that confidentiality requirements should apply, there was some concern about the logistical problems this requirement might create. For example, lawyers offering pro bono advice in a local clinic would need to protect against disclosure to the next person in line. Others argued that the consumer has arguably waived any right to confidentiality in circumstances such as those.

We continued to struggle with definitions of brief advice, and when the lawyer might engage in this process without conducting a diagnos-

13. Model Rules of Professional Conduct Rule 1.1 (1998).

tic interview. Is it limited to answering a single question? Is the provider permitted to incorporate responses to specific facts without a diagnostic interview? Some proposed a recommendation that would permit brief advice without diagnosis, with the provider being bound by obligations of confidentiality, competence appropriate to the context, but no obligations of continuity. Other group members argued that this standard protected lawyers but lacked sufficient focus on the needs of clients. Others pointed out that there will always be some circumstances where traditional representation is required.

From this discussion, we concluded that the lawyer could provide, in certain circumstances, brief, case-specific advice. During that consultation, the attorney is bound by obligations of confidentiality. We discussed whether the confidentiality obligation should be defined contextually, i.e., maintaining confidentiality appropriate to the circumstances. It was suggested that the lawyer should provide reasonable safeguards within the context in which the services are being provided. With respect to competency, we concluded that the lawyer does not have any obligation beyond competently providing the limited advice.

The Group also engaged in substantial discussion about the conflicts of interest issues that arise in models of limited legal assistance. We again looked to the purpose of the rules. In assessing the conflict of interest principles, the Group determined that their purpose was two-fold: (1) to protect client confidences; and (2) to avoid divided loyalties. Some group members were concerned about the appearance of divided loyalties. We acknowledged that the current rules are prophylactic and designed to avoid the creation of actual conflicts. In effectuating this goal, however, the rules cast the net broadly. Some group members saw a distinction between interest conflicts and party conflicts. Others saw the critical issue as protecting client confidences and avoiding actual conflicts (as distinguished from current rules which require avoiding any situation where a conflict may arise, regardless of whether it is an actual conflict). Others stated that limited legal assistance practice has a mediator quality and therefore is less likely to generate interest conflicts. Some suggested that a different rule is appropriate in a hotline context; if you have given advice to two people who are in conflict and nobody knows it, there is no harm done. Others said conflicts screens must be conducted if a program offers limited assistance and also a full-service delivery model.

We then tried to apply these principles to the brief, specific advice context. We concluded that the conflicts standard should be that "appropriate to the context." If the lawyer or organization adopts a system that prevents disclosure of client confidences and avoids the risk of divided loyalty by terminating a communication as soon as it becomes clear that there may be a conflict with a previous recipient of services, the purpose of the conflicts provisions has been satisfied. If

the program provides traditional representation or diagnostic and other limited services, the program needs a system that avoids actual conflicts with recipients of brief advice or other limited methodologies. We ultimately concluded that actual, but not imputed, conflicts should be avoided when at least some of the services being provided are brief, specific advice.

**61. Systems providing limited legal assistance must be internally and externally evaluated.**

There was no dispute that methods of limited legal assistance should be evaluated. We agreed that client input should be sought in this process. We generally agreed to leave specific issues regarding evaluation to the Working Group on Assessment of Systems for Delivering Legal Services,[14] although we did discuss generally the merits and challenges of including outcomes in an assessment methodology. It was suggested that all delivery methods should be assessed periodically.

**62. As a nation of laws, our courts serve as the centerpiece for the peaceful resolution of conflicts. To continue in that role, the courts must effectively serve the public, maximizing access and ease of use. The courts have an affirmative obligation to help litigants and advance limited service methodologies which increase access to the courts. Rules regarding the administration of justice, rules governing the practice of law, and rules prohibiting the unauthorized practice of law should not be created, advanced, interpreted, or applied so as to obstruct such efforts to increase access. The courts and the legal profession should be encouraged to explore innovative efforts to assist pro se litigants.**

There was little debate about Recommendation Sixty-two. Members of the Group strongly believe that the courts should play an affirmative role in increasing access, and that we should explicitly state that it is the courts' duty to serve the public. The Group wanted to encourage the courts to participate in the debate about increasing access and encouraging innovation. More specifically, we discussed a directive that would encourage clerks to assist pro se litigants or encourage courts to provide pro se clerks with the exclusive duty of assisting unrepresented litigants. Such "courthouse facilitators" would be exempt from unauthorized practice prohibitions. The Group ultimately concluded that a broadly stated principle about the courts' role in serving the public would address this issue and would permit the courts the greatest flexibility in addressing the need.[15] We also

14. *See* supra note 4.

15. We also limited our discussions of these issues given that another working group was addressing the use of nonlawyers. For the results of the Working Group on the Use of Nonlawyers, see *Recommendations*, *supra* note 2, Recommendations

wanted to encourage the legal profession as a whole to address efforts to assist pro se litigants.

The Group also agreed that the legal profession should take an expansive look at the purpose of various laws, the legal proceedings required to accomplish specific objectives, and how the legal requirements for meeting those objectives might be simplified. The ultimate goal is to make the law, and changes in legal relationships, more accessible to the general public.

## CONCLUSION

These recommendations are a step in the direction of formally expanding access to justice for low-income people and in sanctioning alternative delivery models. All members of our working group are committed to increasing access, although participants have varying degrees of comfort in altering traditional notions of the attorney-client relationship and its attendant ethical obligations. We endeavored to strike a balance. All of the limited legal assistance methodologies should be evaluated, as should these recommendations. The data from such assessments will determine whether or not an effective balance has been achieved.

25–46, at 1759-74; and *Report of the Working Group on the Use of Nonlawyers*, 67 Fordham L. Rev. 1813 (1999).