

IN THE SUPREME COURT OF ALABAMA
March 26, 2012

ORDER

WHEREAS the Alabama State Bar has recommended to this Court that it consider adopting rules relating to limited-scope representation by attorneys in this State; and

WHEREAS this Court has determined that provision for such limited-scope representation is advisable;

IT IS THEREFORE ORDERED that Rule 1.1, 1.2(c), Rule 4.2, and Rule 4.3, Alabama Rules of Professional Conduct, be amended to read in accordance with Appendices A, B, C, and D attached to this order;

IT IS FURTHER ORDERED that Rule 11, Alabama Rules of Civil Procedure, be amended to read in accordance with Appendix E to this order and that Rule 87, "Limited Scope Representation," Alabama Rules of Civil Procedure, be adopted to read in accordance with Appendix F to this order;

IT IS FURTHER ORDERED that the amendments of these rules and the adoption of Rule 87, Alabama Rules of Civil Procedure, be effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 1.1, Rule 1.2, Rule 4.2, and Rule 4.3, Alabama Rules of Professional Conduct, and Rule 11 and Rule 87, Alabama Rules of Civil Procedure:

"Note from the reporter of decisions: The order amending Rule 1.1, Rule 1.2(c), Rule 4.2, and Rule 4.3, Alabama Rules of Professional Conduct, and amending Rule 11, Alabama Rules of Civil Procedure, and adopting Rule 87, Alabama Rules of Civil

Procedure, is published in that volume of Alabama Reporter that contains Alabama cases from ____ So. 3d."

Malone, C.J., and Woodall, Stuart, Bolin, Parker, Murdock, Shaw, Main, and Wise, JJ., concur.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 26th day of March, 2012

Robert G. Esdale, Sr.

Clerk, Supreme Court of Alabama

APPENDIX A
(Alabama Rules of Professional Conduct)

Rule 1.1. Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A lawyer and client may agree, pursuant to Rule 1.2(c), to limit the scope of the representation with respect to a matter. In such circumstances, competence means the knowledge, skill, thoroughness, and preparation reasonably necessary for such limited representation.

APPENDIX B

(Rule 1.2(c), Alabama Rules of Professional Conduct)

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(1) The client's informed consent must be confirmed in writing unless:

(i) the representation of the client consists solely of telephone consultation;

(ii) the representation is provided by a lawyer employed by a nonprofit legal-services program or participating in a pro bono program approved by the Alabama State Bar pursuant to Rule 6.6 and the lawyer's representation consists solely of providing information and advice or the preparation of legal documents; or

(iii) the court appoints the attorney for a limited purpose that is set forth in the appointment order.

(2) If the client gives informed consent in writing signed by the client, there shall be a presumption that:

(i) the representation is limited to the attorney and the services described in the writing; and

(ii) the attorney does not represent the client generally or in matters other than those identified in the writing.

APPENDIX C
(Alabama Rules of Professional Conduct)

Rule 4.2. Communication with Person Represented by Counsel

(a) In representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so.

(b) A person to whom limited-scope representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer has been provided with a written notice of the limited-scope representation. If such notice is provided, the opposing lawyer shall not communicate with the person regarding matters designated in the notice of limited-scope representation without consent or authorization as provided by Rule 4.2(a).

APPENDIX D
(Alabama Rules of Professional Conduct)

Rule 4.3. Dealing with Unrepresented Person

(a) In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

(b) A person to whom limited-scope representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer has been provided with a written notice of the limited-scope representation. If such notice is provided, the person is considered to be unrepresented regarding matters not designated in the notice of limited-scope representation.

APPENDIX E
(Alabama Rules of Civil Procedure)

Rule 11. Signing of Pleadings, Motions, and Other Papers

(a) Every pleading, motion, or other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the pleading, motion, or other paper, and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings, motions, or other papers need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney constitutes a certificate by the attorney that the attorney has read the pleading, motion, or other paper; that to the best of the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. As provided in Rule 30(G) of the Alabama Rules of Judicial Administration, an electronic signature is a "signature" under these Rules. If a pleading, motion, or other paper is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading, motion, or other paper had not been served. For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

(b) Limited-scope representation. An attorney may draft or help to draft a pleading, motion, or other paper filed by an otherwise self-represented person. The attorney need not sign that pleading, motion, or other paper but shall include a notation at the end stating: "This document was prepared with the assistance of a licensed Alabama lawyer pursuant to Rule 1.2(c), Alabama Rules of Professional Conduct." In providing such drafting assistance, the attorney may rely on the otherwise self-represented person's representation of the facts, unless the attorney has reason to believe that such representation is false or materially insufficient.

(dc) District Court Rule. Rule 11 applies in the district courts.

APPENDIX F
(Alabama Rules of Civil Procedure)

87. Limited-Scope Representation

(a) Permitted. In accordance with Rule 1.2(c) of the Alabama Rules of Professional Conduct, an attorney may provide limited-scope representation to a person involved in a court proceeding.

(b) Notice. If specifically so stated in a notice of limited-scope representation filed and served prior to or simultaneously with the initiation of a proceeding, an attorney's role may be limited as set forth in the notice.

(c) Termination. The attorney's role terminates without the necessity of leave of court upon the attorney's filing a notice of completion of limited-scope representation with a certification of service on the client.

(d) Service. Service on an attorney providing limited-scope representation is required only for matters within the scope of the representation as set forth in the notice.