

FILED

September 29, 2020

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM19-8002

ORDER IMPLEMENTING LEGAL PARAPROFESSIONAL PILOT PROJECT

The Implementation Committee for the Legal Paraprofessional Pilot Project was established in 2019 to evaluate the delivery of legal services in areas of unmet civil legal needs, particularly in the areas of family law, landlord-tenant disputes, or debtor-creditor disputes. The committee was directed to define the structure and rules to implement a pilot project for the delivery of civil legal services by legal paraprofessionals under the supervision of a licensed Minnesota attorney. *See In re Implementation Committee for Proposed Legal Paraprofessional Pilot Project*, No. ADM19-8002, Order at 2–3 (Minn. filed Mar. 8, 2019).

The Implementation Committee filed a report on March 2, 2020, recommending that a pilot project be established to evaluate the expanded use of legal paraprofessionals in providing legal services in two substantive legal areas: landlord-tenant disputes and family law disputes. We opened a public comment period; eleven comments were filed. We held a public hearing on August 11, 2020, at which the co-chair of the Implementation Committee, Judge John Rodenberg, spoke. Representatives of the Minnesota Paralegal Association, the National Federal Paralegal Association, and Mid-Minnesota Legal Aid, along with attorney Peter Swanson, also presented remarks.

We directed the Implementation Committee to develop a plan to implement a pilot project to evaluate the use of legal paraprofessionals, supervised by an attorney, in certain family law and landlord-tenant case types. The committee's report provides that plan. We have carefully considered the comments filed during the public comment period that express disagreement with a decision we have already made: to proceed forward with a pilot project. We appreciate the views and concerns expressed in these comments, but ultimately, we conclude that the point of a pilot project is to test the assumptions that underlie our decision: that the need for civil legal aid, particularly in the areas of family law and landlord-tenants disputes is great, and that legal paraprofessionals can contribute to the legal needs of Minnesota citizens in these areas.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Supervised Practice Rules are promulgated. The effective date of the amendments shall be March 1, 2021.
2. The pilot project to evaluate use of legal paraprofessionals shall be administered by a Standing Committee, to which appointments will be made by December 1, 2020. Among other tasks, the Standing Committee shall oversee implementation of the pilot project, review applications for certification submitted by paraprofessionals, evaluate whether the pilot project satisfies the goal of improving access to legal services, and prepare an interim report and a final report on the pilot project.
3. The Standing Committee is directed to work with the State Court Administrator or his designee to establish procedures to monitor, evaluate and report on

the pilot project. On or before December 31, 2021, the committee shall file an interim status report on the pilot project with recommendations for any further rule amendments or other refinements to the pilot project. On or before January 17, 2023, the committee shall file a final status report on the pilot project that includes recommendations for continuation, abandonment, or modification of the pilot project, or for permanent codification of the rules for the pilot project.

4. Unless extended by further order of this court, the pilot project shall end and the Supervised Practice Rules that govern the pilot project shall expire on March 31, 2023.

Dated: September 29, 2020

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea
Chief Justice

AMENDMENTS TO THE SUPERVISED PRACTICE RULES

[The text of Rule 12 is entirely new and therefore is shown without underlining]

Supervised Practice Rules

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Rule 12. Authorized Practice by Legal Paraprofessionals in Pilot Project

Rule 12.01 Scope of Work

An eligible legal paraprofessional may, under the supervision of a member of the bar, provide the following services:

- (a) Provide advice to and appear in court on behalf of tenants in housing disputes as defined in Minnesota Statutes Chapter 504B and Minnesota Statutes § 484.014. Eligible legal paraprofessionals may only provide such services in district courts that have established a Housing Court or a dedicated calendar for housing disputes, except that eligible legal paraprofessionals shall not appear in Housing Court in the Fourth Judicial District.
- (b) Provide advice to and appear in court on behalf of clients in family law cases, but such services shall be limited to advice and hearings related to child-support modifications, parenting-time disputes, and paternity matters. With the approval of the supervising attorney, legal paraprofessionals may also appear in court in family law cases for the following purposes: (1) default hearings, (2) pretrial hearings, and (3) informal family court proceedings. Legal paraprofessionals may also appear with a client in family law mediations where, in the judgment of the supervising lawyer, the issues are limited to less complex matters, which may include simple property divisions, parenting-time matters, and spousal-support determinations. Under no circumstances shall a legal paraprofessional provide advice or appear in court or at a mediation under this paragraph if the family law case involves allegations of domestic abuse or child abuse.
- (c) With authorization from the supervising attorney, prepare and file a limited set of documents identified in Appendix 1 to these rules without the supervising attorney's final review.

Communications between the client and the eligible legal paraprofessional shall be privileged under the same rules that govern the attorney-client privilege and work product doctrine.

For each case where a legal paraprofessional will appear in court on behalf of the client, the certificate of representation for the matter must identify both the supervising attorney and the legal paraprofessional. The legal paraprofessional may sign the certificate of representation, but must include with the filed certificate of representation a statement signed by the supervising attorney that authorizes the legal paraprofessional to appear in court. The signed authorization must identify the types of proceedings for which the legal paraprofessional is authorized to provide services and the starting and ending dates during which the paralegal is authorized to appear in court.

Rule 12.02 Eligible Legal Paraprofessionals

An eligible legal paraprofessional must meet the following requirements:

(a) Education and Work Experience Requirements. To participate in the pilot project, a legal paraprofessional must have the following education or work experience:

- (1) an Associate's or Bachelor's Degree in paralegal studies from an institutionally accredited school; or
- (2) a paralegal certificate from an institutionally accredited school in addition to an Associate's or Bachelor's degree in any subject from an institutionally accredited school; or
- (3) a law degree from an ABA accredited school; or
- (4) a high school diploma and 5 years of substantive paralegal experience.

(b) Ethics and Continuing Legal Education Requirements. To participate in the pilot project, a legal paraprofessional must satisfy the following ethics and continuing education requirements:

- (1) hold Minnesota Certified Paralegal credentials from the Minnesota Paralegal Association; or
- (2) provide proof that the legal paraprofessional has earned ten continuing legal education credits, including two credit hours in ethics, within the two years prior to seeking certification under Rule 12.04(a); or
- (3) provide proof that the legal paraprofessional has obtained a paralegal studies degree or certificate, or a juris doctorate within the two years prior to seeking certification under Rule 12.04(a). Such a program must include an ethics component.

(c) Written Agreement with a Supervisory Attorney. To participate in the pilot project, a legal paraprofessional must enter into a written agreement with a licensed Minnesota attorney who agrees to serve as the paralegal's supervisory attorney. The written agreement must set forth the scope and types of work the legal paraprofessional may undertake consistent with the scope of the pilot project and the steps the supervisory attorney will take to ensure that the paralegal is serving the client's interests.

(d) Roster of Approved Legal Paraprofessionals. To participate in the pilot project, a legal paraprofessional must remain in good standing on the roster of approved legal paraprofessionals established and maintained by the Standing Committee on the Legal Paraprofessional Pilot Project.

Rule 12.03 Supervisory Attorney

The attorney who supervises a legal paraprofessional authorized to participate in the pilot project shall:

- (a) be a member in good standing of the bar of this court;
- (b) assume personal professional responsibility for and supervision of the legal paraprofessional's work, including court appearances;
- (c) assist the legal paraprofessional to the extent necessary, and sign all pleadings;
- (d) carry malpractice insurance that will sufficiently cover the attorney's supervision of the legal paraprofessional and the work and actions of the supervised legal paraprofessional, or ensure that the legal paraprofessional has secured adequate malpractice insurance; and
- (e) execute a written agreement that establishes the terms of the supervised legal paraprofessional's work and the supervision conditions.

Rule 12.04 Standing Committee for Legal Paraprofessional Pilot Project.

The Standing Committee for the Legal Paraprofessional Pilot Project shall establish, in collaboration with the State Court Administrator, procedures as follows:

- (a) for certifying legal paraprofessionals as authorized to participate in the pilot project and establishing and maintaining a public roster of legal paraprofessionals eligible to participate in the pilot project;
- (b) for evaluating the results and outcome of the pilot project and making further recommendations to the Supreme Court; and
- (c) for submitting, reviewing, investigating, and resolving complaints made against legal paraprofessionals and supervising attorneys, including removing legal paraprofessionals from the roster and prohibiting supervising attorneys from participating in the pilot project if there is a good cause to do so. Rostered legal paraprofessionals and supervising attorneys shall cooperate with standing committee investigations and failure to cooperate may be the basis for removal from the pilot project.

Appendix 1 to Rule 12 of the Supervised Practice Rules

General Filing Documents

- Notice of Appearance
- Certificate of Representation
- Application to Serve by Alternate Means
- Affidavit of Default
- Affidavit of Service
- Substitution of Counsel
- Notice of Withdrawal
- Notice of Filing
- Affidavit for Proceeding In Forma Pauperis
- Proposed In Forma Pauperis Order
- Settlement Agreement
- Request for Continuance
- Motion to Request Correction of Clerical Mistakes

Landlord-Tenant Specific

- Affidavit of Compliance and Proposed Order for Expungement
- Notice of Motion and Motion for Expungement of Eviction Record
- Petition for Emergency Relief Under Tenant Remedies Act
- Rent Escrow Affidavit
- Eviction Answer
- Eviction Action Proposed Findings of Fact, Conclusions of Law, Order and Judgment
- Answer and Motion for Dismissal or Summary Judgment (Eviction)
- Notice of Motion and Motion to Quash Writ of Recovery
- Petition for Possession of Property After Unlawful Lockout

Family Law Specific

- Confidential Information Form 11.1
- Confidential Information Form 11.2
- Felon name change notice
- Notice to Public Authority
- Notice of Default and Nonmilitary Status Affidavit of Non-Military Status
- Default Scheduling Request
- Notice of Intent to Proceed to Judgment
- Proposed Default Findings
- Initial Case Management Conference Data Sheet
- Scheduling Statement
- Parenting/Financial Disclosure Statement
- Discovery (Interrogatories, Request for Production of Documents, Request for Admissions)
- Summary Real Estate Disposition
- Judgment
- Certificate of Dissolution
- Delegation of Parental Authority
- Revocation of Delegation of Parental Authority
- Application for Minor Name Change
- Parenting/Financial Disclosure Statement
- Certificate of Settlement Efforts
- Notice of Motion and Motion to Modify Parenting Time
- Stipulation of the Parties
- Notice of Motion and Motion to Modify Child Support/Medical Support
- Notice of Motion and Motion (examples: Stop COLA, Reinstate Driver's License)
- Request for County to Serve Papers