

UNIFIED COURT SYSTEM NEW YORK STATE COURTS
ACCESS TO JUSTICE PROGRAM

ADVISORY NOTICE

Subject: Attorneys' use of DIY Forms

Class: AN-18

Date: March 11, 2016

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BACKGROUND

Over the past seven years, the New York State Courts Access to Justice Program has developed the unified court system's state-wide document assembly programs called DIY (Do-it-Yourself) Forms. The DIY Forms walk the user through a series of questions then produce completed personalized court forms with instructions about how to proceed. DIY Form programs are available in court locations with public access terminals and on the CourtHelp website for unrepresented litigants (www.nycourthelp.gov).

Use of the DIY Form programs is limited to unrepresented litigants, legal services providers, pro bono attorneys or low-bono (reduced fee) programs that are recognized and approved by the NYS Courts Access to Justice Program. The restricted use of the DIY Form programs is based upon agreements with A2JAuthor, who provides the free software used to create the programs, and with Pro Bono Net, who hosts and assembles the DIY Forms on the LawHelp Interactive website.

In accordance with these agreements, this information is listed in multiple places. The CourtHelp DIY Form program web pages all state that the programs are not for commercial use. Every DIY Form entry page states the following:

About DIY Forms

Who Can Use These Programs?

You can use DIY Forms if:

- you're a court user and you don't have a lawyer;
- you're a legal services provider;
- you're a pro bono lawyer. Pro bono lawyers filing a DIY Form must submit this [pro bono affirmation](#).
- you're from a low-bono (reduced fee) program recognized and authorized to use the DIY Form programs by the NYS Courts Access to Justice Program. You must submit this [low-bono affirmation](#) with the filing.

Commercial use is prohibited and no one may charge for using these programs. When you begin the program, you will be asked to accept these terms of use.

In addition, when the DIY Form program opens, the user must agree to terms prohibiting commercial use in order to continue. Finally, the generated printed court forms also contain the following footer at the bottom of each page:

Made using the NYS Courts FREE DIY Forms

We are concerned with the use of these programs by private attorneys who are charging their clients and using the DIY Form programs. From time to time, Clerks have received court forms, made with our DIY Form programs with 'bluebacks' from private attorneys. These pleadings have been brought to the court by unrepresented litigants and by attorneys on their behalf and

court personnel have asked what is the appropriate action. Accordingly, we are providing the following guidance in reference to these filings.

ADVISORY

Who can use the DIY Form Programs:

- Any unrepresented litigant may use the DIY Form programs on-line or at a court public access terminal free of charge.
- Any legal services provider or pro bono attorney may use the DIY Form programs to assist clients with their court papers.
- Low-bono (reduced fee) programs that have been approved by the NYS Courts Access to Justice Program.

Any DIY Form with an attorney's blueback from a fee charging attorney's office should be filed with an affirmation from the attorney based on the agreement made by him or her when signing on to the program acknowledging that the program is not for commercial use. If the affirmation is not attached to the filing, the attorney should be directed to the attached Pro Bono Affirmation. The Pro Bono Affirmation is also available at:

<http://nycourts.gov/courthelp/diy/proBonoAffirmation.pdf>.

If a litigant wishes to file a DIY Form generated document, with an attorney's blueback, for which he or she has paid a fee, the litigant should be advised that no fee is permitted to be charged for the creation of the form. The litigant is to be informed that the papers should be submitted with an affirmation stating that the attorney is acting pro bono and directed to the on-line form. Alternatively, he or she can be directed to the CourtHelp website or a public access terminal to complete the DIY Form him or herself. If the litigant insists on filing the blueback, the Clerk is to accept the filing.

In any case where the a fee charging attorney files papers created with a DIY Form program and has refused to submit the Pro Bono Affirmation, the Clerk is to make a copy of the papers and the blueback and forward this information to the NYS Courts Access to Justice Program, scan to: nya2j@nycourts.gov. The NYS Courts Access to Justice Program will take appropriate action which may include referral to the Attorney Disciplinary Committee.

Select low-bono programs that have been recognized and approved by the NYS Courts Access to Justice program may file DIY Forms with the attached Low Bono Affirmation. The Low Bono Affirmation is also available at: <http://nycourts.gov/courthelp/diy/lowBonoAffirmation.pdf>. If an attorney states that he or she is accepting a reduced fee and is not an approved low-bono program, the Clerk should inform the attorney that he or she is not permitted to use the DIY Form programs. The Clerk is to make a copy of the papers and the blueback and forward this information to the NYS Courts Access to Justice Program, scan to: nya2j@nycourts.gov. The NYS Courts Access to Justice Program will take appropriate action which may include referral to the Attorney Disciplinary Committee.

Date March 14, 2016

_____/S/
Fern A. Fisher
Director, NYS Courts Access to
Justice Program
Deputy Chief Administrative Judge
of New York City Courts

_____ COURT OF THE STATE OF NEW YORK
COUNTY OF _____

Plaintiff(s)/Petitioner(s)

PRO BONO AFFIRMATION

Index No: _____

Defendant(s)/Respondent(s)

_____, Esq., pursuant to CPLR §2106 and under penalty of perjury, affirms as follows:

1. I am an attorney at law duly licensed to practice in the state of New York and am representing _____, who is/are the _____ in the above captioned action.
2. I submit this affirmation together with court papers prepared using the New York State Unified Court System's DIY (Do-It-Yourself) Form Program.
3. I understand that commercial use of the DIY Form Programs is prohibited. I understand that the DIY Form programs are only for use of litigants representing themselves, legal services providers, or pro bono attorneys.
4. I agreed to these terms when I signed on to the website to use the DIY Form program.
5. With the exception of any court mandated filing fees, I am representing my client(s) in this case on a pro bono basis.
6. I have informed my client(s), that use of the DIY Form Program is free and that I am not permitted to charge a fee in this case.

Dated: _____

_____ COURT OF THE STATE OF NEW YORK
COUNTY OF _____

Plaintiff(s)/Petitioner(s)

**LOW-BONO
AFFIRMATION**

Index No: _____

Defendant(s)/Respondent(s)

_____, Esq., pursuant to CPLR §2106 and under penalty of perjury, affirms as follows:

1. I am an attorney at law duly licensed to practice in the state of New York and am representing _____, who is/are the _____ in the above captioned action.
2. I submit this affirmation together with court papers prepared using the New York State Unified Court System's DIY (Do-It-Yourself) Form Program.
3. I am an attorney with _____, which is low-bono program recognized and authorized to use the DIY Form programs by the NYS Courts Access to Justice Program.
4. I understand that commercial use of the DIY Form programs is otherwise prohibited.
5. I have not charged my client for the preparation of the DIY Form program and have informed my client(s) that use of the DIY Form program is free and that I am not permitted to charge for its preparation.
6. I am charging my client a reduced fee for representation of any non-DIY Form related charges.

Dated: _____
