



# THE LAW SHOP™

BY SKOGERSON MCGINN LLC

## PCBA SPRING 2018 GENERAL PRACTICE CLE

### Are You Differentiating Your Practice Through Unbundling of Legal Services?

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**Definition of Limited Scope Representation:** When the attorney and client agree that the attorney will perform some but not all aspects of the client's legal matter

- "Unbundled legal services" versus "Limited scope representation" (LSR) LSR is the term more easily understood by clients, recognized by malpractice carriers, & utilized in other states

#### The Law Shop

- Genesis
  - Attendance at national seminars and successful, inspiring speakers
  - Experiences from working in both urban & rural settings
  - Statistics for good business
  - There is a demand that is not being met in Iowa. What's creating this need/demand →
- Trivia time! What percentage of family law litigants in Iowa today are self represented?
- What about nationwide?
  - Approximately \_\_\_\_%
  - A significant # can afford representation, but they are choosing not to hire attorneys. Why?

- Prioritize their money differently and don't want to spend on huge retainer for attorney
  - Belief that attorneys only create more litigation resulting in more conflict between parties and more cost
  - Uncertainty of cost involved
  - Self determination – educated individuals who prefer DIY methods over hiring someone else to have control over their personal legal matters.
  - Growth of online services purporting to help people handle their legal matters for less than it costs to hire an attorney
- Major contributor to why folks are not hiring attorneys these days is simply being priced out of the game.
  - Urban attorneys in central Iowa now regularly charging \$300+ per hour
  - Retainer fees for traditional representation ranging from \$2500 per party to \$25,000 per party, sometimes requiring evergreen retainers as well
  - Many attorneys competing for 40% of the population's business w/significant overhead, difficulty making enough to bring on clerks & associates in small firms, etc.
  - Majority of population cannot afford representation, or don't want to put their money there, especially for both parties, at the current going rates and most don't qualify for legal aid
- Self Represented Litigants (SRLs) are uninformed, unprepared and overwhelmed. Who do they turn to? Judges and Court staff who are so overwhelmed and are soon (with more budget cuts) going to be even more overwhelmed AND can't give legal advice!
- WE CAN HELP SO MANY MORE PEOPLE

**What are some examples of unbundled or limited scope representation services?**

- Better known LSR services:
  - Case evaluations
  - Document drafting such as letter writing or assistance completing court forms
  - Stipulation review
- What other things can attorneys do on a limited scope basis?
  - Child support worksheet prep
  - Financial affidavit prep
  - Motion for continuance
  - Negotiation / mediation coaching
  - Temporary matters
  - Limited services for everything except trial prep & trial
- The Law Shop utilizes written agreements for ALL LSR services
- Law Shop Sample cases

**Audience Poll/ Supreme Court Pro Se Forms**

- How many of you have ever looked at the Iowa Supreme Court pro se litigant forms?
  - Forms required for use by all pro se litigants in divorces with or without children & child support modification.
  - Instructions for dissolution:
    - No minor children = 28 pages
    - With minor children = 33 pages
  - Currently no forms for 600B paternity cases, but possibility of creating forms is on the horizon.
  - Current forms were developed prior to state-wide use of EDMS:
    - No mention of EDMS
    - Some forms now out of date (for example, none address mandatory mediation requirements in certain districts)
    - No mention of the requirement of filing a child support guideline worksheet
      - CS guidelines too complex for Iowa Support Master to build into an easier application pro se litigants could complete online for a fee
      - Judges seeing lots of crazy things being filed by pro se parties trying to satisfy the child support worksheet requirement.
    - No proposed decree, so stipulations not coming up in judges' queues always.

#### **IRCP 1.423 – Drafting Assistance (pro se litigants)**

- Elements:
  - Every pleading or paper
  - Filed by a pro se party
  - With drafting assistance of an attorney
- Document must state that attorney assistance was provided & identify the specific attorney – name, PIN, address, phone #, fax, BUT NOT SIGNATURE
  - LSR attorney shall:
    - Pleading or paper well grounded in fact
    - Warranted by existing law or good faith argument for change in law
    - Not filed for improper purpose such as to harass, cause unnecessary delay or increase in costs of litigation
  - Attorney may rely on pro se party's representation of facts absent reasonable belief to the contrary
  - Providing drafting assistance does NOT equal entering a formal court appearance

#### **IRCP 1.404(3) – Limited Appearance (court representation on limited basis)**

- IRCP 32:1.2(c) – When is an attorney allowed to limit his or her services to one or more individual proceedings or tasks within an action?

- **REASONABLE** under the circumstances
- **INFORMED CONSENT** in writing – unless:
  - Solely phone call
  - Nonprofit exceptions
  - Court appointed for limited purpose
- Limiting scope ≠ limiting obligations under Rules of Professional Conduct or Rules of Civil Procedure
- Limited scope = Attorney/client relationship
- Role may be limited if:
  - Specifically stated in Notice of Limited Appearance
  - Filed & served prior to or simultaneously w/proceeding
- Pursuant to a limited representation agreement, attorney must notify court of that limitation at the beginning of a hearing.
- Chapter 16.320 – rules allows LSR attorney under Limited Appearance to view entire court file.
- Service on an LSR attorney constitutes valid service on the party only in connection with the specific proceedings for which the attorney has appeared.
- **IRCP 1.404(4) - Be sure to file a Notice of Completion of Limited Appearance at the conclusion of your LSR work!!**
  - Court approval of withdrawal not required
  - If you intend to provide additional services, must file additional limited appearances or a general appearance

### **Fees for LSR Services**

- This is still family law so **NO CONTINGENCY FEES**.
- Payment may be required at or before the time of service & must be covered by your LSR agreement.
- Fees may be charged hourly or flat fee.
- Relevant Trust Account Rules:
  - 45.7 – Advance fee & expense payments
  - 45.8 – General retainer
  - 45.9 – Special retainer
  - 45.10 – Flat fee