

## **Model Document: Encouraging Family Law Bar to Provide Education and Training in Unbundled Legal Services**

Low-income and increasing numbers of the middle class cannot afford the costs of full-service legal representation. The percentage of cases in which one or both parties are without legal representation is increasing, with very real impact on case outcomes, as well as public trust and confidence in our legal system.

For the vast majority of [*INSERT local population*], contact with our general jurisdiction courts is through family law cases. Although most litigants are better served when represented by counsel, we know that in more than [*INSERT jurisdiction-specific statistics on rates of self-representation*] of cases involving divorce, legal separation, or allocation of parenting responsibilities, at least one side does not have an attorney.

Although they may be armed with online court forms, without the advice and counsel from an attorney, unrepresented litigants can come to our family courts uninformed, unprepared, or simply overwhelmed. The task of assisting and directing them has fallen to our court staff, which is unable to provide much of the advice litigants seek and unequipped to handle the growing number of litigants seeking help. Our family court judges spend less time adjudicating cases and more time working with unrepresented litigants, navigating the balance between enforcing applicable procedures, and ensuring access to justice.

Discrete task representation, or unbundled legal services, describes a legal service delivery model whereby an attorney assists a client with specific elements of the matter, as opposed to handling the case from beginning to end. It is authorized in [*INSERT state or local jurisdiction*] pursuant to [*INSERT local rule/opinion*]; see also [*INSERT state rules on entry and termination of appearance, if any*]. As [*INSERT author title*], I am convinced that this service model is an important part of a solution to addressing the growing numbers of family court litigants whose legal needs are unmet.

While self-help forms and in-court facilitators provided by our family courts are useful, they are not a substitute for lawyers. Only lawyers can provide legal advice, guidance, and analysis specific to the facts of the case, or give strategic direction in completing forms, preparing documents, or presenting a case in an adjudicatory forum. And, while discrete task representation certainly is not appropriate for every situation, it nonetheless enables attorneys to serve people who never would have sought the advice of counsel. Offering unbundled legal services allows attorneys to respond to market demands and expand—potentially significantly—their client pool to include those who otherwise could not or would not have sought the help of legal counsel.

Most importantly, providing unbundled legal services results in more prepared self-represented litigants, better informed settlements, and by smoothing the flow of the adjudicatory process, it frees docket, staff, and judge time to resolve disputes in a timely and efficient manner.

Yet, despite these obvious benefits, discrete task representation remains an underutilized service delivery model. Numerous lawyers remain unfamiliar with the nature of the practice, and of those who may have some awareness of it, many have unfounded ethical or liability concerns.

To address this, I am urging [*INSERT audience, e.g., state, local, or specialized bar association*] to develop and provide to attorneys specific education and training on unbundled legal services for cases involving separation, divorce, and allocation of parenting responsibility. This training should include information on the [*INSERT state rules of procedure*], in particular the entry and withdrawal of appearance, ethics rules, insurance coverage information, client and issue screening guidelines, as well as the nuts and bolts of a limited scope practice. You also might consider forming an unbundled services section of your bar organization that will offer CLEs and other support services to section members.

[*INSERT I/We*] stand ready to assist your efforts, including participation by [*INSERT state judicial branch*] in CLEs relating to the practice of unbundled legal services.