

Perspectives from Practitioners

Moderator: Keri Coleman Norris, LegalShield

Forrest Mosten, Solo Practitioner and UCLA School of Law

Wayne Moore, Law Office of Wayne Moore

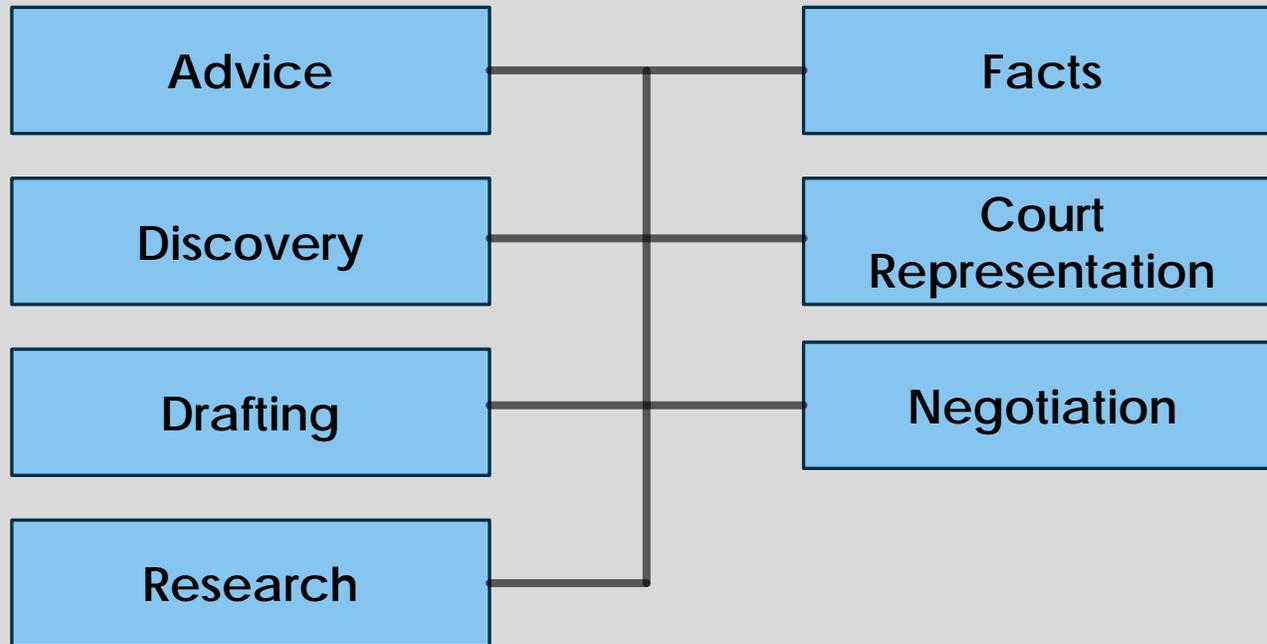
Elizabeth Scheffee, Shaheen & Gordon, P.A.



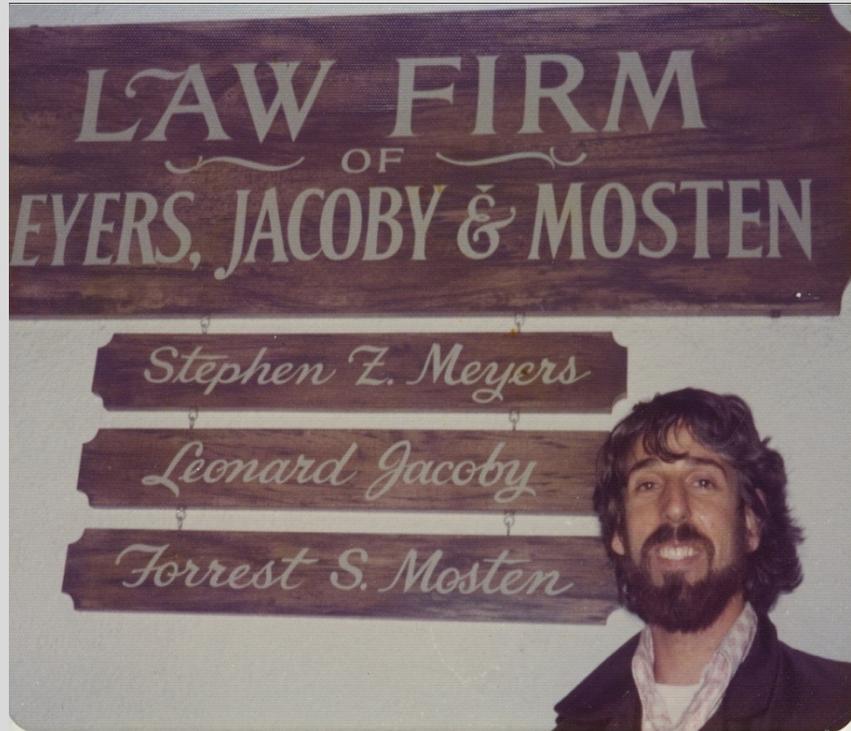
PEACEMAKING & UNBUNDLED PRACTICES & A HISTORY OF ACQUIRING CLIENTS

Forrest Mosten

TIPS FOR STARTING OR GROWING AN UNBUNDLED FAMILY LAW PRACTICE



MY UNBUNDLING JOURNEY STARTED IN 1972



MY UNBUNDLED ROLES

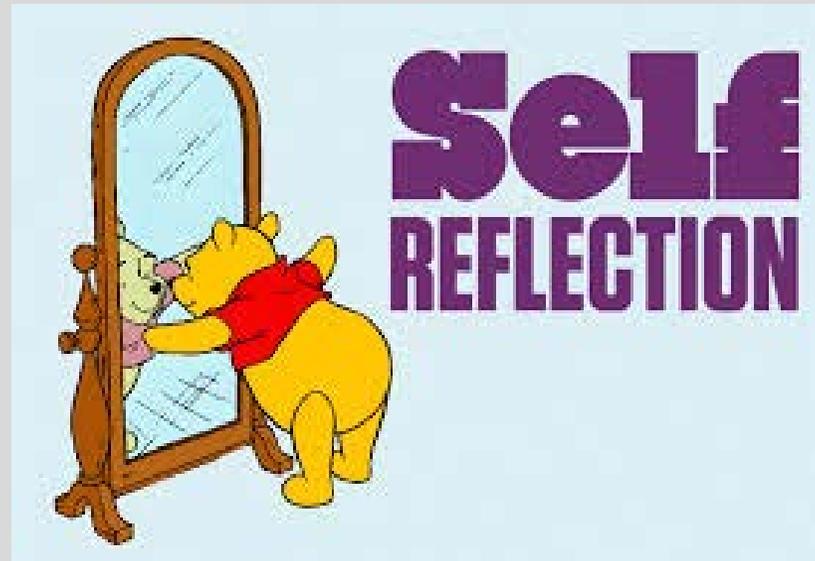
- ▶ Advisor to Self-Represented Litigants
- ▶ Ghostwriter—Letters and Court Forms
- ▶ Collaborative Lawyer
- ▶ Consulting Attorney in Mediation
- ▶ Negotiation Coach
- ▶ On Call During Court Appearances
- ▶ Preventive Family

**YOU CAN MAKE LIMITED COURT APPEARANCES;
I CHOOSE NOT TO**

COMMIT TO LEARNING CONCEPTS, LAW, SKILLS AND CRAFT OF UNBUNDLING



ARE YOU OPEN AND
READY TO UNBUNDLE?



DO YOU HAVE THE PERSONALITY AND CONSUMER ATTITUDE TO UNBUNDLE?



LET CLIENTS KNOW THAT YOU UNBUNDLE



LET OTHER LAWYERS IN YOUR COMMUNITY
KNOW THAT YOU UNBUNDLE



MEDIATION COACH



SHADOW COACH



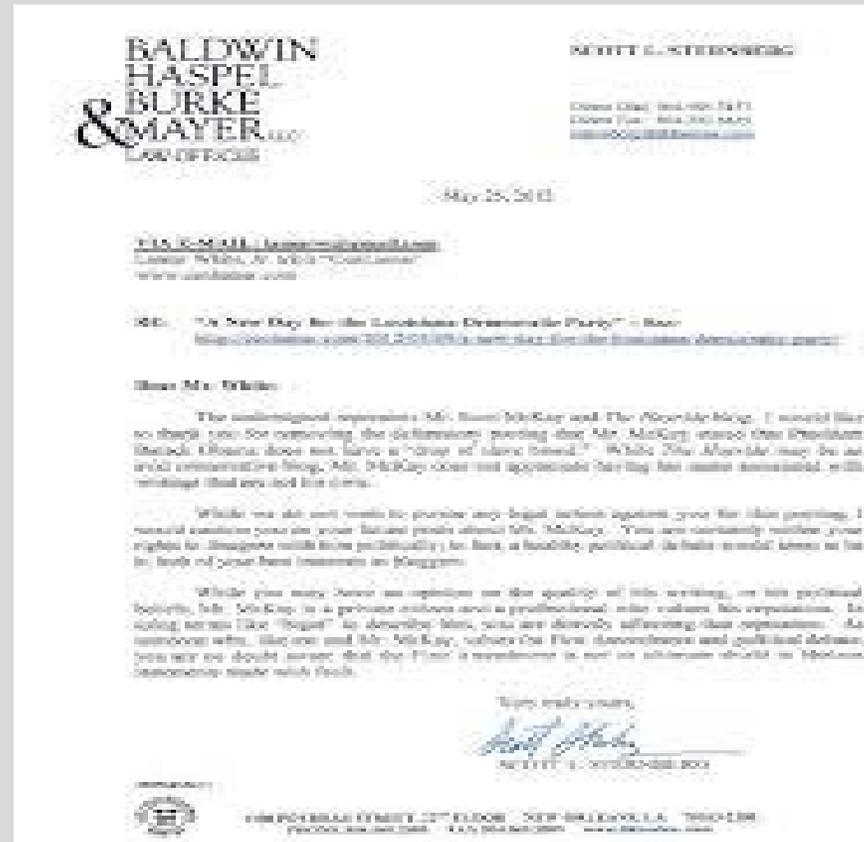
GHOSTWRITE CLIENT LETTERS AS A PEACEMAKER



CLIENT NEGOTIATION TEACHER



WRITE LETTER TO OTHER PARTY OR LAWYER



ATTEND MEDIATION SESSIONS



SERVE AS MANAGER OF CONFLICT RESOLUTION

CONFLICT MANAGEMENT

INCREASE
the positive



DECREASE
the negative

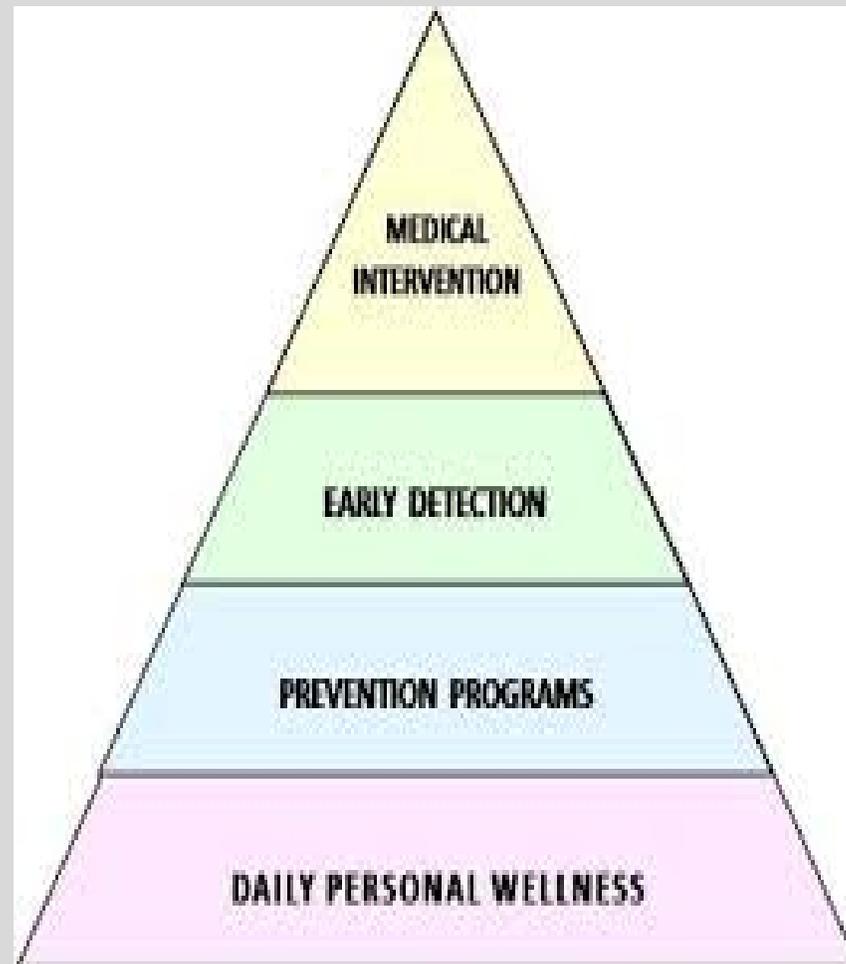
USE UNBUNDLED CONFIDENTIAL MINI-EVALUATIONS (CME)



OFFER SECOND OPINIONS



UNBUNDLED PREVENTIVE CONFLICT WELLNESS PROVIDER



CONSUMER AND FAMILY FRIENDLY OFFICE

- ▶ **PREPARE YOUR OFFICE**
- ▶ **CLIENT CLASSROOM**
- ▶ **CURRICULUM**
- ▶ **LEARNING TOOLS**
- ▶ **SELF-HELP RESOURCES**
- ▶ **CONSUMER DRIVEN STAFF**



REACHING LOW AND MODERATE INCOME CLIENTS

Last Frontier in Access to Justice

Wayne Moore

POTENTIAL SOLUTION

Unbundled Legal Services

Why are they so hard to serve

- Must charge lower total fees: \$250 to \$700
- Potential for more uncollected fees
- Higher volume of cases
- Higher marketing costs (mostly referrals)
- Higher intake/screening costs (less than 1 in 10 pay fee)
- Higher monitoring costs (malpractice concerns)
- More stressful lives, poorer reading skills, greater distrust of lawyers
- Extreme efficiency required

Unbundling – Practice Tools

- Questionnaires
- Checklists for screening cases (screen out certain cases and clients)
- Special retainer agreements
(Fees paid in advance)
- Document generators (not cut and paste or fillable forms)
- Self-help materials
- Clear point of case closure
(Re-Open case with new retainer)

Checklists

- Clients that cannot be served
 - Limited English speaking
 - Severe mental disabilities
 - Hectic lives
- Cases that can be handled
 - Proven with simple testimony and/or the submission of common documents or pictures
 - Other party is not represented (except in uncontested cases)
 - Judge is likely to rule in favor of the client

Special retainer agreements

- Client, not attorney, is responsible for case
- Attorney only assists
- Clear list of attorney's tasks
- No list of client's tasks (included in self-help materials)
- Case closes when attorney's last task is completed or after deadline for client action expires
- Case is re-opened with new retainer agreement if more tasks are required

Self-help materials

- Step-by-step list of all tasks that client must perform to complete case
- Includes list of evidence that must be brought to the hearing
- Includes opening statement to judge
- Includes instructions for presenting evidence
- Includes questions that must be answered by client/witnesses at hearing

Case closure

- Closes upon attorney's completion of last task or expiration of deadline for client action
- Close-out letter is sent
- Additional tasks require re-opening with new retainer agreement
- Re-opened case is closed upon attorney's completion of last task or expiration of deadline for client action

This minimizes case monitoring

Summary: Key barriers to serving moderate income people

- Low average fee
- High marketing/intake/screening (Acquisition costs)

Options

- Use unbundling
 - Can charge traditional hourly rates
 - But, hard to control acquisition costs
- Use sliding fee scale instead of unbundling
 - Reduces acquisition costs
 - But, hard to control average fee (\$600)
- Use hybrid (Both unbundled and sliding fee – best option)
 - Use a balance of both methods

Conclusion

- Fee-for-service practice devoted to moderate income people is not scalable
- Very few dedicated unbundled practices exist
- Slow growth of sliding fee scale practices because of low wages (29 in 7 years) (\$30 to \$50K)

Potential scalable solution

- Legal website to find, screen and refer paying clients
- Most attorneys willing to accept limited number of flat fee clients
 - Coach clients to represent themselves in court
 - Represent clients in court, who have performed preliminary steps themselves
- Website derives income from selling self-help materials containing vouchers listing attorneys willing to complete case for flat fee

Coaching

- Client:
 - Fills out intake questionnaire
 - Prepares draft court pleadings
 - Meets with attorney and pays full flat fee
 - Revises pleadings per attorney's advice
 - Files pleadings and arranges for service of process
 - Meets with attorney to review remaining steps
 - Represents self at court hearing

Representation

- Client:
 - Handles preliminary steps
 - Fills out intake questionnaire
 - Collects necessary evidence
 - Meets with attorney, pays full flat fee and provides evidence
 - Attends court hearing with attorney

ALL ENDS OF THE SPECTRUM, REACHING HIGH INCOME CLIENTS WITH UNBUNDLED SERVICES

Reaching High Income Clients
with Unbundled Services

Liz Scheffee

STATE OF MAINE
_____, ss.

DISTRICT COURT
Location: _____
Docket No.: _____

_____)	LIMITED ENTRY OF APPEARANCE
Plaintiff)	
v.)	
_____)	
Defendant)	

TO THE CLERK:

Please enter my appearance on behalf of the Plaintiff/Defendant for the limited and exclusive purposes of: _____.

Dated:

Example Attorney, Esq.
Bar No. _____

EXAMPLE FIRM
Firm Info

LIMITED REPRESENTATION AGREEMENT

To be executed in Duplicate

Date:

1. The client, _____, retains the attorney, _____, to perform limited legal services in the following matter: _____.

2. The client seeks the following services from the attorney (indicate by writing "X"):
 - a. Legal advice: office visits, telephone calls, fax, mail, e-mail;
 - b. Advice about availability of alternative means to resolving the dispute, including mediation and arbitration;
 - c. Evaluation of client self-diagnosis of the case and advising the client about legal rights and responsibilities;
 - d. Guidance and procedural information for filing or serving documents;
 - e. Review pleadings and other documents prepared by client;
 - f. Suggest documents to be prepared;
 - g. Draft pleadings, motions, and other documents;
 - h. Factual investigation; contacting witnesses, public record searches, in-depth interview of client;
 - i. Assistance with computer support programs;
 - j. Legal research and analysis;
 - k. Evaluation of settlement options;
 - l. Discovery: interrogatories, depositions, request for document production;
 - m. Planning for negotiations;
 - n. Planning for court appearances;
 - o. Standby telephone assistance during negotiations or settlement

conferences;

- p. Referring client to expert witnesses, special masters, or other counsel;
- q. Counseling client about an appeal;
- r. Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;
- s. Provide preventative planning and/or schedule legal check-ups;
- t. Other: _____

3. The client shall pay the attorney for those limited services as follows:

- a. Hourly fee: The current hourly fee charged by the attorney or the attorney's law firm for services under this agreement are as follows:
 - i. Attorney: \$300
 - ii. Partners: \$300
 - iii. Associates: \$175- \$215
 - iv. Paralegal: \$100

Unless a different fee arrangement is established in clause b.) of this paragraph, the hourly fee shall be payable at the time of the service. Time will be charged in increments of one-tenth of an hour, rounded off for each particular activity to the nearest one-tenth of an hour.

- b. Advance Payment: For a continuing consulting role, the client has agreed to pay the monthly bill in full each month to pay attorney fees and costs as they are incurred. Bills must be paid in full within twenty (20) days of receiving our statement or an advance payment will be required to secure payment of fees.

Alternately, client may pay to attorney an advance payment to be applied against attorney fees and costs incurred by client. This amount will be deposited by attorney in attorney's trust account. Client authorizes attorney to withdraw funds from the trust account to pay attorney fees and costs as they are incurred by client. The deposit is refundable - if, at the termination of services under this agreement, the total amount incurred by client for the attorney fees and costs is less than the amount of the deposit, the difference will be refunded to client. Any balance due shall be paid

within thirty days of the termination of services.

- c. Costs: All costs payable to third parties in connection with client case, including filing fees, investigation fees, deposition fees, and the like shall be paid directly by client. Attorney shall not advance costs to third parties on client behalf.
- d. Interest: Should the balance remain past due in excess of sixty (60) days, attorney will charge interest on the unpaid balance at the rate of one and one-half percent (1½ %) per month.

4. The client understands that the attorney will exercise his or her best judgment while performing the limited legal services set out above, but also recognizes:

- a. the attorney is not promising any particular outcome.
- b. the attorney has not made any independent investigation of the facts and is relying entirely on the client limited disclosure of the facts given the duration of the limited services provided, and
- c. the attorney has no further obligation to the client after completing the above-described limited legal services unless and until both attorney and client enter into another written representation agreement.

5. If any dispute between client and attorney arises under this agreement concerning the payment of fees, the client and attorney shall submit the dispute for fee arbitration in accordance with Rule 9(e)-(k) of the Maine Bar Rules. This arbitration shall be binding upon both parties to this agreement.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

Signature of Client

Signature of Attorney