

Best Practices

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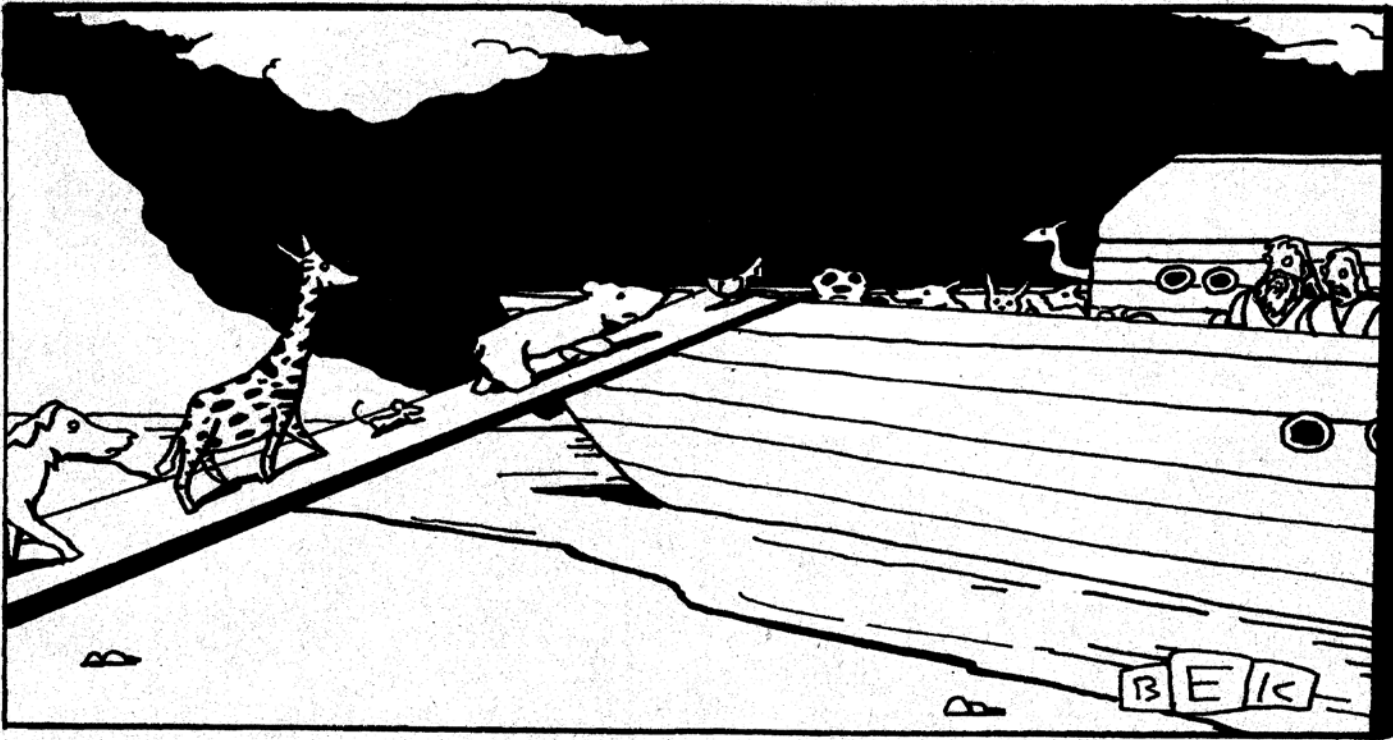
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Learning Objectives

- ▶ Suggested protocols to achieve family law reform
- ▶ Oregon's Vehicle: Statewide Family Law Advisory Committee
- ▶ Informal Domestic Relations Trial: Reform example and collaboration with IAALS
- ▶ Suggested for reforms to encourage unbundling

First Objection – Cost



"I know we have to cut costs, but is bringing only one of each a good idea?"

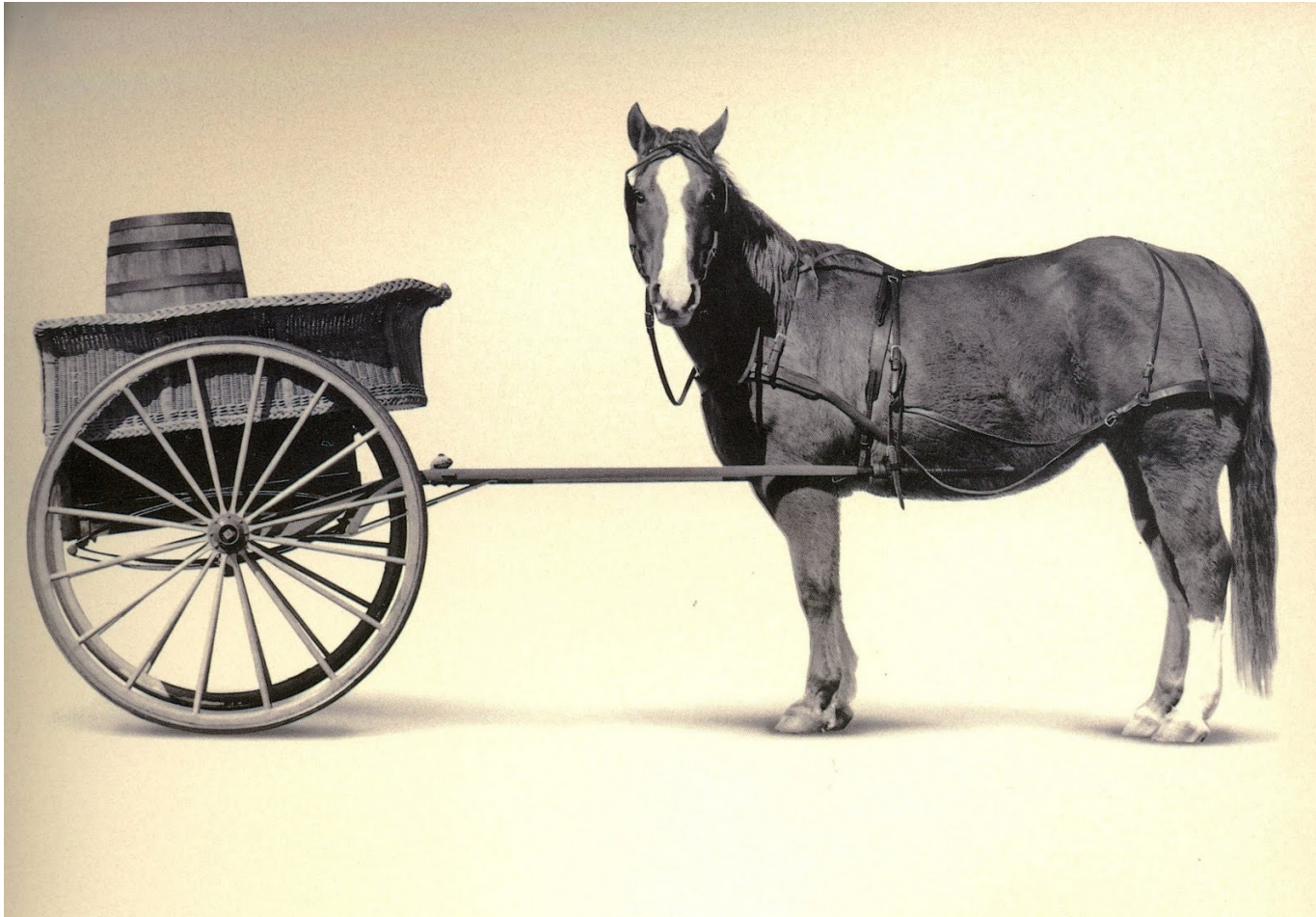
Reform Process – Commandments

1. Membership: Multi-disciplinary, open-minded participants who pledge, “I’m open to the possibility that I could be wrong.”
2. First: Agree on vision and core values
3. Start with a “clean sheet of paper”
4. Engage all stakeholders early
5. Short deadlines
6. Energetic, committed leadership

Task Force Membership

- ▶ Diversity is important
- ▶ Avoid at all costs ideologues – Everyone must be **“open to the possibility that their preconceptions might be wrong”**
- ▶ Engage stakeholders – If they are not with you on the take-off, they will not be with you at the landing

Core Values First



Iowa Family Law Process Task Force

Core Values

- ▶ Fairness
- ▶ Accessibility
- ▶ Integrity
- ▶ Independence
- ▶ Efficiency

NOTE: Priority is outcomes, not output.

Start With a Clean Sheet of Paper – Choice is Between

1. Rearranging the furniture – accept the proposition that family law is the crazy aunt in the basement, and we can only tweak systems and procedures; or,
2. Urge fundamental change – based on the preposition that the fair and efficient resolution of family law cases is critical to the well-being of families and children, and proper resolution of family law cases is the most important job of the Court.

Engage Stakeholders Early

- ▶ Reach out to underrepresented stakeholders
- ▶ Especially those who are likely to resist change
- ▶ Reform is often sabotaged by individuals or groups who claim they were unaware of the process or had no opportunity to provide input.

Short Deadlines and Strong Leadership

- ▶ Short deadlines necessary to maintain high energy
- ▶ Leadership must be strong and very focused

Oregon's Statewide Family Law Advisory Committee (SFLAC)

- ▶ Created by the 1997 legislature upon the sunset of the Oregon Task Force on Family Law (ORS 3.436)
- ▶ Members appointed by Chief Justice
- ▶ Task: “To advise the Chief and State Court Administrator in carrying out their duties relating to family law.”
- ▶ AND “identifying family law issues that need to be addressed in the future.”

Informal Domestic Relations Trial

(Uniform Trial Court Rule (UTCr) 8.120)

- ▶ “Opt In” – exceptions for DV, etc.
- ▶ Most rules of evidence waived
- ▶ Informal procedures: Court retains jurisdiction to modify if justice requires
- ▶ Resolves all issues, usually faster
- ▶ Standard of review unchanged
- ▶ Opportunity for lawyers to unbundle
- ▶ IDRT IS A HUGE OPPORTUNITY FOR UNBUNDLING

Informal Domestic Relations Trial (2)

- ▶ IDRT – Resolves all issues as follows:
 - Parties sign waiver and consent
 - Parties must file one day before:
 - List of assets and debts and distribution
 - Uniform Support Declaration (if support)
 - Parenting Plan (if minor children involved)
 - Parties summarize issues to be decided
 - Moving party then the other party speaks. Parties are not questioned except perhaps by the Court
 - Expert testimony usually by report
 - Rules of evidence waived, hearsay received

Reforms To Encourage Unbundling

- ▶ Unbundling recognized by separate trial court rule with court-approved forms and form allowing withdrawal (Oregon UTCR 5.170)
- ▶ Bar-approved legal services agreement
- ▶ Rule of Professional Responsibility approving unbundling RPC 1.2(b) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.
- ▶ Lawyer CLE trainings that promoting unbundling
- ▶ Training for court staff and judges
- ▶ Publicity: Bar, websites, etc.

Oregon UTCR 5.170

Limited Scope Representation

- ▶ 5.170 LIMITED SCOPE REPRESENTATION
- ▶ (1) Applicability
- ▶ This rule applies to limited scope representation in civil cases subject to this chapter, when an attorney intends to appear in court on behalf of a party.
- ▶ (2) Notice of Limited Scope Representation
- ▶ When an attorney intends to appear in court on behalf of a party, the attorney shall file and serve, as soon as practicable, a Notice of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (<http://courts.oregon.gov/OJD/pages/index.aspx>).
- ▶ (3) Termination of Limited Scope Representation
- ▶ When the attorney has completed all services within the scope of the Notice of Limited Scope Representation, the attorney shall file and serve a Notice of Termination of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (<http://courts.oregon.gov/OJD/pages/index.aspx>), in accordance with UTCR 3.140.

I'M GRATEFUL TO PARTICIPATE

