

Model Document: Encouraging Family Law Bar Association to Make Available a List of Attorneys Who Provide Unbundled Legal Services

Low-income individuals and increasing numbers of the middle class cannot afford the costs of full-service legal representation. As a result, 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 courts is through family law cases. And, while significant issues are decided in family cases that can have long-term implications for the families involved, 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 self-represented litigants may be armed with online court forms and self-help materials, without advice and counsel from an attorney, many can come to our family courts uninformed, unprepared, or simply overwhelmed. The task of assisting them has fallen to our court staff, which is unable to provide much of the information and advice for which litigants are looking and which is increasingly ill-equipped to handle the growing number of litigants seeking help. Our family court judges often find themselves precariously navigating a balance between enforcing applicable procedures and ensuring access to justice for self-represented litigants, an especially tricky task when one party is represented and the other is not.

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*][*OPTIONAL state rules on entry and termination of appearance*]. As [*INSERT author title*], I am convinced that this service model is a partial solution to addressing the growing numbers of family court litigants whose legal needs are unmet.

Although the self-help coordinators and in-court facilitators we provide 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. Providing unbundled legal services results in more prepared self-represented litigants, better-informed settlements, and ensures that docket, court staff, and judge time are focused on resolving disputes in a timely and efficient manner. Moreover, while limited task representation certainly is not appropriate for every situation, it nonetheless

enables 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.

Yet, despite these obvious benefits, limited scope representation remains an underutilized service delivery model. This is due, in part, to a lack of knowledge by the public of its availability.

An important way to remedy this is to make available a user-friendly directory that lists:

- 1) Attorneys who provide unbundled legal services;
- 2) The legal matters in which those services are provided;
- 3) The payment structures offered by the individual lawyers;
- 4) The geographical areas of the state where those lawyers offer services;
- 5) The foreign languages spoken by those lawyers.

I strongly encourage you to develop and maintain this list, which should be visible and readily available in the clerk's office of each family court and in the clerk's office of our Supreme Court, as well as available on-line through the court's website.