



# Limited Scope Representation

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# The Brave New World of Legal Services

More than half Missouri lawyers now offer limited scope representation

-- 2011 MOBar Economic Survey

Over 40 states authorize limited scope representation. Rules of Professional Conduct recognize clients' right to prioritize scope and cost of legal services



## **What is LSR (limited scope representation)**

Lawyer provides meaningful representation

Tasks delegated by complexity & skills required

Client pays for legal services as performed

Client aware of specific legal services rendered

Lawyer and client work as a team



## LSR Lawyer Goals

1. Provide meaningful legal services to client
2. Provide good quality services
3. Get paid for the work performed (no A/R)

\* \* \* \* \*

**You think you are selling your time.  
Clients think they are buying results.**



## Tasks delegated to client

Information gathering

Administrative tasks

Filling out standard forms

Representing self in court (uncontested)



## **LSR is not “lawyer lite”**

Client receives same quality of legal advice

LSR practice must be competent

Same ethical standards

Client decision-making must be informed



LSR requires a collaborative mindset

Avoid “white knight” syndrome

Must tolerate fact client won't be as thorough

Willing to defer to client choice

Interactions require more time

Written and verbal instructions recommended

(Clients love handouts explaining the how and why of procedures, especially for tasks they are performing)



# Delegation Issues

Provide client with a checklist of tasks

Decide who maintains the case file?

Who has control over pleadings?

Who communicates with court, others?

Who will client's performance be confirmed?



## LSR initial interview

- ☑ More ... explanation, repetition, discussion
- ☑ Specific delegation & coordination of tasks
- ☑ Lawyer assessment of **appropriateness** of client & legal problem
- ☑ Lawyer obtains **informed consent** of client

Informed clients choose more services



## LSR client screening

- ☑ Does client have capacity to hold up their end?
- ☑ Document – use an intake form
- ☑ Do a conflicts check
- ☑ Some screening can be delegated to staff, such as completing client questionnaire
- ☑ Lawyer must do discretionary portion of screening



## LSR informed consent

Client's desire for LSR is factor in assessing lawyer's obligation to obtain informed consent

Rule 4-1.1 "the lawyer may not ask the client to agree to representation so limited in scope as to violate Rule 4"

Lawyer has duty to explain benefits, risks and alternatives to client

Any doubt about the scope should promote the interest of justice, client, and opposing parties



## Written engagement agreement

Rule 4-1.2: An agreement for LSR must be in writing unless they are qualified pro bono services

LSR presumed when using form in Rule 4-1.2c

No written agreement required for initial interview. May give legal advice during initial interview

Initial interview ends when there is a decision about representation



# Terms for LSR engagement

## MOBar Special Committee on Unbundled Legal Services (July 2007)

- Explicit, plain wording outlining lawyer's role
- Concise description of legal problem using LSR
- Describe specifics: what lawyer is and is not doing
- Identify source of information on which lawyer will rely (usually the client)
- Note foreseeable collateral problems
- Note possible need for additional legal services
- State that scope is reasonable under these circumstances



# LSR malpractice risks

Arise mainly over disagreements about scope of the lawyers role

- ✓ Have a written engagement agreement
- ✓ Revise engagement agreement if scope changes
- ✓ Document, Document! – Use check lists
- ✓ Stick in LSR in your area of expertise
- ✓ Gain informed consent of client
- ✓ Deliver quality advice and services
- ✓ Refer to other counsel if reasonable



## Have a firm Policy on Change of Scope

### Beware changes in scope ... the slippery slope

- ▶ No implied or verbal change in scope
- ▶ Consult again with client (informed consent)
- ▶ Execute new or revised written agreement
- ▶ Do this even during court appearances
- ▶ Send client a termination of services letter



## Rule 55.03b: Limited Appearance

### Requires filing of Entry of Limited Appearance

- Unless limited, appearance is “for all purposes”
- Written entry is “limited by its terms to a particular proceeding or matter”

### Implies lawyer must describe scope

(Informal Advisory Opinion 3/30/11)

- Scope and duration important to court staff
- Instructions for communications with lawyer and/or client also important



## Misuse of Limited Appearance

Full representation of client and limited court appearances are not authorized by Rule 4-1.2 or Rules of Civil Procedure

Confidentiality of the LSR agreement is weighed against requirements of candor with Court for administration of justice

--Informal Advisory Opinion March 30, 2012



## Rule 55.03b: Terminating Limited Appearance

Lawyer may withdraw when scope of services is completed

▶ Court's permission may be requested but is not required

Lawyer has withdrawn when Termination of Limited Appearance is filed

▶ If no termination notice filed, implication is that scope of services has been expanded

▶ Prompt filing of Termination Notice protects against unanticipated expand scope of representation

☑ File Termination Notice EVERY time a limited appearance is entered with the Court



# Worthwhile LRS Resources

ABA 2011 Report “*Personal Perspectives on Finding Legal Services*” - how consumers shop for legal services

Free web based resources

[www.pli.edu](http://www.pli.edu) (free webinars on LSR)

[www.selfhelpsupport.org](http://www.selfhelpsupport.org)

[www.americanbar.org/groups/delivery\\_legal\\_services](http://www.americanbar.org/groups/delivery_legal_services)

Forrest Mosten, *Unbundling Legal Services* (ABA 2000)

Sue Talia, *Unbundling Your Divorce* (Nexus 2006)

