

Limited Scope Representation: There is Nothing Latin About It.

by Tracy Hightower-Henne

We live in a world of do-it-yourself(ers). Just ask anyone who uses Pinterest or browses the aisles of Home Depot and Menards on the weekends (sometimes more than once in the same day) working on their DIY projects. So why wouldn't this mentality apply to the law as well? Well, it does, and it is widespread. More and more people are filing pro se divorces and paternity actions than ever before. Our judges are dealing with pro se parties who are somewhat prepared, but sometimes not prepared at all. The pro se filers may need your help – just on a limited basis.

There are many reasons for a higher number of pro se filers, but mostly it is due to an increase in low-income individuals and the cost of full service representation is prohibitive. The

pro se filers may be able to navigate the self help forms, but the courts benefit when lawyers are assisting on a limited scope basis. Sometimes, a party may be able to pay an initial retainer, but a lawyer usually withdraws when the client is not able to continue paying which leaves the client lawyerless and the court burdened with a pro se filer. Oftentimes, a client is not able to pay a retainer at all and is stuck navigating the court alone.

Both the Nebraska Court Rules of Pleading in Civil Cases and Nebraska Rules of Professional Conduct allow lawyers to provide limited scope services to clients. Limited scope (or unbundled legal services) is simply that – representing a client on a limited scope, something less than full representation. Limited scope representation may include preparing a complaint for a divorcee or just reviewing the decree or even representing the client at a temporary hearing. It is important for lawyers and clients alike to recognize that limited scope representation means that the client is officially acting pro se in their case. The client is signing any and all pleadings as a pro se party and the lawyer is not the “attorney of record” on the matter.

Neb. Ct. R. of Prof. Cond. § 3-501.2 expressly permits limited scope representation and requires that any court filings prepared by a limited scope lawyer include “prepared by” with the lawyer’s name, bar number and contact information. This notation “clarifies that such disclosure does not create an entry of appearance while also requiring the pro se litigant to sign the filing.” *Id.* If the client is involved in a “court proceeding”, the lawyer may enter a “Limited Appearance” and “such appearance shall clearly define the scope of the lawyer’s limited representation.” *Id.*

When a lawyer is representing a party on a limited scope

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ing with the sub-committee to implement strategies that will shed light on the abundant benefits of limited scope representation. If you want to voice your opinion on the matter, Tracy welcomes all comments or suggestions via email at tracy@hrlawomaha.com. You can find out more about Tracy on the firm’s website at www.hrlawomaha.com.

LIMITED SCOPE REPRESENTATION


basis, the lawyer must determine if the limited scope is “reasonable in the lawyer’s judgment under the circumstances and the client gives informed consent to such limited representation.” *Id.* It is important to recognize these two separate ethical duties. First, the attorney must determine if the limited scope is reasonable. While some people are “do-it-yourself(ers)”, it may not be reasonable, after consultation, for a lawyer to enter into a limited scope representation with the client. This might occur with people of limited capacity or minors, for example. Second, the client must give informed consent. Therefore, the lawyer is required to explain what limited scope means and the client must give consent in writing.

Neb. Ct. R. Pldg. § 6-1109 provides that “if after consultation, the client consents in writing, an attorney may enter a “Limited Appearance” on behalf of an otherwise unrepresented party involved in a court proceeding, and such appearance shall clearly define the scope of the lawyer’s limited representation. A copy shall be provided to the client and opposing counsel or opposing party if unrepresented.” *Id.*

Neb. Ct. R. of Prof. Cond. § 3-504.3 provides that where an “Entry of Limited Appearance” is filed, opposing counsel may communicate with the client on “matters outside the scope of limited representation.” This is quite different than communication as it relates to a client under full scope representation, which we all know prohibits any communication “about the

subject of the representation.” *Id.* Thus, the client must realize that where a limited scope agreement may cover the temporary hearing only, opposing counsel may communicate with the client directly regarding the final decree, for example.

The Nebraska Supreme Court has implemented the handy online legal self-help center with various forms for pro se parties. While some pro se parties can navigate this online system- or self help desks- some cases contain legal issues that go beyond the forms and they are usually willing to pay an attorney for limited representation. Lawyers should recognize this need and smaller firms may benefit from providing limited scope services (note: nothing about limited scope requires pro bono services).

Limited scope representation is not appropriate for all lawyers, all clients or all areas of the law. So while, limited scope representation is not the answer to all pro se parties, it can be a beneficial service that lawyers can offer to clients, who may just need a little help. Lawyers wanting to offer limited scope representation must review the rules carefully and fully understand the procedural filings that may be required. It is also important to have a limited scope fee agreement that is easy to understand. Most importantly, lawyers should not be afraid to represent a client on a limited scope basis as we can utilize our skills to help the do-it-yourself(ers) navigate the courtroom a little easier. 

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