UNBUNDLING
LEGAL SERVICES:

Options for
CLIENTS, COURTS & COUNSEL

A TOOLKIT FOR COURT LEADERSHIP

AFCC

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UNIVERSITY of DENVER

Unbundling Legal Services:

A Toolkit for Court Leadership

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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a "think tank" that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative solutions to problems in our system in collaboration with the best minds in the country. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

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Honoring Families is an initiative of IAALS dedicated to developing and promulgating evidence-informed processes and options for families involved in divorce, separation, or parental responsibility cases that enable better outcomes for children and that provide greater accessibility, efficiency, and fairness for all parties, including those without counsel.

Acknowledgements

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Introduction

In 2010, the New York Times featured a call to action from two former state chief justices, who called upon the legal profession to promote the availability and use of unbundled legal services to help close an ever-widening "justice gap." *See* John H. Broderick & Ronald George, *A Nation of Do-It-Yourself Lawyers* (2010), available at: http://www.nytimes.com/2010/01/02/opinion/02broderick.html.

Unbundled legal services, in which a client hires an attorney for agreed-upon discrete tasks, is indeed a partial solution to the access to justice problem in our nation's courts, and has become increasingly used and accepted in the last several decades. And, proponents believe that in cases involving divorce, separation, or parenting time, the use of unbundled legal services by parties who have never sought the advice of counsel can increase the number of prepared litigants and result in more available docket, court staff, and judge time.

Although unbundled legal services provide more flexibility to a litigant, and is usually far less costly than full service representation, too few attorneys offer it, and too many litigants do not know about it. While there are more attorneys offering unbundled legal services and a growing list of jurisdictions recognize it, the access crisis remains, the justice gap continues to widen, and too many litigants remain unaware of the option of seeking targeted legal assistance.

Securing access to justice in the court system is a fundamental goal and responsibility of judicial leadership. The support of the courts is absolutely essential in order for unbundled legal services to take hold. Chief justices and chief judges are uniquely positioned to help close the justice gap through hands-on encouragement and support of unbundled legal services within their respective jurisdictions.

The purpose of this toolkit is to provide judicial leaders quick access to information on unbundled legal services and ways to promote its availability and use. It is formatted to suggest alternative means by which chief justices, chief judges, clerks of court, court administrators, and other judicial leaders can encourage and support this legal services model to improve litigant outcomes, public trust and confidence, and court efficiency in cases involving divorce, legal separation, and parenting responsibilities.

A Brief Essay:
Why Should Courts Encourage Unbundled Legal Services?

I. *A Description of the Problem: Access to Justice, Procedural Fairness, and Court Efficiency*

> "There is widespread consensus that this 'justice gap' between rich and poor litigants threatens the credibility of the justice system, undermines public confidence in the law, and distorts the accuracy of judicial decision-making." – Jessica K. Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 GEO. J. ON POVERTY L. & POL'Y 453, 453 (2011).[1]

Most agree that litigants benefit from attorney representation in the court system. Yet, in some state courts, more than 80% of court cases involving divorce, legal separation, or allocation of parenting responsibilities involve at least one party who does not have an attorney. Legal representation has been effectively priced out of reach for those of modest means and, increasingly, even the middle class cannot afford the cost of a lump sum retainer or the full services of a lawyer. Moreover, many litigants, even if they can afford it, simply do not want a lawyer involved in their divorce case: they are concerned that once they engage an attorney, counsel fees for full representation will become prohibitive, or they mistrust lawyers and fear they will lose control over their case.

For the vast majority of Americans, contact with general jurisdiction courts is through family law cases. When entirely unrepresented by counsel, this large portion of our population often comes to court uninformed and overwhelmed, seeking substantial help from court staff and the judge. As a result:

- Court staff spend substantial time assisting self-represented litigants, often without guidance on how to navigate the line between providing legal information and legal advice;

- Judges spend valuable court time explaining the issues and proceedings to self-represented litigants while navigating the balance between enforcing applicable procedures and ensuring access to justice;

- Represented parties and self-represented litigants risk not having their cases heard in a timely manner;

[1] Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1960765.

- Self-represented litigants often leave frustrated and unsatisfied, viewing the court system as unfair and unresponsive.

Although many jurisdictions have developed on-site or internet-based self-help centers or provide in-court assistance by non-lawyer personnel tasked with helping the self-represented litigant navigate the tangle of forms and procedures, very few assistance programs provide litigants with actual legal advice. Thus, even if a self-represented litigant shows up in court at the right place and with a completed form, without the information and guidance usually obtained from lawyers, he or she is perhaps not best equipped to follow court procedure or to make informed legal decisions. Litigants "need to know more than which forms to use, how to docket their cases and what time to appear in court. They need assistance with decision-making and judgment. They need to know their options, possible outcomes and the strategies to pursue their objectives."[2]

II. What Are Unbundled Legal Services?

"Unbundled legal services," or discrete task representation, refers to a method of legal services delivery in which a client hires an attorney to assist with specific elements of the matter. These tasks may include any or all of the following: gathering facts; advising the client; discovering facts of the opposing party; researching the law; drafting correspondence and documents; negotiating; reviewing a particular document; and/or representing the client in court. The client and the attorney agree on the specific tasks to be performed by each. Depending on the nature of the involvement, the attorney may enter an appearance with the court. The client represents himself/herself in all other aspects of the case.

Discrete task representation is not new. It is standard practice outside of the arena of adjudicatory matters, particularly in transactional work and estate planning. Because lawyers traditionally have been taught to approach litigated cases systemically, they have been slower to embrace unbundling for matters requiring adjudication. However, that attitude is changing due to the increasing availability of education and training to help attorneys identify which cases or clients are suitable for a discrete task approach; clarification of professional ethical concerns; availability in an increasing number of jurisdictions of rules and forms governing entry and withdrawal of limited appearances; and the changing legal marketplace, including an increasing need for legal services for people of low and middle income and a lack of available work for newly-minted lawyers.

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[2] *See* ABA STANDING COMM. ON THE DELIVERY OF LEGAL SERV., AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE PRO SE LITIGANTS: A WHITE PAPER 5 (2009), *available at* http://apps.americanbar.org/legalservices/delivery/downloads/prose_white_paper.pdf.

III. How Unbundled Legal Services Provide a Partial Answer

"The better the litigant is prepared, the more efficiently the court operates. While judges would no doubt prefer fully represented litigants, the choice in most venues is a self-represented litigant who is well prepared or one who is not. Courts can avoid litigants who are in a procedural revolving door when those litigants have access to the services lawyers provide."[3]

Although they provide valuable assistance, online self-help forms and court-based facilitators are not a substitute for lawyers. Only lawyers can provide legal analysis specific to the facts of the case or give strategic direction in completing forms, preparing documents, or presenting a case in court.

While it is true that unbundled legal services is not appropriate for every situation, as an accepted form of legal services delivery, it can enable attorneys to serve people who otherwise would not have had the benefit of the advice of counsel. In turn, the use of unbundled legal services can increase the number of prepared self-represented litigants, facilitate informed settlements, and, by smoothing the flow of the adjudicatory process, free docket, staff, and judge time to resolve disputes in a timely and efficient manner.

[3] *Id*. at 6.

Tool #2

Talking Points for Courts on Unbundled Legal Services/Discrete Task Representation

On the practice of unbundled legal services …

- Unbundled legal services or discrete task representation 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.

- This type of practice is standard among transactional and estate planning attorneys, and is increasingly moving into the adjudication context. Legal aid providers around the country have been leveraging this model of service delivery for years.

On the scope and types of unbundled legal services …

- Through an unbundled legal services model, an attorney and his/her client agree on the specific tasks that each will perform.

- Depending on the agreement, an attorney may engage in any number of discrete tasks:

  - Drafting pleadings, briefs, or orders;
  - Reviewing documents and organizing discovery materials;
  - Conducting legal research;
  - Negotiating with opposing parties or counsel;
  - Engaging in alternative dispute resolution;
  - Coaching on strategy;
  - Advising on courtroom procedures or appropriate courtroom behavior;
  - Preparing exhibits;
  - Providing legal guidance and advice;
  - Making an appearance in court.

- For unbundled legal services agreements that anticipate representation in court, an attorney can properly limit the scope of services by filing a Limited Entry of Appearance with the court and a Notice of Termination of Appearance at the conclusion of the service(s).

On the need for unbundled legal services …

- **Cost of Legal Representation**: The cost of obtaining full-service legal representation is prohibitive for low-income individuals, and, increasingly, the middle class cannot afford representation. As a result, the percentage of cases in which one or both parties are without legal representation is increasing, with very real impacts on case outcomes, as well as public trust and confidence in the legal system.

- **Growing Demand for Client Control**: Armed with legal information, rules and procedures, and court forms easily accessible online, clients increasingly desire greater involvement in and control over their legal matters. An unbundled practice model enables clients to drive the course of their legal matter, leveraging only those services they truly need without feeling that they have relinquished control of their case.

- **Pressures Placed on Court Staff and Judges**: Self-represented litigants often come to court uninformed, unprepared, and overwhelmed. The task of assisting and directing them falls to court staff who are both unable to provide much of the advice for which litigants are looking and unequipped to handle the growing numbers of litigants coming to them. Judges, too, struggle in working with self-represented litigants, as they navigate the balance between enforcing applicable procedures and ensuring access to justice. An unbundled legal services model can increase the number of prepared litigants, facilitate informed settlements, and help to smooth the flow of adjudicatory proceedings.

- **A Changing Practice**: The practice of law is changing. As a growing number of litigants are proceeding through the court process without legal representation, law practices increasingly have to adapt to the changing marketplace for legal services. This shifting practice environment often affects new lawyers, as more and more struggle to find work after law school. Offering unbundled legal services allows 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.

On responding to criticisms of unbundled legal services …

- **Ethical Concerns**: The ABA Model Rules of Professional Conduct's provisions relating to limited scope representation, adopted in most states, authorize this practice so long as the limitation is reasonable under the circumstances and the

client gives informed consent. Over forty states have specific ethics rules, above and beyond the ABA Rules, authorizing and regulating the practice.

- **Suitability for Certain Cases**: Not all cases are suitable for unbundled legal services. By talking with clients, evaluating the circumstances of the legal matter(s), and assessing clients' abilities, attorneys can adequately screen cases and clients prior to engaging in an agreement to limit the scope of representation.

- **Adequacy of Piecemeal Representation for Interconnected Issues**: It is true that legal issues are often interconnected. In many cases, however, it is possible to identify discrete tasks. Furthermore, many—if not most—of the clients who would benefit from unbundled legal services would not otherwise hire an attorney for full representation. For these clients, partial representation is often better than no representation.

Call to action …

- Courts should explicitly support the delivery of unbundled legal services and provide clarification on unclear or ambiguous ethics guidelines, including the development of rules and forms governing entrance and withdrawal of limited appearances.

- Courts must ensure education and communication among court staff and judges, so that treatment of limited scope representation cases and messaging about unbundled legal services more broadly is consistent.

- Courts must encourage the state, local, and specialty bars to promote the practice of unbundled legal services, including encouraging the bar to develop a user-friendly directory of attorneys available to offer limited scope services. Courts should be aware of the unbundled listings and actively encourage litigants appearing in court to consider consulting the listings.

- Courts should work with bar leadership to encourage listings of lawyers offering unbundled services and promotion to the public of these services as ongoing functions of the bar associations.

- Courts should encourage the formation of an unbundled services bar section that will offer CLEs and other support services to section members. The court should maintain an active role in supporting the section and offer participation in CLEs, such as panel discussions by judges on unbundled best practices in the courtroom.

- Courts should support interaction between their own self-help centers and any unbundled legal services bar section. The self-help centers can help self-represented litigants identify the type of services they need from a lawyer who offers unbundled legal services.

Tool #3

Model Document: Encouraging Family Law Bar to Provide Education and Training in Unbundled Legal Services

Low-income and increasing numbers of the middle class cannot afford the costs of full-service legal representation. 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 general jurisdiction courts is through family law cases. Although most litigants are better served when represented by counsel, we know that 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 they may be armed with online court forms, without the advice and counsel from an attorney, unrepresented litigants can come to our family courts uninformed, unprepared, or simply overwhelmed. The task of assisting and directing them has fallen to our court staff, which is unable to provide much of the advice litigants seek and unequipped to handle the growing number of litigants seeking help. Our family court judges spend less time adjudicating cases and more time working with unrepresented litigants, navigating the balance between enforcing applicable procedures, and ensuring access to justice.

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

While self-help forms and in-court facilitators provided by our family courts 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. And, while discrete task representation certainly is not appropriate for every situation, it nonetheless enables attorneys to serve people who never would have sought the advice of counsel. Offering unbundled legal services allows 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.

Most importantly, providing unbundled legal services results in more prepared self-represented litigants, better informed settlements, and by smoothing the flow of the adjudicatory process, it frees docket, staff, and judge time to resolve disputes in a timely and efficient manner.

Yet, despite these obvious benefits, discrete task representation remains an underutilized service delivery model. Numerous lawyers remain unfamiliar with the nature of the practice, and of those who may have some awareness of it, many have unfounded ethical or liability concerns.

To address this, I am urging **[***INSERT audience, e.g., state, local, or specialized bar association***]** to develop and provide to attorneys specific education and training on unbundled legal services for cases involving separation, divorce, and allocation of parenting responsibility. This training should include information on the **[***INSERT state rules of procedure***]**, in particular the entry and withdrawal of appearance, ethics rules, insurance coverage information, client and issue screening guidelines, as well as the nuts and bolts of a limited scope practice. You also might consider forming an unbundled services section of your bar organization that will offer CLEs and other support services to section members.

[*INSERT I/We***]** stand ready to assist your efforts, including participation by **[***INSERT state judicial branch***]** in CLEs relating to the practice of unbundled legal services.

Tool #4

Model Document: Encouraging Civil Rules Committee/Ethics Committee to Develop Rules on 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 general jurisdiction courts is through family law cases. And, while significant issues are decided in family cases that 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 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. As **[***INSERT author title***]**, I am convinced that this service model is an important part of a solution to address 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. And, while unbundled legal services 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.

Most importantly, 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.

Despite these obvious benefits, however, limited scope representation remains an underutilized service delivery model. This is due, in part, to existing rules of procedure and professional conduct in our jurisdiction, which can be confusing and suggest that our courts are unfriendly to an unbundled legal practice. For example, some judges within our jurisdiction do not allow an attorney to withdraw until the end of a case regardless of the fact that the written entry of appearance by the attorney is specifically limited.

In order to help to remedy this, on behalf of **[***INSERT court***]**, I am requesting that the **[***INSERT applicable committee(s), e.g., civil rules committee, ethics committee, judicial council, family law task force, etc.***]** develop rules of professional conduct and rules of civil procedure designed to facilitate and guide limited representation of clients in family law cases. These rules should define the parameters of unbundled legal services and give guidance on ethical and procedural issues.

I want to assure you that you will not be writing on a blank slate. Most states now have some rules on unbundled legal services, which can be used as examples. You can find detailed information on the existing rules across the country through the ABA Standing Committee on the Delivery of Legal Services' Pro Se/Unbundling Resource Center, available at: http://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/court_rules.html.

Model Document: Encouraging Court Leadership to Promote 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, we are seeing in our courts an increase in the number of cases in which one or both parties are without legal representation. Every day, countless self-represented litigants come to our clerks' office and courtrooms, many of whom are unprepared, uninformed, or simply overwhelmed.

The task of assisting these litigants has largely fallen to our staff members, who are unable to provide much of the information and advice for which litigants are looking. In the courtrooms, many of you find yourself 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.

Our court is increasingly ill-equipped to handle the growing number of self-represented litigants seeking help. We are exploring promising in-court resources and practices that can better position us to respond to the needs of litigants. These resources and staff, however, 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.

While we can no longer expect that all—or even most—family court litigants will be represented by legal counsel, there are programs that attempt to provide self-represented litigants with some degree of legal advice and assistance. 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. Attorneys in our state are authorized to practice in this manner pursuant to **[***INSERT applicable rules***]**. I am convinced that this service model is an important part of a solution to address the growing numbers of family court litigants who come before us with unmet legal needs.

I encourage each of you, in your daily interactions with family court litigants, to educate those who are without representation on the options for unbundled legal services available in the community. **[***OPTIONAL* **[***INSERT local bar association***]** has prepared a directory of attorneys who provide unbundled legal services, which should be

visible and readily available in the clerk's office of each family court as well as the supreme court clerk's office.**]**

I also encourage you to facilitate better coordination between self-help resources available on-site and the section of the bar charged with delivery of legal services or access to justice issues. The self-help resources can aid self-represented litigants in identifying the type of services they need from a lawyer who offers unbundled legal services.

Tool #6

Model Document: Letter from Family Court Chief Judge to Self-Represented Litigants Explaining Unbundled Legal Services and Promoting Use

Dear Petitioner or Respondent:

You have a family law case in **[***INSERT applicable court***]**. You may be faced with a number of very important issues that will affect your future and the future of your children, including how your property will be divided, how much time you will spend with your children, and who will make decisions regarding the children. This can be a very difficult time, and our court is dedicated to making the process as easy as possible for you and your family.

We understand that you may be under a great deal of financial strain at the moment. If you are going through the process without a family law attorney, the court has a number of resources that may be of help to you in preparing your case. **[***INSERT court resources for self-represented litigants.***]**

These resources are not a substitute for the individualized advice and counsel of an experienced attorney. Having the help of your own attorney can decrease the confusion of the legal process for you and lead you to a more informed and better resolution of your case. Some people hire an attorney to represent them for their whole case, from beginning to end. It is also possible to hire an attorney for certain parts of your case only, such as helping to write legal documents. This type of legal service is called "unbundled legal services," in which you and your attorney divide the work in a way that makes sense to you and is more affordable for you.

With an attorney offering unbundled legal services, you could receive help with different parts of your case, including:

- Help writing the initial divorce petition
- Help completing financial documents
- Advice about parenting time options
- Help preparing for negotiation or mediation sessions
- Help writing settlement documents
- Representation in one or more court hearings

Through unbundled legal services, it is possible to obtain the legal help you need to resolve your case at a cost you can afford. If you would like more information about how unbundled legal services can help you, please visit the clerk's office **[***OPTIONAL* for a list of attorneys who provide these services**]**.

As a last word, I urge you to remember, throughout your case, that no matter how you decide to move forward, your actions during this time can greatly affect your children, if you have them. Consequently, it is very important for you to keep in mind that you and your former partner must do all that you can to avoid involving the children in your disagreements. Even if you don't have children, working through your issues together and in a constructive manner will surely lead to a better outcome.

Sincerely,

Family Court Chief Judge

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.

Tool #8

Model Document: Court Provided Letter/Form to Be Sent by Bar Association to Attorneys to Join List of Lawyers Offering Unbundled Legal Services

Dear **[***INSERT state or local bar association***]** member:

As you are likely aware, our jurisdiction has enacted rules that make it easier for attorneys to provide unbundled legal services, allowing you to assist a client with one or more parts of a case, without being required to handle the case from start to finish.

For example, you may agree to assist with one particular hearing or motion. The client would then continue to handle all other matters related to the case. The exact nature of your involvement would be spelled out in a Notice of Limited Appearance **[***INSERT applicable local rule/form***]**, that you would file with the Court, signed by you and your client, to both spell out the scope of your representation and ensure that you are not inadvertently listed as counsel of record.

We have been asked by the **[***INSERT state or local jurisdiction***]** to compile and maintain a list for **[***INSERT judicial district or county***]** of attorneys who are willing to be on this list. If you are willing to participate, please fill out and return the enclosed form. A master list will be compiled and given to court clerks, who will then distribute the list to self-represented litigants as needed.

Unbundled legal services enable attorneys to reach a larger segment of the population who would otherwise go unrepresented. **[***INSERT state or local bar association***]** strongly encourages your participation.

Sincerely,

Bar Association Representative

Unbundled Legal Services Sign-Up

Yes, I am willing to offer unbundled legal services in cases involving divorce, separation, or parenting responsibilities. Please add me to the list.

Attorney Name: _____

Firm Name: _____

Street Address: _____

City, State, Zip: _____

E-mail Address: _____

Practice Specialty(ies) (if any): _____

_____

Geographical Area of Practice: _____

Payment Structures Offered: _____

_____

Foreign Language(s) Spoken (if any): _____

Attorney Signature: _____ Date: _____

Please complete and return this form by email to: _____

or by mail to: _____

[*INSERT* state or local bar association]

Tool #9

Checklist: What Court Leadership Should Know About the Status of Unbundled Legal Services in Their State

- □ Is there a civil/family court/professional conduct/ethics rule of procedure for the practice of unbundled legal services in our courts?

- □ Do we have civil/family court/professional conduct/ethics rules of procedure and forms concerning the manner in which the lawyer creates the entry of limited appearance?

- □ Do we have rules of procedure/forms concerning client consent?

- □ Do we have civil/family court/professional conduct/ethics rules of procedure for withdrawal/termination or completion of limited appearance?

- □ What, if any, is our rule on ghostwriting of pleadings and/or briefs?

- □ What is our rule of procedure/ethics rule concerning communication with self-represented parties?

- □ What are our rules/forms concerning notice of limited representation to opposing parties and/or their counsel?

- □ Do we have rules concerning service of papers on a limited scope lawyer?

- □ What are the state ethics opinions relevant to unbundled legal services? Have we adopted ABA Model Rule 1.2(c)(concerning the ethics of providing unbundled legal services)?

- □ Do our state malpractice insurance carriers specifically insure the provision of unbundled legal services?

Tool #10

Unbundled Legal Services: Court Rules, Articles, and Publications

1. Compilation of Court Rules: National Center for State Courts, Self-Representation State Links: Unbundling Rules: http://www.ncsc.org/Topics/Access-and-Fairness/Self-Representation/State-Links.aspx?cat=Unbundling%20Rules

2. Report of the Joint Iowa Judges Association and Iowa State Bar Association Task Force on Pro Se Litigation: http://www.americanbar.org/content/dam/aba/migrated/legalservices/delivery/downloads/iowaprosetaskforcereport2005.authcheckdam.pdf

3. Connecticut Bar Task Force on Limited Scope Representation, *Report of the CBA Task Force on Limited Scope Representation* (rev. Oct. 8, 2012): http://c.ymcdn.com/sites/www.ctbar.org/resource/group/641186f5-de53-4d42-87c6-bf25a3280c29/Litigation_Section/Report-of-Task-Force-on-Limi.pdf?hhSearchTerms=%22limited+and+scope+and+representation%22

4. Judith L. Kreeger, "*To Bundle or Unbundle? That is the Question*, 40 FAM. CT. REV. 1, 87 (2002). Abstract: http://onlinelibrary.wiley.com/doi/10.1111/j.174-1617.2002.tb00821.x/abstract

5. *Modest Means Program*, OREGON STATE BAR: http://w.w.w.oregonstatebar.org/public/ris

6. State Family Law Advisory Committee Members, OREGON JUDICIAL DEPARTMENT: http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/sflac/pages/members.aspx

7. Trial Court of Massachusetts, *Limited Assistance Representation Training Manual*: http://www.mass.gov/courts/docs/lar-training-manual.pdf

8. Merrie-Roxie Crowell, Chair, *Report of the Unbundled Legal Services Monitoring Committee* (March 3, 2005): http://www.floridabar.org/TFB/TFBResources.nsf/0/B591E315F65F20FC85256FE1007766E3/$FILE/SpecialUnbunLegalServMonitorRpt..pdf?OpenElement

9. Forrest Mosten, Unbundling Legal Services in 2014: Recommendations for the Courts, 53 JUDGES J. 10 (Winter 2014): http://www.americanbar.org/publications/judges_journal/2014/winter/unbundling_legal_services_in_2014_recommendations_for_the_courts.html

10. Rochelle Klempner, Unbundled Legal Services in Litigated Matters in New York State: http://www.courts.state.ny.us/ip/partnersinjustice/Unbundled.pdf

11. ABA STANDING COMM. ON THE DELIVERY OF LEGAL SERV., AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE SELF-REPRESENTED LITIGANTS (2014): http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_unbundling_white_paper_2014.authcheckdam.pdf

12. *Report of the Special Committee on Limited Scope Representation* (Missouri 2004): https://www.courts.mo.gov/file/Report%20on%20Limited%20Scope%20Representation.pdf

13. John T. Broderick, Jr. & Ronald M. George, *A Nation of Do-It-Yourself Lawyers*, NEW YORK TIMES, Jan. 1, 2010: http://www.nytimes.com/2010/01/02/opinion/02broderick.html?_r=1

14. Richard Zorza, *A New Day for Judges and the Self-Represented: The Implications of Turner v. Rogers*, 50 JUDGES J. 16 (Fall 2011): http://www.zorza.net/JJ-Turner.pdf

15. "20 Things Judicial Officers can do to Encourage Attorneys to Provide Limited Scope Representation," *reprinted from* The Bench, news journal of the California Judges Association (2003): http://calbar.ca.gov/LinkClick.aspx?fileticket=qF-Ast5g59M%3D&tabid=216

16. American Bar Association, Resources, Standing Committee on the Delivery of Legal Services: http://www.americanbar.org/groups/delivery_legal_services/resources.html.

17. Unbundling Fact Sheet, Standing Committee on the Delivery of Legal Services, American Bar Association: http://www.americanbar.org/content/dam/aba/migrated/legalservices/delivery/downloads/20110331_unbundling_fact_sheet.authcheckdam.pdf

18. ABA STANDING COMM. ON THE DELIVERY OF LEGAL SERV., AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE SELF-REPRESENTED LITIGANTS (2014): http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_unbundling_white_paper_2014.authcheckdam.pdf

19. ABA STANDING COMM. ON THE DELIVERY OF LEGAL SERV., AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE PRO SE LITIGANTS (2009): http://apps.americanbar.org/legalservices/delivery/downloads/prose_white_paper.pdf

20. Colorado Bar Association, *Practical and Ethical Considerations to Integrated Unbundled Legal Services* (2015): https://www.cobar.org/repository/ModestMeans/Practical_and_Ethical_ModerateIncome.pdf

21. Mark A. Juhas, *A Judge's View on the Benefits of 'Unbundling'*, CAL. B.J. (2015): http://calbarjournal.com/July2015/Opinion/JudgeMarkAJuhas.aspx