

# **APPENDIX “A”**

**UNBUNDLED LEGAL SERVICES QUESTIONNAIRE  
RESPONSES FROM JUDGES**

1. This judicial circuit 13 have 11 have not had experience with lawyers appearing on a limited basis (unbundled legal services).
2. The limited representation has taken place in 0 all type of cases 13 family law cases only. Please approximate the percentage of cases where limited representation has taken place 1 - 10%
3. This circuit's experience with limited representation has been 6 positive 4.
4. Based on the experience of this circuit, the following changes are suggested.

See attached

Comments

See attached

Circuits Responding (10 out of 20):

Fourth

Sixth

Tenth

Eleventh

Twelfth

Thirteenth

Fifteenth

Sixteenth

Seventeenth

Nineteenth

## **JUDGES COMMENTS**

### General Responses

- The one cases we had involving unbundled legal services presented a conflict for the attorney handling the case & resulted in a bar complaint against the attorney.
- At this time we do not have enough experience to suggest any changes.
- The attorneys do not like it. The clients get confused as to the scope of representation.
- Revisit the issue and provide more guidelines for the parties to understand and insulate the attorneys from concern liability.
- Pro se litigants have trouble presenting the facts & evidence so it is legally sufficient & admissible. Attorneys assist them in doing that.

### Fourth Circuit

- We have not had this new experience in the Fourth Circuit. I conclude that the attorneys are not aware of the new changes.

### Sixth Circuit

- I am a Judge & when I sat in Unified Family Court I had attorneys who were hired to represent a parent on a modification of custody petition but not on the dependency case. It worked well & gives greater access to private attorneys.

### Eleventh Circuit

- It keeps attorney's fees under control
- Attorneys should be required to file a notice of appearance – they forget to do that once they appear, it's hard to track them down for follow-up order. Unfortunately, I don't know that there is any remedy as there is already a requirement that they enter a written appearance.

- I have not had anyone present themselves as representing a client on a limited basis yet.
- I don't like the idea of limited engagement in a family law case. The parties need to have a lawyer that is handling the entire case. That lawyer sees the entire picture, or should. If the lawyer in charge wants to hire a specialist to assist him/her in specific area such as tax consequences that is fine. When one party is represented by different attorney representing all the various aspects of the case, confusion will reign. Too many chefs spoil the pot.
- Attorney's appear knowing they have no further participation & therefore present argument/issues that are not valid.
- Forget it! If an attorney knows she's responsible for all aspects of a case she'll be more responsible and careful.
- Not applicable. Only one or two.
- Neutral

#### Twelfth Circuit

- No experiences yet.

#### Sixteenth Circuit

- The lawyers providing such services have made it clear to the parties & the court exactly how far their representation goes.
- We most often see limited representation in family court in connection with preparation of pleadings; litigation of a specific (procedural) issue; and preparation of settlement agreements & related documents.

#### Seventeenth Circuit

- Client does not receive true legal representation on the case – only limited aspects. JA's do not know who, if anyone, is representing the litigant. Attorneys are not aware of all issues in case. Poor overall representation from a professionalism perspective – also could be legal malpractice in some instances.

- Eliminate
- The sample is too small to draw a conclusion.
- This is an area which is ripe for abuse. The Florida Bar should keep a close watch on the practice of Unbundled Legal Services.
- As a Family Law Judge, I have had no experiences with an unbundled legal services case. My preference would be unbundled over the paralegal services extended to Pro Se litigations as my confidence in the limited services provided by an attorney are much greater. The Bar may wish to promote the practice.
- It is very difficult for me to determine the percentage of family cases where limited representation has taken place. The number of cases in which limited representation has taken place in court is very minor. The extent to which limited representation has taken place outside the office in the form of advice to litigants concerning preparation of pleadings, how they handle themselves in court, etc., etc., I believe to be gaining momentum and to be fairly well utilized at this point. Additionally, I also believe that some of the clients taking advantage of unbundled legal services with attorneys are exercising that right but using the normal mechanism of a motion to withdraw when said services have been concluded. This makes it also very difficult to quantify the extent of unbundled legal services.
- I have discussed the issue of limited representation with several attorneys who have engaged in this service to the client. Their response overall has been very positive. They believe (and I agree) that this is a much needed benefit to the litigant with limited funds. The attorneys also have expressed the view that they must carefully choose the clients with which they do this. My initial experience with limited services was very early and a misunderstanding occurred between the attorney and the client as to the extent of the attorney's intended representation. I also believe that the client used the purported "misunderstanding" to his benefit when there, in fact, was no actual misunderstanding.

In another case where I was able to determine that limited representation was taking place outside the courtroom, I would report that the litigant was well prepared and professional even to the point

of anticipating and being able to prepare orders for entry by the court. Accordingly, the family judge may also be benefiting from unbundled legal services without our actual knowledge.

- At the point when the Supreme Court was considering the rule, I had made a few comments. Basically, I continue to have the same concern at this point. It is only with the notice requirements. The court files are not up to date or current. The court is often in the position of noticing many of the hearing, particularly in cases where one or both sides are of record pro se. We are going to have a great deal of difficulty determining who to notice since hearings take place relatively quickly after the request for a hearing is made.

I still believe that notice to the litigant who has chosen to employ an attorney on a limited basis should be sufficient notice. It should not be the burden of the court or opposing side to attempt to determine whether there is an attorney on the case and whether the attorney does or does not represent the litigant for a given hearing. This is particularly troublesome for case management from the judge's office.

Since I was not particularly persuasive in this point of view initially, I would suggest that there may be alternatives to at least clarify this problem as follows:

a) If the hearing is less than 7 days from the notice of limited appearance, a copy should be delivered directly to the court. (With the volume of litigation in a family division, I do not believe that this will actually be particularly effective but, on occasion, with a little luck it might be helpful.)

b) The notice of limited appearance at the bottom over the attorney's signature line should state "**limited appearance**" in **bold** print.

Overall, I believe that unbundled legal services is very beneficial to the litigant. The attorney must use some caution in which litigants they elect to represent in this manner and have clear understanding, preferably in writing, with the litigant as to the scope of their representation.

## Nineteenth Circuit

- The concept for these rules are a good idea but the implementation is much to complicated.

**SURVEY 1**  
**UNBUNDLED LEGAL SERVICES QUESTIONNAIRE**  
**RESPONSES FROM LAWYERS**

1. Since January 1, 2004, 17 have 8 have not had experience with lawyers appearing on a limited basis (unbundled legal services).
2. Since January 1, 2004, 10 I have personally provided limited legal services.  
Since January 1, 2004, 5 I have been involved in a case where the opposing counsel has provided limited legal services.  
The limited legal services involved 0 drafting of pleadings 1 appearance in court 8 both.
3. Since January 1, 2004, my experience with limited representation has been 12 positive 1 negative. 2 had both a positive and negative experience.
4. Based on the experience my experience, the following changes are suggested.

See attached.

Comments

See attached.

## ATTORNEY RESPONSES TO SURVEY 1

- It hasn't been a negative experience for me but the opposing party complained that they paid money & the lawyer didn't complete the work – therefore the attorney either charged too much or did not explain his representation to the extent necessary. Both cases we did not resolve issues and the opposing side was again pro se which made my job more frustrating.
- Simplify it if possible.
- The partner with whom I work had a client with an issue that was perfect for providing unbundled legal services. The unbundled rule had recently been enacted and we were both curious to see how the Rule would work in practice. When the client came to us seeking representation for a hearing on a very specific legal issue, we decided that providing unbundled services would be appropriate for that matter. This occurred prior to the approval of the family law forms. Therefore, we created our own forms for providing unbundled legal services. In trying to create our own forms, we contacted numerous individuals who had been involved with the development of the “unbundled concept”. At that time, nobody that we contacted had provided unbundled services.

We created forms which were as detailed as possible to put everyone involved on notice that we were only representing the client for the discrete issue at hand. We also tailored our representation agreement and any and all letters that we provided to the client very carefully so it would be clear that we were only providing services for the specific issue for which we were hired. Despite our attention to detail to insure that everyone involved knew we only represented the client for the one issue the client sought our assistance for entering into a settlement agreement and looked to use to provide her with legal advice as to all of the issues in the case.

As we quickly learned, and as we had feared, it is very difficult to work on a segregated portion of a case and not feel, as a professional, as well as out of concerns regarding malpractice, compelled to become further involved in the case. With the client looking to us for our expertise in family law regardless of our advice to her to the

contrary, we felt compelled to assist, despite the fact that we had agreed to only the discreet portion of the case.

We were fortunate in that we resolved the issues prior to attending the hearing, however, looking back, we both agree that it would be extremely difficult to sit through a hearing representing a client only on one portion of a case, while not advising the client as to the other issues. The ethical boundaries of where our representation began and where it ended and more importantly, the kind of services we were expected to provide were questions which concerned us prior to providing unbundled legal services, and concern us even more after having provided these services.

While the concept of unbundled legal services is excellent, especially in the family law arena where so many people need the expertise that we can provide, but can not afford to retain counsel for the entire dissolution action, I have grave concerns for the lawyers that provide unbundled services. From our limited experience with the unbundled concept, I foresee ethical dilemmas regarding the scope of representation and regarding malpractice that cannot be resolved easily. We do not intend to provide this service in the future.

- When the adverse counsel appeared post-judgment, he aborted his instinct to resolve the entire matter; this is unfortunate.
- I am assisting in a QDRO post-judgment, still pending
- Like the medical field, the practice of law has become so specialized that “additional” or “outside” counsel is a must. Sometimes referring a continuing client to a specialist for a particular issue is the best service you can give a client.
- None, that I know of right now.
- Client get (sic) what they want. My obligation in a case is limited.
- It has been ok because good lawyers under very limited circumstances
- I think there are real hazards. DOR on child support ok w/private lawyer on visitation etc. But unbundled complicates many issues.

- Mostly, post judgment. Lawyers will address 1 issue (Ex: visitation) without representing the client in other issues (Ex: Non-payment of support).
- The court file should indicate when the limited appearance is concluded. I hesitate to proceed with a hearing w/o an atty. by assuming the representation has concluded or that there is no interest in the matter before the ct.
- Client had limited funds. Client was able to focus on most significant legal issue with limited resources.
- My answers may be the result of my admitted ignorance on this subject. I personally have filed numerous Notices of Limited Appearance, all of which were filed in addition to a Motion to Dismiss for jurisdictional grounds.
- Surprisingly to myself, I've found both times a positive, useful tool. I filed a limited appearance to appear @ an atty. fee hrg. Only. The quick in & out provided the client with the quality limited appearance he needed. The other time, it was opposing counsel who filed a limited appearance seeking a trial continuance. Since the mtn. for continuance was denied, the atty. Was out of the case w/o risking being stuck in a trial she wasn't prepared for unless it was continued.
- Family lawyers should be required to explain this concept to prospective clients during the first contact. While most of my clients ultimately retain me for full representation, a few have chosen the unbundled route, but they all appreciated being offered the choice.
- Pro se litigants nearly always seem to have trouble with discovery compliance, financial affidavits, etc – Also sometimes need time to hire a lawyer. With unbundled rule a lawyer can appear to help them with discovery, on pleadings or for continuance until can find a lawyer, etc. Its an excellent rule particularly for a lawyer who has reached that stage where he/she has had enough of family law & but willing to help where needed.

- I am a judge in Sixth-with only one experience involving a domestic violence case.
- Only domestic violence cases.
- Abolish It – All too often the language in the limited appearance is vague. Also a judge may inquire about another issue & it cannot be brought up due to the limited appearance – the idea is good – the practical effect is terrible. “You are in, or you rare out” – is the better course.
- I believe it results in higher fees. It has resulted in the specialist attorney having to work with the principal attorney & both bill. It allows attorneys not specialized to get help when they need it.
- I have not seen unbundled legal services, but suspect that lawyers “ghost” pleadings for pro se litigants.
- I have not had an experience w/lawyers appearing on a limited basis.
- I don’t have direct experience but I think it is a good idea.
- Having given this subject much attention in ABA circles and in Professionalism Responsibility classes, I respectfully suggest “unbundling” will ultimately cause client injury unless lawyers learn through CLE and printed materials to warn clients that important matters may, and often do, remain unattended and could require attention elsewhere. Thanks.
- Too difficult to make worthwhile to implement – clients want more help & seems to create unrealist (sic) expectations. I do not offer.