



If You Build It, They Will Come

Limited scope representation is working in Iowa. Why not in Illinois?

IT IS WELL DOCUMENTED THAT *pro se* undertakings continue to expand in transactional and litigation matters. Based upon a belief that hiring a lawyer is not worth the cost, increasing numbers of litigants and consumers of legal services choose to forego traditional representation because they can. Not all self-represented individuals do so for economic reasons: Online services, fillable court forms, online filing, the proliferation of paraprofessionals in a few states, and even smartphone legal apps all contribute and facilitate such decision making.

Is there a better way for lawyers to present their services to the public? The offering of legal services on an as-needed basis may be a prescription for what the public wants and is willing to afford. This is why, as a response to improving the public's access to justice, the ISBA is studying proposals to expand the use of limited scope representation.

Adopted in 2010, Illinois Rule of Professional Conduct (IRPC) 1.2 outlines the ability of our lawyers to provide limited-engagement services to clients who cannot afford or are unwilling to engage lawyers. As the result of a joint ISBA, Illinois Judges Association, and Chicago Bar Association proposal in 2013, the Illinois Supreme Court revised its civil practice rules to facilitate limited engagements in litigation cases. Last year, Past President Hon. James McCluskey, ISBA Executive Director Robert Crahead, and I attended the annual Great Rivers Bar Leader Conference of nine state bar associations where we heard Iowa State Bar Association leaders promote limited-scope relationships between clients and lawyers to address the issues stated above as well as to respond to questionable claims from nonlawyers, uninformed and well-intentioned attorneys, American Bar Association (ABA) leaders, hedge funds operatives, and others that nonlawyer fee sharing and firm ownership is a solution to access-to-justice problems.

From our conversations with Iowa State Bar Association leaders and principals from Iowa-based The Law Shop by Skogerson McGinn LLC, it ap-

pears that Iowa's and Illinois' problems with access to justice are similar. Like Illinois, the Iowa State Bar Association has opposed ABA proposals to open the practice of law to nonlawyer fee sharing and law firm ownership.

The limited scope paradigm

As of this writing, there are no empirical studies measuring access-to-justice improvements in countries and jurisdictions where nonlawyer ownership in law firms is allowed.

It is the prevailing view of the leadership of the ISBA that such initiatives in California, Arizona, Utah, and Oregon are well-intentioned attempts to enhance their legal markets. But we sharply disagree that doing away with formal legal education, prohibitions on fee sharing, and nonlawyer ownership of law firms are vehicles for improving the availability of legal services for families already in debt and struggling to get by.

Second Vice-President Anna Krolikowska, Family Law Section Chair Michael Strauss, Young Lawyers Division representative Karen VanderMeer, and I met with The Law Shop cofounders Amy Skogerson and Andrea McGinn to gain insight into how limited scope representation could be a major part of our members' tool kits.

IRPC 1.2. and 6.5 both authorize and give direction to lawyers dipping their toes into providing unbundled services. Iowa has a similar rule, but with important differences, including vital language that protects lawyers who have filed a limited appearance but get stuck in a litigation matter when the court does not recognize the value of the concept and refuses to permit the lawyer's withdrawal.

Approaching burnout several years ago, Amy felt there had to be a better way to serve her clients' needs. Andrea was a newer lawyer with boundless energy and a burning desire to also find a better way. Together, they created a practice resembling a tapas-style restaurant with many flexible choices for widely varying budgets.

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The Law Shop's story is both encouraging and exciting. Andrea and Amy are making a good living and are able to maintain a healthy work-life balance where burnout is not an issue. But this is the result of their deep, innovative game plan.

The main focus of The Law Shop is family law, but the firm also provides unbundled services in estate planning, real estate, adult guardianship, conservatorship, and other matters. The firm provides service agreements, documents, and forms for multiple levels of service; kitchen-table divorces and other contractual agreements; and also offers full representation through settlements and mediation, with a built-in pause if it appears a case might head to trial. At that stage, The Law Shop works with clients to find a high-quality trial

attorney who can advocate for the client's specific legal matter. But because The Law Shop's staff prepares for the possibility of trial from the beginning of its engagement with a client, the incoming trial lawyer can hit the ground running.

Education is a key component to The Law Shop's approach. Clients, opposing counsel, and judges are thoroughly informed of what The Law Shop does and doesn't do. Andrea and Amy also stress the value of training: All lawyers who would like to offer limited scope services need training and guidance to understand the rules, the issues, and the challenges of such a practice.

Where we go from here

The ISBA will study proposals to tweak IRPC 1.2 to further direct and protect law-

yers who provide limited scope services. The Association should also consider organizing a study group of lawyers to attend a program on limited scope representation and make recommendations to the appropriate committees, such as the CLE committee, for consideration. I also recommend hiring an experienced limited scope firm, such as The Law Shop, to provide CLE to our members. (The Law Shop does provide such training and is increasingly sought out for this).

Iowa gives us hope that real alternatives to proposals that take control and fees from lawyers exist. Limited scope models merit careful investigation. We look forward to your comments and suggestions in this regard. 

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