

The Alberta
Limited Legal Services
Project

An introduction to the Limited Legal Services Project
for participating lawyers

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Summary

1. Limited legal services and access to justice
2. How the project came to be
3. Expectations of participating lawyers
4. Ethical considerations
5. Introduction to the model retainer agreement and other project resources for lawyers
6. After the project

1. Limited legal services

Limited legal services

- Legal piece work, providing clients with one or more of the individual legal services that may be needed over the lifetime of a dispute
- Alternative to usual cradle-to-grave approach to legal work, and expectation that lawyer will handle all matters associated with a file until last appeal is exhausted
- Also called “unbundling,” “limited scope retainer,” “discrete legal services,” etc.

Typical services

- Initial consultations
- Independent legal advice, second opinions
- Drafting documents, including contracts, demand letters, arguments and pleadings
- Drafting affidavits
- Preparing or advising on settlement offer
- Appearing in court on behalf of client
- Conducting questioning, securing discovery

Rationale for unbundling

- Low- and middle-income individuals can't afford traditional full-scope legal services
- Addresses negative public perceptions about lawyers' cost and unaffordability
- Improves clients' ability to access justice
- Few other reasonable, or probable, alternatives to making lawyers' services more affordable
- Limited services are *in demand* and yet few lawyers provide them

Benefits of limited scope work

- Few collections issues
- Files are closed quickly, have less chance to devolve into dog files
- Can pick and choose the work you want to do
- Pays at exactly the same rate as your usual work, *not* a form of charity
- Excellent for lawyers returning to practice or looking for part-time situation
- Improves work-life balance

Drawbacks of limited scope work

- Must be crystal clear about scope of work will do for client and work will not do for client
- Must be clear about whether you are going on record or becoming an address for service
- Must be clear in communications to counsel and court about role in case
- Files don't have continuing financial benefit over long term

2. Background

Project background

- Offshoot of project of people involved in CBA Alberta's Access to Justice Committee
- Pet project of Rob's, largely responsible for moving project forward and maintaining momentum
- Goals of project fit with objects of Canadian Research Institute for Law and the Family
- Opportunity to gather first empirical data about usefulness of limited scope work: does it have the effect we think it does or not?

Funding

- Current plan for project based on Rob's earlier vision
- Funding sought without success from Gov't of Alberta, Law Society of Alberta, Law Foundation of Alberta, others
- Grant received from cy-près fund administered by Law Foundation of Ontario
- Institute managing project and responsible for evaluation

The project

- 2-year term, following which Institute will produce final report and participate with Rob in disseminating results to justice system stakeholders and policy-makers
- 18-month data collection period, information to be collected from
 - Participating lawyers
 - Clients of participating lawyers

The project

- Project will be promoted among provincial and local bar associations, trial court benches, court administrators, legal clinics and other client-facing groups
- Pamphlets have been prepared for potential volunteer lawyers
- Pamphlets and business cards are being prepared for clients and stakeholder distribution
- Project website is at albertalegalservices.com

Ulterior motives

- We also want the project to:
 - Significantly increase awareness of limited scope services among the bench, bar and public
 - Encourage lawyers to provide limited scope work as a means of improving access to justice in Alberta, and dispel the myths and preconceptions that discourage lawyers from providing limited services
 - Have a lasting effect on how legal services are provided in the province
- The results of this project *will* have a national impact

3. Expectations

Participating in the project

- Participants may join or leave the project at any time, without restriction
- All participants are asked to watch this introductory webinar to ensure a common baseline of information
- All participants are asked to provide a photo and biographical information for the project website

Expectations of participants

- You will recommend taking part of a client's case on a limited scope basis only when limited scope work suits:
 - The client and the client's circumstances
 - The legal problem or issue
- *Do not* recommend limited scope retainer approach to file if it's not appropriate!
- No expectations as to volume of limited scope files, but taking a file on a limited scope basis every 3 or 4 months would be good goal to set

You and your services

- You may charge for your services as you wish, no discount or other consideration is required
- Please let us know if you are providing services on a flat-rate basis, this information should be included in your bio on the website
- We will promote you and your services through the project website for the duration of the project
- Participants will also be listed in the database of the NSRLP

Evaluation obligations

- You will complete a *brief* electronic survey at the conclusion of each limited scope file
- You will refer the client to a separate, longer electronic survey and do what you reasonably can to encourage the client to complete that survey
 - Pre-paid Visa cards have been arranged to incentivize client participation
- You will complete a longer, but still relatively short, electronic survey every 5 or 6 months to obtain your retrospective opinions

Surveys

- Responses to all surveys are anonymous and kept in confidence
- Client surveys cannot and will not be linked to lawyer surveys
 - You *will not* be identified as your clients' counsel
 - You *will not* be identified or identifiable from your survey responses
- Survey results will be reported in aggregate only

4. Ethical considerations

Ethical considerations

- Lawyers' ethical and competency obligations not diminished
- Specific to limited scope retainers:
 - R.2.27 ARC – if appearing in court, must inform court orally, or before appearance in writing;
 - Code of Conduct 3.2-2 – must confirm in writing what services will be provided
 - Code of Conduct 3.1, Commentary [8] - Lawyers owe clients a duty of competence, regardless of whether the retainer is a full service or a limited scope retainer. When a lawyer considers whether to provide legal services under a limited scope retainer, the lawyer must consider whether the limitation is reasonable in the circumstances. For example, some matters may be too complex to offer legal services pursuant to a limited scope retainer.
- *Meehan v Good*, 2017 ONCA 103: duty beyond retainer

5. Resource materials

Resource materials

- Website: www.albertalegalservices.com
- Materials:
 - Model Limited Legal Services Retainer Agreement;
 - Client Intake and Unbundling Guide;
 - Unbundling FAQ's for lawyers;
 - Limited Legal Services Best Practices;
 - Excerpt from Code of Conduct;
 - Nancy Carruthers "Ethics of Limited Scope Retainers" (Practice Advisor, Law Society of Alberta)
 - Law Matters Issue: "The Limited Scope Retainer"

Model retainer agreement

- No **REQUIREMENT** to use our model agreement
- Whatever agreement you use:
 - Clear indication of what you ARE doing and ARE NOT doing
 - Recommend reading verbatim with Client
 - Do NOT work beyond scope of your agreement without additional written agreement
 - Read *Meehan v Good* – obvious risks to clients should be disclosed to them in writing, especially limitation periods

6. After the project

Products of the project

- The project will result in a final report that analyzes the survey data and makes recommendations for future research, policy reform, procedural reform and best practices in limited scope services
- The report will be disseminated as widely as possible, including through the media and presentations to the bench, bar and appropriate community groups

Participating lawyers

- We hope that participating lawyers will find value in continuing to associate with each other, and might:
 - Form a practice association to develop standards, best practices and ethical guidelines and promote limited scope work
 - Continue to operate as the Alberta Limited Legal Services Project or something like it
- We will happily transfer the website and all practice resources provided for, or produced during, the project to any practice groups that form after completion

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