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Results of the Informal National Survey of Ethical Opinions Related to "Discrete Task Lawyering"

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- ⚡ **Arizona:** In a domestic relations matter, an attorney can represent a client for the purposes of giving advice and preparing pleadings without appearing in court. *Arizona Opinion No. 91-03, (January 15, 1991).*
- ⚡ **California:** It is not unethical for an attorney to limit his/her professional engagement to the consulting, counseling, and guiding of self-representing lay persons in litigation matters, provided that the client is fully informed and expressly consents to the limited scope of representation. *Los Angeles County Bar Association Professional Responsibility And Ethics Committee, Opinion No. 483, Los Angeles Lawyer, (February 1996).*
- ⚡ **California:** If a client chooses to appear pro per (pro se) and there is not a court rule to the contrary, the attorney does not have to disclose the limited scope of representation to the court in which the matter is pending. An attorney may limit the scope of representation of a litigation client as long as the client consents to the limited representation. *Los Angeles County Bar Association Professional Responsibility And Ethics Committee, Opinion No. 502, Los Angeles Lawyer, (November 4, 1999).*
- ⚡ **Colorado:** A lawyer must clearly explain limits of their representation and must not limit their duty to the client when providing unbundled legal services. *Colorado Bar Association Ethics Committee Formal Opinion No. 101, "Unbundled Legal Services," (January 17, 1998).*
- ⚡ **Connecticut:** Legal Aid agencies in lieu of representation, may offer a class on pro se divorce to individuals seeking a simple uncontested divorce and for more complicated divorces, provided clients are fully advised of the risks of proceeding pro se. *Connecticut Informal Opinion 90-18, Legal Assistance Organizations and Pro Se Divorce.*
- ⚡ **Delaware:** A legal services organization may properly limit its involvement to advising clients and preparing documents for the client. The organization must disclose their involvement, if "the organization provides significant assistance to a litigant". *Delaware State Bar Association Committee on Professional Ethics, Opinion 1994-2, (May 6, 1994).* Note: This is currently a debated issue in the State of Delaware. The State Bar Association, the State Court System, and the Private Bar are working together to develop a "Resource Center" for pro se litigants. The program is being designed with the assistance of the Disciplinary Committee of the State Bar Association.
- ⚡ **Florida:** A chief judge, by local rule, may establish a self-help program to facilitate access to family courts. The purpose of a self-help program is to assist self-represented litigants, within the bounds of this rule, to achieve fair and efficient resolution to their family law case. *Florida Supreme Court, Appendix Family Self-Help Programs Opinion, www.law.ufl.edu/opinions/su... mily-self-help-programs.*
- ⚡ **Illinois:** Pursuant to prior agreement with client, it is not improper for an attorney to limit the scope of his/her representation. An attorney may prepare pleadings in a dissolution of marriage proceeding, without appearing or taking any part of the proceeding itself. The client must be fully informed of the consequences of the limited agreement, and the attorney must take any steps necessary to avoid foreseeable prejudice to the client's rights. Opinion affirmed, January 1991. *Illinois State Bar Association, ISBA Advisory Opinion on Professional Conduct; "Limiting Scope of Representation", Opinion Number 849 (December 1983).*
- ⚡ **Kansas:** Law firms can provide services through a 900 telephone number as long as they follow all ethical rules. *Kansas Bar Association 92-06 (1992).*
- ⚡ **Maine:** Since the lawyer's representation of the client was limited to preparation of the complaint, the lawyer was not required to sign the complaint or otherwise enter his appearance

in court as counsel for the plaintiff, and the plaintiff was entitled to sign the complaint and proceed pro se. *Maine State Bar Ethics Opinion No. 89, (August 31, 88).*

- ⚡ **Mississippi:** Where an attorney provides limited legal advice in a public service, multi-discipline counseling program, an attorney-client relationship is created for purposes of determining ethical obligations. *Opinion No. 176 Of The Mississippi State Bar, (September 7, 1990).*
- ⚡ **New York State:** A lawyer who does not appear as counsel of record for a pro se litigant may prepare responsive pleadings and demands for financial disclosure, provided the lawyer investigates the matter adequately. *New York Opinion 613, (September 24, 1990.)*
- ⚡ **North Carolina:** Attorneys may give legal advice and assist persons wishing to proceed pro se with drafting documents without appearing as counsel of record. This opinion consists of seven specific inquiries relating to this topic, providing answers to each inquiry. *North Carolina State Bar Association, RPC 114 (July 12, 1991).*
- ⚡ **Pennsylvania:** It is not the unauthorized practice of law when a non-lawyer “fills in the blanks” of a standard form prepared by an attorney. A supervising attorney is not in violation of the Rules of Professional Conduct, assuming the agent is doing nothing more than “filling in the blanks”. *Philadelphia Bar Association Opinion 94-29, (December 1994).*
- ⚡ **South Carolina:** A lawyer may draft and submit a responsive pleading and waiver of appearance on behalf of an opposing party in a divorce action while representing the interests of his own client when he/she determines that the preparation and submission of the pleadings does not constitute representation. *South Carolina Bar: Ethics Advisory Opinion 90-18.*
- ⚡ **Washington:** This article discusses ethical considerations when limiting the scope of an attorney’s representation. The author concludes the “unbundling” of legal services is ethically permissible. *Althoff, Barrie, “Limiting the Scope of Your Representation: Questions of Cost, Candor, and Disclosure”, Washington State Bar Association, Chief Disciplinary Counsel, Defined Task Representation workshop Access to Justice Conference, (June 1997)not an ethical opinion.*
- ⚡ **Wisconsin:** A lawyer may prepare and disseminate an “Ask the Lawyer” column as long as they shun personal publicity and the lawyer is motivated by the desire to assist one who does not realize that he/she may have a particular legal problem or who does not know of his/her legal rights or obligations. Public dissemination by a lawyer does not prevent his accepting employment as a result of the advice given; so long as he/she does not emphasize his/her own professional experiences or reputation. *State Bar of Wisconsin, Wisconsin Ethics Opinions, E-79-5, “Ask the Lawyer” Column, (July 1998).*
- ⚡ **Virginia:** It is ethically permissible for a lawyer to advise and assist the pro se litigant and provide: general legal advice, recommendations for courses of action to follow discovery, legal research, and redrafting of documents prepared by the litigant. Specifically, it is not unethical for an attorney to prepare discovery requests, pleadings, or briefs for signature by the pro se litigant. The opinion goes on to add that failure to disclose that the attorney provided active or substantial assistance, including the drafting of pleadings, may be a misrepresentation. *Virginia State Bar Association, Legal Ethics Opinion 1127, “Attorney-client Relationship-Pro Se Litigant: Rendering Legal Advice”, Committee Opinion, (November 21, 1988).*

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- ⚡ **ABA:** The extent of assistance by counsel is an important issue and if it goes to a certain extent without counsel disclosing his/her assistance there may be a misrepresentation. *American Bar Association Informal Ethics Opinion 1414, “Conduct of Lawyer Who Assists Litigant Appearing Pro Se,” (June 6, 1978).*
- ⚡ **Alaska:** A lawyer may assist pro se litigants who are seeking modifications in child support to fill out forms and to prepare motions. A lawyer’s assistance must be disclosed unless the

lawyer merely helped the client fill out forms designed for pro se litigants. *Alaska Bar Association Ethics Opinion 93-1, "Preparation of a Client's Legal Pleadings in a Civil Action Without Filing An entry of Appearance," (May 25, 1993).*

- ⚡ **Arizona:** No matter what limitations are placed on the assistance provided to the pro per litigants, the Rules of Professional Conduct still apply to the attorney. *State Bar of Arizona, "Assisting Pro Per Litigants, Ethical Considerations".*
- ⚡ **California:** There are ethical issues arising from dispensing legal advice solely by telephone. Legal services provided solely over the telephone must use a format that enables the attorney to perform services in a competent and ethical manner and inform his or her client effectively of any limitations on the legal services being provided. Attorney-client relationships normally are formed between the callers and the attorneys. Even when attorney-client relationships are not formed, professional responsibilities can attach to the relationship. *The State Bar of California Standing Committee on Professional Responsibility and Conduct, Interim Opinion No. 95-0015.*
- ⚡ **Florida:** Pleadings or other papers prepared by an attorney and filed with the court on behalf of a pro se litigant must indicate "Prepared with Assistance of Counsel". In addition, although a lawyer and client may agree to a limited scope relationship and purpose, the lawyer owes that client the same ethical obligations they would owe any other client. *Florida Bar Association, Opinion 79-7 (Reconsideration), (February 15, 2000).*
- ⚡ **Illinois:** A lawyer aids in the unauthorized practice of law, and may violate rules pertaining to confidentiality, conflicts, and the duty to communicate with and explain matters to a client, by limiting his role in a real estate transaction to the drafting of documents and delegating to the real estate broker. *Illinois State Bar Association Advisory Opinion on Professional Conduct, Opinion No. 94-1, (July, 1994).*
- ⚡ **Iowa:** "Ghostwriting" of pleadings is a deception on the court, where the pleading is represented as pro se, but the party has received counseling and advice from a lawyer. *Iowa Board Opinion 94-35, (May 23, 1995).*
- ⚡ **Kentucky:** The Court and the opponent should not be misled as to the extent of counsel's role. Counsel should not aid a litigant in a deception that the litigant is not represented, when in fact the litigant is represented behind the scenes. Counsel may limit his or her undertaking and provide assistance in the preparation of initial pleadings. The overriding consideration should be the recognition and satisfaction of the legal needs of indigent persons. *Opinion KBA E-343 (January, 1991)*
- ⚡ **Massachusetts:** Although an attorney may provide a pro se litigant with limited legal services, the situation raises multiple ethical concerns. Attorney ghostwriting has been viewed as an attempt to gain an unfair advantage. Liability for services rendered extends to all services actually rendered. *Massachusetts Bar Association Committee on Professional Ethics, Confidential Opinion, January 9, 1998.*
- ⚡ **Massachusetts:** An attorney may provide limited background advice and counseling to pro se litigants. However, providing more extensive services, such as drafting ("ghostwriting") litigation documents, especially pleadings, would usually be misleading to the court and other parties and therefore would be prohibited. *Opinions of the Massachusetts Bar Association Committee on Professional Ethics, Opinion 98-1, (May 27, 1998).*
- ⚡ **New Hampshire:** A lawyer should not assist a client if the lawyer knows or suspects that the client will misuse the assistance. A lawyer may draft a complaint for a long-time client for a collection action in small claims court, based on the lawyer's familiarity with both the client and the client's business dealings, and the lawyer reasonably believes there is a substantial basis for the claim. *New Hampshire Bar Association, Practical Ethics Article: Unbundled Services – Assisting the Pro Se Litigant, (May 12, 1999).*
- ⚡ **New Jersey:** The establishment of a 900 number pay-per-call service is not per se unethical. However, there are several problem areas, which if not addressed, could result in malpractice liability and/or ethical exposure. *New Jersey State Bar Opinions on Advertising, 26 CAA*

Opinions, Professional Responsibility in New Jersey, Opinion No. 17, (April 25, 1994).

- ⚡ **New Mexico:** A lawyer may participate in pro bono clinics that provide educational programs to individuals interested in pro se representation, provided the programs do not provide specific legal advice to the individual. *State Bar of New Mexico Advisory Opinions Committee Advisory Opinion 1987-6.*
- ⚡ **New York:** Undisclosed participation by a lawyer in drafting pleadings or in rendering other active and substantial assistance to a litigant who thereafter represents himself/herself as being without professional assistance is improper and prohibited. *The Association of the Bar of the City of New York, No. 1987-2, Committee on Professional and Judicial Ethics, Formal Opinion, (March 23, 1987).*
- ⚡ **South Dakota:** South Dakota lawyer may not participate in an Internet Referral Service taking an advertising fee and a share of legal fees to refer cases to South Dakota lawyers and provide no legal services. *State Bar of South Dakota Ethics Opinion 98-10, (January 12, 1999).*
- ⚡ **Texas:** A Texas attorney addressed the ethics committee, submitting a "Divorce Kit for Do-it-Yourselfers". The Committee opined, "the 'kit' practice would encourage rather than discourage self-representation; put an undue burden on the Clerks and Courts, and probably, in many instances, result in improper representation of a client". *Texas Ethics Committee, Opinion 364, (April, 1973).*
- ⚡ **Utah:** A disclaimer stating that no attorney/client relationship existed for advice given over a 900 # is ineffective to negate such a relationship. *Utah State Bar Ethics Opinion 96-12, January 24, 1997.*

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