

# Tips on Delivering Limited Scope Legal Services

*By Jim Calloway*



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**LIMITED SCOPE REPRESENTATION (LSR) is not only a tool to expand access to justice, these arrangements can also be a viable and profitable business model for lawyers, allowing them to provide their services in what is clearly an expanding marketplace.**

A lawyer limiting the scope of his or her engagement is addressed in Rule 1.2 (c) of the Oklahoma Rules of Professional Conduct provides, “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.” This provides a rather simple, two-pronged test for determining the appropriateness of delivering LSR to an individual.

Previously, many lawyers were unclear on exactly how to provide these types of services in litigation matters. Some judges had experienced problems with individuals presenting documents poorly drafted by unqualified individuals and had expressed critical views of anonymously “ghostwritten” pleadings and proposed court orders, such as a dissolution of marriage decree. So, there was a conflict between avoiding entering an appearance for full-scope representation and avoiding being inappropriately anonymous.

Rule 33 of the Rules for District Courts of Oklahoma (adopted June 19, 2017) clarified the lawyer’s processes related to these services in Rule 33. Limited Scope Representation:

A lawyer providing limited scope representation under Rule 1.2 (c) of the Oklahoma Rules of Professional Conduct may draft pleadings or other documents for a pro se litigant to file with or present to a district court without the lawyer entering an appearance in the matter. A lawyer shall disclose such assistance by indicating their name, address, bar number, telephone number, other contact information and, optionally, a signature on said pleading or other document with the phrase “No appearance is entered as counsel of record.”

LSR, also called “unbundling” of legal service, means a lawyer providing part, but not all, services required in a client’s legal matter by agreement between the lawyer and the client. Since Rule 33 was adopted, I’ve taught several CLE programs related to this subject and will continue to do so for county bar associations or other Oklahoma lawyer groups.

#### **BEST PRACTICES FOR LSR**

Best practices for delivering LSR can be summarized rather

briefly, even though there will still be development in this area.

First of all, it reduces the lawyer’s risk and provides a better service to the client to always have a written attorney-client agreement, whether that is signed by the client during an in-person visit with the lawyer or agreed to on an online form. The best practice is to include a clear list of what the lawyer will do and not do, along with a list of other tasks that the client has to accomplish on their own. The OBA Access to Justice Committee is working on some sample attorney-client agreements which will be posted to the OBA Practice Management Advice Forum on MyOKBar Communities.<sup>1</sup>

The lawyer should document making the appropriateness determination under the two-pronged test of ORPC Rule 1.2 (c).

LSR will generally mean a lower-cost legal service, but it does not mean less competent or lower-quality legal services. You owe the same duties of competence, diligence, loyalty and confidentiality to limited-scope clients that you owe to full-service clients. Because the lawyer’s time interacting with

the client may be relatively brief, it is very important that the lawyer document everything about the matter in great detail. Frankly, it may be difficult for the lawyer to recall many details about this type of representation if some criticism is raised later without good notes, which may be partially done in a checklist-style format.

modest fee to draft an answer and cross petition for a client and then explaining the next steps not only prevented a default judgment from occurring, but also advanced the matter for everyone's benefit.

Your clients may appreciate helpful instructions and good coaching more than your finely drafted legal documents. Information like where

can answer and the types that must be referred to the lawyer.

For those wishing to do a higher volume of this type of work, automated document assembly is an important component.

Internet-based advertising with a social media component will likely be required for those attempting to make this type of service delivery a substantial part of the practice. Social media promotion cannot be ignored. Even though lawyers have not traditionally done this, when goods or services are sold via the internet, consumers expect to see pricing information. Most LSR representation will be done on a flat-fee basis so many lawyers will conclude it is important to post pricing information online, with clear caveats about what is not included in that price, such as court costs.

LSR services are likely here to stay. Some lawyers will not provide these services, but, unlike many outreaches for a lawyer's time and money for pro bono work or charitable donations to help those less fortunate, these services provide an opportunity to help provide low-cost legal services that assist people who can pay some fee while also providing revenue to the law firm.

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## Limited scope representation services are likely here to stay.

A lawyer has an affirmative duty to advise the client on related matters, even if not asked. For example, a small claims plaintiff who has retained a lawyer under an LSR arrangement to help organize exhibits and give pretrial coaching before small claims matter is heard should also be told something about judgments and how one goes about collecting them even if the client is focused more on the hearing than the aftermath.

Do not forget that if you are preparing documents for a pro se party to file with a court, you not only need to comply with Rule 33 to include your information on the document, but you must also include a pro se signature block for the client indicating a mailing address where responsive pleadings can be served if things do not proceed as expected.

Some lawyers may provide LSR only occasionally. In fact, one northeastern Oklahoma lawyer told me that she anticipated she would never deliver these kinds of services but had already encountered several circumstances where charging a

to park for free, the hours of the court clerk's office and when certain types of hearings are routinely held will be greatly appreciated by those unfamiliar with the courthouse. Embedding photographs of court offices within the documents may be very helpful. For matters that are anticipated to be uncontested, a script of what statements should be made and appropriate responses to questions the court may have will streamline the process for everyone and reduce your client's tension.

These localized instructions highlight the fact that the lawyer understands the local processes within this particular courthouse as opposed to an online service provider located in another state who is advertising that they provides similar services.

Lawyers who plan to do numerous LSR matters may record instructional videos and post them online on a website only available to their clients. If others in your office deal with these clients, they will need to document any interactions as well and the lawyer should instruct them about the types of questions they

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### ABOUT THE AUTHOR

Jim Calloway is the director of the OBA Management Assistance Program. He served as chair of the 2005 ABA TECHSHOW board. His *Law Practice Tips* blog and *Digital Edge* podcast cover technology and management issues. He speaks frequently on law office management, legal technology, ethics and business operations.

### ENDNOTE

1. To access MyOKBar Communities, go to [community.okbar.org](http://community.okbar.org) (to log in, use your bar number and MyOKBar password), then click the tab Communities > All Communities then select PRACTICE MANAGEMENT ADVICE FORUM.