



An Overview of Unbundled Legal Services; from Justice Crisis to Justice Opportunity

Alberta Family Law Institute: Survive, Strive, Thrive

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Table of Contents

Introduction	4
Definition and Concept of Unbundled Legal Services	4
Importance and Relevance	5
Purpose of This Paper	6
Historical Background.....	6
Origins and History of Unbundled Legal Services.....	6
Present Reality of and Regulatory Framework.....	11
Access to Justice and Unbundled Legal Services	16
Overview of the Access to Justice Crisis.....	16
Responses to the Access to Justice Crisis	19
Examples of Unbundled Practices	22
The Coach My Case Example	23
Application of the Legal Coaching Model in Practice.....	26
Pre-Consultation	26
Consultation	27
Service Agreement.....	29
Conclusion.....	30
Appendix A: Limited Legal Services Retainer Agreements.....	32



INTRODUCTION

Definition and Concept of Unbundled Legal Services

Unbundled legal services, also known as limited-scope representation, refers to a type of legal practice in which a lawyer provides legal assistance for specific predetermined aspects of a case, rather than being retained to engage in every part of a file from initial retention to completion (or termination). The Alberta Code of Conduct defines a limited scope retainer as:

“limited scope retainer” means an agreement for the provision of legal services for part, but not all, of a client’s legal matter¹.

As the lawyer is not retained to handle the whole case, the client must manage parts of their case without the lawyer. This may include engaging the services of other legal practitioners or self-representation. Fundamentally, the client decides what specific legal services they need and when they need these services. A lawyer engaged through an unbundled retainer might assist a client with drafting documents, reviewing contracts, offering legal advice, providing representation for a single court appearance, or attending a mediation with a client but not subsequent court appearances. From the bundle of possible legal tasks, the lawyer and client agree to pull out some tasks for the lawyer to complete, thus limiting the scope of an otherwise all inclusive retainer.

Legal Coaching is a form of unbundled legal service that offers self-represented litigants legal assistance in the background. A useful definition of legal coaching is the following:

Legal Coaching is a type of unbundled service where a lawyer-coach works in partnership with the client to offer behind-the-scenes guidance – procedural, substantive and “cultural” – providing a self-represented litigant with the strategies, knowledge and tools needed to advance their case as effectively as possible in the absence of counsel².

Unbundled legal services are often used in areas like family law, small claims, immigration, and business law, where individuals or small businesses might want to minimize legal fees while still benefiting from professional guidance.

¹ Law Society of Alberta Code of Conduct, June 7, 2024, section 1.1-1

² Definition provided by Nikki Gershain, M.A., LL.B. National Director, Pro Bono Students Canada (on leave); Research Fellow, National Self-Represented Litigants Project, University of Windsor, Faculty of Law as published on the website for the BC Family Unbundling Roster <https://sites.google.com/view/bfur/for-clients/legal-coaching?authuser=0>.



Importance and Relevance

Canada faces an access to justice crisis that is clearly visible in the increasing numbers of self-represented litigants in courts across the country. The high costs of legal services directly impacts the increase in self-representation and contributes to what the Honourable Chief Justice McLachlin called an “epidemic of lack of representation”³. Unbundled legal services can make legal services more affordable and accessible by reducing costs and giving clients more control over their legal matters. For self-represented litigants, unbundled services are a mid way option between the full-service representation that they cannot afford and no representation at all⁴. Unbundled legal services have been widely recognized as a more affordable approach to legal services that can benefit self-represented litigants⁵. They are frequently listed as a model that may improve access to justice⁶.

Unbundled legal services can be found across Canada. Many forms of unbundled legal services are currently being offered in Alberta through law firms large and small. These include firms offering limited scope retainers for one time court appearances, legal coaching or the drafting of specific documents.⁷ The uptake of these unbundled legal services is not limited to those self-represented litigants who fall into the legal services gap between legal aid and full representation. As predicted by the Law Society of British Columbia (LSBC) in 2008, some self-represented litigants choose to represent themselves because advances in technology have made it much easier to collect and

³ LSBC, Report of the Unbundling of Legal Services Task Force LIMITED RETAINERS: PROFESSIONALISM AND PRACTICE, April 4, 2008, pg 1.

⁴ *Ibid.*

⁵ Charlette Sullivan & Dr. Julie Macfarlane, Tracking The Trends Of The Self-Represented Litigant Phenomenon: Data From The National Self-Represented Litigant Project, 2019-2021, October 2021, at page 13; See also The Law Society of British Columbia’s commentary on access to justice and unbundling: <https://www.lawsociety.bc.ca/about-us/priorities/access-to-justice/unbundling-legal-services/#:~:text=Unbundling%20legal%20services%2C%20where%20a,but%20need%20some%20legal%20help>.

⁶ The Honourable Justice Thomas A. Cromwell & Siena Anstis, The Legal Services Gap: Access To Justice As A Regulatory Issue, (2016) 42:1 Queen’s LJ, page 20.

⁷ John-Paul E Boyd, Client And Lawyer Satisfaction With Unbundled Legal Services: Conclusions From The Alberta Limited Legal Services Project, Canadian Research Institute for the Law and the Family, August 2018 at pgs 9–10, 19–23 [Boyd].



process legal information, to the point where some do not see why they would hire a lawyer to do work that they can do themselves⁸.

Purpose of This Paper

Unbundled legal services are a viable and necessary option for people engaged in legal issues in Alberta. Lawyers working with clients through unbundled legal services will find opportunities in a large potential market that continues to be underserved. However, lawyers must be cautious when providing unbundled options as specific pitfalls exist which will be unfamiliar to those accustomed to a full representation model. This paper will provide a background on unbundled legal services including the history of these services, the impacts unbundling in the context of the access to justice crisis, the regulatory framework, and examples of unbundled practices. It will also provide a introductory guide to unbundled practice through the author's own experiences operating a legal coaching service, Coach My Case⁹, in Alberta and British Columbia.

HISTORICAL BACKGROUND

Origins and History of Unbundled Legal Services

The practice of unbundled legal services in litigation began decades ago but was generally reserved for pro-bono and legal aid services. In the 1970's, initiatives in the USA were introduced to make law more affordable for simple or discrete legal tasks. These included document review and advice, or one-time representation for eviction and tenancy cases.¹⁰ As the 21st century approached, it was clear that access to justice was a considerable issue and during this time family and civil matters saw the rise of the self-represented litigant. However, the legal rules and regulations left little room for litigation lawyers to appear for a client without representing their entire matter.¹¹

Early responses in the late 1990's and early 2000's saw the Courts and Canadian Bar association encourage lawyers and the state to expand involvement and funding for pro-bono and legal aid

⁸ *Supra*, LSBC, Report of the Unbundling of Legal Services Task Force, at note 3, pg 3.

⁹ Online at: www.coachmycase.ca.

¹⁰ D. James Greiner, Cassandra Wolos Pattanayak, and Jonathan Hennessy, The Limits Of Unbundled Legal Assistance: A Randomized Study In A Massachusetts District Court And Prospects For The Future, February 2013, 126:4 Harv. L. Rev. 901 at pg 912.

¹¹ *Logan v Logan*, 1993 CanLII 5455 (ON SC).



services.¹² Despite this, the provincial and federal governments reduced funding for legal aid, instead directing their attention to legal education initiatives and introducing ADR options for potential litigants.¹³ However, it was clear, even at this time that unbundled legal services were about to enter mainstream practice.

In 2002 the American Bar Association released an updated Model Rules of Professional Conduct, which included one clause regarding limited scope retainers. Rule 1.2(c) states: “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.” This was seen as a milestone movement in the certainty it provided lawyers in their provision of unbundled services.¹⁴ While this one line did not provide clarity in where a lawyer ought to be careful, or to what extent their ethical and professional obligations extended, it remained the first official statement by a governing body on the provision of unbundled services outside of the pro-bono/legal aid context. At the same time, the ABA standing committee released a formal ethical statement saying that lawyers who were ghostwriting documents or letters for clients did not need to disclose their involvement to the court or tribunal when the matter was heard.¹⁵ This upended the informal precedent that disclosure was an ethical duty and greatly outraged critics of the movement.

In 2008 the LSBC benchers presented a report from a task force on the unbundling of legal services. This report provided recommendations to resolve the concerns that had been raised from the critics of unbundled legal services. These concerns were centrally around general conduct, confidentiality, anonymous drafting, communications with a party under a limited retainer, and conflicts of interest.¹⁶ The recommendations were adopted by the LSBC and included on January 2009 in the LSBC’s updated Professional Conduct Handbook in rules 7.01 to 7.04.¹⁷ These rules, alongside input from the Law Society of Alberta and Law Society of Upper Canada, would become the foundation for the rules created by the Federation of Law Societies in Canada (FLSC),¹⁸ but notably

¹² Alberta Law Reform Institute, Alberta Rules Of Court Project: Self-Represented Litigants, Consultation Memorandum No. 12.18 March 2005, at para 94; *Pacer Enterprises Ltd. v Cummings*, 2004 ABCA 28 at 19.

¹³ *Supra*, Alberta Law Reform Institute, note 12.

¹⁴ *Supra*, D. James Greiner, note 10 at pg 912.

¹⁵ *Supra*, D. James Greiner, note 10 at pg 912.

¹⁶ *Supra* LSBC, Report of the Unbundling of Legal Services Task Force, at Note 3, pg 6.

¹⁷ LSBC, Professional Conduct Handbook, January 1993, rules 7.01–7.04.

¹⁸ FLSC, Advisory Committee on Conflicts of Interest: Final Report, June 2, 2010, at para 52.



focused on conflicts of interest and confidentiality for lawyers who represented people in a firm and pro-bono. This is to say, the LSBC Professional Conduct Handbook did not include rules on informed consent when signing the service agreement, communications with other lawyers, or communications with the court or tribunal.¹⁹

The FLSC Model Rules that included limited scope retainers were provided on December 12, 2012.²⁰ The Model rules consist of one rule and five commentary notes.²¹ The Rule states that the client must be advised about the nature, extent, and scope of representation and confirm in writing. The commentary advises lawyers on their obligations to:

1. Continue to inform the client about the scope of the retainer
2. To be careful not to act in a way that suggests full representation
3. Not to mislead a tribunal when making an appearance
4. Consider how communications with other lawyers should be managed, and
5. That summary advice or “telephone hotlines” were not caught by the scope of this rule.

In 2010, The “New” Alberta Rules of Court were introduced and with them came a new rule: 2.27. Under this rule a lawyer is allowed to be retained for a limited purpose but must disclose that purpose to the court or tribunal.²² Under this rule Alberta lawyers were now officially allowed to appear before the court and represent clients in a limited manner. This opened the gates to limited scope retainers in litigation, but uncertainty remained as the Law Society of Alberta had not issued ethical guidelines or considerations on how lawyers ought to provide limited scope retainers.²³

¹⁹ LSBC Professional Conduct Handbook, *supra*, note 17.

²⁰ Nancy Carruthers, Limited Scope Retainers: Ethical and Practical Issues, prepared for the Legal Education Society of Alberta, presented on November 1 and 2, 2013 in Edmonton Alberta at page 2; Alison MacPhail, Report of the Access to Legal Services Working Group, Action Committee on Access to Justice in Civil and Family Matters, May 2012, at page 12; Action Committee on Access to Justice in Civil and Family Matters, Access To Civil & Family Justice: A Roadmap for Change, October 2013, at note 87.

²¹ FLSC, Model Code of Professional Conduct, December 12, 2012, 3.2-1A.

²² Alberta Rules of Court, Alta Reg 124/2010, Rule 227(1).

²³ Carruthers, *supra*, note 20; See e.g., Canadian Bar Association Alberta Branch, The Limited Scope Retainer, 2013.



Despite this ambiguity, limited representation was used in the initial period after 2010. By 2011 court clerks and self-represented litigants were reporting the use of agents to represent them only for hearings, while leaving the remainder of their case in their own hands.²⁴

The FLSC Model Code provisions were adopted wholesale by most, if not all, of the Law Societies across Canada. On October 3, 2013, the Law Society of Alberta introduced their amendments to the Code of Conduct to bring it in line with the FLSC model.

In the same month the Law Society of Alberta released their updated Code of Conduct, the Access to Justice Committee in Civil and Family Matters headed by the Honourable Chief Justice McLachlin released their report on the state of the law in Canada. Included as part of the 9-factor program to improve access to justice in Canada was a call for law societies and lawyers to provide unbundled legal services. Alberta specifically was praised for the unbundled initiatives being pushed by Justice Alberta, Pro Bono Alberta, Legal Aid Alberta, Calgary Legal Guidance, and more²⁵.

Much of this development in Alberta was the result of years of research funded by the Law Society of Alberta. For example, in 2011 the law societies of Alberta, BC, and Ontario funded a joint initiative called the “self-represented litigant’s project” whose first report was published in May 2013. This study, conducted by Dr. Julie MacFarlane, provided concrete statistics on self-represented litigants across Canada and pulled back the curtain on just how dire the access to justice problem was. Prior to this, data recording methods for self-represented litigants were very underdeveloped across the country and much of the literature on self-represented litigants consisted of anecdotes or isolated studies.²⁶ Relying on historical data in California, MacFarlane found that self-represented litigants had risen from 1% in 1971 to 77% in 2000.²⁷

MacFarlane’s 2013 project found that self-represented litigants made up one or more party in 39% of divorce hearings in Alberta and 46% of family law proceedings, and these statistics were likely

²⁴ Dr. Julie MacFarlane, *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants*, May 2013, at pg 33 [MacFarlane].

²⁵ Action Committee on Access to Justice in Civil and Family Matters, *Access To Civil & Family Justice: A Roadmap for Change*, October 2013, at note 87.

²⁶ MacFarlane, *supra*, at pg 33.

²⁷ MacFarlane, *supra*, at pg 34.

low.²⁸ These numbers galvanized action within the province. Initiatives like the NSRLP became funded initiatives of various Law Societies across Canada²⁹ and the Alberta Limited Services Legal Project was started to connect self-represented litigants with legal coaches and counsel.³⁰

Dr. MacFarlane's study also provided qualitative data and feedback from participating self-represented litigants, information that was not previously available to the legal community. Most self-represented litigants felt terrified of leading their own case, but over 50% of self-represented litigants felt obligated to do so due to their financial constraints.³¹ 12 of the 259 self-represented litigants reported using unbundled legal services for their hearings or at crucial points in their case, but it was rare for self-represented litigants to find lawyers who offered this service from 2011-2013.³² Of the 13 who did access unbundled services, it was often through a lawyer they had worked with previously.³³

Over the 2010s, unbundled options for litigants continued to expand in Alberta. In August 2018 John-Paul E. Boyd published the conclusions of the Alberta Limited Legal Services Project (ALLSP) in a report from the Canadian Research Institute for Law and the Family. This report detailed the experiences of lawyers and clients involved in the ALLSP over its initial year of operation³⁴.

The ALLSP report found that most clients engaged with unbundled service for consultations, legal opinions, or procedural guidance. No clients engaged in limited representation for in person hearings, questionings, or court appearances.³⁵ Most unbundled tasks were completed by the lawyer within one day.³⁶ Overall, the satisfaction for clients who engaged with unbundled services was very

²⁸ MacFarlane, *supra*, at pg 26.

²⁹ MacFarlane, *supra*, at pg 1 and online at www.representingyourselfcanada.com.

³⁰ ALLSP, online at www.albertalegal.org.

³¹ MacFarlane, *supra*, at pg 40-42.

³² MacFarlane, *supra*, at pg 43, 92.

³³ MacFarlane, *supra*, at pg 93.

³⁴ Boyd, *Supra*, note 7.

³⁵ *Ibid*, at pg 23.

³⁶ *Ibid*, at pg 24.

high, with over 90% of respondents stating they were satisfied or very satisfied with the services they were provided and found the services to be better than not hiring a lawyer at all.³⁷

Regarding the participating lawyers, the ALLSP report found that over 50% of lawyers offering unbundled legal services had under 10 years of professional practice experience.³⁸ Most of the lawyers found that they could charge their usual fees for the work they performed, and a strong majority of the lawyers reported feeling satisfied with providing unbundled services.³⁹

The ALLSP report concluded by recommending that unbundled legal services be expanded because the public demand was strong and those who engaged with the service were highly satisfied.⁴⁰

Present Reality of and Regulatory Framework

In the 2019-2021 update to the National Self-Represented Litigants Project, there were notable statistical changes to the rates of self-represented litigants in Canada. Half of the respondents reported that they actively searched for unbundled services, but were unable to find any that met their needs.⁴¹ Of all areas of law engaged, 42.2% of respondents noted that they were in a family law matter, down from two thirds in 2013.⁴² 53.6% of litigants who did engage with unbundled legal services claimed to have had a poor experience, with only 17.9% stating that they were satisfied with the service they received. While the number of satisfied respondents is low, it is significantly higher than in 2017, where it was 0%.⁴³ In addition, the 2019-2021 update found that 91% of respondents stated that the other party on their file had a lawyer, which was up from 5% in 2013.⁴⁴ Also significant was the change in the percentage of respondents who indicated that they had received

³⁷ *Ibid*, at pg 25.

³⁸ *Ibid*, at pg 18.

³⁹ *Ibid* at pgs 35–36.

⁴⁰ *Ibid* at pg 25, fig 2.5.

⁴¹ *Ibid*.

⁴² Charlotte Sullivan & Julie Macfarlane, Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the National Self-Represented Litigants Project, 2019–2021, National Self-Represented Litigants Project, October 2021 at pg 10.

⁴³ *Ibid*.

⁴⁴ *Ibid*, at pg 5.

pro bono legal services, with 58% saying they received pro bono services in the 2015-2016 report, to only 8.4% in the 2019-2021 report.⁴⁵

Other significant findings included the following:

1. 41.3% of respondents indicated that they had a disability, fairly consistent with past results⁴⁶;
2. 43% of respondents indicated having a university degree or other equivalent professional qualification⁴⁷;
3. 50.8% of respondents reported having income of under \$30,000 per year;⁴⁸
4. 68.9% of respondents indicated working with a lawyer at some point in their case;⁴⁹
5. 75.5% of respondents who had worked with a lawyer had done so on a private retainer;⁵⁰
6. 27.2% of respondents had been offered unbundled legal services at some point in their case;⁵¹
7. Half of respondents indicated that they had unsuccessfully looked for unbundled legal services, which was similar to data collected in previous years;⁵²
8. Due to the report taking place during COVID-19, a significant public desire for remote legal services was found (89.5%).⁵³

⁴⁵ *Ibid*, at pg 12.

⁴⁶ *Ibid* at pg 6.

⁴⁷ *Ibid* at pg 8.

⁴⁸ *Ibid*.

⁴⁹ *Ibid* at pg 12.

⁵⁰ *Ibid*.

⁵¹ *Ibid*, at pg 13.

⁵² *Ibid*, at pg 14.

⁵³ *Ibid*.

These statistics match our experience providing legal services through Coach My Case. The people we work with report that the main reason they are interested in legal coaching is the lower cost compared to traditional legal services. Most are low-income individuals who are not able to qualify for legal aid. However, many are also middle-income earners who have had a lawyer representing them in their case but due to exhausting their liquid funds sought out lower costs options.

Regarding the present regulatory framework from which unbundled legal services are provided, the Law Society of Alberta Code of Conduct was updated in October 2013 to include provisions on limited scope retainers. These sections and the associated commentary have not changed in the last 11 years and include the following:

1.1-1 In this Code, unless the context indicates otherwise,[...]

“limited scope retainer” means an agreement for the provision of legal services for part, but not all, of a client’s legal matter;

3.1-2 A lawyer must perform all legal services undertaken on a client’s behalf to the standard of a competent lawyer. [...]

[10] 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. (See Rule 3.2-2).

3.2-2 Before undertaking a limited scope retainer the lawyer must advise the client about the nature, extent and scope of the services that the lawyer can provide and must confirm in writing to the client as soon as practicable what services will be provided.

[1] The scope of the service to be provided should be discussed with the client, and the client’s acknowledgement and understanding of the risks and limitations of the retainer should be confirmed in writing. The lawyer should clearly identify the tasks for which the lawyer and the client are each responsible. The lawyer should advise the client about related legal issues which fall outside the scope of the limited scope retainer, and advise the client of the consequences of limiting the scope of the retainer, to allow the client to have enough information on which to base a decision to limit or expand the retainer.

[2] A lawyer who is providing legal services under a limited scope retainer should be careful to avoid acting in a way that suggests that the lawyer is providing full services to the client. Modifications to the scope of the limited scope retainer, or the obligations of the client and lawyer, should be confirmed in writing. The lawyer should also consider advising the client when the lawyer’s retainer has ended.



[3] Where the limited services being provided include an appearance before a tribunal a lawyer must be careful not to mislead the tribunal as to the scope of the retainer. Lawyers should consider whether disclosure of the limited nature of the retainer is required by the rules of practice governing a particular tribunal or other circumstances.

[4] In Alberta, Rule 2.27 of the Rules of Court requires lawyers to inform the court if the lawyer is retained for a limited or particular purpose.

[5] When one party is receiving legal services pursuant to a limited scope retainer, the lawyers representing all the parties in the matter should consider how communications from opposing counsel in a matter should be managed. (See Rule 7.2-9).

[6] This rule does not apply to situations in which a lawyer is providing summary advice or to initial consultations that may result in the client retaining the lawyer.

[7] Summary advice may include advice received in a brief consultation on a telephone hotline or from duty counsel, for example, or may otherwise be advice which is received during the provision of short-term legal services, described in Rule 3.4-15.

7.2-9 Where a person is represented by a lawyer under a limited scope retainer on a matter, another lawyer may, without the consent of the lawyer providing the limited scope legal services, approach, communicate or deal with the person directly on the matter unless the lawyer has been given written notice of the nature of the legal services being provided under the limited scope retainer and the approach, communication or dealing falls within the scope of that retainer.

[3] Where notice as described in Rule 7.2-9 has been provided to a lawyer for an opposing party, the opposing lawyer is required to communicate with the person's lawyer, but only to the extent of the limited representation as identified by the lawyer. The opposing lawyer may communicate with the person on matters outside of the limited scope retainer.

The ALLSP launched in April 2017 has continued to operate and provides the public with a roster of lawyers in Alberta who are willing to retain clients through a limited scope retainer. It presently has 101 lawyers registered from across Alberta.⁵⁴

The Law Society of Alberta has recently taken action to diversify the legal services available to Albertans. To encourage growth in the development of innovative legal services, the Law Society of Alberta launched its Innovation Sandbox in 2022 to allow for the experimental delivery of unique service models.

⁵⁴ Online at: <https://albertalegal.org/>.



In theory, this initiative allows for the operation of alternative and innovative legal practices under the oversight of the Law Society. To date, the Sandbox has received 15 applications but only 3 have been approved for participation⁵⁵. Notable Innovation Sandbox participants include One Family Law, which began offering joint couple divorce/separation advice in 2023, and TreeFort Technologies Incorporated, established in 2020 to provide virtual signing and ID verification services.

However, approval within the sandbox provides no guarantee that a business will be permitted to operate for the long term. As provided in the LSA's official *Innovation Sandbox Guide*, approvals are typically granted on a two-year term, during which participants must submit regular reports and remain subject to the LSA's oversight⁵⁶. At the end of this period, participants submit a final report assessing the success of their innovation. Possible outcomes following the final report include:

- The LSA extends the trial period for continued assessment.
- The LSA directs the participant to cease all operations.
- The LSA permits the participant to continue operations indefinitely.

The Innovation Sandbox was established to encourage flexibility in legal service delivery, ostensibly allowing for experimentation with new service models. However, despite this goal, the Law Society's focus appears to prioritize innovations related to delivery mechanisms—specifically the technical and procedural methods by which legal services reach clients—over broader expansions in who can provide these services⁵⁷. The sandbox guidelines expressly bar any activity that would see legal advice or representation by non lawyers. This focus limits the potential for innovation and excludes paralegal-led approaches that could offer cost-effective, limited legal support to underserved clients. In contrast, the Law Society of British Columbia's own innovation sandbox has allowed for many paralegal participants who are now providing legal services and advice without lawyer oversight through sandbox participation.⁵⁸

⁵⁵ Law Society of Alberta, "Sandbox Activity Report," Law Society of Alberta (31 October 2024), online: Law Society of Alberta Innovation Sandbox Reporting – Law Society of Alberta.

⁵⁶ Law Society of Alberta, Innovation Sandbox User Guide, online publication.

⁵⁷ Law Society of Alberta, "About the Innovation Sandbox," *Law Society of Alberta* (31 October 2024), online: Law Society of Alberta About the Innovation Sandbox – Law Society of Alberta.

⁵⁸ Online at: <https://www.lawsociety.bc.ca/about-us/priorities/innovation-sandbox/approved-participants/>.

For Coach My Case, these limitations were a factor in our decision to forgo sandbox participation and instead work within the existing regulations. Moreover, the long term uncertainty of investment in a sandbox business is likely to limit participation by businesses with bold ideas requiring significant start up costs. However, despite its limitations, a redeeming aspect of the Innovation Sandbox is its commitment to adaptability. The *Sandbox Guide* explicitly states that it is a “working document” that will be “regularly updated based on the needs of applicants and the project.” This openness to change suggests that the Sandbox remains responsive to feedback from participants and could potentially evolve to accommodate more diverse service models in the future.

ACCESS TO JUSTICE AND UNBUNDLED LEGAL SERVICES

Overview of the Access to Justice Crisis

In Canada, almost half of Canadians over 18 years old will experience a civil or family matter over a 3-year period.⁵⁹ In western Canada (BC-Manitoba), this percentage is 49.8% of Canadians.⁶⁰ Of these, 4.3% of Canadians reported experiencing a family law problem.⁶¹ While this percentage seems small, this amounts to a population of approximately 300,000 people across western Canada every 3 years.⁶² The Alberta Court of King’s Bench was the second most used federal court for self-represented litigants, outpacing the Supreme Court of British Columbia despite the population difference and second only to Ontario’s Superior Court of Justice.⁶³ When considering provincial courts alongside federal courts, the number of self-represented litigants grows even higher.⁶⁴ Clearly, Alberta has a high number of self-represented litigants involved in litigation.

⁵⁹ Trevor C.W. Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup and Lisa Moore, *Everyday Legal Problems And The Cost Of Justice In Canada: Overview Report*, CFCJ, May 2016 at page 2 [Everyday Legal Problems].

⁶⁰ Lisa Moore, *Everyday Legal Problems and the Cost of Justice in Canada: Region (Data Report)*, CFCJ, August 2017, at pg 7 [Moore].

⁶¹ *Ibid* at pg 14.

⁶² *Ibid*.

⁶³ Keerthi Chintapalli, *Data from the National Self-Represented Litigants Project, 2021–2023*, NSRLP, January 2024, at pg 13 [Chintapalli].

⁶⁴ MacFarlane, *supra* at pgs 25–26.

When asked about barriers to representation 84.3% of respondents in the NSRLP’s research conducted in 2021 cited the high cost of fees and unaffordability of legal services.⁶⁵ Per the Canadian Lawyer 2021 Legal Fees Survey, Alberta sits at the high end for legal fees on any given matter, only below Ontario in most cases.⁶⁶ Notably, the cost of legal services by province directly correlates with the percentage of self-represented litigants per province.⁶⁷

Legal fees in North America have been rising year over year at a rate of approximately \$15/h,⁶⁸ but for many workers in Canada wages have only gone up \$5/h in that same time frame for an average of \$1/h per year (January 2019–January 2024).⁶⁹ So, while Canada has a worldclass legal system in terms of transparency, competence, predictability, and independence, most Canadians are barred from engaging with this system due to financial limitations.⁷⁰ In Canada it is estimated that an individual litigant spends an average of \$6,100 attempting to resolve their single legal issue.⁷¹ Over a 3-year window, this amounts to an average of \$23 billion across the nation, and this is likely a conservative estimate.⁷² When the amount spent on legal concerns is almost half of what the average Canadian spends on shelter in a year, legal representation is clearly beyond the means of many Canadians who are struggling to afford basic necessities.⁷³

This \$6,100 spent on litigation does not include the peripheral costs of litigation, including transportation, court fees, advisors or mediators, experts, communications, or childcare.⁷⁴ When these costs are spread out over the average length of a file in the court system, the costs can become unbearable. Many cases in family law take years to resolve. One-fifth of family law cases in

⁶⁵ Chintapalli, *supra*, at pg 29.

⁶⁶ Canadian Lawyer, 2021 Legal Fees Survey, online at www.canadianlawyermag.com/news/features/2021-legal-fees-survey-results/362970.

⁶⁷ Chintapalli, *supra*, at page 13; Canadian Lawyer, *supra*.

⁶⁸ CLIO, 2024 Legal Trends Report, at pg 65.

⁶⁹ Statistics Canada, Employee wages by industry, annual, January 5, 2024.

⁷⁰ Everyday Legal Problems, *supra*, at pg 3.

⁷¹ *Ibid* at pg 13.

⁷² *Ibid*.

⁷³ *Ibid* at pg 14.

⁷⁴ *Ibid* at pg 15 and 16.

the court system in 2023 were found to have been initiated over four years earlier.⁷⁵ This is a significant investment of a person's time over a long period of their life. Additionally, Canadians collectively bear the burden of the social services and justice system resources that go into resolving legal issues.

Not being able to afford representation in the Canadian legal system often has significant negative impacts on the individual.⁷⁶ Self-represented litigants describe feelings of isolation, being overwhelmed, stressed, and not being taken seriously by professionals and judges within the legal system.⁷⁷ These feelings were often exacerbated for racialized individuals, individuals with mental health concerns, or individuals with a language barrier.⁷⁸ In a 2016 data set on poverty in Canada it was found that only 8.8% of Canadians lived at the low-income threshold, but that this rate rose for vulnerable groups including recent indigenous people off reserve (18.7%), recent immigrants (20.3%), people with disabilities (22.5%), single parents (23.7%), and unattached individuals aged 45-64 (30.2%).⁷⁹ Therefore, the people that are the most likely to be self-represented in the court system are also the most likely experience the negative effects of interacting with the legal system.

These disadvantages manifest themselves in the outcomes that self-represented litigants experience. Seventy-three percent of self-represented litigants who participate in court hearings lose, and only 14% win, with the remainder being split decisions.⁸⁰ Only 25% of self-represented litigants win at trial.⁸¹ Self-representing results in significant disadvantages, both in terms of navigating the complex procedures of the legal system, and in outcomes.

⁷⁵ Statistics Canada, Active family cases by issue(s) identified over length of case and number of fiscal years since case initiation, Canada and selected provinces and territories, March 27, 2024.

⁷⁶ Chintapalli, *supra*, at pg 20.

⁷⁷ *Ibid* at pgs 20–22.

⁷⁸ Chintapalli, *supra*, at pg 22.

⁷⁹ Government of Canada, A Backgrounder on Poverty in Canada, October 2016, at pg 9.

⁸⁰ NSRLP, Finally, Canadian Data on Case Outcomes: SRL vs Represented Parties, April 18, 2016.

⁸¹ *Ibid*.

Responses to the Access to Justice Crisis

Historically, legal aid in Alberta has been chronically underfunded. Only in 1990 was Legal Aid Alberta able to hire staff workers, and in 1994 Duty Counsel services began to be provided.⁸² That same year, budget cuts led to mass staffing and salary cuts.⁸³ By 2010 the demand for legal aid services had grown by 43% since 2004, leading to Legal Aid Alberta issuing over 30,000 certificates in a single year in 2012.⁸⁴ By 2015, demand had increased by another 34%.⁸⁵ At this time, lawyers engaged with Legal Aid were uncertain whether funding for the program would continue despite the high demand,⁸⁶ but beginning in 2018 a new contract led to a 72% increase in funding and allowed Legal Aid Alberta to expand its services.⁸⁷ Under the most recent agreement with Alberta Justice, a \$110 million grant has allowed for Legal Aid Alberta to increase its individual financial eligibility from an income of \$24,456 gross to \$30,000 gross per year.⁸⁸

⁸² Legal Aid Alberta, Legal Aid ALberta through the years: 1990s–2000s.

⁸³ *Ibid.*

⁸⁴ Legal Aid Alberta, Legal Aid Alberta through the years: 2010s–Present.

⁸⁵ *Ibid.*

⁸⁶ Anita Balakrishnan, “Province agrees to \$70 million funding boost to Legal Aid Alberta in new governance plan”, *Canadian Lawyer*, 12 October 2018.

⁸⁷ *Ibid.*

⁸⁸ Legal Aid Alberta, Legal Aid Alberta Financial Eligibility Guidelines will increase on April 1, February 14, 2024, online at legalaid.ab.ca/news; Government of Alberta, Making Legal Aid accessible to more Albertans, February 14, 2024, online at alberta.ca/news.

However, there remains a significant population that exists in the gap between being able to afford legal services and qualifying for legal aid. While 43.5% of self-represented litigants reported having an income under \$30,000, 19.4% of self-represented litigants make between \$30,000-50,000 and do not qualify.⁸⁹ Additionally, the \$30,000 per year maximum income eligibility includes almost any form of income, including WCB payments, unemployment insurance, disability benefits, support payments, insurance settlements, gifts, and sale proceeds of a property.⁹⁰ If someone receives a gift from their family so that they can meet their needs during their litigation process, they may no longer be eligible for legal aid, placing them in a lose-lose situation. Moreover, legal aid eligibility in family law matters is also limited by the assets available to individuals. For example, people who own property are expected to sell assets that can be quickly liquidated to fund their case or place a mortgage or security on their real property up before they can be eligible for Legal Aid.⁹¹ This forces people to choose between risking their stable housing or their means of transportation and the ability to have legal aid representation.

Pro bono programs were also created to address access to justice issues. Pro Bono Law Alberta (PBLA) was founded in 2007 to coordinate the collected efforts of many disparate pro bono groups in Alberta.⁹² PBLA continues to work with volunteer lawyers to provide free legal services to Albertans. Through the Civil Duty Counsel, KB Amicus program, and partnerships with over 40 law firms, PBLA boasts a roster of over 600 lawyers providing thousands of hours of legal assistance.⁹³ PBLA also works with independent legal clinics across the province to provide legal information and free legal advice. Additionally, PBLA works with law students through Student Legal Assistance in Calgary and Student Legal Services in Edmonton to provide legal services to low-income Albertans through law students.⁹⁴ PBLA receives its support from private donors, the Law Society of Alberta and the Alberta Law Foundation.⁹⁵

⁸⁹ Chintapalli, *supra*, at page 9.

⁹⁰ Legal Aid Alberta, Eligibility.

⁹¹ Legal Aid Alberta, Legal Aid Alberta Rules 2019, at pages 18–19.

⁹² Pro Bono Law Alberta, Annual Report 2023–2024, at page 2.

⁹³ *Ibid*, at page 10.

⁹⁴ *Ibid* at page 31.

⁹⁵ *Ibid*.



Parliament has also taken steps towards making family law more accessible. In 2018 Bill C-78 was introduced into parliament to amend the *Divorce Act* and other associated Acts.⁹⁶ The Minister of Justice, the Honourable Jody Wilson-Raybould introduced the amendments with four goals, one of which was to “improve efficiency and accessibility of the family justice system.”⁹⁷ One of these amendments was to expand the definition of who could offer legal advice to allow provinces to set their own standards.⁹⁸ Under the previous terms only a lawyer could offer legal advice to a client, but under the new term, if the province allowed for non-lawyers to offer legal advice, then the *Divorce Act* would accommodate.⁹⁹ Taking advantage of this change, British Columbia amended the *Legal Profession Act* in 2018, allowing non-lawyers to apply for an exemption to offer legal services. Currently, BC and Ontario have expanded the scope of legal service providers beyond lawyers.¹⁰⁰

Unbundled legal services were part of the first wave of responses to the access to justice crisis.¹⁰¹ Unbundled legal services are less expensive than traditional legal services and thus help address the financial barriers that prevent many self-represented litigants from accessing legal services. Unbundled legal services have developed over the last decade as a formal response to the access to justice crisis and have become more widely available. The NSRLP found that as of 2021, 35% of self-represented litigants have had unbundled services made expressly available to them, and 50% of surveyed self-represented litigants said they were able to find unbundled services.¹⁰²

⁹⁶ Bill C-78, An Act to amend the *Divorce Act*, the *Family Orders and Agreements Enforcement Assistance Act* and the *Garnishment, Attachment and Pension Diversion Act* and to make consequential amendments to another Act, 1st Reading, House of Commons Debates, 42-1, No 298 (22 May 2018).

⁹⁷ Bill C-78, An Act to amend the *Divorce Act*, the *Family Orders and Agreements Enforcement Assistance Act* and the *Garnishment, Attachment and Pension Diversion Act* and to make consequential amendments to another Act, 2nd reading, 42-1, no 326 (26 September 2018), at 1620 (Hon Jody Wilson-Raybould).

⁹⁸ Justice Canada, *The Divorce Act Changes Explained: Definitions* Legal Adviser, 01 March 2021.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid*; *Law Society Act*, RSO 1990, c L.8, s 2(2)(d).

¹⁰¹ British Columbia, *Legal Professions Regulatory Modernization*, *supra*; LSBC Professional Conduct Handbook; Action Committee on Access to Justice in Civil and Family Matters, *Roadmap*, *supra*, at pg 14.

¹⁰² Chintapalli, *supra*, at pg 17.

EXAMPLES OF UNBUNDLED PRACTICES

As unbundled legal services have been provided in the USA for decades, the examples of unbundled legal services across the border are plentiful and highly varied. One leading practitioner, Forrest (Woody) Mosten, providing unbundled legal services since 1972, does not go to court and chooses instead to act in the background, advising, ghostwriting and providing strategy for clients with files in court and mediation. Mr. Mosten is a leading figure in the unbundling movement and is a frequent presenter on the topic who has also published a number of guides for practitioners looking to unbundle their legal services.¹⁰³

Legal Grind® was founded in 1996 by attorney Jeff Hughes, who pioneered the “Coffee and Counsel” concept, combining a coffee shop on Lincoln Boulevard in Santa Monica with accessible, informal legal advice. The original concept had clients consulting with lawyers face-to-face over coffee for a modest fee. Legal Grind gained national media attention in the U.S. when launched. The lawyers at Legal Grind assist self represented litigants by assisting in the background of their case, providing court documents and advice on a wide range of legal needs, from personal injury and bankruptcy to divorce, custody disputes, contract issues, DUIs, and more. Legal Grind now offers its legal referral services online.¹⁰⁴

Divorce.com is a Canadian, lawyer-led online platform for divorce, where clients complete a simple questionnaire, and the platform generates the required paperwork. They offer fully guided divorce options, assisted divorce, DIY paperwork, and guided mediation sessions—all at a reduced price. A dedicated case manager is available to assist with customer service needs. *Divorce.com* advertises a two-day turnaround time to allow for lawyer review before paperwork is finalized and provided to the client.¹⁰⁵

OnlineDivorce Canada is a self-guided online platform for preparing divorce forms, providing step-by-step instructions and written guidance as clients work through the process. Their premier tool for uncontested divorces starts at \$159 and uses questionnaires to complete necessary forms. The platform includes clear disclaimers that no legal advice or recommendations are provided, and

¹⁰³ Online at: <http://www.mostenmediation.com/books/index.html>.

¹⁰⁴ Online at: <https://legalgrind.com/roothtmls/coffeeandcounsel.html>.

¹⁰⁵ Online at: <https://divorce.com/why-divorcecom>.



communications are not protected by solicitor-client privilege. Originally founded in the U.S., OnlineDivorce Canada now offers services in BC, AB, ON, New Brunswick, and MB.¹⁰⁶

Notarize with Proof is a U.S. based company that offers online notarization services, allowing users to upload a document and meet with an online notary instantly. They provide services to individuals, notaries, businesses, and for real estate matters. Proof of identity is required, with the option to use their subsidiary service, Proof, an online identity verification program.¹⁰⁷

HelloDivorce is a U.S. based company designed to assist self-represented litigants throughout the divorce process.¹⁰⁸ They offer support at every step, with access to in-house lawyers, divorce finance experts, and mediators who can provide advice and guidance as needed.

Alinea Legal Coaching is a Victoria based firm that specializes in providing clients with assistance in the background of their case, including ghostwriting, drafting agreements, preparation for mediation, drafting court documents, and research. Clients can choose from a menu of services on an a la carte basis, each with a different price.¹⁰⁹

THE COACH MY CASE EXAMPLE

Coach My Case was launched in 2021 in B.C. and Alberta, in response to the high number self-represented litigants encountered by one of the authors¹¹⁰ in the family law justice system in Calgary. The goal of Coach My Case is to improve access to justice by providing alternative legal services to people who choose to represent themselves as they navigate the justice system. In furtherance of this goal Coach My Case aims to empower self represented litigants with the tools and information they need to achieve success in their case.¹¹¹

Coach My Case offers clients assistance in the background of their file through lawyers and paralegals. This provides clients with more options for services at a range of different rates. Coach

¹⁰⁶ Online at: <https://www.onlinedivorce.com/>.

¹⁰⁷ Online at: <https://www.notarize.com/>.

¹⁰⁸ Online at: <https://hellodivorce.com/>.

¹⁰⁹ Online at: <https://www.legalcoach.ca/>.

¹¹⁰ Marcus Sixta

¹¹¹ Online at: <https://coachmycase.ca/>.



My Case never provides in court representation, restricting all services to legal coaching in the background. Services on offer include:

- Legal advice
- Legal research
- Drafting court documents
- Coaching for applications
- Providing legal information
- Assisting with negotiation
- Preparation for mediation
- Calculating support
- Ghost writing emails or letters
- Drafting contracts

At Coach My Case, time is billed on an hourly basis and rates vary depending on the experience of the lawyer engaged or if a paralegal is providing the services. As paralegals are not regulated or even recognized in Alberta under existing regulations, work offered by Coach My Case paralegals in Alberta is reviewed and approved by a lawyer and paralegals do not provide legal advice. In B.C. a designated paralegal supervised by a lawyer may provide legal advice and therefore Coach My Case paralegals in B.C. offer legal advice in addition to other services. This gives B.C. clients more low costs options than can be provided in Alberta.

In today's landscape, client expectations are shifting significantly, with an increasing demand for high-quality legal services at more affordable rates. Traditional, full-representation legal services are increasingly viewed as financially inaccessible for many individuals. The access to justice crisis, resulting in ever increasing self-represented parties, is a clear indicator that legal representation is beyond the financial means of many, if not most, Canadians.

By providing legal coaching rather than appearing in court, Coach My Case reduces the financial burden on clients who have limited financial means. This model allows for greater control over costs, as clients can choose the specific support they need, when they need it. Compared to traditional full-service retainers, this approach reduces the potential for legal fees that deviate significantly from the expectations of the client.



Coach My Case is dedicated to a client centered approach and this is expressed in various aspects of the client experience. Clients are in control of when they use legal coaching and how they use the advice and materials received because they retain full ownership of their file as self-represented litigants. The legal coach never represents the client in court, dispute resolution, or in correspondence. To use a common analogy in coaching circles, unlike traditional legal services, in which the lawyer drives the bus, with legal coaching the client drives the bus while the lawyer is the onboard navigation system that the client can utilize, or ignore, depending on their circumstances. By fostering self-reliance, Coach My Case aims to support personal empowerment, providing confidence and learning that has long term impacts on a client's interactions with the justice system.

The client centered approach provides Coach My Case with the foundation necessary to understand the unique needs of self-represented litigants. From the perspective of a self-represented litigant, access to justice is often a financial issue. Therefore, we respond by providing legal services at a variety of rates, including utilizing paralegals. Also, at Coach My Case we never seek a retainer from clients and thus we do not operate a trust account. Low and middle income clients often do not have the financial resources to pay a retainer. Therefore, all we require is a valid credit card. To reduce the potential for unpaid accounts, bills are issued frequently, at the end of a project (the drafting of one affidavit, or a consultation for example), or every 48 hours if ongoing work is being provided. In any event, we issue bills when billed time reaches 5 hours.

Moreover, lower income clients often have difficulty taking time off work to come to a lawyer's office for a meeting. Additionally, many clients in remote communities cannot afford the time and gas required for long commutes to a lawyer's office. Coach My Case responds by providing all legal services remotely, either through video conferencing application or over the phone, which is often necessary for clients in remote locations with poor internet connections.

While legal coaching brings numerous benefits, several challenges must be carefully navigated to ensure safe and effective practice and business viability. One primary challenge is managing clients' expectations regarding the scope of the legal services provided. As discrete tasks are performed, a clear service agreement is required, which outlines the specific services provided by the legal coach. This potential for confusion requires regular and clear communication, ensuring that clients fully understand what their legal coach will—and will not—handle in their case.

Another challenge faced by Coach My Case is the discoverability of legal coaching and unbundled legal services. We have found that most of our clients are generally unaware of unbundled legal services or legal coaching until directly engaging with our marketing or speaking with our lawyers or



staff. Internet search engines operate through queries entered into a search bar. If a potential client is unaware of the existence of unbundled legal services, they will not enter this term into the search bar, instead seeking results based on their legal issues. Therefore, the absence of general public awareness requires expensive advertising campaigns, Google Ad buys, or a creative and unconventional marketing approach (which is also constrained by marketing rules and regulations imposed on law firms by the Code of Conduct). These discoverability issues have been the biggest hurdle faced by Coach My Case.

Finally, while the unbundled service model reduces costs for clients, it also requires careful pricing and volume management to sustain the business. As Coach My Case aims to keep prices affordable, achieving profitability demands a steady influx of clients. This high-volume model presents financial challenges, particularly when marketing costs can be high.

APPLICATION OF THE LEGAL COACHING MODEL IN PRACTICE

There are numerous unbundled legal practices in Canada with different approaches to marketing, intake, billing and customer service. However, many of these practices share similar processes in order to comply with the regulations and ethical codes established by law societies. Best practices for unbundled legal services have been established over the last five decades in North America and Coach My Case worked with the Legal Coaches Association¹¹² in order to design and implement the processes outlined below.

Pre-Consultation

The pre-consultation phase is a vital step in Coach My Case's process, setting the foundation for effective and tailored legal coaching. This phase includes client intake, information gathering, and lawyer preparation.

Intake Process and Screening: The intake process allows us to begin to understand the client's goals, needs, and concerns. During this initial step, clients complete intake forms detailing their legal issue, any prior experience with the legal system, and relevant background information. This information helps Coach My Case assess whether the client's needs align with the legal coaching options available. Once the intake form is returned, Coach My Case conducts a thorough conflict

¹¹² Online at: <https://legalcoachesassociation.org/>.

check to ensure no conflicts of interest. This check must be completed at least 24 hours before the scheduled meeting with the legal coach.

Setting Expectations: As part of the intake process, Coach My Case provides clients with essential information about the legal coaching model through a brief call with an intake coordinator who sets clear expectations regarding the scope of services and how they are delivered. Since Coach My Case provides only legal coaching in the background without court representation, it is critical to communicate this to clients upfront as they will need to represent themselves. Clients also receive details on billing, hourly rates and anticipated costs, and any pre-consultation steps required on their part such as the provision of important information.

Preparation: The legal coach's preparation for each consultation is crucial for providing useful advice tailored to the client's unique situation. This process includes reviewing intake and summary documentation, and assessing suitability. The legal coach must evaluate whether they can or should proceed with the consultation. They consider any personal limitations or gaps in knowledge that may impact their ability to effectively assist the client. In this screening process the legal coach avoids over-screening clients based on perceived difficulties, instead considering how they can possibly accommodate needs, adopting a trauma-informed approach. This acknowledges clients' emotional states as being grounded in possible trauma and enables Coach My Case to employ a more client centered approach to client intake.

Consultation

Coach My Case aims to provide clients with both legal advice and a legal education in the initial consultation so that they can manage their case with more success even if they never work with another legal coach. The consultation occurs by video conference or phone call and the focus is on empowering clients by listening, advising, and educating.

Active Listening: Listening is the cornerstone of an effective consultation. By actively listening to clients' concerns and questions, the legal coach builds rapport and demonstrates empathy, creating a safe space for clients to share their needs. This also allows the legal coach to identify any underlying issues that may affect the client's case and provide more targeted advice and information.

Communicate Clearly and Simply: To make legal information accessible and understandable, the legal coach uses plain language. At Coach My Case, our legal coaches strive to communicate legal information at a grade 7 level. This minimizes misunderstandings and ensures clients fully grasp the



advice and guidance provided. Clear communication is essential, as many clients are unfamiliar with legal terminology and complex processes.

Assessing Basic Knowledge: Understanding the client's level of legal knowledge allows the legal coach to tailor the consultation accordingly. The legal coach will inquire about any prior court experience, familiarity with filing and serving documents, and knowledge of court decorum. This assessment helps the legal coach identify gaps in the client's understanding. This assessment also enables the legal coach to focus on what is important and provide better value to the client. For example, some self-represented litigants already have an advanced understanding of litigation processes, and may need the focus to be on a legal analysis and advice.

Teaching Legal Principles and Process: A key objective of the consultation with a legal coach is to equip the client with foundational knowledge of the law in their area so that they may apply this knowledge to their case. The legal coach provides an overview of relevant law as well as potential avenues for case resolution including court, mediation and arbitration. The client is empowered with knowledge that they can use to negotiate settlement, measure their options and prepare for court if necessary.

Providing Advice and Case Assessment: In addition to general legal education, the legal coach provides a tailored assessment of the client's specific case, outlining potential outcomes and offering guidance on strategies for resolution. The lawyer may discuss various legal pathways and help the client weigh the pros and cons of each option based on their circumstances. This includes information about how the legal coach may be utilized in the process.

Clarifying Scope of The Engagement: As mandated by the Code of Conduct the legal coach discusses the services that they can provide and establishes which services the client is seeking. The legal coach confirms the services that they will provide and reiterates that the client is continuing to self-represent with the legal coach working in the background. The client is informed that they are not to represent to anyone that the legal coach is representing them on their file or attending any court hearing or alternative dispute resolution process. Furthermore, the legal coach informs the client that their advice and assistance is limited by the information provided by the client. Unlike a full-service retainer, in an unbundled retainer, the lawyer may not be provided with the entire file to review, or the client may not have the resources to permit the lawyer to review the entire file. Therefore, as part of the Coach My Case consultation process, the legal coach seeks information about the case in general, assessing what specific documentation or information is necessary for the

services sought by the client. The legal coach requests all necessary documentation and warns the client that information or documentation not provided could result in incorrect advice.

Referring to Additional Resources: Coach My Case recognizes that clients may benefit from additional support beyond legal coaching including resources that are readily available and free online. Therefore, the legal coach provides information about pro bono legal services, student legal clinics, legal aid programs, or community legal services that may be of assistance to the client. In addition, the Coach My Case website hosts numerous links for free legal information, research resources, guidebooks, and legal non-profits.

Service Agreement

A clear, well-defined service agreement is essential in unbundled legal services. Misunderstandings related to the scope of services are a real danger when providing any type of unbundled legal services and this is clear from the guidelines provided in the Code of Conduct.

Service Agreement and Scope of Work: The Coach My Case service agreement specifies which services the legal coach is retained to provide and includes options for potential future changes in scope. By using checkboxes for various services, the service agreement allows the legal coach to select only the specific services requested, providing clarity. This ensures the client fully understands the limits of the unbundled agreement. This type of service agreement is also useful for changes in scope that occur from time to time as the checkboxes can be revised and the service agreement can be updated and signed easily by the client using a web-based document signature application. There are several examples of unbundled legal service agreements, and we have attached a publicly available template from the Alberta Legal Coaches Limited Services roster and another from the Law Society of Saskatchewan as Appendix A.

Review of Entire File and Limitations on Advice: A common challenge in unbundled services is the extent to which the lawyer should review the client's file. Many clients request only limited document review to save time and costs. Therefore, Coach My Case includes a clause in our legal coaching service agreements that advises clients of the benefits of a full file review. If the client decides against a full file review, the agreement specifies that a limited file review may impact the accuracy or comprehensiveness of the lawyer's advice. Furthermore, certain documents may be necessary for accurate advice on specific legal issues; in such cases, the agreement will note that these particular documents are required to proceed effectively.

CONCLUSION

Unbundled legal services offer significant advantages for clients who fall into the gap between legal aid and full representation. These services provide flexibility and affordability, empowering clients to better control their spending while tailoring legal support to specific tasks. Without unbundled legal services, many clients would be entirely alone in the justice system, facing confounding processes and negative outcomes. The reality is that not everyone can afford full representation and some legal help is better than none. Unbundled legal services also provide a number of benefits to legal practitioners including access to a large and growing market, a way to differentiate from competing firms, and the possibility of remote work.

However, unbundled legal services also present unique challenges for the client and practitioner. For clients, the discoverability of unbundled services is a barrier as many are not aware that lower cost alternative legal services exist. Also, most unbundled legal services in the litigation context support clients who are or will be self-representing and therefore will not be helpful for people who do not have the capacity to self-represent. For legal practitioners, unbundled legal services can present a challenging business model due to the discoverability issues in marketing and the need to ensure sustainability within a lower-cost, high-volume framework. Moreover, managing client expectations in an ongoing relationship where the scope of work can change creates unique liabilities and ethical considerations.

As demand for cost-effective legal services continues to grow, unbundled legal services play a critical role in enhancing access to justice. Legal aid and pro bono legal services have been unable to solve the access to justice crisis for a variety of reasons and the number of self-represented litigants continues to increase. Alternative business models offering unbundled legal services, while not a panacea, will help to fill the void by making legal support accessible to those who might otherwise be unable to afford it. Unbundled services that harness new technology have immense potential to change the legal landscape by changing structural inequalities in the justice system, rebalancing the scales between those who can afford a lawyer and those who cannot.

To truly realize the potential of unbundled legal services, support from both legal professionals and policymakers is essential. Improving public awareness, and therefore the discoverability of unbundled legal services, can be achieved naturally through further participation by the legal community. As more lawyers work in this area, join rosters, and promote unbundled legal services, the more people will hear about them and access these services. However, support from government and law societies is also critical as supportive policies are needed to reduce barriers, increase



investment and encourage wider adoption of these services. The status quo is clearly not working and the access to justice crisis is bringing the administration of justice disrepute. As seen through the history of unbundling, the legal community is capable of adapting to changing times, and innovating to overcome these challenges.

APPENDIX A: LIMITED LEGAL SERVICES RETAINER AGREEMENTS

LIMITED LEGAL SERVICES RETAINER AGREEMENT

(As allowed under Law Society of Alberta Code of Conduct, Rule 2.02 (1.1))

This Limited Services Agreement (“Agreement”) is entered into between the Client and the Lawyer, their particulars set out at the end of this Agreement.

They agree as follows:

1. Lawyer Explanation of the Terms of This Agreement

This Agreement is different from the usual lawyer-client agreement.

First, unlike the usual agreement, this Agreement is for limited legal service, rather than for the complete array of services that lawyers often provide to their clients in a general retainer relationship.

Second, in this Agreement, the Client has agreed that they will be responsible for all matters relating to their legal affairs not specifically outlined herein, and take all required steps which are not specifically in this Agreement being attended to by the Lawyer.

2. Scope of Limited Legal Representation.

A. The Limited Legal Service that the Lawyer has agreed to provide are:

Information/Advice (Please initial any that apply):

- Legal advice: office visits, telephone calls, fax, mail, email
- This is a one-time consultation.
- Advice about availability of alternative means of resolving the dispute, including mediation and arbitration, including helping the Client prepare for mediation or arbitration.
- Evaluation of Client self-diagnosis of the case and advising the Client about legal rights and responsibilities
- Guidance and procedural information for filing or serving court documents.
- Review pleadings and other documents prepared by the Client.
- Review pleadings and other documents prepared by opposing party/counsel.
- Suggest documents for the Client to prepare.
- Draft pleadings, motions, and other documents, specifically limited to:



- Factual investigation: contacting witnesses, public record searches, in-depth interview of the Client.
- If this is not checked, the Client understands that Lawyer will not make any independent investigation of the facts and is relying entirely on the Client's limited disclosure of the facts given the limited services provided.*
- Assistance with computer support programs regarding child/spousal support
- Legal research and analysis, limited to the following issues:

- Evaluate settlement options.
- Prepare discovery documents, being:
 - affidavit of documents
 - request for document production
 - other _____
- Help the Client prepare for Questioning.
- Help the Client conduct negotiations.
- Coach the Client for court appearances.
- Standby telephone assistance during negotiation or court appearances.
- Referring the Client to expert witnesses, other counsel, or other service providers.
- Counseling the Client about an appeal.
- Procedural assistance with an appeal and assisting with substantive legal argument in an appeal.
- Provide preventive planning and/or schedule legal check-ups.
- Representing the Client in court but only for the following specific matters:

- Other:

B. Any legal assistance or service not listed and initialed above **Will Not Be Provided**. If a legal service is not listed in Paragraph 2 (A) above, **the Lawyer has not agreed to provide it to the Client**. Any additional services will require the Client to obtain a **NEW Retainer Agreement** outlining those additional services.

C. CLIENT WARNING: the Client confirms that they have been advised by the Lawyer that the law and the procedures relating to the law, are complex and that the Client understands the risk to themselves of undertaking responsibility for legal decisions not contemplated in the services provided herein. **Notwithstanding being advised of that risk, and the benefit of fully retaining Legal Counsel, the Client agrees with and accepts the limited scope of the Lawyer's services outlined herein.**

3. Effective Date of Agreement.

This Agreement will take effect upon both parties signing it.



4. Automatic Termination of Agreement.

This Agreement automatically will terminate when The Lawyer has provided the services set forth in Paragraph 2 (A) without any further act or communication by either the Lawyer or the Client. The lawyer will provide no further services to the Client without entering into a further written agreement outlining the nature and scope of those services.

5. Lawyer's Fees and Costs

The Client agrees to pay the Lawyer as follows:

- _____ Hourly rate of \$_____ per hour, in increments of 1/10 of an hour;
- _____ Fixed fee of \$_____
- _____ Out of pocket costs reasonably incurred by the Lawyer in providing services to the Client
- _____ File administration costs, including file opening, photocopying, fax charges, including _____.

The Client will provide a retainer to the lawyer in the sum of \$_____, to be held in Trust by the lawyer. The Client authorizes the lawyer to withdraw funds from that deposit to apply to the lawyer's fees and costs set out above. If the fees and costs do not exceed the retainer, the excess will be refunded to the Client. If the fees and costs do exceed the retainer, the Client will pay the balance within 30 days of billing, with interest to run thereafter on amounts outstanding to the Lawyer at a rate of 2% per month (24% per annum).

6. Fee Dispute

If any dispute arises hereafter regarding the payment of fees or other costs payable by the Client to the Lawyer herein, the Client and Lawyer agree that they will submit the dispute to a Taxation Officer in accordance with the Alberta Rules of Court, Rule 10.11.

The Client has read this **LIMITED LEGAL SERVICES RETAINER AGREEMENT** and understands what it says. The Client agrees that the legal services specified above are the only legal help Lawyer will provide. The Client understands and agrees that:

- the Lawyer who is helping me with these services is not my lawyer for any other purpose and does not have to give me any more legal help;
- the Lawyer is not promising any particular outcome;
- because of the limited services to be provided, Lawyer has limited his or her investigation of the facts as set out in specifically in this agreement; and



- if the Lawyer goes to court with me, the Lawyer does not have to help me afterwards, unless we both agree in writing.
- the Client has had the opportunity to ask questions about this agreement, and by signing this agreement, agrees to all terms and conditions outlined above.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

Client: _____

Lawyer: _____

Printed Name: _____

Printed Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Email: _____

Email: _____

