

An Affordable Alternative

Plymouth Attorney Offers Limited Scope Legal Representation

By Lynn Patrick Ingram

 ne of the latest entries into this twenty-first-century legal world is the concept of limited scope representation (LSR), which allows attorneys to provide discrete legal services to clients as a more affordable option to traditional full-service representation.

The Michigan Supreme Court adopted rules providing direction to attorneys offering LSR in September 2017. The rules became effective January 1, 2018.

One of the early adopters of LSR is Plymouth family law attorney Marie Pulte who, along with her law partner, Meredith Dahlen, has already had several LSR clients and many early successes.

I had several questions for Marie about this new and potentially game-changing alternative to full-service legal representation. This is what she had to say.

Tell me about your practice.

Meredith and I have a two-attorney practice. We handle family law matters exclusively, assisting clients in a variety of manners including offering traditional representation, mediation services, representing clients in the collaborative divorce process, coaching clients through the mediation process, and offering LSR.

Tell me about the concept of LSR.

Often, clients are capable of handling portions of their family law matters on their own—with the right guidance and assistance from us—without the need for the full array of services we would normally provide. In those situations, we work with the LSR

clients to decide what level of assistance is appropriate for their situation.

When and why did you start offering LSR to your clients?

Each client is different, requiring individualized case planning. While some clients need full, traditional representation, many don't and instead require a more tailored approach. When clients come to our office and indicate they are (or anticipate) working hard with the other party to come to an agreement but need some help getting there, and they have the cognitive ability and interest in playing an active role in their case, it signals to us that they may need a cooperative, yet strong attorney who will work with them behind the scenes to help them achieve their goals. We've been talking to more and more clients who fit this description, and find that giving clients tailored representation can be much more effective than approaching family law as a one-size-fits-all type of practice. As this option becomes more prevalent, more clients will seek it, whether for financial reasons or because they want to maintain more responsibility and control over their situation.

Has it been well received?

Most of our LSR clients love to be in the driver's seat whenever possible and know that if they decide they're no longer comfortable with the process, they can switch to full services if necessary. There are many aspects of case work that some clients are more than capable of working on themselves, such as gathering discovery, discussing specific issues one-on-one with the other party, etc. Those clients seem to greatly appreciate the fact that when they're encouraged to do so, not only are they more in control of their case progress, but the process is more cost efficient as well. They know that their dollars are being spent only on substantive legal work that an attorney must work on and not on activities they can and

want to do on their own. For the right clients, this type of representation is empowering and can significantly affect how they feel moving through the divorce, custody, or post-judgment process.

From the perspective of other attorneys and the court, it hasn't always been as well received, though the attitude is improving. The lack of a warm reception may in part be due to the fact that not many attorneys have offered LSR, so it's relatively new to many professionals.

How do you know when to offer LSR?

To determine whether LSR is right for a case, we begin by asking our prospective client a handful of questions. We want to get a sense of the client's cognitive abilities; check for any indication of domestic violence, power imbalance, substance abuse, or mental illness; and understand the client's relationship with the other party. If an attorney is already representing the other party, we take into consideration the other attorney's reputation and our experiences with that attorney.

We also take into consideration the complexity of the legal issues. For prejudgment matters, we want to know if the parties have already talked about what a divorce settlement or custody agreement would look like and, if so, we want to determine how close or far apart they are on the issues. We want to know if the parties will have the ability to pass a proposed settlement agreement back and forth with advice from us to our client as they go through the negotiation. If they've already begun conversations as to what they each want, how those interactions have gone thus far can be a good indicator of what settlement conversations would look like down the road.

The clients don't need to agree on everything by any means; we're there to assist the client in reaching an agreement. But for the issues the parties don't agree on, it's helpful to know what those issues are, how

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Pulte's Pointers on Limited Scope Representation

Advice for attorneys:

- Offer it!
- Have a good LSR retainer agreement and have all clients sign one, regardless of how limited the services are.
- Read and follow the new court rule addressing LSR.
- Make sure the client fully understands what services you will provide and, sometimes even more importantly, what services you will *not* provide. Our retainer agreement includes both.
- Make sure the client and other attorney are clear on whether the other attorney will or won't communicate directly with your client under any circumstances.
- Use cash for court filing fees. We've ended up as the attorney of record simply because a business check was used for the initial filing fee even though the client was in pro per on the pleadings.
- Regularly check in with the client and court websites to make sure the client provides you with notices of any court dates, which are sent directly to the in pro per client.
- Discuss switching to a full retainer if things become unmanageable for the client.
- Talk to an attorney who handles LSR cases if questions arise.

Advice for clients:

- Keep your attorney informed of any court dates or updates.
- Make sure you have a clear understanding of the services that are and aren't being provided by your attorney.
- Follow instructions from your attorney about communications between you and the other attorney, or you and your spouse.
- Ask questions when you have them. It's better to get advice from the attorney when you need it rather than taking steps that could result in damaging the negotiation or process.

far apart they are, and if the parties are far apart on many issues or just a few. We also like to get a sense of their financial means. If they have limited resources, LSR might mean the difference between having and not having representation. We offer a lower retainer fee for LSR, as we anticipate spending less time on the case since we know we won't be going to court with the client and the aim is to settle. We've been able to help so many clients who otherwise would most likely not be able to obtain representation. Many of these clients earn enough that they wouldn't qualify for legal aid, but not enough to pay typical full-representation retainers up front.

How do you explain LSR to your clients?

Once we've determined that it's appropriate to offer LSR as an option, our explanation depends on each client's needs. We discuss that an option for our services includes LSR, where we assist them in handling work for which they require our assistance and offer advice on handling the parts of the case they can manage on their own. Although the new court rules provide for filing limited court appearances, our office doesn't include court appearances as

part of our LSR; we inform the client that LSR means we won't appear in court on the client's behalf and won't file an appearance or otherwise include our name as the attorney of record on any documents filed with the court. We also inform them that we will, however, prepare the documents and give the client advice before he or she appears in court.

How has LSR benefitted your practice and the practice of law in general?

We offer an additional service that many other attorneys don't. Our clients are happier knowing we're thinking outside of the box and working with them to determine which services and processes best suit their circumstance. Happy clients and offering a wider array of services benefits our practice. Additionally, the county in which our practice is located has an extremely high volume of unrepresented parties. If we can work to assist some of those parties with LSR and they interact with other attorneys and the court from a place of greater knowledge and understanding, the entire practice of law benefits. This also helps overcome society's often-negative stereotype of the legal system and the practice of law.

What are some of the challenges and pitfalls that attorneys and clients need to know?

Sometimes, clients have greater expectations for the level of cooperation from the other party or their own abilities to handle their matters. If things don't go smoothly, it can be challenging. Letting the client know up front that this can happen makes it easier to address if problems arise, sometimes transitioning to full services when needed. Communication can be challenging if the other attorney communicates directly with our client some of the time and with us at other times. The new court rules help address this. Other challenges are the clients who don't keep us informed about the progress of their matter or don't provide copies of entered court orders, etc.

Can you give an example where you have provided LSR to a client because you were unable to offer full representation, or because they couldn't afford it?

Many clients fall within the category of being unable to afford full representation and have therefore been assisted only because we were able to offer LSR.

Can you provide an example that ended with a better result because of your ability to offer LSR?

In most cases, the clients are more satisfied with the result because they were able to handle things, in part, on their own and in a cost-effective manner. There are other reasons why the results from using LSR have been better. For example, as soon as an attorney is formally involved in the process, the reaction from the unrepresented party can be swift, extremely negative, and unproductive, resulting in a spiral of negative reactions between the parties and unproductive or nonexistent communications. When we work with our client in the background, the other party feels on more equal footing and the discussions and negotiations remain more productive. ■

Note: This interview has been lightly edited for clarity.

Lynn Patrick Ingram, Esq., is publications development manager and legal editor at the State Bar of Michigan.