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Deborah O'Regan, Esq.
Executive Director
Alaska Bar Association
P.O. Box 100279
Anchorage, AK 99510

October 11, 2010

RE: Formation of an Unbundled Law Section

Dear Ms. O'Regan:

I am writing to request the formation of a new section of the Alaska Bar Association for Unbundled Law, which is the practice of any substantive area of law on a discrete task basis.

As you know, in response to the growing number of pro se litigants and the prohibitive cost of full-representation for middle-income people, recent years have seen a surge in the provision of legal services on an "unbundled" basis throughout the country. Alaska is no different. In 2004, the Alaska Rule of Professional Conduct Rule 1.2 and Civil Rules of Procedure 81 were amended to specifically allow attorneys to limit the scope of their representation, both in and out of court. See Attachment A.

As described on the Civil Justice website:

Attorneys who are committed to the "Unbundled" concept are willing to provide limited legal services to clients. Instead of paying a large retainer up-front a lawyer delivering limited legal services will undertake discrete tasks such as:

- Legal advice: office visits, telephone calls, fax, mail, E-mail
- Advice about availability of alternative means to resolving the dispute, including mediation and arbitration.
- Evaluation of clients' self-diagnosis of the case and advising client about legal rights.
- Guidance and procedural information for filing or serving documents.
- Reviewing correspondence and court documents.
- Preparing and/or suggesting documents to be prepared.
- Factual investigation: contacting witnesses, public record searches, in-depth interview of client.
- Legal research and analysis.
- Discovery: interrogatories, depositions, requests for document production.
- Planning for negotiations, including simulated role playing with client.
- Planning for court appearances made by client, including simulated role playing with client.
- Backup and trouble-shooting during the trial.
- Referring client to other counsel and to other experts.
- Counseling client about possible appeal.
- Procedural assistance with appeal and assisting with substantive legal argumentation in appeal.
- Provide preventive planning and/or schedule legal check-ups.
- Other services as needed by the client.

In all of these situations the attorney will charge just for the limited legal services used, rather than charging a fee for management of the entire case.

As a public service, in approximately 2005 the Alaska Bar Association began hosting a small list of attorneys willing to do unbundled work in domestic relations cases. Today, that list has forty-two names, and we estimate that there are many more family law attorneys providing some form of unbundled. In fact, this form of service is becoming a significant portion of many private practices. In addition, the provision of unbundled work is growing in the area of pro bono service delivery, both through Alaska Legal Services Corporation, Inc. and the Court Annexed Volunteer Lawyer in the Court Project sponsored by the Alaska Pro Bono Program, Inc.

As further evidence of the growing popularity of unbundled, it was a featured element of the August 2010 Annual Ethics Update by the Bar Association. After this presentation, a number of attorneys expressed great interest in having more professional training and professional resource development for those who provide unbundled services. While family law remains the locus of the most interest, it is my understanding that attorneys who practice in small claims

matters are also interested in cultivating the unbundled approach, as well as some members of the appellate section.

The following members of the Alaska Bar Association are some of the many who support the creation of this new section:

The Honorable Stephanie Joannides
Alaska Court System
825 W. 4th Ave.
Anchorage, Alaska 99501

The Honorable Mark Rindner
Alaska Court System
825 W. 4th Ave.
Anchorage, Alaska 99501

Senior Judge Niesje J. Steinkruger (ret.)
185 Frog Pond Circle
Fairbanks, Alaska 99712-2231

Dorothea Agüero, Esq.
Co-Chair of the Family Law Section
711 H St., Ste. 330
Anchorage, Alaska 99501

Glenn Cravez, Esq.
880 N St., Ste. 203
Anchorage, Alaska 99501

Zachary T. Manzella, Esq.
101 E 9th Ave., Ste. 7A
Anchorage, Alaska 99501

Nikole Nelson, Esq.
Executive Director
Alaska Legal Services Corporation
1016 W. 6th Ave. Ste 200
Anchorage, Alaska 99501

Kara Nyquist, Esq.
Executive Director
Alaska Pro Bono Program, Inc.
PO Box 140191
Anchorage, Alaska 99514-2273

Stacey Marz, Esq.
Family Law Self-Help Center
Alaska Court System
825 W. 4th Ave
Anchorage, Alaska 99501-4275

Allison Mendel, Esq.
Mendel & Associates
1215 W. Eighth Avenue
Anchorage, Alaska 99501

Phil Nash, Esq.
110 S Willow St., Ste. 104
Kenai, Alaska 99611

Steven Pradell, Esq.
1009 W. 7th Ave.
Anchorage, Alaska 99501

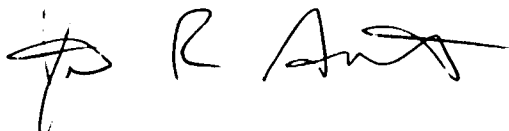
Ryan R. Roley, Esq.
8409 Mentra St.
Anchorage, Alaska 99518

Therefore, I respectfully request that the Board of Governor's authorize the establishment of a new section of the Alaska Bar Association, called the Unbundled Law Section. Its membership will be comprised of attorneys who practice in various substantive areas, but share the common feature of offering discrete services. By establishing a section, the Alaska Bar Association will have created a clearinghouse for professional development and resources to support this emerging approach to practicing law, so that members continue to offer the highest quality professional services to the public. In addition, with the creation of a section, the public will have access to an online list of practitioners who offer these services, and have a demonstrated interest in continuing education in this area.

Please submit this letter to the Board of Governors so that the Board can vote on the matter at its next meeting.

Thank you for your time, attention and assistance in helping us establish this new section. If you or the Board of Governors would like any additional information, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "K R Alteneder", with a stylized flourish at the end.

Katherine R. Alteneder, Esq.

Cc by e-mail:

Krista Scully

JoAnne Baker

Members listed in letter

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1544

Amending Alaska Rule of Professional
Conduct 1.2 and Civil Rule 81
regarding limitation of representation;
and adding Alaska Comments to
Alaska Rules of Professional Conduct
4.2 and 4.3.

IT IS ORDERED:

- I. Alaska Rule of Professional Conduct 1.2 is amended to read as follows:

Rule 1.2. Scope of Representation.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client consents after consultation.

(1) If a written fee agreement is required by Rule 1.5, the agreement shall describe the limitation on the representation.

(2) The lawyer shall discuss with the client whether a written notice of representation should be provided to other interested parties.

(3) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with this rule is considered to be unrepresented for purposes of Rules 4.2 and 4.3 unless the opposing lawyer knows of or has been provided with:

(A) a written notice stating that the lawyer is to communicate only with the limited representation lawyer as to the subject matter of the limited representation; or

(B) a written notice of the time period during which the lawyer is to communicate only with the limited representation lawyer concerning the subject matter of the limited representation.

II. Alaska Rule of Professional Conduct 4.2 is amended by adding an Alaska Comment to read as follows:

ALASKA COMMENT

See Rule 1.2(c) regarding communications when limited representation is provided.

III. Alaska Rule of Professional Conduct 4.3 is amended by adding an Alaska Comment to read as follows:

ALASKA COMMENT

See Rule 1.2(c) regarding communications when limited representation is provided.

IV. Civil Rule 81 is amended to read as follows:

Rule 81. Attorneys

(c) **Appearance by Party.** Except as otherwise ordered by the court, or except as provided in Rule 81(d) and 81(e)(1)(D), a party who has appeared by an attorney may not thereafter appear or act in the party's own behalf in any action or proceeding, unless order of substitution shall have been made by the court after notice to such attorney.

(d) **Limited Appearance By Counsel.** A party in a non-criminal case may appear through an attorney for limited purposes during the course of an action, including, but not limited to, depositions, hearings, discovery, and motion practice, if the following conditions are satisfied:

(1) The attorney files and serves an entry of appearance with the court before or during the initial action or proceeding that expressly states that the appearance is limited, and all parties of record are served with the limited entry of appearance; and

(2) The entry of appearance identifies the limitation by date, time period, or subject matter.

(e) **Withdrawal of Attorney.**

(1) An attorney who has appeared for a party in an action or proceeding may be permitted to withdraw as counsel for such party only as follows:

(A) For good cause shown, upon motion and notice of hearing served upon the party in accordance with Rule 77 and after the withdrawing attorney provides to the court the last known address and telephone number of the attorney's client; or

(B) Where the party has other counsel ready to be substituted for the attorney who wishes to withdraw; or

(C) Where the party expressly consents in open court or in writing to the withdrawal of the party's attorney and the party has provided in writing or on the record a current service address and telephone number; or

(D) In accordance with the limitations set forth in any limited entry of appearance filed pursuant to Civil Rule 81(d). Withdrawal under this section shall be accomplished by filing a notice with the court, served on all parties of record, stating that the attorney's limited representation has concluded; certifying that the attorney has taken all actions necessitated by the limited representation; and providing a current service address and telephone number. Upon the filing of such notice, the withdrawal shall be effective, without court action or approval.

(2) An attorney shall be considered to have properly withdrawn as counsel for a party in an action or proceeding in which a period of one year has elapsed since the filing of any paper or the issuance of any process in the action or proceeding, and

(A) The final judgment or decree has been entered and the time for filing an appeal has expired, or

(B) If an appeal has been taken, the final judgment or decree upon remand has been entered or the mandate has issued affirming the judgment or decree.

This subparagraph (2) shall not apply to an attorney who files and serves a notice of continued representation.

V. A use note is added to the base of Civil Rule 81, to read as follows:

Note: An entry of appearance filed under (d) of this rule must identify the limitation of representation. For example, a limitation by date may state "representation is provided through December 31, 2004;" a limitation by time period may state "representation is provided through the end of discovery;" or a limitation by subject matter may state "representation is provided only for the purpose of drafting an opposition to summary judgment and appearing at oral argument on summary judgment."

DATED: August 12, 2004

EFFECTIVE DATE: October 15, 2004

Chief Justice Bryner

Justice Matthews

Justice Eastaugh

Justice Fabe

Justice Carpeneti