

Limited Scope Representation In Kansas

Limited Scope Representation In Kansas:

How To Use An Attorney As You Represent Yourself In Court

Adapted from a document prepared by the Supreme Court Committee on Self Represented Litigants (6/25/08)

What is limited scope representation?

Limited scope representation means that you and your attorney agree that you will do some of the tasks related to your case, and the attorney will do others.

For example, you may agree that you will gather the financial data while the attorney drafts the paperwork to be filed with the court. The attorney may coach you on how to prepare documents yourself or review documents you have drafted. The attorney may coach you on how to appear in court by yourself. They may handle only the most complex parts of your case and give you advice on how to handle the simpler parts. The attorney may prepare the evidence which you will present at court. The attorney can also appear at court for one part of your case (the most difficult or technical) while you represent yourself on other simpler or less critical parts. The attorney then bills you only for the parts of the case the attorney handled.

What kinds of cases work best for limited representation?

Family law cases are often well suited for limited representation.

The best cases are not very technical, but are slow and take a lot of time. Because you pay for an attorney's time, the best solution is the one which makes the most effective use of that time.

- For example, if you know you will be waiting at the courthouse all morning for a few minutes of court time. In that case, it may not be the best use of your trial budget to pay an attorney to wait with you. You may instead want to spend the attorney's time being coached on how to best represent yourself, and then appear by yourself in court. That way you aren't incurring legal fees while you wait for your case to be called.

The other cases which work well are those with few issues. Another kind is where there is only one technical issue which can be split, part for the attorney to handle while you handle the simpler issues.

What kinds of questions should I be asking?

You and your attorney should have a thorough discussion about all the aspects of your case and agree on your respective duties. Among the issues you should discuss are:

- Who will set a strategy?
- Who will gather info? Who will prepare that info for the court?
- Who will draft documents for the court?
- Who will appear at court and settlement conferences?
- Who will negotiate with the opposing party to try to settle out of court?
- How do I benefit?

There may be many things you can do to help with your own representation. For example, you may be able to gather much of the needed info yourself so you don't have to pay the attorney to do it. The attorney can then take that info and put it in a form which is useful to the court. In this way, you make the most efficient use of the attorney's time (and your lawsuit budget) by focusing the attorney's time on things you can't do well yourself. By doing this, you will not only save money on legal fees, but have greater control of your case than if the attorney handles the whole process.

What are the trade-offs?

Your attorney went to law school and probably has years of experience in this field. You don't. That means that he/she will know things that you don't about the legal process. If you instruct your attorney not to take certain steps, either to save money or because you want to stay in control, the outcome in the parts of the case you do

yourself will be your responsibility, even with an attorney coaching you. There may be hidden snags in your case that you aren't aware of because you don't have legal training. That is why you must be careful to discuss your legal matter thoroughly with your attorney.

Be sure you are at ease handling the parts of your case that you take on. Make sure that you aren't taking on anything which is too technical.

Why shouldn't I just go to a paralegal service or document preparer?

While many paralegals have experience drafting simple documents, they have not been to law school. One of the common problems people face is that a case which appears simple actually has hidden complications that someone who is not legally trained will not be able to spot.

After reviewing your case with you, an attorney may recommend that you do use a paralegal, if he/she feels the issues are straightforward. However, if you don't consult with an attorney first, you won't know if possibly serious complications have been ignored.

Also, a paralegal won't be able to represent you in court or negotiate a settlement with the other side.

Why shouldn't I just keep coming back to the Lawyer Referral Service for a new referral each time a question comes up in my case?

That is not in your best interest. If you keep consulting with different attorneys on your family law case, you have to introduce each new attorney to all that has happened before.

- This means that you waste time (that you are paying for) getting the attorney up to speed on your legal matter.
- It also increases the risk that you forget to tell the attorney some facts from the past which are important to your current question.

You are much better off consulting with the same attorney over a period of time as new questions come up. They will be familiar to you and with what has come before in the case.

How do I know if it won't work in my case?

This is why it is important to thoroughly discuss your case with an attorney, including areas which you intend to handle yourself. There are often issues which you are not aware of. If you don't discuss the whole case with the attorney, even the parts that you think are simple and intend to handle yourself, you may have missed something that is legally important. Once you have had this discussion, you and the attorney can agree on who will be handling which issues and you can feel good knowing that you've learned of any hidden issues.

If you have a hard time dealing with the other party, keeping track of paperwork, or speaking in a stressful setting like court, it is important to get help in these areas from an attorney.

Will the courts let me do this?

Yes. The courts want to encourage people to get as much legal assistance as they need to effectively protect their rights.

- Because the courts can't give legal advice, this means that they want you to have access to as much legal help as you need.
- They know that you'll do a better job of presenting the important info to them if you have been coached on what info is helpful to the courts and how it can be most effectively presented.
 - They may suggest that you get added help from an attorney if they think you need more help.

What happens if I need more services from the attorney at a later date?

New issues often come up in family law matters. That means that you may find you need more assistance from the attorney than you first expected. If you use limited scope, you can always go back to the attorney and ask for more help. Your attorney will already be familiar with you and your case because of his or her having taken

part already. This will be much more efficient than trying to find another attorney to help you and then having to educate that person about your case.

Remember, you are paying for your attorney's time, so it is very wasteful to keep paying new attorneys to learn about your legal issues.

What if I decide I want the attorney to handle the entire case?

After going to court on your own, even with good coaching from an attorney, you may decide that you'd rather have the attorney take over the whole case. Because you pay any attorney for their time, it is always more efficient to return to the attorney who already knows you and your legal issues. It would cost you more to pay a new attorney to get up to speed.

What if my spouse has a lawyer and I have a coach?

Many people decide that they would rather represent themselves, even if the other side has a lawyer. Your coach, or limited scope lawyer, can prepare you for what to expect in court. They can advise you of your legal rights and the most effective way to protect them, and outline possible negotiation strategies for you. Your attorney can also negotiate for you to try to settle the case outside of court, even though you intend to represent yourself in court if the negotiations fail.

What if the attorney doesn't want to do what I ask?

You and your attorney are working as a team, but it is your case. While the attorney has much more experience in legal matters than you do, the ultimate decision is always yours.

If your attorney feels strongly that the course you want to take isn't in your best interests, you should listen carefully to the reasons why he/she is recommending you do something different. However, the ultimate decision and burden is yours. You have the right to disregard your attorney's advice. But, if the case doesn't turn out the way you hoped, you have to be willing to accept the responsibility for your decision.

What if I am afraid of my spouse?

If you are afraid of your spouse, be sure to discuss your fears with your attorney.

While there are security systems at the courthouse, both at the entrance and in the courtrooms, you may not feel at ease appearing in court alone. In that case, you may decide to do more of the legwork yourself, and have the attorney appear in court with you. These are all options which are open to you.

What other resources are out there to help me represent myself? Will the attorney tell me where to look for self-help legal resources?

Yes, the attorney will likely tell you where to look to find tools to help you assist in your own representation. There are many good resources out there.

You can access info on the Kansas Bar Association website at www.ksbar.org and there are a number of local bar associations and local district courts which have info on their websites.

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