

Access to justice: Limited scope representation

More and more frequently, the delivery of legal services is moving away from the full-service model. Small practitioners and larger firms alike offer limited scope or “unbundled” representation, which let clients pick and choose when (or for which tasks) they want to engage a lawyer during the life of a transaction or piece of litigation. For example, a self-represented client can retain a lawyer simply to draft a Statement of Claim, appear on a motion, or assist with negotiating a settlement. The client handles the rest of the steps in the matter without the assistance of a lawyer. Limited scope representation can provide greater access to justice, as clients need not retain a lawyer for the whole life of a file, and can instead save money by ordering from a “menu” of legal services.

When you offer your client limited scope services, you should be extra clear on which tasks you are undertaking for the client, and which you are not. Miscommunication claims can easily arise in this context when the lawyer doesn’t deliver something the client expects. While a retainer will help

clearly specify the work that is to be done (and under the *Rules of Professional Conduct* are required for limited scope services), a good additional step is to have your client look at the checklist of tasks and sign off on what exactly will and will not be done. Such a checklist can then be appended to the retainer as a schedule. Check practicepro.ca/limitedscope for sample limited scope retainers, checklists and client information brochures.

Also, make sure your client understands the consequences of failing to fulfill, or fulfilling inadequately or inappropriately, the tasks which he or she is undertaking to perform. You do not want to face a claim from the client at a later date for lack of informed consent, based on an allegation that the client would never have agreed to undertake a given task if the possible outcomes of mishandling it had been fully explained.

Follow best practices to avoid any landmines. If you have only known the full-service model in the past, you should be aware

that limited service representation is more than just offering bits and pieces of your legal skills to clients. For example, you cannot provide a research memo to your client and expect your client to write a factum. Some complex legal matters should only be handled by a lawyer. Clients that are not as learned as you will need extra help. Similarly, clients with limited capacity or language barriers are unlikely to be good candidates for limited scope representation. Simply because you have clearly set out the borders does not mean you are absolved of your duties as lawyer. You still must adequately represent your client and take steps to make sure your client is making informed decisions, as described above.

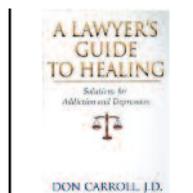
Limited scope representation may help you grow your business as it helps you cater to a different market. With the right tools you can kill two birds with one stone: provide access to justice and improve your bottom line. ■

Ian Hu is Counsel, Claims Prevention and practicePRO at LAWPRO.

BOOK REVIEW ■

Two books for better health

The practicePRO Lending Library has two great books on wellness issues that you can borrow.



If you are looking for help in finding more balance in your life, *The Lawyer's Guide to Balancing Life and Work*, by George W. Kaufman, is just for

you. Kaufman, who was a successful and seasoned partner for 40 years at a large U.S. law firm, goes beyond the usual review of steps you can take to reduce stress. Using personal anecdotes and stories, he takes the reader through a deep and personal journey of self-discovery.

The practicePRO Lending Library

We have books on these topics:

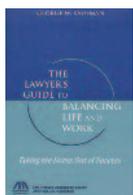
- Billing & financial management
- Law firm management & administration
- Marketing & client relations
- Law office technology
- Career issues
- Wellness & balance issues
- Solo & small firm issues

For full descriptions of these titles, including downloadable tables of contents, go to practicepro.ca/library

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The book walks you through your life and work choices, making you reflect on what you find is positive about the practice of law, and how the practice of law affects you in negative ways. The book will help you identify the sources of stress in your life, and give you tools and strategies to cope with them.

As Kaufman puts it, the book asks “how the law fits in you, not how you fit in the law.” This will, in turn, help you understand how and where you need to change, whether it means changing how you practise, shifting your practice to something different, or leaving the law altogether. The last chapter helps you build a personal action plan for change. The practical advice in Kaufman’s book will help you find more balance in life and work.



The second book, *A Lawyer’s Guide to Healing: Solutions for Addiction and Depression* by Don Carroll, former director of the North Carolina Lawyer’s Assistance Program, examines how addiction and depression manifest in the legal profession in different ways than in the general population, and the treatment options best suited to lawyers.

Carroll believes there are traits prevalent in a lawyer’s personality (e.g. perfectionism, control, idealism) that make them thrive in the work-heavy, adversarial environment of the law, but can also make lawyers more prone to addiction and depression. The same traits can also make it difficult to admit there’s a problem. Drinking or drugs can (temporarily) help deal with the fear of losing a case, the bitterness when justice isn’t seen to be done, and the need to feel in control despite drowning in workload.

The book explores the treatment options available for addictions and depression. Carroll advocates treating the mental and spiritual aspects of the problem, not just the physical. So in addition to describing the physiological causes and treatments of addictions and depression, he strongly believes counselling and peer supported programs like Alcoholics Anonymous are crucial to addressing other underlying issues.

Carroll’s book will have a narrower audience than Kaufmann’s, but will be helpful for someone looking to better understand the options lawyers have for getting help for addictions and depression.

The practicePRO Lending Library has more than 100 books on a wide variety of law practice management topics. Ontario lawyers can borrow books in person or via e-mail. A full catalogue of books is available online (practicepro.ca/library). Books can be borrowed for three weeks. LAWPRO ships loaned books to you at our expense, and you return books to us at your expense. ■

Tim Lemieux is Claims Prevention & Stakeholder Relations Co-ordinator at LAWPRO.

Social media profile:

Ian Hu

Ian Hu

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Ian Hu’s mandate is to help lawyers avoid malpractice claims and succeed in the practice of law. Prior to joining LAWPRO he practiced as a litigator and worked at various sizes and types of legal firms, including in-house, a medium-sized litigation boutique, and plaintiff-side personal injury. A graduate of Osgoode Hall Law School, Ian has been active on LinkedIn for over seven years. As Claims Prevention and practicePRO Counsel, Ian is the voice of the practicePRO Twitter channel.

Target audience:

- Lawyers and others interested in law practice management and risk management
- Stakeholders and others interested in issues impacting lawyers and the legal profession
- Legal press and social media influencers

Topics of interest:

- Law practice management
- Risk management
- Claims trends
- Diversity issues
- Technology trends
- Leadership
- Bar Association events
- Mentoring
- Outdoor activities

When asked about why social media is important to new lawyers, Ian Hu said:

“Young lawyers can use social media as part of a complete marketing plan to complement their on the ground marketing efforts. A successful social media presence typically has a compelling theme to help you distinguish yourself. It can be a chance to show a fun and interesting side to your personality. Social media often acts as your introduction to employers and colleagues, and keeps them updated about your goings-on, so it is important to keep a professional online presence.”