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Video: Unbundled Legal Representation in Family Law: Ethically Managing the Challenges

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**NOVA SOUTHEASTERN
UNIVERSITY**

Shepard Broad College of Law

Law Center Plus: Continuing Your Legal Education

**Unbundled Legal Representation in Family Law: Ethically Managing the
Challenges**

**Friday, June 10, 2016
7:30 am – 9:30 am
3305 College Avenue
Ft. Lauderdale, FL 33314**

Hilary Creary

Hilary A. Creary earned her Juris Doctorate Degree from Nova Southeastern University Shepard Broad College of Law in 1997, and her B.A. in Liberal Studies from Nova Southeastern University. She served as the Statewide Pro Bono Recruiter of the Guardian ad Litem Program since November, 2014. Prior to that, she served as Circuit Director for the Program in the 17th Judicial Circuit. Ms. Creary has made many presentations on a range of issues affecting children in the Dependency Court system, as well as training on volunteerism, and culturally competent advocacy. She also held the position of Chair of the Juvenile, Dependency and GAL Section of the Jacksonville Bar Association. Previously, Ms. Creary was one of the managing partners for Baxter & Creary, PA, a private practice in Broward County, Florida. Ms. Creary has been involved with many local organizations, including the T.J. Reddick Bar Association; the Broward County Women Lawyers' Association; and the Caribbean Bar Association. She also represented Broward County for many years as a member of the Florida Bar Board of Governors, Young Lawyers Division.



Sheena Benjamin Wise

Sheena Benjamin Wise was born in Brooklyn, New York. She attended the University of Miami in Coral Gables, Florida and received her Bachelor of Arts in Psychology with a minor in Biology in 1994. She went on to attend Nova Southeastern University Shepard Broad College of Law in Fort Lauderdale, Florida, receiving her Juris Doctor in 2001. While at Nova Southeastern University, she was a member of Moot Court and served as the Team Editor. She also participated in an international internship program in Cambridge, England.



Welcome & Introduction:

7:55 to 8:00 am

Elena Rose Minicucci, JD Director, Alumni Relations, NSU Shepard Broad College of Law Welcome & Introduce: Hilary Creary, Esq. and Sheena Benjamin-Wise, Esq.

Seminar Presentation

8:00 -8:15 am

Overview of the Issues – Hilary Creary and Sheena Benjamin-Wise

- What is limited representation of a client: the rule?
 - Since 2003, Florida attorneys may represent clients in family law for limited purposes. Rule 4-1.2 of The Rules Regulating The Florida Bar provides authority. Rule 12.040, Fla. Fam. L.R.P. provides the parameters.
 - Example: Attorneys may handle a deposition or other specific part of a case without being responsible for the entire case.
- In what context might limited representation arise?
 - Handling a court hearing on a specific issue such as domestic violence or non-payment of child support.
- What are the special challenges of limited representation?
 - Attorney withdrawal in limited representation cases
 - Negotiation of limited representation engagements
 - Training issues for attorneys
 - Ghostwriting Pleadings and Documents
 - Malpractice insurance

8:15 – 8:55 am Hilary Creary, Esq.

The Rule: Florida Family Law Rule of Procedure 12.040 – Notice of Limited Representation

- What it means
- How it is meant to work
 - Consent to Limited Appearance – file with court; copy to other party/attorney
 - Termination of Limited Appearance – notifying the court and other party/attorney

- Ethical traps for the unwary
 - Avoiding Conflicts of Interest under:
 - Rule 4-1.7 “Conflict of Interest: Current Clients”
 - Rule 4-1.8 “Conflict of Interest: Prohibited and Other Transactions”
 - Rule 4-1.10 “Imputation of Conflicts of Interest: General Rule”
- Dealing with opposing party who is self-represented
 - Case law supports sanctions against self-represented party who fails to follow the rules, files numerous pleadings and motions, or is otherwise vexatious.
 - Courts tend to allow leeway for self-represented parties to overcome default judgments and other errors in the interest of proceeding in equity.
- Limited Representation in Paternity and Domestic Violence Cases
 - Handling especially difficult cases
 - Tips to use and traps to avoid

8:55 – 9:25 am Sheena Benjamin-Wise, Esq.

- Limited Representation in Dissolution of Marriage cases
 - Limited Representation in Post-Judgment Modification and Enforcement cases
 - Mediation and limited representation
 - Other matters

9:25 – 9:30 am Question and Answer Session

Handouts:

Rule 12.040 Florida Family Law Rules of Procedure (2015) – “Limited Appearance”
Form 12.900(c) Consent to Limited Appearance by Attorney (court document)

Resources:

Rules Regulating The Florida Bar:

- Rule 4-1.2 Objectives and Scope of Representation
- Rule 4-4.2 Communication with Person Represented by Counsel
- Rule 4-4.3 Dealing with Unrepresented Persons

The American Bar Association:

The American Bar Association Model Rule 1.2(c) permits limited legal representation
American Bar Association Standing Committee on the Delivery of Legal Services

Website: <http://apps.americanbar.org/legalservices/delivery/delunbundlimited.html>

ABA Formal Opinion 472: Communication with Person Receiving Limited Scope Legal Services:

http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba_formal_opinion_472.authcheckdam.pdf

The Florida Commission on Access to Civil Justice: <http://www.flaccessjustice.org/>

This Commission is studying ways to help people with limited resources obtain affordable legal representation.

One option

is through limited legal representation (a/k/a “unbundled legal services”).

Florida Family Law & Practice by Judge Renee Goldenberg. James Publishing ISBN: 1-58012-108-X. This treatise is a comprehensive “how to” manual that contains information, forms, checklists, case law, statutes, rules, and more to guide and assist the practitioner in handling a family law matter from intake through mediation, trial, and post-judgment enforcement. Digital access to forms, pleadings, motions, court documents, checklists and more is available.

Michele N. Struffolino, *Limited Scope Not Limited Competence: Skills Needed to Provide Increased Access to Justice Through Unbundled Legal Services in Domestic-Relations Matters*, 56 S.Tex.L.Rev.169-204 (2014).



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