

State Ponders Foray Into Limited Scope Representation

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all. Skeptics have raised ethical concerns about lawyers bowing out partway through a case and practical concerns about whether judges would actually let them do so.

As limited scope representation moves closer to becoming a reality, the Rules Committee is finalizing language to ensure that attorneys can exit a case when their specific task is completed. Under the current draft proposal, when a lawyer submits a certificate that he or she has completed the task they are hired to complete, they will be then be freed from the case, Quinn said.

What motivated the Judicial Branch to push for the rule change was the fact that more self-represented parties are clogging court dockets and slowing down proceedings. The problem has been especially dramatic in family court. Superior Court Judge Lynda Munro, who is the chief administrative judge of family matters, said as many as 80 percent of the litigants appearing in the state's family courts last year did not have a lawyer representing them.

It became clear there was a need for additional legal representation in divorce cases and other family court matters, Munro said. "With that type of volume, you have to believe there is a certain percentage of people who would like to have representation, if they could" afford it.

Under the latest plan, limited scope representation would be allowed for all family court cases in one large judicial district and one smaller judicial district, beginning in July. The two judicial districts have not yet been selected. "This would allow attorneys to enter any phase of the case. It could be [at the point in the pro-



Hartford family law attorney Robert Fried assists clients with parts of their divorce cases, but he's not allowed to make court appearances unless he takes on the whole case. That would change under a proposed pilot program.

cess] a divorce is filed or a support order is set," said Quinn. "Or a lawyer could just come in and appear for a trial, or to present an agreement at the end of a case."

Staffing Needs

Starting one pilot program in a less-populated district like Danbury or Middletown and another in a larger district, such as Hartford or

Bridgeport, would give court administrators a chance to review the program in different settings, Quinn said.

The Judicial Branch would ask for feedback from judges, attorneys and litigants. A report on the pilot's progress would be completed in December 2014.

In addition to conducting an internal review to decide which judicial districts would be best for the pilot, the Judicial Branch has also been looking at staffing needs. "We obviously need extra staff to collect data and monitor things and to make sure from attorneys how its working," Quinn said. "I think what we'll be looking at is how many people took advantage of it, and in what types of events the lawyers are used on a limited basis."

One of the biggest hurdles is addressing concerns that lawyers would be unable to get out of a case if they file a partial appearance. That led

in some cases could help move dockets more efficiently. If a lawyer could go in and present an argument without having to be involved with the rest of the issues, Levin said, "it would certainly speed things up with regard to self-represented parties."

But some attorneys were concerned that once they were hired to handle part of a case, they wouldn't be able to quit the case. Currently, an attorney can ask to be removed from a case for a variety of personal or professional reasons. Judges are typically reluctant to grant those requests, out of concerns that the party will become self-represented.

'Make It Automatic'

The Connecticut Rules Committee has looked to Massachusetts for information on how it handles limited scope representation. That state also started with a family court pilot program before moving to more widespread use of the practice a few years ago. Judge Edward Ginsburg and Attorney Edward Notis-McConarty spoke to the Connecticut committee about the Massachusetts experience.

Notis-McConarty, a partner with Hemenway & Barnes in Boston who handles probate and family law cases, said there was much discussion about how to release lawyers from their obligations. To ease those concerns, Notis-McConarty said members of a Massachusetts task force found that the best way to make sure lawyers would participate was to make it easy for them to get out of a case. "What we found was it's best to make it automatic for you to get out of the case when the appearance is done," he said.

Now in its fourth year, the rule has helped reduce the number of self-represented parties in Massachusetts, Notis-McConarty said.

Limited scope representation was started in family courts, he said, because the need was there and those cases have many distinct steps. For instance, a lawyer could simply represent a client on the issue of modifying child support. The approach was then extended to probate court and limited representation is now allowed in all types of cases, except in civil disputes over more than \$50,000.

One unexpected outcome in Massachusetts was the fact that people who received limited

Limited scope representation was started in family courts in Massachusetts, one lawyer said, because those sorts of cases have many distinct steps. For instance, a lawyer could simply represent a client on the issue of modifying child support.

to the creation of a proposed certificate of completion. Massachusetts uses a similar, although more nuanced process to end a lawyer's duty to a partial representation case.

More specific details will be made public on April 30. The Rules Committee is scheduled to hold a public hearing on all proposed rule changes May 20. All approved proposals will then be voted on by state judges at their annual meeting in June.

Quinnipiac University School of Law sponsored a symposium on limited scope representation last year to address what Quinn called "widely held mistrust and anxiety about just what this discreet practice meant for the future of Connecticut's legal profession." At the symposium, a group of law school administrators made a presentation on the ways to improve court access for self-represented parties.

Leslie Levin, the associate dean for academic affairs at the University of Connecticut School of Law, said in an interview that it's obvious that allowing partial representation

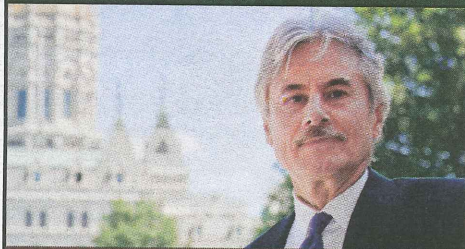
help from lawyers grew more comfortable with having formal representation. Often times, the client will be pleased with what the attorney has done, and will hire him or her to do more, Notis-McConarty said.

Robert Fried, a Hartford solo who handles family cases, hopes that will be the case in Connecticut. He welcomes the idea of letting lawyers make appearances for specific legal issues, with the caveat that they are not forced to remain until the case is resolved. On his law firm website, Fried advertises that he offers "limited scope divorce representation."

Fried currently assists clients in parts of their cases. He handles document preparation and helps with child custody mediation. Under the current rules, however, he is prohibited from making court appearances on a single issue.

A lot of people can't afford representation in an entire divorce case, but that doesn't mean they should be making decisions on their own that can affect the next 20 years of their life, he said. "Having a lawyer in the courtroom can make a big difference." ■

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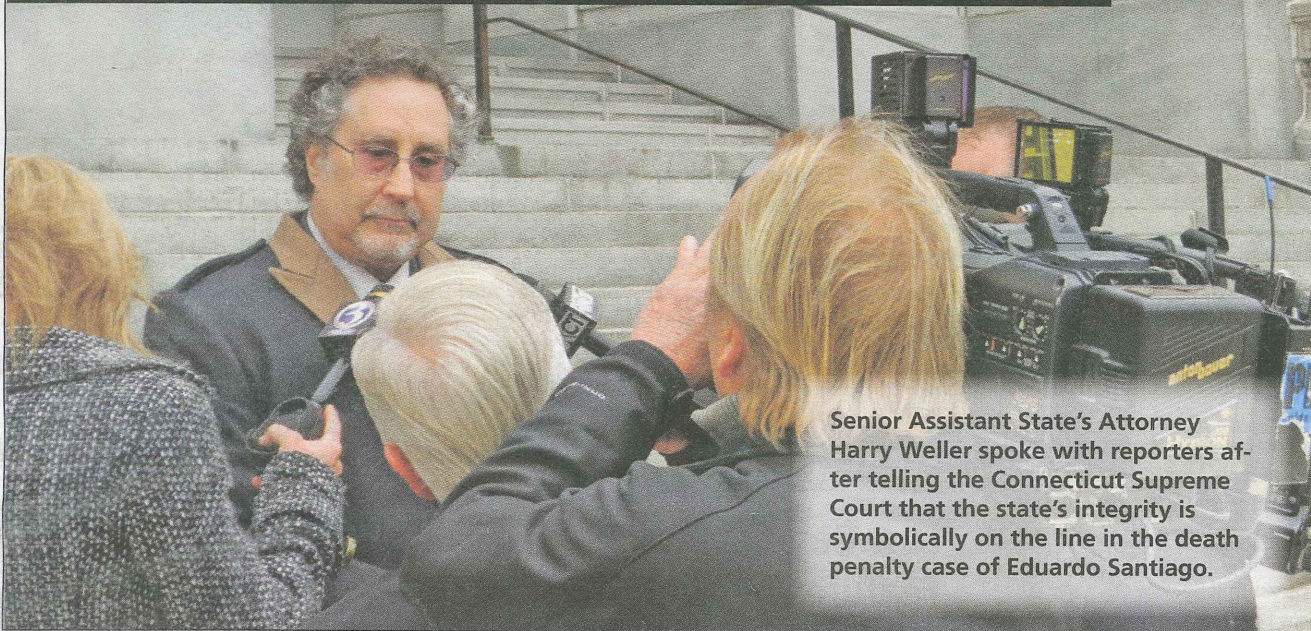




Attorneys with Bridgeport's Koskoff, Koskoff & Bieder are in California to take part in a trial over a lawsuit filed by Michael Jackson's family against a concert promoter.

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'Death Is Different'



Senior Assistant State's Attorney Harry Weller spoke with reporters after telling the Connecticut Supreme Court that the state's integrity is symbolically on the line in the death penalty case of Eduardo Santiago.

Thomas B. Scheffey

STATE SUPREME COURT CONSIDERS DEATH PENALTY BAN FOR OLD MURDER CASES

By THOMAS B. SCHEFFEY

Before a packed audience at the state Supreme Court, public defender Mark Rademacher argued that executing death row inmate Eduardo Santiago would be unconstitutionally unfair, now that Connecticut has repealed the death penalty for future crimes.

Rademacher appeared in court seeking to spare Santiago the death penalty in his murder-for-hire case by arguing the state's ban of capital punishment should be applied retroactively. The state outlawed capital punishment last year, but only for crimes committed after April 25, 2012. Santiago was sentenced to die in

2005 for the murder-for-hire shooting of a West Hartford man. His payoff was a broken snowmobile.

Santiago's case heard last week is the first to ask the state Supreme Court to consider the legal issues surrounding retroactive use of the death penalty. Rademacher characterized the legislative death penalty ban as "a consensus" and spoke of it as a permanent accomplishment. Making a distinction between the doomed and the spared, based only on the repeal's enactment date, he said, was arbitrary, irrational and unconstitutional un-

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State May Allow Partial Representation

PILOT PROGRAM AIMED AT HELPING PRO SES WOULD BE LAUNCHED IN FAMILY COURT

By JAY STAPLETON

The state appears close to launching a pilot program that would allow Connecticut lawyers to represent clients in portions of family law cases without being obligated to see the cases through to their conclusion.

The initiative, which will be officially unveiled on April 30 and likely be voted on by the Rules Committee of the Superior Court in May, would start this summer. It would be Connecticut's first formal foray into a concept known as limited scope representation.

The family law program would give state Judicial Branch leaders a chance to see how limited scope representation works on a limited basis. If deemed to be successful, the Practice Book rule could be expanded to allow similar representation in other types of legal matters, Chief Court Administrator Barbara Quinn said.

The merits and practicality of allowing limited scope representation — also referred to as unbundled legal services — have been tossed around by various Connecticut task forces since 2004. Advocates say the concept would help reduce the number of parties venturing into civil courts with no formal legal representation at

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Boy's Pool Death Leads To \$40M Settlement

FAMILY TO USE PROCEEDS TO OPERATE WATER SAFETY FOUNDATION

By CHRISTIAN NOLAN

In the summer of 2007, Zachary Cohn was swimming in his family pool in Greenwich when he ventured near the pool's drain. The suction created by the drain trapped the 6-year-old boy's arm and he couldn't escape. His father jumped in to try to save him, but he couldn't pry the boy loose.

Zachery died in his father's arms, his head just a few feet below the water's surface. The family would learn that dozens of other peo-

ple nationwide have died in similar accidents. The boy's mother, Karen, didn't want it to happen again. She vowed to use any money collected from lawsuits to launch a ZAC Foundation for advancing water safety.

Now there will be plenty of money to fuel the foundation. In late April, the family's lawyers, from Silver, Golub & Teitell in Stamford, announced \$40 million in settlements with a host of defendants, ranging from the company that sold them the pool to the town inspectors who approved it for use.

"Parents say I don't want it to happen again," said attorney Ernest Teitell. "But it happened again. It happened to the Cohns. Karen said I don't want this to ever happen again and is putting her money where her mouth is...."

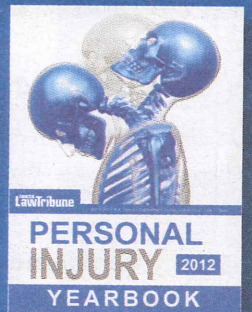
"That's what's so unique about this case," said Teitell. "What this case is about for them is the achievement of a well-funded foundation to tackle water safety nationwide... One

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contains details of more than 100 settlements and verdicts.



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