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JASPER SMITH OLSON P.C.

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Lance P. Jasper
Cynthia K. Smith
Katie Olson
Bekki Weldon

Attorneys at Law

202 W. Spruce St. *Ed Smith*
P.O. Box 7785 CLERK OF THE SUPREME COURT
STATE OF MONTANA

Missoula MT 59807-7785
Phone: (406) 541-7177
Fax: (406) 541-7179
www.montanalaw.com

January 3, 2011

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Montana Supreme Court
Justice Building
P.O. Box 203001
Helena MT 59620-3001

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Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

RE: Comments to Proposed Changes to the Montana Rules of Professional Conduct and Civil Procedure

To the Honorable Supreme Court of the State of Montana:

I write in support of the changes to the Montana Rules of Civil Procedure and Professional Conduct that were proposed by the Montana Supreme Court Equal Justice Task Force, the Montana Supreme Court Commission on Self-Represented Litigants, and the State Bar Access to Justice Committee. I write this letter as a private practitioner, although I am a member of the Montana Supreme Court Equal Justice Task Force and a member of the Limited Scope Representation ("LSR") Working Group that drafted the proposed rule revisions. I am also a past president of the State Bar of Montana and the Western Montana Bar Association, and a member of the State Bar Ethics and Professionalism Committees.

I have reviewed many of the comments submitted to the Court, and the ethics opinion submitted to the Court by the State Bar Ethics Committee. All were written by colleagues whom I respect and admire. While I appreciate the time and thought that went into the opinion and comments, I disagree with those who oppose the rule changes.

Many have questioned whether limited scope representation is appropriate for our profession. Some say that it creates a financial burden for the LSR client's represented opponent. To me, these objections miss the point. Many and perhaps most Montanans cannot afford to hire a lawyer on an hourly basis to represent them throughout a lawsuit. For these litigants, it is not a choice between LSR and full representation. They simply cannot afford to hire an attorney for their entire case. For them, it is a choice between LSR and no representation at all. This is especially true in family law cases. We need to provide access to justice for those who cannot afford to pay for full representation and who also do not qualify for *pro-bono* assistance from organized legal services associations.

The LSR Working Group strived to draft rule changes that will enhance attorneys' willingness to assist low income individuals who need legal assistance. One of the current obstacles is that some judges are unwilling to permit attorneys to appear in a limited role. Many attorneys fear that, if they provide some limited assistance in a case, the judge will require them to stay in for the entire case, regardless of whether the attorney is being compensated. Many attorneys find this to be too risky for the financial stability of their practices.

I believe the proposed rules will clarify the procedures under which LSR can take place and make clear that attorneys are permitted to cease participating in cases once their agreed-upon limited-scope services have been performed. The revisions will make it more enticing for lawyers to provide LSR to Montanans of limited means, and increase access to justice.

Thank you in advance for considering my comments.

Sincerely,

A handwritten signature in black ink that reads "Cynthia K. Smith". The signature is written in a cursive, flowing style.

Cynthia K. Smith