

# Inside Business

A8 | Monday, June 10, 2013 | Post Independent

## The 'fool for a client' rule (revised)

I grew up not too far from the Garden of the Gods in Colorado Springs. Some might consider the place

to be "touristy," but the monolithic spires within the Garden are, in fact, a true natural beauty.

If you spend any significant time in the Springs, you will find that a particular item tends to pop up in the local news with surprising regularity. An unequipped climber, usually a weekend warrior from Texas or Nebraska, scrambles up one of the Garden's rock formations, only to be faced with a perilous down-climb. An image of the rescue, or the aftermath of a serious fall, invariably makes the paper.

The stranded climber, who either overestimated his abilities or underestimated the risks, may have been on the mind of the person who coined the phrase, "One who acts as his own attorney has a fool for a client." This phrase has been used for more than a century to encourage self-helpers to hire a lawyer. Despite what I'm about to say, I think the fool-for-a-client rule still applies today.

But I also think that we are living under a new paradigm. The barriers to the specialized knowledge that was once the

exclusive domain of the lawyer are eroding. Laypersons, with increasing regularity, are competently achieving their legal objectives without a lawyer.

It's easy to incorporate, prepare a simple will or lease, or address a number of pro-forma legal issues using online legal services. Meanwhile, state government, with the aid of uniform laws committees and bar associations, are simplifying the law and preparing forms and instruction manuals that are free, online, and effective.

Yet, the consequences for making a legal misstep haven't changed, so anyone who has the means to retain counsel, but who is nevertheless considering his or her own legal representation, should perform an honest evaluation of the risks and rewards of self-help. The following questions may assist in that regard:

Am I willing and able to closely follow written

The consequences for making a legal misstep haven't changed, so anyone who has the means to retain counsel, but who is nevertheless considering his or her own legal representation, should perform an honest evaluation of the risks and rewards of self-help.

instructions (i.e. the materials and processes provided by a self-help resource)? This isn't a question of intelligence. Many smart people see the big picture but find the details to be tiresome and easy to ignore. A failure to follow details in legal work can have serious consequences.

Are the stakes too high? A legal matter may have a seemingly simple self-help solution, but high stakes amplify the effects of making a rookie mistake.

How good are the self-help resources? Forms and instructions approved by the Colorado Supreme Court (<http://www.courts.state.co.us/>) are very good. Online legal services sell

canned legal documents, but they don't offer individualized legal advice, and they aren't responsible if the use of their product goes awry. That being said, to the extent that the matter requires form-driven, commoditized legal papers, an online retail service may offer a viable solution.

Does the matter involve a specialized area of the law? Specialties require trade craft. Pitfalls are common and hard to spot. Few self-help aids exist. Online legal services can't effectively operate in specialized fields, as the necessary economies of scale are impossible to achieve.

Does the matter involve the contractual or fiduciary relations of two or more parties? Formalizing custom agreements and nuanced legal relationships between and among parties is lawyer work. This consideration is especially true with respect to fiduciary relationships (i.e., instances where one person manages property or makes decisions on behalf or for the benefit of another). In some cases, fiduciary duties may require the fiduciary to retain legal counsel.

Does the matter involve adversarial claims or

proceedings? Taking aside small claims, which typically must be litigated by the parties without the aid of a lawyer, proceedings before state, federal, and administrative tribunals are the domain of experienced trial counsel.

It should not go without mention that a lawyer and client may divide labor. I am happy to review a will, lease or contract prepared by the client or an online service (hopefully before it's too late to tweak a few things, if necessary). Meanwhile, court rules now allow for the "unbundling" of legal services, enabling lawyers to provide limited, this-but-not-that assistance in litigation cases.

In light of these considerations, it's OK to be pennywise, especially now that certain keys to the kingdom of the law are within the reach of the layperson. Just don't fail to consider the potential for pound-foolery.

*Matthew Laurel Trinidad is a transactional attorney at Kamp New Hanlon PC. His practice emphasizes business law, estate planning and probate. Contact him at [mlt@mountainlawfirm.com](mailto:mlt@mountainlawfirm.com), (970) 945-2261, or visit [www.mountainlawfirm.com](http://www.mountainlawfirm.com).*



**Matthew Trinidad**  
Pro Bono Publico

legal services. Meanwhile, state government, with the aid of uniform laws committees and bar associations, are simplifying the law and preparing forms and instruction manuals that are free, online, and effective.

Yet, the consequences for making a legal misstep haven't changed, so anyone who has the means to retain counsel, but who is nevertheless considering his or her own legal representation, should perform an honest evaluation of the risks and rewards of self-help. The following questions may assist in that regard:

Am I willing and able to closely follow written

The consequences for making a legal misstep haven't changed, so anyone who has the means to retain counsel, but who is nevertheless considering his or her own legal representation, should perform an honest evaluation of the risks and rewards of self-help.

instructions (i.e. the materials and processes provided by a self-help resource)? This isn't a question of intelligence. Many smart people see the big picture but find the details to be tiresome and easy to ignore. A failure to follow details in legal work can have serious consequences.

Are the stakes too high? A legal matter may have a seemingly simple self-help solution, but high stakes amplify the effects of making a rookie mistake.

How good are the self-help resources? Forms and instructions approved by the Colorado Supreme Court (<http://www.courts.state.co.us/>) are very good. Online legal services sell

canned legal documents, but they don't offer individualized legal advice, and they aren't responsible if the use of their product goes awry. That being said, to the extent that the matter requires form-driven, commoditized legal papers, an online retail service may offer a viable solution.

Does the matter involve a specialized area of the law? Specialties require trade craft. Pitfalls are common and hard to spot. Few self-help aids exist. Online legal services can't effectively operate in specialized fields, as the necessary economies of scale are impossible to achieve.

Does the matter involve the contractual or fiduciary relations of two or more parties? Formalizing custom agreements and nuanced legal relationships between and among parties is lawyer work. This consideration is especially true with respect to fiduciary relationships (i.e., instances where one person manages property or makes decisions on behalf or for the benefit of another). In some cases, fiduciary duties may require the fiduciary to retain legal counsel.

Does the matter involve adversarial claims or

proceedings? Taking aside small claims, which typically must be litigated by the parties without the aid of a lawyer, proceedings before state, federal, and administrative tribunals are the domain of experienced trial counsel.

It should not go without mention that a lawyer and client may divide labor. I am happy to review a will, lease or contract prepared by the client or an online service (hopefully before it's too late to tweak a few things, if necessary). Meanwhile, court rules now allow for the "unbundling" of legal services, enabling lawyers to provide limited, this-but-not-that assistance in litigation cases.

In light of these considerations, it's OK to be pennywise, especially now that certain keys to the kingdom of the law are within the reach of the layperson. Just don't fail to consider the potential for pound-foolery.

*Matthew Laurel Trinidad is a transactional attorney at Kamp New Hanlon PC. His practice emphasizes business law, estate planning and probate. Contact him at [mlt@mountainlawfirm.com](mailto:mlt@mountainlawfirm.com), (970) 945-2261, or visit [www.mountainlawfirm.com](http://www.mountainlawfirm.com).*

## The economics of reduce, reuse and recycle

Aspen was the place to be this past weekend for "Eco Fest", a gathering of food, festivities, new products and ideas. A beautiful venue to showcase the ongoing need to rethink the way we live our lives.

Zero waste is an innovative idea that not only makes environmental sense, but has economic logic. Large businesses are achieving zero waste goals. General Motors and Toyota factories send nothing to landfills. It is good business acumen to close production loops. While it is good environmental stewardship, it is even better for their bottom line. They make more money for their shareholders. If it is good for big business, it is good for our families.

For example, 40 percent of food ends up in landfills — creating methane, which is bad for the environment. It also hurts our wallets. We are throwing money away — which is bad for our families and futures. The opportunity cost of not setting aside resources for our benefit down the road is huge. What choices can we make within our households in how we buy and consume to start minimizing the amount of waste and

maximizing the economic benefits?

**Reduce:** What is the difference is between a nicety and a necessity? Do we really need it? When we reduce the amount of our consumption, it brings freedom into our lives. Freedom of time, previously spent on taking care of stuff! It brings freedom to our finances. We will not be burdened with debt and thus able to save and invest. We have to envision the beneficial outcome of our choices before we are willing to take the tough

steps in changing them. We have to let go of the false pretense that who we are is dictated by the stuff we own, the cars we drive, the clothes we wear. This is really hard because we live our days on autopilot, and we are easily influenced by the idea that "more is better." We need to take back the controls and think about our choices. How can we support each other, start different conversations, try new ways of doing things? Every small step, if taken in the right direction will lead us down the path of sustainability in our families, communities and economies.

**Reuse:** also known as "repurposing." Let's get creative and resourceful. What can you come up with to have the end

The opportunity cost of not setting aside resources for our benefit down the road is huge. What choices can we make within our households in how we buy and consume to start minimizing the amount of waste and maximizing the economic benefits?

result be less garbage in the trash and more green in your pocket? Making a purchase? Be intentional about how and where it was made. Look around, if you are not using it, sell it or give it away. One man's trash is another's treasure. Someone out there needs it. Look at the growing number of second hand and thrift stores here in the valley. The "sharing economy" via the Internet includes the opportunity to share our homes, cars, bikes and beyond. Check out the new bike transit system in Aspen at [we-cycle.org](http://we-cycle.org). Repurposing and sharing boosts the economy by creating secondary markets for sales as well as minimizing our financial output in areas that can be availed in other ways.

**Recycle:** According to the EPA, nationwide, we have a 34 percent recycling rate. This sounds good, but because of increased production, we are actually

consuming more and creating more trash. We have to put the first two R's in place in order to get some traction on recycling. However, recycling has a huge economic impact. According to the EPA for every one job you create at a landfill, you can create five to 10 by facilitating recycling — good for our economy! A report notes that by achieving 75 percent reduction in landfills by 2030, we will create 1.5 million new jobs.

It's time to re-evaluate our childhood mantra of "reduce, reuse and recycle." Yes, it has the altruistic, feel good component. Bottom line, though, is that dollars talk and the chatter is getting louder. Let's start paying attention — we all win!

*Danielle Howard is a Certified Financial Planner™ practitioner and Financial Life Planner®. Her office is located at 23300 Two Rivers Road in Basalt. Visit her at [www.howardfinancialresources.com](http://www.howardfinancialresources.com) or call 927-3909. E-mail her at [dhoward@howardfinancialresources.com](mailto:dhoward@howardfinancialresources.com). Advisory services offered through Lighthouse Financial LLC, a registered investment advisor. Securities offered through Cambridge Investment Research Inc., a broker/dealer, member FINRA/SIPC. Cambridge and HFR are not affiliated.*



**Danielle Howard**  
Personal Finance