

**“Regulatory Reform in the Delivery of
Legal Services”**

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Access to Justice Crisis

- No right to counsel in civil cases
- Huge numbers of unrepresented litigants in civil cases (especially eviction and consumer debt cases)
- The U.S. ranks 126th out of 139 countries on accessibility and affordability of legal services (Source: World Justice Project).
- Increasing legal aid spending and pro bono hours is never going to be enough.



Regulation of the Legal Profession

1. Rule 5.4 (Professional Independence of a Lawyer)
2. Unauthorized Practice of Law



Regulation of the Legal Profession (5.4)

Rule 5.4 (Professional Independence of a Lawyer):

(a) A lawyer or law firm shall not share legal fees with a nonlawyer (with minor exceptions)

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein....[or]

(2) a nonlawyer is a corporate director or officer thereof....

Comment: “These limitations are to protect the lawyer’s professional independence of judgment.”



Regulation of the Legal Profession (UPL)

- § 73-3-55 - Unlawful to practice law without license: “It shall be unlawful for any person to engage in the practice of law in this state who has not been licensed according to law.”
- What is the “practice of law?”
 - “[A]ny exercise of intelligent choice in advising another of his legal rights and duties brings the activity within the practice of the legal profession.” *Darby v. Mississippi State Board of Bar Admissions et al.*, 185 So.2d 684 (Miss. 1966)



Jurisdictions Relaxing Rule 5.4

- Utah's “Legal Sandbox”
 - Nontraditional entities may apply to operate in the sandbox.
 - The Office of Legal Services Innovation assesses the applications, makes recommendations to the Supreme Court, and, once in operation, monitors service providers for potential consumer harm.
 - 42 approved providers to date
- Arizona has abolished Rule 5.4 and permits **Alternative Business Structures** to apply for licensure.



Authorized Nonlawyer Service Providers

- **Judicially Authorized and Regulated Legal Service Providers (LSPs):**
 - Federally-authorized LSPs
 - Courthouse Navigators (New York, Arizona)
 - Courthouse Facilitators (California, Washington State)
 - Document Preparers (Arizona, California and Nevada)
 - Limited Practice Officers (Washington State)
- **The Next Wave:**
 - Washington State: Limited License Legal Technicians (discontinued)
 - Utah: Licensed Paralegal Practitioners
 - Arizona: Legal Paraprofessionals
 - Minnesota: Legal Paraprofessionals
 - California: Paraprofessionals (proposed)
 - Lawsuit in New York to permit nonlawyers to provide free advice to consumers in debt collection actions (*Upsolve v. New York*)



The Evidence So Far...

- **September 2022 Report (from Stanford Center on the Legal Profession)**
 - **Regulatory reforms are spurring substantial innovation.**
 - **Lawyers are playing a critical role in the innovation.**
 - **Most entities are using both technology and other innovations to deliver services in new ways.**
 - **UPL reform (Utah) is critical to serving lower-income populations.**
 - **Lack of consumer harm**

