

THE LAW FIRM OF THE FUTURE

MPF UPDATE

**The Movement Toward
Law Firm Ownership Reform**

February 15, 2023

by

Whitney Cunningham, Esq.

Managing Partner, Aspey Watkins & Diesel

Uri Gutfreund

SVP and Managing Principal, Ames & Gough

Carson M. Pearson, Esq.

Managing Partner, Pearson Butler

John Remsen, Jr.

President, TheRemsenGroup

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BIOGRAPHICAL PROFILE

Whitney Cunningham, Esq.

Managing Partner
Aspey Watkins & Diesel
Flagstaff, Arizona
928.774.1478 – wcunningham@awdlaw.com

Whitney Cunningham's practice focuses on business, real estate and construction matters. He advises entrepreneurs and businesses at all stages of their development, including business formation, shareholder relations, commercial transactions, intellectual property management, and buying and selling of businesses. He also handles complex business and real estate litigation and appeals.

Whitney's clients range from local family businesses to entrepreneurial corporations doing business around the world. He possesses extensive experience in both civil jury trials and complex business and real estate transactions.

Education:

- Georgetown University Law Center, Washington, D.C. J.D., magna cum laude, 1992
- Northern Arizona University, Flagstaff, Arizona. B.S., magna cum laude, 1989

Bar Admissions:

- Supreme Court of Arizona, 1993
- U.S. District Court – District of Arizona, 1993
- U.S. Court of Appeals – Ninth Circuit, 2014
- U.S. Court of Appeals – Federal Circuit, 1995

Professional Affiliations:

- State Bar of Arizona. President, 2013– 2014; Board of Governors, 2002– 2015
- Northern Arizona University. Instructor of Mass Media Law & Ethics, 1993 – 1994
- Arizona Foundation for Legal Services & Education. Board of Directors, 2013 – 2014. Next Generation Fellow, 2010 – present
- American Bar Foundation, Fellow, 2014 – present
- Supreme Court of Arizona. Attorney Regulation Advisory Committee, 2015 – present

Practice Areas:

- Business Law
- Real Estate & Construction
- Civil Litigation & Appeals

January 2021

BIOGRAPHICAL PROFILE

Carson Pearson, Esq.

Managing Member and Co-Founder
Pearson Butler
South Jordan, Utah
801.495.4814 – carson@pearsonbutler.com

Carson Pearson is the managing member and co-founder of Pearson Butler.

Carson primarily works with small business owners and entrepreneurs. His work requires him to be knowledgeable in entity structuring, contracts, qualified plans, charitable structures, trusts, corporate finance, asset protection, insurance concepts, investments, real estate, and estate planning.

Carson has co-founded and operated several successful businesses. Carson has valuable hand-on experience in operations, start-up, and financing of these and other opportunities. In addition to these businesses, he has consulted with several small business ventures on operation, sales, marketing and human resources to increase their profitability or gain profitability and has successfully accomplished both business turnarounds as well as workouts.

He received his Juris Doctorate from the J. Reuben Clark School of Law at Brigham Young University. Carson is a member of the Utah State Bar and routinely performs pro-bono work to the community. Carson is fluent in Spanish and is a proud member of Phi Beta Kappa.

Education:

- Brigham Young University School of Law, J.D., 1999
- University of Utah, 1996

Bar Admissions:

- Utah
- U.S. District Court of Utah
- Utah Supreme Court
- United States Supreme Court

Affiliations:

- Utah State Bar Association
- American Bar Association

Practice Areas:

- Business and Corporate Law
- Tax
- Estate Planning
- Real Estate

January 2021

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MPF UPDATE: The Movement Toward Law Firm Ownership Reform

An MPF Webinar with Whitney Cunningham and Carson Pearson

February 15, 2023 – 2:00-3:00pm ET



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Uri Gutfreund

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Today's Guests



Whitney Cunningham, Esq.

Managing Partner, Aspey Watkins & Diesel
Flagstaff, Arizona



Carson M. Pearson, Esq.

Managing Member, Person Butler
Salt Lake City, Utah



Whitney Cunningham, Esq.



- Managing Partner, Aspey Watkins & Diesel
- 21 lawyers, Founded in 1975
- Flagstaff, Arizona
- Past President, State Bar of Arizona
- Former General Counsel, Machine Solutions
- Education:
 - JD – Georgetown University
 - BS – Northern Arizona University

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Carson M. Pearson, Esq.

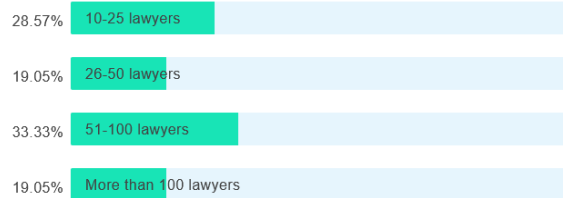


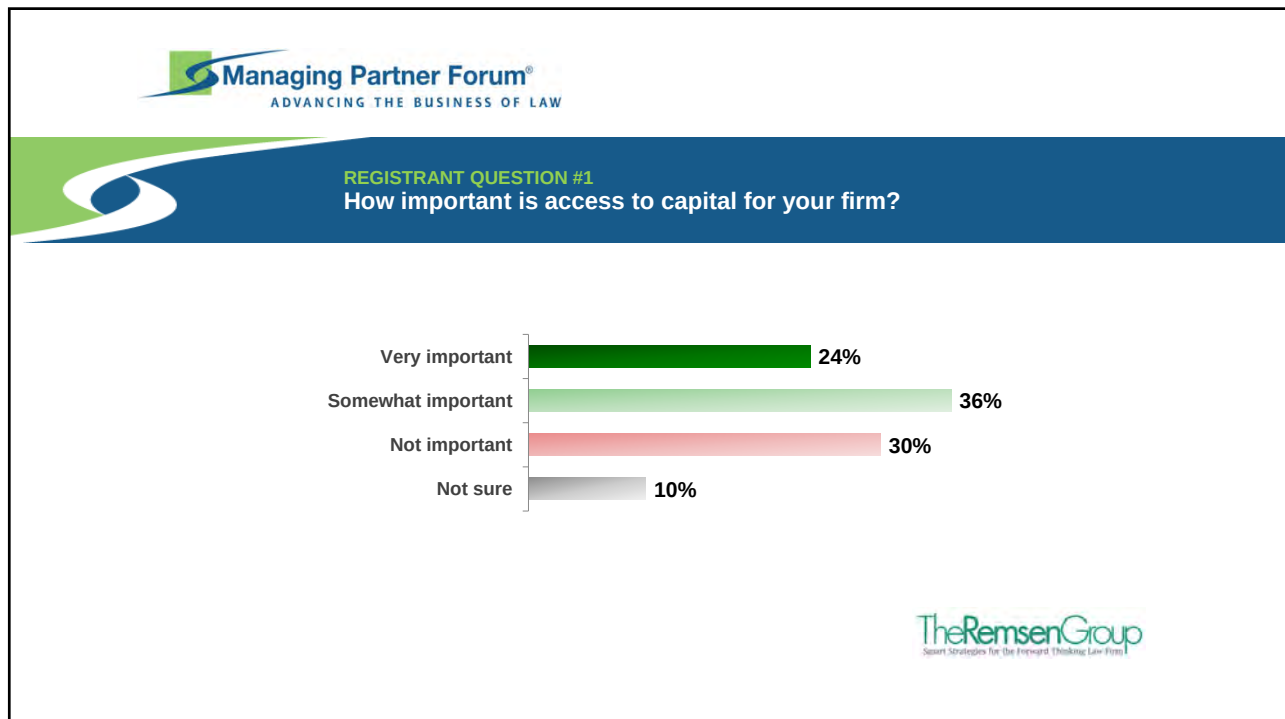
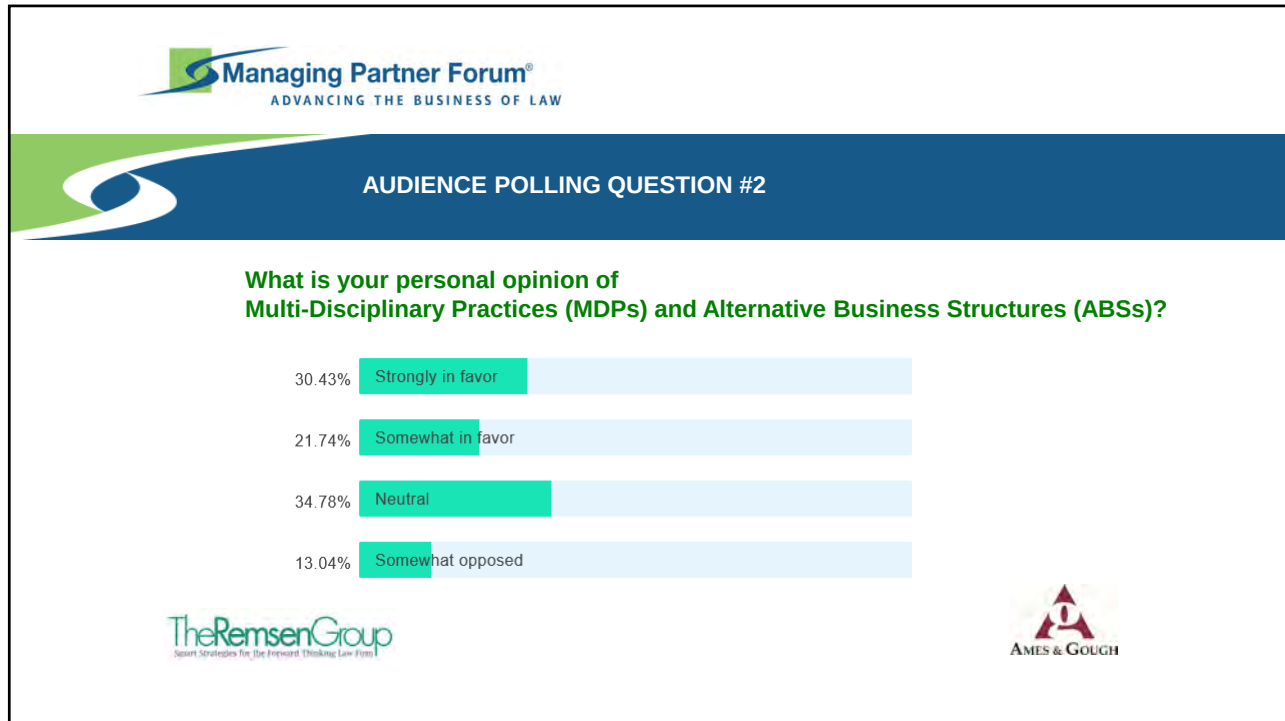
- Managing Partner and Founder, Pearson Butler
- 32 lawyers, 12 practice areas
- Salt Lake City (South Jordan), Utah
- Business and transactional law practice
- Successful entrepreneur
- Education:
 - JD – Brigham Young University
 - BA – University of Utah

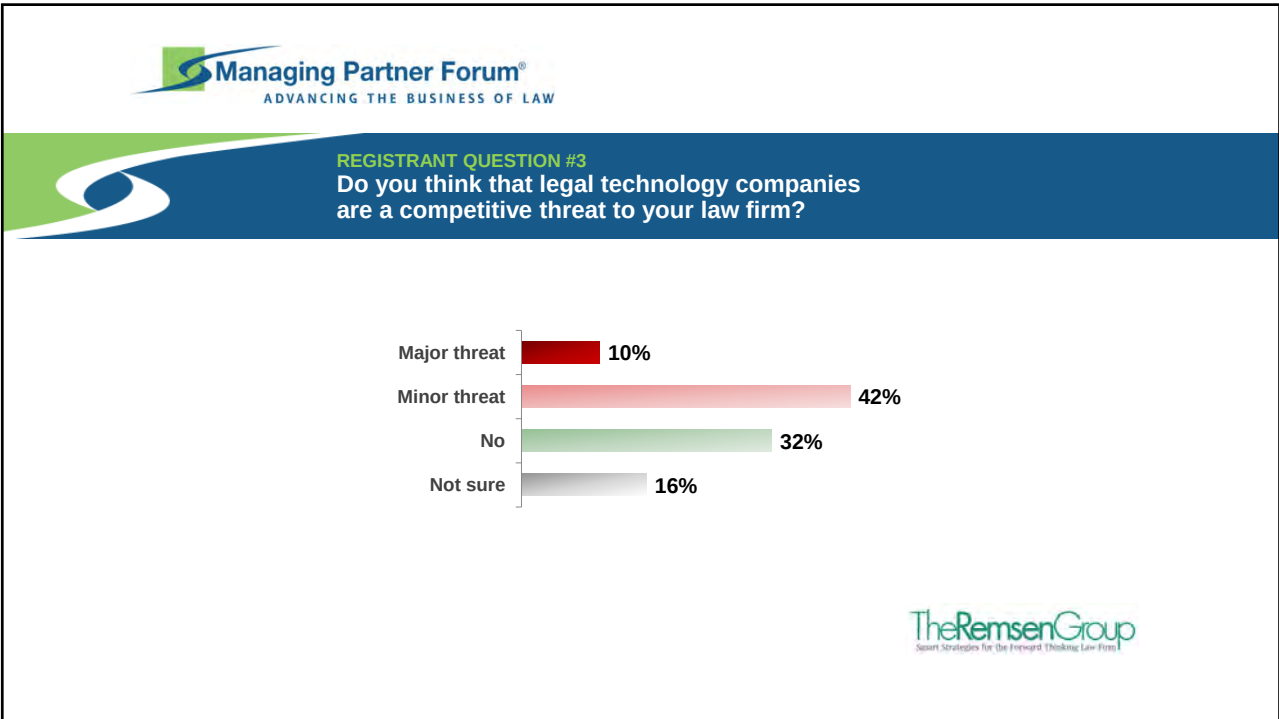
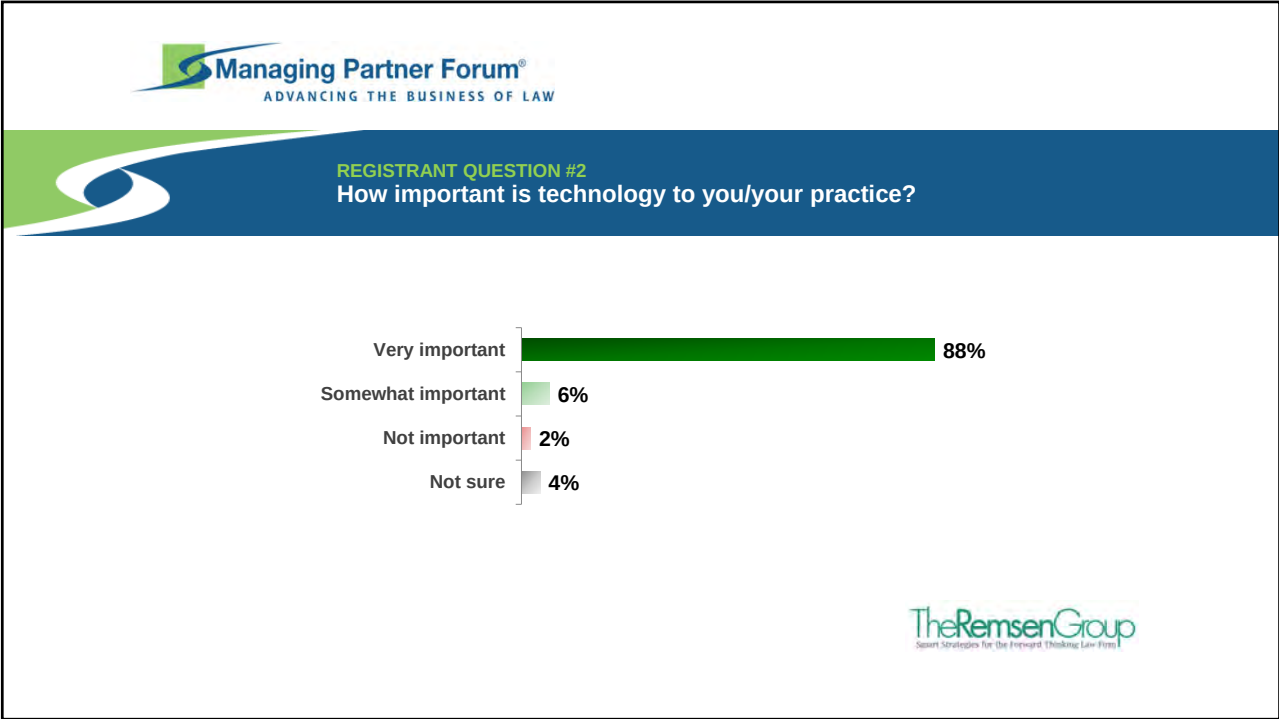


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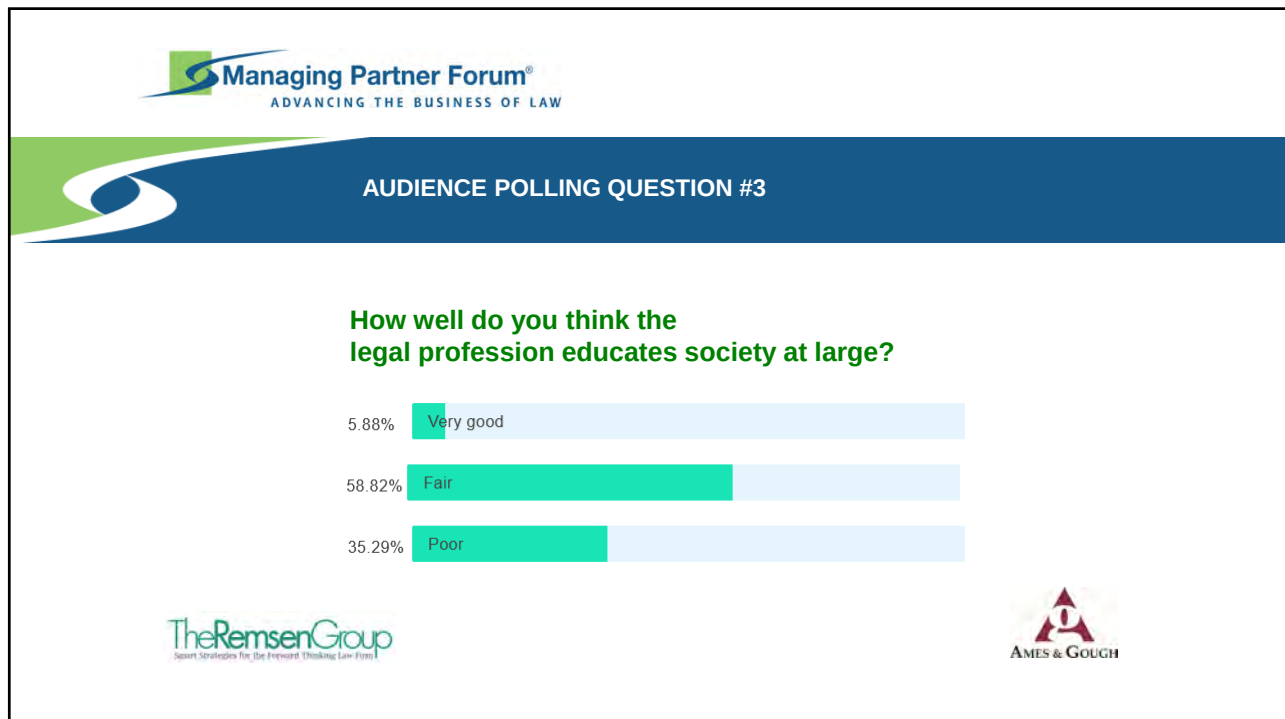
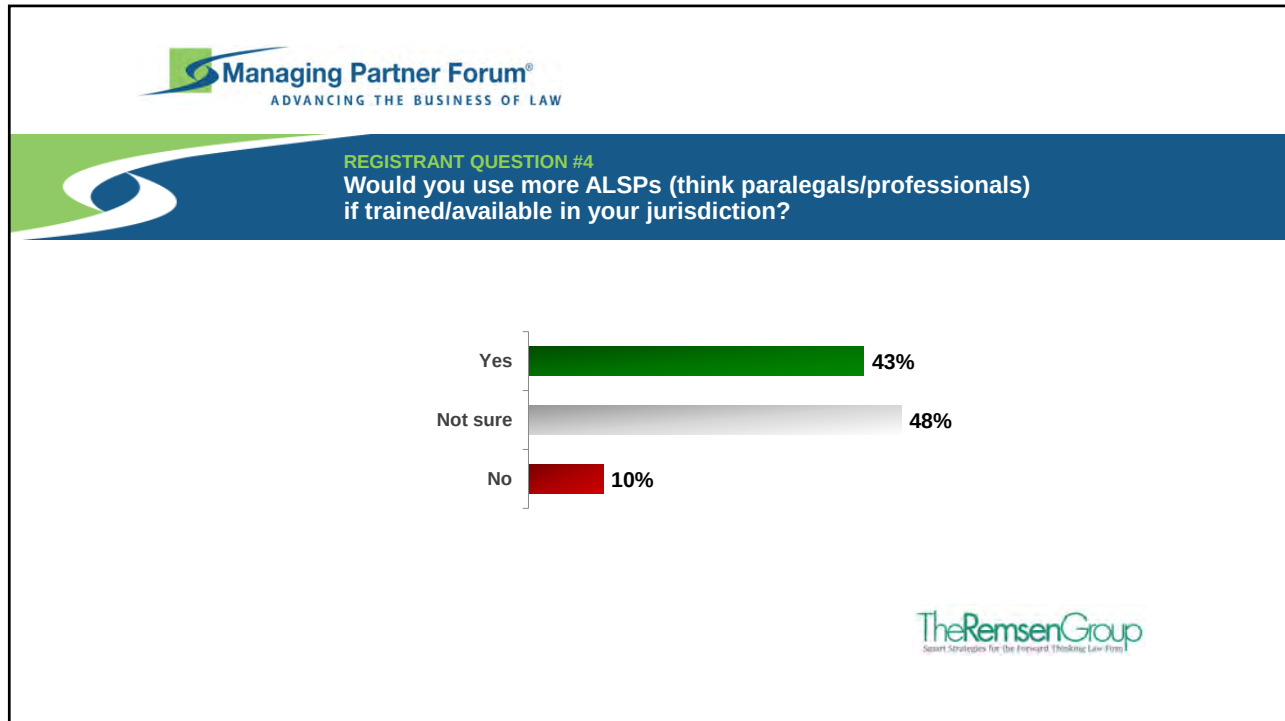
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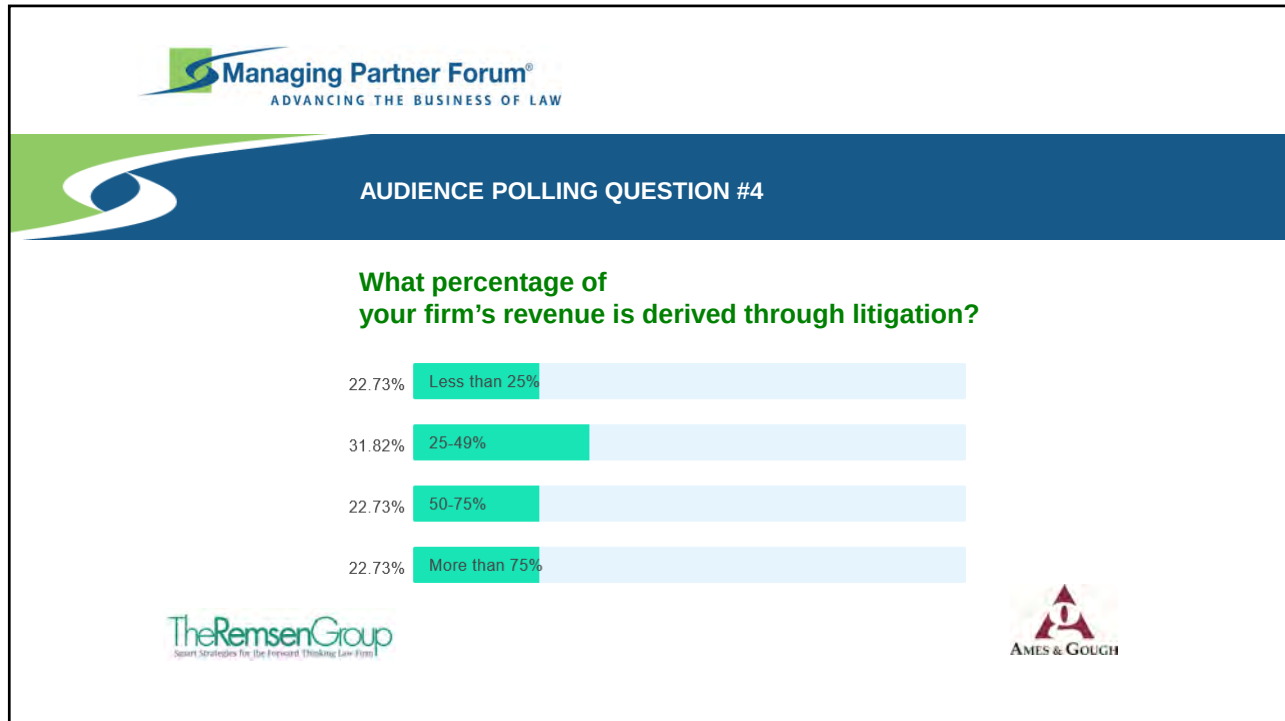
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The Regulatory Sandboxes in Arizona and Utah



Response of the Legal Profession in Your Jurisdictions?

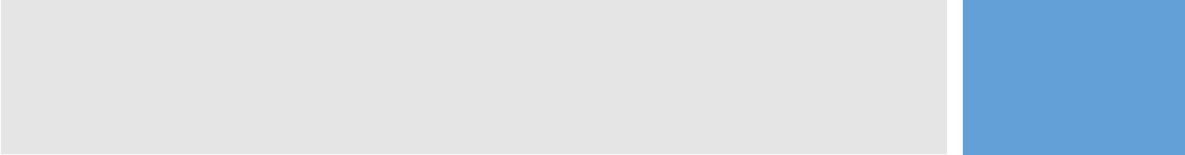


What About Your Law Firms?



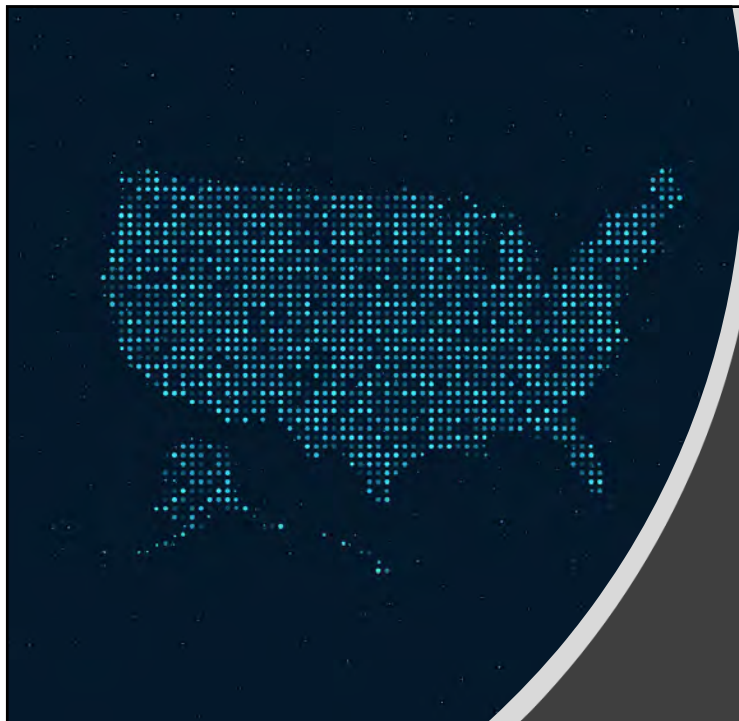
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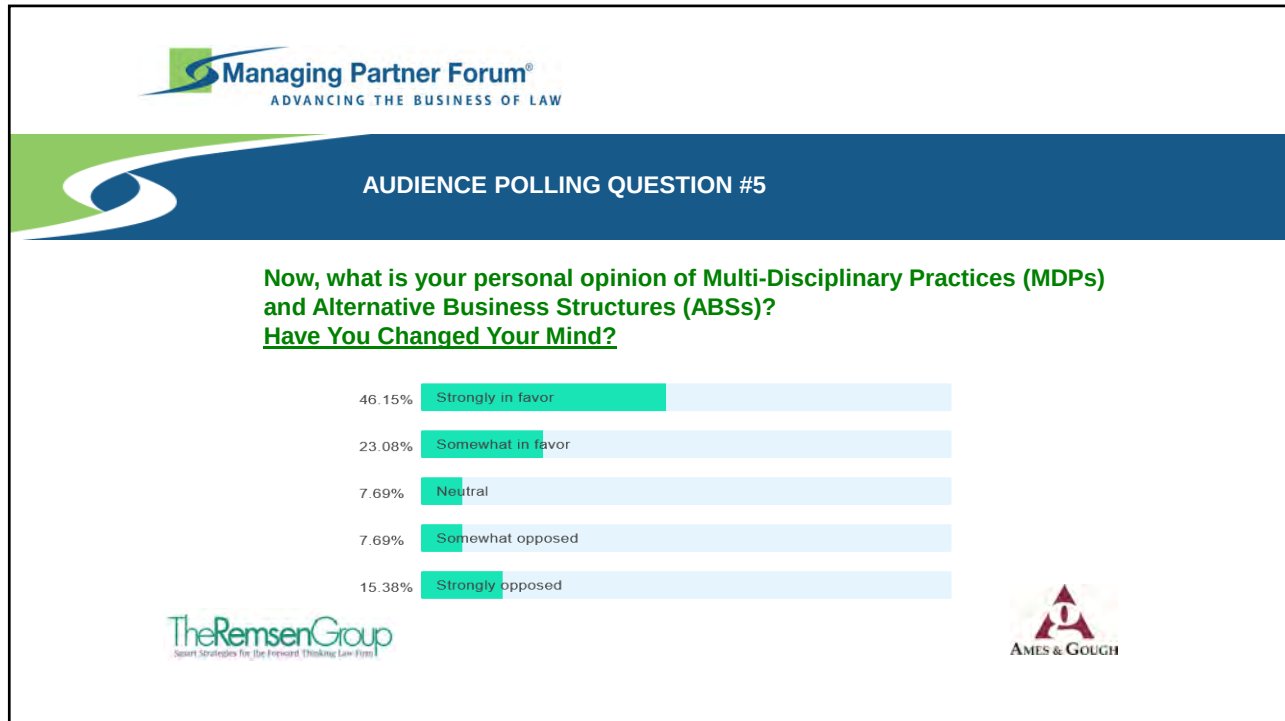




**Any
Unintended
Consequences?**



**Why Hasn't
This Caught
on in Other
Jurisdictions?**



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CONTACT US

Whitney Cunningham, Esq. – 928.774.1478, wcunningham@awdlaw.com

Uri Gutfreund – 201.430.5827, ugutfreund@amesgough.com

Carson M. Pearson, Esq. – 801.495.4104, carson@pearsonbutler.com

John Remsen, Jr. – 404.885.9100, jremsen@theremsen.com

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Legal Innovation After Reform:

EVIDENCE FROM REGULATORY CHANGE

David Freeman Engstrom, Lucy Ricca, Graham Ambrose, and Maddie Walsh



Report Authors

DAVID FREEMAN ENGSTROM

LSVF Professor in Law

Co-Director, Deborah L. Rhode Center on the Legal Profession
Stanford Law School

LUCY RICCA

Director, Policy and Programs

Deborah L. Rhode Center on the Legal Profession
Stanford Law School

Ricca was the founding Executive Director of the Office of Legal Services Innovation (the regulatory office overseeing the Utah sandbox), and remains a member of the Office's Executive Committee.

GRAHAM AMBROSE

Class of 2024

Stanford Law School

MADDIE WALSH

Class of 2023

Stanford Law School

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Legal Innovation After Reform:

EVIDENCE FROM REGULATORY CHANGE

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Executive Summary

Efforts to rethink the regulation of legal services are gaining momentum in the United States, fueled by a yawning justice gap and growing evidence that regulatory barriers are at least partly to blame. Two states, Utah and Arizona, have already embarked on reforms that relax long-standing restrictions on who can practice law and who can own law firms in order to spur new approaches to delivering legal services. And a number of other states are considering whether to follow their lead. Yet key questions remain about what regulatory reforms can achieve:

- 1. What types of innovation in legal services delivery models will different reform approaches generate?**
- 2. Who will be served by those innovations?**

This report presents results from a comprehensive analysis of the legal service entities that are emerging in response to rule reforms. The analysis is based on two types of data. First, to understand what types of innovation are *possible*, we conducted in-depth, semi-structured interviews with 37 entities that have obtained authorization in liberalizing jurisdictions, half in Utah and Arizona and half in the U.K., where reform efforts are more mature. Second, to understand *how much* innovation may result in U.S. legal markets and *who* it may serve, we conducted a comprehensive analysis of the application, authorization, and other public-facing materials from all 57 of the authorized entities in Utah and Arizona as of June 30, 2022.

Key Insights

Our canvass of emerging innovations in Utah and Arizona, supplemented by evidence from England and Wales, yields five key insights:

- **Regulatory reforms are spurring substantial innovation in five different ways.** Looking across authorized entities in liberalizing jurisdictions reveals a range of innovations, both in the ownership structure of providers and in their service delivery models. In particular, we have identified five innovation types: (1) traditional law firms making changes to their capital or business structure or service model; (2) “law companies” practicing law; (3) “non-law companies” as new entrants to the legal sector; (4) intermediary platforms; and (5) entities using nonlawyers and technology to practice law.

1	2	3	4
TRADITIONAL LAW FIRMS making changes Give non-lawyers equity ownership or take non-lawyer investment to expand	LAW COMPANIES practicing law Provide legal services with non-lawyer ownership <i>(e.g., LegalZoom, Hello Divorce)</i>	NON-LAW COMPANIES expanding into law New entrants: holistic “one-stop-shops” <i>(e.g., law+accounting)</i> and offshoot services <i>(e.g., travel services → visas)</i>	INTERMEDIARY PLATFORMS Marketplaces <i>(connect consumers with lawyers)</i>
5			
ENTITIES USING NON-LAWYERS AND TECH TO PRACTICE LAW New ways to provide legal services; may also have non-lawyer investors or owners			

Among authorized entities in Utah and Arizona, **35% are traditional law firms** that have added a nonlawyer partner, accessed new sources of capital, or introduced a new service delivery model. For example:

- **LawHQ** is a plaintiff-side firm that has entered the Utah sandbox in order to raise capital to develop an app to both find plaintiffs and collect evidence for litigation against telephone spammers.

Another 35% are law companies, meaning entities with nonlawyer ownership, who were already delivering legal services to corporate or consumer clients. Most of the law companies that have sought authorization in Utah and Arizona have done so in order to incorporate lawyers into the tiers of services they provide. For example:

- **LegalZoom**, an Arizona ABS status, sought authorization so it could hire lawyers who provide additional services beyond the document assembly and other “scrivener” services that the company already provides to millions of consumers.
- **Hello Divorce** is owned by a California divorce lawyer who wanted to reach more clients and realized they didn’t all need her bespoke services. Using non-lawyer financing, she developed a software platform and a tiered set of flat-fee packages, beginning with DIY tiers with easy-to-use forms and access to automated legal information and moving to assistance from human professionals at higher tiers. In most states, including California, if consumers want to access lawyer services, they must be referred out to the company’s sister law firm. Hello Divorce cannot charge a flat fee for access to both the technology platform and lawyer assistance.

In the Utah sandbox, the entire business is housed under one roof, giving consumers one-stop access to a mix of DIY tools and lawyers when and how they want them.

Eighteen percent of entities are non-law companies—that is, new entrants to legal markets—that have either set up “one-stop-shops” that combine law and non-law expertise or have begun to offer legal services as an adjunct to their primary line of business. For example:

- **Law on Call** is the legal subsidiary of an established registered agent company, operating through the Utah sandbox, that offers its small business clients access to a team of licensed lawyers through a \$9 subscription fee.

Three companies, all in the Utah sandbox, are **intermediary platforms**—marketplace platforms connecting lawyers and consumers and often providing practice support systems to lawyers such as case management and billing. For an example:

- **Off the Record** connects consumers with traffic citations with lawyers. The platform also serves to facilitate the lawyer-client relationship and provides lawyers technological practice support. Within the sandbox, Off the Record can share fees directly with lawyers and facilitate client payment through the platform.

The final category in our innovation taxonomy identifies **entities using nonlawyers or software to practice law**, a service model innovation only available within the Utah sandbox through the UPL waiver. These services are frequently developed as lower-price offerings. An example is:

- **Rasa**, a B-corporation using both AI-enabled software and nonlawyer providers to help Utahns determine whether they are eligible to expunge their criminal records and then execute the process.

■ **Lawyers are playing a central role in the entities and the innovation within them.** In innovative entities across both Utah and Arizona, lawyers remain central to the development and delivery of services—whether as employee practitioners, through oversight and compliance roles, or through entity ownership and leadership. In Utah, innovation also takes the form of services delivered via nonlawyers and software. Even here, traditional law firms are driving innovation by seeking authorization to offer tiered services at different price points, such as DIY services via technology platform at the bottom price tier, with higher tiers of service that progressively mix in nonlawyer and lawyer guidance.

- **A majority of entities are using both technology and other innovations to deliver services in new ways, mostly to consumers and small businesses.** In total, 61% of entities across the two reform states identified a technological innovation as part of their ABS or sandbox authorization. Most of these (54%) are tools that are primarily public-facing—for instance, to connect providers and clients—and not practicing law within the conventional meaning of UPL. Nearly half of entities also described pricing innovations, such as subscription or flat-fee pricing as part of their model. And most authorized entities are serving consumers and small businesses. A large majority of legal service entities in Utah and Arizona—84 percent, or 48 entities—report providing services to consumers and/or small businesses. This percentage is similar across the two states. This finding tracks the experience in England and Wales.
- **UPL reform appears to be critical to serving lower-income populations.** The Utah sandbox—which allows entities to seek waivers of UPL—contains the only entities, all of them non-profits, that report that they primarily serve indigent and low-income people. By contrast, Arizona’s “ABS-only approach” is thus far yielding important but limited changes to the conventional law firm model of legal services delivery that predominantly serves a middle-income and small business clientele.
- **Reform efforts to this point do not appear to pose a substantial risk of consumer harm.** Data and information reported by Utah and Arizona regulators indicate that authorized entities do not appear to draw a substantially higher number of consumer complaints, as compared to their lawyer counterparts. In particular, Utah’s June 2022 data reported one complaint per 2,123 services delivered, and Arizona has received no complaints. This is generally on par with the number of complaints lodged against lawyers.

Though these insights are subject to caveats, they provide us with data-based insight into the realities of liberalizing the rules around ownership of legal businesses and the practice of law. Those realities can and should inform and drive policymaking going forward.

Introduction

Efforts to rethink the regulation of legal services are gaining momentum in the United States, fueled by a yawning justice gap and growing evidence that regulatory barriers are at least partly to blame. Two states, Utah and Arizona, have already embarked on reforms that relax long-standing restrictions on who can practice law and who can own law firms in order to spur new approaches to delivering legal services. And a number of other states are considering whether to follow their lead.

Yet key questions remain about what regulatory reforms can achieve. In particular: If rules are relaxed, what types of innovation in legal services will result? And who will be served by those innovations? Drawing on newly available evidence from Utah and Arizona, this Report seeks to answer both questions.

The Challenge of Regulatory Reform

Two core realities are fueling current regulatory reform efforts. First, the U.S. justice gap is deep and costly. Studies consistently find that a substantial number of Americans' civil legal needs go unmet.¹ Many Americans who cannot obtain legal assistance must navigate the complex legal system alone, often with serious consequences. Millions of individuals at life-altering moments in their lives—facing eviction, loss of child custody, deportation, wage theft, asset collection, denial of legitimate health insurance claims, and more—try to navigate a bewildering legal system without legal guidance.² Indeed, in state courts, in an astonishing three-quarters of civil cases, at least one party is unrepresented, usually the defendant.³ Meanwhile, many who are understandably daunted by the prospect of proceeding pro se simply “lump it,” doing nothing at all to protect or to vindicate their rights.⁴

The second reality fueling reform efforts is a growing academic consensus that the above justice gap is caused, at least in part, by restrictive regulation of legal practice.⁵ Rules prohibiting unauthorized practice of law, or UPL, constrain the supply of legal help by barring nonlawyers from providing legal services.⁶ Meanwhile, Rule of Professional Conduct 5.4 and its state-level equivalents ban lawyers sharing fees with nonlawyers, thus blocking access to outside capital and equity-based compensation for nonlawyer experts and depriving legal services providers of the resources and non-law skillsets necessary to drive innovation.⁷ Taken together, these restrictions not only impose an inefficient business model on law practice over the short-term, they also chill innovation over the longer-term.

In recent years, policymakers have started to debate what reforming these rules can achieve and what the tradeoffs might be. Reform advocates contend that the current system protects lawyers' interests in maintaining a professional monopoly at the expense of consumer access, choice, autonomy, and control.⁸ They argue that relaxing regulations to allow more access to capital and welcome more types of providers into the system will spur innovation in services, promote competition, and result in a wider array of providers offering more tailored assistance and at lower prices. Innovation unleashed by rule reforms, they contend, will widen access up and down the socio-economic ladder, from the indigent, through middle-income people and for small businesses.

In response, critics concede that reform could spark innovation—but they worry that the innovation most apt to emerge will serve only those with at least some ability to pay, yielding access gains only for the comparatively well-heeled while leaving marginalized groups and the indigent no better off.⁹ Worse, some express concern that profit-focused corporate owners will undercut lawyers' independence and loyalty to clients, thereby driving a “race to the bottom” in service quality and resulting in significant consumer harm.¹⁰

Until now, states considering reforms could rely on only a thin evidence base in weighing these arguments. Much existing evidence was confounded, drawn from a decade of reforms in England and Wales, with their very different legal systems and baseline of regulation. No longer: Reform efforts in Utah and Arizona, launched in late 2020 and early 2021, respectively, are now sufficiently mature that one can begin to draw useable conclusions from each.

Research Questions and Focus

This Report leverages new evidence from Utah and Arizona to tackle two common questions, both noted previously, that arise in regulatory reform debates: First, if rules are relaxed, what types of innovation in legal services are likely to result? Second, who will be served by those innovations?

We seek to answer these questions by presenting results from a comprehensive analysis of the application, authorization, and other public-facing materials from all 57 of the authorized entities in Utah and Arizona as of June 30, 2022. We bolster this analysis with in-depth interviews with 37 legal service providers, including 18 interviews with authorized entities in Utah and Arizona and, for comparative perspective, an equivalent number of authorized entities in England and Wales. The result is a first-of-its-kind, grounded, and data-driven analysis of what regulatory reforms might achieve in the U.S. legal context.

An important aim of our study is to leverage the different reform approaches that Utah and Arizona are pursuing in order to draw useful inferences about which types of reforms will generate which types of innovations. To gain needed analytic traction, we focus our analysis on a single type of reform known as “entity regulation”—that is, the licensing and regulation of entities providing legal services. This Report does not assess what is sometimes called “role regulation,” that is paraprofessional licensing reforms that create a limited licensure process to permit nonlawyer individuals to provide legal services within specific practice areas.¹¹ However, both Utah and Arizona have implemented paraprofessional reforms in parallel to their entity-based reforms, with possible implications for our findings that we take up in Part VI.¹²

While both Utah and Arizona are pursuing entity regulation as a core part of their reform efforts, the two states have adopted very different reform strategies. In particular, the two states’ reforms vary in their *target*—that is, *which* of the rules are relaxed. Utah’s approach allows entities to seek waivers of Rule 5.4, UPL, or both—an approach we call the “ABS+UPL” approach. (ABS is an acronym for “alternative business structures,” a term commonly used in regulatory reform debates to describe legal services entities with nonlawyer ownership.) Arizona, in contrast, relaxed only Rule 5.4—an approach we call the “ABS-only” approach. The states also vary in terms of their *lever*—that is, *how* those rules are relaxed. Utah created a sandbox, which is a space within which legal services providers can seek waivers of UPL, Rule 5.4, or both, subject to ongoing oversight by a regulator. The sandbox is currently authorized for seven years. Arizona made an *ex ante* change to its rules—and, in particular, its Rule 5.4 equivalent—and then created an application process for entities seeking ABS status. Our study uses this contrast in the two states’ approaches to draw inferences about what types of innovation are likely to present under different reform conditions—a key question as reformers chart their own state’s course.

Report Roadmap

The remainder of this Report proceeds in seven Parts. In Part I, we briefly outline the scope of the access to justice problem, rehearse the debate around specific rule reforms as a way to address it, describe the recent history and current status of regulatory reform, and present some of the main empirical questions raised in ongoing debate. Part II reviews existing evidence from England and Wales, the largest legal market to have undergone entity-focused reform, but also explains why that evidence is confounded by important differences between U.S. and U.K. legal markets. Part III outlines the methodology we used in conducting our primary research. Part IV presents a novel taxonomy of the kinds of innovation enabled by liberalized regulation

using closer in case studies of authorized entities. Part V presents a quantitative analysis of the 57 entities authorized in Utah and Arizona as of June 2022, identifying similarities and differences among the authorized entities in the two jurisdictions that may reflect differing regulatory choices. Part VI addresses key caveats and limits of our study. Part VII presents our conclusions.

I. Access to Justice and Regulatory Reform

This Part motivates the empirical study that follows. Subpart A describes the civil justice gap and summarizes the arguments about its many causes, including current regulation of legal practice. Subpart B turns to regulatory reform and summarizes the debate around the two main rules—Rule 5.4’s bar on nonlawyer ownership and the prohibition on unauthorized practice of law (UPL)—at the core of current reform proposals. Subpart C tours current regulatory reform efforts in England and Wales, Australia, Utah, and Arizona and draws out some of the main contrasts among them. Finally, Subpart D presents key research questions about the innovation effects of different reform approaches.

A. The Civil Justice Gap

The justice gap in the U.S. is significant and sustained.¹³ The civil justice system fails to serve most of the legal needs of the poor and many of the legal needs of middle-income Americans.¹⁴ State court dockets—a large subset of that system—are just as arresting: In three-quarters of all civil cases in state courts, at least one side is unrepresented by an attorney.¹⁵ In short, Americans facing legal problems often do not use lawyers and often navigate legal problems without any legal help at all.¹⁶ These citizens muddle through issues with potentially significant life impacts, on one’s marriage, family, physical safety, housing, finances, employment, and access to government support.¹⁷ And they experience harmful impacts in their lives beyond the scope of the legal problem itself, including negative emotions, mental health problems, and financial consequences.¹⁸ The Covid-19 pandemic has exacerbated this profound crisis.¹⁹

Besides illuminating the scale and scope of the justice gap, studies that map and measure the civil justice gap provide two additional insights relevant to regulatory reform. First, the barriers facing Americans with legal needs are complex and multifaceted. Barriers include not just the high price of legal help, but also the fact that many Americans cannot or do not identify their problems as legal in the first place and, even when they do, cannot determine an appropriate course of action.²⁰ Second, the justice gap is not synonymous with indigence or poverty. Rather, studies repeatedly show that the gap extends up the economic ladder, impacting middle-income Americans, and small businesses.²¹

The causes of this justice gap are complex and interrelated. Culprits include inadequate funding for state civil justice systems, declining public investment in civil legal aid, the complexity and inaccessibility of court processes and procedures, a shrinking legal market serving Americans’

everyday legal needs, a widening wealth gap, a fraying social welfare system, and a growing housing crisis.²²

But mounting evidence suggests that something else is also to blame: the rules that have long governed the delivery of legal services, particularly Rule 5.4's bar on nonlawyer ownership and the prohibition on UPL.²³ Under Rule 5.4 and its state-level equivalents, only lawyers may own or manage legal practices, and lawyers and law firms may not tap forms of capital apart from their own profits or ordinary loans secured by those profits.²⁴ Nor can lawyers or law firms offer equity interests to other types of professionals, whether technologists or business specialists, in order to drive innovation. Similarly, UPL rules establish that only lawyers can practice law (with limited exceptions), sharply limiting the development of alternative forms of assistance, whether through nonlawyer providers or technology.²⁵ These laws operate as economic restrictions on the legal services market, limiting not only *who* or *what* may provide services, but also *how* those services may be financed and structured.²⁶ The central premise of regulatory reform is that the existing rules governing delivery of legal services create high and often insurmountable barriers around the supply of legal services, raising prices, stymieing innovation, and yielding a dysfunctional market that cannot optimally deliver legal services to those who need them.

B. Designing Regulatory Reform: Key Rule Choices

Any jurisdiction considering regulatory reform faces several core design choices.²⁷ At the outset, states must decide whether to pursue *entity regulation* via the authorization and regulation of entities or organizations, *role regulation*, such as paraprofessional licensure programs that authorize individual nonlawyer providers to practice law in defined legal areas, or some of both.²⁸ As noted previously, this Report focuses on entity regulation.

Even for states that pursue entity regulation, the hard choices do not stop there. Foremost among those choices is the *target* of reform and, in particular, which among the existing rules to relax: Rule 5.4, UPL, or both?²⁹ This choice raises vital questions about which rules have contributed most to the justice gap and whether rule reforms will spur innovation, lower prices, and increase access to qualified legal help or, instead, expose the public to unqualified or low-quality providers, further entrench existing inequalities, and compromise professional independence and judgment.³⁰ This sub-part summarizes the debate around each. In Part VI, we ask how other key design choices facing states that accept entity-based reforms might also shape innovation.

1. NONLAWYER OWNERSHIP AND INVESTMENT

Rule 5.4 forbids lawyers from sharing fees with nonlawyers and forming a partnership with a nonlawyer if any of the activities of the partnership constitute the practice of law. Reform advocates argue that the prohibition on nonlawyer investment and management prevents law firms from keeping pace with modern innovations in business, including the corporate form, and that more flexibility would benefit consumers.³¹ Professor Gillian Hadfield explains:

Although there are market imperfections that raise the price of law above competitive levels, the problem of access is primarily a problem of cost—meaning the total cost of identifying, securing and implementing legal help that raises the well-being of an ordinary person as he or she navigates the dense legal environment in which we all live. Under the existing business model—in which legal services for ordinary individuals are provided by solo and small firm practitioners operating in traditional law-office settings—these costs are simply too high.³²

Reducing the cost of law in a meaningful way and thus increasing access to legal services, Hadfield argues, requires changing “the form in which legal services are produced and delivered to the market.”³³ The traditional model is difficult to scale, lacks financial flexibility, and misses the fact that ordinary people’s legal needs might be broken down into component parts that need not be provided as a single, complete representation.³⁴ Non-traditional models—loosely defined as almost anything that is not the traditional lawyer-owned and managed legal practice partnership or professional corporation—could promote both accessibility and affordability by allowing for specialization and the unbundling of services into separate parts.³⁵ Providers with innovative structures may focus on different components of legal services—such as diagnosing needs, acquiring knowledge, or producing documents—at scale.³⁶

Advocates also argue that Rule 5.4’s ban on revenue-sharing and nonlawyer partnership negatively impacts the profession by isolating it from the funding and expertise necessary for innovation.³⁷ As Professor Deborah Rhode put it: “Prohibition of lay investment cuts legal organizations off from the sources of funds that fuel innovation elsewhere in the economy: angel investors, venture capital, private equity, and public capital markets.”³⁸ Law firms are left to rely on capital from their equity partners, who are increasingly likely to move between firms and lack a long-term commitment to any individual firm’s growth.³⁹ As a result, law firms have remained firmly in the twentieth century, even as numerous non-law industries, from finance to healthcare to consumer retail, have used innovative funding models to undergo a “digital transformation.”⁴⁰ Removing restrictions and allowing law firms to tap investment from private investors and even

the public marketplace could help spur innovation by helping firms spread risk among more shareholders, integrate legal and non-legal services, and pursue larger-scale capital projects.⁴¹

Critics of allowing nonlawyer ownership and investment counter that loosening legal services regulations will lead to conflicts of interest, excessive commercial influence over a firm's general management, and the degradation of the overall quality of legal services.⁴² In particular, critics express skepticism that opening the market will be able to remedy existing disparities in access, arguing that the benefits of novel ownership and management structures have been oversold as they relate to access to justice for poor and middle-income people.⁴³ Market-based innovation will, by definition, serve only those individuals who already have at least some ability to pay and have the capacity to see their problems as legal in the first place.⁴⁴ On this view, loosening rules around ownership will merely entrench and perhaps even exacerbate a “two-tiered” justice system, with cheaper and better services for middle-income consumers but little or no help for low-income individuals.⁴⁵ They advocate for more targeted reforms sitting outside the “competition paradigm” as the wiser course.

2. UNAUTHORIZED PRACTICE OF LAW

In addition to—or instead of—reforms that expand nonlawyer ownership and management, some experts advocate rethinking the *delivery* of services by amending the rules governing UPL. Though the precise formulation varies by state, the definition of “the practice of law” tends to be broad and vague, and it arguably encompasses swaths of activity that could be performed adequately by nonlawyer individuals or entities.⁴⁶

Proponents of less restrictive UPL rules argue that current standards prevent otherwise qualified providers from offering services that would benefit consumers.⁴⁷ As early as 1976, Deborah Rhode and Ralph Cavanagh wrote about UPL enforcement against a legal aid office's do-it-yourself (DIY) divorce guide, noting that, by preventing poor pro se litigants from obtaining legal information for themselves, UPL laws consigned individuals to pay exorbitant fees for relatively basic services.⁴⁸ In the decades since, reform advocates have continued to argue that UPL restrictions and the “lawyer's monopoly” create unnecessary barriers for poor people trying to access justice.⁴⁹ They also point to growing evidence that consumers *want* legal services provided by nonlawyers and that nonlawyers “can be competent and effective across a range of case types.”⁵⁰ Finally, UPL reform advocates note that nonlawyer individuals and entities are *already* playing a role in the provision of legal services, particularly in administrative adjudications and in the legal technology space.⁵¹ Nonlawyers have long been allowed to represent others, sometimes for compensation, in a variety of administrative tribunals, federal and state.⁵² And compa-

nies like LegalZoom and Rocket Lawyer and nonprofits like Upsolve provide unregulated legal document completion services to millions of people, but, because of UPL restrictions, are limited to offering generalized legal information and basic scrivener help.⁵³ UPL reforms, the argument goes, will permit better use of technology and nonlawyers to increase access to justice.⁵⁴

Critics of UPL reform tend to advance one of two arguments. First, critics argue that allowing nonlawyers to provide legal services will result in poor quality of services.⁵⁵ Second, critics once more advance an equality argument: UPL reform will, as with nonlawyer ownership, entrench a tiered system of legal services, where the rich have access to lawyers—the service providers with the most training and power—and the poor do not. On this view, regulatory reform is a failure of imagination and an abandonment of the goal of creating a justice system that ensures a “basic level of legal resources to which everyone is entitled.”⁵⁶ In a world where lawyers hoard legal resources and paraprofessionals and other qualified people can offer only limited and lesser services, low-income consumers may still be unable to access the justice of the rich.⁵⁷

C. The Current State of Reform

Intensifying concerns about a widening justice gap and a lack of competition within legal markets are leading many jurisdictions to initiate changes to their regulatory framework. The objectives and mechanisms of reforms differ across jurisdictions, but each effort is united by the goal of opening up the legal sector to new types of providers and new approaches to delivering services.

The most prominent early efforts to liberalize legal markets came on foreign shores. New South Wales, Australia’s most populous state, allowed limited multi-disciplinary practices as early as 1994. In 2001, the state permitted Incorporated Legal Practices (ILPs) in which lawyers could share revenue and practice alongside nonlawyers.⁵⁸ In 2015, New South Wales and Victoria implemented the Legal Profession Uniform Law which harmonized the regulatory framework across both jurisdictions while retaining local performance of regulation.⁵⁹ The two states together contain approximately three-quarters of Australia’s lawyers.⁶⁰ Australia’s reform approach imposes management objectives on authorized entities, specifying ten “objectives of sound legal practice,” including “competent work practices” and “effective, timely, and courteous communication.”⁶¹

In 2007, regulatory liberalization entered the mainstream when England and Wales, among the most influential legal markets in the world, embraced entity regulation.⁶² Following a comprehensive review of competition in the legal services market, Parliament enacted the Legal

Services Act, permitting nonlawyer ownership and investment in legal practices through the creation and regulation of ABS entities.⁶³ Reform was driven primarily by the goal of increasing competition in the legal services market.⁶⁴ Under the LSA, regulators oversee both ABS entities and individual authorized providers (e.g., solicitors).⁶⁵

Reforms in Australia and England and Wales have, in turn, helped catalyze a range of reform efforts in the United States. An initial set of reform efforts can be thought of as a species of UPL reform: the licensing of alternative legal roles (e.g., paraprofessionals, document preparers, or legal navigators) for a limited range of legal activities across certain areas of law (e.g., family law or consumer debt law).⁶⁶ The most significant development in this area was Washington's 2012 launch of a qualification and licensing scheme for independent legal paraprofessionals. The Washington Supreme Court closed the program 8 years later, in 2020, citing costs and low take-up.⁶⁷ Washington's unsuccessful effort has not deterred other states—among them Utah, Arizona, California, Minnesota, and Oregon—to consider similar reforms.⁶⁸ As noted previously, this Report does not directly address paraprofessional reforms, despite their significant promise and a rich debate about how best to structure and implement them.⁶⁹

More recently, U.S. jurisdictions have begun to consider entity-focused reforms. These reforms permit nonlawyer investment and ownership and /or nonlawyer provision of legal services through liberalization of Rule 5.4, UPL, or both. Utah and Arizona are both implementing entity regulation, but they have made different choices as to which rules are targeted.

Figure 1 captures two of the key design differences along dimensions using a 2x2 matrix. In August 2020, the Utah Supreme Court began permitting nonlawyer ownership and investment and nonlawyer practice within regulated entities.⁷⁰ In other words, the *target* of Utah's reforms was both Rule 5.4 and UPL—an approach we referred to previously as ABS+UPL. In addition, Utah chose to implement these rule reforms through a *lever* called a regulatory sandbox within which entities can propose innovations that require waivers of Rule 5.4, UPL, or both. In return, authorized entrants to the sandbox agree to various requirements, including ongoing disclosures and data reporting to facilitate ongoing oversight by a new regulatory body, the Utah Office of Legal Services Innovation, created and supervised by the Utah Supreme Court.⁷¹

Arizona adopted a different approach. In August 2020, Arizona repealed its Rule 5.4 equivalent outright and created a licensing regime for ABSs.⁷² In October, the adopted Section 7209 to the Arizona Code of Judicial Administration to regulate ABSs, and in January 2021 the Arizona Supreme Court began authorizing ABS entities to practice law.⁷³ As reflected in Figure 1, the target of Arizona's reforms was Rule 5.4—an approach we refer to hereafter as

“ABS-only.” As for the lever, Arizona implemented its reform through an outright change in the rule, rather than a sandbox mechanism. To that extent, Arizona’s entity-based reforms are more analogous to the reforms undertaken in England and Wales.

FIGURE 1: Approaches to Reform in Utah and Arizona



Other U.S. states are also exploring entity-based reforms. California has been studying possible reforms since 2018 through a series of working groups formed by the state bar.⁷⁴ Michigan, North Carolina, and Washington are considering entity-based reforms through working groups, commissions, and committees organized either by the state supreme court or the state bar.⁷⁵ Florida’s working group produced a limited recommendation which was rejected by the bar’s Board of Governors in 2021.⁷⁶

D. Key Questions

Facing a heated scholarly debate, increasing pressure to act, and a menu of design choices, policymakers considering regulatory reforms have repeatedly articulated two central questions:

- 1. What types of innovation in legal services delivery models will different reform approaches generate?** In particular, what kinds of businesses and providers will emerge to offer legal services in a liberalized market? What can we expect to see in terms of innovation? Do we see differences between reforms targeting business and capital structure (Rule 5.4), reforms targeting the service model (UPL), and reforms targeting both?
- 2. Who will be served by the new market entrants?** In particular, will these reforms promote access to legal services? Who will new market entrants serve, and at what rungs of the socio-economic ladder? Again, do we see any differences that relate to the choice of regulatory target?

Seeking answers to these questions, the remainder of this Report reviews existing evidence from England and Wales (Part II). Part III reviews our research design. Part IV uses case studies of new legal services providers in liberalizing jurisdictions to construct a novel taxonomy of innovation types. Part V presents a quantitative analysis of emerging innovations in Utah and Arizona.

II. Existing Evidence on the Impact of Regulatory Reform: England and Wales

To this point, most evidence on the effects of liberalization of legal services regulation has come from England and Wales.⁷⁷ However, U.K. legal markets differ in fundamental ways from U.S. legal markets, calling into question their applicability to rule reform efforts among U.S. states. This Part briefly summarizes the rule reforms pursued in England and Wales, reviews key findings from evaluations of that process, and then explains why these findings may not fully generalize to the U.S. context.

A. Rule Reform in England and Wales

As Part I briefly noted, in 2007, following an influential report advocating reform of legal services regulation to drive market competition, Parliament passed the Legal Services Act (“LSA”).⁷⁸ A major thrust of the LSA was to implement the regulation of legal service entities, dubbed ABSs, in which nonlawyers could participate as owners, investors, and managers and in which legal services could be furnished alongside nonlegal services.⁷⁹ The LSA imposes multiple requirements on ABSs, including: Authorized entities must have a legal compliance officer (“Head of Legal Practice”) and a financial compliance officer (“Head of Finance and Administration”), each independently approved by the regulator,⁸⁰ and nonlawyers with more than a 10 percent ownership share or who exerts significant influence over the ABS require special approval.⁸¹ In addition, both the ABS and all regulated providers (e.g., solicitors) who work within it must comply with all applicable conduct rules and unregulated participants in the entity must not interfere with that compliance.⁸² The first ABS was licensed in 2012. Today, there are more than 1,600 ABSs, approximately 10 percent of the regulated market.⁸³

B. Key Findings from the U.K.

A growing literature evaluates the impact of these reforms. From this literature, four findings stand out.

- **The majority of ABSs serve individual consumers and/or small businesses**—or what has become known as the “PeopleLaw” sector, in contrast to BigLaw’s corporate focus.⁸⁴ In 2021, the majority of ABSs were in probate, wills, and real estate conveyancing, areas that are overwhelmingly individual consumers.⁸⁵ The reforms have allowed existing consumer-facing firms to grow and have brought entirely new providers with consumer expertise into the market.⁸⁶

- **Reforms do not appear to have had a negative economic impact on the traditional U.K. legal market, but nor have they substantially increased competition as hoped.** The post-reform U.K. legal market remains strong and continues to grow.⁸⁷ Contrary to predictions that new authorized entities would crowd out traditional law firms or displace legal providers, most ABSs are existing law firms that have converted to a new ownership form.⁸⁸ Solos and small firms (up to 4 partners) remain 85 percent of all solicitors' firms in the U.K.⁸⁹ But alongside this reality is a more dispiriting finding: A 2020 study found that the reforms have had “a limited impact on the intensity of competition between providers and on sector outcomes,” with little evidence of a change in price dispersion since the implementation of price and service transparency measures.⁹⁰ A reason might be that the market, with multiple provider types and regulators, is simply too complicated for many consumers to understand.⁹¹
- **Reforms do not appear to have negatively impacted the quality of legal services.** Critics of the LSA alleged that the reforms would create conflicts of interest and lead to excessive commercial influence over legal judgment and degradation in the quality of legal services.⁹² None of these predictions appears to have come to pass.⁹³ Consumer satisfaction with legal services is high (84 percent) across the regulated sector.⁹⁴ Data from both the Solicitors Regulation Authority (SRA), the largest legal regulator, and the Office of the Legal Ombudsman—the separate entity created to investigate and resolve consumer complaints—suggest little or no difference across ABSs and conventional law firms.⁹⁵
- **The reforms appear to be promoting innovation.** Regulators and external researchers have concluded that, in general, ABSs are more innovative than traditional law firms, particularly in their use of technology and in their development of new legal services.⁹⁶ That said, the evidence is ambiguous as to whether and how that innovation is increasing access and/or benefiting consumers. In a 2018 survey, providers broadly reported that, while technological innovation increased the quality of their services, only one-third said that technology had reduced their costs.⁹⁷ In contrast, a 2020 market study by the Legal Services Board (LSB) reported that ABSs were more likely to offer fixed-fee, technologically-enabled, and low-cost services.⁹⁸
- **The impact of the reforms on access to justice for low-income people is unclear.** As noted, regulatory reform in England and Wales was driven primarily by the government's desire to increase competition in a historically insulated sector. Although promoting access to justice is a stated LSA objective, in implementation access to justice for low-income people appears to have been addressed as a likely consequence of increased price competition rather than a focal point of reform efforts.⁹⁹ Perhaps as a result, there exists little rigorous research exploring the impact of the reforms on access to justice among indigent and low-income persons. As noted

above, most ABSs are operating in areas such as probate, wills, and real estate conveyancing that, while consequential for middle-income people, are not impactful for people of more limited means. More generally, while data and methodological challenges, as well as the major changes to government funded legal aid discussed below, prevent meaningful comparisons of legal need before and after the 2007 reforms, the simple fact is that significant unmet legal needs persist even after a decade of implementation. A 2020 legal needs survey found that, of the 17,500 adults who had faced a legal issue in the past four years, two-thirds received help, mostly from professional providers, but fully one-third did not receive any help at all, and this was particularly so for members of historically disadvantaged groups.¹⁰⁰

C. Limitations of the UK Evidence as Applied to U.S. Legal Markets

Though providing some of the best available evidence on the likely effect of entity-based regulatory reforms, applying findings from England and Wales to the U.S. context is confounded by two significant differences in the legal markets on the two sides of the Atlantic.

First, the reforms in England and Wales were implemented against a very different baseline of regulation, confounding the inferences that can be drawn about the likely effect of similar reforms in the U.S. The legal market of England and Wales has always been less monolithic and restricted than in the U.S., incorporating not only multiple types of legal professionals (for instance, barristers and solicitors), but also a robust unregulated legal services market, comprised of professionals who have long been allowed to perform tasks that, in the U.S., must be provided by lawyers under UPL rules (e.g., providing legal advice or writing wills and trusts). Some estimate this large unregulated sector at 130,000 providers, meaning there are at least as many unregulated individuals operating in the legal market as there are solicitors.¹⁰¹ Because the England and Wales reforms went forward against a baseline of a large and diverse unregulated market of providers, it is hard to draw inferences about the likely innovation effect of similar reforms in the U.S., with its broad UPL restrictions.¹⁰²

The other complicating variable when attempting to apply evidence from the England and Wales reforms to the U.S. context is that the U.K. reforms proceeded alongside a major pull-back in government funding for legal aid. Almost simultaneous with the 2012 implementation of the LSA reforms, the government slashed funding to legal aid in civil cases and the number of solicitor firms providing civil legal aid. Government funding for legal aid fell 46 percent between 2010-11 and 2015-16,¹⁰³ sharply reducing the number of non-profit civil legal aid providers, including those serving clients in some of the most vulnerable areas.¹⁰⁴ While it is impossible to say with certainty what impact, positive or negative, the cuts had, this major change plainly clouds the inferences that can be drawn about the likely effect of reforms in the U.S. context.¹⁰⁵

III. Research Design and Methods

The above discussion makes clear that the Wales and England experience provides *some* evidence about the effects of rule reforms, but that any predictions based on that overseas evidence comes with significant qualifiers. Fortunately, new evidence is emerging from reform efforts in the U.S.—and that evidence, we suggest, is of greater utility.

In order to better understand what types of entities are emerging in newly liberalized legal markets in the U.S., a research team at the Rhode Center on the Legal Profession collected two types of data. First, the team conducted semi-structured interviews with 37 entities that have obtained authorization in liberalizing jurisdictions: 18 entities from the U.S., including 13 Utah entities and five Arizona entities, and 19 entities from England and Wales.¹⁰⁶ The resulting case studies of legal services providers inform Part IV’s taxonomy of emerging innovations.

Second, the research team cataloged and reviewed all application, authorization, and other publicly available materials on all entities authorized in Utah and Arizona as of June 30, 2022.¹⁰⁷ We coded these materials across a common set of features and metrics, including which innovation model from Part IV’s taxonomy an entity falls into, the entity’s capital and ownership structure, its percentage of nonlawyer ownership or investment, its area(s) of legal service, its target market(s), including whether the entity serves indigent populations, its articulated or required consumer protection mechanisms, and its articulated data protection policies. As of June 30, 2022, at the time the review was completed, a total of 57 entities had obtained authorization in the two states, including 19 in Arizona and 39 in Utah (with one entity authorized in both jurisdictions).¹⁰⁸

Finally, we obtained data and information about complaints directed at authorized entities in both Utah and Arizona. Utah’s Innovation Office, the regulator that presides over the sandbox, publishes complaint data on a monthly basis. In Arizona, we requested and received complaint statistics from the Arizona Supreme Court.

IV. Findings (I): A Taxonomy of Innovation Enabled by Regulatory Liberalization

This Part presents a taxonomy of innovations that are emerging in liberalizing jurisdictions. Put another way, our analysis shows what types of innovations are *possible* when rules are relaxed. It does so using case studies of legal services providers drawn from Utah, Arizona, and England and Wales.

Looking across authorized entities in these jurisdictions reveals a range of innovation approaches. As depicted in Figure 2, we identify and illustrate five stylized innovation types: (a) traditional law firms making changes to their capital or business structure or service model; (b) “law companies” practicing law; (c) “non-law companies” as new entrants to the legal sector; (d) intermediary platforms; and (e) entities using nonlawyers and technology to practice law.

FIGURE 2: A Taxonomy of Innovation in Liberalizing Jurisdictions

1	2	3	4
TRADITIONAL LAW FIRMS making changes Give non-lawyers equity ownership or take non-lawyer investment to expand	LAW COMPANIES practicing law Provide legal services with non-lawyer ownership (e.g., LegalZoom, Hello Divorce)	NON-LAW COMPANIES expanding into law New entrants: holistic “one-stop-shops” (e.g., law+accounting) and offshoot services (e.g., travel services → visas)	INTERMEDIARY PLATFORMS Marketplaces (connect consumers with lawyers)
5			
ENTITIES USING NON-LAWYERS AND TECH TO PRACTICE LAW New ways to provide legal services; may also have non-lawyer investors or owners			

These five categories capture innovation along two main dimensions: first, an authorized entity’s capital and business structure; and second, its service delivery model. The first four categories in the taxonomy distinguish authorized entities along the first dimension; they are primarily identified based on an entity’s ownership structure. The fifth category in the taxonomy distinguishes entities along the second dimension; it captures entities that are using an approach other than lawyers to deliver legal services. Note that, while the first four categories are mutually exclusive of one another, the fifth is not. Entities that fall into the fifth category may also fall into one of the other four.

CATEGORY 1: Traditional law firms

The first category captures traditional law firms that are taking advantage of the new regulatory

environment by altering their capital or business structure. This often takes the form of investment to expand and grow market presence or services or to hire, retain, and recognize nonlawyer employees. Some of the entities in this category are making modest changes to their ownership structure but otherwise changing little about the organization or service model. Other firms are proposing or making broader changes, particularly around the deployment of technology.

SUBCATEGORY: Law firms bringing nonlawyers into equity ownership

Rule 5.4's ban on nonlawyer ownership prevents law firms from partnering with nonlawyer contributors or incentivizing or rewarding nonlawyer employees through equity participation. A pair of authorized entities, both entrants in the Utah sandbox, exemplify some of the ways traditional law firms are leveraging rule reforms to tap new forms of expertise by bringing nonlawyers into equity ownership.

- **Davis & Sanchez** is a traditional law firm specializing in workers' compensation claims. The sole owner partner entered the Utah Sandbox because he was ready to retire and wanted to sell the firm to his nonlawyer son-in-law who had managed the firm's business for years. There are no plans to change anything else about the structure or practice of the firm.¹⁰⁹
- **Rocky Mountain Justice**, a plaintiff-side law firm in Utah, merged with a small radio marketing company in order to enhance its marketing capacity. Legal services are provided by the lawyers; nonlawyer partners assist with advertising and marketing.¹¹⁰

In both England and the U.S., firms are using the reforms to elevate nonlawyers to equity partnership in recognition of their contributions to the firm. For instance:

- **Blue Bee Bankruptcy**, a solo bankruptcy practice, was one of the first Utah sandbox entrants. The firm owner wished to give his longtime paralegal a ten percent equity interest in the firm in recognition of her contribution and as a retention incentive.¹¹¹
- **Anthony Gold Solicitors** is a traditionally organized British firm which became an ABS to offer equity partnership to nonlawyers, including a certified accountant and a trust administrator, who are providing services to the firm, not to the clients.¹¹² The firm wanted to give its nonlawyers stake in the business just as the lawyers have.¹¹³

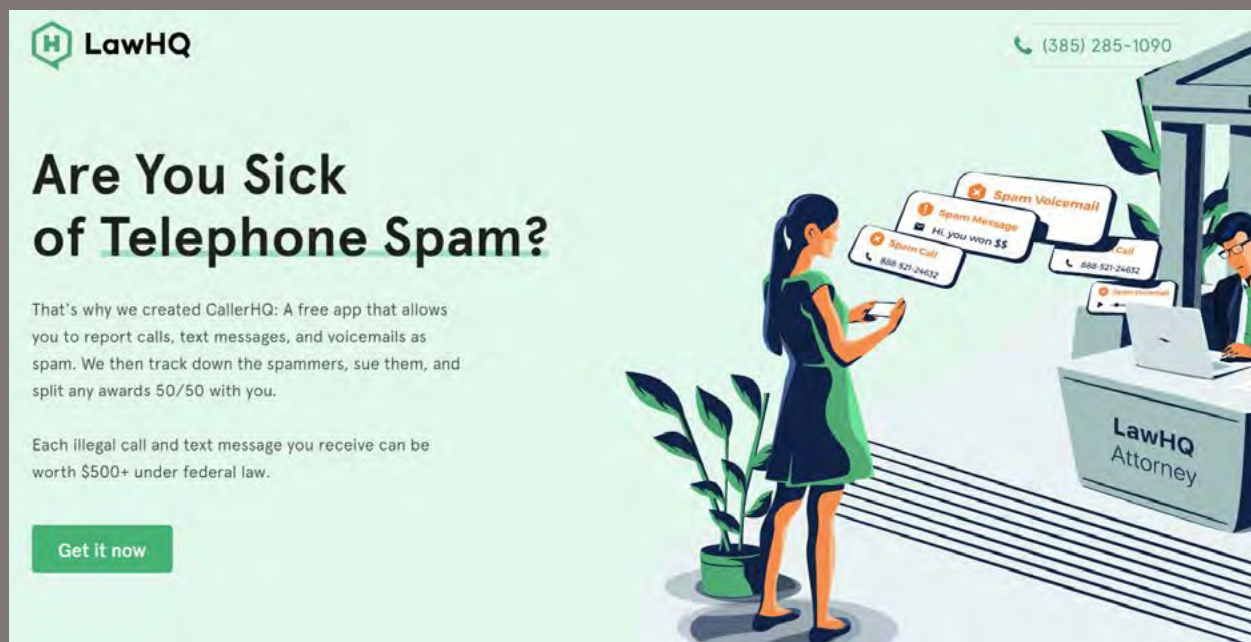
SUBCATEGORY: Law firms taking investment to drive expansion of services

The conventional ban on nonlawyer ownership blocks law firm access to capital markets (including venture capital and private equity financing). Outside the legal sector, these mechanisms

have allowed companies to tap capital to fund research and development, drive innovation, and disperse risk.¹¹⁴ With rule reforms, law firms are seizing opportunities to access these capital mechanisms to fund growth, even if the firms do not change much else about their actual provision of legal services. Two examples, one from Utah and one from Arizona, illustrate:

- **LawHQ** is a plaintiff-side firm that has entered the Utah sandbox in order to raise capital to develop an app to both plaintiffs and then collect evidence for litigation against telephone spammers.¹¹⁵ Through the proprietary app, consumers can identify themselves as having been victimized by spammers, opt in to litigation (subject to vetting and conflicts checks), and use the app to identify which calls are spam.¹¹⁶

FIGURE 3: LawHQ Homepage



- **Elias Mendoza Hill Law Group** is a newly formed law firm and Arizona ABS focused on immigration. The firm is taking on outside capital to develop a technology platform to streamline legal services and increase efficiency but is otherwise retaining a traditional law firm structure.¹¹⁷ In particular, the firm is developing software to perform initial client screening for eligibility for certain immigration programs (*e.g.*, Deferred Action for Childhood Arrival status).

Authorized entities in Utah and Arizona, such as LawHQ and Elias Mendoza, are smaller-scale versions of efforts by conventional law firms in England and Wales to use rule reforms to access capital and attract needed expertise. For example:

- **Stowe Family Law**, the U.K.’s largest family law firm, has a network of 10 offices across the U.K., including its flagship office in central London. Stowe was founded in 1982, but in 2017, it became an ABS and was acquired by Livingbridge, a mid-market private equity firm, for more than \$10 million.¹¹⁸ “Private equity brought some new members to our board, which allowed us to grow at a faster rate,” said Julian Hawkhead, a senior partner at Stowe. “The ability to be an ABS gives you access to a more skilled ownership and management team.”¹¹⁹ Stowe has since doubled its number of offices and gained 150 clients per month.¹²⁰ Access to capital also allowed Stowe to gain a larger market share through economies of scale (i.e., greater use of technology to economize on lawyers’ time).

CATEGORY 2: Law Companies Practicing Law

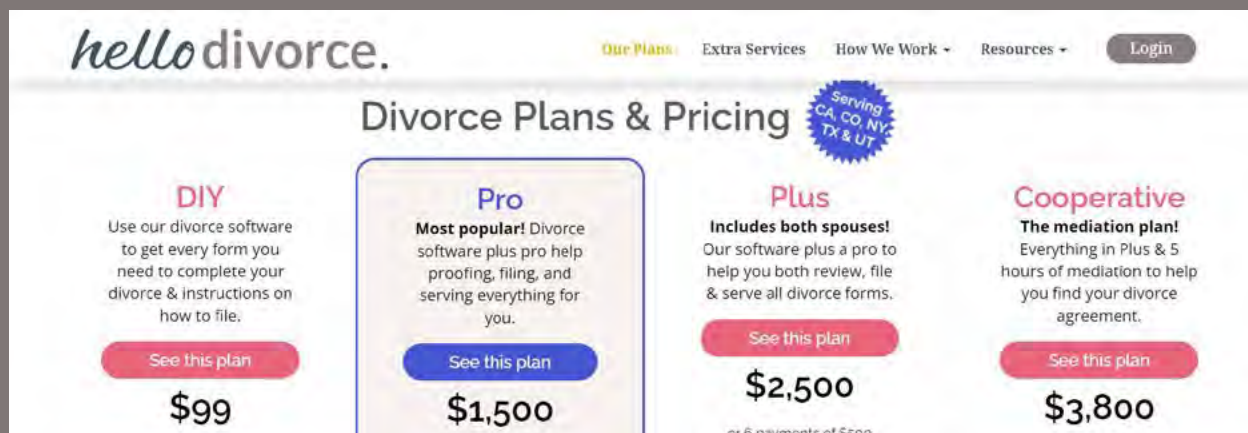
A second innovation category in liberalizing jurisdictions is “law companies” practicing law. Law companies are entities that provide legal services as their primary business but have previously been excluded from the sanctioned legal market because they are not owned solely by lawyers and/or are structured as a for-profit corporate entity.

The law company space has expanded significantly in recent years, with growth in both consumer-facing legal technology companies, such as Rocket Lawyer and LegalZoom, and corporate-facing ones, sometimes called “alternative legal service providers” in the legal trade press, such as Elevate and United Lex. Even before rule reforms, these companies had developed product and service models that avoided UPL restrictions by providing general legal information, document assembly and other scrivener services, and legal process management. With rule reforms, law companies of both the consumer- and corporate-facing variety are seeking to become authorized entities primarily to hire lawyers as employees and provide legal services directly in ways that would otherwise run afoul of UPL rules. In Utah, some law companies are also building out nonlawyer or technology-based tiers of service. Three law companies offer a portrait of the resulting innovation:

- **LegalZoom**, a publicly traded legal tech company that serves millions of consumers each year with basic legal information and form completion, gained ABS status in Arizona in 2021 and, before that, in England in 2015.¹²¹ With ABS status in both places, LegalZoom can hire lawyers directly to provide legal services.¹²² What distinguishes LegalZoom’s product from that of a traditional law firm is that consumers can choose the portions of the work they wish to complete themselves via the software platform and the portions for which they would like professional legal assistance.

- **Elevate Services**, an ABS in Arizona (as Elevate Next US, LLC) and England and Wales, is a corporate-facing law company that has historically provided a mix of services to businesses that do not necessarily constitute the practice of law under conventional UPL understandings: corporate entity formation, e-discovery, contract management, internal investigations, responses to subpoenas and law enforcement requests, and compliance counseling.¹²³ With rule reforms, Elevate can hire lawyers and provide end-to-end service to customers, including the practice of law. Steve Harmon, Chief Legal Officer of Elevate, explained that the company's primary value proposition is the integration of legal expertise with technology, process optimization, and data analytics.
- **Hello Divorce** is a California-based legal tech company that specializes in the simplification of dissolution of marriage. It is owned by a California divorce lawyer who wanted to reach more clients and realized they didn't all need her bespoke services. She created a software platform offering a tiered set of flat-fee packages, ranging from a DIY tier with easy-to-use forms and access to automated guidance and legal information to assistance and advice from human professionals at higher tiers. She sought and received financing from a variety of investors. In most states, including California, if consumers want to access higher service tiers and lawyer services, they must be referred out to the tech company's sister law firm. Hello Divorce, the tech company, cannot charge a flat fee for access to both the technology platform and lawyer assistance. Levine Family Law Group, the law firm, cannot raise external capital to fund the development of a tech platform and cannot use equity-based incentives for technical experts in order to compete with the non-law tech market. In the Utah sandbox, the entire business can be housed under one roof, giving consumers one-stop access to a mix of DIY tools and lawyers when and how they want them. According to its application materials, single-entity status increases efficiency and allows for more frictionless service for consumers.¹²⁴

FIGURE 4: HelloDivorce Legal Services Plan Menu



ENTITIES IN TRANSITION

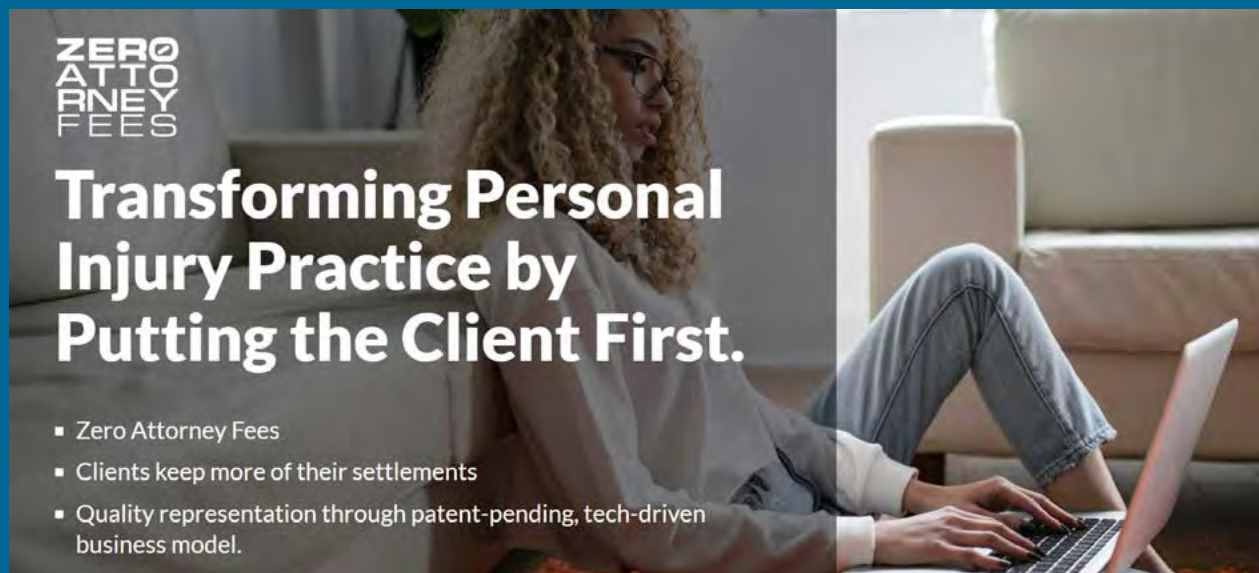
Nuttall, Brown → ZAF Legal

Law firm → Law company

Nuttall, Brown & Coutts d/b/a “ZAF” Legal is among the oldest personal injury firms in Utah and might have been thought an unlikely entrant to Utah’s sandbox. In fact, the firm’s leadership was initially opposed to rule reforms out of concern that

reforms would undermine their traditional model of providing bespoke, one-on-one legal services. After much discussion and debate, however, the firm unanimously voted to embrace the Utah reforms after examining data from the Insurance Research Council indicating that more than half of potential auto accident plaintiffs never get representation. In an effort to meet this latent demand, the firm has launched a new brand called ZAF (Zero Attorney Fees), built around a software tool, developed with investment from a venture capital firm, that is designed to serve personal injury plaintiffs.¹²⁵ Once implemented, the platform will help accident victims navigate the complicated insurance claims process, gauge what is fair settlement value in their particular case, and get as much or as little lawyer help as they want. As with HelloDivorce, the firm envisions tiers of service going forward. The software-based, DIY tier of service will be completely free—hence the “zero” in the ZAF trade name. Higher tiers of service will be made available for a fee. In addition, the ZAF platform will support a subscription service entitling subscribers to legal representation for a monthly fee, with the full recovery going to the injured person rather than a contingency fee.¹²⁶ Recognizing that this arrangement could present conflicts in certain cases—for instance, an accident involving an uninsured motorist or an accident with drivers from the same insurance company—the Utah sandbox conditioned approval on ZAF making clear disclosures at the point of sale. ZAF has also said it will refer cases presenting a conflict to another firm, covering any expenses. Tyler Brown, ZAF’s CEO, says: “I believe we can demonstrate that personal injury legal services need innovation and creativity at least as badly as other areas of law.”¹²⁷

FIGURE 5: ZAF (Zero Attorney Fees) Legal



ZERO ATTORNEY FEES

Transforming Personal Injury Practice by Putting the Client First.

- Zero Attorney Fees
- Clients keep more of their settlements
- Quality representation through patent-pending, tech-driven business model.

CATEGORY 3: Non-Law Companies as New Entrants to the Legal Sector

A third innovation category reflects companies or partnerships from the non-legal sector that are leveraging rule reforms to enter the legal market by employing or partnering with lawyers and offering legal services. There are two sub-categories here: (i) one-stop-shops for professional services; and (ii) non-law companies moving into legal.

SUBCATEGORY: One-stop-shops for professional services

One-stop-shops are partnerships between lawyers and other professionals that provide holistic or bundled services to consumers. To this point, the authorized entities in Utah and Arizona that fall into this category are most frequently, but not exclusively, small professional partnerships serving individual consumers or small businesses. Many of them are found in the areas of end-of-life planning or tax and accounting. For instance:

- **Arete Financial** is an Arizona ABS owned 50-50 between a lawyer and a tax and accounting specialist.¹²⁸ The joint venture uses an operating agreement to define the two partners' roles and responsibilities. Arete proposes to provide the full range of financial services for individuals and small- to mid-sized businesses. These services will initially include tax preparation and accounting services and also legal services in the area of trusts and estates, probate, and corporate transactions. Currently, Arete's sole lawyer handles all legal work along with a certified paralegal and support staff. Nonlawyers apply only their respective expertise—whether tax, accounting, or financial planning—and do not engage in legal work. In addition to capital contributions by both the co-founders, the entity is financed by Small Business Administration loans.

The Big Four accounting firms are key examples of one-stop-shop professional service firms moving into the legal market. Each of the firms has acquired an ABS license in England and Wales, but, though seemingly well-positioned to utilize rule reforms in the U.S. legal markets, none have sought authorization in either Utah or Arizona.

- **KPMG** became the first Big 4 accounting firm to become a licensed ABS in England in October 2014. Since then, the firm has focused on offering legal services to existing clients. Howard Shurkett, the deputy compliance officer, says the firm is prioritizing “organic growth” over aggressively moving into the traditional legal services market. This multidisciplinary approach means focusing on areas most useful to the firm's existing clients, such as tax, restructuring, and transactional work.¹²⁹ Bundling legal services with existing accounting and consulting services allows KPMG to more efficiently manage work streams and projects. It also allows KPMG to

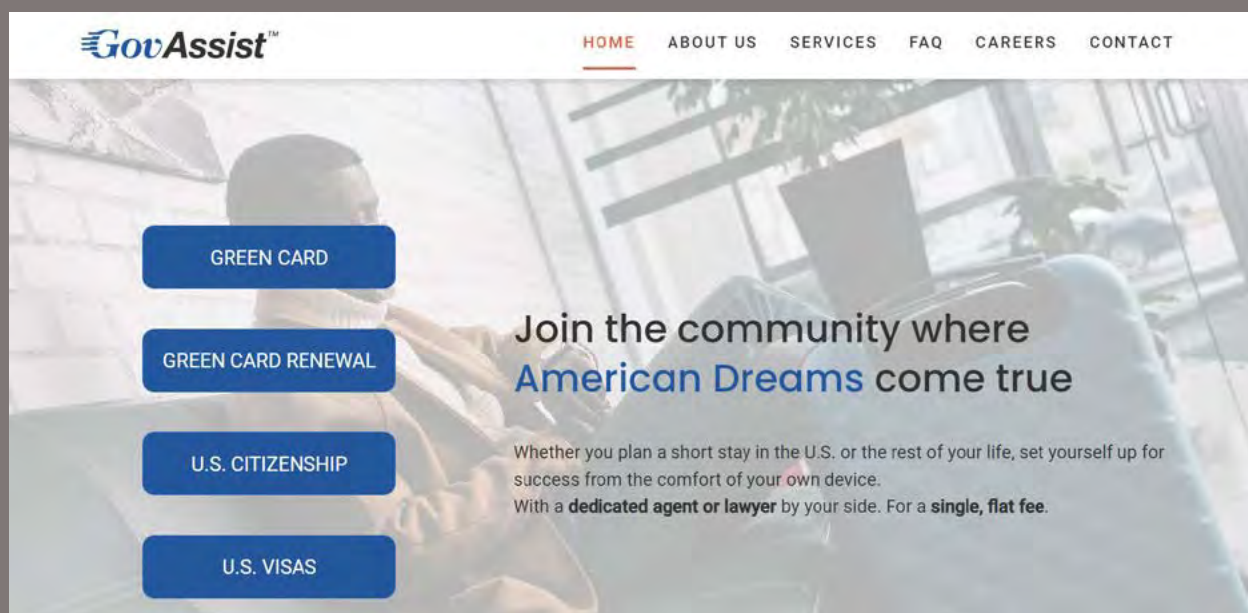
be more solution-oriented, as the firm can more easily tell how legal services fit into the client’s overall business portfolio. While KPMG does not see itself as a “disruptor” in the legal market, it does have plans to continue expanding its legal services within other limits imposed by law.¹³⁰ For instance, separate rules in the U.S. and U.K. beyond those contemplated by regulatory reforms prohibit providing legal services to audit clients, and the firm has a complex system for checking conflicts and ensuring auditors remain independent. When legal services are provided, safeguards are reportedly in place to ensure confidentiality and other legal requirements.

SUBCATEGORY: Non-law companies moving into legal

The other sub-category of non-law companies covers entities whose primary business sits outside the legal sector but have begun to offer legal services. A pair of authorized entities operating in the Utah sandbox illustrate:

- **GovAssist Legal** is the legal subsidiary of a travel services company that entered the Utah sandbox in order to provide legal advice and assistance, using Utah-licensed lawyers, regarding U.S. visa applications.¹³¹ The company seeks to bring comprehensive immigration support to small- and medium-sized businesses and lower- to middle-income individuals and families.

FIGURE 6: GovAssist Homepage



- **Law on Call** is the legal subsidiary of an established registered agent company authorized by the Utah sandbox to provide legal services to small businesses.¹³² Its target market is mom-and-pop businesses, small LLCs, small professional practices, and independent contractors. Law on Call offers its small business clients access to a team of licensed lawyers through a \$9 subscription fee. Consumers who want more in-depth legal services, in areas such as trademarks and contracts, can purchase additional low-cost services à la carte. Law on Call is also developing a low-cost tier of nonlawyer service providers.¹³³

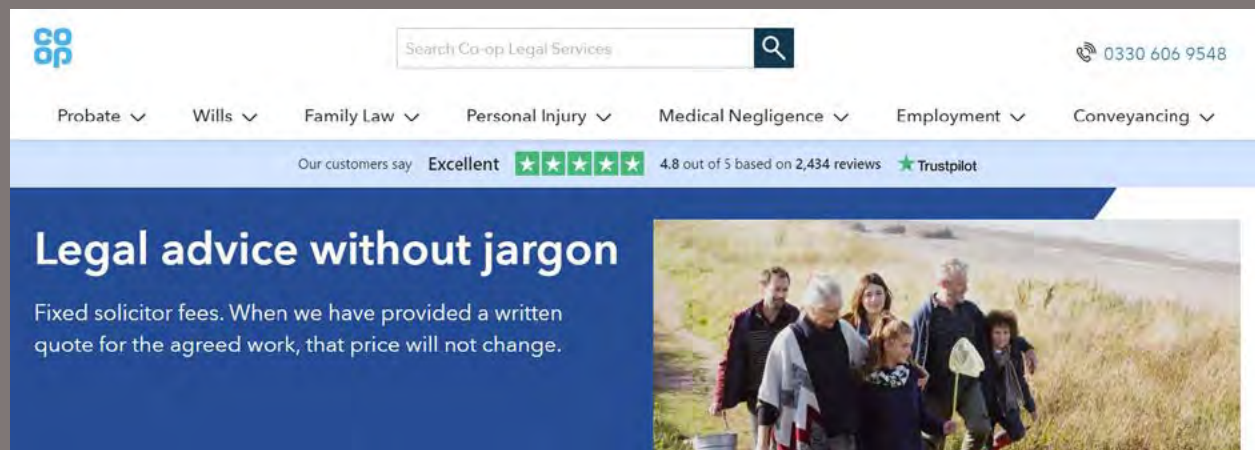
FIGURE 7: Law on Call Homepage



Non-law companies entering the legal sector are an especially robust presence among ABS entities in England and Wales. Examples include:

- **Co-Op Legal Services**, which moved quickly to become a licensed ABS after the 2007 Legal Service Act, is one of the largest consumer-facing law firms in England and Wales, specializing in bereavement law. It is owned by the Co-Op Group who also owns the U.K.'s top funeral services provider, its fifth biggest food retailer, and a major general insurer.¹³⁴ Since attaining ABS status in 2012, CLS has offered a wide range of legal services relating to family law, conveyancing, personal injury, medical negligence, and employment.¹³⁵ In 2018, the firm was named the national will-writing firm of the year.¹³⁶ Co-Op Legal Services reportedly suffered flagging revenues in the middle 2010s, but it showed increased growth during the first half of 2022.¹³⁷ “We have invested far more in digital advice, including technology that allows the customer to assess and understand what legal advice is best for their situation,” said Caoilíonn Hurley, managing director of life planning and legal at Co-Op Legal Services.¹³⁸

FIGURE 8: Co-Op Legal Services Homepage



- **Pathfinder Legal Services** is a law firm owned by four local governments in England.¹³⁹ Formed in 2015 to share the cost of in-house legal needs following budget cuts, Pathfinder offers small-scale legal services to more than 100 public and nonprofit entities. Pathfinder targets municipal- and even neighborhood-level services, including many areas familiar to lawyers who work within municipalities and counties: general litigation, special education, childcare (such as adoption and foster care), property planning, and commercial governance. Pathfinder also serves some larger development projects.¹⁴⁰

ENTITIES IN TRANSITION

MJ Hudson

Law firm → Law company → Non-Law company

MJ HUDSON, an English ABS, started as a traditional law firm serving private equity clients but has since aggressively diversified beyond legal services. The company now provides a

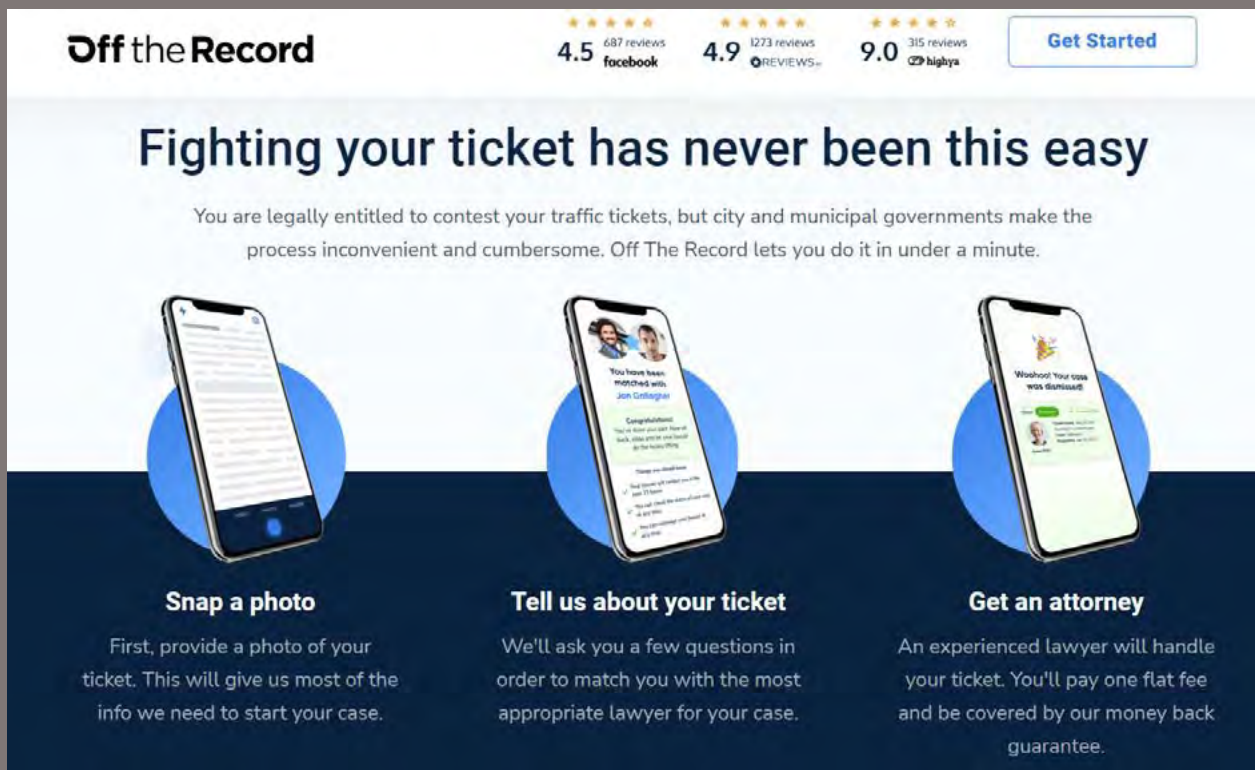
range of business services, including asset management, data analytics, and marketing, which have steadily taken precedence over legal work. MJ Hudson now views itself as a “toolkit” for managers and investors at its private equity clients. MJ Hudson might be most accurately described as an entity in transition, beginning as a traditional law firm, morphing into a law company, and now emerging as a non-law company with a small legal vertical. Once MJ Hudson became an ABS in 2014, it transformed itself, using its connections in private equity to acquire other service providers in the private equity space. In December 2019, MJ Hudson went public on the London stock exchange, raising nearly \$40 million in an IPO. Since then, it has continued to expand, bringing a half-dozen new businesses under the umbrella. “Law is just one tool in the toolkit,” said Guy Grayson, General Counsel.¹⁴¹

CATEGORY 4: Intermediary Platforms

Entities in the fourth category of innovation—intermediary platforms—serve two primary functions. First, they serve as a marketplace connecting consumers and lawyers. Second, they provide a legal practice support platform, allowing lawyers to access a suite of technological services, including secure communication, case management, and billing portals. Although intermediary platforms have ballooned in recent years in both the corporate- and consumer-facing sectors, they often face challenges from the organized bar for violating the fee-sharing ban.¹⁴² An authorized entity from the Utah sandbox is representative:

- **Off the Record** is an intermediary platform that connects consumers with traffic citations with lawyers. The platform also serves to facilitate the lawyer-client relationship and provides lawyers technological practice support. Off the Record entered the Utah Sandbox to share fees directly with lawyers and to seek a waiver of Rule 1.15, the rule requiring lawyers to hold client’s property, including fees paid up front, in a separate trust account.¹⁴³ With the waiver, Off the Record is able to offer a payment portal in which the client can deposit a fee, although the fee is not released to the lawyer until the client determines that the lawyer has performed satisfactorily.

FIGURE 9: Off the Record Home Page

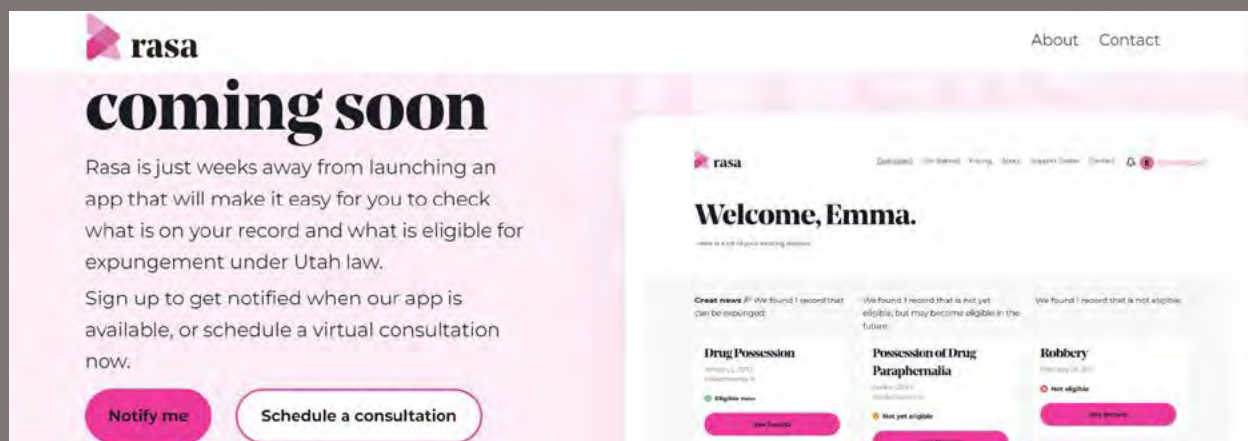


CATEGORY 5: Entities using nonlawyers and technology to practice law

The final category of innovation diverges from the other four in its focus on entities that are developing new methods to furnish legal services in ways that would otherwise run afoul of UPL rules. As noted previously, while the first four innovation categories are mutually exclusive, this fifth category of innovation is not: Entities falling into the fifth category may also fall into one of the other four. Moreover, note that, in the U.S. at least, this fifth type of innovation is only possible within the Utah sandbox, with its “ABS+UPL” approach, not in Arizona under its “ABS-only” approach.¹⁴⁴ This fifth category also contains the only nonprofits and public benefit corporations utilizing rule reforms, and the only entities that are primarily serving low-income consumers. We return to this observation in Part V, below. Four authorized entities, all entrants to the Utah sandbox, highlight some of the possibilities:

- **Rasa Legal** is a B-corporation using both AI-enabled software and nonlawyer providers to help Utahns determine whether they are eligible to expunge their criminal records and then execute the process.¹⁴⁵ Consumers can use the software, which draws on data from both the state court system and the Utah Bureau of Criminal Identification, to make an initial determination of eligibility and then receive aid from nonlawyers in completing and filing required forms. These nonlawyer providers—who are subject to training and qualification and ongoing oversight by a Utah lawyer serving as Rasa’s legal director—are also authorized to provide legal advice to consumers and negotiate with prosecutors as needed. The cost of an expungement through Rasa is generally around \$500—significantly cheaper than the \$2000 to \$3000 reportedly charged by a traditional lawyer. Noella Sudbury, Rasa’s founder and CEO, stated: “The Utah Sandbox has enabled me to build a company that can serve people when and how they need it. We—the tech, the staff, and the lawyers—help people clear their records for a low price and get back to building lives and careers and contributing to society.”¹⁴⁶

FIGURE 10: Rasa Legal Home Page



- **Timpanogos Legal Center (TLC)**, is a legal clinic affiliated with Brigham Young School of Law. TLC is overseeing lay advocates authorized to offer legal advice and assistance to survivors of domestic violence seeking protective orders and/or stalking injunctions.¹⁴⁷ Susan Griffith, the Executive Director of Timpanogos explained that the program taps existing domestic violence advocates from across the state: “The advocates were frustrated because they were already accompanying victims to court. In a rural area, for example, there might be one judge. The advocates knew exactly what was going to happen but they could not do anything because of the practice rules. They could not give legal advice and the victims, primarily because of their trauma, could not pick up on more subtle and nuanced suggestions.”¹⁴⁸ Now that the victim advocates are able to offer legal advice and help victims complete their forms, Griffith believes it is having a positive impact. She notes, “The first cohort has been handling cases since the beginning of June [2021]. They have good numbers, very few dismissals of applications [for protective orders or stalking injunctions].”¹⁴⁹

FIGURE 11: Timpanogos Legal Center: Certified Advocate Partners Program Page



- **Utah Legal Advocates** is an established family law solo practice in Utah which sought authorization to train law students and paralegal staff in the provision of limited legal services such as simple legal advice and form completion assistance for family law matters such as simple divorce and guardianship.¹⁵⁰ Under the model, consumers can choose to pay a lower price for services from these nonlawyer providers but, according to the authorization materials, the work of those providers will be regularly reviewed for quality by the qualified lawyer.

Such is the state of innovation across liberalizing jurisdictions: a mix of structural changes to ownership and capital sources and new service delivery models. The next Part asks how much of this innovation is emerging and where.

V. Findings (II): A Quantitative Study of Legal Services Innovation in Utah and Arizona

Part IV used case studies of authorized entities in Utah, Arizona, and England and Wales to construct a taxonomy of the types of innovation made possible by rule reforms. But a taxonomy does not capture an important issue of direct relevance to policymakers: the incidence of innovation. *How much* of each type of innovation is likely to result from rule reforms in U.S. legal markets? And how might innovation *vary* in response to different reform approaches?

Utah and Arizona, as noted previously, have pursued contrasting reform strategies. Though both are pursuing entity-based regulatory reforms, the two states differ in the specific rules targeted. Utah's reforms target both Rule 5.4 and UPL, an approach we previously dubbed ABS+UPL; Arizona has adopted an ABS-only approach.¹⁵¹ In addition, Utah adopted a sandbox approach as its reform lever; Arizona, by contrast, made an ex ante change to its nonlawyer ownership rules. A key question as states consider reforms is whether and how these differences matter.

This Part seeks a clearer understanding of the types and amounts of innovation that result from different approaches to regulatory reform. It seeks answers by way of a quantitative analysis of the application, authorization, and other public-facing materials for all 57 authorized entities in the two states—39 in Utah and 19 Arizona, with one entity authorized in both—as of June 30, 2022. The results presented here mark the beginning of an ongoing effort to review, code, and track authorized entities in liberalized U.S. jurisdictions. Updates incorporating newly authorized providers in Utah and Arizona, as well as entities in new jurisdictions adopting rule reforms, will appear in an interactive online tool.

While it may be too soon to draw ironclad inferences about the effects of different reform approaches—in Part VI, below, we address the limitations of this analysis—a quantitative portrait of the entities authorized in Utah and Arizona to this point strongly suggests that reform choices matter. While both states' reforms are spurring significant innovation, the contrasting reform approaches in Utah and Arizona appear to be generating very different types of innovation in terms of *how* legal services are delivered and *who* is served. In particular, because of Arizona's narrower, ABS-only approach, only Utah's reforms are yielding innovation in the use of nonlawyers and technology to deliver legal services. And, perhaps relatedly, only Utah is seeing innovation in the nonprofit and community-based sector and in the development of new delivery models that serve low- and middle-income populations (but see discussion of Arizona's role-based reforms in Part VI below).

FINDING #1: Rule reform in both states is spurring significant innovation in the ownership structure of legal services providers, and lawyers are playing a central role in that innovation.

Applying Part IV’s five-category taxonomy, Figure 12 offers an initial snapshot of the kinds of legal innovation that are emerging in Utah and Arizona.

FIGURE 12: Innovation Types in Utah and Arizona



Across both jurisdictions, 35 percent (20) of the 57 entities are organized and managed as **traditional law firms**. Falling within this category (and all three profiled in Part IV) are: Davis and Sanchez, which entered the Utah sandbox so its partner could sell the practice to a nonlawyer family member; Blue Bee Bankruptcy, a solo bankruptcy practitioner who entered the Utah sandbox to give a paralegal a 10 percent equity interest; and Elias Mendoza Hill Law Group, an immigration firm that sought ABS status in Arizona in order to take outside capital to develop tech services.¹⁵² Looking across the two reform states, Arizona’s ABS-only approach has yielded a larger proportion innovation by traditional law firms: In Arizona, 53 percent (10) of authorized entities are traditional law firms; in Utah, only 26 percent (10) are.

Another thirty-five percent (20) of authorized entities across both jurisdictions are **law companies practicing law**—described previously as entities with nonlawyer ownership or structured as a for-profit corporate entity but primarily offering law-related services. In Utah, 38 percent (15) of authorized entities are law companies, including Rocket Lawyer and Hello Divorce, among others. In Arizona, 26 percent (5) of authorized entities are law companies; they include several large and established companies, such as LegalZoom, Axiom, and Elevate. A smaller authorized law company in Arizona is Singular Law Group, a partnership between a lawyer and nonlawyer that sought authorization to provide low-cost, subscription-based legal services, flat-fee transactional legal services, and mediation services using an online platform.¹⁵³

Importantly, most of the law companies that have sought authorization in Utah and Arizona have done so in order to incorporate lawyers into the various tiers of services they

provide. Estate Guru and Jordanelle Block, both founded by nonlawyers, sought authorization to use software platforms to offer DIY tools for estate planning or real estate transactions, but both also give clients an option to speak to lawyers or trained nonlawyers if the client wants personalized assistance.¹⁵⁴ LawGeex, a well-established legal technology company specializes in contracts management, is authorized to employ lawyers to offer services in addition to those provided through its technology.¹⁵⁵ Crucially, the ability to employ lawyers to practice enables LawGeex to serve more small businesses and startups, because it is no longer limited to being a vendor to an in-house legal department. LawGeex can now serve small businesses with no in-house counsel on staff.¹⁵⁶ DSD Solutions is an entity seeking to stand up small “legal clinics” staffed primarily by nonlawyers using guided software tools to provide legal assistance in traditionally underserved areas. A centralized lawyer team would be on call as needed and able to assist remotely (via computer or telephone), as well as “ride circuit” to regularly visit the clinical locations to address more complex legal needs.¹⁵⁷

Relatedly, several of the Utah law companies, including LawGeex, Estate Guru, and Jordanelle Block, have sought authorization to develop new service delivery models built around software. In Utah, even traditional law firms, such as PI-specialist Nuttall Brown, are straddling the law firm and law company categories by developing delivery models built upon a tiered service approach that deploys a mix of lawyers, nonlawyers, and software at each level of service, from fully automated DIY services at the lowest tier to full lawyer representation at the highest. We provide more details on authorized entities providing legal services via nonlawyers and technology in connection with our analysis of entities falling into the fifth innovation category, **entities using nonlawyers and technology to practice law**, below.

Only eighteen percent (10) of entities across both jurisdictions are **non-law companies as new entrants to the legal sector**. As noted previously, these entities are companies whose primary business sits outside the legal sector but have sought authorization to offer “one-stop-shop” multidisciplinary professional services or begin to build a legal vertical. Eighteen percent (7) of Utah’s total authorized entities are non-law company new entrants and include several already-existing consumer-facing companies that have begun to develop a legal vertical. GovAssist, a travel company offering immigration-related legal services through a law firm subsidiary, and Law on Call, a registered-agent company offering subscription-fee legal services to small businesses—both profiled in Part IV—fall into this category. Trajector Legal is the legal subsidiary of a large disability benefits company, employing lawyers to help veterans access their government benefits.¹⁵⁸ In Arizona, twenty-one percent (4) of authorized entities fall into the non-law companies category, all of them of the “one-stop-shop” variety. Firms such as Radix Professional Services, KWP Estate Planning, and Trajan Estate (the one entity authorized in both

Utah and Arizona), are all partnerships between lawyers, financial planners, and usually accountants to offer a full range of financial, tax, and legal services.¹⁵⁹

Only three total entities, all in the Utah sandbox, fall into the fourth innovation category: **intermediary platforms** that serve as marketplaces connecting lawyers and consumers and/or provide practice support services to lawyers. Two of the intermediary platforms in the Utah sandbox—Off the Record, profiled in Part IV, and Xira Connect—also have waivers of Rule 1.15 allowing lawyers to use the company to hold and process payments from consumers.¹⁶⁰ While intermediary platforms could be authorized as ABSs in Arizona, ABS status is not necessary to take on ABS regulation because they can already share fees with lawyers directly outside of that framework.¹⁶¹

FINDING #2: Fully one-third of Utah authorized entities, but no Arizona entities, are using nonlawyers and/or technology to practice law within the meaning of UPL rules.

The fifth and final innovation category, entities using nonlawyers and technology to practice law, is open only to entities in the Utah sandbox, with its ABS+UPL approach. As reflected in Figure [X], thirty-three percent (13) of Utah entities fall into this category. Seventy-seven percent (10) of those are using nonlawyer service providers, typically as part of a lower-cost service tier. Forty-six percent (6) are developing technology that practice law via automated advice or guidance. Three entities, Rasa, Estate Guru, and Jordanelle Block, are developing both nonlawyer and technology practice services.

As discussed previously, many of the entities in this category are developing tiered service models that deploy nonlawyers, software, or both, from fully automated DIY services at the lowest price point, to nonlawyer assistance at a middle price point, to full lawyer representation at the highest price point. Consumers can thus “right source” their legal solution for their particular legal need, with some legal needs readily addressed through software platforms but others warranting human assistance. As examples, Estate Guru and Jordanelle Block are both developing software platforms that provide a mix of guided document completion and legal advice for end-of-life planning and real estate transactions.¹⁶² The software-based delivery models are being trained via the lawyer-provided services and the consumer interactions currently facilitated through the platform. Similarly, 1LAW, the subsidiary of a personal injury firm, is developing an AI-driven limited legal advice chatbot which is offered for free; other services are available according to a fee schedule.¹⁶³ Utah Legal Advocates, a traditional law firm described above, has adopted a similar model using only trained nonlawyers in its mostly family law practice.¹⁶⁴

The status of some of the software-based delivery models described in the application

and authorization materials on which this Report relies remains unclear. As Part III noted, those materials may capture innovations that are still under development and not yet deployed. And many technical challenges remain for fully automated software tools. Still, Utah entities such as HelloDivorce, LawGeex, Jordanelle Block, and 1LAW show the beginnings of what is possible in jurisdictions that include UPL as part of their reform approach.

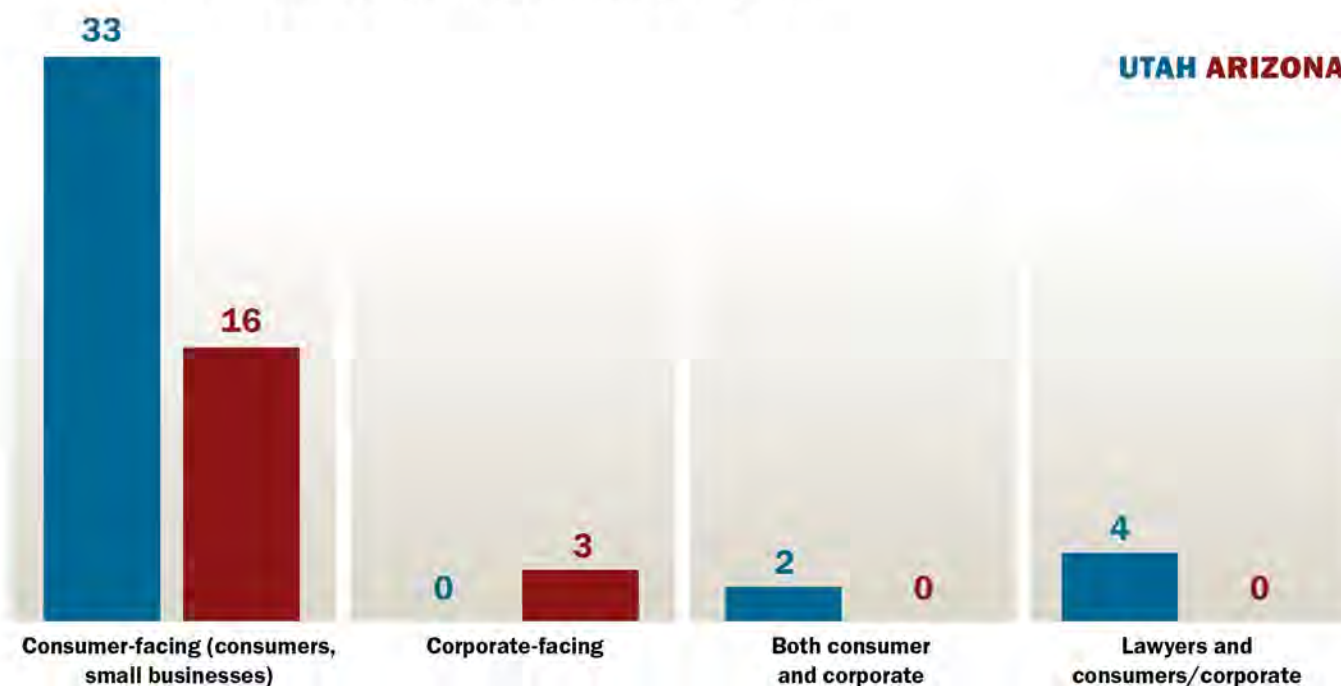
FINDING #3: The Utah Sandbox contains the only nonprofits and the only entities that sought authorization to primarily serve low-income people.

The Utah sandbox features the only authorized entities across the two reform states that are non-profits and whose service delivery models, using trained nonlawyers, are designed to primarily serve low-income people. Indeed, nonprofit organizations and B corporations together make up 10 percent (4) of entities in the Utah Sandbox and include Rasa and Timpanogos, as profiled in Part IV. The other two nonprofits are Holy Cross Ministries and AAA Fair Credit.¹⁶⁵ Each is a non-legal community organization working in partnership with Innovation for Justice (i4J), an interdisciplinary legal innovation lab jointly housed at the University of Utah and the University of Arizona.¹⁶⁶ Both authorized entities are developing a service model that trains and deploys Medical Debt Legal Advocates (MDLAs) to assist clients to resolve medical debt by providing free legal advice, assistance in completing documents, and negotiation.

FINDING #4: Most authorized entities in Arizona and Utah are serving consumers and small businesses.

As reflected in Figure 13, a large majority of legal service entities in Arizona and Utah—84 percent, or 48 entities—report providing services to consumers and/or small businesses. This percentage is similar across the two states. This finding appears to track the experience in England and Wales. Based on this evidence, rule reforms appear more likely to spur innovations that serve clients within the PeopleLaw sector, not the BigLaw sector.

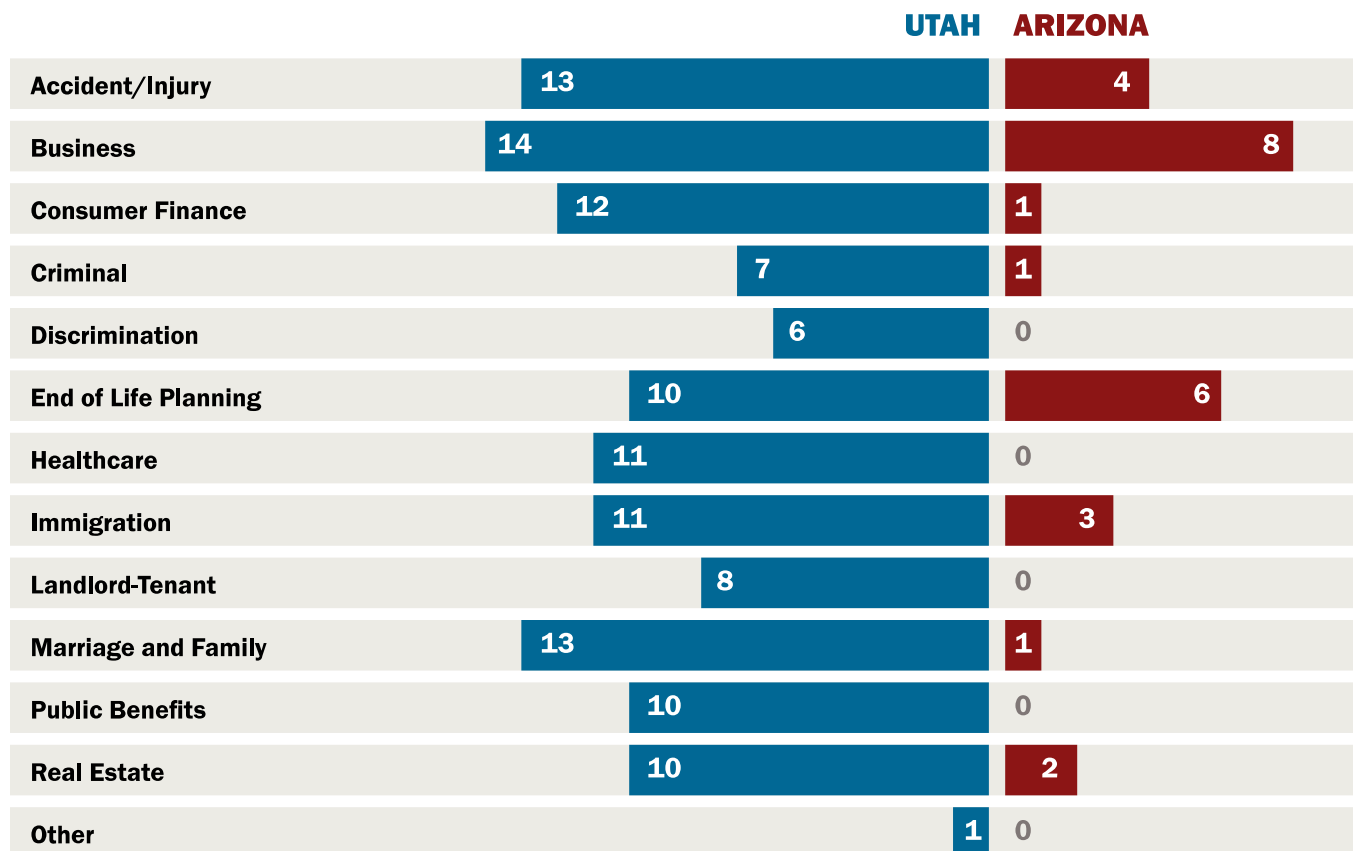
FIGURE 13: UT and AZ: Corporate- and Consumer-Facing Entities



FINDING #5: Authorized entities across both jurisdictions are offering services in a wide range of legal subject areas, but Utah’s reforms are yielding a greater diversity than Arizona’s.

As Figure 14 demonstrates, Utah sandbox entities and Arizona ABSs have sought authorization to offer services across a wide variety of substantive legal areas.¹⁶⁷

FIGURE 14: Comparison of legal service areas between Arizona and Utah

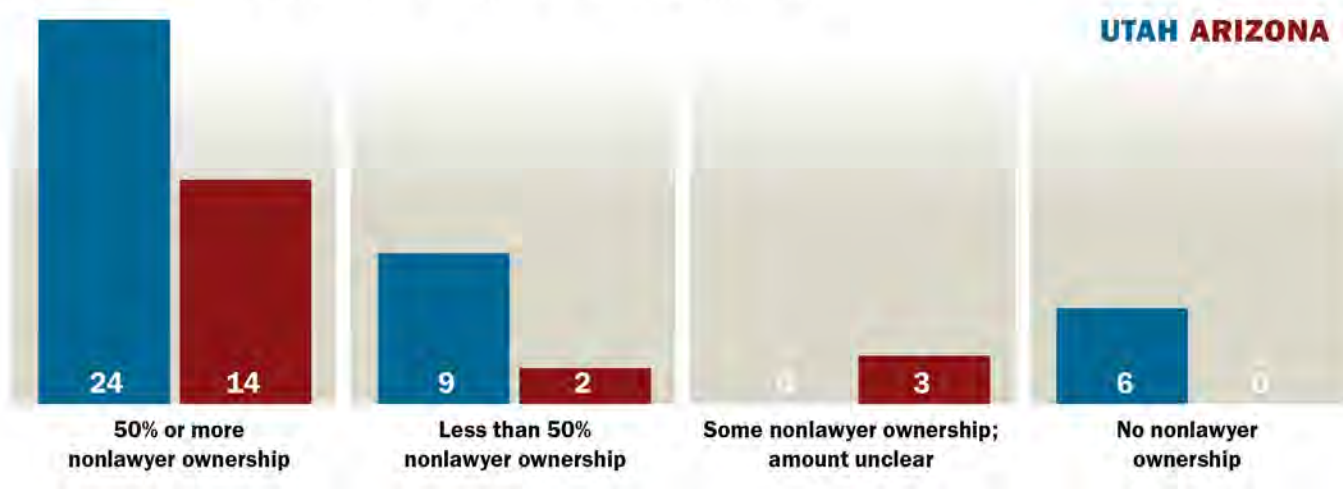


Thirty-eight percent (22) of authorized entities report offering legal services related to business needs, whether small or large businesses. Thirty percent (17) report offering accident/injury services, a category which includes personal injury, workers’ compensation, sexual abuse claims, and mass torts. End of life planning (26 percent (15), consumer financial issues (23 percent (13)), immigration (25 percent (14)), and marriage and family (25 percent (14)) are also significant service areas, followed by healthcare (19 percent (11)) and real estate (8 percent (12)). Note, however, that Utah sandbox entities exhibit significantly more dispersion across the full range of subject-matter areas.

FINDING #6: A large majority of entities across both jurisdictions sought authorization to take on nonlawyer ownership or investment, although their reasons for doing so vary.

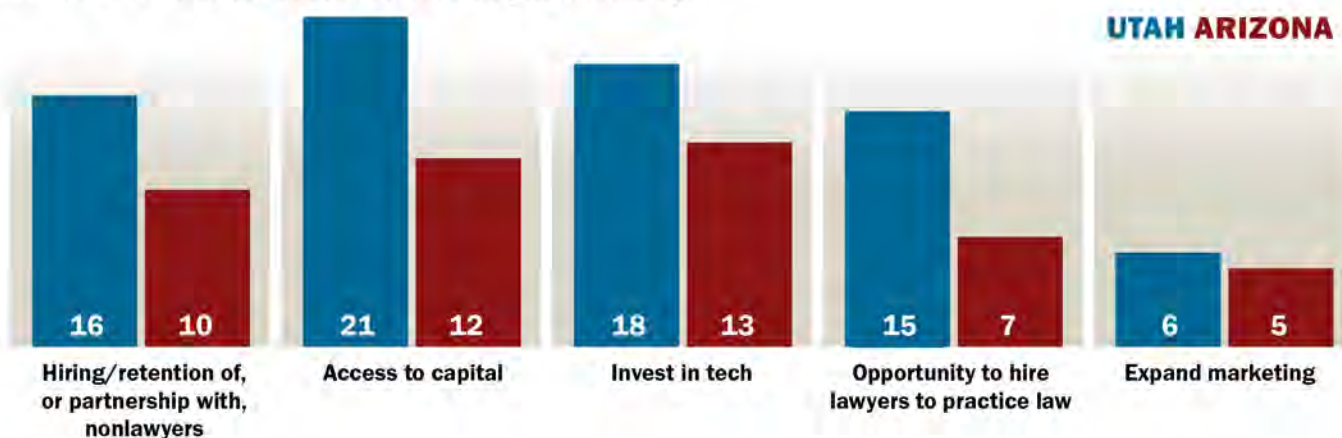
Figure 15 shows that most authorized entities across both jurisdictions—in total, 89 percent, or 51 out of 57—have taken on nonlawyer ownership, investment, or partnership of some kind.¹⁶⁸

FIGURE 15: Nonlawyer ownership, investment, and partnership



By definition, these 51 entities include all of the Arizona entities, because nonlawyer ownership and investment is the only innovation opportunity under the state’s ABS regime. Looking across the two reform states reveals a mix of ownership levels. Of the entities that sought authorization for nonlawyer ownership/investment, 73 percent (37) of entities that sought authorization for nonlawyer ownership/investment report 50 percent or more nonlawyer ownership, and 22 percent (11) report less than 50 percent nonlawyer ownership. For the remaining 6 percent (3), the percentage of nonlawyer ownership is unclear. Focusing on Utah only, 85 percent (33) of authorized entities report nonlawyer ownership or investment, with 73 percent (24) of those reporting 50 percent or more nonlawyer ownership/investment and 27 percent (9) reporting less than 50 percent. All told, 15 percent (6) of authorized Utah sandbox entities did not seek authorization to take on nonlawyer investment or ownership—and have instead sought authorization solely on the UPL side of the regime.

FIGURE 16: Stated reasons for nonlawyer ownership

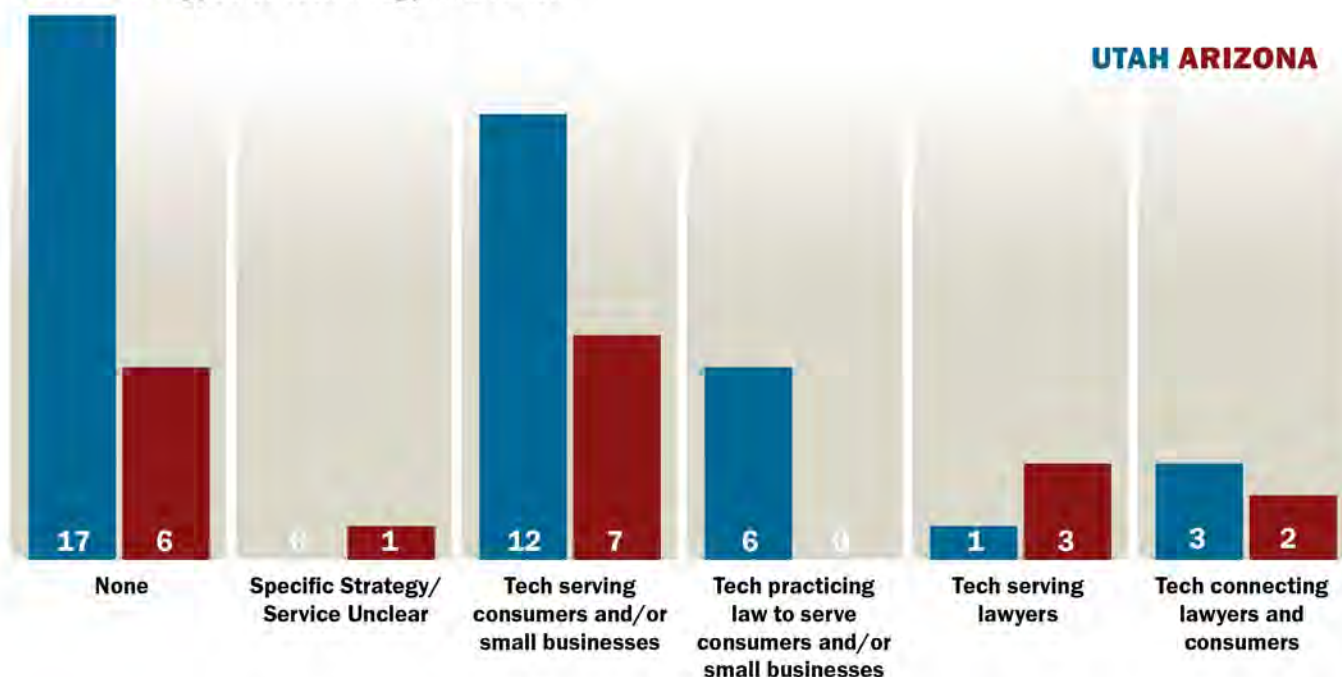


As reflected in Figure 16, entities in Utah and Arizona describe a range of reasons for seeking authorization to take on nonlawyer ownership and investment, including accessing additional capital, investing in technology or marketing, and hiring, retaining, or partnering with nonlawyers. Forty-three percent (22) identify employing lawyers as a primary reason.

FINDING #7: A majority of entities are developing some kind of technological innovation.

As Figure 17 shows, most authorized entities report use of technological innovation of some sort beyond a simple website. In total, sixty-one percent (35) of entities across the two reform states identified some kind of technological innovation as part of their ABS or sandbox authorization.¹⁶⁹

FIGURE 17: Types of technology innovation



More specifically, 54 percent (19) of the authorized entities across both jurisdictions that identified a tech innovation described a tool that is primarily public-facing and *not* practicing law within the conventional meaning of UPL. Primary examples include case management platforms accessible to consumers and platforms providing general legal information or DIY document assembly tools such as those offered by LegalZoom and Rocket Lawyer. Fourteen percent (5) of entities with a technological innovation seek to connect lawyers and consumers; this category includes, but is not limited to, those falling into the taxonomy's fourth category as **intermediary platforms**. Some entities may not primarily see themselves as an intermediary platform but are using software to build out intermediary functions. Eleven percent (4) of authorized entities identify a technological innovation primarily serving lawyers (*e.g.*, case management or billing tools). Seventeen percent (6) of technological innovations are software practicing law, a use that, as noted above in Finding #2, is only permitted in the Utah sandbox.

FINDING #8: A majority of entities across both jurisdictions feature other, non-tech innovations.

Authorized entities in both jurisdictions also feature other, non-technology innovations. These are primarily pricing innovations: Across the two reform states, 49 percent (28) of authorized entities identify subscription and flat-fee pricing as part of their service model. Law on Call, profiled in Part IV, reported a subscription-based model targeting small businesses. Mountain West Legal Protective, in the Utah sandbox, reported a legal insurance model focused initially on problems arising from the purchase of a home. Consumers can purchase the coverage as they would purchase a home warranty and would be covered for legal needs, including fraud in the seller's disclosures or related to the purchase contract.¹⁷⁰

FINDING #9: There are few reported complaints against service providers in Arizona or Utah.

A ninth and final finding moves away from this Part's analysis of application, authorization, and other public-facing materials and focuses instead on complaint information and data, as generated by the Arizona Supreme Court as overseer of the state's ABS scheme, and by Utah's Innovation Office, tasked by the Utah Supreme Court with overseeing the state's sandbox.

Both sources of complaint information show little overall complaint activity. According to the Arizona Supreme Court, there have been no reported complaints against ABS entities in Arizona.¹⁷¹ Utah, which systematically collects data on complaints as part of the reporting requirements imposed on authorized entities who enter the sandbox, a total of eleven complaints

reported as of the end of June 2022, approximately one for every 2,123 services delivered. Of those eleven, six were categorized by the regulator as relating to a potential harm caused by the provision of legal services, or one for every 3,892 services. The remaining five concerned other types of complaints—for instance, concerns about a provider’s tone or manner. The Innovation Office determined that each complaint was resolved satisfactorily by the entity.¹⁷²

No fully reliable data exist on complaints against lawyers that might provide a point of comparison with these complaint statistics from Utah and Arizona. A commonly cited source, the ABA’s 2018 Survey on Lawyer Discipline (S.O.L.D.), offers a plausible estimate: approximately one complaint for every 15 lawyers.¹⁷³ However, drawing comparisons using these data is still complicated by the fact that the Utah statistics report complaints per service delivered, while the S.O.L.D. statistics on lawyers report complaints per individual provider.¹⁷⁴ Needed is a way to convert per-provider numbers to per-service numbers or vice versa, a conversion that can be achieved in two steps.¹⁷⁵ First, one can derive a rough estimate of 215 services per lawyer per year from statistics on service delivery reported by the Legal Services Corporation (“LSC”).¹⁷⁶ Second, applying this number to the S.O.L.D. data implies approximately 1 complaint for every 2,150 lawyer-provided services. That complaint rate is not dissimilar from, and perhaps even higher than, the complaint rates reported by Utah and Arizona.

Further analysis along these lines as the Utah and Arizona reform efforts mature further should be performed. For now, available data suggest that the more dire predictions by reform opponents in both states, that reform would lead to widespread consumer harm have not come to pass.

VI. Study Caveats and Limits

This study offers a first-of-its-kind accounting of emerging legal innovations in Utah and Arizona. However, it is limited in at least four ways.

First, it is still early days for this brave new world of regulatory reform. The Utah and Arizona courts each authorized their reforms two years ago, in August 2020. The Utah sandbox admitted its first entities in September 2020. Arizona authorized its first ABS in January 2021. Our analysis, based in a comprehensive review of the application and authorization materials of authorized entities as well as in-depth interviews with a subset of those entities, captures takeaways from the early stages of these experiments, but may not reflect the long-run equilibrium. Research into innovation tells us that the timeline for truly disruptive innovation is much longer than two years.¹⁷⁷ Some of the innovations described in application and authorization materials are aspirational or remain under development.

Second, empirical findings from Utah and Arizona may not generalize to other states with differently situated legal markets. As already noted, regulatory reforms are under consideration in a wide range of states, from California to Michigan to North Carolina. Differences in wealth, industry, and demographics mean that these states' legal markets may differ, perhaps substantially, in their core attributes. Market size, revenue flows, and the amount and mix of practice types can make some types of innovation more attractive as business opportunities. As a concrete example, KPMG—a non-law company that is well-positioned to begin to offer legal services in liberal U.S. legal markets, as evidenced by its ABS status in England and Wales—might not see Utah and Arizona as sufficiently large legal markets to make a move into legal but might see California as an attractive opportunity. That said, it is also possible that, while legal markets might differ substantially across U.S. states in their upper and, in particular, corporate and business law precincts, states may be far more similar than different in their individual and small business markets, where access to justice concerns are most acute. Indeed, legal needs surveys and docket research from numerous jurisdictions tell a remarkably consistent story in terms of unmet legal need among ordinary Americans across a wide range of areas, from consumer debt and evictions to family law and estate planning.¹⁷⁸

Third, important parts of our analysis are both made possible, but also complicated, by the distinct reform approaches undertaken in Utah and Arizona. On the one hand, and as repeatedly noted above, Utah's reforms are more expansive as a matter of their target: Entrants to the Utah sandbox can seek waivers of Rule 5.4, UPL, or both rules. In contrast, authorized entities in Arizona can gain only a relaxation of Rule 5.4's prohibition on nonlawyer ownership. Utah's more expansive approach in terms of the rules targeted should, in theory, spur greater

innovation, and Arizona's narrower reform result in less. Consistent with those expectations, Part V showed that only Utah's reforms are generating innovation in the use of nonlawyers and technology to deliver legal services, and only Utah features authorized entities that are non-profits or that primarily serve low-income populations.

On the other hand, Arizona's reform approach might be thought more innovation-promoting than Utah's as a matter of its lever. Utah's sandbox was, from its inception, a time-limited pilot. Although the Utah Supreme Court has extended its authorization, it remains a finite reform by design.¹⁷⁹ In contrast, Arizona's relaxation of its Rule 5.4 equivalent is a permanent rule revision, unless and until changed by legislative or court action. In theory, Arizona's more permanent change should spur greater innovation than Utah's time-limited sandbox approach if entities seeking authorization see a material difference in the likely durability of the two reforms. An important implication is that the legal innovation that is emerging in Utah, which appears more multi-faceted and diverse than in Arizona, might be even *more* so if the sandbox reforms were framed as permanent regulatory changes.

Finally, our findings may be complicated by the two reform states' parallel pursuit of additional role-based reforms, including the implementation of paraprofessional reforms.¹⁸⁰ The presence of these reforms in Utah and Arizona at the same time that the states are pursuing entity-based regulatory reforms could, in theory, depress the number of entities serving low- and middle-income individuals. After all, paraprofessional reforms tend to target particular legal areas, such as landlord-tenant (evictions) or family law. Arizona, in particular, is exploring a variety of role-based reforms focused in these particular sectors, including a licensed legal advocate program for domestic violence survivors developed by i4J.¹⁸¹

VII. Conclusion

The access to justice problem in the U.S. is deep and costly, and a growing body of evidence suggests that the various rules that restrict the delivery of legal services are at least in part to blame. While a few countries, most notably England and Wales, have undertaken rule reforms, their legal systems differ in fundamental ways from the U.S. legal system, muddying the application of their experience to the U.S. context. Fortunately, reforms in Utah and Arizona are now far enough along that we can begin to draw more reliable inferences about the likely effects of rule reforms in U.S. legal markets. This Report has leveraged newly available evidence from both states in order to answer two questions that are critically important to state decisionmakers as they weigh reforms: What types of innovation in legal services will result from different reforms? And who will be served by those innovations?

The evidence gathered in this Report shows that rule reforms can spur significant innovation, both in the ownership structure of legal services providers and in the delivery models used to serve clients. Importantly, the innovation that is emerging in Utah and Arizona is hardly the sole province of nonlawyers or technologists. To the contrary, much of the legal innovation in evidence in both states involves lawyers, whether traditional law firms exploring new, tiered service delivery models, or companies building out legal verticals by hiring lawyers to practice within them. While ironclad predictions about the future remain unwise, the evidence thus far suggests that lawyers, far from being displaced by newly configured entities and new service delivery models, will instead face a host of new opportunities to extend their reach via a mix of conventional service delivery, nonlawyer assistance, and software that were not possible previously.

That said, and while the Utah and Arizona reforms are yielding substantial innovation, the evidence thus far suggests important differences in the results from the two states' contrasting reform approaches. Reforms permitting access to outside capital alone (ABS-only), while likely to result in increases in diversification and innovation within the market serving corporations, small businesses, and the middle class, may be less likely to yield providers that serve low income and indigent people. An ABS+UPL approach, in which regulated entities not only can access new sources of capital but can also develop service innovations that deploy nonlawyers and technology, is more likely to see nonprofit participation, more likely to spur creation of lower-cost service tiers, and more likely to impact the justice gap for low-income individuals, where access concerns are typically most acute. Other states considering regulatory reform should recognize that their regulatory choices will impact the outcomes of reform.

ENDNOTES

- 1 HAGUE INST. FOR INNOVATION OF LAW & THE INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA, 2021: LEGAL PROBLEMS IN DAILY LIFE 22, 69 (2021) [hereinafter *IAALS 2021*], available at: <https://iaals.du.edu/sites/default/files/documents/publications/justiceneeds-and-satisfaction-us.pdf>; AM. BAR ASS'N, LEGAL NEEDS AND CIVIL JUSTICE: A SURVEY OF AMERICANS 9 (1994), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/downloads/legalneedstudy.pdf. See *infra* note 14 for additional sources.
- 2 IAALS 2021, *supra* note 1, at 68-86.
- 3 NAT'L CTR. FOR STATE CTS., CIVIL JUSTICE INITIATIVE: THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS 31 (2015), https://www.ncsc.org/_data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf.
- 4 Rebecca L. Sandefur, *The Importance of Doing Nothing: Everyday Problems and Responses of Inaction*, in TRANSFORMING LIVES: LAW AND SOCIAL PROCESS 114-116 (Pascoe Pleasence et al. eds., 2007).
- 5 See Gillian K. Hadfield, *Legal Markets*, J. ECON. LIT. (forthcoming) [hereinafter "Legal Markets"] (arguing that "our existing legal markets are not performing well and that a central reason for their poor performance is almost exclusive reliance on self-regulation of the legal profession"). See *infra* note 23 for additional sources.
- 6 Lauren Sudeall, *The Overreach of Limits on "Legal Advice"*, 131 YALE L.J.F. 637, 640 (2022). See *infra* notes 43-47 and accompanying text.
- 7 See Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 HASTINGS L.J. 1191, 1193-94 (2016). See *infra* notes 33-34 and accompanying text.
- 8 *Id.*
- 9 Nuno Garoupa & Milan Markovic, *Deregulation and the Lawyers' Cartel*, U. PENN. J. INT'L L. (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3872974. See *infra* note 42-43 and accompanying text.
- 10 See Sam Skolnik, *ABA Sides Against Opening Law Firms to New Competition*, Bloomberg Law (Aug. 9, 2022, 11:37 AM; Updated: Aug. 9, 2022, 2:36 PM), <https://news.bloomberglaw.com/business-and-practice/aba-sides-against-opening-law-firms-up-to-new-competition>. See also STATE BAR CAL., TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVS. ("ATILS"), FINAL REPORT AND RECOMMENDATIONS 30 (2020), <https://www.calbar.ca.gov/Portals/0/documents/publicComment/ATILS-Final-Report.pdf> (describing public comments raising concerns about nonlawyer ownership's impact on lawyer independence and quality of legal services).
- 11 Washington State implemented such a program from 2012 to 2020. Several other states have since implemented paraprofessional licensing and numerous states are formally considering the idea. For more on the potential of paraprofessional licensing reform, see JASON SOLOMON & NOELLE SMITH, THE SURPRISING SUCCESS OF WASHINGTON STATE'S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM (2021), <https://www-cdn.law.stanford.edu/wp-content/uploads/2021/04/LLLT-White-Paper-Final-5-4-21.pdf>.
- 12 See *Licensed Paralegal Practitioner*, UTAH CTS., <https://www.utcourts.gov/legal/lpp/> (last visited Aug. 18, 2022); *Legal Paraprofessionals (LP): Questions & Answers*, ARIZ. JUD. BRANCH, <https://www.azcourts.gov/accesstolegalservices/Questions-and-Answers/lp> (last visited Aug. 18, 2022).
- 13 *WJP Rule of Law Index: United States*, WORLD JUSTICE PROJECT, <https://worldjusticeproject.org/rule-of-law-index/country/United%20States> (last visited July 26, 2022) (ranking the United States 126th out of 139 countries on whether people can access and afford civil justice). See also Deborah L. Rhode, *Access to Justice*, 69 FORDHAM L. REV. 1785 (2001); Deborah L. Rhode, *Access to Justice: Again, Still*, 73 FORDHAM L. REV. 1013 (2004).
- 14 LEGAL SERVS. CORP., 2022 JUSTICE GAP STUDY (2022), <https://justicegap.lsc.gov/resource/executive-summary/> (finding that low-income Americans do not get any or enough legal help for 92 percent of their substantial legal problems); IAALS 2021, *supra* note 1; REBECCA L. SANDEFUR, AM. BAR FOUND., ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY (2014). A 1994 study by the ABA found that approximately half of American households surveyed "faced some situation that raised a legal issue," with 47% of low-income households and 52% of middle-income households reporting at least one legal need. Of those households facing legal issues, 41% of low-income households and 42% of middle-income households were forced to deal with their problems without legal assistance, and an additional 38% of low-income households and 26% of middle-income households took no action at all. Only 29% of low-income households turned to the civil justice system to attempt to resolve their issues, and only 39% of middle-income households did so. AM. BAR ASS'N, *supra* note 1, at 9. See also STATE BAR CAL., THE CALIFORNIA JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF CALIFORNIANS 21 (2019) (finding that "Even when experiencing problems that have a significant impact on them, most do not receive legal help: 27 percent of low-income Californians received some legal help, while 34 percent of middle-income individuals did.").

- 15 NAT'L CENTER FOR STATE COURTS, *supra* note 3. This is in sharp contrast to just a couple of decades prior. The 1992 Civil Justice Survey of State Courts found that attorneys represented both plaintiffs and defendants in 95% of the cases disposed in general jurisdiction courts. *Id.*
- 16 LEGAL SERVS. CORP., 2022 JUSTICE GAP STUDY, *supra* note 14 (finding that low-income Americans do not get any or enough legal help for their substantial legal problems); AM. BAR ASS'N, REPORT OF THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES 14 (2016) (noting only 15% of people facing civil justice issues “sought formal help,” and only 16% “even considered consulting a lawyer”). See also Rebecca L. Sandefur, *What We Know and Need to Know About the Legal Needs of the Public*, 67 S.C. L. REV. 443, 448 (2016) (finding that people took just over a fifth, or 22%, of their civil justice situations to someone outside their immediate social network, and only some of those made it to lawyers: 8% involved contact with a lawyer and 8% had court involvement of some sort); Sandefur, *supra* note 4.
- 17 IAALS 2021, *supra* note 1, 68-86. See also Sandefur, *supra* note 16, at 444-445.
- 18 IAALS 2021, *supra* note 1, at 69.
- 19 LEGAL SERVICES CORP., 2022 JUSTICE GAP STUDY, *supra* note 14 (finding 33% of low-income Americans experienced at least one civil legal problem linked to the COVID-19 pandemic in the past year and that the types of civil legal problems related to COVID-19 were primarily income maintenance, education, and housing).
- 20 Sandefur, *supra* note 16, 448-449. See also LEGAL SERVS. CORP., 2022 JUSTICE GAP STUDY, *supra* note 14 (finding that among those surveyed as to why they did not seek legal assistance not being sure whether their problem is legal (20%) and not knowing where to look for help (22%) were more frequently cited than cost (14%)). See also Tyler Hubbard, Deno Himonas, Rebecca Sandefur, & James Sandman, *Getting to the Bottom of the Justice Gap*, 33 UTAH BAR J. 15 (2020) (noting that price is only one indicator of a dysfunctional market).
- 21 See *supra* note 14; LEGALSHIELD, THE LEGAL NEEDS OF SMALL BUSINESS: A RESEARCH STUDY CONDUCTED BY DECISION ANALYST (2013).
- 22 See generally Deborah L. Rhode, *Access to Justice: A Roadmap for Reform*, 41 FORDHAM URBAN L.J. 1229-40 (2014) (synthesizing causes of the justice gap). The Legal Services Corporation, the single largest funder of legal aid in American, received \$489 million from Congress for fiscal year 2022 after requesting more than \$1 billion. Funding for LSC has not increased significantly over 30 years. Brian Fitzpatrick & Mary Gay Scanlon, Opinion, *It's Time for Congress to Step up Funding for the Legal Services Corporation*, THE HILL (D.C.), Feb. 15, 2022, [https://thehill.com/blogs/congress-blog/politics/594244-](https://thehill.com/blogs/congress-blog/politics/594244-its-time-for-congress-to-step-up-funding-for-the-legal-services-corporation/)its-time-for-congress-to-step-up-funding-for-the-legal-services/. See also E.H. Geiger, *The Price of Progress: Estimating the Funding Needed to Close the Justice Gap*, 28 CARDOZO J. EQUAL RIGHTS & SOC. JUST. 33 (2021); WILLIAM D. HENDERSON, LEGAL MARKET LANDSCAPE REPORT 13 (2018) (noting the shrinking market for individual consumers and small businesses); Robert H. Frank, *How Rising Inequality Has Widened the Justice Gap*, N.Y. TIMES (Aug. 31, 2018), <https://www.nytimes.com/2018/08/31/business/rising-inequality-widened-justice-gap.html>; Jennifer Ludden, *Eviction Filings Are Up Sharply as Pandemic Rental Aid Starts to Run Out*, NAT'L PUB. RADIO (May 4, 2022), <https://www.npr.org/2022/05/04/1095559147/eviction-filings-are-up-sharply-as-pandemic-rental-aid-starts-to-run-out>.
- 23 See generally Andrew M. Perlman, *Towards the Law of Legal Services*, 37 CARDOZO L. REV. 49 (2015). For Rule 5.4 see: Legal Markets, *supra* note 5; Hadfield & Rhode, *supra* note 7. See also Gillian K. Hadfield, *The Cost of Law: Promoting Access to Justice through the (Un) Corporate Practice of Law*, 38 INT'L REV. L. & ECON. 43, 48 (2014) [hereinafter *Cost of Law*] (citing scholars who have made this point); Gillian K. Hadfield, *The Price of Law: How the Market for Lawyers Distorts the Justice System*, 98 MICH. L. REV. 953, 955-56 (2000) (Hadfield argues that the traditional regulatory structure, permitting lawyers only to offer services, has created a competition for scarce resources dominated by those with the most money—corporations and wealthy individuals. This scarcity drives up the cost of legal services because price is based on the value that the wealthiest consumers place on the services rather than the actual value of the services.). For UPL see: Sudeall, *supra* note 6; Laurel A. Rigertas, *The Legal Profession's Monopoly: Failing to Protect Consumers*, 82 FORDHAM L. REV. 2683 (2014) (finding that “restricting the practice of law to those who have completed a juris doctor has constrained the market options so that many consumers have no access to legal services at all”). See also Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 26 Stan. J. C.R. & C.L. 283 (2020).
- 24 See MODEL RULES OF PRO. CONDUCT r. 5.4 (2020).
- 25 Sudeall, *supra* note 6, at 640. The practice of law is, in general, defined broadly and includes a wide range of activities, including the provision of legal advice (itself defined broadly), preparation of legal documents, negotiation on behalf of another in a legal matter, etc. *Id.*
- 26 Hadfield, *Legal Markets*, *supra* note 5, at 12-14; Hadfield & Rhode, *supra* note 7; Hadfield, *Cost of Law*, *supra* note 23, at 46.
- 27 See THOMAS CLARKE & LUCY RICCA, A FRAMEWORK FOR DESIGNING AND IMPLEMENTING REGULATORY REFORM (July 2022), <https://law.stanford.edu/publications/designing-and-implementing-legal-regulation/>.

- 28 *Id.* Note that entity-based regulation can exist alongside role regulation—for instance, licensed doctors working within regulated hospitals, or licensed paraprofessionals working within a regulated law company. But entity-level regulation also enables provision of services by unregulated roles, including nonlawyers or software, *within* the regulated entity.
- 29 *Id.* There are other design choices as well. As already noted, a second key design choice is the reform lever: whether to change the rules outright or, instead, create a regulatory sandbox—a space within which entities can seek waivers of rules, subject to ongoing oversight by regulators. Still other choices must be made if a state creates a new regulatory body to preside over the authorization process or perform ongoing oversight. They include: how much to scrutinize authorized entities beyond their admission to the system, where to locate and how to structure a body that presides over admission to the system and/or exercises regulatory oversight, whether the unit of regulation is to be individuals, entities, or both, whether entities are to be subject to other existing rules of professional responsibility that govern lawyers (e.g., duties of confidentiality), and what standard of care applies to claims of harm.
- 30 Compare Elizabeth Chambliss, *Evidence-Based Lawyer Regulation*, 97 WASH. U. L. REV. 297 (2019). HENDERSON, *supra* note 22; Benjamin H. Barton, *The Lawyers' Monopoly: What Goes and What Stays?*, 82 FORDHAM L. REV. 3067 (2014) (concluding that the organized bar's refusal to rethink regulation will ultimately lead to deregulation of most services to the consumers' benefit); MODEL RULES OF PRO. CONDUCT r. 5.4 cmt. (AM. BAR ASS'N 2019) ("The provisions of this Rule express traditional limitations on sharing fees. These limitations are to protect the lawyer's professional independence of judgment.")
- 31 See Jayne Reardon, *How Reregulation Could Benefit Lawyers*, IAALS (Dec. 5, 2019), <https://iaals.du.edu/blog/how-reregulation-could-benefit-lawyers>; JASON SOLOMON, DEBORAH RHODE & ANNIE WANLESS, STAN. CTR. LEGAL PRO., *HOW REFORMING RULE 5.4 WOULD BENEFIT LAWYERS AND CONSUMERS, PROMOTE INNOVATION, AND INCREASE ACCESS TO JUSTICE* 4 (2020), https://www-cdn.law.stanford.edu/wp-content/uploads/2020/04/Rule_5.4_Whitepaper_-_Final.pdf.
- 32 Cost of Law, *supra* note 23 at 44 (citations omitted).
- 33 *Id.*
- 34 *Id.* at 53.
- 35 *Id.* at 52 (quoting RICHARD SUSSKIND, *THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL STUDIES* (2008)).
- 36 See generally Gillian Hadfield, *Legal Barriers to Innovation*, 31 REGUL. 14 (2008). But see Nick Robinson, *When Lawyers Don't Get All the Profits: Nonlawyer Ownership, Access, and Professionalism*, 29 GEO. J. LEGAL ETHICS 1, 47 (2016) (arguing that economies of scale increase possible conflicts of interest); SUSAN P. SHAPIRO, *TANGLED LOYALTIES: CONFLICTS OF INTEREST IN LEGAL PRACTICE* 5 (2002).
- 37 Hadfield & Rhode, *supra* note 7; SOLOMON, RHODE & WANLESS, *supra* note 31, at 3.
- 38 DEBORAH RHODE, *THE TROUBLE WITH LAWYERS* 100 (2015).
- 39 SOLOMON, RHODE & WANLESS, *supra* note 31, at 4.
- 40 *Id.* (citing Mark Cohen, *Law is Lagging Digital Transformation – Why it Matters*, FORBES (Dec. 20, 2018, 5:40 AM EST), <https://www.forbes.com/sites/markcohen1/2018/12/20/law-is-lagging-digital-transformation-why-it-matters/?sh=3eb4e2cc515c>).
- 41 *Id.*
- 42 See generally Robinson, *supra* note 36. See also DEP'T CONST. AFFS., *THE FUTURE OF LEGAL SERVICES: PUTTING CONSUMERS FIRST* 44-48 (2005), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/272192/6679.pdf. Particular concerns are raised around private equity participation in the legal industry, drawing support from analyses of industries in which private equity has had an outsized influence. See, e.g., EILEEN APPELBAUM & ROSEMARY BLATT, *PRIVATE EQUITY AT WORK: WHEN WALL STREET MANAGES MAIN STREET*, RUSSELL SAGE FOUND. (2014) ("When private equity firms take over companies, moral hazard problems often ensue because the general partners in these firms, in a position to make greater use of other people's money than their own, engage in high risk behaviors."). See also Heather Perlberg, *How Private Equity Is Ruining American Health Care*, BLOOMBERG (May 20, 2020, 2:00 am PDT), <https://www.bloomberg.com/news/features/2020-05-20/private-equity-is-ruining-health-care-covid-is-making-it-worse>; Bryce Covert, *The Demise of Toys 'R' Us Is a Warning*, THE ATLANTIC (July/Aug. 2018), <https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/>
- 43 See Robinson, *supra* note 36; Garoupa & Markovic, *supra* note 9.
- 44 Garoupa & Markovic, *supra* note 9.
- 45 *Id.* (concluding that "Deregulation alone is insufficient and may in fact exacerbate existing market failures.")
- 46 MODEL RULES OF PRO. CONDUCT r. 5.5 cmt. (AM. BAR ASS'N 2019) ("[L]imiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons."); Sudeall, *supra* note 6 (arguing for a narrower and more explicit definition of the practice of law).
- 47 Sudeall, *supra* note 6. See also David McGowan, *Two Ironies of UPL Laws*, 20 CHAPMAN L. REV. 225 (2017).

- 48 Ralph C. Cavanagh & Deborah L. Rhode, *The Unauthorized Practice of Law and Pro Se Divorce: An Empirical Analysis*, 86 YALE L.J. 104, 123-29 (1976).
- 49 Deborah L. Rhode and Lucy Buford Ricca, *Protecting the Profession or the Public?: Rethinking Unauthorized Practice Enforcement*, 82 FORDHAM L. REV. 2587 (2013).
- 50 Sandefur, *supra* note 23, at 286. See also Rebecca L. Sandefur & Thomas M. Clarke, *Designing the Competition: A Future of Roles Beyond Lawyers? The Case of the U.S.A.*, 67 HASTINGS L.J. 1467, 1469 (2016).
- 51 Perlman, *supra* note 23, at 87; Sandefur, *supra* note 23, at 288-290; Sandefur & Clarke, *supra* note 50, at 1471. Cf. Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 FORDHAM L. REV. 1315 (2021).
- 52 Multiple federal agencies permit nonlawyer representation, and the Federal Code grants them that authority. 5 U.S.C. § 555(b) (2018). For example, the Department of Justice (immigration), the Veterans Administration, and the Social Security Administration all permit nonlawyers, though each agency has its own framework for qualifying the nonlawyers appearing before it. See 8 C.F.R. § 1292.1 (immigration); 38 C.F.R. §§ 14.626-7 (veterans); 20 C.F.R. § 14.1705 (Social Security).
- 53 Brief for The NAACP & The NAACP New York State Conf. as Amici Curiae Supporting Plaintiffs, *Upsolve v. New York* (2022) (No. 1:22-cv-00627-PAC), at 5-13, https://uploads-ssl.webflow.com/60d147561d53665ec78fff-2c/62212d49422bf2759b404d7a_Upsolve%20%26%20Rev.%20Udo-Okon%20v.%20NY-%20Amicus%20Briefs%20Filed%20in%20SDNY%2C%20March%202022%20.pdf.
- 54 Perlman, *supra* note 23, at 87.
- 55 STATE BAR CAL., *supra* note 10, at 30.
- 56 FREDERICK WILMOT-SMITH, *EQUAL JUSTICE: FAIR LEGAL SYSTEMS IN AN UNFAIR WORLD* 9 (2019).
- 57 *Id.*
- 58 Steven Mark & Georgina Cowdroy, *Incorporated Legal Practices - A New Era in the Provision of Legal Services in the State of New South Wales*, 22 PENN ST. INT'L L. REV. 671, 673 (2004), <https://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1607&context=psilr>.
- 59 Legal Profession Uniform Law 2014 (NSW), pt 1.1 s 3 (Austl.), <https://legislation.nsw.gov.au/view/html/inforce/current/act-2014-16a#sec.3>.
- 60 *How Many Lawyers Are There in Australia?*, L. COUNCIL AUSTL., <https://www.lawcouncil.asn.au/resources/faqs/how-many-lawyers-are-there-in-australia> (last visited Aug. 18, 2022).
- 61 Mark & Cowdroy, *supra* note 58, at 690.
- 62 Other jurisdictions permit nonlawyer participation in legal practice entities in some form, including New Zealand and Singapore, which permit nonlawyer ownership of law firms; and several European countries where nonlawyer minority ownership is allowed up to a certain point, including Scotland (up to 49% nonlawyer ownership), Italy (33%), Spain (25%), and Denmark (10%). See generally Memorandum from the Am. Bar Ass'n Comm. on the Future of Legal Servs. to the Am. Bar Ass'ns et al. (Apr. 8, 2016), <https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/issues-paper-regarding-alternative-business-structures040816.pdf>.
- 63 See generally Legal Services Act 2007, c. 29 (UK), <http://www.legislation.gov.uk/ukpga/2007/29/contents>.
- 64 DAVID CLEMENTI, *REVIEW OF THE REGULATORY FRAMEWORK FOR LEGAL SERVICES IN ENGLAND AND WALES* (2004), http://www.avocatsparis.org/Presence_Internationale/droit_homme/PDF/Rapport_Clementi.pdf.
- 65 See generally Legal Services Act 2007, *supra* note 63.
- 66 SOLOMON & SMITH, *supra* note 11; THOMAS CLARKE & REBECCA L. SANDEFUR, *ROLES BEYOND LAWYERS: EVALUATION OF THE NEW YORK CITY COURT NAVIGATORS PROGRAM* (2017), <https://www.americanbarfoundation.org/research/summary/29>.
- 67 Lyle Moran, *How the Washington Supreme Court's LLLT Program Met Its Demise*, ABA J. (July 9, 2020, 1:46 PM CDT), <https://www.abajournal.com/web/article/how-washingtons-limited-license-legal-technician-program-met-its-demise>.
- 68 See *supra* note 12. See also State Bar Cal., Cal. Paraprofessional Prog. Working Group, <https://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/California-Paraprofessional-Program-Working-Group> (last visited Aug. 19, 2022); Sara Merken, *Minnesota Greenlights Plan to Open Some Legal Work to Nonlawyers*, Reuters (Sept. 30, 2020, 2:55 PM), <https://www.reuters.com/article/minnesota-paraprofessionals/minnesota-greenlights-plan-to-open-some-legal-work-to-non-lawyers-idUSL1N2GR2PM>; Karen Sloan, *Nonlawyer Licensing Movement Gains Steam With Oregon Approval*, Reuters (Jul. 10, 2022, 9:56 AM PDT), <https://www.reuters.com/legal/legalindustry/non-lawyer-licensing-movement-gains-steam-with-oregon-approval-2022-07-20/>.
- 69 SOLOMON & SMITH, *supra* note 11.
- 70 See Utah Sup. Ct. Standing Ord. No. 15 (Aug. 14, 2020), <https://utahinnovationoffice.org/wp-content/uploads/2021/07/Signed-Utah-Supreme-Court-Standing-Order-No.-15-Amended-June-3-2021.pdf>; UTAH WORK GRP. ON REGUL. REFORM, *NARROWING THE ACCESS-TO-JUSTICE GAP BY REIMAGINING REGULATION* (2019), <https://www.utahbar.org/wp-content/uploads/2019/08/FINAL-Task-Force-Report.pdf>; Lyle Moran, *Rocket Lawyer Is among the First*

- Applicants Approved to Join Utah's Regulatory Sandbox Program*, ABA J. (Sept. 8, 2020, 4:38 PM CDT), <https://www.abajournal.com/web/article/rocket-lawyer-given-approval-to-join-utahs-regulatory-sandbox-program>. Multiple Canadian provinces have also launched legal regulatory sandboxes with varying scopes: Alberta (<https://www.lawsociety.ab.ca/about-us/key-initiatives/innovationsandbox/>), British Columbia (<https://www.lawsociety.bc.ca/our-initiatives/innovation-sandbox/>), Ontario (<https://lso.ca/about-lso/access-to-innovation>)
- 71 *What We Do*, OFF. LEGAL SERVS. INNOVATION, <https://utahinnovationoffice.org/about/what-we-do/> (last visited July 26, 2022).
- 72 Order Amending the Ariz. Rules of the Sup. Ct. and the Ariz. Rules of Evid. (Aug. 27, 2020) [hereinafter Arizona Order 15], <https://www.azcourts.gov/Portals/215/Documents/082720FOrderR-20-0034LPABS.pdf>; ARIZ. TASK FORCE ON THE DELIVERY OF LEGAL SERVS., REP. AND RECOMMENDATIONS (Oct. 19, 2020). See also Lyle Moran, *Arizona Approves Nonlawyer Ownership, Nonlawyer Licenses in Access-to-Justice Reforms*, ABA J. (Aug. 28, 2020, 2:20 PM CDT), <https://www.abajournal.com/web/article/arizona-approves-alternative-business-structures-as-part-of-access-to-justice-reforms>.
- 73 Arizona Order 15, *supra* note 72.
- 74 STATE BAR CAL., CLOSING THE JUSTICE GAP WORKING GROUP, <https://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/Closing-the-Justice-Gap-Working-Group> (last visited Aug. 19, 2022); *Task Force on Access Through Innovation of Legal Servs.*, STATE BAR CAL., <https://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/Task-Force-on-Access-Through-Innovation-of-Legal-Services> (last visited Aug. 19, 2022).
- 75 *Justice for All*, MICH. CTS., <https://www.courts.michigan.gov/administration/special-initiatives/justice-for-all-commission/> (last visited Aug. 18, 2022); *North Carolina Equal Access to Justice Commission*, N.C. JUD. BRANCH, <https://www.nccourts.gov/commissions/north-carolina-equal-access-to-justice-commission> (last visited Aug. 18, 2022); WASH. CTS. PRAC. L. BD., BLUEPRINT FOR A LEGAL REGULATORY SANDBOX IN WASHINGTON STATE (2021), [https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/2021-06-21-blueprint-\(v7\)-sent-to-court.pdf](https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/2021-06-21-blueprint-(v7)-sent-to-court.pdf).
- 76 Dan Packel, *Florida Bar Board of Governors Says No to Fee Sharing, Nonlawyer Ownership*, AM. LAW. (Nov. 11, 2021), <https://www.law.com/americanlawyer/2021/11/11/florida-bar-board-of-governors-says-no-to-fee-sharing-nonlawyer-ownership/>.
- 77 England and Wales represent the largest and most studied liberalized legal market. Although often referred to as the United Kingdom in discussions around legal regulatory reform, only England and Wales were subject to the 2007 reforms. Scotland and Northern Ireland are separately regulated.
- 78 See generally Legal Services Act 2007, *supra* note 63.
- 79 *Id.* at §§ 71, 72, 89, pt. 5. In 2019, the Solicitors Regulation Authority, the largest legal regulator which has oversight over solicitors—the legal profession most similar to American lawyers, and entities employing them—implemented further reforms allowing individual solicitors to work for unregulated businesses. These reforms permit any company to hire individual solicitors to open an office in their store without having to register as an ABS. Though it is too early to discern the impact of this further reform, it will enable professional legal services to be provided alongside a wide range of other consumer services. Rocket Lawyer has taken this approach to its U.K. business rather than becoming an ABS. John Hyde, *SRA Says Solicitors Embracing Change as 400 Go Freelance*, L. SOC'Y GAZETTE (Dec. 16, 2021), <https://www.lawgazette.co.uk/news/sra-says-solicitors-embracing-change-as-400-go-freelance/5110960.article>.
- 80 Legal Services Act 2007, *supra* note 63, §§ 90 and 91.
- 81 *Id.* at § 89, sch. 13.
- 82 *Id.* at § 90.
- 83 *Market Structure Dashboard*, LEGAL SERVS. BD., <https://legalservicesboard.org.uk/market-structure-dashboard> (last visited July 26, 2022).
- 84 MARI SAKO & RICHARD PARNHAM, TECHNOLOGY AND INNOVATION IN LEGAL SERVICES: FINAL REPORT FOR THE SOLICITORS REGULATION AUTHORITY 7 (2021), <https://www.sra.org.uk/globalassets/documents/sra/research/full-report-technology-and-innovation-in-legal-services.pdf?version=4a1bfe> (referring to HENDERSON, *supra* note 22). See also BOS. CONSULTING GRP., THE EFFECTS OF DEREGULATING LEGAL SERVICES IN ENGLAND AND WALES 18 (2021), https://www.advokatforeningen.no/contentassets/1a52122e70894491a283a74441152fd8/the-effects-of-deregulating-legal-services-in-england-and-wales_vf.pdf.
- 85 SAKO & PARNHAM, *supra* note 84. ABSs are also concentrated in the litigation and dispute resolution sector, with an outsize presence in the personal injury arena. *Id.* See also CTR. FOR STRATEGY AND EVALUATION SERVS., IMPACT EVALUATION OF SRA'S REGULATORY REFORM PROGRAMME: A FINAL REPORT FOR THE SOLICITORS REGULATION AUTHORITY 5 (2018), <https://www.sra.org.uk/globalassets/documents/sra/research/abs-evaluation.pdf?version=4a1ac2>.
- 86 The ABS opportunity has also impacted the corporate legal sector, with each of the Big Four accounting firms have attained an ABS license, as well as multiple large law firms. BOS. CONSULTING GRP., *supra* note 84. At least six ABSs are publicly traded. CHRISTOPHER DECKER, REFORM

AND “MODERNISATION” OF LEGAL SERVICES IN ENGLAND AND WALES: MOTIVATIONS, IMPACTS, AND INSIGHTS FOR THE OECD PMR INDICATORS 13 (2021), <https://www.oecd.org/competition/reform/Reform-and-modernisation-of-20-legal-services-in-England-and-Wales.pdf>.

- 87 Between 2009 and 2019, the total number of entities in the U.K. legal services market rose by 15 percent. *Market Structure Dashboard*, *supra* note 83. Legal employment has followed a similar trend, with authorized legal providers increasing by some 27% over roughly the same period. *Id.*
- 88 CTR. FOR STRATEGY AND EVALUATION SERVS., *supra* note 85.
- 89 STEPHEN MAYSON, REFORMING LEGAL SERVICES: REGULATION BEYOND THE ECHO CHAMBERS 27 (2020) [hereinafter “MAYSON REPORT”], https://www.ucl.ac.uk/ethics-law/sites/ethics_law/files/irlsr_final_report_final_0.pdf.
- 90 LEGAL SERVS. BD., THE STATE OF THE LEGAL SERVICES MARKET 2020 NARRATIVE VOL. 15 (2020), https://legalservicesboard.org.uk/wp-content/uploads/2020/11/The-State-of-Legal-Services-Narrative-Volume_Final.pdf. See also MAYSON REPORT, *supra* note 89, at 37; COMPETITION AND MKT. AUTH., LEGAL SERVICES MARKET STUDY: FINAL REPORT 4 (2016), <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>.
- 91 MAYSON REPORT, *supra* note 89, at 33, 89.
- 92 DEP’T CONST. AFFS., *supra* note 42, at 44-48.
- 93 LEGAL SERVS. BD., *supra* note 90 (“[P]roblems that critics of the Legal Services Act had foreseen, such as lower standards and loss of the sector’s international standing, have not materialized.”).
- 94 LEGAL SERVICES BD., THE STATE OF THE LEGAL SERVICES MARKET 2020 EVIDENCE COMPENDIUM 64 (2020), <https://legalservicesboard.org.uk/wp-content/uploads/2020/11/The-State-of-Legal-Services-Evidence-Compendium-FINAL.pdf#64>. In particular, satisfaction with the quality of advice rose from 76% in 2012 to 82% in 2020. *Id.* A 2020 study found that people using unregulated providers were mostly likely to be dissatisfied with the service they received. YOUNG ET AL., LEGAL NEEDS OF INDIVIDUALS IN ENGLAND AND WALES 66 (2020), <https://www.lawsociety.org.uk/topics/research/legal-needs-of-individuals-in-england-and-wales-report>.
- 95 Zoom Interview with Jason Chapman, Legal Ombudsman, Legal Ombudsman Off. (U.K.) (Apr. 11, 2022) (on file with authors) (stating that ABS complaints are “virtually indistinguishable” from complaints about traditional providers). Specifically, the Solicitors Regulatory Authority found in a 2018 report that 32 percent of all reported allegations

against ABS firms fell into its highest severity level (“amber” or “red”) compared to 39 percent for all firms. Those figures increased to 57 percent for small ABSs compared to 49 percent of all small law firms regulated by the SRA. CTR. FOR STRATEGY AND EVALUATION SERVS., *supra* note 85, at 23 (concluding that available data on misconduct “does not suggest that ABSs pose greater risks to consumers”). The SRA triages complaints by the severity and urgency of the alleged misconduct. Complaints can receive one of three “traffic light” grades: green (least urgent), amber (more urgent), and red (most urgent). *Id.* See also DECKER, *supra* note 86. But see BOS. CONSULTING GRP, *supra* note 84, at 18 (concluding that it is unclear whether the reforms have resulted in increased quality of services).

- 96 STEPHEN ROPER ET AL., ENTERPRISE RSCH. CTR. & WARWICK BUS. SCH., INNOVATION IN LEGAL SERVICES: A REPORT FOR THE SOLICITORS REGULATION AUTHORITY AND THE LEGAL SERVICES BOARD 22 (2015), <https://www.sra.org.uk/globalassets/documents/sra/research/innovation-report.pdf?version=4a1aba>; SAKO & PARNHAM, *supra* note 84. Sako and Parham use the following definition of innovation: “significantly improving existing services or introducing new services, or making improvements to the delivery or marketing of [] services.” *Id.* at 14. They report the results of an online survey finding that ABS respondents are more than twice as likely to have introduced new services (31%) than non-ABSs (13%) in the prior 12 months and that ABSs (53%) are more likely to have introduced new technology than non-ABSs (33%). See also LEGAL SERVS. BD., TECHNOLOGY AND INNOVATION IN LEGAL SERVICES – MAIN REPORT 5 (2018), <https://legalservicesboard.org.uk/wp-content/media/Innovation-survey-2018-report-FINAL-2.pdf> (finding that ABSs are three times as likely to use technology as traditional firms, with over a quarter of providers reporting that they had introduced new or improved services in the previous three years). Studies find other features of ABSs that are indicative of innovation: greater employment of nonlawyers relative to lawyers, a larger proportion of job postings for nonlawyer technology skills, and higher pay for technologists. SAKO & PARNHAM, *supra* note 84, at 8.
- 97 LEGAL SERVS. BD., *supra* note 96, 43.
- 98 LEGAL SERVS. BD., *supra* note 94, at 58.
- 99 LEGAL SERVS. BD., EVALUATION: CHANGES IN THE LEGAL SERVICES MARKET 2006/07 – 2014/15—MAIN REPORT 14; 65 (2016), <https://legalservicesboard.org.uk/wp-content/media/2015-2016-FINAL-Market-Evaluation-Main-report11.pdf>. Critics have argued that this theory oversells the potential access impacts of changes to the business or capital organizational form of legal entities. Robinson, *supra* note 36; Garoupa & Markovic, *supra* note 9.