

**ATILS August 10, 2019 Public Hearing
Synopsis of Testimony**

**ATILS AGENDA ITEM A.4
11-06-19 MEETING
(carried over from 10-7-19 meeting)**

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1	Chandler, Cynthia Ca. Bar Member, Director, Bay Area Legal Incubator, teach a course Practice 99 at Berkeley Law School and Lawyer for prisoners.	No	O	<p>I have the unique experience of being a prison lawyer, coached, trained and mentored by non-lawyers who have permission to practice law. I have a deep regard for the capacity of non-lawyers to practice law. I think it is essential that we bring up the capacity of attorneys to work in our new economy and in partnership with technology companies....</p> <p>It is with deep regret that I say that I am also very deeply opposed to the regulatory suggestions that the Task Force has put forward. The reason is because I'm concerned that there's a lack of regulation provided. I think it's unrealistic to think that we live in a political environment that is regulatory friendly. At minimum, I think that the Task Force recommendation should be amended to include mention of systems for ensuring elimination of bias in artificial intelligence as it is developed particularly around criminal law, family law, and other arenas where we know that bias has erratically affected decision making in the legal sector. Similarly, the regulations must mandate that the technology be accessible to people with disabilities. That is a glaring omission. We can't disassemble our brick and mortar foundation of access to legal service and replace it with something's</p>	<p>The Task Force appreciates the comments offered by the speaker.</p> <p>Regarding bias, any proposals would necessarily be implement within the framework of federal and state civil rights statutes, and so would require compliance with those laws.</p> <p>Regarding accessibility to persons with disabilities, any proposals would necessarily be implemented within the framework of the ADA, and so would require compliance with those laws. [KEM: Note Domino's Pizza ADA web case before SCOTUS. Depending on decision there, might require new California legislation if Unruh Act does not already cover the situation]</p> <p>Regarding marketing, the Task Force contemplates that similar restrictions on false or misleading marketing will be in place.</p> <p>With respect to waivers of liability, the Task Force also contemplates that any nonlawyer entity would similarly be prohibited from prospectively limiting liability for the failure of their legal</p>

¹ S = Support Regulatory Option O = Oppose Regulatory Option SNP = Stated No Preference

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				<p>inaccessible. We also need to ensure that marketing ethics are the same for companies moving forward with technology as they currently are with lawyers today. We need to make sure that technology companies cannot waive liability in their terms of use the way that lawyers cannot just simply waive away their competency in a retainer agreement. Additionally, I'm concerned that the proposed regulations would in effect deregulate lawyer referral services, training new lawyers, like that. And we have to ensure that moving forward any technology company that's generating leads and doing referrals also has to have baseline regulations around competency. I think you should be mandated to add on some folks whose sole job really is consumer protection and whose sole job is about disability access and AI bias. And some additional voices that should come into this Task Force to reshape those recommendations before you do your next round. Perhaps the smallest, easiest thing your TaskForce could do would be to ensure that attorneys can get MCLE units for marketing training and to retrain them in technology so that our profession does not become obsolete and so that we can move forward and provide sources to more people who are currently disenfranchised.</p>	<p>services products.</p> <p>It has never been the intent of the Task Force that law referral services would be deregulated. It is contemplated that any technology company that serves as a match company would be regulated in a manner similar to lawyer referral services.</p>

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2	Baxter, Ralph Ca Bar Member,	No	S	<p>Recommendations that are particularly important to me. 2.1, 3.1 and 3.2. Our current legal system does not meet the needs of those who depend on it in a satisfactory way. We need to modernize and take advantage of new ideas, new processes new technology. The current legal system is not transparent – it is too slow and opaque. It's hard for even sophisticated people to understand. And it is too expensive. And most fundamental, 80 percent of low and moderate income people do not have access to legal service at all.</p> <p>The preliminary recommendations 2.1, 3.1 and 3.2 go in the right direction of liberalizing who can participate and who can invest and thereby how capital can be raised.</p> <p>I know there are concerns, and they're legitimate about risks to the public. Once we start changing the rules, expanding who can participate, then of course, there are some new issues to consider. But I have no doubt, I do not think this is really controversial that we can come up with regulatory or a regulatory scheme, who does the regulating, one of the rules to</p>	The Task Force appreciates the speaker's recognition that its preliminary proposals are headed in the right direction. The Task Force agrees that once a decision is made as to which proposals are to be pursued, an appropriate regulatory framework can be developed to ensure that the public is protected.

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				protect the public.	
3	Pearlman, Andrew Suffolk University Law School, Dean and Professor of Law, Prior Chief Reporter for ABA Commission on the future of legal services and Inaugural chair of the ABA Center For Innovation	No	S	In general, I strongly endorse your efforts and believe you are taking critical and necessary steps to improve access to legal services not only in California but I also believe through your example, the nation. You will continue to hear strong objections to your work suggesting that if your recommendations are adopted, the sky will fall. When you hear these objections, I strongly encourage you to ask for evidence that these harms will actually occur. And if you do, you will find more speculation than evidence. And that's because in reality, many countries around the world have already adopted precisely these sort of recommendations. There is no evidence that the public is at any greater risk from new forms of legal services delivery than traditional arrangements. You should also ask your objectors what their proposed solutions are to the access to justice crisis that we face in this country. And what you will hear are three traditional solutions: People will suggest we just need more pro bono work, we need increased funding for civil legal aid, or we need Civil Gideon rights. These are all terrific strategies, important strategies. But we all know they have been tried for decades, while the situation is growing more dire. We need	The Task Force appreciates the speaker's wealth of experience in assessing the various ways in which the delivery of legal services can be improved and thanks him for his support of its efforts to facilitate the delivery of affordable legal services. The Task Force also wants to note that it has been studying the experience of other jurisdictions in their pursuit of identifying beneficial changes to the delivery of legal services.

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				<p>new strategies. We need to unlock new forms of legal services delivery, both by lawyers and other kinds of legal professionals if we hope to address the problems that exist. In regard to Recommendation 1.0, the current definition in California is highly ambiguous and difficult to interpret especially in a rapidly changing world. The problem is this, an ambiguous definition has a substantial chilling effect on potential innovators. In my view to eliminate this ambiguity and spur innovation while still protecting the public. I encourage you to examine the approach in UK to the unauthorized practice of law. The UK says that anyone can practice law-related activities unless those activities are specifically reserved for authorized professionals. The burden, is on the profession to identify specific areas of legal services that only legal professionals should be permitted to perform -- Everything else is available to be offered by others. And the UK identifies six different reserved areas. No doubt this approach to the unauthorized practice of law has potential problems and risks. Your report identified the possible risks that delivery of some kinds of services will take place without adequate oversight. In the event such problems arise however, there is a solution. You can simply add new reserved activities to the list of otherwise</p>	

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				reserved activities or add additional regulations about who can provide those services and how they should be delivered. Citing the World Justice Project, which looked at 126 countries around the world and ranked them in order of their ability to provide affordable legal assistance to those in need. The United States ranked 99th out of those 126 countries. We have a very serious problem.	
4	Lubetzky, Richard Ca. Member, General Counsel to Ca. Association of Legal Document Assistants (CALIDA)	No	S	Over the years this statute (B&P 6400) has been in place, most or many of legal document assistants have forged working relationships with attorneys. So that when their customers do have a legal question that they are unable to answer, they can send them to an attorney often at a low-cost prearranged consultation to have their legal issue addressed. That's turned out to be a very effective relationship. Although, many more attorneys would probably like to be a part of that but are afraid of doing it because of concerns regarding aiding and abetting the unauthorized practice of law, or being accused of improper fee splitting.	The Task Force has been informed by its panel members and others who have studied and written on access to justice issues that UPL and attorney conduct rules, including the rule restricting fee sharing with nonlawyers, circumscribe and arguably constrain the current legal services market and the availability of affordable legal services. Its proposals have been developed in part to promote beneficial collaboration with nonlawyers that leads to efficiencies and innovation, with a corresponding increased access to legal services.
5	Dye, Dora Professor, Paralegal Program at City College of San Francisco	No	SNP	We are not here to support or oppose the proposals. In fact, we are very much in favor of providing access to justice to people who do not have such means. But we have no	The Task Force appreciates the willingness of paralegal education institutions to continue to educate and train nonlawyers who can

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**ATILS AGENDA ITEM F.
10-07-19 MEETING**

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				comments on 2.1, 2.2. We are here primarily to inform you that we provide education and training to non-lawyers, not necessarily to work on their own but to work in conjunction with lawyers. We want to offer and remind you that we exist as an educational component. Whatever scheme, you will need to train people and they will need continuing education. We have the facilities, programs, and faculty (consisting of lawyers, paralegals, judges). Every course that we design using technology, we test by having a person on our campus determine whether our technology and classrooms are accessible to persons with disabilities. We are also affordable.	beneficially collaborate with lawyers to foster efficiencies and innovation that can facilitate an increased access to justice.
6	Bruce, Dennis Ticket Clinic, Owner	No	O	I own a company called the Ticket Clinic. It's a consumer firm handling traffic related matters. And my main concern with this proposed change is very simple. We've handled countless cases in the past 35 years. And the biggest issue we've had relate to clients who come to us because they've ended up in the hands of a someone who wasn't a professional and did not have the expertise. And we had to fix the problem. There has to be some sort of teeth in the regulation for the non-lawyers. Every attorney who has worked for us realizes that as a law firm, we take care of our "clients" first and foremost. Some of	The Task Force appreciates the speaker's observation that effective regulation is necessary and continues to believe that such a regulatory framework is a prerequisite to implementation of its proposals.

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				the companies that market in my field, consider these individuals not clients but customers. There's a profit motive. Some of the new apps that are solely interested in the profit motive. They are not attorneys who have taken ethics courses, passed bar exams, and are concerned with their clients first.	
7	Demeola, Zachariah Ca. Bar member Manager at Institute for the Advancement of the American Legal System (IAALS)	Yes	S	We are a research entity that works with stakeholders and experts to develop practical solutions to tough problems. One of the problems that deeply concerns us is that the legal profession is not serving the needs of the vast majority of people with legal problems. In 2015, the National Center For State Courts found that 76% of all cases in state courts had at least one party who was self-represented. In family cases, that number increases upwards to 80 or 90 percent. And often, both parties lack assistance of an attorney. The problem reaches far up the income scale. It's not only poor that lack access to legal services. It's also the middle class and small businesses. And people are encountering a legal system that they are perceiving as being unfair and out of touch. In 2016, IAALS conducted its cases without counsel study, where we focused on the experiences of self-represented litigants in family court. And more than 85 percent of the people in that	The Task Force appreciates the speaker's insights. It has been informed by its members and others who have studied and written on access to justice issues that UPL and attorney conduct rules, including the rule restricting fee sharing with nonlawyers, circumscribe and arguably constrain the current legal services market and the availability of affordable legal services. Its proposals have been developed in part to promote beneficial collaboration with nonlawyers that leads to efficiencies and innovation, with a corresponding increased access to legal services.

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				<p>study wanted advice and representation, but they couldn't get the help they needed because the cost was too high for them, and they were unclear on where to find the right resources otherwise. Well, service providers are trying to help people with their legal problems. But under current rules and limited reception anyone other than a lawyer providing legal services would be engaging within unauthorized practice of law, even if those services were actually helping and not harming consumers. And current rules prohibit lawyers from sharing fees with others so people with novel and potentially groundbreaking solutions cannot partner directly with lawyers to develop new legal services. Innovators who would otherwise focus on how to meet consumer needs are spending dollars and energy trying to maneuver around being seen as offering legal services in the first place or just avoiding the market altogether.</p> <p>One such entity recently told IAALS it's expensive to operate in the gray. It severely cramps our capacity to innovate and serve the market. So without change, access to justice is in danger of becoming just a catch phrase that doesn't have much relevance to most Americans. But even so, specifically the ideas embodied in 1.1, 1.3, 2.0, 2.1, 2.2, and 3.2 are critical first steps to making legal</p>	

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				services affordable and accessible to the people who need them the most.	
8	Kilb, Linda Ca Bar Member Disability Rights Education and Defense Fund	Yes	SNP	We have deep ties to the California disability community and recognized expertise in both federal and California disability civil rights laws. To date, we have submitted seven public comments addressing issues of technology access for people w/disabilities. These comments speak to access within the California legal profession and the California court system. These submissions have provided extensive detail on disability access barriers and disability rights law mandates. They have also offered insights into the types of resources and expertise that are necessary to comply with these mandates. Given this history, we are extremely disappointed that there's no reference to the need to comply with disability related legal mandates and to avoid disability related barriers. There is no indication that: the Task Force members have legal or practical disability related expertise; that the Task Force has reached out to anyone with such expertise, and that the technology related platforms referenced in the reports have been vetted for compliance with the long standing web content accessibility. We urge you to proactively institutionalize protocols to ensure that these issues will be effectively addressed going forward. Significant and sustained expertise and	The Task Force appreciates the speaker's concerns. The Task Force believes that any proposals would necessarily be implemented within the framework of the ADA, and so would require compliance with those laws. Nevertheless, to the extent that the ADA might not require that the technologies envisioned to facilitate access to justice be compliant, the Task Force will include a recommendation to ensure that disability access is required. [KEM: Note Domino's Pizza ADA web case before SCOTUS. Depending on decision there, might require new California legislation if Unruh Act does not already cover the situation.]

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				resources will be needed to address these concerns: First, there is a need for explicit references to disability rights and disability access. Second, statement or participation alone is insufficient to address disability access. Third, innovation, experimentation must not compromise fundamental disability access mandates. Fourth, budgetary concerns must not drive migration to inaccessible technologies. Fifth, widely available technologies and use of practices must be independently evaluated for disability access. Finally, the absence of disability references in the report causes us to wonder if other types of relevant expertise are also missing.	
9	Lachman, Art APRL Future of Lawyering Committee Wa. Bar member, Former present of Association of Professional Responsibility Lawyers (APRL)	Yes	S	<p>I am speaking today on behalf of the Association of Professional Responsibility Lawyers ("APRL") Future of Lawyering Committee, on which I co-chair. The APRL committee's work is in the process of working through the same issues your Task Force is also looking into. Anything our committee comes up with would have to be approved by the APRL board. We applaud the California effort for bringing these issues forward, and recognizing reform is needed now to fill the wide gap in the consumer need for legal services.</p> <p>We especially like from your current memo: including non-lawyers in the process, which</p>	The Task Force thanks the speaker for his supportive statements on behalf of APRL and appreciates the offer of assistance in developing its proposals.

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				<p>is crucial, recognizing the importance of innovation and role of technology in our world, recognizing the need to develop data and implementing regulatory reform. And considering both the APRL proposal and the more modest ABA proposal on the advertising and solicitation rules.</p> <p>I'd like to share with the Task Force some thoughts and suggestions based on our experience with the APRL effort looking at these issues. First, we should not rule out working with other jurisdictions and learning from what they're doing on these issues. APRL is looking at the entire universe including recent reform efforts that are underway in Arizona, Utah, and other places on a whole variety of issues that relate. We're gathering resources and evaluating very difficult issues that relate to the delivery of affordable legal services that work best for both consumers and lawyers while still protecting the public.</p> <p>APRL can help the Task Force:</p> <ul style="list-style-type: none"> • develop a set of rules and regulatory approaches that interested states can use. • achieve some aspect of uniformity to help convince the practicing bar, judges and the public that such reforms can potentially improve access to affordable 	

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				<p>legal services and the ability of lawyers to provide these services in the marketplace.</p> <ul style="list-style-type: none"> • propose recommendations related to technology and legal services delivery • propose recommendations related to non-lawyers performing legal services. • lastly, it may well be worth trying to reverse some of the presumptions that we've adopted (like activities that might actually benefit consumers are presumptively prohibited). It's important to regulate reasonably where regulation is needed based on the risk of harms to consumers. 	
10	Gillers, Stephen Professor, NYU Law School, Author of Case book on lawyer regulation...	No	S	<p>I would make two suggestions regarding 5.4 because the credibility of whatever you do is going to depend upon the level of confidence the proposed regulation gives the public and the Bar.</p> <p>First, it's not good enough to ask a non-lawyer to sign a document saying he or she has read and agrees to comply with the ethics, rules, and the rules governing the profession. Lots of people will sign that. It won't be true. Instead, propose a mandatory half day class, a full day class, on the rules of professional conduct and other rules governing the legal profession. They should have to listen to a lecture, ask questions and</p>	The Task Force thanks the speaker for his suggested revisions to proposal 3.1, regarding possible amendments to CRPC 5.4. The Task Force appreciates that each of the suggestions are intended to provide assurance that any nonlawyers who have an ownership interest in a law firm and participate in the firm's delivery of legal services are appropriately vetted, thus adding to public protection.

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				<p>participate in the conversation about the values and protections of the rules. And then, just as lawyers must, they should have to take a CLE every year of 2 or 3 hours on legal ethics. Just as lawyers do. Why exempt them from that requirement? They should have to undergo some kind of character review just as lawyers do. It's expensive –perhaps they should fund it. Bring the new licensed person as close as possible to the structure of lawyer regulation. The closer you come to the lawyer model, the easier it'll be to persuade people to accept it.</p> <p>Second, I think allowing lawyers and non-lawyers with informed client consent in writing to divide what would otherwise be a legal fee, goes too far – right now. I urge you to be cautious to go slow, because we're in a brand new world.</p>	
11	Gordon, Tom Responsive Law, Executive Director	No	S	<p>Regarding Rule 5.4, [Alternative 2, Client Consent Option], I think, it's important to have the courage in recommendations if this Task Force does study these issues for nearly the past year and if they believe this is truly the way that the profession needs to go than --they should advance the regulation and let the debate happen.</p> <p>It's our belief that for legal services to be</p>	The Task Force thanks the speaker for his supportive statements regarding its preliminary proposals. The Task Force in particular notes its understanding that the process of implementing change in the legal services market will likely not be rapid but instead is likely to subject to some fits and starts. Its proposals are intended as a start in the process of

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				<p>affordable, you need a true mass market consumer law firm which just doesn't exist today. The largest consumer based law firms are 10 or 12 attorneys at max. That's not a scale which sources are going to be affordable to anybody. These changes will not happen immediately. You look at any other areas like the UK that implemented regulations. That change did not take place immediately. There also needs to be some change within the culture of the profession.</p> <p>One of the things that we thought was noteworthy was the idea of a safe harbor for innovators in technology against practice of law restrictions. I think it's important to allow that innovation to take place. Our concern is we wouldn't want such a safe harbor to then morph into a standard. And we worry that somebody would be brought before a commission for engaging in something that may be protected First Amendment activity. Another substantive point is that the Task Force has suggested replacing California's advertising rules ...</p> <p>Finally, I wanted to address the elephant in the room. I know you've got hundreds of comments from people who are disgruntled about various things like, reducing their place in the new legal economy. There are a few things that I would say: One is that</p>	achieving meaningful access to legal services across the socioeconomic spectrum.

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				lawyers bring a lot of skills to the table beyond just having a license to do what other people can't. If we were factory workers or farmers, we'd be in a lot of trouble as many are in a changing economy. But as the economy evolves, lawyers bring a lot to the table. If they aren't able to adapt to a new economy, they will probably have to do some better skill development. Second, these changes may open opportunities for law school graduates who have not passed the bar exam. One group that doesn't exist that I wish did would be the Bar-istas. There's a lot of folks out there who graduated from law school and are having a lot of trouble with finding regular legal employment or even any legal employment and are working at Starbucks. And if asked those folks, would you like to get a job working for a large mass market consumer legal firm where you could work a 40 to 50-hour week practicing law, not chasing billables and just working at the top of your license and make, about 70K a year, I think they almost unanimously would take you up on that offer.	
12	Rishwain, Nick	NO	S	Expressed gratitude to the task force and commenters.	The Task Force thanks the speaker for his supportive statements regarding its preliminary proposals.
13	McKinnon, William Ca Bar member	No	O	I am a 32-year litigator, and I am not a professor at university, and I don't have a natural organization. I'm here representing	The Task Force thanks the speaker but it is uncertain how the work of the Task Force can be of assistance in this

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				an indigent woman in Los Angeles. She had an apartment. She was a tenant in good standing, water pipe broke, property flooded, and her landlord wanted her to move out. She wanted to stay there. I don't practice tenant law. I spent the first 20 years of my practice defending our economic system against unlawful intrusion by foreign actors. And having completed that successfully, I decided to move onto protecting our environment in California. However, it's been my practice to render some pro bono service. I think we have a duty to do that. She went to a nonprofit organization (that we will call) Tenants Legal. They have young attorneys willing to work for wages. They took a \$5,000 true retainer from her (on a UD case), and committed malpractice. If that was an attorney (she contracted with), I would sue him for malpractice. But it's not. It's a nonprofit corporation. That nonprofit corporation had not qualified itself pursuant to State Bar rules. So now what have I got? Have I got practicing law without a license? Have I got malpractice or do I have something else? I don't know....	unfortunate matter that the speaker has described. However, to the extent that by sharing the matter with the Task Force the speaker is urging that careful thought be given to the regulation of entities that provide legal services, whether through lawyers or nonlawyers, the Task Force agrees.
14	Shely, Lynda Arizona and DC bar member, APRL, past President	No	S	In Arizona we have had certified legal document preparers for a number of years. And when I drafted that rule, we were told that it would be the end of civilization as we know it has been. It has [actually]	The Task Force thanks the speaker for her supportive statements regarding its preliminary proposals.

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				<p>helped consumers. But there are two things to keep in mind for somebody who's affecting somebody else's legal rights. They have to be confident, and they have to be accountable. First, you can do that if you have licensed non-lawyers who are required to pay into something like a client protection fund, and also required to adhere to a code of conduct.</p> <p>And then the second thing. I wanted to mention is I'm not speaking on behalf of the Arizona Supreme Court Task Force on the delivery of legal services, but according to the public record information that's out there, they right now are anticipating eliminating Ethics Rule 5.4 altogether (sharing legal fees with non-lawyers) or partnering with non-lawyers. The purpose of Rule 5.4 is to protect consumers by making sure that lawyers maintain independent professional judgement in deciding who becomes a client and how the lawyer represents them. If you eliminate 5.4 there are other rules such as the conflict rules that will protect consumers. Rule 5.4 is not necessary.</p> <p>Lastly, you're going to hear lawyers say this is terrible because we're probably going to have to pay referral fees for our referrals. But guess what -- they already do. They just</p>	

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				do it really quietly. And they pretend that when they go to a Padres game with clients or referral sources or they take somebody golfing that that's not paying for a referral fee.	
15	Reardon, Jayne Illinois Supreme Court Commission on Professionalism, Executive Director, Current member of APRL Future of Lawyering Task Force	No	S	<p>I want to compliment you on this hard work. It is very evident from the work product you put out that it is very well thought out. And it is also reflective, I believe, very obvious that you sought or the Bar sought diversity of opinion in putting on this Task Force not only lawyers and judges, but other stakeholders.</p> <p>I just have three suggestions for your consideration. Please seek out more folks who are not invested in the status quo during your comment period. There are so many organizations like teachers and social workers and financial planners. Let's not separate the world into lawyers and non-lawyers. I know that's difficult because our ethics rules are replete with that binary division, but as you refine your report, you are out in front and people are looking at your work. See if you can find some other words like stakeholders, like LI professionals, that really gives them a seat at the table. I often hear that changing 5.4 would undermine the core values of our profession. What undermines the core values of our</p>	The Task Force thanks the speaker for her supportive statements regarding its preliminary proposals. It also wants to add that it has systematically solicited comments on the proposals from stakeholders with diverse interests beyond those of lawyers and bar associations.

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				profession is our failure to meet the legal needs of 50 to 80 percent of the population. If the ethics rules are in any way responsible, it would be irresponsible to not make some changes.	
16	Ury, Fred Connecticut Bar Association, past President, National Conference of Bar Presidents, past President, Coiting Counsel (CPR), President	No	O	I am not here to comment about the ethical applications of the report. But what I am here to ask you to do is to write, talk to, and listen to some voluntary Bar associations. The two questions that have been posed to me for the last 14 years from lawyers and from voluntary Bar associations is our job is to help lawyers protect lawyers, not consumers. And the reason you hear that is because voluntary Bar associations hear from their members if you pursue this course of changing the regulations (5.4,) to assist consumers, I am going to resign from your Bar association, and they do leave. So if you're the president of a voluntary Bar association, or you're the incoming president of the Bar association, there's two things that you worry about and one is that you're going to be the guy turning out the lights, and it's going to go out of business while you're the president. So there is tremendous hesitancy on voluntary Bar associations – not mandatory Bar associations. They don't have to worry about membership. Voluntary Bar associations have to worry	The Task Force appreciates the speaker's concerns and thanks the speaker for his supportive comments. It agrees with the importance of educating the members of the profession that the proposals are directed at solving a severe problem of access to legal services. The goal should be to work with those stakeholders seeking to improve access to justice in order to arrive at solutions that will benefit not only consumers of legal services but also members of the legal profession. Implementation of regulatory structures that will provide the consuming public, many of whom are underserved by the legal profession, with access to affordable legal services should not necessarily result in lawyers fleeing from membership in their professional organizations if the necessary explanation and education is provided.

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				<p>about membership every day. Every year we start off brand new. I've spent a lot of time trying to explain that we have to change our regulatory systems. And maybe it's also we need a lot more online dispute resolution.</p> <p>But we obviously need to do something to serve this population. We need to write, we need to educate, we need to blog. We need to help those voluntary Bar associations around the country as they look at California and say, here's some information, here's something that we can use to educate our members. Because really, that's what it ends up happening to be.</p> <p>There are things happening. Obviously, you folks are taking the largest step of everyone. But Arizona is, Utah is. I understand that other states are looking at this. And we in Connecticut also are planning to set up something just to explore</p> <p>So I implore you, please, don't forget voluntary Bar associations, voluntary metro Bar associations. They are -- they are going to be the ones that carry your message. And I thank you. I really do thank you for the work that you're doing. I understand it's very important work.</p>	

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				I was on the Ethics 2020 Commission, and if I could tell you about the vitriol and the uncivility among some of the house members when they had an opportunity to talk to some of us on the Ethics 2020 Commission, the words were, we don't even want you to talk about 5.4 or any regulatory changes. So you have to understand that in the Bar community, there are some really unhappy, fearful folks there out there. And so we need to educate them, we need to bring them along. Got to put them at the table and we have to have that discussion.	
	Liberty, Micha Ca. Bar member, Consumer Attorneys of California, President	Yes	O	I have to say that we have 3700 constituents. We're a political organization. So we help write legislation, we lobby and we understand the road ahead of you all. And so we'd like to offer whatever we can to help you in that process. Because every day our folks are out there representing real folks, consumers. We don't represent corporations. We don't represent insurance companies. So we know what it's like to spend time on the phone with clients who can't pay their medical bills who are at risk of losing their homes because of fraud, who have signed away all their legal rights because they've signed an app. And this gives us pause when we look at what's before us now. So there's a lot of questions. Are there going to be arbitration	The Task Force appreciates the speaker's concerns and that her organization at this point of the process is mildly opposed to the project. It notes that its proposals are preliminary in nature. As an earlier speaker at this hearing note, the devil is in the details. The Task Force invites the Consumer Attorneys of California to continue to monitor the project and contribute its expertise.

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				agreements with these corporations, are we comingling funds in some way, is this the unauthorized practice of law? You know, as a baby plaintiff's lawyer, you're so concerned about: malpractice, sharing funds with non-lawyers, having folks practice law when they don't have a license, what do you give to the paralegal, how much oversight is necessary. So we don't know what all the details are going to be, and we have a lot of concerns. And so at this point, we are mildly against the proposal. We want to make sure we don't see the legal profession become like, you know, Uberized . And we want to make sure that we are able to get malpractice policies for a law firm that has a corporate partner, and make sure above all else that consumers and clients are still able to communicate with our lawyers in a confidential way.	
	Flack, Robert Ca Bar Member	No		I think we talked about whether you have the right team involved. I think you have a particular interests in encouraging a solution to this problem as opposed to something that may be of a broader service to the community. I became more concerned when I heard the presentations yesterday. And it seems as if, again, you have the wrong people bringing together the wrong process. It's likely to come out with the wrong outcome. My concern about reducing the practice of law to a kind of	The Task Force appreciates the speaker's concerns. It notes, however, that its proposals are preliminary in nature and that it contemplates that changes to current legal services delivery systems will be cautiously implemented with an eye to protecting the public.

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				<p>simplified graphic where the context for the practice of law is not fully available – where it may be superficially appreciated, but it lacks substance. As I mentioned yesterday, there's a difference between selling hamburgers and providing nutrition. And sure, these things may have superficial appeal, but they don't provide nutrition. Yesterday in the speaker's presentation, she mentioned a research technique that has been criticized since the Truman Dewey political polling fiasco and completely discredited. And she's apparently using that as a primary vehicle. And the concern is that once you scramble the egg, you can't unscramble it. I always think of the kinds of warnings that are in the famous book Beyond Freedom and Dignity. It relates to where you alter expectations and then people live with those expectations and think those are normalized. I'm afraid if we allow this kind of bonus practice becomes normalized, that it's going to be difficult to go back. It seems as if what we've got here in terms of a rigid procedure that you're trying to develop checklists, forms is very similar to what to be considered civil law practices as opposed to our traditional common law practice. As we move away from the common law traditions that we lived with for ages in a civil law practice, you lose tremendous flexibility and adaptation</p>	

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				to a particular subject. Take a look at what's going on in Hong Kong right now where there is a big challenge to their loss of common law traditions. And there are people rioting the streets. And my sense is that with this kind of subtle approach to reducing the availability of our protections, of our common law system -- you don't know it's dead until after it's too late.	
	Edwards, Eli Librarian, Santa Clara University School of Law	No	S	<p>I want to give my public support and suggest Rules 3.0 have a duty of technology competence. I know that last time I looked on the public comments website, the tally was 1 to 6 against, which I think is unfortunate. I know that lawyers are afraid that it's just become one more burden for them. However, technology has become inseparable for the practice of law in many jurisdictions here in California and elsewhere. And I think making it a formal duty will emphasize the point that you have to be competent in how you do things technologically, just as you had to be competent in how you do things on paper. It's not something you can simply shift off to the younger members of the firm or to your secretary. It's something that all lawyers should take seriously even if you're a little bit shaky on exactly what the cloud is.</p> <p>I have two points that are not necessarily for this Task Force, but things I would like to</p>	<p>The Task Force thanks the speaker for her supportive statements regarding its preliminary proposals. It is in complete agreement with the speaker's comment that technology is critical to the practice of law.</p> <p>The Task Force also appreciates the potential for disruption of the profession that its proposals present and believes that those potential outcomes will be an important factor in the implementation of the proposals.</p> <p>With respect to the speaker's concerns re confidentiality and privacy, the Task Force wants to assure the speaker that it has placed client confidentiality and privacy at the forefront of its discussions. Specifically with respect to the rule 5.4 proposal, care was taken to provide</p>

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				<p>suggest for the next Task Force that go into the implementation.</p> <p>One, I think that the next Task Force that deals with implementation of these rules if they go forward should consider the issues of disruption. I graduated in December of 2008 and for years, I was never able to find a legal job because I was in an oversaturated market due to the recession. I think in this case, the big four will utilize these rule changes to come into this market. And while there may be benefits to that, there will indeed be a market shakeup. And if there is disruption, we should look for ways of how to help current and new attorneys deal with the disruption in the market.</p> <p>And finally, a lot of people have pointed out the implications of 5.4 in terms of conflict of interests. I will say that as someone who cares about privacy and lives here in Silicon Valley, my concern about the removal of 5.4 has more to do with whether or not technology companies will truly embrace 1.6, the protection of client data. We've seen the Cambridge and we've seen all sorts of scandals where technology companies did not take due care and restraint with their client's data. And for that to happen in the legal field will further vitiate and erode the confidence that the consumers have in their</p>	<p>assurances that nonlawyers involved in assisting the provision of legal services would comply with all duties to which lawyers are subject.</p>

**ATILS August 10, 2019 Public Hearing
Synopsis of Testimony**

**ATILS AGENDA ITEM F.
10-07-19 MEETING**

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				lawyers. If they find that their very lawyers the people who should be protecting them is using and monetizing their information in ways that have not been consent to.	
	Sosin, David Sosin Company, President	No	SNP	Our question is, Great Britain, New Zealand, Washington DC, Australia, all made major changes to their system. Does this Commission have any reliable data that access to justice has been enhanced in any of these jurisdictions by virtue of opening the practice of law to non-lawyers? We haven't seen it. We're certainly willing to look at that, and we think it's a very important issue.	The Task Force is currently engaged in assessing the effect the regulatory changes in the delivery of legal services in other countries, including Great Britain, New Zealand and Australia, has had on access to justice.