



UNDERSTANDING THE JUSTICE GAP

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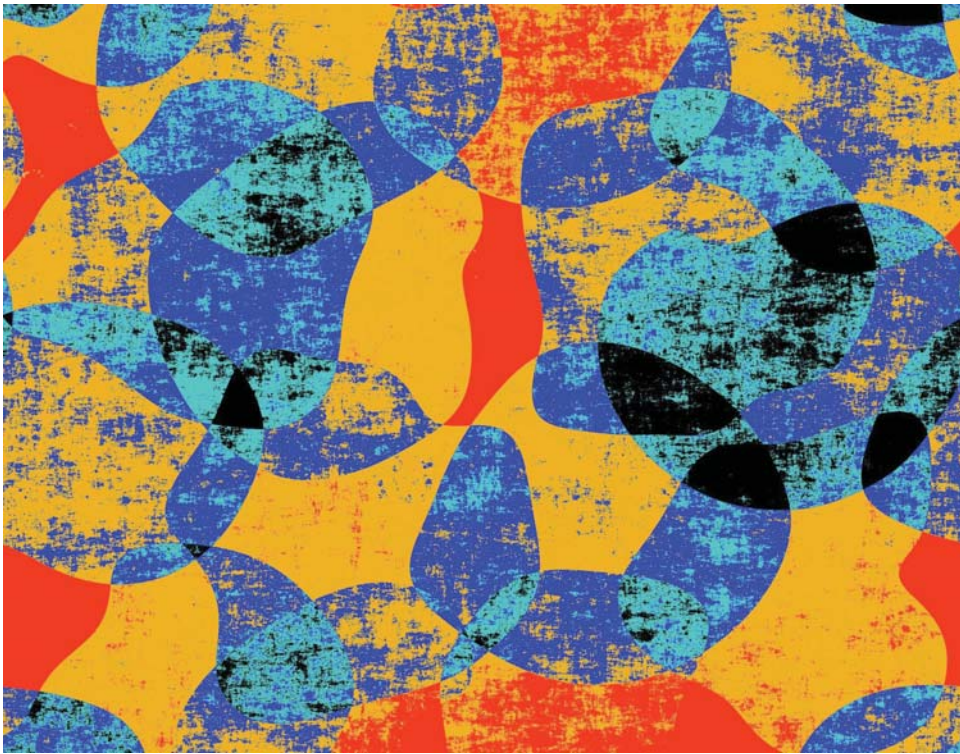
What do we know about America's
access to civil justice crisis?



What makes us think more people
would get help if there were more
kinds of legal helpers?



What makes us think that new kinds of
legal helpers could do a good job?



WHAT DO WE KNOW ABOUT THE CRISIS?

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Crisis of unrepresented litigants,
particularly in family, eviction and debt
cases

4



Crisis of unrepresented litigants,
particularly in family, eviction and debt
cases

Crisis of courts overwhelmed by case
backlogs



Crisis of unrepresented litigants,
particularly in family, eviction and debt
cases

Crisis of courts overwhelmed by case
backlogs

Crisis of people facing without expert
assistance legal issues involving basic
human needs like livelihood, shelter, and
the care of dependent children and adults

THE JUSTICE GAP

JUSTICIABLE PROBLEMS SURVEYS

- Surveys ask representative samples of populations not about “legal” issues, but about justiciable problems, defined for people without reference to law. E.g.,
 - Your employer owes you over-time pay and won’t pay it
 - You are three or more months behind on your rent
- Why ask this way?: reference to law substantially reduces public recognition of relevant issues
- Method: ask people whether they have encountered defined problems, then ask how they have tried to resolve them.

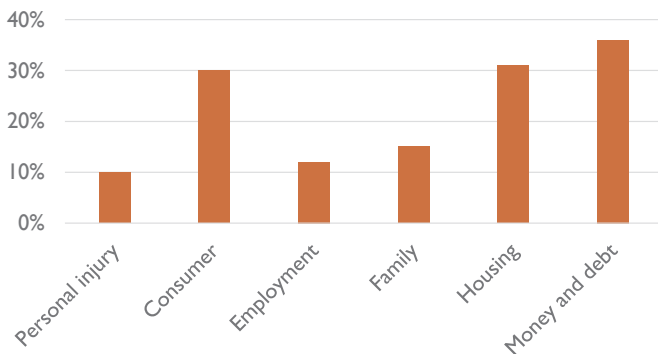
Source: <https://www.oecd.org/governance/legal-needs-surveys-and-access-to-justice-g2g9a36c-en.htm>

PEOPLE-CENTERED ACCESS TO JUSTICE



MILLIONS OF CIVIL JUSTICE PROBLEMS AFFECT AMERICANS AND CALIFORNIANS EVERY YEAR

USA: Adults at All Income Levels



California: Households at All Income Levels



Sources: World Justice Project; The State Bar of California

THIS INCLUDES NATIONALLY, FOR EXAMPLE

Facing formal legal action:

- Tenants involved in the 3.6 million evictions filed (pre-COVID).¹
- 4 million workers having their wages garnished for debt (pre-COVID).²
- People involved in 1.5 million adult guardianship actions. (pre-COVID)³

Facing situations that raise civil legal issues:

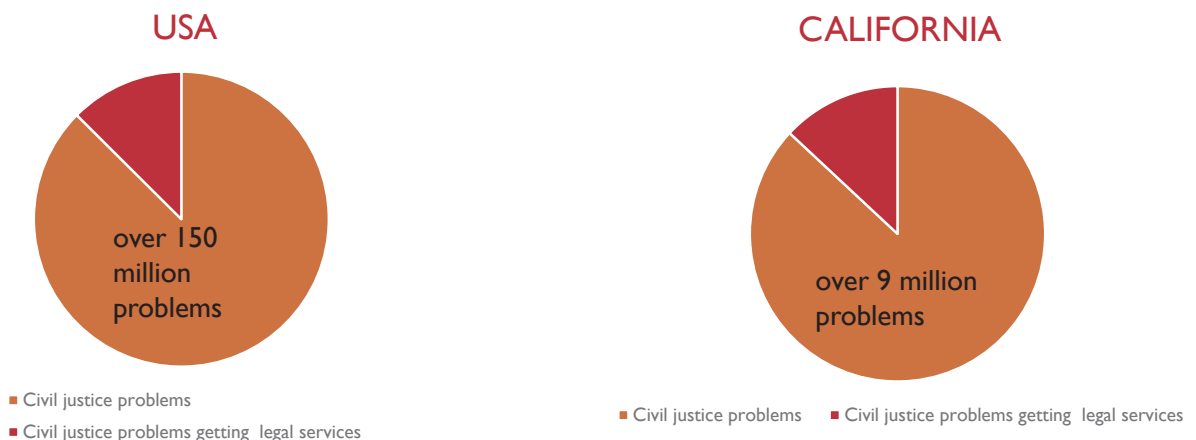
- 6.9 million people behind on student loan payments. (pre-COVID)⁴
- 2.5 million grandparents raising grandchildren (pre-COVID).⁵
- 15.7 million people caring for an adult with dementia (pre-COVID).⁶
- 8.2 million people living in unsafe or unhealthy rental housing (pre-COVID).⁷
- The over 40 million new filers for unemployment benefits since mid-March 2020⁸

IMPACTFUL: NATIONALLY A PRE-COVID ESTIMATED...

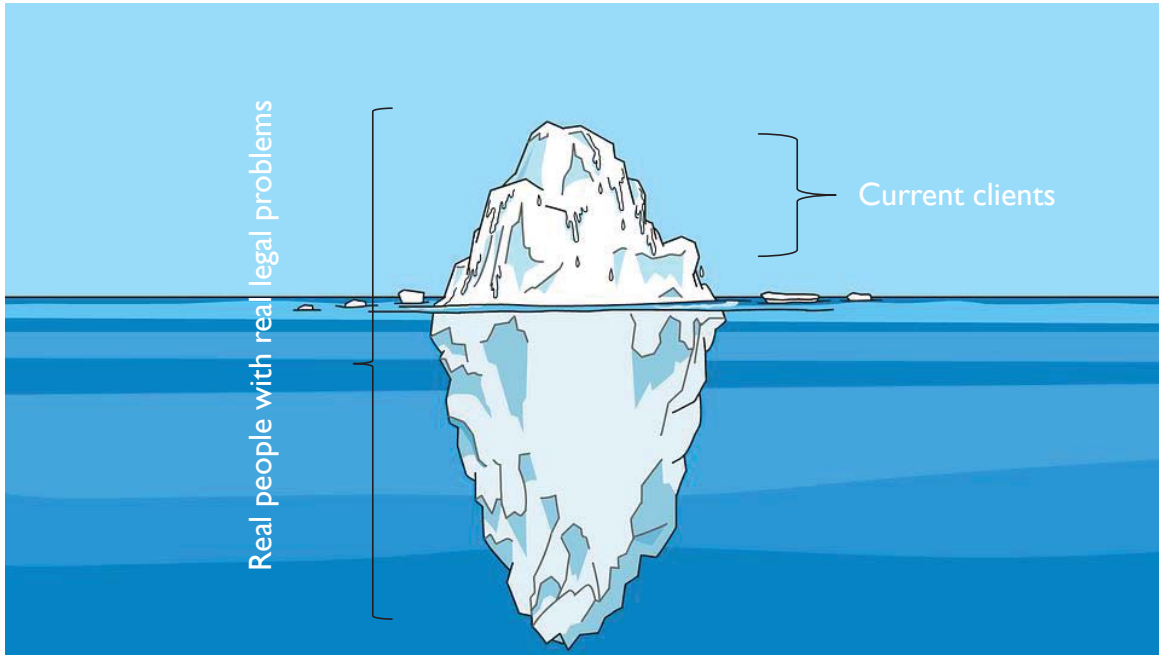
- 19.5 million justice problems led to negative health outcomes
- 18 million justice problems led to lost income, employment or housing
- 13.5 million justice problems led to damaged relationships
- 4.7 million justice problems led to problems with alcohol or drugs
- People spend large portions of their lives dealing with these problems. ***If nothing changes:***
 - Americans in mid-life can expect to deal with justice problems for over **two-fifths** (43%) of the rest of their lives.
 - Americans aged 18-34 can expect that over a **fifth** (21%) of their lives will be overshadowed by hardships caused by civil justice problems.

Sources: Calculations from the World Justice Project and US Census Data; Sandefur and Teufel, *UC Irvine Law Review*, 2021

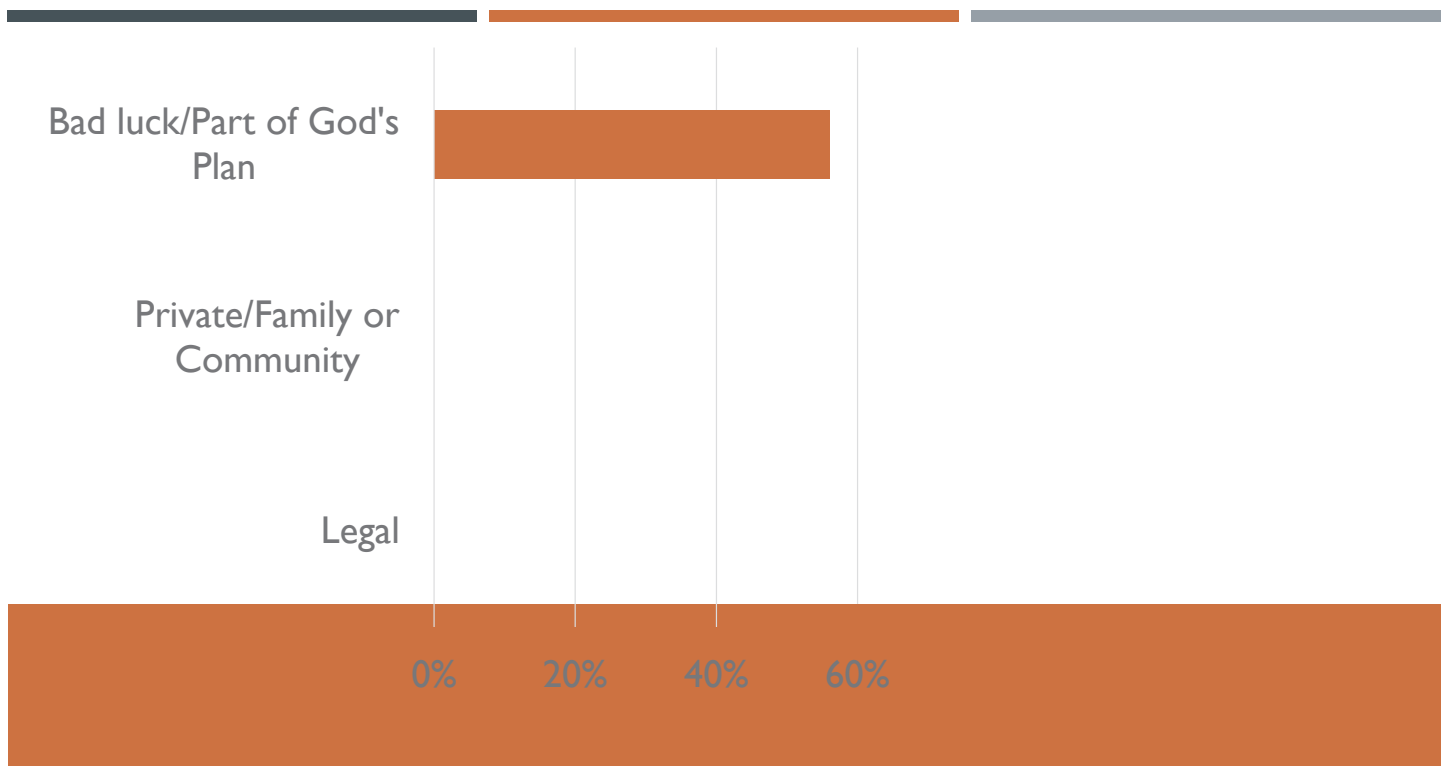
MOST GET NO LEGAL SERVICE OF ANY KIND



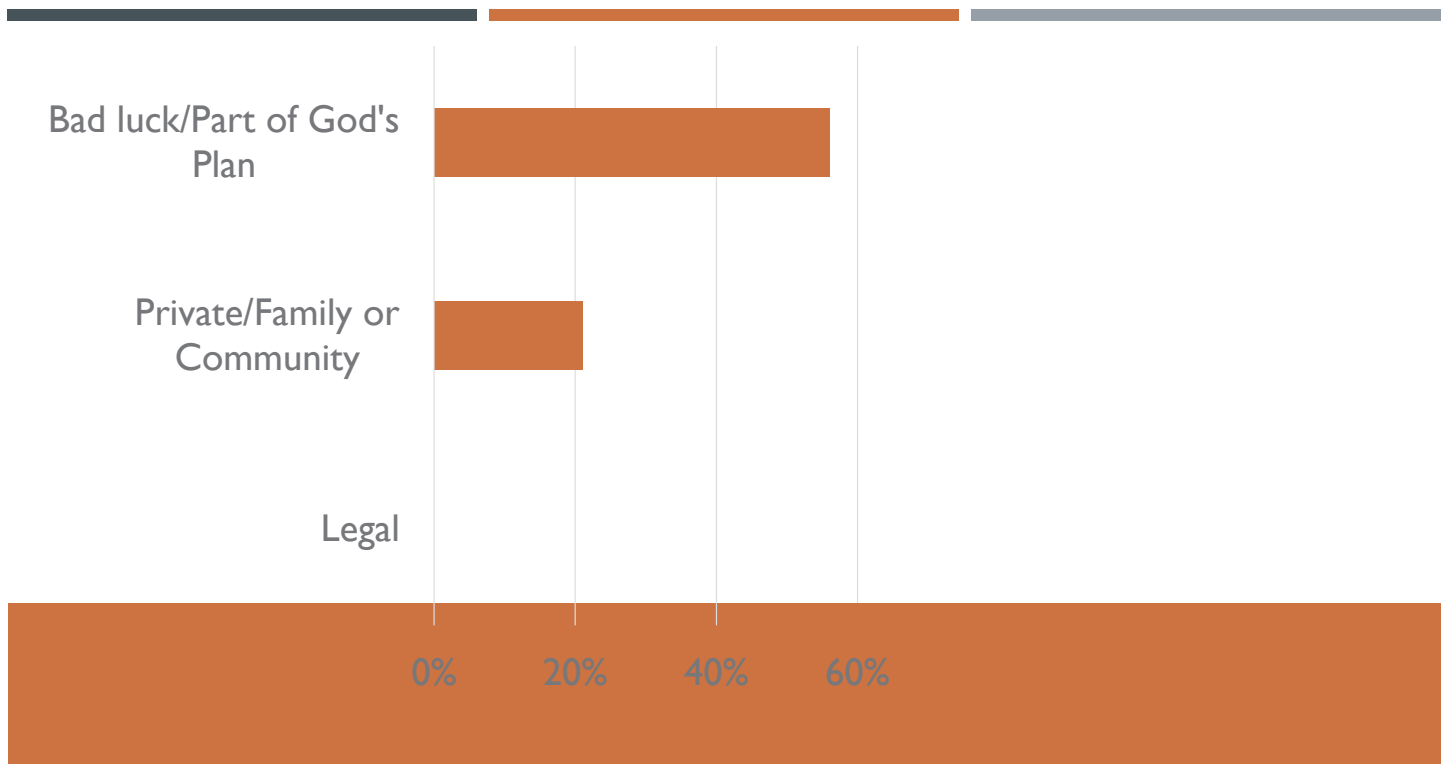
Sources: Calculations using data from the World Justice Project, the State Bar of California, and the US Census.



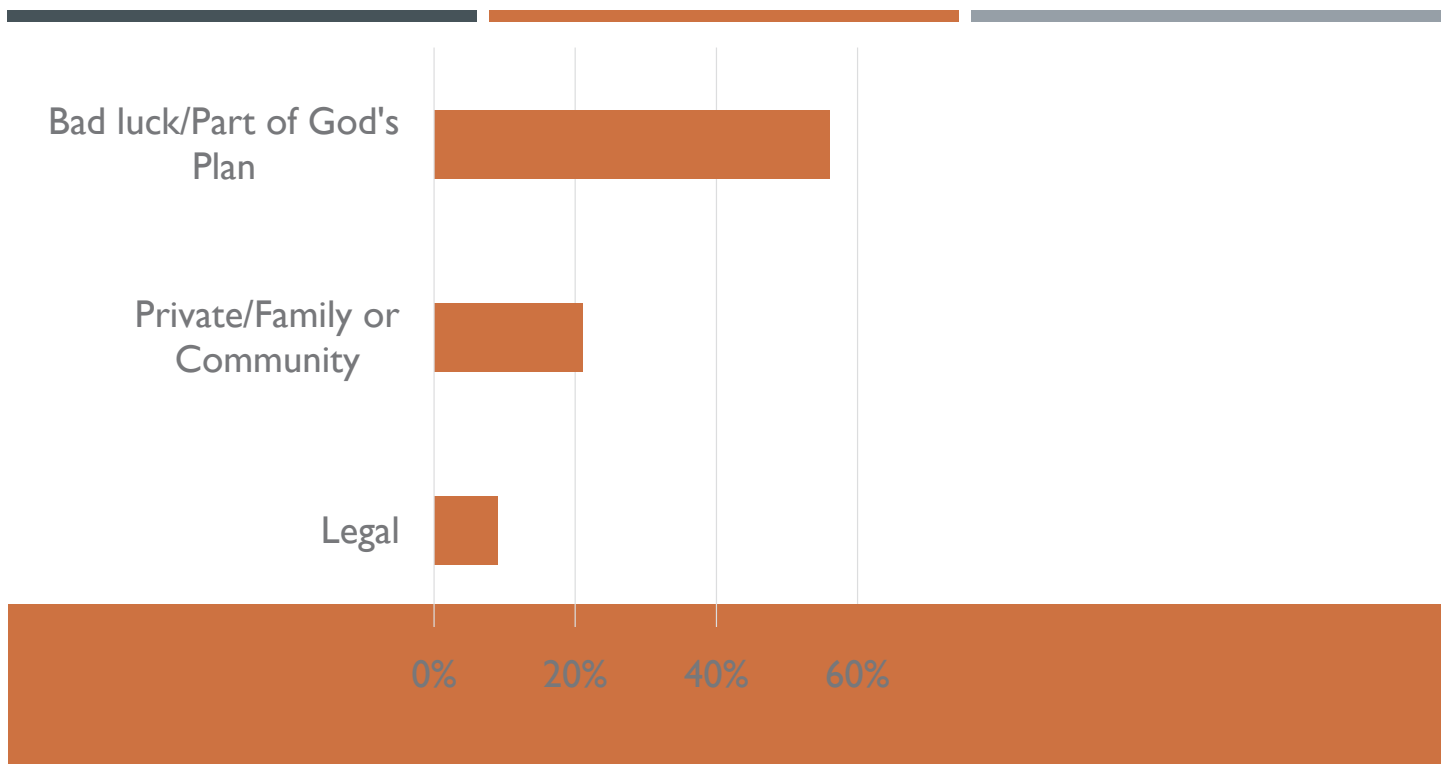
PEOPLE OFTEN
DON'T
RECOGNIZE
THE LEGAL
ASPECTS OF
THEIR
PROBLEMS



Source: Sandefur 2014



Source: Sandefur 2014



Source: Sandefur 2014



WHY WOULD
NEW KINDS OF
SERVICES MAKE
A DIFFERENCE?



WHAT'S NEW?

- Types of *authorized* legal services providers
 - Non-lawyers practicing law
 - Humans
 - Computers
- Types of *authorized* structures for legal services delivery
 - Alternative Business Structures
 - Multi-disciplinary practice
 - Walmart law



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WHY CHANGE?

REASON I: EXPERIENCE

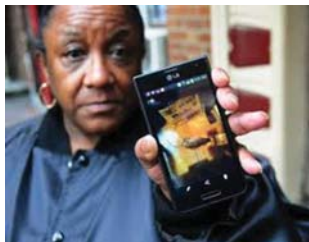
- Since 2001 in Australia and 2007 in England and Wales, nonlawyers can own law firms and share fees with lawyers.
- For decades in the US District of Columbia, a form fee sharing/ownership by nonlawyers has been permitted.
- In the UK, **the US**, and other countries, nonlawyers have been providing authorized legal services for many years.

PROVIDERS

Licensed Paralegal Practitioner Program



LawHelpCA.org



CAPACITIES

represent

enact

advise

protect

inform

omnicompetence

enact

advise

protect

inform

limited competence

enact

advise

inform

limited competence

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Funded by the Open Society Foundation and the Public Welfare Foundation

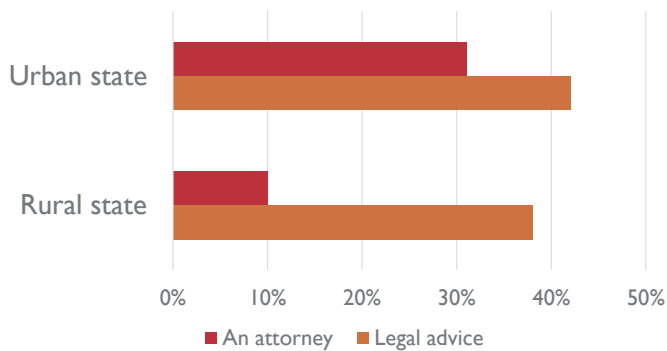
WHY CHANGE?

REASON 2: CONSUMER DEMAND

- People are often actively seeking legal advice rather than full representation.
- When nonlawyer providers are available, people are happy to use them.
- The presence of more alternatives is related to a greater likelihood of doing something about justice problems.

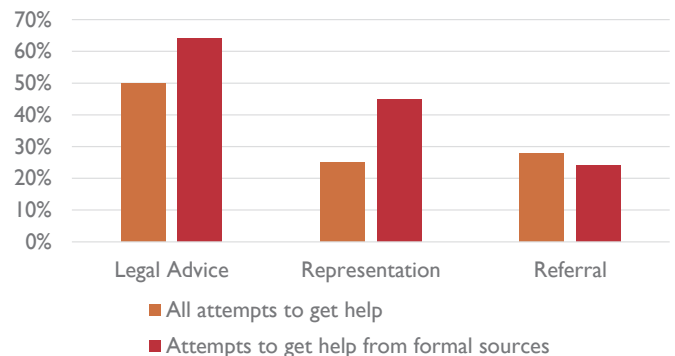
PEOPLE ARE LOOKING FOR LEGAL ADVICE

In legal aid live chat, people ask for



Source: Sandefur, Legally Empowering Technologies Project
Funded by Open Society Foundations

From helpers, people want



Source: Sandefur, Community Needs and Services Study
Funded by National Science Foundation and American Bar Foundation

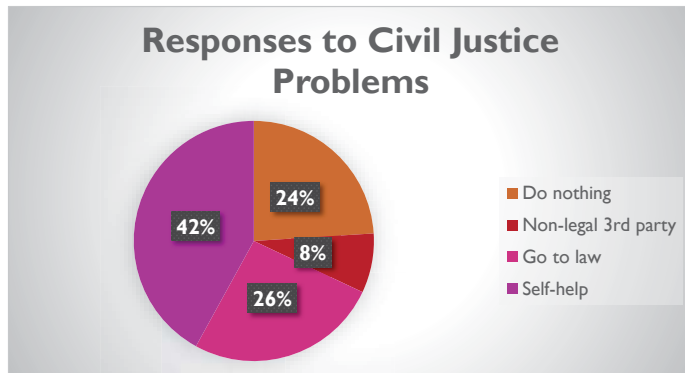
People who are not lawyers have been representing clients in a range of U.S. forums for over 60 years.

- 22% of representatives in unemployment compensation appeals (WI)⁹
- 38% of representatives in state tax appeals (WI)⁹
- 22% of representatives in SSDI appeals (US) ⁹
- Over 2000 immigration representatives accredited to appear in federal immigration matters¹⁰

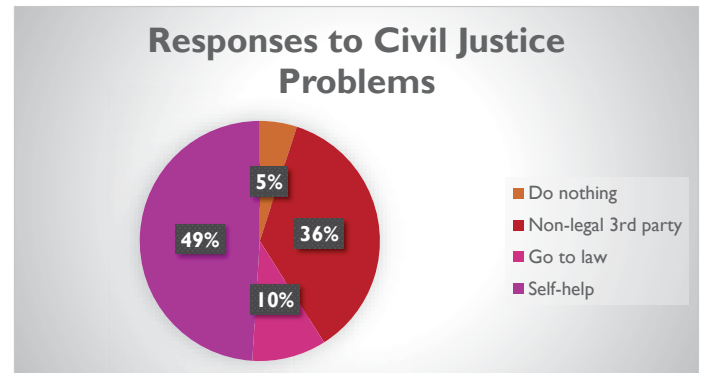
When nonlawyers are available,
people use them.

MORE OPTIONS = PEOPLE MORE LIKELY TO DO SOMETHING ABOUT THEIR JUSTICE PROBLEMS

Restricted legal aid,
few nonlawyer alternatives
(USA 1992)



Expansive legal aid,
many nonlawyer alternatives
(England and Wales 2004)



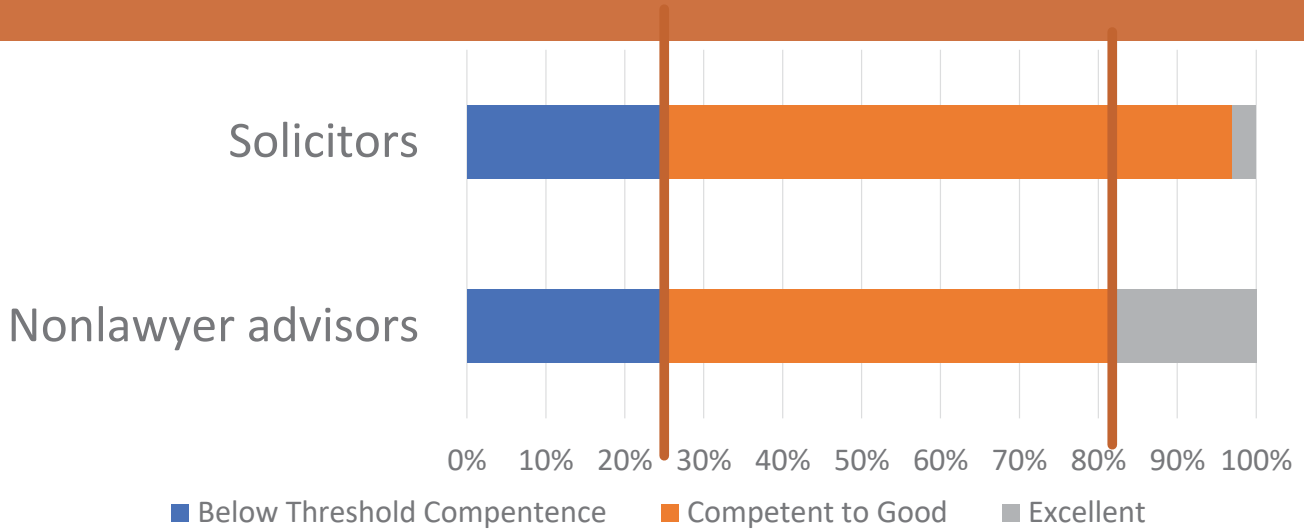
Source: Sandefur 2009



REASON 3:

RESEARCH
CONSISTENTLY
DEMONSTRATES THAT
SPECIALIZED NON-
LAWYER PROVIDERS
PERFORM AS WELL OR
BETTER THAN
TRADITIONAL
ATTORNEYS

COMPETENCE OF NONLAWYER ADVISORS: PEER REVIEW OF LEGAL WORK: UK¹¹



Areas of practice: benefits, housing, debt, personal injury, immigration, employment, other civil

OPPORTUNITIES

- Greater consumer choice
- Services designed around clients
- Expanded access
- New sources of revenue and investment
- More efficient regulation



THANK YOU – LOOKING FORWARD TO WORKING TOGETHER

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SOURCES AND RESOURCES

1. Ashley Gromis. 2019. “Eviction: Intersection of Poverty, Inequality and Housing.” Eviction Lab, Princeton University. https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS_Ashley_Paper.pdf
2. “Millions of Americans’ Wages Seized Over Credit Card and Medical Debt.” <https://www.npr.org/2014/09/15/347957729/when-consumer-debts-go-unpaid-paychecks-can-take-a-big-hit> (September 15, 2014, NPR)
3. Brenda K. Uekert and Richard Van Duizend. 2011. “Adult Guardianships: A ‘Best Guess’ National Estimate and the Momentum for Reform.” National Center for State Courts. <http://www.eldersandcourts.org/~media/Microsites/Files/cec/AdultGuardianships.ashx>
4. New York Federal Reserve. 2019. These are borrowers behind in payments for at least 90 days or in default. https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/sl_update_2018.xlsx
5. US Bureau of the Census. 2017. American Community Survey.

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SOURCES AND RESOURCES

6. AARP. 2019. "Dementia Care: Helping Your Loved One Stay Connected and Safe." <https://www.aarp.org/caregiving/basics/info-2019/alzheimers-dementia-care.html>
7. According to the 2017 American Housing Survey, 7.5% of rental units in the US had conditions that were "severely" or "moderately" inadequate. The average size of a renter household is 2.5 people (<https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/>). There are 43.9 million occupied rental housing units (<https://www.huduser.gov/portal/pdredge/pdr-edge-firm-asst-sec-061118.html>). This implies 8.2 million people living in inadequate rental housing.
8. *Wall Street Journal* <https://www.wsj.com/articles/u-s-surge-in-unemployment-claims-expected-to-continue-11586424605>
9. Herbert M. Krtizer, *Legal Advocacy: Lawyers and Nonlawyers at Work* (1998).
10. Sandefur, Rebecca L. "Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms." *Stan. JCR & CL* 16 (2020): 283.
11. Richard Moorhead et al., *Quality and Cost: Final Report on the Contracting of Civil, Non-Family Advice and Assistance Pilot* (2001)

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- Sandefur, Rebecca L. "The Fulcrum Point of Equal Access to Justice: Legal and Non-legal Institutions of Remedy." *Loyola of Los Angeles Law Review* 42(4):949-78. (2009)
- Sandefur, Rebecca L. "Accessing justice in the contemporary USA: Findings from the community needs and services study." *Available at SSRN 2478040* (2014).
- Sandefur, Rebecca L. and James Teufel. "Assessing America's Access to Civil Justice Crisis," *University of California-Irvine Law Review* (forthcoming, 2021).
- State Bar of California. 2019 California Justice Gap Study.
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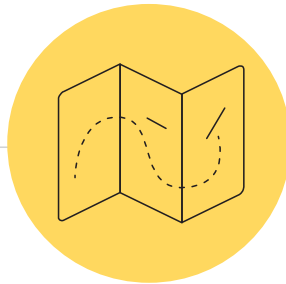


OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

UTAH REGULATORY SANDBOX OVERVIEW + UPDATE

JANUARY 14, 2020



OVERVIEW

- Structure
- Principles
- Process for Sandboxers
- Progress so Far



Structure

- Rule 5.4 (Professional Independence of a Lawyer) revised to permit:
 - Non-lawyer ownership
 - Sharing fees with non-lawyers
 - Lawyers to practice with non-lawyers
- But ONLY if:
 - No interference with professional independence, duty of loyalty or protection of client confidences,
 - Required disclosures are provided
- AND the arrangement is approved by and operated in the Sandbox. See *Utah Supreme Court Standing Order No. 15*.



Structure

- Utah Supreme Court Standing Order No. 15:

The overarching goal of this reform is to improve access to justice. With this goal firmly in mind, the Innovation Office will be guided by a single regulatory objective: To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services. The Utah

- Establishes a pilot legal regulatory sandbox
- Creates the Office of Legal Services Innovation to assist the Court
- Requires the Office to use “risk-based” approach and assess based on data.



Principles

The Innovation Office will be guided by the following regulatory principles:

1. Regulation should be based on the evaluation of risk to the consumer.¹⁴
2. Risk to the consumer should be evaluated relative to the current legal services options available.¹⁵
3. Regulation should establish probabilistic thresholds for acceptable levels of harm.¹⁶
4. Regulation should be empirically driven.¹⁷
5. Regulation should be guided by a market-based approach.¹⁸

Standing Order No. 15, Section 3.2



Principles, cont.



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

Consumer Risk Assessment

1.

Inappropriate or inaccurate result

3.

Purchase of unnecessary or inappropriate legal service

2.

Failure to exercise legal rights through ignorance or bad advice



Service Models



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

INNOVATION OFFICE MANUAL

Service Model	Risk
Lawyer employed or managed by a nonlawyer	Low
Less than 50% nonlawyer ownership	Low
Software provider with lawyer involvement - legal document completion	Low
50% or more nonlawyer ownership	Low / Moderate
Lawyers sharing fees with nonlawyers	Moderate
Nonlawyer provider with lawyer involvement	Moderate
Software provider with lawyer involvement	Moderate
Nonlawyer provider without lawyer involvement	High
Software provider without lawyer involvement	High



Service Categories

- Accident / Injury
- Adult Care
- Business
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End of Life Planning
- Financial Issues
- Healthcare
- Housing (Rental)
- Immigration
- Marriage and Family
- Military
- Native American / Tribal Issues
- Public Benefits
- Real Estate
- Traffic - Civil Actions / Citations



Data Requirements

NONLAWYER PROVIDER WITH LAWYER INVOLVEMENT, SOFTWARE PROVIDER WITH LAWYER INVOLVEMENT - MODERATE RISK

Consumer Service	Criteria of Assessment	Provider	Measure	Reporting
General	General	All services	Number of people served	Monthly
			Geographic info	Monthly
			Revenue / receipt info	Monthly
			All consumer complaints	Monthly
Specific consumer service	Consumer achieves an inaccurate or inappropriate legal result.	Nonlawyer	Satisfactory legal expert review of representative selection of work product for accuracy and quality.	Nontraditional products / services: submit legal expert review of first 20 consumer interactions. Office may require additional reporting on review of n interactions selected at random.
	Consumer fails to exercise legal rights through ignorance or bad advice.	Nonlawyer	Nonfinancial (legal) outcomes data (% customers that did / did not get the outcome they sought)	Monthly
	Consumer purchases an unnecessary or inappropriate legal service.	Nonlawyer	Track relevant outcomes across cases assisted by the new services and those not (e.g., was divorce achieved)	Monthly
		Nonlawyer	Track services provided across events with similar outcomes (e.g. what services were provided in this divorce)	Monthly
		Nonlawyer	Financial outcome (benefit obtained or loss prevented) data broken down by outcome (divorce, custody).	Monthly



Disclosure Requirements

- **This is not a law firm. / This law firm is owned by nonlawyers.** Some of the people who own / manage this company are not lawyers. This means that some services / protections, like the attorney-client privilege, may be different from those you could get from a law firm.
 - If you have questions, please contact us at _____.
- **This service is not a lawyer.** The product / service you have selected is not a lawyer. This means:
 - Someone involved with you or with your legal issue, including people on the other side of this case, could be using this service as well.
 - We could be required to disclose your communications (such as questions and information submissions) to third parties. If you have questions, please contact us at _____.



For more information or to file a complaint, please visit sandbox.utcourts.gov



Process for Sandboxers



OFFICE OF LEGAL SERVICES INNOVATION

An Office of the Utah Supreme Court

SANDBOX PARTICIPANT APPLICATION

The Sandbox is for innovative services models that cannot otherwise be offered under the present Rules of Professional Conduct or are considered the unauthorized practice of law. There are a few qualifications to this mandate:

1. The Sandbox is for all business and service models falling under Utah Rule of Professional Conduct 5.4 and Utah Supreme Court Standing Order No. 15.
2. Suspended or disbarred lawyers are barred from holding an ownership interest of greater than 10% in any Sandbox entity.



Process for Sandboxers

COURT ORDER

In the Supreme Court of the State of Utah

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In re: Application of Rocket Lawyer Inc.

AMENDED ORDER FOR AUTHORIZATION TO PRACTICE LAW

Based upon the Utah Supreme Court's plenary and constitutionally granted authority to regulate the practice of law in Utah, and the tenets of Standing Order 15, the Utah Supreme Court orders that Rocket Lawyer Inc. ("Rocket Lawyer") is authorized to practice law within the regulatory sandbox and subject to the restrictions outlined below.

The Court has reviewed the amended recommendation of the Office of Legal Services Innovation ("Innovation Office") dated September 21, 2020 for Rocket Lawyer to be authorized to practice law.

Rocket Lawyer is a privately-held, for-profit legal technology company currently offering automated legal document completion services to the public. The company proposes hiring and contracting with licensed Utah lawyers to provide legal services to the public to supplement their well-established online legal document completion tools.

Regulatory Objective Qualifier: Unbundled services will be offered at low cost, compared to full-service lawyers

Many services available remotely or virtually

Qualitative Requirements: Standardized disclosure statements on website and in mobile applications:

- Badge
- Nonlawyer Ownership Disclosure Statement
- Nonlawyer Service Provider Disclosure Statement

See Innovation Office Manual for requirement details.

Data Reporting Requirements: Low / moderate risk data reporting requirements.

See Innovation Office Manual for requirements.



Key Risks and Trends	There are no reported consumer complaints from reporting entities.
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Progress So Far

Sandboxer Examples

- Limited legal advice from victim advocates/social workers in domestic abuse cases
- Lawyer employees providing legal services to outside clients
- Partial firm ownership by a paralegal
- Non-lawyer investor in service platform to generate divorce financial disclosure
- Law firm as part of multi-disciplinary group of professionals
- Expungement notification tool
- Swipe right to join mass tort claim against spammers



Thanks!

Questions ?

Comments?



Passmore
Consulting

Overview of regulation in England & Wales

Crispin Passmore

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crispin.passmore@passmoreconsulting.co.uk

1

What is regulated?



- ◆ There is no unauthorised practice of law regime in England & Wales
- ◆ We regulate via two main routes:
 - ◆ Those with certain protected titles (e.g. solicitor and barrister)
 - ◆ Those entitled to undertake certain reserved activities
- ◆ Notes
 - ◆ Scotland and Northern Ireland have separate regimes
 - ◆ The detail in later slides focuses on solicitors & SRA

2



Who is regulated?

- ◆ Any individual or entity that wants to be entitled to conduct reserved activities must be authorised
 - ◆ Law firm partnerships, solo practitioners and ABS are all regulated as entities
 - ◆ By virtue of their professional title solicitors and barristers are entitled to undertake reserved activities
 - ◆ Other individuals without those protected titles can also be authorised



Reserved activities

- ◆ The activities reserved to authorised persons are:
 - ◆ Exercising a right of audience
 - ◆ Conducting litigation
 - ◆ Conveyancing (reserved instrument activities)
 - ◆ Probate
 - ◆ Notarial activity
 - ◆ Commissioning oaths
- ◆ Immigration and claims management are restricted in other ways
- ◆ There are some limited exemptions to the requirement to be authorised

Unregulated legal services



- ❖ Non-reserved legal services are not regulated unless conducted by an authorised person
- ❖ Unregulated legal services providers are commonplace
 - ❖ Will writing
 - ❖ Family law advisers (short of litigation)
 - ❖ Corporate legal advice
 - ❖ Small business law (health & safety, employment, data, contract drafting, debt management)
 - ❖ Social welfare law (housing, unemployment, labour disputes, welfare entitlement)
- ❖ This is not same as ABS – this unregulated sector has always existed
- ❖ Reforms in 2019 meant that solicitors can now work in these unregulated businesses – such as Rocket Lawyer

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Who regulates?



- ❖ There are ten approved regulators
 - ❖ Solicitors Regulation Authority is biggest
 - ❖ Others focus on barristers, legal executives, notaries, legal executives, trade-mark and patent attorneys, licensed conveyancers, costs lawyers and even accountants – some of these are what US calls ‘para professionals’ or ‘limited licence lawyers’
- ❖ And an oversight regulator – the Legal Services Board
- ❖ Each regulator is authorised by LSB to regulate some of the reserved activities as well having statutory right to regulate specific professional titles
- ❖ Most regulators authorise entities as well as individuals
- ❖ Entities usually employ a mix of different types of lawyer

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The regulators

- ❖ Some of the approved regulators are part of professional bodies (equivalent to State Bars)
 - ❖ Solicitors Regulation Authority and Bar Standards Board are part of Law Society and Bar Council respectively
 - ❖ But they are statutorily independent of those professional bodies
- ❖ Boards have lay Chairs and lay majorities
- ❖ The LSB holds them to account for performance against regulatory objectives set out in law
- ❖ Competition authority has certain powers

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The regulatory objectives¹

- ❖ Regulators must undertake their functions consistent with these:
 - ❖ protecting and promoting the public interest;
 - ❖ supporting the constitutional principle of the rule of law;
 - ❖ improving access to justice;
 - ❖ protecting and promoting the interests of consumers;
 - ❖ promoting competition in the provision of services in subsection (2);
 - ❖ encouraging an independent, strong, diverse and effective legal profession;
 - ❖ increasing public understanding of the citizen's legal rights and duties;
 - ❖ promoting and maintaining adherence to the professional principles.

¹ <https://www.legislation.gov.uk/ukpga/2007/29/section/1>

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Entities delivering regulated legal services



- ❖ Any model/structure allowable in law of UK
 - ❖ Solo lawyers, lawyer partnerships and LLPs
 - ❖ Multi disciplinary practices (lawyers and other professionals)
 - ❖ Alternative Business Structures (some nonlawyer ownership) since 2012
- ❖ Currently about 1,400 ABS in E&W
 - ❖ Listed on stock market (DWF)
 - ❖ Backed by private equity (Elevate's Elevate Next UK)
 - ❖ Tech platforms (Legal Zoom)
 - ❖ US law firm (Reed Smith)
 - ❖ Alternative providers (United Lex's Marshall Denning)
 - ❖ Global professional services firms (KPMG)
 - ❖ Local multi disciplinary practices (mixing law and other professions/services)
 - ❖ High street law firms (husband/wife or finance director into ownership)

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How solicitors and firms are regulated (by SRA)



- ❖ [Code of Conduct for Solicitors](#)
- ❖ [Code of Conduct for Firms](#)
- ❖ [Principles](#) – fundamental tenets of ethical behaviour
- ❖ Professional indemnity insurance obligations for firms
- ❖ Independent redress system for complaints - [Legal Ombudsman](#)
- ❖ Not different for ABS (compared to lawyer only firms) other than where law requires
- ❖ SRA supervises firms – ongoing advice about risks and ethical behaviour – based on its market intelligence

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How ABS are authorised & regulated

- ❖ Same as regular law firms
 - ❖ The firm itself is authorised
 - ❖ Individual owners and managers approved
 - ❖ Corporate owners approved
 - ❖ Anyone with a material interest (10% or significant influence)
- ❖ [Compliance Officer for legal practice](#)
- ❖ [Compliance Officer for finance and accounts](#)
- ❖ Reporting obligations – regular cycle and of potential misconduct
- ❖ Enforcement against firms and individuals
 - ❖ Advice, rebukes, fines, suspension, revocation
 - ❖ SRA can ban non-lawyers from regulated market

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Economic and ethics rules

- ❖ Reduction of economic restrictions
 - ❖ No ban on advertising but unsolicited approaches are banned
 - ❖ Referrals fees allowed in most market segments, but banned in personal injury and related damages claims
 - ❖ No ban on fee sharing
- ❖ Ethical rules remain and enhanced
 - ❖ Act in best interests of client
 - ❖ Uphold rule of law
 - ❖ Duty to rule of law/administration of justice trumps other principles where conflict
 - ❖ Rule of law over the client's interests or wishes

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Are ABS different to other law firms?

- ◆ They look the same from the outside – most people wouldn't know
- ◆ Evidence is that non lawyer ownership does not increase risk of unethical behaviour
 - ◆ Backed up by decades of experience of unregulated legal business across E&W legal market
- ◆ Risk of unethical practice is driven by factors unrelated to ownership
 - ◆ Handling client money
 - ◆ Certain types of work
 - ◆ Struggling performance of firm
 - ◆ Unrelated bad business decisions (such as property/head office)
 - ◆ Personal ethics of individuals

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Evaluation: impact

The Centre for Strategy & Evaluation Services' independent [evaluation](#) for the SRA:

The impact of these reforms has been gradual and incremental. Early indications show that users of legal services are beginning to see benefits.

Introducing ABSs and MDPs, and removing restrictions on firm ownership, have allowed new entrants (including foreign law firms, firms owned by professional services firms, local authority owned firms and retail brands) into the market. This has resulted in improved access, choice and quality of service for legal service users and innovation in provision.

There was no evidence to suggest that these reforms have detrimentally impacted, or resulted in a greater risk to, users of legal services.

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Evaluation: innovation



[Research](#) into innovation that the SRA conducted with the Legal Services Board in 2015 found that ABS:

- ◆ are more open to new ideas than non-ABS organisations
- ◆ have higher levels of investment in research and development
- ◆ generate a higher proportion of turnover from new services than non-ABS organisations
- ◆ are innovating across more aspects of their activities than non-ABS organisations
- ◆ spend on average more than twice as much of their turnover on reputation and branding than do non-ABS and
- ◆ are nearly three times as likely to be using some form of intellectual property protection

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Evaluation: innovation



Type of innovation	ABSs (n=93)	Non-ABSs (n=850)	All solicitors (n=943)
	%	%	%
Service Innovation	36.2	24.2	25.3
Radical service innovation	13.0	6.2	6.8
Delivery innovation	29.5	25.3	25.6
Strategic innovation	28.6	15.9	17.0
Management innovation	20.1	18.4	18.5
Organisational innovation	40.6	20.3	22.4
Marketing innovation	57.8	34.5	36.6

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Evaluation: complaints



In [research](#) into experiences and effectiveness of solicitors' first tier complaints handling processes, it was found that 62 percent of surveyed ABS provide training on identifying and managing complaints, compared to 50 percent of non-ABS.

In addition, 98 percent had a written complaints process as opposed to 84 percent of other firms.

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Final thoughts



- ◆ [Policy Statement](#) by SRA set out clear rationale for reform
- ◆ Sandbox can be important part of making reform happen
 - ◆ SRA launched [SRA innovate](#) in 2014
- ◆ Temptation is always to over regulate innovation and new models
 - ◆ Lawyers ethics are strong enough to handle them working more closely with non-lawyers
 - ◆ Many jurisdictions have less regulatory restrictions without evidence of consumer harm
- ◆ Alternative providers are growing regardless of regulatory reform
 - ◆ Change is about letting lawyers compete and creating level playing field

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The State Bar of California

TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVICES

Final Report and Recommendations

The State Bar of California, Board of Trustees, March 12, 2020

New Rule on Nonlegal Services (Rec. No. 3)

Issue for Public Comment a New Rule of Professional Conduct 5.7 Addressing the Delivery of Nonlegal Services Provided by Lawyers and Businesses Owned or Affiliated with Lawyers

California does not have a version of ABA Model Rule 5.7 and this may be a cause of uncertainty and reluctance for lawyers who might be interested in exploring innovative delivery systems for nonlegal services as well as combined nonlegal and legal services. The PeopleLaw sector would likely benefit from such innovation.

Objective

Although this issue is addressed in disciplinary common law and in advisory ethics opinions, lawyers may be unsure of their duties and reluctant to explore innovative delivery systems for nonlegal services as well as combined nonlegal and legal services. To alleviate this obstacle, adopting a rule would make the existing law more accessible and add a new written disclosure protocol for informing recipients of nonlegal services when the protections of a lawyer-client relationship would not apply.



Nonlegal Services



Nonlegal services would be defined as: “...services that might reasonably be performed in conjunction with the practice of law, including services that may be lawfully performed by a person who is not authorized to practice law.”



Innovative delivery systems, including online services, might be offered as a menu of various services including, tech-driven legal information, document preparation, lawyer matching services and other activities that do not constitute the practice of law. The involvement of lawyers in the provision of nonlegal services can to improve those services and create efficiencies that lower costs to the consumer.



The State Bar of California

Lawyer Referral Services (Rec. No. 6)

Consider Authorizing a Study of Potential Amendments to the Certified Lawyer Referral Service Rules and Statutes, and Amendments to Relevant Rules of Professional Conduct to Ensure that Together They Properly Balance Public Protection and Innovation in Light of Access to Justice Concerns and with a Particular Emphasis on Ascertaining if Existing Laws Impose Unnecessary Barriers to Referral Modalities (including Online Matching Services) that are in the Public Interest

This recommendation could enhance access to legal services by expanding permissible lawyer referral activity.

Objective

The Task Force believes that innovative referral systems, including online modalities, carry the potential of enhancing the ability of consumers to consult with a qualified lawyer, particularly on the basic issue of whether a consumer is facing a civil legal problem, and that existing laws should be reviewed for possible revisions that are in the public interest.



Advertising Rules (Rec. No. 7)

Consider Recommendations for Amendments to the Rules of Professional Conduct on Advertising and Solicitation Informed by the Current American Bar Association Model Rules, the Proposed Advertising and Solicitation Rules Developed by the Association of Professional Responsibility Lawyers, and Recent Amendments to the Advertising Rules in Other Jurisdictions. In Particular a Reconsideration of the Existing Designation of “Real-Time Electronic Contact” as Prohibited Solicitation

Objective

Facilitate enhanced access to legal services by permitting the use of modern communication, including online marketing and social media, to provide truthful and nondeceptive information to consumers regarding the availability of lawyers and law firms to provide legal services. This is especially pertinent to potential innovative online delivery systems that might exclusively use electronic communication for interacting with potential clients.



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End of presentation



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